Regulation (EC) No 1137/2008 of the European Parliament and of the Council of 22 October 2008 adapting a number of instruments subject to the procedure laid down in Article 251 of the Treaty to Council Decision 1999/468/EC, with regard to the regulatory procedure with scrutiny Adaptation to the regulatory procedure with scrutiny — Part One

REGULATION (EC) No 1137/2008 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 22 October 2008

adapting a number of instruments subject to the procedure laid down in Article 251 of the Treaty to Council Decision 1999/468/EC, with regard to the regulatory procedure with scrutiny

Adaptation to the regulatory procedure with scrutiny — Part One

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 40, 47(1) and (2), first and third sentences, 55, 71, 80(2), 95, 100, 137(2), 156, 175(1) and 285 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee[(1)],

Having regard to the opinion of the European Central Bank[(2)],

After consulting the Committee of the Regions,

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

Whereas:

(1) Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission[(4)] has been amended by Council Decision 2006/512/EC[(5)], which introduced the regulatory procedure with scrutiny for the adoption of measures of general scope and designed to amend non-essential elements of a basic instrument adopted in accordance with the procedure laid down in Article 251 of the Treaty, *inter alia*, by deleting some of those elements or by supplementing the instrument with new non-essential elements.

(2) In accordance with the statement by the European Parliament, the Council and the Commission[(6)] concerning Decision 2006/512/EC, for the regulatory procedure with scrutiny to be applicable to instruments adopted in accordance with the procedure laid down in Article 251 of the Treaty which are already in force, those instruments must be adjusted in accordance with the applicable procedures.

Changes to legislation: *There are outstanding changes not yet made to Regulation (EC) No 1137/2008 of the European Parliament and of the Council. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(3) Since the amendments made to instruments for this purpose concern committee procedure only, they do not, in the case of directives, need to be transposed by the Member States,

HAVE ADOPTED THIS REGULATION:

Article 1

The instruments listed in the Annex are hereby adapted, in accordance with that Annex, to Decision 1999/468/EC, as amended by Decision 2006/512/EC.

Article 2

References to provisions of the instruments listed in the Annex shall be understood to be references to those provisions as adapted by this Regulation.

Article 3

This Regulation shall enter into force on the 20th day following 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.

***Changes to legislation:** There are outstanding changes not yet made to Regulation (EC) No 1137/2008 of the European Parliament and of the Council. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

ANNEX

1. AGRICULTURE

1.1. Directive 1999/4/EC of the European Parliament and of the Council of 22 February 1999 relating to coffee extracts and chicory extracts[7]

As regards Directive 1999/4/EC, the Commission should be empowered to bring it into line with the general Community provisions applicable to foodstuffs. Since those measures are of general scope and are designed to amend non-essential elements of Directive 1999/4/EC, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.

Accordingly, Directive 1999/4/EC is hereby amended as follows:

1. Article 4 shall be replaced by the following:

Article 4

A decision to bring this Directive into line with the general Community provisions applicable to foodstuffs shall be taken by the Commission. That measure, designed to amend non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 5(2).;

2. Article 5 shall be replaced by the following:

Article 5

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 of the European Parliament and of the Council[8]

2 Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

1.2. Directive 2000/36/EC of the European Parliament and of the Council of 23 June 2000 relating to cocoa and chocolate products intended for human consumption[9]

As regards Directive 2000/36/EC, the Commission should be empowered to adopt the measures necessary for its implementation. Since those measures are of general scope and are designed to amend non-essential elements of Directive 2000/36/EC, *inter alia*, by supplementing it with new non-essential elements, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.

Accordingly, Directive 2000/36/EC is hereby amended as follows:

1. Article 5(1) shall be replaced by the following:

1. The following measures necessary for the implementation of this Directive and designed to amend non-essential elements of it, *inter alia*, by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 6(2):
   - measures bringing this Directive into line with general Community provisions applicable to foodstuffs,
   - measures adapting the provisions of Annex I(B)(2), (C) and (D) to technical progress.;

Changes to legislation: *There are outstanding changes not yet made to Regulation (EC) No 1137/2008 of the European Parliament and of the Council. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

2. Article 6 shall be replaced by the following:

Article 6

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 of the European Parliament and of the Council[(10)]

2 Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

2. EMPLOYMENT

2.1. Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work[(11)]

As regards Directive 89/391/EEC, the Commission should be empowered to make purely technical adjustments to the individual directives provided for in Article 16(1) of Directive 89/391/EEC which result from the adoption of directives in the field of technical harmonisation and standardisation, as well as from technical progress, changes in international regulations or specifications and new findings. Since those measures are of general scope and are designed to amend non-essential elements of those individual directives, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.

When, on imperative grounds of urgency, the normal time limits for the regulatory procedure with scrutiny cannot be complied with, the Commission should be able to apply the urgency procedure provided for in Article 5a(6) of Decision 1999/468/EC for the adoption of amendments of a purely technical nature.

Accordingly, Article 17 of Directive 89/391/EEC shall be replaced by the following:

Article 17

Committee procedure

1 The Commission shall be assisted by a committee to make purely technical adjustments to the individual directives provided for in Article 16(1) in order to take account of:

a the adoption of directives in the field of technical harmonisation and standardisation;

b technical progress, changes in international regulations or specifications and new findings.

Those measures, designed to amend non-essential elements of the individual directives, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in paragraph 2. On imperative grounds of urgency, the Commission may have recourse to the urgency procedure referred to in paragraph 3.

2 Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

3 Where reference is made to this paragraph, Article 5a(1), (2), (4) and (6) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

2.2. Council Directive 92/29/EEC of 31 March 1992 on the minimum safety and health requirements for improved medical treatment on board vessels[(12)]

***Changes to legislation:** There are outstanding changes not yet made to Regulation (EC) No 1137/2008 of the European Parliament and of the Council. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

As regards Directive 92/29/EEC, the Commission should be empowered to make purely technical adjustments to its Annexes in the light of technical progress or changes in international regulations or specifications and new findings in the field. Since those measures are of general scope and are designed to amend non-essential elements of Directive 92/29/EEC, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.

When, on imperative grounds of urgency, the normal time limits for the regulatory procedure with scrutiny cannot be complied with, the Commission should be able to apply the urgency procedure provided for in Article 5a(6) of Decision 1999/468/EC for the adoption of amendments of a purely technical nature.

Accordingly, Article 8 of Directive 92/29/EEC shall be replaced by the following:

Article 8

Committee procedure

1 The Commission shall be assisted by a committee to make purely technical adaptations of the Annexes to this Directive in the light of technical progress or changes in international regulations or specifications and new findings in the field.

Those measures, designed to amend non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in paragraph 2. On imperative grounds of urgency, the Commission may have recourse to the urgency procedure referred to in paragraph 3.

2 Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

3 Where reference is made to this paragraph, Article 5a(1), (2), (4) and (6) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

2.3. Directive 2002/44/EC of the European Parliament and of the Council of 25 June 2002 on the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (vibration) (16th individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)[(13)]

As regards Directive 2002/44/EC, the Commission should be empowered to make purely technical adjustments to its Annex resulting from the adoption of directives in the field of technical harmonisation and standardisation with regard to the design, building, manufacture or construction of work equipment and/or workplaces, as well as from technical progress, changes in the most appropriate harmonised European standards or specifications and new findings concerning mechanical vibration. Since those measures are of general scope and are designed to amend non-essential elements of Directive 2002/44/EC, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.

When, on imperative grounds of urgency, the normal time limits for the regulatory procedure with scrutiny cannot be complied with, the Commission should be able to apply the urgency procedure provided for in Article 5a(6) of Decision 1999/468/EC for the adoption of amendments of a purely technical nature.

Accordingly, Articles 11 and 12 of Directive 2002/44/EC shall be replaced by the following: