COMMISSION DIRECTIVE 98/67/EC

of 7 September 1998

amending Directives 80/511/EEC, 82/475/EEC, 91/357/EEC and Council Directive 96/25/EC and repealing Directive 92/87/EEC

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 79/373/EEC of 2 April 1979 on the marketing of compound feedingstuffs [1], as last amended by Commission Directive 97/47/EC [2], and in particular Articles 4(2) and 10(a) thereof,

Having regard to Council Directive 96/25/EC of 29 April 1996 on the circulation of feed materials, amending Directives 70/524/EEC, 74/63/EEC, 82/471/EEC and 93/74/EEC and repealing Directive 77/101/EEC [3], and in particular Article 11(b) thereof,

Whereas the introduction of Directive 96/25/EC entails deletion of the terms 'straight feedingstuffs' and 'raw materials'; whereas those terms are being replaced in Community feedingstuffs legislation, i.e. in Council Directives 70/524/EEC [4], as last amended by Commission Directive 98/19/EC [5], 74/63/EEC [6], as last amended by Commission Directive 98/60/EC [7], 82/471/EEC [8], as last amended by Directive 96/25/EC, and 93/74/EEC [9], as last amended by Directive 96/25/EC, by the term 'feed materials' whereas the definition of the term 'feed materials' is also replaced where necessary by the definition in Directive 96/25/EC; whereas this also has an impact on the definition of compound feedingstuffs; whereas Commission Directives 80/511/EEC [10], 82/475/EEC [11], as last amended by Directive 91/334/EEC [12] and 91/357/EEC [13], as last amended by Directive 97/47/EC, should be amended for the same reason;

Whereas Commission Directive 92/87/EEC of 26 October 1992 establishing a non-exclusive list of the main ingredients normally used and marketed for the preparation of compound feedingstuffs intended for animals other than pets [14] draws up for labelling purposes a list of ingredients of compound feedingstuffs; whereas, however, Directive 96/25/EC groups straight feedingstuffs and raw materials together in a single category, that of feed materials, and lays down a non-exclusive list of the main feed materials which may only be put into circulation using the terms indicated therein and on condition that they conform with the descriptions laid down there; whereas Directive 92/87/EEC thus becomes obsolete and should therefore be repealed;

Whereas it is necessary to ensure that the Annexes to Directive 96/25/EC are continually adjusted to take account of the latest developments in scientific or technical knowledge; whereas such adjustments will have to be made swiftly using the procedure laid down in this Directive to establish close cooperation between the Member States and the Commission within the Standing Committee on Feedingstuffs;

Whereas the provisions regarding the designation and description of feed materials as laid down in this Directive must apply without prejudice to the rules laid down by veterinary legislation, in particular Council Directive 90/667/EEC of 27 November 1990 laying down the veterinary rules for the disposal and processing of animal waste, for its placing on the market and for the prevention of pathogens in feedingstuffs of animal or fish origin and amending Directive 90/425/EEC [15], as last amended by the Act of Accession of Austria, Finland and Sweden;

Whereas, in order to protect ruminants from the health risk resulting from the fact that methods of treating protein cannot always guarantee total inactivation of the bovine spongiform encephalopathy agents, the Commission adopted Decision 94/381/EC of 27 June 1994 concerning certain protection measures with regard to bovine spongiform encephalopathy and the feeding of mammalian derived protein [16], as amended by Decision 95/60/EC [17] which prohibits the feeding to ruminants of

[1] OJ L 86, 6. 4. 1979, p. 30.
[2] OJ L 211, 5. 8. 1997, p. 45.
[3] OJ L 125, 23. 5. 1996, p. 35.
[4] OJ L 270, 14. 12. 1970, p. 1.
[5] OJ L 96, 28. 3. 1998, p. 39.
[6] OJ L 38, 11. 2. 1974, p. 31.
[7] OJ L 209, 25. 7. 1998, p. 50.
[8] OJ L 213, 21. 7. 1982, p. 8.
[9] OJ L 237, 22. 9. 1993, p. 23.
[10] OJ L 126, 21. 5. 1980, p. 14.
[11] OJ L 213, 21. 7. 1982, p. 27.
[12] OJ L 184, 10. 7. 1991, p. 27.
[13] OJ L 193, 17. 7. 1991, p. 34.
[14] OJ L 319, 4. 11. 1992, p. 19.
[15] OJ L 363, 27. 12. 1990, p. 51.
[16] OJ L 172, 7. 7. 1994, p. 23.
[17] OJ L 55, 11. 3. 1995, p. 43.

protein derived from mammalian tissue, with the exception of certain products presenting no health risk;

Whereas, for practical considerations and with a view to legal consistency, Commission Decision 97/582/EC of 28 July 1997 amending Decision 91/516/EEC establishing a list of ingredients whose use is prohibited in compound feedingstuffs [1], prohibits the use of protein derived from mammalian tissue in compound feedingstuffs for ruminants;

Whereas Council Directive 77/101/EEC of 23 November 1976 on the marketing of straight feedingstuffs [2], as last amended by Commission Directive 97/47/EC, and Directive 79/373/EEC lay down what labelling straight and compound feedingstuffs respectively consisting of or containing protein derived from mammalian tissue must have to prevent users from feeding them to ruminants in ignorance of the provisions of feedingstuffs and veterinary legislation; whereas Directive 96/25/EC should be supplemented with appropriate measures;

Whereas the labelling provisions laid down shall apply without prejudice to more stringent provisions which some Member States may have adopted as permitted by Article 1(2) of Directive 90/667/EEC;

Whereas Member States applying more stringent prohibitions must adapt the provisions on labelling in accordance with the prohibitions applying in those Member States;

Whereas feed materials are often treated with chemicals and may therefore contain certain chemical impurities resulting from the use, during their manufacture, of technical auxiliaries such as those referred to in Directive 70/524/EEC; whereas in order to guarantee that feed materials are only put into circulation if they are sound, genuine and of merchantable quality and to guarantee the smooth operation of the single market, general rules should be adopted concerning the chemical purity of feed materials according to which chemical impurities resulting from their manufacturing processes should be removed as far as good manufacturing processes allow;

Whereas a transitional period should be provided for in order to allow the industry to adapt to the provisions of this Directive; whereas feed materials put into circulation before the date of application of the Directive may remain in circulation until the end of that transitional period;

Whereas the measures provided for in this Directive are in accordance with the opinion of the Standing Committee on Feedingstuffs,

HAS ADOPTED THIS DIRECTIVE:

Article 1

In Article 1(2)(b) of Directive 80/511/EEC the term 'ingredients' is replaced by 'feed materials'.

Article 2

In the title and Article 1 of Directive 82/475/EEC and the Annex to the same, the term 'ingredients' is replaced by 'feed materials' throughout.

Article 3

In the title and Article 1 of Directive 91/357/EEC and the Annex to the same, the term 'ingredients' is replaced by 'feed materials' throughout.

Article 4

The Annex to Directive 96/25/EC is replaced by the Annex hereto.

Article 5

Directive 92/87/EEC is hereby repealed.

Article 6

The provisions laid down in this Directive shall apply without prejudice to the veterinary legislation rules relating to animal nutrition.

Article 7

1. Member States shall bring into force not later than 31 December 1998 the laws, regulations and administrative measures necessary to comply with this Directive. They shall forthwith inform the Commission thereof.

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

2. Member States shall communicate to the Commission the text of the main provisions of domestic law which they adopt in the field governed by this Directive.

[1] OJ L 237, 28. 8. 1997, p. 39.
[2] OJ L 32, 3. 2. 1977, p. 1.

Article 8

Member States shall lay down that feed materials put into circulation before 1 January 1999 which do not comply with this Directive may remain in circulation until 31 December 1999.

Article 9

This Directive shall enter into force on 1 July 1998.

Article 10

This Directive is addressed to the Member States.

Done at Brussels, 7 September 1998.

For the Commission
Franz FISCHLER
Member of the Commission

ANNEX

PART A

General

I. EXPLANATORY NOTES

1. Feed materials are listed and named in Part B in accordance with the following criteria:

   — the origin of the product/by-product, e.g. animal, vegetable, mineral,

   — the part of the product/by-product used, e.g. whole, seeds, tubers, bones,

   — the processing to which the product/by-product has been subjected, e.g. decortication, extraction, heating and/or the resulting product/by-product, e.g. flakes, bran, pulp, fat,

   — the maturity of the product/by-product and/or the quality of the product/by-product, e.g. 'low in glucosinolate', 'rich in fat', 'low in sugar'.

2. The list set out in Part B is divided into 12 chapters.

   1. Cereal grains, their products and by-products
   2. Oil seeds, oil fruits, their products and by-products
   3. Legume seeds, their products and by-products
   4. Tubers, roots, their products and by-products
   5. Other seeds and fruits, their products and by-products
   6. Forages and roughages
   7. Other plants, their products and by-products
   8. Milk products
   9. Land animal products
   10. Fish, other marine animals, their products and by-products
   11. Minerals
   12. Miscellaneous.

II. PROVISIONS REGARDING BOTANICAL AND CHEMICAL PURITY

1. Notwithstanding Article 3, feed materials must, as far as good manufacturing practices allow, be free from chemical impurities resulting from their manufacturing process and from technical auxiliaries as referred to in Directive 70/524/EEC, unless a specific maximum content is fixed in Part B of the Annex for a specific feed material.

2. The botanical purity of the products and by-products listed in Part B and Part C shall not be less than 95 %, unless a different level has been laid down in Part B or Part C.

   The following are considered as botanical impurities:

   (a) natural but harmless impurities (e.g. straw and straw waste, seeds of other cultivated species or weeds);

   (b) harmless residues of other oil seeds or oil fruits derived from a previous manufacturing process, the level of which does not exceed 0,5 %.

3. The botanical purity levels indicated refer to the weight of the product and by-product as such.

III. PROVISIONS REGARDING DESIGNATIONS

Where the name of a feed material in Part B includes a word or words in brackets, the bracketed word(s) may be omitted, e.g. soya (bean) oil may be declared as soya bean oil or soya oil.

IV. PROVISIONS REGARDING THE GLOSSARY

The glossary given below refers to the main processes used for the preparation of feed materials mentioned in Part B and Part C of this Annex. Where the names of these feed materials include a common name or qualifier from this glossary, the process to be used must be in accordance with the given definition.

	Process	Definition	Common name/qualifier
(1)	(2)	(3)	(4)
1	Concentration ([1])	Increase in certain contents by removing water or other constituents	Concentrate
2	Decortication ([2])	Complete or partial removal of outer layers from grains, seeds, fruits, nuts and others	Decorticated, partially decorticated
3	Drying	Dehydration by artificial or natural processes	Dried (sun or artificially)
4	Extraction	Removal either by organic solvent of fat or oil from certain materials or by aqueous solvent of sugar or other water-soluble components. In the case of the use of organic solvent, the resulting product must be technically free of such solvent	Extracted (in the case of oil-containing materials), molasses, pulp (in the case of products containing sugar or other water-soluble components)
5	Extrusion	Pressing of material through an orifice under pressure. (See also pregelatinisation)	Extruded
6	Flaking	Rolling of moist heat-treated material	Flakes
7	Flour milling	Physical processing of grain to reduce particle size and facilitate separation into constituent fractions (principally flour, bran and middlings)	Flour, bran, middlings ([3]), feed
8	Heating	General term covering a number of heat treatments carried out under specific conditions to influence the nutritional value or the structure of the material	Toasted, cooked, heat treated
9	Hydrogenation	Transformation of unsaturated glycerides into saturated glycerides (of oils and fats)	Hardened, partially hardened
10	Hydrolysis	Breakdown into simpler chemical constituents by appropriate treatment with water and possibly either enzymes or acid/alkali	Hydrolysed
11	Pressing ([4])	Removal by mechanical extraction (by a screw or other type of press), with or without a slight heating, of fat/oil from oil-rich materials or of juice from fruits or other vegetable products	Expeller ([5]) (in case of oil-containing materials) Pulp, pomace (in case of fruits, etc.) Pressed pulp (in case of sugar-beet)
12	Pelleting	Special shaping by compression through a die	Pellet, pelleted
13	Pregelatinisation	Modification of starch to improve markedly its swelling properties in cold water	Pregelatinised ([6]), puffed
14	Refining	Complete or partial removal of impurities in sugars, oils, fats and other natural materials by chemical/physical treatment	Refined, partially refined