COMMISSION DIRECTIVE 97/47/EC

of 28 July 1997

amending the Annexes to Council Directives 77/101/EEC, 79/373/EEC and 91/357/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 77/101/EEC of 23 November 1976 on the marketing of straight feedingstuffs [1], as last amended by Directive 90/654/EEC [2], and in particular Article 10 thereof,

Having regard to Council Directive 79/373/EEC of 2 April 1979 on the marketing of compound feedingstuffs [3], as last amended by Directive 96/24/EC [4], and in particular Article 10 (e) thereof,

Whereas cases of bovine spongiform encephalopathy (BSE) have been reported in some Member States; whereas scrapie is also known to exist in some Member States; whereas BSE and scrapie agents may be transmitted by the oral route;

Whereas BSE in bovine animals is considered to originate from the use in feed of protein obtained from ruminants, constituting a vector for the transmission of agents of transmissible spongiform encephalopathies and not effectively treated to inactivate such agents;

Whereas, to protect ruminants from the health risks arising from the fact that methods of treating protein could not always ensure that the agents were totally inactivated, 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 [5], as last amended by Decision 95/60/EC [6]; whereas that instrument bans the feeding to ruminants of protein obtained from mammalian tissue while laying down that some products are to be exempted given that they present no health risk;

Whereas, given the health risks associated with the feeding to ruminants of feedingstuffs containing infected protein derived from mammalian tissue and the fact that the transmission of the disease to humans cannot be ruled out, the Council decided at its meeting of 1 to 3 April 1996 to adopt additional measures to protect human and animal health;

Whereas, for practical reasons and for the sake of legal consistency, Commission Decision 95/274/EC of 10 July 1995 amending Decision 91/516/EEC establishing a list of ingredients whose use is prohibited in compound feedingstuffs [7] prohibits the use of protein derived from mammalian tissue in compound feedingstuffs for ruminants;

Whereas Directives 77/101/EEC and 79/373/EEC lay down general and specific rules for the marketing and labelling of straight and compound feedingstuffs; whereas, to prevent the users of feedingstuffs containing protein derived from certain tissue of mammals from feeding them to ruminants through ignorance of current feedingstuffs and veterinary rules, appropriate labelling of such feedingstuffs must call attention to the prohibition on their use in ruminant feed; whereas Directive 77/101/EEC will be repealed by Council Directive 96/25/EC [8] on the circulation of feed materials, and similar measures will therefore also have to be laid down in Directive 96/25/EC;

Whereas the 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 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 feedstuffs of animal or fish origin and amending Directive 90/425/EEC [9];

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

Whereas the categories of ingredients listed in Commission Directive 91/357/EEC of 13 June 1991 laying down the categories of ingredients which may be used for the purposes of labelling compound feedingstuffs for animals other than pet animals [10] allow several ingredients to be

[1] OJ No L 32, 3. 2. 1977, p. 1.
[2] OJ No L 353, 17. 12. 1990, p. 48.
[3] OJ No L 86, 6. 4. 1979, p. 30.
[4] OJ No L 125, 23. 5. 1996, p. 33.
[5] OJ No L 172, 7. 7. 1994, p. 23.
[6] OJ No L 55, 11. 3. 1995, p. 43.
[7] OJ No L 167, 18. 7. 1995, p. 24.
[8] OJ No L 125, 23. 5. 1996, p. 35.
[9] OJ No L 363, 27. 12. 1990, p. 51.
[10] OJ No L 193, 17. 7. 1991, p. 34.

grouped under a common description; whereas, however, livestock farmers must have accurate and meaningful information on compound feedingstuffs containing ingredients comprising protein derived from mammalian tissue; whereas the category 'Land animal products' pertaining to that group of ingredients should therefore be deleted from the labelling of compound feedingstuffs; whereas, consequently, feedingstuff producers must give an accurate description of the ingredients covered by that category since they no longer fall within any of the categories set out in the Annex to Directive 91/357/EEC;

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

The provisions of this Directive shall apply without prejudice to Decision 94/381/EC.

Article 2

Amendment to Directive 77/101/EEC

The following point is hereby added to Part A of the Annex to Directive 77/101/EEC:

'3. Labelling of straight feedingstuffs comprising protein derived from mammalian tissue.

3.1. The labelling of straight feedingstuffs comprising protein derived from mammalian tissue must contain the following statement: "This straight feedingstuff comprises protein derived from mammalian tissue the feeding of which to ruminants is prohibited".

This does not apply to:

— milk and milk products,

— gelatin,

— amino acids obtained from hides and skins by a process which involves exposure of the material to a pH of 1 to 2 followed by a pH of > 11, followed by heat treatment at 140 °C for 30 minutes at 3 bar,

— dicalcium phosphate derived from defatted bones, and

— dried plasma and other blood products.

3.2. Where a Member State prohibits the use of protein derived from mammalian tissue as referred to in 3.1, first sentence, in feedingstuffs for certain animals other than ruminants as permitted by Article 1 (2) of Council Directive 90/667/EEC (*), the statement required in 3.1 must mention in addition the other species or categories of animals to which it has extended the prohibition on the use of the products in question.

(*) OJ No L 363, 27. 12. 1990, p. 51.'

Article 3

Amendment to Directive 79/373/EEC

The following point is hereby added to Part A of the Annex to Directive 79/373/EEC:

'7. Labelling of compound feedingstuffs containing protein derived from mammalian tissue.

7.1. The labelling of compound feedingstuffs containing protein derived from mammalian tissue and intended for animals other than pets must contain the following statement: "This compound feedingstuff contains protein derived from mammalian tissue the feeding of which to ruminants is prohibited".

This does not apply to compound feedingstuffs which contain no protein derived from mammalian tissue other than the following:

— milk and milk products,

— gelatin,

— amino acids obtained from hides and skins by a process which involves exposure of the material to a pH of 1 to 2 followed by a pH of > 11, followed by heat treatment at 140 °C for 30 minutes at 3 bar,

— dicalcium phosphate derived from defatted bones, and

— dried plasma and other blood products.

7.2. Where a Member State prohibits the use of protein derived from mammalian tissue as referred to in 7.1, first sentence, in feedingstuffs for certain animals other than ruminants as permitted by Article 1 (2) of Council Directive 90/667/EEC (*), the statement required in 7.1 must mention in addition the other species or categories of animals to which it has extended the prohibition on the use of the products in question.

(*) OJ No L 363, 27. 12. 1990, p. 51.'

Article 4

Amendment to Directive 91/357/EEC

The Annex to Directive 91/357/EEC is hereby amended as follows:

1. Category 12 'Land animal products' is deleted;

2. in column 1, the numbers '13', '14', '15' and '16' are replaced by '12', '13', '14' and '15' respectively.

Article 5

1. Member States shall bring into force not later than 1 December 1997 the laws, regulations and administrative provisions necessary to comply with the provisions of this Directive. They shall immediately 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.

Article 6

This Directive shall enter into force on the third day following its publication in the *Official Journal of the European Communities.*

Article 7

This Directive is addressed to the Member States.

Done at Brussels, 28 July 1997.

For the Commission

Franz FISCHLER

Member of the Commission