
DRAFT STATUTORY INSTRUMENTS

2019 No.

**The Organic Production and Control
(Amendment) (EU Exit) Regulations 2019**

Commission Regulation (EC) No 889/2008 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

3.—(1) [Commission Regulation \(EC\) No 889/2008](#) 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 is amended as follows.

(2) In Article 2—

(a) in point (c)—

(i) omit “within the community”;

(ii) for “Community” substitute “United Kingdom”;

(b) in point (s), for “authorities of the Member State” substitute “authority”;

(c) after point (u), insert—

“(v) ‘relevant authority’ means:

(i) in relation to England, the Secretary of State;

(ii) in relation to Wales, the Welsh Ministers;

(iii) in relation to Scotland, the Scottish Ministers;

(iv) in relation to Northern Ireland, the Department of Agriculture, Environment and Rural Affairs;

(w) ‘third country’ has the same meaning as in Article 2 of [Council Regulation \(EC\) No 834/2007](#).”.

(3) In Article 6b—

(a) in paragraph 2—

(i) in the first subparagraph—

(aa) for “Member State authorities may” substitute “Nothing in this Regulation prevents the relevant authority from using any power the authority has to”;

(bb) for “and may also” substitute “or”;

(ii) omit the second subparagraph;

(b) in paragraph 3, for “Council [Directive 85/337/EEC](#)” substitute “[Directive 2011/92/EU\(1\)](#)”.

(4) In Article 9(3) omit the words from “This provision” to the end.

(5) In Article 11—

- (a) in paragraph 3, for “Article 3(3) of Council [Directive 91/629/EEC](#)” substitute “Article 3 of Council [Directive 2008/119/EC](#)(2)”;
- (b) in paragraph 4, for “91/630/EEC” substitute “2008/120/EC”.
- (6) In Article 12(5), in the second subparagraph omit the words from “or draw” to the end.
- (7) In Article 13—
 - (a) in paragraph 1, for the words from “Article 36” to “1257/1999” substitute “Title 3 of [Regulation \(EU\) No 1305/2013](#)”;
 - (b) in paragraph 2, for “The Member States may” substitute “Nothing in this Regulation prevents the relevant authority from using any power the authority has to ”.
- (8) In Article 14(7), for “Community legislation” substitute “retained EU law”.
- (9) In Article 15(2), for “national provisions adopted pursuant to [Directive 91/676/EEC](#)” substitute “retained EU law on nitrates(3)”.
- (10) In Article 17(3) (b), for the words from “Article 36” to the end substitute “Title 3 of [Regulation \(EU\) No 1305/2013](#)”.
- (11) In Article 23(5), for “Member States” substitute “The relevant authority”.
- (12) In Article 24(5), for “Article 11 of [Directive 2001/82/EC](#)” substitute “paragraph 2 of Schedule 4 to the Veterinary Medicines Regulations 2013(4)”.
- (13) In Article 25(5), for the words from “Member State” to the end substitute “United Kingdom in accordance with any relevant retained EU law”.
- (14) In Article 25o(1) omit the third subparagraph.
- (15) In Article 25t—
 - (a) in paragraph 3, for “by Member States” substitute “in the United Kingdom”;
 - (b) in paragraph 4, for “Article 11 of [Directive 2001/82/EC](#)” substitute “paragraph 2 of Schedule 4 to the Veterinary Medicines Regulations 2013”.
- (16) In Article 27—
 - (a) in paragraph 1—
 - (i) for point (c) substitute—
 - “(c) substances and products as defined in Articles 3(2)(b) to (d) of [Regulation \(EC\) No 1334/2008](#) labelled as natural flavouring substances or natural flavouring preparations, according to Articles 15(1)(e) and 16 of that Regulation;”;
 - (ii) in point (d), for the words from “, respectively, Article 2(8)” to the end substitute “Article 17 and Annex 2 of [Regulation \(EC\) No 1333/2008](#)”;
 - (iii) in point (f)(i) for the words from “Union” to “with Union law” substitute “retained EU law”;
 - (iv) in point (f)(ii)—
 - (aa) for the second indent substitute—

(2) OJ L 10, 15.1.2009, p. 7–13

(3) Relevant legislation includes the Nitrate Pollution Prevention Regulations 2015 ([S.I. 2015/668](#)), as amended by [S.I. 2016/1154](#), 1190, 1254, 2017/1012, 1013, 2018/575; the Nitrate Pollution Prevention (Wales) Regulations 2013 ([S.I. 2013/2506 \(W. 245\)](#)), as amended by [S.I. 2015/2020](#), 2017/1012, 1013; the Nitrates Action Programme Regulations (Northern Ireland) 2014 ([S.R. 2014 No. 307](#)), as amended by [S.R. 2015 No. 369](#); The Action Programme for Nitrate Vulnerable Zones (Scotland) Regulations 2008 ([S.S.I. 2008/298](#)), as amended by [S.S.I. 2008/394](#), 2009/447, 2013/123, 2015/376.

(4) [S.I. 2013/2033 \(W. 32\)](#), there are amending instruments but none are relevant.

- “in products regulated by the following regulations, their use is authorised by those regulations:
 - (i) the Processed Cereal-based Foods and Baby Foods for Infants and Young Children (England) Regulations 2003**(5)**;
 - (ii) the Processed Cereal-based Foods and Baby Foods for Infants and Young Children (Wales) Regulations 2004**(6)**;
 - (iii) the Processed Cereal-based Foods and Baby Foods for Infants and Young Children (Scotland) Regulations 2004**(7)**;
 - (iv) the Processed Cereal-based Foods and Baby Foods for Infants and Young Children Regulations (Northern Ireland) 2003**(8)**.”;
- (bb) for the third indent substitute—
 - “in products regulated by the following regulations, their use is authorised by those regulations:
 - (i) the Infant Formula and Follow-on Formula (England) Regulations 2007**(9)**;
 - (ii) the Infant Formula and Follow-on Formula (Wales) Regulations 2007**(10)**;
 - (iii) the Infant Formula and Follow-on Formula (Scotland) Regulations 2007**(11)**;
 - (iv) the Infant Formula and Follow-on Formula Regulations (Northern Ireland) 2007**(12)**.”;
- (b) omit paragraph 3;
- (c) in paragraph 4—
 - (i) for “may comprise” substitute “must not allow the use of”;
 - (ii) omit the words from “until 31” to the end.
- (17) In Article 29—
 - (a) in the heading omit “by Member State”;
 - (b) in paragraph 1—
 - (i) in point (a)—
 - (aa) omit “of the Member State”;
 - (bb) for “Community” substitute “United Kingdom”;
 - (ii) in point (b)—
 - (aa) omit “of the Member State”;
 - (bb) omit “in the Community”;
 - (iii) for the second subparagraph, substitute—

(5) S.I. 2003/3207, as amended by S.I. 2007/2591, 2011/2131, 2016/688,

(6) S.I. 2004/314, as amended by S.I. 2005/3111, 2005/3254, 2007/2753, 2011/2131, 2014/2303, 2016/639, 2018/806.

(7) S.S.I. 2004/8, as amended by S.S.I. 2005/479, 2005/616, 2007/424, 2011/2131, 2014/312.

(8) S.R. 2003 No. 530, as amended by S.R. 2005 No. 574, 2007 No. 408, 2011 No. 295, 2014 No. 233.

(9) S.I. 2007/3521, as amended by S.I. 2005/2626, 2005/2630, 2008/2445, 2011/3012, 2011/1043, 2013/3243, 2014/1855, 2016/688.

(10) S.I. 2007/3573 (W. 316), as amended by S.I. 2008/2602, 2011/1043, 2014/123, 2014/1102, 2016/639.

(11) S.S.I. 2007/549, as amended by S.S.I. 2008/322, 2014/12, 2015/100, 2016/190, S.I. 2011/1043.

(12) S.R. 2007 No. 506, as amended by S.R. 2007 No. 506, S.R. 2008 No. 405, S.I. 2001/1043, S.R. 2014 No. 11, S.R. 2016 No. 251.

“Nothing in this Regulation prevents the relevant authority from using any power the authority has to prolong the authorisation provided for in point (b) for a period of 12 months on a maximum of three occasions.”;

(c) omit paragraphs 2 to 5.

(18) In Article 29c(2), for “Regulation (EC) No 1234/2007” substitute “Regulation (EU) No 1308/2013”.

(19) In Article 29d—

(a) in paragraph 1, for the words from “Article 120c” to “1234/2007” substitute “Articles 80 and 83(2) of Regulation (EU) No 1308/2013”;

(b) in paragraph 2, point (a), for “Annex XVa to Regulation (EC) No 1234/2007” substitute “Part 1 of Annex 8 to Regulation (EU) No 1308/2013”;

(c) omit paragraph 4;

(d) in paragraph 5, for “Regulation (EC) No 1234/2007” substitute “Regulation (EU) No 1308/2013”.

(20) At the end of Article 34 insert—

“The requirement to provide a certificate of inspection for import applies to organic products entering the United Kingdom from the European Union, an EEA state or Switzerland only on and after 1st January 2021.”.

(21) In Article 36—

(a) in paragraph 2(a), for “Regulations (EC) No 1257/99, (EC) No 1698/2005” substitute “Regulation (EU) No 1305/2013”;

(b) in paragraph 4—

(i) in the first subparagraph—

(aa) for “Member State” substitute “relevant authority”;

(bb) in point (a) omit “of the Member State”;

(cc) in point (b) omit “of the Member State”;

(ii) omit the third subparagraph.

(22) In Article 40(1)(b), for “Member States’ competent authorities” substitute “competent authority”.

(23) In Article 45—

(a) in paragraph 1(b), for “Member States may” substitute “nothing in this Regulation prevents the relevant authority from using any power the authority has to”;

(b) in paragraph 2—

(i) for “Council Directive 2000/29/EC” substitute “the following legislation”;

(ii) omit “of the Member State”;

(iii) for “to be used.” substitute:

“to be used—

(a) in respect of England, the Plant Health (England) Order 2015⁽¹³⁾;

(b) in respect of Wales, the Plant Health (Wales) Order 2018⁽¹⁴⁾;

⁽¹³⁾ S.I. 2015/610, as amended by S.I. 2015/1827, 2016/104, 2017/8, 2017/1220, 2018/71, 2018/320, 2018/910, 2018/1051, 2018/1136,

⁽¹⁴⁾ S.I. 2018/1064 (W. 223).

- (c) in respect of Scotland, the Plant Health (Scotland) Order 2005(15);
 - (d) in respect of Northern Ireland, the Plant Health Order (Northern Ireland) 2018(16).”;
- (c) in paragraph 3, in the first subparagraph omit “in all parts of the Community”;
- (d) in paragraph 4—
- (i) for “Member States may” substitute “Nothing in this Regulation prevents the relevant authority from using any power the authority has to”;
 - (ii) omit the words from “to another” to “supervision or”;
- (e) in paragraph 5(d), for the words from “agreed” to the end substitute “as agreed by the competent authority”;
- (f) in paragraph 8, for the words from “By way of” to “general authorisation” substitute “Nothing in this Regulation prevents the relevant authority from using any power the authority has to grant all users, by way of a derogation from paragraph 7, a general authorisation” .
- (24) In Article 46a omit the second subparagraph.
- (25) In Article 47—
- (a) in the first subparagraph, for the words “The competent authority may” substitute “Nothing in this Regulation prevents the relevant authority from using any power the authority has to”;
 - (b) in the second subparagraph omit the second sentence.
- (26) In Article 48—
- (a) in paragraph 1—
 - (i) for “Each Member State” substitute “The relevant authority”;
 - (ii) for “on its territory” substitute “in the United Kingdom”;
 - (b) in paragraph 2—
 - (i) omit “of the Member State”;
 - (ii) for “the Member State” substitute “the relevant authority”;
 - (iii) for “Member States” substitute “The relevant authority”;
 - (c) omit paragraph 3.
- (27) In Article 49(3), for “Each Member State” substitute “The relevant authority”.
- (28) In Article 50(2) omit “of the Member State”.
- (29) For Article 51(1)(d) substitute—
- “(d) the country or region in which the variety is tested and approved for the purposes of either the United Kingdom national list as defined in the Seeds (National Lists of Varieties) Regulations 2001(17) or the common catalogues of varieties of agricultural plant species and vegetable species(18).
Varieties listed on the common catalogues may only be used for a period of two years beginning at exit day.”.
- (30) In Article 52—

(15) S.S.I. 2005/613, as amended by S.I. 2011/1043 and S.S.I. 2018/112; there are other amending instruments but none is relevant.

(16) S.R. 2018 No. 184.

(17) S.I. 2001/3510, as amended by S.I. 2004/2949, 2011/464 and S.I. 2018/942; there are other amending instruments but none is relevant.

(18) OJ L 193, 20.7.2002, p. 1–11; OJ L 193, 20.7.2002, p. 33–59.

- (a) in paragraph 1, for “Member States” substitute “The relevant authority”;
- (b) in paragraph 2, for “Member States” substitute “relevant authority”.
- (31) In Article 53 omit “of the Member State”.
- (32) In Article 54, paragraph 1 omit “of the Member State”.
- (33) Omit Articles 55 and 56.
- (34) In Title 3, after “Chapter 1” in the heading omit “of the European Union”.
- (35) Omit Article 57.
- (36) In Article 58(1)—
 - (a) in point (a), for “the Member State or the third country” substitute “the product as originating from the United Kingdom or the third country”;
 - (b) in point (c)—
 - (i) omit “the Commission or by”;
 - (ii) omit “of the Member States”;
 - (iii) omit “and”;
 - (c) omit point (d).
- (37) In Article 60(1) omit “and the Organic logo of the EU”.
- (38) In Article 61(1)—
 - (a) in point (a), for the words from “Article 5” to the end substitute “Article 11 of Regulation (EC) No 767/2009”;
 - (b) in point (b), for the words from “Article 5(1)(a)” to the end substitute “Regulation (EC) No 767/2009”.
- (39) In Article 63—
 - (a) in paragraph 2(d) omit the words from “in accordance” to “concerned”;
 - (b) in paragraph 3(f), for the words from “the Member” to the end substitute “that body is approved in accordance with the control system”.
- (40) In Article 88(1)(d), for “Article 5(1)(a) of Directive 79/373/EEC” substitute “Regulation (EC) No 767/2009”.
- (41) In Article 91—
 - (a) in paragraph 2—
 - (i) for “a control authority” substitute “the control authority”;
 - (ii) for “production method, this control” substitute “production method, the control”;
 - (iii) for “set by that control authority” substitute “set by the control authority”;
 - (b) omit paragraph 3.
- (42) In Article 92—
 - (a) in paragraph 4, omit the words from “of the” to “approved it”;
 - (b) in paragraph 5, for “Member States” substitute “The relevant authority”;
 - (c) in paragraph 6, for “Member States” substitute “The relevant authority”.
- (43) Omit Article 92a.
- (44) In Article 92b—
 - (a) for “Member States” substitute “The relevant authority”;
 - (b) for “The Member States” substitute “The relevant authority”;

- (c) for the words from “Directive” to the end substitute “[Regulation \(EU\) 2016/679](#)”.
- (45) In Article 92c(3), for “Union rules” substitute “retained EU law”.
- (46) In Article 92e (c)(vi)—
 - (a) omit “Member States where that”;
 - (b) omit “operates”;
 - (c) for “[Directive 95/46/EC](#)” substitute “Regulation (EU) 2016/679”.
- (47) In Article 92f, for “Member States” substitute “The relevant authority” in both places it occurs.
- (48) In the heading to Title 5 omit “TRANSMISSION OF INFORMATION TO THE COMMISSION”.
- (49) Omit the Chapter 1 title and its heading;
- (50) Omit Articles 93 and 94.
- (51) Omit the Chapter 2 title and its heading.
- (52) In Article 95—
 - (a) omit paragraphs 1 to 4;
 - (b) in paragraph 5, for “Member States” substitute “relevant authority”;
 - (c) omit paragraphs 7 to 11.
- (53) Omit Articles 96 and 97.
- (54) After Article 97 omit the words from “This Regulation” to “Member States”.
- (55) In Annex 1, in the fifth row of column 3, omit “, accepted by the Member State”.
- (56) In Annex 2, in paragraph 3, the second column of the fourth row, in the second subparagraph for the words “For perennial” to “provide that the” substitute “Nothing in this Regulation prevents the relevant authority from using any power the authority has to provide by way of derogation from the previous paragraph, in respect of perennial crops, that the”.
- (57) In Annex 6, in paragraph 3(a), in the third column of the first row of the table, in the third indent, for “Member States” substitute “relevant authority”.
- (58) In Annex 7—
 - (a) in paragraph 2.1—
 - (i) for “Union and national provisions” substitute “retained EU law”;
 - (ii) omit the eighth indent which begins “copper sulphate”;
 - (b) in paragraph 2.2, for “Union and national provisions” substitute “retained EU law”.
- (59) In Annex 11—
 - (a) omit Part A;
 - (b) in Part B—
 - (i) in paragraph 2, for “Commission or each Member State” substitute “relevant authority”;
 - (ii) in paragraph 3—
 - (aa) in point (a), for “each Member State’s” substitute “the”;
 - (bb) in point (b), for “Commission” substitute “relevant authority”;
 - (cc) omit point (c);
 - (c) in the final paragraph, for “Commission” substitute “relevant authority”.

- (60) In Annex 12b, omit every indent other than the eighth indent which begins “*In English*”.
- (61) Omit Annex 13c.