II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DIRECTIVE 92/88/EEC

of 26 October 1992

amending Directive 74/63/EEC on undesirable substances and products in animal nutrition

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 43 thereof,

Having regard to the proposal from the Commission (1),

Having regard to the opinion of the European Parliament (2),

Having regard to the opinion of the Economic and Social Committee (3),

Whereas experience has demonstrated that there are grounds for amending certain provisions of Directive 74/63/EEC (4);

Whereas, moreover, the restriction of the scope of Directive 74/63/EEC to animals belonging to species normally nourished and kept or consumed by man does not rule out the possibility that feedingstuffs containing undesirable substances or products might be distributed to animals living freely in the wild;

Whereas it is accordingly advisable that the definition of the term 'animals' should in future cover species living freely in the wild in order that all feedingstuffs conform to the requirements prescribed by Directive 74/63/EEC;

Whereas Directive 74/63/EEC must apply to raw materials and feedingstuffs from the date of their introduction into the Community; whereas it should therefore be stipulated that the maximum levels of undesirable substances or products set apply in general from the date on which the raw materials and feedingstuffs are put into circulation, including all stages of marketing, and in particular from the date of their importation;

Whereas it is advisable to establish the principle that raw materials used in animal nutrition must be sound, genuine and of merchantable quality; whereas, therefore, it is necessary to prohibit the use or putting into circulation of raw materials which, because they contain too high a level of undesirable substances or products, result in the maximum levels for compound feedingstuffs laid down in Annex I to the Directive 74/63/EEC being exceeded;

Whereas Directive 74/63/EEC set maximum levels for certain substances or products undesirable in certain raw materials; whereas, for such a restriction to have full effect, namely a reduction in the total quantity of undesirable substances ingested by animals, it is advisable to state clearly that the measure applies to all consignments immediately they are put into circulation in the Community; whereas it is therefore forbidden to mix severely contaminated consignements with other consignments of raw material or with consignemnts of feedingstuffs in order to comply: with the maximum levels set by the Directive 74/63/EEC;

Whereas experience has shown that the information system introduced by the Directive 74/63/EEC within the official control departments should be improved so that Member States are also informed by operators of cases where the provisions of the Directive are not complied with; whereas, in such cases, Member States will be required to take all measures to enable use in animal

(1) OJ No C 288, 6. 11. 1991, p. 6 and OJ No C 260, 9. 10. 1992, p. 10.
(2) OJ No C 241, 21. 9. 1992, p. 222.
(3) OJ No C 79, 30. 3. 1992, p. 17.
(4) OJ No L 38, 11. 2. 1974, p. 31. Last amended by Commission Directive 92/63/EEC. (OJ No L 221, 6. 8. 1992, p. 49).