

COMMISSION REGULATION (EC) No 1278/97
of 2 July 1997

amending Regulation (EC) No 577/97 laying down certain detailed rules for the application of Council Regulation (EC) No 2991/94 laying down standards for spreadable fats and of Council Regulation (EEC) No 1898/87 on the protection of designations used in the marketing of milk and milk products

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2991/94 of 5 December 1994 laying down standards for spreadable fats⁽¹⁾, and in particular Article 8 thereof,

Having regard to Council Regulation (EEC) No 1898/87 of 2 July 1987 on the protection of designations used on the marketing of milk and milk products⁽²⁾, as last amended by the Act of Accession of Austria, Finland and Sweden, and in particular Article 4 (2) thereof,

Whereas Article 2 (1) of Commission Regulation (EC) No 577/97 of 1 April 1997 laying down certain detailed rules for the application of Council Regulation (EC) No 2991/94 laying down standards for spreadable fats and of Council Regulation (EEC) No 1898/87 on the protection of designations used in the marketing of milk and milk products⁽³⁾ establishes the rules for the indication of the fat content of spreadable fats;

Whereas the derogation in Article 2 (2) of Regulation (EC) No 577/97 was provided to ensure the proper management of the butter market; whereas this provision, to some extent, facilitates the labelling of the product by the producer; whereas it is therefore appropriate to apply the same derogation to margarine and blend;

Whereas it results from the second subparagraph of Article 2 (2) of Regulation (EC) No 2991/94 that the sales descriptions in the Annex to that Regulation are to be reserved for products meeting the criteria laid down therein; whereas, as a consequence and as stipulated in Regulation (EC) No 577/97, trade marks using such descriptions can continue to be used only for products meeting such criteria; whereas, furthermore, by virtue of Regulation (EEC) No 1898/87, the use of the sales description 'butter' is reserved exclusively for milk products;

Whereas, on the accession of the three new Member States on 1 January 1995, no provision was made in Regulations (EEC) No 1898/87 and (EC) No 2991/94 for any transitional period for trade marks containing the reserved sales description 'butter' and used for products not meeting the criteria laid down; whereas, having regard to the major economic effort involved in adaptation, this situation is detrimental to the operators holding such registered trade marks; whereas provision should therefore be made as of now for a transitional period to enable them to adapt to the new situation; whereas only registered trade marks using the sales description 'butter' are concerned;

Whereas the relevant management committees have not delivered opinions within the time limits laid down by their chairmen,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 577/97 is hereby amended as follows:

1. in Article 2 (2), 'products referred in Part A (1) of the Annex' is replaced by 'products referred in Parts A (1), B (1) and C (1) of the Annex';
2. the following Article 5a is added:

Article 5a

Where a trade mark registered in Austria, Finland or Sweden prior to 1 January 1995 and using the sales description "butter" referred to in Part A (1) of the Annex to Regulation (EC) No 2991/94 was applied prior to that date to products not complying with Part A (1) of the Annex, it may continue to be applied to such products for a transitional period of 10 years from the abovementioned date.'

Article 2

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

⁽¹⁾ OJ No L 316, 9. 12. 1994, p. 2.

⁽²⁾ OJ No L 182, 3. 7. 1987, p. 36.

⁽³⁾ OJ No L 87, 2. 4. 1997, p. 3.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 2 July 1997.

For the Commission

Franz FISCHLER

Member of the Commission
