Commission Regulation (EU) 2016/324 of 7 March 2016 amending and correcting Annex II to Regulation (EC) No 1333/2008 of the European Parliament and of the Council as regards the use of certain food additives permitted in all categories of foods (Text with EEA relevance)

COMMISSION REGULATION (EU) 2016/324

of 7 March 2016

amending and correcting Annex II to Regulation (EC) No 1333/2008 of the European Parliament and of the Council as regards the use of certain food additives permitted in all categories of foods

(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 1333/2008 of the European Parliament and of the Council of 16 December 2008 on food additives[(1)], and in particular Article 10(3) thereof,

Having regard to Regulation (EC) No 1331/2008 of the European Parliament and of the Council of 16 December 2008 establishing a common authorisation procedure for food additives, food enzymes and food flavourings[(2)], and in particular Article 7(5) thereof,

Whereas:

(1) Annex II to Regulation (EC) No 1333/2008 lays down a Union list of food additives approved for use in foods and their conditions of use.

(2) That list may be updated in accordance with the common procedure referred to in Article 3(1) of Regulation (EC) No 1331/2008, either on the initiative of the Commission or following an application.

(3) The Union list of food additives was established based on the food additives permitted for use in foods in accordance with Directives of the European Parliament and of the Council 94/35/EC[(3)], 94/36/EC[(4)] and 95/2/EC[(5)] and after reviewing their compliance with Articles 6, 7, 8 and 16 of Regulation (EC) No 1333/2008. The Union list includes food additives on the basis of the categories of food to which those additives may be added to.

(4) Due to the difficulties encountered during the transfer of food additives to the new categorisation system provided in Annex II to Regulation (EC) No 1333/2008, foods for infants and young children were not transferred from Article 2(3)(b) of Directive 95/2/EC to Table 1 of Part A of Annex II to Regulation (EC) No 1333/2008. It should be ensured that the carry-over principle does not apply to those foods. Therefore, that table should be corrected to include foods for infants and young children provided in Directive 2009/39/EC of the European Parliament and of the Council[(6)], as replaced by Regulation (EU) No 609/2013 of the European Parliament and the Council[(7)].

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EU) 2016/324. (See end of Document for details)*

(5) In view of Article 16 on the use of food additives in foods for infants and young children of Regulation (EC) No 1333/2008, it is important to clarify the conditions of use of the food additives listed in food category 0. 'Food additives permitted in all categories of foods' of part E of Annex II to that Regulation and to amend the title of that category.

(6) Therefore, the Union list of food additives should be clarified in order to reflect all the uses in accordance with Articles 6, 7, 8 and 16 of Regulation (EC) No 1333/2008.

(7) Pursuant to Article 3(2) of Regulation (EC) No 1331/2008, the Commission has to seek the opinion of the European Food Safety Authority ('the Authority') in order to update the Union list of food additives set out in Annex II to Regulation (EC) No 1333/2008, except where the update in question is not liable to have an effect on human health. Since the Union list is amended in order to clarify uses already in accordance with Directives 94/35/EC, 94/36/EC and 95/2/EC, it constitutes an update of that list which is not liable to have an effect on human health. Therefore, it is not necessary to seek the opinion of the Authority.

(8) Annex II to Regulation (EC) No 1333/2008 should therefore be amended and corrected accordingly.

(9) 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

Annex II to Regulation (EC) No 1333/2008 is amended in accordance with the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the twentieth day following that 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, 7 March 2016.

For the Commission

The President

Jean-Claude JUNCKER

***Changes to legislation:** There are currently no known outstanding effects for the Commission Regulation (EU) 2016/324. (See end of Document for details)*

ANNEX

Annex II to Regulation (EC) No 1333/2008 is amended as follows:

1. The following entry 13 is added in Table 1 of Part A after the entry for '12. Dry pasta, excluding gluten-free and/or pasta intended for hypoproteic diets, in accordance with Directive 2009/39/EC of the European Parliament and of the Council':

'13	Foods for infants and young children as referred to in Regulation (EU) No 609/2013[a], including foods for special medical purposes for infants and young children.

a Regulation (EU) No 609/2013 of the European Parliament and of the Council of 12 June 2013 on food intended for infants and young children, food for special medical purposes, and total diet replacement for weight control and repealing Council Directive 92/52/EEC, Commission Directives 96/8/EC, 1999/21/EC, 2006/125/EC and 2006/141/EC, Directive 2009/39/EC of the European Parliament and of the Council and Commission Regulations (EC) No 41/2009 and (EC) No 953/2009 (OJ L 181, 29.6.2013, p. 35).'

2. Part E of Annex II to Regulation (EC) No 1333/2008 is amended as follows:

(a) the title of food category '0. Food additives permitted in all categories of foods' is replaced as follows:

0	Food additives permitted in all categories of foods excluding foods for infants and young children, except where specifically provided for.

(b) the entries for additives in the food category '0. Food additives permitted in all categories of foods' are replaced by the following:

	E 290	Carbon dioxide	quantum satis		May be used in foods for infants and young children.
	E 338-452	Phosphoric acid — phosphates di-, tri- and polyphosphates	10 000 —	(1) (4) (57)	Only foods in dried powdered form (i.e. foods dried during the production process, and mixtures thereof), excluding