



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 7.3.2006
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Proposal for a

COUNCIL REGULATION

**amending Regulation (EEC) No 1906/90
on certain marketing standards for poultrymeat**

(presented by the Commission)

EXPLANATORY MEMORANDUM

Council Regulation (EEC) No 1906/90 on certain marketing standards for poultrymeat contains several references to Community veterinary legislation. Directive 2004/41/EC of the European Parliament and of the Council provides for the repeal of Council Directive 71/118/EEC of 15 February 1971 on health problems affecting the production and placing on the market of fresh poultrymeat “with effect from the relevant date”, i.e. 1 January 2006. However, Directive 2004/41/EC lacks a correlation table which would clarify the correlation of the provisions of the repealed Directive with the provisions of the new Regulations in the field of hygiene. For reasons of clarity it is therefore appropriate to adapt Regulation (EEC) No 1906/90 in order to clarify the references to the corresponding provisions in the new hygiene Regulations.

This amendment should also be used to clarify other references which are no longer accurate. This includes a reference to Commission Directive 80/879/EEC of 3 September 1980 on the health marking of large packagings of poultrymeat and several references to Council Directive 79/112/EEC of 18 December 1978 on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs for sale to the ultimate consumer.

Furthermore, the Regulation excludes from its scope a particular marketing presentation of poultry carcasses (“New York-dressed”). This presentation would neither be in conformity with the relevant marketing provisions of Commission Regulation (EEC) No 1538/91 nor with the requirements of the new Hygiene Regulations. For the sake of clarity, this derogation should be deleted.

Proposal for a

COUNCIL REGULATION

amending Regulation (EEC) No 1906/90 on certain marketing standards for poultrymeat

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EEC) No 2777/75 of the Council of 29 October 1975 on the common organisation of the market in poultrymeat¹, and in particular Article 2(2) thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) As from 1 January 2006 Council Directive 71/118/EEC of 15 February 1971 on health problems affecting the production and placing on the market of fresh poultrymeat² is repealed by Directive 2004/41/EC of the European Parliament and of the Council³ and replaced by Regulation (EC) No 852/2004 of the European Parliament and of the Council of 29 April 2004 on the hygiene of foodstuffs⁴ and by 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 origin⁵.
- (2) Council Directive 79/112/EEC of 18 December 1978 on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs for sale to the ultimate consumer⁶ has been repealed and replaced by 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 foodstuffs⁷.

¹ OJ L 282, 1.11.1975, p. 77. Regulation as last amended by Regulation (EC) No 1913/2005 (OJ L 307, 25.11.2005, p. 2).

² OJ L 55, 8.3.1971, p. 23.

³ OJ L 157, 30.4.2004, p. 33.

⁴ OJ L 139, 30.4.2004, p. 1. Corrected version in OJ L 226, 25.6.2004, p. 3.

⁵ OJ L 139, 30.4.2004, p. 55. Corrected version in OJ L 226, 25.6.2004, p. 22.

⁶ OJ L 33, 8.2.1979, p. 1.

⁷ OJ L 109, 6.5.2000, p. 29. Directive as last amended by Directive 2003/89/EC (OJ L 308, 25.11.2003, p. 15).

- (3) Council Regulation (EEC) No 1906/90⁸ contains several references to Directive 71/118/EEC and to Directive 79/112/EEC. For reasons of clarity it is appropriate to adapt those references.
- (4) The second indent of Article 1(3) of Regulation (EEC) No 1906/90 includes a reference to the type of sales referred to in Chapter II Article 3(II) of Directive 71/118/EEC. This provision relates to an optional derogation for Member States to exclude certain small-scale productions of poultrymeat from the scope of the Regulation. This optional derogation is not contained in Regulations (EC) No 852/2004 and (EC) No 853/2004. It should however be retained.
- (5) The third indent of Article 1(3) of Regulation (EEC) No 1906/90 excludes New York dressed poultry as referred to in Chapter VIII point 49 of Annex I to Directive 71/118/EEC from the scope of the Regulation. “New York dressed” means poultry from which the feathers have been removed and the blood drawn and which is offered for sale as a whole poultry with the head, feet, and entrails intact. This presentation would in any case not be in conformity with the requirements of Regulations (EC) No 852/2004 and (EC) No 853/2004. The exception should therefore be deleted.
- (6) Article 6 of Regulation (EEC) No 1906/90 contains a reference to Commission Directive 80/879/EEC of 3 September 1980 on the health marking of large packagings of poultrymeat⁹. That Directive has been repealed by Council Directive 92/116/EEC of 17 December 1992 amending and updating Directive 71/118/EEC on health problems affecting trade in fresh poultrymeat¹⁰. That reference is redundant and should be deleted.
- (7) Regulation (EEC) No 1906/90 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 1906/90 is amended as follows:

- (1) Article 1 is amended as follows:
 - (a) In Article 1, paragraph 3 is replaced by the following:

“3. This Regulation shall not apply to poultrymeat for export from the Community.
 - (b) The following paragraph 3a is inserted:

3a Member States may derogate from the requirements of this Regulation where farmers, with an annual production of under 10 000 birds of the

⁸ OJ L 173, 6.7.1990, p. 1. Regulation as last amended by Regulation (EC) No 1101/98 (OJ L 157, 30.5.1998, p. 12).

⁹ OJ L 251, 24.9.1980, p. 10.

¹⁰ OJ L 62, 15.3.1993, p. 1. Directive as amended by the Act of Accession of Austria, Finland and Sweden.

five species as referred to in Article 1(1), supply fresh poultrymeat coming from their holdings in small quantities:

- either directly to the final consumer at the holding or at the weekly markets nearest to their holdings and in the same territory of the competent authorities that granted the derogation,
- or
- to retailers with a view to direct sale to the final consumer, provided that such retailers pursue their activities in the same territory of the competent authorities that granted the derogation.

Member States may specify the extent to which the derogation provided for in the first subparagraph may also cover cuts.

The derogation provided for in the first subparagraph shall not apply in respect of itinerant sale, sale by mail order or, as regards the retailer, sale at a market.”

(2) In Article 2, point 4 is replaced by the following:

“4. ‘pre-packaged poultrymeat’ means: poultrymeat presented in accordance with the conditions laid down in Article 1(3)(b) of Directive 2000/13/EC of the European Parliament and of the Council*.

* OJ L 109, 6.5.2000, p. 29.”

(3) In Article 4, the introductory words are replaced by the following:

“In addition to complying with national legislation adopted in accordance with Directive 2000/13/EC, the following further indications shall be shown on the accompanying commercial documents within the meaning of Article 13(1)(b) of that Directive:”

(4) Article 5 is amended as follows:

(a) in paragraph 1, “Directive 79/112/EEC” is replaced by “Directive 2000/13/EC”.

(b) paragraph 2 is replaced by the following:

“2. In the case of fresh poultrymeat, the date of minimum durability shall be replaced by the ‘use by date’ in accordance with Article 10 of Directive 2000/13/EC.”

(c) in paragraph 3, point (d) is replaced by the following:

“(d) the approval number of the slaughterhouse or cutting plant given in accordance with Article 4 of Regulation (EC) No 853/2004 of the European Parliament and of the Council**, except in the case of cutting and boning at the place of sale as provided for in Article 4(2)(d) of that Regulation;

** OJ L 139, 30.4.2004, p. 55. Corrected version in OJ L 226, 25.6.2004, p. 22.

(d) paragraphs 4 and 5 are replaced by the following:

- “4. Where poultrymeat is offered for sale without pre-packaging, except where cutting and boning take place at the place of sale as provided for in Article 4(2)(d) of Regulation (EC) No 853/2004, provided such cutting and boning is carried out at the request and in the presence of the consumer, Article 14 of Directive 2000/13/EC shall apply to the indications referred to in paragraph 3.
5. The detailed rules on the indication of the name under which the product is sold within the meaning of Article 3(1)(1) of Directive 2000/13/EC may be established in accordance with the procedure referred to in Article 17 of Regulation (EEC) No 2777/75.”

(5) Article 6 is replaced by the following:

“Article 6

By way of derogation from Articles 3, 4 and 5 it shall not be necessary to classify poultrymeat or to indicate the additional particulars referred to in those Articles in the case of deliveries to cutting or processing establishments.”

Article 2

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

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

Done at Brussels,

*For the Council
The President*