

Regulation (EC) No 852/2004 of the European Parliament and
of the Council of 29 April 2004 on the hygiene of foodstuffs

CHAPTER V

FINAL PROVISIONS

Article 13

Amendment and adaptation of Annexes I and II

1 Annexes I and II may be adapted or updated in accordance with the procedure referred to in Article 14(2), taking into account:

- a the need to revise the recommendations set out in Annex I, Part B, paragraph 2;
- b the experience gained from the implementation of HACCP-based systems pursuant to Article 5;
- c technological developments and their practical consequences and consumer expectations with regard to food composition;
- d scientific advice, particularly new risk assessments;
- e microbiological and temperature criteria for foodstuffs.

2 Derogations from Annexes I and II may be granted, in particular in order to facilitate the implementation of Article 5 for small businesses, in accordance with the procedure referred to in Article 14(2), taking into account the relevant risk factors, provided that such derogations do not affect the achievement of the objectives of this Regulation.

3 Member States may, without compromising achievement of the objectives of this Regulation, adopt, in accordance with paragraphs 4 to 7 of this Article, national measures adapting the requirements laid down in Annex II.

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- a The national measures referred to in paragraph 3 shall have the aim of:
 - (i) enabling the continued use of traditional methods, at any of the stages of production, processing or distribution of food; or
 - (ii) accommodating the needs of food businesses situated in regions that are subject to special geographical constraints.
- b In other cases, they shall apply only to the construction, layout and equipment of establishments.

5 Any Member State wishing to adopt national measures as referred to in paragraph 3 shall notify the Commission and other Member States. The notification shall:

- a provide a detailed description of the requirements that that Member State considers need to be adapted and the nature of the adaptation sought;
- b describe the foodstuffs and establishments concerned;
- c explain the reasons for the adaptation, including, where relevant, by providing a summary of the hazard analysis carried out and any measures to be taken to ensure that the adaptation will not compromise the objectives of this Regulation; and

d give any other relevant information.

6 The other Member States shall have three months from the receipt of a notification referred to in paragraph 5 to send written comments to the Commission. In the case of the adaptations arising from paragraph 4(b), this period shall, at the request of any Member State, be extended to four months. The Commission may, and when it receives written comments from one or more Member States shall, consult Member States within the committee referred to in Article 14(1). The Commission may decide, in accordance with the procedure referred to in Article 14(2), whether the envisaged measures may be implemented, subject, if necessary, to appropriate amendments. Where appropriate, the Commission may propose general measures in accordance with paragraph 1 or 2.

7 A Member State may adopt national measures adapting the requirements of Annex II only:

- a in compliance with a decision adopted in accordance with paragraph 6; or
- b if, one month after the expiry of the period referred to in paragraph 6, the Commission has not informed Member States that it has received written comments or that it intends to propose the adoption of a decision in accordance with paragraph 6.