

**EXPLANATORY MEMORANDUM TO**  
**THE ORGANICS (EQUIVALENCE AND CONTROL BODIES LISTING)**  
**(AMENDMENT) REGULATIONS 2021**

**2021 No. [XXXX]**

**1. Introduction**

- 1.1 This explanatory memorandum has been prepared by the Department of Environment, Food and Rural Affairs and is laid before Parliament by the powers conferred by Command of Her Majesty.

**2. Purpose of the instrument**

- 2.1 Now we have left the European Union, we want to streamline the way we list the third countries and third country control bodies we recognise as compliant and equivalent.
- 2.2 At present each time a new third country or control body is recognised as having equivalent organic standards, or the details of an existing recognition, such the contact information of a control body or third country are updated, the existing legislation must be amended by statutory instrument. This is based on the system used in the EU which the UK retained prior to the end of the transition period. However, this process is extremely time-consuming for both officials and Parliament, and means recognition can take as much as a year to be formalised. The aim of this instrument is that instead of a statutory instrument being required for new recognitions and changes to existing recognitions, the lists referenced in the legislation will be available on gov.uk, where they can be updated directly by officials. It will also improve transparency and accessibility of these lists for stakeholders. Changes will be communicated to relevant stakeholders in a timely manner.
- 2.3 This instrument will remove Annexes I, III and IV of the retained Commission Regulation (EC) No 1235/2008 which list third country control bodies which certify to a compliant UK standard in third countries, or third countries and third country control bodies which certify to a standard agreed to be equivalent with the UK. This information will be accessible via gov.uk and may be easily updated without the need to lay a new SI, thus reducing time and cost as well as improving accessibility for stakeholders.
- 2.4 Port health authorities, local authorities and businesses will be able to access and search this list on gov.uk to determine where organic products may be imported from and under what conditions, without having to search through legislation.
- 2.5 The lists on gov.uk will also enable us to demonstrate how we recognise the EU as having equivalent organic standards as agreed under the Trade and Cooperation Agreement (TCA).

**3. Matters of special interest to Parliament**

*Matters of special interest to the Joint Committee on Statutory Instruments*

- 3.1 None.

***Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)***

- 3.2 The territorial application of this instrument includes Scotland.
- 3.3 This instrument has effect in England, Wales, and Scotland, and, as such, the English Votes for English Laws procedure is not applicable to it.

**4. Extent and Territorial Application**

- 4.1 The territorial extent and application of this instrument matches the extent and application of the legislation being amended.
- 4.2 As regards to the retained direct EU legislation amended by this instrument, this is incorporated into domestic law under section 3 of the European Union (Withdrawal) Act 2018 save insofar as it applies to Northern Ireland for the purposes of the Protocol. Accordingly, those elements of this instrument will be of no practical application in Northern Ireland as the Protocol instead applies the EU law provisions in Northern Ireland.

**5. European Convention on Human Rights**

- 5.1 The Parliamentary Under-Secretary of State of Agriculture, Fisheries and Food, Rt Hon Victoria Prentis MP, has made the following statement regarding Human Rights:  
“In my view the provisions of the Organics (Equivalence and Control Bodies Listing) (Amendment) 2021 are compatible with the Convention rights.”

**6. Legislative Context**

- 6.1 This instrument makes amendments to retained EU legislation.
- 6.2 Under section 3 of the European Union (Withdrawal) Act 2018, the EU Regulations concerning organics (Regulation (EC) No 834/2007, Regulation (EC) No 889/2008, and Regulation (EC) No 1235/2008 were incorporated into domestic law at the end of the transition period.
- 6.3 This instrument amends Council Regulation (EC) No 834/2007, Commission Regulation (EC) No 889/2008 and Commission Regulation (EC) No 1235/2008.
- 6.4 Under the terms of the Northern Ireland Protocol, the regulations will continue to have effect in Northern Ireland as they do in the EU.

**7. Policy background**

***What is being done and why?***

- 7.1 In order to trade organic products internationally, the United Kingdom’s Government, in its role as the competent authority for organic production, recognises a number of third countries and control bodies based in third countries as having equivalent or compliant standards, allowing for products certified under those standards to be sold in the UK as organic.
- 7.2 While the UK was a member of the EU this recognition was administered by the Commission. Following the end of the transition period, the list of third countries and control bodies recognised by the EU was retained in UK legislation. Since then, to add or remove recognised countries or bodies, or amend existing entities, it has been necessary to lay a statutory instrument amending the existing legislation.

- 7.3 This entails considerable amounts of work from officials, uses Parliamentary time, and delays the recognition of new bodies until the statutory instrument is enacted. These amendments are uncontroversial administrative changes, enacting existing treaty agreements or the results of agreed recognition processes, so do not require significant Parliamentary scrutiny.
  - 7.4 The inherited EU regulations have also meant that for control bodies, port health authorities, businesses, and other bodies to access information on recognised third countries and third country control bodies there is not a single easily accessible list of all of the information. They must instead look at both the original retained regulation and the amending statutory instruments. The feedback from stakeholders has been that this makes the information difficult to obtain in a timely manner.
  - 7.5 It is proposed that instead of laying new statutory instruments for new recognitions or changes to existing recognitions, the law be amended to allow the Secretary of State to maintain public lists on gov.uk with accurate up to date information on recognition. This will be directly amended as new equivalence agreements are made with third countries, or as control bodies are recognised, removed, or have information amended. This will save a considerable amount of officials' and Parliamentary time and allow for greater speed in updating information.
  - 7.6 The passing of this statutory instrument will also enable the UK to demonstrate fulfilment of its obligation, under Article 3 of Annex 14 (Organic Products) of the UK-EU Trade and Cooperation Agreement, to recognise the European Union as having equivalent organic standards. This is because the period of recognition in the Trade and Cooperation Agreement, to 31 December 2023, is established in the list through regulation 4(6). In respect of equivalence recognitions of this kind, where the Secretary of State is satisfied that the relevant conditions continue to be met, Article 8(4) of Regulation 1235/2008 provides for a period of recognition to be extended; this instrument will allow such an extension to be made administratively rather than through further legislation.
- 8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union**
- 8.1 This instrument does not trigger the statement requirements under the European Union (Withdrawal) Act.
- 9. Consolidation**
- 9.1 This is not a consolidating instrument.
- 10. Consultation outcome**
- 10.1 The changes to the listing of control bodies and third countries have been discussed with UK control bodies through the UK Organic Certifiers Group (UKOCG), a number of port health authority officials, and with the devolved administrations at the Organics Four Nations Working Group. The proposed changes met with approval, in particular the means to access information about all of the currently approved bodies in a single location rather than having to consult multiple pieces of legislation.
  - 10.2 As this is primarily an administrative change it was not considered necessary to hold a formal public consultation.

## **11. Guidance**

- 11.1 The content and format of the lists will be explained in the Regulations. The registers will be hosted online at [www.gov.uk/guidance/importing-and-exporting-organic-food](http://www.gov.uk/guidance/importing-and-exporting-organic-food) alongside explanatory text. Further guidance is not required.

## **12. Impact**

- 12.1 There is expected to be no, or no significant, impact on business, charities, or voluntary bodies.
- 12.2 There is no, or no significant, impact on the public sector.
- 12.3 An Impact Assessment has not been prepared for this instrument because the change is an administrative one amending where the information is stored and how the lists are updated, which does not alter how the organic regulations apply to producers, importers, exporters, or other end users.

## **13. Regulating small business**

- 13.1 The legislation applies to activities that are undertaken by small businesses.
- 13.2 No specific action is proposed to minimise regulatory burdens on small businesses. This instrument changes where the lists can be accessed and the process for how they are updated, it does not change the regulations themselves so there will be minimal direct impact to small businesses.

## **14. Monitoring & review**

- 14.1 The approach to monitoring of this legislation is continued liaison with the relevant stakeholders to ensure the legislation is working as intended.
- 14.2 The instrument does not include a statutory review clause.

## **15. Contact**

- 15.1 John Harper at the Department of the Environment, Food and Rural Affairs Telephone: 0208 026 1315 or email: John.Harper1@defra.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Balwinder Dhoot, Deputy Director for Farming Food Sectors and Trade, at the Department of the Environment, Food and Rural Affairs can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Rt Hon Victoria Prentis MP, Parliamentary Under-Secretary of State for Agriculture, Fisheries and Food, can confirm that this Explanatory Memorandum meets the required standard.