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Directive 1999/41/EC of the European Parliament and of the Council of 7 June 1999 amending Directive 89/398/EEC on the approximation of the laws of the Member States relating to foodstuffs intended for particular nutritional uses

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DIRECTIVE 1999/41/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 7 June 1999

amending Directive 89/398/EEC on the approximation of the laws of the Member States relating to foodstuffs intended for particular nutritional uses

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 95 thereof,

Having regard to the proposal from the Commission(1),

Having regard to the opinion of the Economic and Social Committee(2),

Acting in accordance with the procedure laid down in Article 251 of the Treaty(3), in the light of the joint text approved by the Conciliation Committee on 18 March 1999,

(1) Whereas Article 4 of Directive 89/398/EEC(4) provides that specific provisions applicable to the groups of foods appearing in Annex I thereto are to be laid down by means of specific Directives;

(2) Whereas to date specific Directives have been adopted for infant formulae and follow-on formulae(5), for processed cereal-based foods and baby foods intended for infants and young children(6) and for foods intended for use in energy-restricted diets for weight reduction(7); whereas there are reasons relating to public health for adopting specific provisions, in accordance with Article 4 of Directive 89/398/EEC, for dietary foods for special medical purposes and foods intended to meet the expenditure of intense muscular effort, especially for sportsmen, as referred to in Annex I to that Directive;

(3) Whereas, in the case of the groups of low-sodium foods, including low-sodium or sodium-free dietary salts, and gluten-free foods, such products can be satisfactorily placed on the market and be efficiently monitored officially under the general provisions of Directive 89/398/EEC, provided that the conditions for the use of certain terms used to indicate the particular nutritional properties of products are defined;

(4) Whereas the deletion of those categories from Annex I to Directive 89/398/EEC would be in line with the efforts being made to avoid unnecessarily detailed legislation;

(5) Whereas it is not clear whether an adequate basis exists for specific provisions to be adopted for the group mentioned in point 9 of Annex I to Directive 89/398/EEC, namely the group of foods intended for persons suffering from carbohydrate-metabolism disorders (diabetes);

(6) Whereas therefore advice should be obtained from, inter alia, the Scientific Committee for Food before a final decision is taken on the question;

(7) Whereas it is still possible to harmonize at Community level rules applicable to other groups of foodstuffs for particular nutritional uses, in the interest of consumer protection and the free movement of such foodstuffs,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Directive 89/398/EEC is hereby amended as follows:

1. The following Articles shall be inserted: "Article 4a

Rules for the use of terms concerning

- the reduction or absence of sodium or salt (sodium chloride, table salt) content,
- the absence of gluten,

which may be used to describe the products referred to in Article 1, shall be adopted in accordance with the procedure laid down in Article 13.

Article 4b

Before 8 July 2002, the Commission shall, after consulting the Scientific Committee for Food, present to the European Parliament and to the Council a report on the desirability of special provisions for foods for persons suffering from carbohydrate-metabolism disorders (diabetes).

In the light of the conclusions of this report, the Commission shall either, in accordance with the procedure laid down in Article 13, proceed with the preparation of the special provisions concerned or shall present, in accordance with the procedure laid down in Article 95 of the Treaty, any appropriate proposals for amendments to this Directive."

2. Article 9(5) shall be replaced by the following: "5. Before 8 July 2002 and every three years thereafter, the Commission shall send the European Parliament and the Council a report on the implementation of this Article."

3. Annex I shall be replaced by the following:

"ANNEX I

- Groups of foodstuffs for particular nutritional uses for which specific provisions will be laid down by specific Directives:(1)

1. Infant formulae and follow-on formulae
 2. Processed cereal-based foods and baby foods for infants and young children
 3. Food intended for use in energy-restricted diets for weight reduction
 4. Dietary foods for special medical purposes
 5. Foods intended to meet the expenditure of intense muscular effort, especially for sportsmen;
- Groups of foodstuffs for particular nutritional uses for which specific provisions will be laid down by a specific Directive(2), dependant on the outcome of the procedure described in Article 4b:

6. Foods for persons suffering from carbohydrate-metabolism disorders (diabetes).

(1) It is understood that products already on the market when Directive is adopted will not be affected by it.

(2) It is understood that products already on the market when Directive is adopted will not be affected by it."

Article 2

Member States shall bring into force the laws, regulations and administrative provisions necessary for them to comply with this Directive not later than 8 July 1999. They shall forthwith inform the Commission thereof.

These measures shall be applied in such a way as to:

- permit trade in products complying with this Directive by 8 July 2000;
- prohibit trade in products not complying with this Directive by 8 January 2001

When Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by reference on the occasion of their official publication. The methods of making such a reference shall be laid down by the Member States.

Article 3

This Directive shall enter into force on the day of its publication in the Official Journal of the European Communities.

Article 4

This Directive is addressed to the Member States.

Done at Luxembourg, 7 June 1999.

For the European Parliament

The President

J.M. GIL-ROBLES

For the Council

The President

E. BULMAHN

(1) OJ C 108, 16.4.1994, p. 17 and OJ C 35, 8.2.1996, p. 17.

(2) OJ C 388, 31.12.1994, p. 1.

(3) Opinion of the European Parliament of 11 October 1995 (OJ C 287, 30.10.1995, p. 104), Council Common Position of 22 July 1997 (OJ C 297, 29.9.1997, p. 1) and Decision of the European Parliament of 18 December 1997 (OJ C 14, 19.1.98, p. 123). Decision of the European Parliament of 5 May 1999 and Council Decision of 11 May 1999.

(4) OJ No L 186, 30.6.1989, p. 27. Directive as amended by Directive 96/84/EC (OJ No L 48, 19.2.1997, p.20).

(5) Commission Directive 91/321/EEC of May 1991 on infant formulae and follow-on formulae (OJ No L 175, 4.7.1991, p. 35). Directive as amended by Directive 96/4/EC (OJ No L 49, 28.2.1996, p. 12).

(6) Commission Directive 96/5/EC of 16 February 1996 on processed cereal-based foods and baby foods for infants and young children (OJ No L 49, 28.2.1996, p. 17).

(7) Commission Directive 96/8/EC of 26 February 1996 on foods intended for use in energy-restricted diets for weight reduction (OJ No L 55, 6.3.1996, p. 22)