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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 10.2.2009
COM(2009) 45 final

2009/0016 (CNS)

Proposal for a

COUNCIL DECISION

correcting Directive 2008/73/EC simplifying procedures of listing and publishing information in the veterinary and zootechnical fields and amending Directives 64/432/EEC, 77/504/EEC, 88/407/EEC, 88/661/EEC, 89/361/EEC, 89/556/EEC, 90/426/EEC, 90/427/EEC, 90/428/EEC, 90/429/EEC, 90/539/EEC, 91/68/EEC, 91/496/EEC, 92/35/EEC, 92/65/EEC, 92/66/EEC, 92/119/EEC, 94/28/EC, 2000/75/EC, Decision 2000/258/EC and Directives 2001/89/EC, 2002/60/EC and 2005/94/EC

EXPLANATORY MEMORANDUM

Council Directive 2008/73/EC amended a number of Council acts to provide for, *inter alia*, uniform publication rules of lists of national reference laboratories officially approved by the Member States for diagnostic tests of animal diseases and lists of establishments or authorities officially approved for intra-Community trade or imports into the Community in the veterinary and zootechnical fields.

Directive 2008/73/EC entered into force on 3 September 2008. Directive 2008/73/EC provides that Member States are to bring into force the laws, regulations and administrative provisions necessary to comply with it by 1 January 2010. However, that Directive does not provide for the Member States to apply those provisions from that date.

For the sake of legal certainty and in order to ensure a uniform date of applications of those measures in all Member States, Member States should apply those measures from that date.

As the measures should apply from 1 January 2010, Directive 2008/73/EC should uniformly also apply from that date in all Member States.

However, certain amendments introduced by Directive 2008/73/EC that do not require transposition by Member States should not be affected by this Decision. Those amendments concern respectively the adoption of specific animal health measures in accordance with the procedure laid down in Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission¹ and correct an outdated reference.

In order to ensure a smooth transition to the new simplified procedures of listing and publishing information in the veterinary and zootechnical fields, it should be provided that transitional provisions may be adopted in accordance with the procedure laid down in Council Decision 1999/468/EC.

Directive 2008/73/EC should therefore be corrected accordingly.

¹ OJ L 184, 17.7.1999, p. 23.

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correcting Directive 2008/73/EC simplifying procedures of listing and publishing information in the veterinary and zootechnical fields and amending Directives 64/432/EEC, 77/504/EEC, 88/407/EEC, 88/661/EEC, 89/361/EEC, 89/556/EEC, 90/426/EEC, 90/427/EEC, 90/428/EEC, 90/429/EEC, 90/539/EEC, 91/68/EEC, 91/496/EEC, 92/35/EEC, 92/65/EEC, 92/66/EEC, 92/119/EEC, 94/28/EC, 2000/75/EC, Decision 2000/258/EC and Directives 2001/89/EC, 2002/60/EC and 2005/94/EC

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 37 thereof,

Having regard to the proposal from the Commission²,

Having regard to the Opinion of the European Parliament³,

Whereas:

- (1) Council Directive 2008/73/EC⁴ amended a total of 23 Council acts to provide, inter alia, for simplified procedures of listing and publishing information in the veterinary and zootechnical fields.
- (2) Directive 2008/73/EC entered into force on 3 September 2008. Member States are to bring into force the laws, regulations and administrative provisions necessary to comply with that Directive by 1 January 2010 at the latest. However, that Directive did not provide that the Member States were to apply those provisions from that date.
- (3) For the sake of legal certainty, Directive 2008/73/EC should be corrected to ensure that the amendments made to the various Council acts by that Directive, in order to provide for those simplified procedures, are uniformly applied by the Member States from 1 January 2010. Directive 2008/73/EC should therefore be corrected so that it also applies from that date. Accordingly, that Directive should also be corrected in order to provide that the Member States are to apply those provisions from that date.
- (4) However, certain other amendments made by Directive 2008/73/EC to Council Directives 64/432/EC⁵ and 90/426/EEC⁶ do not concern the simplified procedures and therefore they do not require a deferred date of application by the Member States of

² OJ C [...], [...], p. [...].

³ OJ C [...], [...], p. [...].

⁴ OJ L 219, 14.8.2008, p. 40.

⁵ OJ 121, 29.7.1964, p. 1977/64.

⁶ OJ L 224, 18.8.1990, p. 42.

1 January 2010. Those amendments concern respectively the adoption of specific animal health measures in accordance with the procedure laid down in Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission⁷ and correct an outdated reference.

- (5) In order to ensure a smooth transition to the new simplified procedures of listing and publishing information in the veterinary and zootechnical fields, it should be provided that transitional provisions may be adopted in accordance with the procedure laid down in Council Decision 1999/468/EC.
- (6) To ensure legal certainty and continuity this Decision should apply from the 3 September 2008, the date of entry into force of Directive 2008/73/EC.
- (7) Directive 2008/73/EC should therefore be corrected accordingly,

HAS ADOPTED THIS DECISION:

Article 1

Directive 2008/73/EC is corrected as follows:

- (1) Paragraph 2 of Article 20 shall be deleted.
- (2) The following Articles 23a and 23b are inserted:

"Article 23a **Transitional provisions**

Transitional provisions may be adopted in accordance with the procedure referred to in Article 23b(2).

Article 23b **Committee procedure**

- 1. The Commission shall be assisted by the Standing Committee on the Food Chain and Animal Health set up by Article 58 of Regulation (EC) No 178/2002.
- 2. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months."

⁷ OJ L 184, 17.7.1999, p. 23.

(3) Article 24(1) shall be replaced by the following:

"1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 1 January 2010 at the latest. They shall forthwith communicate to the Commission the text of those provisions.

They shall apply those provisions from 1 January 2010.

When Member States adopt those provisions, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. Member States shall determine how such reference is to be made."

(4) Article 25 shall be replaced by the following:

"Article 25

Entry into force and applicability

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

It shall apply from 1 January 2010, with the exception of Article 1(1) and (5) and Articles 7, 23a and 23b."

Article 2

This Decision shall apply from 3 September 2008.

Article 3

This Decision shall be published in the *Official Journal of the European Union*.

Article 4

This Decision is addressed to the Member States.

Done at Brussels,

*For the Council
The President*