



Brussels, 17.1.2024
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COMMISSION DELEGATED REGULATION (EU) .../...

of 17.1.2024

**amending Regulation (EC) No 178/2002 of the European Parliament and of the Council
as regards the number and names of the permanent Scientific Panels of the European
Food Safety Authority**

(Text with EEA relevance)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 lays down the general principles and requirements of food law, establishes the European Food Safety Authority and lays down procedures in matters of food safety¹.

Article 28 of Regulation (EC) No 178/2002 sets up ten scientific panels responsible for providing the scientific opinions of the European Food Safety Authority ('the Authority'), each within their own spheres of competence. Those panels include, among others, the Panel on food contact materials and enzymes and processing aids.

Article 28(4), second subparagraph, of Regulation (EC) No 178/2002 empowers the Commission to adopt delegated acts in accordance with Article 57a of that Regulation amending the first subparagraph of Article 28(4) as regards the number and names of the Scientific Panels, in the light of technical and scientific development, at the Authority's request.

Due to continuous technical and scientific developments increasing the complexity of the risk assessment process combined with the need to adopt a high number of scientific opinions per year, the Panel on food contact materials and enzymes and processing aids faces difficulties in managing its workload.

On 1 August 2023, the Authority submitted a request to the Commission to split the Panel on food contact materials and enzymes and processing aids into two newly created panels.

The creation of these two new panels is expected to improve the operational efficiency and effectiveness of the Authority's scientific work reflecting the technical and scientific developments in the respective areas. The work of the new panels will become targeted to the fields of food enzymes and food contact materials, requiring for a more in depth expertise in the composition of the panels while supporting the efficient distribution of workload. It will improve the capacity of the Authority to provide scientific advice and scientific and technical support for the development and implementation of the Union's legislation and policies in these areas and, in particular, for the purposes of establishing the Union list of authorised food enzymes, while continuing its work on food contact materials.

Therefore, this Delegated Regulation aims at amending Regulation (EC) No 178/2002 as regards the number and names of the Scientific Panels, in the light of technical and scientific development, at the Authority's request. In particular, it will split the Panel on food contact materials and enzymes and processing aids into two newly created Panels named respectively "the Panel on food enzymes" and "the Panel on food contact materials".

The current term of office of the Panel on food contact materials and enzymes and processing aids will come to an end on 30 June 2024. The Authority is currently in the process of selecting the Panel experts for the 5-years term to start on 1 July 2024 and the two newly created panels should be effective from that date.

¹ OJ L 31, 1.2.2002, p. 1, ELI: <http://data.europa.eu/eli/reg/2002/178/oj>.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

Member States' experts were consulted in writing in the context of the Expert Group on General Food Law and Sustainability of Food Systems² between 17 and 31 October 2023.

During the Member States' experts consultation, a comment was received on the remit of the newly created panels and the assessment of extraction solvents. The assessment of processing aids (e.g. decontamination agents for food of animal origin, extraction solvents) could be relevant for both newly created panels, depending on the character of the processing aid under consideration and its intended use. Therefore, it is not necessary to specifically include the reference to processing aids in the titles of the newly created panels, so as to ensure flexibility to assign their assessment to the most relevant panel. This clarification is provided in recital (5) of the Delegated Act. Therefore, in agreement with the Authority, the names of the newly created panels will be as follows: "the Panel on food enzymes" and "the Panel on food contact materials".

3. LEGAL ELEMENTS OF THE DELEGATED ACT

The legal basis of this delegated Regulation is Article 28(4), second subparagraph, of Regulation (EC) No 178/2002. According to that provision, the Commission is empowered to adopt delegated acts in accordance with Article 57a of that Regulation amending Article 28(4), first subparagraph, as regards the number and names of the Scientific Panels, in the light of technical and scientific development, at the European Food Safety Authority request.

Article 1 lays down the amendments to Regulation (EC) No 178/2002 adapting the number and names of the Authority's scientific Panels.

Article 2 specifies the dates of the entry into force and application of this Delegated Regulation.

² Reference E03020 in the Register of Commission Expert Groups and other similar entities.

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(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety¹, and in particular Article 28(4), second subparagraph, thereof,

Whereas:

- (1) Article 28 of Regulation (EC) No 178/2002 sets up ten scientific panels responsible for providing the scientific opinions of the European Food Safety Authority ('the Authority'), each within their own spheres of competence. Those panels include, among others, the Panel on food contact materials and enzymes and processing aids.
- (2) Due to continuous technical and scientific developments increasing the complexity of the risk assessment process combined with the need to adopt a high number of scientific opinions per year, the Panel on food contact materials and enzymes and processing aids faces difficulties in managing its workload, also in terms of expertise needed.
- (3) Accordingly, on 1 August 2023, the Authority submitted a request to the Commission to split the Panel on food contact materials and enzymes and processing aids into two newly created panels. The objective of this split is to address the pending requests for the provision of scientific opinions in the area of food enzymes in light of the increased workload as well as the scientific and technical complexity of the risk assessment process, for the purposes, amongst others, of supporting the work of the Commission in establishing the Union list of authorised food enzymes, while continue working on matters pertaining to food contact materials.
- (4) The creation of these two new panels is expected to improve the operational efficiency and effectiveness of the Authority's scientific work reflecting the technical and scientific developments in the respective areas. The work of the new panels should become targeted to the fields of food enzymes and food contact materials, requiring for a more in depth expertise in the composition of the panels while supporting the efficient distribution of workload.
- (5) It is therefore appropriate and necessary to split the Panel on food contact materials and enzymes and processing aids into two newly created panels, named respectively

¹ OJ L 31, 1.2.2002, p. 1, ELI: <http://data.europa.eu/eli/reg/2002/178/oj>.

"the Panel on food enzymes" and "the Panel on food contact materials". The assessment of processing aids could fall under the responsibility of both newly created panels, depending on the character of the processing aid under consideration and its intended use. Therefore, it is not necessary to specifically include the reference to processing aids in the titles of the newly created panels, for ensuring flexibility in assigning their assessment to the most relevant panel.

(6) The current term of office of the Panel on food contact materials and enzymes and processing aids is to come to an end on 30 June 2024. The two new panels should start functioning from 1 July 2024. Therefore, this Regulation should apply as from 1 July 2024.

(7) Regulation (EC) No 178/2002 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

In Article 28(4) of Regulation (EC) No 178/2002, the first subparagraph is amended as follows:

- 1.) point (j) is replaced by the following:
“(j) the Panel on food enzymes;”
- 2.) the following new point (k) is added:
“(k) the Panel on food contact materials.”

Article 2

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union* and shall apply from 1 July 2024.

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

Done at Brussels, 17.1.2024

For the Commission
The President
Ursula VON DER LEYEN