

**COMMISSION DIRECTIVE 2004/5/EC**  
**of 20 January 2004**  
**amending Directive 2001/15/EC to include certain substances in the Annex**  
**(Text with EEA relevance)**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 89/398/EEC of 3 May 1989 on the approximation of the laws of the Member States relating to foodstuffs intended for particular nutritional uses <sup>(1)</sup>, and in particular Article 4(2) thereof,

After consulting the Scientific Committee on Food or the European Food Safety Authority,

Whereas:

- (1) Commission Directive 2001/15/EC of 15 February 2001 on substances that may be added for specific nutritional purposes in foods for particular nutritional uses <sup>(2)</sup> specifies certain categories of substances and mentions for each of them the chemical substances that may be used in the manufacture of foodstuffs for particular nutritional uses. It provides that Member States are to prohibit trade in products not complying with the Directive with effect from 1 April 2004.
- (2) At the time of the adoption of Directive 2001/15/EC a number of chemical substances added for specific nutritional purposes in some foods for particular nutritional uses, which are marketed in some Member States, could not be included in the Annex to that Directive because they had not been evaluated by the Scientific Committee on Food (SCF).
- (3) Those chemical substances that have since been evaluated by the Scientific Committee on Food or by the European Food Safety Authority and have received a favourable scientific evaluation should be included in the Annex to Directive 2001/15/EC.
- (4) Since products containing those substances are on the market in certain Member States, it is necessary that this Directive be transposed before 1 April 2004, in order to avoid that the prohibition provided for in Directive 2001/15/EC becomes applicable to those substances for a limited period of time, which would cause an undue disruption of the market.
- (5) Directive 2001/15/EC should be amended accordingly.
- (6) The measures provided for in this Directive are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS DIRECTIVE:

*Article 1*

The Annex to Directive 2001/15/EC is amended in accordance with the Annex to this Directive.

*Article 2*

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 31 March 2004 at the latest. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

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

*Article 3*

This Directive shall enter into force on the 20th day following that of its publication in the *Official Journal of the European Union*.

*Article 4*

This Directive is addressed to the Member States.

Done at Brussels, 20 January 2004.

*For the Commission*

David BYRNE

*Member of the Commission*

<sup>(1)</sup> OJ L 186, 30.6.1989, p.27, Directive as last amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council (OJ L 284, 31.10.2003, p. 1).

<sup>(2)</sup> OJ L 52, 22.2.2001, p. 19.

## ANNEX

The Annex to Directive 2001/15/EC is amended as follows:

1. In the Section concerning Category 2. Minerals, the following line is added under the heading CALCIUM:

Substance	Conditions of use	
	All FPNU	FSMP
'— sulphate	x'	

2. In the Section concerning Category 3. Amino acids, the following lines are added:

Substance	Conditions of use	
	All FPNU	FSMP
'— L-serine		x
— L-arginine-L-aspartate		x
— L-lysine-L-aspartate		x
— L-lysine-L-glutamate		x
— N-acetyl-L-cysteine		x
— N-acetyl-L-methionine		x in products intended for persons over 1 year of age'

3. In the Section concerning Category 4. Carnitine and taurine, the following line is added:

Substance	Conditions of use	
	All FPNU	FSMP
'— L-carnitine-L-tartrate	x'	