Commission Implementing Regulation (EU) 2018/353 of 9 March 2018 correcting Implementing Regulation (EU) 2017/1145 on the withdrawal from the market of certain feed additives authorised pursuant to Council Directives 70/524/EEC and 82/471/EEC and repealing the obsolete provisions authorising those feed additives (Text with EEA relevance)

COMMISSION IMPLEMENTING REGULATION (EU) 2018/353

of 9 March 2018

correcting Implementing Regulation (EU) 2017/1145 on the withdrawal from the market of certain feed additives authorised pursuant to Council Directives 70/524/EEC and 82/471/EEC and repealing the obsolete provisions authorising those feed additives

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EC) No 1831/2003 of the European Parliament and of the Council of 22 September 2003 on additives for use in animal nutrition[(1)], and in particular Article 10(5) thereof,

Whereas:

(1) Commission Implementing Regulation (EU) 2017/1145[(2)] requires the withdrawal from the market of feed additives which were placed on the market and entered in the Community Register of Feed Additives as existing products in accordance with Article 10(1) of Regulation (EC) No 1831/2003, and for which no applications in accordance with Article 10(2) and (7) of that Regulation were submitted before the deadline provided for in those provisions, or for which an application was submitted but subsequently withdrawn. Implementing Regulation (EU) 2017/1145 also repeals the regulations or deletes the provisions authorising those additives.

(2) By mistake, Annex II to Implementing Regulation (EU) 2017/1145 setting out the list of additives to be withdrawn from the market in respect of certain animal species included the feed additive coccidiostat authorised by Commission Regulation (EC) No 1463/2004[(3)], although an application was submitted in due time in accordance with Article 10(2) of Regulation (EC) No 1831/2003. That Regulation was therefore repealed by mistake by Article 3 of Implementing Regulation (EU) 2017/1145. By mistake, Commission Regulation (EC) No 833/2005[(4)] was mentioned in recital 3 of Implementing Regulation (EU) 2017/1145, both as to be amended and as to be repealed. It should be corrected to indicate that Regulation (EC) No 833/2005 should be only repealed. By mistake, Commission Regulation (EC) No 1459/2005[(5)] was not repealed by Article 3 of Implementing Regulation (EU) 2017/1145, while it authorises certain iodine compounds that are to be withdrawn from the market in

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2018/353. (See end of Document for details)*

accordance with Implementing Regulation (EU) 2017/1145. Commission Regulation (EC) No 1443/2006[6] was erroneously repealed by Article 3 of Implementing Regulation (EU) 2017/1145. Only Article 1 of and Annex I to that Regulation should be deleted as only those provisions concern certain enzymes that are to be withdrawn in accordance with Implementing Regulation (EU) 2017/1145. Those errors should be corrected.

(3) By mistake, the provisions of Commission Regulation (EC) No 1334/2003[7] authorising some iron compounds, to be withdrawn from the market in accordance with Implementing Regulation (EU) 2017/1145, were not deleted by Article 8 of that Regulation amending Regulation (EC) No 1334/2003. That Article should be corrected.

(4) In Part A of Annex I to Implementing Regulation (EU) 2017/1145 setting out the feed additives to be withdrawn for all species and categories of animals, in the table concerning vitamins, the L form of the vitamin menadione sodium bisulphite is included. This should be corrected as no reference to this L form was made in the authorisation.

(5) Parts A and B of Annex I to Implementing Regulation (EU) 2017/1145 should be corrected as regards some colourants as the species and categories of animals for which those colourants are required to be withdrawn from the market and the functions of those colourants were not indicated correctly. The requirement to withdraw the additive from the market for some of them applies only for certain species and the use as colourant is restricted to certain functions.

(6) Implementing Regulation (EU) 2017/1145 should therefore be corrected accordingly.

(7) The erroneous provisions have given rise to confusion for the feed business operators as regards the actual regulatory status of the additives concerned. That situation has created legal uncertainty as to the applicable regulatory framework. Those errors have therefore resulted in some market disturbance linked to the questioned authorisation to place on the market and use certain additives. The corrections to Implementing Regulation (EU) 2017/1145 should therefore apply retroactively on the day of entry into force of that Implementing Regulation, in order to restore legal certainty in relation to the regulatory status of the additives subject to the errors, to avoid any detrimental consequences for the operators concerned and consequently to bring stability back to the market.

(8) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

HAS ADOPTED THIS REGULATION:

Article 1

Implementing Regulation (EU) 2017/1145 is corrected as follows:

(1) Recital 3 is corrected as follows:

(a) the reference to Regulation (EC) No 1463/2004 is deleted with the corresponding footnote;

(b) the reference to Regulation (EC) No 833/2005 is deleted with the corresponding footnote from the list of Regulations to be amended. The corresponding footnote is inserted after the words '(EC) No 833/2005' in the list of Regulations to be repealed;

(c) the reference to Regulation (EC) No 1459/2005 is inserted between the words '(EC) No 833/2005' and '(EC) No 492/2006' in the list of Regulations to be repealed together with a footnote referring to its full title and reference of publication;

(d) the reference to Regulation (EC) No 1443/2006 is deleted with the corresponding footnote from the list of Regulations to be repealed and inserted with the corresponding footnote between the words '(EC) No 1284/2006' and 'and (EU) No 1270/2009' in the list of Regulations to be amended.

(2) Article 3 is replaced by the following:

Article 3

Repeals

Regulations (EC) No 937/2001, (EC) No 871/2003, (EC) No 277/2004, (EC) No 278/2004, (EC) No 1332/2004, (EC) No 1465/2004, (EC) No 833/2005, (EC) No 1459/2005, (EC) No 492/2006, (EC) No 1743/2006, (EC) No 757/2007, and (EC) No 828/2007 are repealed.

(3) In Article 8 the following points are inserted after the words 'The Annex to Regulation (EC) No 1334/2003, is amended as follows:' and the existing points are renumbered accordingly:

(1) in entry E 1 Iron — Fe, the words "Ferrous chloride, tetrahydrate" and all content relating only to Ferrous chloride, tetrahydrate are deleted.

(2) in entry E 1 Iron — Fe, the words "Ferrous citrate, hexahydrate" and all content relating only to Ferrous citrate, hexahydrate are deleted.

(3) in entry E 1 Iron — Fe, the words "Ferrous lactate, trihydrate" and all content relating only to Ferrous lactate, trihydrate are deleted.

(4) The following Article 25a is inserted:

Article 25a

Amendment to Regulation (EC) No 1443/2006

Article 1 of and Annex I to Regulation (EC) No 1443/2006 are deleted.

(5) Annex I is corrected in accordance with the Annex to this Regulation.

***Changes to legislation:** There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2018/353. (See end of Document for details)*

Article 2

Entry into force

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

It shall apply from 19 July 2017.

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

Done at Brussels, 9 March 2018.

For the Commission

The President

Jean-Claude JUNCKER