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REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL

on the exercise of the power to adopt delegated acts conferred on the Commission pursuant to Regulation (EC) No 853/2004 of the European Parliament and of the Council laying down specific hygiene rules for food of animal origin

1. INTRODUCTION

Regulation (EC) No 853/2004 laying down specific hygiene rules for food of animal origin was adopted in 2004. It entered into force on 20 May 2004 and applied from 1 January 2006.

The Regulation replaced the entire body of harmonised public health legislation (16 directives) and provides for simpler and more flexible rules, while ensuring a risk-based approach and the responsibility of food business operators for the safety of their products.

The Regulation empowers the Commission to adopt a number of delegated acts. It also imposes on the Commission the obligation to report to the co-legislators on the exercise of the delegated powers it contains.

2. LEGAL BASIS

This report is required under Article 11a(2) of Regulation (EC) No 853/2004. Pursuant to this provision, the power to adopt delegated acts concerning the matters listed therein is conferred on the Commission for a period of five years from 26 July 2019 and the Commission is required to prepare a report in respect of the delegation of power not later than nine months before the end of the five-year period.

As set out in Article 11a(2), the Commission is empowered to adopt delegated acts referred to in Articles 3(2), 8(3), point(a), and 10(1) and (2) of Regulation (EC) No 853/2004.

Article 11a(2) of that Regulation lays down that the delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period, while Article 11a(3) states that the delegation of powers referred to in Articles 3(2), 8(3), point(a), and 10(1) and (2) of Regulation (EC) No 853/2004 may be revoked at any time by the European Parliament or by the Council.

3. EXERCISE OF THE DELEGATION

During the reporting period, the Commission exercised its delegated powers by adopting the following delegated acts, using the empowerment under Article 10(1):

- Commission Delegated Regulation (EU) 2020/2192 of 7 December 2020 amending Annex II to Regulation (EC) No 853/2004 of the European Parliament and of the Council as regards the identification mark to be used for certain products of animal origin in the United Kingdom in respect of Northern Ireland[1];
- Commission Delegated Regulation (EU) 2021/1374 of 12 April 2021 amending Annex III to Regulation (EC) No 853/2004 of the European Parliament and of the Council on specific hygiene requirements for food of animal origin[2] in

[1] OJ L 434, 23.12.2020, p. 10.
[2] OJ L 297, 20.8.2021, p. 1.

relation to cheese, emergency slaughter, mobile slaughterhouses, freezing of meat…

- Commission Delegated Regulation (EU) 2022/2258 of 9 September 2022 amending and correcting Annex III to Regulation (EC) No 853/2004 of the European Parliament and of the Council on specific hygiene requirements for food of animal origin as regards fishery products, eggs and certain highly refined products, and amending Commission Delegated Regulation (EU) 2019/624 as regards certain bivalve molluscs[3];
- Commission Delegated Regulation (EU) 2023/166 of 26 October 2022 correcting the French language version of Annex III to Regulation (EC) No 853/2004 of the European Parliament and of the Council laying down specific hygiene rules for food of animal origin[4] as regards the absence of an obligation to empty, scald or bleach stomachs.

The empowerment under Article 3(2) has not been used during the reporting period as no request to authorise a substance other than potable water to remove surface contamination from products of animal origin with a favourable EFSA opinion has been made to the Commission.

The empowerment under Article 8(3), point (a), has not been used during the reporting period because there was no need to adapt the requirements on special guarantees.

The empowerment under Article 10(2) has not been used during the reporting period because there was no need to grant derogations from Annexes II and III.

The Commission is currently preparing a Delegated Regulation amending Annexes II and III of Regulation (EC) No 853/2004 as regards specific requirements for certain meat, fishery products, dairy products and eggs.

4. CONCLUSION

The Commission sees the need to extend the empowerments conferred to it under Regulation (EC) No 853/2004, in accordance with Article 11a(2) of that Regulation, as it may have to act in the respective areas in the future. The extension of the delegation of powers will be particularly important to provide the necessary flexibility of this legal framework, to complement and adjust it regularly, taking into account in particular the experience gained by food business operators or competent authorities, the experience gained by the Commission, the technological developments, scientific advice and changes in pattern of consumption.With this report, the Commission complies with the reporting requirement under Article 11a(2) of Regulation (EC) No 853/2004 and invites the European Parliament and the Council to take note of this report.

[3] OJ L 299, 18.11.2022, p. 5.
[4] OJ L 24, 26.1.2023, p. 1.