

I

(Legislative acts)

DIRECTIVES

DIRECTIVE 2011/91/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**of 13 December 2011****on indications or marks identifying the lot to which a foodstuff belongs****(codification)****(Text with EEA relevance)**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,

Acting in accordance with the ordinary legislative procedure ⁽²⁾,

Whereas:

(1) Council Directive 89/396/EEC of 14 June 1989 on indications or marks identifying the lot to which a foodstuff belongs ⁽³⁾ has been substantially amended several times ⁽⁴⁾. In the interests of clarity and rationality that Directive should be codified.

(2) The internal market comprises an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured.

(3) Trade in foodstuffs occupies a very important place in the internal market.

⁽¹⁾ OJ C 54, 19.2.2011, p. 34.

⁽²⁾ Position of the European Parliament of 11 May 2011 (not yet published in the Official Journal) and decision of the Council of 8 November 2011.

⁽³⁾ OJ L 186, 30.6.1989, p. 21.

⁽⁴⁾ See Annex I, Part A.

(4) Indication of the lot to which a foodstuff belongs meets the need for better information on the identity of products. It is therefore a useful source of information when foodstuffs are the subject of dispute or constitute a health hazard for consumers.

(5) Directive 2000/13/EC of the European Parliament and of the Council of 20 March 2000 on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs ⁽⁵⁾ contains no provisions on indication of lot identification.

(6) At international level there is a general obligation to provide a reference to the manufacturing or packaging lot of prepackaged foodstuffs. It is the duty of the Union to contribute to the development of international trade.

(7) It is therefore advisable to provide for rules of a general and horizontal nature in order to manage a common lot identification system.

(8) The efficiency of that system depends on its application at the various marketing stages. It is nevertheless desirable to exclude certain products and operations, in particular those taking place at the start of the distribution network for agricultural products.

(9) It is necessary to take account of the fact that the immediate consumption upon purchase of certain foodstuffs such as ice cream in individual portions means that indicating the lot directly on the individual packaging would serve no useful purpose. However, it should be compulsory in the case of those products to indicate the lot on the combined package.

⁽⁵⁾ OJ L 109, 6.5.2000, p. 29.

- (10) The concept of a lot implies that several sales units of a foodstuff have almost identical production, manufacture or packaging characteristics. That concept should, therefore, not apply to bulk products or products which, owing to their individual specificity or heterogeneous nature, cannot be considered as forming a homogeneous batch.
- (11) In view of the variety of identification methods used, it should be up to the trader to determine the lot and to affix the corresponding indication or mark.
- (12) In order to satisfy the information requirements for which it is intended, that indication should be clearly distinguishable and recognisable as such.
- (13) The date of minimum durability or 'use by' date, may, in conformity with Directive 2000/13/EC, serve as the lot identification, provided it is indicated precisely.
- (14) This Directive should be without prejudice to the obligations of the Member States relating to the time limits for transposition into national law of the Directives set out in Annex I, Part B,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

1. This Directive concerns the indication which allows identification of the lot to which a foodstuff belongs.
2. For the purposes of this Directive, 'lot' means a batch of sales units of a foodstuff produced, manufactured or packaged under practically the same conditions.

Article 2

1. A foodstuff may not be marketed unless it is accompanied by an indication as referred to in Article 1(1).
2. Paragraph 1 shall not apply:
 - (a) to agricultural products which, on leaving the holding, are:
 - (i) sold or delivered to temporary storage, preparation or packaging stations;
 - (ii) transported to producers' organisations; or
 - (iii) collected for immediate integration into an operational preparation or processing system;
 - (b) when, at the point of sale to the ultimate consumer, the foodstuffs are not prepackaged, are packaged at the request of the purchaser or are prepackaged for immediate sale;

- (c) to packagings or containers the largest side of which has an area of less than 10 cm²;
- (d) to individual portions of ice cream. The indication enabling the lot to be identified shall appear on the combined package.

Article 3

The lot shall be determined in each case by the producer, manufacturer or packager of the foodstuff in question, or the first seller established within the Union.

The indication referred to in Article 1(1) shall be determined and affixed under the responsibility of one or other of those operators. It shall be preceded by the letter 'L' except in cases where it is clearly distinguishable from the other indications on the label.

Article 4

When the foodstuffs are prepackaged, the indication referred to in Article 1(1) and, where appropriate, the letter 'L' shall appear on the prepackaging or on a label attached thereto.

When the foodstuffs are not prepackaged, the indication referred to in Article 1(1) and, where appropriate, the letter 'L' shall appear on the packaging or on the container or, failing that, on the relevant commercial documents.

It shall in all cases appear in such a way as to be easily visible, clearly legible and indelible.

Article 5

When the date of minimum durability or 'use by' date appears on the label, the indication referred to in Article 1(1) need not appear on the foodstuff, provided that the date consists at least of the uncoded indication of the day and the month in that order.

Article 6

This Directive shall apply without prejudice to the indications laid down by specific provisions of the Union.

The Commission shall publish and keep up to date a list of the provisions in question.

Article 7

Directive 89/396/EEC, as amended by the Directives listed in Annex I, Part A, is repealed, without prejudice to the obligations of the Member States relating to the time limits for transposition into national law of the Directives set out in Annex I, Part B.

References to the repealed Directive shall be construed as references to this Directive and shall be read in accordance with the correlation table in Annex II.

Article 8

This Directive shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

Article 9

This Directive is addressed to the Member States.

Done at Strasbourg, 13 December 2011.

For the European Parliament
The President
J. BUZEK

For the Council
The President
M. SZPUNAR

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ANNEX I

PART A

Repealed Directive with list of its successive amendments

(referred to in Article 7)

| | |
|------------------------------|------------------------------|
| Council Directive 89/396/EEC | (OJ L 186, 30.6.1989, p. 21) |
| Council Directive 91/238/EEC | (OJ L 107, 27.4.1991, p. 50) |
| Council Directive 92/11/EEC | (OJ L 65, 11.3.1992, p. 32) |

PART B

List of time limits for transposition into national law

(referred to in Article 7)

| Directive | Time limit for transposition |
|------------|------------------------------|
| 89/396/EEC | 20 June 1990 (*) |
| 91/238/EEC | — |
| 92/11/EEC | — |

(*) In accordance with the first paragraph of Article 7 of Directive 89/396/EEC, as amended by Directive 92/11/EEC:
Member States shall, where necessary, amend their laws, regulations or administrative provisions so as to:
— authorise trade in products complying with this Directive by not later than 20 June 1990,
— prohibit trade in products not complying with this Directive with effect from 1 July 1992. However, trade in products placed on the market or labelled before that date and not conforming with this Directive may continue until stocks run out.'

ANNEX II

Correlation table

| Directive 89/396/EEC | This Directive |
|----------------------|----------------------|
| Article 1 | Article 1 |
| Article 2(1) and (2) | Article 2(1) and (2) |
| Article 2(3) | — |
| Articles 3 to 6 | Articles 3 to 6 |
| Article 7 | — |
| — | Article 7 |
| — | Article 8 |
| Article 8 | Article 9 |
| — | Annex I |
| — | Annex II |