

Regulation (EC) No 1924/2006 of the European Parliament and of the Council of 20 December 2006 on nutrition and health claims made on foods

[^{XI}CHAPTER V

GENERAL AND FINAL PROVISIONS

Article 20

Community Register

- 1 The Commission shall establish and maintain a Community Register of nutrition and health claims made on food, hereinafter referred to as 'the Register'.
- 2 The Register shall include the following:
 - a the nutrition claims and the conditions applying to them as set out in the Annex;
 - b restrictions adopted in accordance with Article 4(5);
 - c the authorised health claims and the conditions applying to them provided for in Articles 13(3) and (5), 14(1), 19(2), 21, 24(2) and 28(6) and the national measures referred to in Article 23(3);
 - d a list of rejected health claims and the reasons for their rejection.

Health claims authorised on the basis of proprietary data shall be recorded in a separate Annex to the Register together with the following information:

- 1) the date the Commission authorised the health claim and the name of the original applicant that was granted authorisation;
 - 2) the fact that the Commission authorised the health claim on the basis of proprietary data;
 - 3) the fact that the health claim is restricted for use unless a subsequent applicant obtains authorisation for the claim without reference to the proprietary data of the original applicant.
- 3 The Register shall be made available to the public.

Article 21

Data protection

- 1 The scientific data and other information in the application required under Article 15(3) may not be used for the benefit of a subsequent applicant for a period of five years from the date of authorisation, unless the subsequent applicant has agreed with the prior applicant that such data and information may be used, where:
 - a the scientific data and other information has been designated as proprietary by the prior applicant at the time the prior application was made; and
 - b the prior applicant had exclusive right of reference to the proprietary data at the time the prior application was made; and

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- c the health claim could not have been authorised without the submission of the proprietary data by the prior applicant.

2 Until the end of the five-year period specified in paragraph 1, no subsequent applicant shall have the right to refer to data designated as proprietary by a prior applicant unless and until the Commission takes a decision on whether a claim could be or could have been included in the list provided for in Article 14 or, where appropriate, Article 13 without the submission of data designated as proprietary by the prior applicant.

Article 22

National provisions

Without prejudice to the Treaty, in particular Articles 28 and 30 thereof, Member States may not restrict or forbid trade in or advertising of foods which comply with this Regulation by the application of non-harmonised national provisions governing claims made on certain foods or on foods in general.

Article 23

Notification procedure

1 If a Member State considers it necessary to adopt new legislation, it shall notify the Commission and the other Member States of the envisaged measures and give the reasons justifying them.

2 The Commission shall consult the Standing Committee on the Food Chain and Animal Health instituted by Article 58(1) of Regulation (EC) No 178/2002 (hereinafter referred to as 'the Committee') if it considers such consultation to be useful or if a Member State so requests, and shall give an opinion on the envisaged measures.

3 The Member State concerned may take the envisaged measures six months after the notification referred to in paragraph 1, provided that the Commission's opinion is not negative.

If the Commission's opinion is negative, it shall determine, in accordance with the procedure referred to in Article 25(2) and before the expiry of the period referred to in the first subparagraph of this paragraph, whether the envisaged measures may be implemented. The Commission may require certain amendments to be made to the envisaged measures.

Article 24

Safeguard measures

1 Where a Member State has serious grounds for considering that a claim does not comply with this Regulation, or that the scientific substantiation provided for in Article 6 is insufficient, that Member State may temporarily suspend the use of that claim within its territory.

It shall inform the other Member States and the Commission and give reasons for the suspension.

2 In accordance with the procedure referred to in Article 25(2), a decision shall be taken, where appropriate after obtaining an opinion from the Authority.

The Commission may initiate this procedure on its own initiative.

3 The Member State referred to in paragraph 1 may maintain the suspension until the decision referred to in paragraph 2 has been notified to it.

Article 25

Committee procedure

1 The Commission shall be assisted by the Committee.

2 Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC 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.

Article 26

Monitoring

To facilitate efficient monitoring of foods bearing nutrition or health claims, Member States may require the manufacturer or the person placing such foods on the market in their territory to notify the competent authority of that placing on the market by forwarding to it a model of the label used for the product.

Article 27

Evaluation

By 19 January 2013 at the latest, the Commission shall submit to the European Parliament and to the Council a report on the application of this Regulation, in particular on the evolution of the market in foods in respect of which nutrition or health claims are made and on the consumers' understanding of claims, together with a proposal for amendments if necessary. The report shall also include an evaluation of the impact of this Regulation on dietary choices and the potential impact on obesity and non-communicable diseases.

Article 28

Transitional measures

1 Foods placed on the market or labelled prior to the date of application of this Regulation which do not comply with this Regulation may be marketed until their expiry date, but not later than 31 July 2009. With regard to the provisions in Article 4(1), foods may be marketed until twenty-four months following adoption of the relevant nutrient profiles and their conditions of use.

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2 Products bearing trade marks or brand names existing before 1 January 2005 which do not comply with this Regulation may continue to be marketed until 19 January 2022 after which time the provisions of this Regulation shall apply.

3 Nutrition claims which have been used in a Member State before 1 January 2006 in compliance with national provisions applicable to them and which are not included in the Annex, may continue to be used until 19 January 2010 under the responsibility of food business operators and without prejudice to the adoption of safeguard measures as referred to in Article 24.

4 Nutrition claims in the form of pictorial, graphic or symbolic representation, complying with the general principles of this Regulation, which are not included in the Annex and are used according to specific conditions and criteria elaborated by national provisions or rules, shall be subject to the following:

- a Member States shall communicate to the Commission, by 31 January 2008 at the latest, such nutrition claims and the national provisions or rules applicable, accompanied by scientific data in support of such provisions or rules;
- b the Commission shall, in accordance with the procedure referred to in Article 25(2), adopt a Decision concerning the use of such claims.

Nutrition claims not authorised under this procedure may continue to be used for twelve months following the adoption of the Decision.

5 Health claims as referred to in Article 13(1)(a) may be made from the date of entry into force of this Regulation until the adoption of the list referred to in Article 13(3), under the responsibility of food business operators provided that they comply with this Regulation and with existing national provisions applicable to them, and without prejudice to the adoption of safeguard measures as referred to in Article 24.

6 Health claims other than those referred to in Articles 13(1)(a) and 14, which have been used in compliance with national provisions before the date of entry into force of this Regulation, shall be subject to the following:

- a health claims which have been the subject of evaluation and authorisation in a Member State shall be authorised as follows:
 - (i) Member States shall communicate to the Commission, by 31 January 2008 at the latest, such claims accompanied by a report evaluating the scientific data in support of the claim;
 - (ii) after consulting the Authority, the Commission shall, in accordance with the procedure referred to in Article 25(2), adopt a Decision concerning the health claims authorised in this way.

Health claims not authorised under this procedure may continue to be used for six months following the adoption of the Decision;

- b health claims which have not been the subject of evaluation and authorisation in a Member State: such claims may continue to be used provided an application is made pursuant to this Regulation before 19 January 2008; health claims not authorised under this procedure may continue to be used for six months after a decision is taken pursuant to Article 17(3).

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Article 29

Entry into force

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

It shall apply from 1 July 2007.]

Editorial Information

- X1** Substituted by [Corrigendum to Regulation \(EC\) No 1924/2006 of the European Parliament and of the Council of 20 December 2006 on nutrition and health claims made on foods \(Official Journal of the European Union L 404 of 30 December 2006\)](#).

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