

European Parliament and Council Directive No 95/2/EC of 20 February 1995 on food additives other than colours and sweeteners (repealed)

Article 1

[^{F1} This Directive is a specific Directive forming a part of the comprehensive Directive, within the meaning of Article 3 of Directive 89/107/EEC, and applies to additives other than colours and sweeteners. It does not apply to enzymes other than those mentioned in the Annexes,]

2 Only additives which satisfy the requirements laid down by the Scientific Committee for Food may be used in foodstuffs.

3 For the purpose of this Directive:

- a 'preservatives' are substances which prolong the shelf-life of foodstuffs by protecting them against deterioration caused by micro-organisms;
- b 'antioxidants' are substances which prolong the shelf-life of foodstuffs by protecting them against deterioration caused by oxidation, such as fat rancidity and colour changes;
- [^{F2}c 'carriers', including carrier solvents, are substances used to dissolve, dilute, disperse or otherwise physically modify a food additive or flavouring without altering its function (and without exerting any technological effect themselves) in order to facilitate its handling, application or use;]
- d 'acids' are substances which increase the acidity of a foodstuff and/or impart a sour taste to it;
- e 'acidity regulators' are substances which alter or control the acidity or alkalinity of a foodstuff;
- f 'anti-caking agents' are substances which reduce the tendency of individual particles of a foodstuff to adhere to one another;
- g 'anti-foaming agents' are substances which prevent or reduce foaming;
- h 'bulking agents' are substances which contribute to the volume of a foodstuff without contributing significantly to its available energy value;
- i 'emulsifiers' are substances which make it possible to form or maintain a homogenous mixture of two or more immiscible phases such as oil and water in a foodstuff;
- j 'emulsifying salts' are substances which convert proteins contained in cheese into a dispersed form and thereby bring about homogenous distribution of fat and other components;
- k 'firming agents' are substances which make or keep tissues of fruit or vegetables firm or crisp, or interact with gelling agents to produce or strengthen a gel;
- l 'flavour enhancers' are substances which enhance the existing taste and/or odour of a foodstuff;
- m 'foaming agents' are substances which make it possible to form a homogenous dispersion of a gaseous phase in a liquid or solid foodstuff;
- n 'gelling agents' are substances which give a foodstuff texture through formation of a gel;
- o 'glazing agents' (including lubricants) are substances which, when applied to the external surface of a foodstuff, impart a shiny appearance or provide a protective coating;
- p 'humectants' are substances which prevent foodstuffs from drying out by counteracting the effect of an atmosphere having a low degree of humidity, or promote the dissolution of a powder in an aqueous medium;

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- q ‘modified starches’ are substances obtained by one or more chemical treatments of edible starches, which may have undergone a physical or enzymatic treatment, and may be acid or alkali thinned or bleached;
 - r ‘packaging gases’ are gases other than air, introduced into a container before, during or after the placing of a foodstuff in that container;
 - s ‘propellants’ are gases other than air which expel a foodstuff from a container;
 - t ‘raising agents’ are substances or combinations of substances which liberate gas and thereby increase the volume of a dough or a batter;
 - u ‘sequestrants’ are substances which form chemical complexes with metallic ions;
 - [^{F3}v ‘stabilisers’ are substances which make it possible to maintain the physico-chemical state of a foodstuff; stabilisers include substances which enable the maintenance of a homogenous dispersion of two or more immiscible substances in a foodstuff, substances which stabilise, retain or intensify an existing colour of a foodstuff and substances which increase the binding capacity of the food, including the formation of cross-links between proteins enabling the binding of food pieces into re-constituted food;]
 - w ‘thickeners’ are substances which increase the viscosity of a foodstuff.
- 4 Flour treatment agents other than emulsifiers are substances which are added to flour or dough to improve its baking quality.
- 5 For the purposes of this Directive the following are not considered as food additives:
- a substances used for treatment of drinking water as provided for in Directive 80/778/EEC⁽¹⁾;
 - b products containing pectin and derived from dried apple pomace or peel of citrus fruits, or from a mixture of both, by the action of dilute acid followed by partial neutralization with sodium or potassium salts (‘liquid pectin’);
 - c chewing gum bases;
 - d white or yellow dextrin, roasted or dextrinated starch, starch modified by acid or alkali treatment, bleached starch, physically modified starch and starch treated by amylolytic enzymes;
 - e ammonium chloride;
 - f blood plasma, edible gelatin, protein hydrolysates and their salts, milk protein and gluten;
 - g amino acids and their salts other than glutamic acid, glycine, cysteine and cystine and their salts and having no additive function;
 - h caseinates and casein;
 - i inulin.

Textual Amendments

- F1** Inserted by [Directive 98/72/EC of the European Parliament and of the Council of 15 October 1998 amending Directive 95/2/EC on food additives other than colours and sweeteners](#).
- F2** Substituted by [Directive 2006/52/EC of the European Parliament and of the Council of 5 July 2006 amending Directive 95/2/EC on food additives other than colours and sweeteners and Directive 94/35/EC on sweeteners for use in foodstuffs](#).
- F3** Substituted by [Directive 2003/114/EC of the European Parliament and of the Council of 22 December 2003 amending Directive 95/2/EC on food additives other than colours and sweeteners](#).

Article 2

[^{F1} Only substances listed in Annexes I, III, IV and V may be used in foodstuffs for the purposes mentioned in Article 1(3) and Article 1(4),

2 Food additives listed in Annex I are permitted in foodstuffs, for the purposes mentioned in Article 1(3) and Article 1(4), with the exception of those foodstuffs listed in Annex II, following the ‘*quantum satis*’ principle,]

3 Except where specifically provided for, paragraph 2 does not apply to:

- a — unprocessed foodstuffs,
- honey as defined in Directive 74/409/EEC⁽²⁾
- non-emulsified oils and fats of animal or vegetable origin,
- butter,
- [^{F1}pasteurised and sterilised (including UHT) milk (including plain, skimmed and semi-skimmed) and plain pasteurised cream,]
- unflavoured, live fermented milk products,
- natural mineral water as defined in Directive 80/777/EEC⁽³⁾ and spring water,
- coffee (excluding flavoured instant coffee) and coffee extracts,
- unflavoured leaf tea,
- sugars as defined in Directive 73/437/EEC⁽⁴⁾,
- [^{F1}dry pasta, excluding gluten-free and/or pasta intended for hypoproteic diets, in accordance with Directive 89/398/EEC,]
- natural unflavoured buttermilk (excluding sterilized buttermilk).

Within the meaning of this Directive, the term ‘unprocessed’ means not having undergone any treatment resulting in a substantial change in the original state of the foodstuffs; however, the foodstuffs may have been, for example, divided, parted, severed, boned, minced, skinned, pared, peeled, ground, cut, cleaned, trimmed, deep-frozen or frozen, chilled, milled or husked, packed or unpacked;

- b foods for infants and young children as referred to in Directive 89/398/EEC, including foods for infants and young children not in good health; these foodstuffs are subject to the provisions of Annex VI;
- c the foodstuffs listed in Annex II, which may contain only those additives referred to in that Annex and those additives referred to in Annexes III and IV under the conditions specified therein.

4 Additives listed in Annexes III and IV may only be used in the foodstuffs referred to in those Annexes and under the conditions specified therein.

5 Only those additives listed in Annex V may be used as carriers or carrier solvents for food additives and must be used under the conditions specified therein.

6 The provisions of this Directive shall also apply to the corresponding foodstuffs intended for particular nutritional uses in accordance with Directive 89/398/EEC.

7 Maximum levels indicated in the Annexes refer to foodstuffs as marketed, unless otherwise stated.

8 In the Annexes to this Directive, ‘*quantum satis*’ means that no maximum level is specified. However, additives shall be used in accordance with good manufacturing practice, at a level not higher than is necessary to achieve the intended purpose and provided that they do not mislead the consumer.

Textual Amendments

- F1** Inserted by [Directive 98/72/EC of the European Parliament and of the Council of 15 October 1998 amending Directive 95/2/EC on food additives other than colours and sweeteners.](#)

Article 3

- [^{F3}1 The presence of a food additive is permissible:
- a in a compound foodstuff other than one mentioned in Article 2(3), to the extent to which the food additive is permitted in one of the ingredients of the compound foodstuff;
 - b in a foodstuff where a flavouring has been added, to the extent to which the food additive is permitted in the flavouring in compliance with this Directive and has been carried over to the foodstuff via the flavouring, provided the food additive has no technological function in the final foodstuff; or
 - c if the foodstuff is destined to be used solely in the preparation of a compound foodstuff and to an extent such that the compound foodstuff conforms to the provisions of this Directive.]

2 Paragraph 1 does not apply to infant formulae, follow-on formulae and [^{F2}processed cereal-based foods and baby foods], as referred to in Directive 89/398/EEC, except where specially provided for.

[^{F4}3 The level of additives in flavourings shall be limited to the minimum necessary to guarantee the safety and quality of flavourings and to facilitate their storage. Furthermore, the presence of additives in flavourings must not mislead consumers or present a hazard to their health. If the presence of an additive in a foodstuff, as a consequence of adding flavourings, has a technological function in the foodstuff, it shall be considered as an additive of the foodstuff and not as an additive of the flavouring.]

Textual Amendments

- F2** Substituted by [Directive 2006/52/EC of the European Parliament and of the Council of 5 July 2006 amending Directive 95/2/EC on food additives other than colours and sweeteners and Directive 94/35/EC on sweeteners for use in foodstuffs.](#)
- F3** Substituted by [Directive 2003/114/EC of the European Parliament and of the Council of 22 December 2003 amending Directive 95/2/EC on food additives other than colours and sweeteners.](#)
- F4** Inserted by [Directive 2003/114/EC of the European Parliament and of the Council of 22 December 2003 amending Directive 95/2/EC on food additives other than colours and sweeteners.](#)

Article 4

This Directive shall apply without prejudice to specific Directives permitting additives listed in the Annexes to be used as sweeteners or colours.

Article 5

Where necessary, it may be decided by the procedure laid down in Article 6 of this Directive:

- whether a particular foodstuff not categorized at the moment this Directive was adopted belongs to a category of foodstuffs referred to in Article 2 or in one of the Annexes, or
- whether a food additive listed in the Annexes and authorized at ‘*quantum satis*’ is used in accordance with the criteria referred to in Article 2, or

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— whether a substance is a food additive within the meaning of Article 1.

F⁵ 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⁽⁵⁾, hereinafter referred to as ‘the Committee’.

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

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months.

3 The Committee shall adopt its rules of procedure.]

Textual Amendments

F5 Substituted by [Regulation \(EC\) No 1882/2003 of the European Parliament and of the Council of 29 September 2003 adapting to Council Decision 1999/468/EC the provisions relating to committees which assist the Commission in the exercise of its implementing powers laid down in instruments subject to the procedure referred to in Article 251 of the EC Treaty.](#)

Article 7

Member States shall, within three years of the entry into force of this Directive, establish systems to monitor the consumption and use of food additives and report their findings to the Commission.

The Commission shall report to the European Parliament and the Council within five years of the entry into force of this Directive on the changes which have taken place in the food additives market, the levels of use and consumption.

In accordance with the general criteria in point 4 of Annex II to Directive 89/107/EEC, within five years of the entry into force of this Directive, the Commission shall review the conditions of use referred to in this Directive, and propose amendments where necessary.

Article 8

1 Directives 64/54/EEC, 70/357/EEC, 74/329/EEC and 83/463/EEC are hereby repealed.

2 References to these repealed Directives and to the purity criteria for certain food additives referred to in them shall henceforth be construed as references to this Directive.

Article 9

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive not later than 25 September 1996 in order to:

- allow, by 25 September 1996 at the latest, trade in and use of products conforming to this Directive,
- prohibit by 25 March 1997 at the latest, trade in and use of products not conforming to this Directive; products put on the market or labelled before that date which do not comply with this Directive may, however, be marketed until stocks are exhausted.

They shall forthwith inform the Commission thereof.

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When Member States adopt these measures, 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.

Article 10

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

Article 11

This Directive is addressed to the Member States.

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- (1) OJ No L 229, 30. 8. 1980, p. 11. Directive as last amended by Directive 91/692/EEC (OJ No L 377, 31. 12. 1991, p. 48).
- (2) OJ No L 211, 12. 8. 1974, p. 10.
- (3) OJ No L 229, 30. 8. 1980, p. 1.
- (4) OJ No L 356, 27. 12. 1973, p. 71.
- (5) [^{F5}OJ L 31, 1.2.2002, p. 1.
- (6) Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission (OJ L 184, 17.7.1999, p. 23).]

Textual Amendments

- F5** Substituted by Regulation (EC) No 1882/2003 of the European Parliament and of the Council of 29 September 2003 adapting to Council Decision 1999/468/EC the provisions relating to committees which assist the Commission in the exercise of its implementing powers laid down in instruments subject to the procedure referred to in Article 251 of the EC Treaty.