

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 21 April 2004

repealing certain directives concerning food hygiene and health conditions for the production and placing on the market of certain products of animal origin intended for human consumption and amending Council Directives 89/662/EEC and 92/118/EEC and Council Decision 95/408/EC

2004/41/EC

(*OJ No. Nr. L 157, 30.04.2004, p. 33*)
corrigendum by (OJ No. L 195, 02.06.2004, p. 12)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 37, 95 and 152(4)(b) thereof,
Having regard to the proposal from the Commission ⁽¹⁾,

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

Having consulted the Committee of the Regions,

Acting in accordance with the procedure laid down in Article 251 of the Treaty ⁽³⁾,

Whereas:

- (1) Several directives lay down animal and public health rules for the production and placing on the market of products of animal origin.
- (2) The following acts contain new rules recasting and updating the rules in those directives:
 - Regulation (EC) No 852/2004 of the European Parliament and of the Council of 29 April 2004 on the hygiene of foodstuffs ⁽⁴⁾,
 - Regulation (EC) No 853/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific hygiene rules for food of animal origin ⁽⁴⁾,
 - Regulation (EC) No 854/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific rules for the organisation of official controls on products of animal origin intended for human consumption ⁽⁴⁾,
and
 - Council Directive 2002/99/EC of 16 December 2002 laying down the animal health rules governing the production, processing, distribution and introduction of products of animal origin for human consumption ⁽⁵⁾.
- (3) It is therefore appropriate to repeal the earlier directives. Since Regulation (EC) No 852/2004 provides for the repeal of Council Directive 93/43/EEC of 14 June 1993 on the Hygiene of foodstuffs ⁽⁶⁾, this Directive need only repeal the directives concerning products of animal origin.
- (4) The requirements of Council Directive 72/462/EEC ⁽⁷⁾ should continue to apply only to the import of live animals, since the new hygiene rules and Directive 2002/99/EC will supersede its rules on fresh meat and meat products.
- (5) It is necessary, however, to provide for certain implementing rules to remain in force pending the taking of necessary measures under the new legal framework.
- (6) Amendments to Council Directives 89/662/EEC ⁽⁸⁾ and 92/118/EEC ⁽⁹⁾ and to Council Decision 95/408/EC ⁽¹⁰⁾ are also necessary to take account of the recasting exercise,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

For the purposes of this Directive, the 'relevant date' shall mean the date of application of Regulations (EC) No 852/2004, (EC) No 853/2003 and (EC) No 854/2003.

Article 2

The following directives shall be repealed with effect from the relevant date:

1. Council Directive 64/433/EEC of 26 June 1964 on health conditions for the production and marketing of fresh meat ⁽¹¹⁾;
2. Council Directive 71/118/EEC of 15 February 1971 on health problems affecting the production and placing on the market of fresh poultrymeat ⁽¹²⁾;
3. Council Directive 72/461/EEC of 12 December 1972 on health problems affecting intra-Community trade in fresh meat ⁽¹³⁾;
4. Council Directive 77/96/EEC of 21 December 1976 on the examination for trichinae (*trichinella spiralis*) upon importation from third countries of fresh meat derived from domestic swine ⁽¹⁴⁾;

5. Council Directive 77/99/EEC of 21 December 1976 on health problems affecting the production and marketing of meat products and certain other products of animal origin ⁽¹⁵⁾;
6. Council Directive 80/215/EEC of 22 January 1980 on animal health problems affecting intra-Community trade in meat products ⁽¹⁶⁾;
7. Commission Directive 89/362/EEC of 26 May 1989 on general conditions of hygiene in milk production holdings ⁽¹⁷⁾;
8. Council Directive 89/437/EEC of 20 June 1989 on hygiene and health problems affecting the production and the placing on the market of egg products ⁽¹⁸⁾;
9. Council Directive 91/492/EEC of 15 July 1991 laying down the health conditions for the production and the placing on the market of live bivalve molluscs ⁽¹⁹⁾;
10. Council Directive 91/493/EEC of 22 July 1991 laying down the health conditions for the production and the placing on the market of fishery products ⁽²⁰⁾;
11. Council Directive 91/494/EEC of 26 June 1991 on animal health conditions governing intra-Community trade in and imports from third countries of fresh poultrymeat ⁽²¹⁾;
12. Council Directive 91/495/EEC of 27 November 1990 concerning public health and animal health problems affecting the production and placing on the market of rabbit meat and farmed game meat ⁽²²⁾;
13. Council Directive 92/45/EEC of 16 June 1992 on public health and animal health problems relating to the killing of wild game and the placing on the market of wild-game meat ⁽²³⁾;
14. Council Directive 92/46/EEC of 16 June 1992 laying down the health rules for the production and placing on the market of raw milk, heat-treated milk and milk-based products ⁽²⁴⁾;
15. Council Directive 92/48/EEC of 16 June 1992 laying down the minimum hygiene rules applicable to fishery products caught on board certain vessels in accordance with Article 3(1)(a)(i) of Directive 91/493/EEC ⁽²⁵⁾;
and
16. Council Directive 94/65/EC of 14 December 1994 laying down the requirements for the production and placing on the market of minced meat and meat preparations ⁽²⁶⁾.

Article 3

Directive 92/118/EEC is amended as follows with effect from the relevant date:

1. all references to 'Annexes I and II' are replaced by references to 'Annex I';
2. in Article 4(1), 'and Annex II as regards public health aspects' is deleted;
and
3. Annex II is repealed.

Article 4

1. With effect from the relevant date, references to the directives referred to in Article 2 or to Annex II to Directive 92/118/EEC shall be construed as being made, as the context demands, to:

- (a) Regulation (EC) No 853/2004;
- (b) Regulation (EC) No 854/2004;
- or
- (c) Directive 2002/99/EC.

2. Pending the adoption of microbiological criteria and temperature control requirements in accordance with Article 4 of Regulation (EC) No 852/2004, any such criteria or requirements laid down in the directives referred to in Article 2, Annex II to Directive 92/118/EEC or their implementing rules shall continue to apply.

3. Pending the adoption of the necessary provisions on the basis of Regulations (EC) No 852/2004, (EC) No 853/2004, (EC) No 854/2004 or Directive 2002/99/EC, the following acts shall continue to apply *mutatis mutandis*:

- (a) implementing rules adopted on the basis of the directives referred to in Article 2;
- (b) implementing rules adopted on the basis of Annex II to Directive 92/118/EEC, with the exception of Decision 94/371/EC ⁽²⁷⁾;
- (c) implementing rules adopted on the basis of Directive 72/462/EEC;
and
- (d) provisional lists of third countries and third-country establishments drawn up in accordance with Decision 95/408/EC.

Article 5

1. As from 1 January 2005, the animal health rules laid down in Directive 72/462/EEC shall continue to apply only to the import of live animals.

2. With effect from the relevant date, Directive 72/462/EEC shall continue to apply only to the import of live animals.

Article 6

Directive 89/662/EEC is amended as follows with effect from the relevant date:

1. The references:
 - (a) in Article 1, to ‘products of animal origin which are covered by the Directives listed in Annex A’;
and
 - (b) in Article 4(1), to ‘products obtained in accordance with the Directives referred to in Annex A’,
are replaced by ‘products of animal origin covered by the acts referred to in Annex A’;
2. Annex A is replaced by the following:

‘ANNEX A CHAPTER I

Council Directive 2002/99/EC of 16 December 2002 laying down the animal health rules governing the production, processing, distribution and introduction of products of animal origin for human consumption (*).

Regulation (EC) No 853/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific hygiene rules for food of animal origin (**).

CHAPTER II

Council Directive 92/118/EEC of 17 December 1992 laying down animal health and public health requirements governing trade in and imports into the Community of products not subject to the said requirements laid down in specific Community rules referred to in Annex A, Chapter I to Directive 89/662/EEC and, as regards pathogens, to Directive 90/425/EEC (***).

Regulation (EC) No 1774/2002 of the European Parliament and of the Council of 3 October 2002 laying down health rules concerning animal by-products not intended for human consumption (****).

(*) OJ L 18, 23.1.2003, p. 11.

(**) OJ L 139, 30.4.2004.

(***) OJ L 62, 15.3.1993, p. 49. Directive as last amended by Commission Decision 2003/42/EC (OJ L 13, 18.1.2003, p. 24).

(****) OJ L 273, 10.10.2002, p. 1. Regulation as amended by Commission Regulation (EC) No 808/2003 (OJ L 117, 13.5.2003, p. 1).'

Article 7

Article 9 of Decision 95/408/EC is replaced by the following, with effect from the date of entry into force of this Directive:

‘Article 9

This Decision shall apply until the “relevant date”, as defined in Article 1 of Directive 2004/41/EC of the European Parliament and of the Council of 21 April 2004 repealing certain directives concerning food hygiene and health conditions for the production and placing on the market of certain products of animal origin intended for human consumption (*).

(*) OJ L 157, 30.4.2004.’

Article 8

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by the relevant date at the latest. They shall forthwith inform the Commission thereof.

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

Article 9

This Directive shall enter into force on the date of its publication in the *Official Journal of the European Union*.

Article 10

This Directive is addressed to the Member States.

Done at Strasbourg, 21 April 2004.

For the European Parliament

The President
P. COX
For the Council
The President
M. McDOWELL

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- ⁽¹⁾ OJ C 365 E, 19.12.2000, p. 132.
- ⁽²⁾ OJ C 155, 29.5.2001, p. 39.
- ⁽³⁾ Opinion of the European Parliament of 3 June 2003 (not yet published in the Official Journal), Council Common Position of 27 October 2003 (OJ C 48 E, 24.2.2004, p. 131) and Position of the European Parliament of 30 March 2004 (not yet published in the Official Journal).
- ⁽⁴⁾ See page 139 of this Official Journal.
- ⁽⁵⁾ OJ L 18, 23.1.2003, p. 11.
- ⁽⁶⁾ OJ L 175, 19.7.1993, p. 1.
- ⁽⁷⁾ Council Directive 72/462/EEC of 12 December 1972 on health and veterinary inspection problems upon importation of bovine animals and swine and fresh meat from third countries (OJ L 302, 31.12.1972, p. 28). Directive as last amended by Council Regulation (EC) No 807/2003 (OJ L 122, 16.5.2003, p. 36).
- ⁽⁸⁾ Council Directive 89/662/EEC of 11 December 1989 concerning veterinary checks in intra-Community trade with a view to the completion of the internal market (OJ L 395, 30.12.1989, p. 13). Directive as last amended by Regulation (EC) No 806/2003 (OJ L 122, 16.5.2003, p. 1).
- ⁽⁹⁾ Council Directive 92/118/EEC of 17 December 1992 laying down animal health and public health requirements governing trade in and imports into the Community of products not subject to the said requirements laid down in specific Community rules referred to in Annex A, Chapter I to Directive 89/662/EEC and, as regards pathogens, to Directive 90/425/EEC (OJ L 62, 15.3.1993, p. 49). Directive as last amended by Commission Decision 2003/42/EC (OJ L 13, 18.1.2003, p. 24).
- ⁽¹⁰⁾ Council Decision 95/408/EC of 22 June 1995 on the conditions for drawing up, for an interim period, provisional lists of third-country establishments from which Member States are authorised to import certain products of animal origin, fishery products or live bivalve molluscs (OJ L 243, 11.10.1995, p. 17). Decision as last amended by Regulation (EC) No 806/2003.
- ⁽¹¹⁾ OJ 121, 29.7.1964, p. 2012/64. Directive as last amended by Directive 95/23/EC (OJ L 243, 11.10.1995, p. 7).
- ⁽¹²⁾ OJ L 55, 8.3.1971, p. 23. Directive as last amended by Regulation (EC) No 807/2003.
- ⁽¹³⁾ OJ L 302, 31.12.1972, p. 24. Directive as last amended by Regulation (EC) No 807/2003.
- ⁽¹⁴⁾ OJ L 26, 31.1.1977, p. 67. Directive as last amended by Regulation (EC) No 807/2003.
- ⁽¹⁵⁾ OJ L 26, 31.1.1977, p. 85. Directive as last amended by Regulation (EC) No 807/2003.
- ⁽¹⁶⁾ OJ L 47, 21.2.1980, p. 4. Directive as last amended by Regulation (EC) No 807/2003.
- ⁽¹⁷⁾ OJ L 156, 8.6.1989, p. 30.
- ⁽¹⁸⁾ OJ L 212, 22.7.1989, p. 87. Directive as last amended by Regulation (EC) No 806/2003.
- ⁽¹⁹⁾ OJ L 268, 24.9.1991, p. 1. Directive as last amended by Regulation (EC) No 806/2003.
- ⁽²⁰⁾ OJ L 268, 24.9.1991, p. 15. Directive as last amended by Regulation (EC) No 806/2003.
- ⁽²¹⁾ OJ L 268, 24.9.1991, p. 35. Directive as last amended by Directive 1999/89/EC (OJ L 300, 23.11.1999, p. 17).
- ⁽²²⁾ OJ L 268, 24.9.1991, p. 41. Directive as last amended by Regulation (EC) No 806/2003.
- ⁽²³⁾ OJ L 268, 14.9.1992, p. 35. Directive as last amended by Regulation (EC) No 806/2003.
- ⁽²⁴⁾ OJ L 268, 14.9.1992, p. 1. Directive as last amended by Regulation (EC) No 806/2003.
- ⁽²⁵⁾ OJ L 187, 7.7.1992, p. 41.
- ⁽²⁶⁾ OJ L 368, 31.12.1994, p. 10. Directive as amended by Regulation (EC) No 806/2003.
- ⁽²⁷⁾ OJ L 168, 2.7.1994, p. 34.