

Commission Regulation (EC) No 889/2008 of 5 September 2008 laying down detailed rules for the implementation of Council Regulation (EC) No 834/2007 on organic production and labelling of organic products with regard to organic production, labelling and control

## TITLE II

### **RULES ON PRODUCTION, PROCESSING, PACKAGING, TRANSPORT AND STORAGE OF ORGANIC PRODUCTS**

#### CHAPTER 6

##### **Exceptional production rules**

###### *Section 2*

###### ***Exceptional production rules related to non-availability of organic farm inputs in accordance with Article 22(2)(b) of Regulation (EC) No 834/2007***

###### *Article 42*

##### **Use of non-organic animals**

Where the conditions laid down in Article 22(2)(b) of Regulation (EC) No 834/2007 apply, and with prior authorisation of the competent authority,

- (a) when a flock is constituted for the first time, renewed or reconstituted and organically reared poultry are not available in sufficient numbers, non-organically reared poultry may be brought into an organic poultry production unit, provided that the pullets for the production of eggs and poultry for meat production are less than three days old;
- (b) non-organically reared pullets for egg production of not more than 18 weeks may be brought into an organic livestock unit until 31 December 2011, when organically reared pullets are not available and provided that the relevant provisions laid down in Section 3 and 4 of Chapter 2 are complied with.

###### *Article 43*

##### **Use of non-organic feed of agricultural origin**

Where the conditions laid down in Article 22(2)(b) of Regulation (EC) No 834/2007 apply, the use of a limited proportion of non-organic feed of plant and animal origin is allowed where farmers are unable to obtain feed exclusively from organic production. The maximum percentage of non-organic feed authorised per period of 12 months for species other than herbivores shall be:

- (a) 10 % during the period from 1 January 2009 to 31 December 2009;

- (b) 5 % during the period from 1 January 2010 to 31 December 2011.

The figures shall be calculated annually as a percentage of the dry matter of feed from agricultural origin. The maximum percentage authorised of non-organic feed in the daily ration shall be 25 % calculated as a percentage of the dry matter.

The operator shall keep documentary evidence of the need for the use of this provision.

#### *Article 44*

##### **Use of non-organic beeswax**

In the case of new installations or during the conversion period, non-organic beeswax may be used only

- (a) where beeswax from organic beekeeping is not available on the market;
- (b) where it is proven free of contamination by substances not authorised for organic production; and
- (c) provided that it comes from the cap.

#### *Article 45*

##### **Use of seed or vegetative propagating material not obtained by the organic production method**

1 Where the conditions laid down in Article 22(2)(b) of Regulation (EC) No 834/2007 apply,

- a seed and vegetative propagating material from a production unit in conversion to organic farming may be used,
- b where point (a) is not applicable, Member States may authorise the use of non-organic seed or vegetative propagating material if not available from organic production. However, for the use of non-organic seed and seed potatoes the following paragraphs (2) to (9) apply.

2 Non-organic seed and seed potatoes may be used, provided that the seed or seed potatoes are not treated with plant protection products, other than those authorised for treatment of seed in accordance with Article 5(1), unless chemical treatment is prescribed in accordance with Council Directive 2000/29/EC<sup>(1)</sup> for phytosanitary purposes by the competent authority of the Member State for all varieties of a given species in the area where the seed or seed potatoes are to be used.

3 Species for which it is established that organically produced seed or seed potatoes are available in sufficient quantities and for a significant number of varieties in all parts of the Community are set out in Annex X.

The species listed in Annex X may not be subject of authorisations pursuant to paragraph 1(b), unless these are justified by one of the purposes referred to in paragraph 5(d).

4 Member States may delegate the responsibility for granting the authorisation referred to in paragraph 1(b) to another public administration under their supervision or to the control authorities or control bodies referred to in Article 27 of Regulation (EC) No 834/2007.

5 Authorisation to use seed or seed potatoes not obtained by the organic production method may only be granted in the following cases:

- a where no variety of the species which the user wants to obtain is registered in the database referred to in Article 48;
- b where no supplier, meaning an operator who markets seed or seed potatoes to other operators, is able to deliver the seed or seed potatoes before sowing or planting in situations where the user has ordered the seed or seed potatoes in reasonable time;
- c where the variety which the user wants to obtain is not registered in the database referred to in Article 48, and the user is able to demonstrate that none of the registered alternatives of the same species are appropriate and that the authorisation therefore is significant for his production;
- d where it is justified for use in research, test in small-scale field trials or for variety conservation purposes agreed by the competent authority of the Member State.

6 The authorisation shall be granted before the sowing of the crop.

7 The authorisation shall be granted only to individual users for one season at a time and the authority or body responsible for the authorisations shall register the quantities of seed or seed potatoes authorised.

8 By way of derogation from paragraph 7, the competent authority of the Member State may grant to all users a general authorisation:

- a for a given species when and in so far as the condition laid down in paragraph 5(a) is fulfilled;
- b for a given variety when and in so far as the conditions laid down in paragraph 5(c) are fulfilled.

The authorisations referred to in the first subparagraph shall be clearly indicated in the database referred to in Article 48.

9 Authorisation may only be granted during periods for which the database is updated in accordance with Article 49(3).

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**Status:** This is the original version (as it was originally adopted).

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(1) OJ L 169, 10.7.2000, p. 1.