
STATUTORY INSTRUMENTS

1992 No. 2111

AGRICULTURE

COMMON AGRICULTURAL POLICY

The Organic Products Regulations 1992

<i>Made</i>	- - - -	<i>2nd September 1992</i>
<i>Laid before Parliament</i>		<i>10th September 1992</i>
<i>Coming into force</i>	- -	<i>1st October 1992</i>

The Minister of Agriculture, Fisheries and Food and the Secretary of State, being Ministers designated⁽¹⁾ for the purposes of section 2(2) of the European Communities Act 1972⁽²⁾ in relation to the common agricultural policy of the European Economic Community, acting jointly, in exercise of the powers conferred on them by the said section 2(2), and of all other powers enabling them in that behalf, hereby make the following Regulations:—

Title and commencement

1. These Regulations may be cited as the Organic Products Regulations 1992 and shall come into force on 1st October 1992.

Interpretation

2.—(1) In these Regulations, except where the context requires otherwise—

“the Council Regulation” means Council Regulation (EEC) No. 2092/91⁽³⁾ on organic production of agricultural products and indications referring thereto on agricultural products and foodstuffs;

“inspection” means a precautionary or inspection measure described in Annex III of the Council Regulation;

“inspection body”, otherwise than in the expression “private inspection body”, means a private inspection body holding a current approval from Food from Britain under Article 9 of the Council Regulation;

“local authority” means—

(1) S.I.1972/1811.

(2) 1972 c. 68.

(3) OJ No. L198, 22.7.91, p.1.

- (a) in England and Wales, for each non-metropolitan county, metropolitan district and London borough, the council of that county, district or borough and for the City of London and the Inner Temple and the Middle Temple, the Common Council of the City of London,
- (b) in Scotland, each islands or district council, and
- (c) in Northern Ireland, each district council;

“the Minister” means the Minister of Agriculture, Fisheries and Food;

“notification” means a notification of the information specified in Annex IV to the Council Regulation made by an operator under Article 8.1(a) of that Regulation;

“organic products” means products referred to in Article 1.1 of the Council Regulation;

“Specified Community provision” means a provision of the Council Regulation specified in column 1, and described in column 2, of the Schedule to these Regulations.

(2) Other expressions used in these Regulations have, insofar as the context admits, the same meanings as in the Council Regulation and in these Regulations any reference to a numbered Article or Annex is a reference to the Article or Annex so numbered in the Council Regulation.

Designation of authority for the reception of notifications and operation of inspection system, and information to local authorities

3.—(1) For the purposes of Articles 8 and 9 of the Council Regulation—

- (a) Food from Britain is designated as—
 - (i) the authority responsible for the reception of notifications under Article 8.1 and making available to interested parties the updated list referred to in Article 8.3;
 - (ii) the inspection authority responsible for the operation of the inspection system referred to in Article 9.1, and
 - (iii) the authority responsible for the approval and supervision of private inspection bodies, in accordance with Articles 9.4 to 9.7, 9.8(a) and (b), 9.9 and 10.3;
- (b) the Minister is designated as the competent authority for the purposes of Articles 9.9(b) and 10.3(b).

(2) Where, following the attempted exercise of its functions under Articles 9.9 or 10.3, Food from Britain or an inspection body has reason to believe that any person is using in any local authority area any indication which Food from Britain and the inspection body are required by that Article to prevent him from using, Food from Britain or the inspection body, as appropriate, shall—

- (a) notify in writing that use to the local authority of that area, and where such notification is given by a private inspection authority, it shall also notify in writing Food from Britain, and
- (b) give the local authority any information which the local authority may reasonably require for the purpose of enforcement under regulation 5 in relation to the use of that indication.

Amendment of the Agricultural Marketing Act 1983

4. After section 3 of the Agricultural Marketing Act 1983(4) there shall be inserted—

“Additional functions relating to organic production of agricultural products

3A.—(1) For the purpose of ensuring that Council Regulation (EEC) No. 2092/91(5) (relating to organic production of agricultural products and indications referring thereto on agricultural products and foodstuffs) is administered, executed and enforced, Food from Britain shall have the powers set out in subsection (2) below.

(2) To the extent provided by the designation of Food from Britain for the purposes of any provision of that Council Regulation, Food from Britain shall have all such functions as may be necessary or expedient for the performance of any responsibilities so designated.”.

Inspection system and information to the Minister

5.—(1) Food from Britain and each inspection body may make a charge for any inspection of an amount not exceeding the amount of the contribution to inspection expenses for which an operator is liable under Article 9.2, and any such charge payable to Food from Britain or an inspection body shall be recoverable by either Food from Britain or the inspection body as the case may be.

(2) For the purposes of Article 9.2 Food from Britain shall ensure that any operator who complies with the provisions of the Council Regulation and pays his contribution to inspection expenses shall have access to the inspection system.

(3) For the purposes of Article 10.5, Food from Britain shall inform the Minister of any irregularity of which it becomes aware in the application of the Council Regulation in a product coming from another member State bearing the indication shown in Article 2 or Annex V.

(4) For the purposes of the first part of Article 15, Food from Britain shall—

- (a) each year before 30th April inform the Minister of the operators who, on 31st December of the previous year, had given notification under Article 8.1(a) and are subject to the inspection system referred to in Article 9, and
- (b) each year before 30th April report to the Minister on supervision for that previous year pursuant to Article 9.6.

Enforcement, offences and penalties

6.—(1) Each local authority shall enforce and execute within its area the Specified Community provisions.

(2) Any person who contravenes or fails to comply with any of the Specified Community provisions shall be guilty of an offence and liable on summary conviction in England and Wales and Scotland to a fine not exceeding level 5 on the standard scale and on summary conviction in Northern Ireland to a fine not exceeding £2000.

(3) For the purposes of the enforcement and execution of the Specified Community provisions, the supply of organic products otherwise than on sale, in the course of a business, shall be deemed to be a sale of such products and for those purposes sale shall include possession for sale, or offer or exposure for sale.

(4) For the purposes of the enforcement and execution of the Specified Community provisions in respect of products intended for human consumption within the meaning of Article 1.1(b), any such product commonly used for human consumption shall, if sold or offered, exposed or kept for sale, be presumed, until the contrary is proved, to have been sold or, as the case may be, to have been or to be intended for sale for human consumption.

Offences due to fault of another person and defence of due diligence

7.—(1) Where the commission by any person of an offence under a Specified Community provision is due to an act or default of some other person, that other person shall be guilty of the offence; and a person may be charged with and convicted of the offence by virtue of this paragraph whether or not proceedings are taken against the first-mentioned person.

(2) In any proceedings for an offence under a Specified Community provision, it shall, subject to paragraph (3) below, be a defence for the person charged to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence by himself or by a person under his control.

(3) If in any case the defence provided by paragraph (2) above involves the allegation that the commission of the offence was due to an act or default of another person, or to reliance on information supplied by another person, the person charged shall not, without leave of the court, be entitled to rely on that defence unless—

- (a) at least seven clear days before the hearing, and
- (b) where he has previously appeared before a court in connection with the alleged offence, within one month of his first appearance,

he has served on the prosecutor a notice in writing giving such information identifying or assisting in the identification of that other person as was then in his possession.

Obstruction etc. of officers

8.—(1) Any person who—

- (a) intentionally obstructs any person acting in the enforcement or execution of these Regulations, or
- (b) without reasonable cause, fails to give to any person acting in the enforcement or execution of these Regulations any assistance or information which that person may reasonably require of him for the performance of his functions under the Council Regulation,

shall be guilty of an offence.

(2) Any person who, in purported compliance with any such requirement as is mentioned in sub-paragraph (b) of paragraph (1) above—

- (a) furnishes information which he knows to be false or misleading in a material particular, or
- (b) recklessly furnishes information which is false or misleading in a material particular,

shall be guilty of an offence.

(3) Nothing in sub-paragraph (b) of paragraph (1) above shall be construed as requiring any person to answer any question or give any information if to do so might incriminate him.

(4) A person guilty of an offence under this regulation shall be liable on summary conviction in England and Wales and Scotland to a fine not exceeding level 5 on the standard scale and in Northern Ireland to a fine not exceeding £2000.

Offences by bodies corporate

9.—(1) Where an offence under these Regulations which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of—

- (a) any director, manager, secretary or other similar officer of the body corporate, or
- (b) any person who was purporting to act in any such capacity,

he as well as the body corporate shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, paragraph (1) above shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

Protection of officers acting in good faith

10.—(1) An officer or agent of Food from Britain, of any inspection body or of any local authority is not personally liable in respect of any act done by him in the execution or purported execution of these Regulations within the scope of his employment, if he did that act in the honest belief that his duty under these Regulations or the Council Regulation required or entitled him to do it.

(2) Nothing in paragraph (1) above shall be construed as relieving Food from Britain or any inspection body or any local authority from any liability in respect of acts of their officers.

In witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on

L.S.

2nd September 1992.

John Selwyn Gummer
Minister of Agriculture, Fisheries and Food

27th August 1992

Allan Stewart
Parliamentary Under-Secretary of State, Scottish
Office

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THE SCHEDULE

Regulation 6

SPECIFIED COMMUNITY PROVISIONS

Column 1 <i>Provision of Council Regulation</i>	Column 2 <i>Subject matter</i>
1. Article 5	Requirements relating to the labelling and advertising of products which bear or are intended to bear indications referring to organic production methods
2. Article 10.1	Requirements for indication that products are covered by the specific inspection scheme
3. Article 10.2	Prohibition on claims that the indication “Organic Farming — EEC Control System” constitutes a guarantee of superior quality

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations apply to the United Kingdom and give effect to the United Kingdom’s obligation to provide for the administration, execution and enforcement of Council Regulation (EEC) No. 2092/91 (OJ No. L198, 22.7.91, p.1) on organic production of agricultural products and foodstuffs. Regulation 3 designates Food from Britain as the inspection authority responsible for the inspection system under the Council Regulation and the approval of private inspection bodies. Producers, importers and processors concerned in the distribution of organic products covered by the Council Regulation are subject to this inspection system. For the purposes of enforcing Articles 9.9 and 10.3 of the Council Regulation (irregularities and infringements of the rules on labelling and production of organic products) Food from Britain or the private inspection body as appropriate must give the relevant local authority the information the local authority needs to enforce the organic labelling provisions in Article 5 of the Council Regulation. Regulation 2 contains a definition of local authority.

Regulation 4 amends the Agricultural Marketing Act 1983, under which Food from Britain is established as a corporate body, to extend the functions of Food from Britain so that they include functions under these Regulations.

Regulation 5 provides for the payment of contributions to inspection expenses and access to the inspection system, and information to be given by Food from Britain to the Minister of Agriculture, Fisheries and Food to enable him to comply with his obligations under the Council Regulation. Regulation 6 provides that each local authority within its area will enforce the provisions of the Council Regulation specified in the Schedule, contravention of which is an offence subject on conviction in a magistrates court to a fine not exceeding level 5 on the standard scale in England, Wales and Scotland and in Northern Ireland to a fine not exceeding £2000. It also applies presumptions relating to sale and human consumption to the execution and enforcement of the

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Council Regulation, for all organic products under it and those intended for human consumption respectively.

Regulations 7 to 9 contain supplementary provisions on enforcement and regulation 10 protects officers acting in good faith.