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(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 315/93
of 8 February 1993
laying down Community procedures for contaminants in food

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 100a thereof,

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

In cooperation with the European Parliament ⁽²⁾,

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

Whereas it is important to adopt measures with the aim of progressively establishing the internal market over a period expiring on 31 December 1992; whereas the internal market shall comprise an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured;

Whereas the differences in rules adopted by the Member States may hinder the functioning of the common market and whereas it is necessary to lay down a procedure for the adoption of harmonized Community rules;

Whereas contaminants may enter into food at any stage from production to consumption;

Whereas it is essential, in the interest of public health protection, to keep these contaminants at levels which are toxicologically acceptable;

Whereas further elimination must be carried out whenever it is achievable through good working practices; whereas compliance with such good practices can be efficiently monitored by public authorities, given the vocational training and experience of their agents;

Whereas this Regulation must apply without prejudice to the provisions adopted in the context of more specific Community rules;

Whereas it is appropriate in terms of health protection to encourage the search for a comprehensive approach to the question of contaminants in food;

Whereas the Scientific Committee for Food set up by Decision 74/234/EEC ⁽⁴⁾ must be consulted on all questions which may have an effect on public health,

HAS ADOPTED THIS REGULATION:

Article 1

1. This Regulation concerns contaminants contained in food.

'Contaminant' means any substance not intentionally added to food which is present in such food as a result of the production (including operations carried out in crop husbandry, animal husbandry and veterinary medicine), manufacture, processing, preparation, treatment, packing, packaging, transport or holding of such food, or as a result of environmental contamination. Extraneous matter, such as, for example, insect fragments, animal hair, etc, is not covered by this definition.

2. This Regulation shall not apply to contaminants which are the subject of more specific Community rules.

Upon the entry into force of this Regulation, the Commission shall publish in the C series of the *Official Journal of the European Communities*, for the purposes of information, a list of the rules referred to in the first subparagraph. That list shall be updated, as appropriate, by the Commission.

3. Provisions relating to contaminants shall be adopted in accordance with this Regulation, except those laid down by the rules referred to in paragraph 2.

⁽¹⁾ OJ No C 57, 4. 3. 1992, p. 11.

⁽²⁾ OJ No C 129, 20. 5. 1991, p. 104 and Decision of 20 January 1993 (not yet published in the Official Journal).

⁽³⁾ OJ No C 223, 31. 8. 1992, p. 24.

⁽⁴⁾ OJ No L 136, 20. 5. 1974, p. 1.

Article 2

1. Food containing a contaminant in an amount which is unacceptable from the public health viewpoint and in particular at a toxicological level shall not be placed on the market.

2. Furthermore, contaminant levels shall be kept as low as can reasonably be achieved by following good practices at all the stages referred to in Article 1.

3. In order to protect public health and pursuant to paragraph 1, where necessary, maximum tolerances for specific contaminants shall be established in accordance with the procedure laid down in Article 8.

These tolerances shall be adopted in the form of a non-exhaustive Community list and may include:

- limits for the same contaminant in different foods;
- analytical detection limits;
- a reference to the sampling and analysis methods to be used.

Article 3

Provisions which may have an effect upon public health shall be adopted after consultation of the Scientific Committee for Food.

Article 4

1. Where a Member State, as a result of new information or of a reassessment of existing information, has reason to suspect that a contaminant in food, although complying with this Regulation or specific Regulations adopted pursuant to this Regulation, constitutes a health risk, it may temporarily suspend or restrict application of the provisions in question in its territory. It shall immediately inform the other Member States and the Commission thereof and give reasons for its decision.

2. The Commission shall examine the reasons given by the Member State referred to in paragraph 1 as soon as possible in the Standing Committee for Foodstuffs, set up by Decision 69/314/EEC⁽¹⁾ and shall deliver its opinion immediately and take any necessary measures in accordance with the procedure laid down in Article 8.

Article 5

1. Member States may not prohibit, restrict, or impede the placing on the market of foods which comply with this Regulation or specific provisions adopted pursuant to this Regulation for reasons relating to their contaminant levels.

2. Where Community provisions concerning the maximum tolerances referred to in Article 2 (3) have not been adopted, the relevant national provisions shall be applicable subject to compliance with the provisions of the Treaty.

3. (a) When a Member State maintains the provisions of its domestic laws, it shall inform the Commission and the other Member States thereof within a period of six months after the adoption of this Regulation.

(b) Should a Member State deem it necessary to adopt new legislation, it shall communicate to the Commission and the other Member States the measures envisaged and give the reasons justifying them. The Commission shall consult the Member States within the Standing Committee on Foodstuffs if it considers such consultation to be useful or if a Member State so requests.

Member States may take such envisaged measures only three months after such communication and provided that the Commission's opinion is not negative.

In the latter event, before the expiry of the period referred to in the second paragraph, the Commission shall initiate the procedure provided for in Article 8 in order to determine whether the envisaged measures may be implemented subject, if necessary, to the appropriate amendments.

Article 6

Each year the Commission shall submit to the Standing Committee on Foodstuffs a report on the overall development of Community legislation on contaminants.

Article 7

Four years after this Regulation comes into force, the Commission shall forward to the Council a report on the experience gained accompanied, should the need arise, by any appropriate proposal.

Article 8

The Commission shall be assisted by the Standing Committee for Foodstuffs, hereinafter referred to as 'the Committee'.

The representative of the Commission shall submit to the committee a draft of the measures to be taken. The committee shall deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148 (2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the committee shall be weighted in the manner set out in that Article. The chairman shall not vote.

⁽¹⁾ OJ No L 291, 19. 11. 1969, p. 9.

The Commission shall adopt the measures envisaged if they are in accordance with the opinion of the committee.

If the measures envisaged are not in accordance with the opinion of the committee, or if no opinion is delivered, the Commission shall, without delay, submit to the Council a proposal relating to the measures to be taken. The Council shall act by a qualified majority.

If, on the expiry of a period of three months from the date of referred to the Council, the Council has not acted, the proposed measures shall be adopted by the Commission, save where the Council has decided against the said measures by a simple majority.

Article 9

This Regulation shall enter into force on 1 March 1993.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 8 February 1993.

For the Council

The President

J. TRØJBORG