

Summary: Intervention & Options

Department /Agency: Defra	Title: Impact Assessment of the Organic Products (Amendment) Regulations 2010	
Stage: Final Proposal	Version: 1	Date: 18 February 2010
Related Publications: Council Regulation (EC) 834/2007; Commission Regulation (EC) 889/2008; Commission Regulation (EC) 1235/2008		

Available to view or download at:

<http://www.defra.gov/foodfarm/growing/organic/standards/index.htm>

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What is the problem under consideration? Why is government intervention necessary?

These regulations amend the Organic Products Regulations 2009 that came into force on 27 April 2009. The amendments are necessary to correct a drafting defect in the Regulations, amend one of the fees provided in Part 4 of the Regulations and to adjust the requirement for where Certificates of Inspection for organic produce imported countries are to be verified.

What are the policy objectives and the intended effects?

1. To enable the Soil Association to recover its costs of managing the organic seed database by uprating the fee it must charge seed companies to register an organic seed or seed potato variety.
2. To enable Certificates of Inspection that accompany imports of organic produce from third countries to be verified inland, providing greater flexibility for importers, as well as savings on the cost of holding produce at ports.

What policy options have been considered? Please justify any preferred option.

1. Retain status quo.
2. Make only essential amendments to The Organic Products Regulations 2009, including the fee increase under regulation 10 and the correction of the drafting defect.
3. Make the full set of amendments to The Organic Products Regulations 2009, including the fee increase under regulation 10, the correction of the drafting defect and the adjustment of of the requirement for where certificates of inspection for organic produce imported from third countries are to be verified.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? October 2011

Ministerial Sign-off For final proposal/implementation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) the benefits justify the costs.

Signed by the responsible Minister:

Jim Paice

.....Date: 22nd July 2010

Summary: Analysis & Evidence

Policy Option: 3

Description: Amend references to EU legislation and make provision for ACOS recommendations in the Statutory Instrument

COSTS	ANNUAL COSTS		Description and scale of key monetised costs by 'main affected groups' It is proposed that the fee charged by the Soil Association to register an organic seed or seed potato variety on the organic seed database will be up rated from £150 to £182. In total this will cost organic seed companies another £1.1K each calendar year.
	One-off (Transition)	Yrs	
	£ 0	0	
	Average Annual Cost (excluding one-off)		
£ 1.1K		Total Cost (PV)	£ 1.1K
Other key non-monetised costs by 'main affected groups' N/A			

BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by 'main affected groups' The adjustment of the requirement for where Certificates of Inspection for organic produce imported from third countries are to be verified is expected to generate savings of around £100K for importers as a result of not having to use storage at a port while the goods are held in demurrage.
	One-off	Yrs	
	£ 0	0	
	Average Annual Benefit (excluding one-off)		
£ 100K		Total Benefit (PV)	£ 100K
Other key non-monetised benefits by 'main affected groups' Having greater flexibility for the verification of Certificates of Inspection will provide greater flexibility and increase the competitiveness of UK importers. In the longer term, it will also increase the viability of import into the UK.			

Key Assumptions/Sensitivities/Risks It is assumed that the same number of seed companies that are currently registered on the organic seed database will register in the future. It is assumed that the number of importers who might benefit from a more flexible approach regarding Certificate of Inspection verification will be similar to at present.

Price Base Year 2010	Time Period Years 1	Net Benefit Range (NPV) £ 79K - £130K	NET BENEFIT (NPV Best estimate) £ 100K
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What is the geographic coverage of the policy/option?			UK		
On what date will the policy be implemented?			1 October 2010		
Which organisation(s) will enforce the policy?			Defra, Soil Association		
What is the total annual cost of enforcement for these organisations?			£ 0		
Does enforcement comply with Hampton principles?			Yes		
Will implementation go beyond minimum EU requirements?			No		
What is the value of the proposed offsetting measure per year?			£ 0		
What is the value of changes in greenhouse gas emissions?			£ 0		
Will the proposal have a significant impact on competition?			No		
Annual cost (£-£) per organisation (excluding one-off)		Micro £32	Small £32	Medium £32	Large £32
Are any of these organisations exempt?		No	No	N/A	N/A

Impact on Admin Burdens Baseline (2005 Prices)			(Increase - Decrease)		
Increase of	£ 0	Decrease of	£ 100K	Net Impact	£ 100 K Decrease

Key: Annual costs and benefits: Constant Prices (Net) Present Value

[Use this space (with a recommended maximum of 30 pages) to set out the evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Ensure that the information is organised in such a way as to explain clearly the summary information on the preceding pages of this form.]

Background

1. Since January 1993 when EC Council Regulation 2092/91 became effective, organic food production has been strictly regulated. Regulation 2092/91 has been replaced by Council Regulation (EC) 834/2007, which came into force on 1 January 2009 with Commission Regulation (EC) 889/2008 and Commission Regulation (EC) 1235/2008 which lay down detailed rules for implementing Council Regulation 834/2007. The Regulations set out the inputs and practices which may be used in organic farming and growing, and the inspection system that must be in place to ensure this. They also apply to processing, processing aids and ingredients in organic foods.
2. There was an ongoing process of stakeholder consultation while the EU Regulations were being discussed at Brussels. Defra undertook an informal written consultation based on the initial Commission proposal that was sent to representatives of all sectors and groups involved. Defra also held telephone conferences that were attended by representatives from sector bodies after each Council Working Group, and placed written updates from these Working Groups on its website. In addition to this, Defra invited stakeholders to attend meetings to discuss draft versions of the Regulations and fed comments back to the Commission. Defra held similar meetings with stakeholders when it produced its Guidance Document for the new EU Regulations. This ensured that stakeholders were aware of the new Regulations and had some input into how Defra interpreted and implemented the legislation. An Impact Assessment was produced for the proposed EC Council Regulation in 2006. This gave a comprehensive summary of the quantifiable effects of changing the Regulations and the costs and benefits to the organic industry.
3. The Organic Products Regulations 2009 (Statutory Instrument 2009 No. 842) provide the powers appropriate for the administration and enforcement of the EU legislation. This Statutory Instrument came into force on 27 April 2009 and replaced The Organic Products Regulations 2004 (Statutory Instrument 2004 No.1604) and the Organic Products (Imports from Third Countries) Regulations 2003 (Statutory Instrument 2003/2821), which included references to Council Regulation (EEC) 2092/91. It was necessary to replace these with a new Regulation in order to reflect the new EU legislation that came into force.
4. It is now necessary to amend The Organic Products Regulations 2009 to amend one of the fees provided for in Part 4 of the Regulations, to correct a drafting defect in the Regulations and to adjust the requirement for where Certificates of Inspection for organic produce imported from third countries are to be verified.

Amendment to the Fee in regulation 10(1) of The Organic Products Regulations 2009

5. The fee that needs amending is the fee of £150 charged by the Soil Association for the registration of an organic seed or seed provided for in regulation 10(1) of The Organic Products Regulations. Article 48 of Commission Regulation (EC) 889/2008 requires each Member State to establish a computerised database that lists the organically produced varieties of seed and seed potatoes that are available to buy on its territory. The purpose of the database is to assist producers to comply with the requirement in the EU organic legislation for organic operators to use organic seed when it is available. Seed companies that have organically produced seed for sale can register and add this to the database and organic operators wishing to purchase seed can use the database to check whether the seed they require is available organically. Article 48 of Commission Regulation (EC)

889/2008 permits the database to be managed by an authority or body designated for this purpose.

6. Article 53 of Commission Regulation 889/2008 provides for each registration on the database to be subject to the levying of a fee that represents the cost of inserting and maintaining information in the database. In the UK, the database is managed by the Soil Association, which currently charges seed companies a fee of £150 (+VAT) per annum to register their organic seed or seed potato variety on the database. This fee is based on the “cost of inserting and maintaining the information in the database” as is currently provided for in Article 53 of Commission Regulation (EC) 889/2008. It therefore takes into account the average amount of time per company a member of the Soil Association’s staff spends on adding the data to the database, maintaining this information and resolving any issues that may arise over the year.
7. The fee charged by the Soil Association in light of the above factors has not changed since 2004. As costs have increased over the years and there are now more seed companies registered on the database, the Soil Association is finding it increasingly difficult to insert the data and maintain the database at the current fee levels. In order to maintain the standard of the database, it wishes to increase the fee to reflect these higher costs. It is therefore proposed that the fee will be increased in line with increases in the Retail Price Index since 2004. This would increase the fee from £150 to £182.

Correction of a drafting defect in The Organic Products Regulations 2009

8. The Organic Products Regulations 2009 contains some cross-referencing errors. The errors are:
 - Regulation 18(1) refers to “Schedule 2” when it should refer to “The Schedule” (there is only one schedule in the Regulations)
 - Regulations 20(1) and 21(1) both cross-refer to “regulation 19” when they should refer to “regulation 18”
 - Regulation 24 (1) cross-refers to “regulation 24” when it should refer to “regulation 23”

It will be convenient to take the opportunity of amending The Organic Products Regulations 2009 to correct these errors.

Adjustment to the requirement for where Certificates of Inspection are to be verified

9. Commission Regulation (EC) 1235/2008 requires imports of organic produce from third countries to be accompanied by a Certificate of Inspection and for the certificate to be verified before the produce is released into free circulation. The Organic Products Regulations 2009 require verification of the Certificate of Inspection to take place at the place of import which they define as the place at which the consignment first arrives in the UK. The adjustment to the definition of “place of import” will enable the Certificate of Inspection to be verified inland such as when the consignment is held away from a port, either before or after Customs clearance, awaiting completion of documentation to release into free circulation.

Government Intervention

10. The EU legislation is directly applicable and is therefore a Community obligation. However, there are some provisions in the EU legislation that are confirmed and applied in The Organic Products Regulations 2009 such as the Competent Authority for the UK. The Organic Products Regulations 2009 also give certain organisations or officials associated with the organic system in the UK the power to enforce the EU legislation and the organic

control system effectively. These areas of The Organic Products Regulations 2009 will not be affected by the amending Statutory Instrument.

Policy Options

11. Three options were identified:
 - a. **Option 1** – maintain the status quo. This is not a feasible option as the fee to register an organic seed or seed potato variety on the organic seed database needs to be amended in order for the information to be managed effectively and the drafting defects need to be remedied. When making these amendments, it would also be useful to adjust the requirement for where Certificates of Inspection for organic produce imported from third countries are verified.
 - b. **Option 2** – amend the fee to register an organic seed or seed potato variety on the organic seed database and correct the drafting defects but make no adjustment to the requirement for where Certificates of Inspection for organic produce imported from third countries are to be verified. While this would ensure that the most pressing amendments to The Organic Products Regulations 2009 are made, it would require a further amendment to be made to the Regulations in the near future. As it would make more sense and be a better use of resources to make the amendments together, this option has been discounted.
 - c. **Option 3** – amend the fee to register an organic seed or seed potato variety on the organic seed database, remedy the drafting defects and adjust the requirement for where Certificates of Inspection for organic produce imported from third countries are verified. This is our preferred option.

Review of Policy Options

12. It is intended that the chosen policy option made by the amending Statutory Instrument will be reviewed in October 2011 (at the end of the first full year of operation) to ascertain the effect of the up rating of the fee to register an organic seed or seed potato variety on the organic seed database and to establish the effect of adjusting the requirement for where Certificates of Inspection for organic produce imported from third countries are verified.

Costs and Benefits

13. Overall, the changes to the Statutory Instrument stated in option 3 above will have a minimal impact on organic stakeholders. However, amending the fee for registering seeds on the organic seed database will impact on the organic seed companies and adjusting the requirement for where Certificates of Inspection for organic produce imported from third countries are verified will impact on importers of organic food products. Correcting the drafting defects in The Organic Products Regulations 2009 will result in no additional costs or benefits.

Costs

14. Adjusting the fee for registering seed or seed potato varieties on the organic seed database from £150 to £182 will impact on the seed companies that register their seed or seed potato varieties on the organic seed database. A total of 33 seed companies have currently registered their seeds or seed potatoes on the organic seed database at a total cost of £4950 (£150 x 33) per annum. Increasing the fee for registering seed or seed potato varieties on the organic seed database to £182 would cost the seed companies £6039 per annum (£182 x 33), an extra £1,056 per annum.

15. There will be no additional costs resulting from correcting the drafting defect in The Organic Products Regulations 2009 and adjusting the requirement for where Certificates of Inspection for organic produce imported from third countries are verified is unlikely to result in any additional costs to importers of organic food.

Benefits

16. It is expected that adjusting the requirement for where Certificates of Inspection for organic produce imported from third countries are to be verified will lead to savings of around £100K per annum as a result of operators not having to use storage facilities at the port while the goods are held in demurrage. This is based on an average charge of around £35 per working day for a container held in demurrage (based on information provided by the Port Health Authorities) and 1000 of these containers being held in demurrage for 2 to 3 days over the year (these figures are an initial best estimate and will be clarified as we receive further information on this point).
17. Non-monetary benefits of adjusting the requirement for where Certificates of Inspection are to be verified are increased flexibility and improved competitiveness for UK importers as this will bring the UK into line with other Member States where similar systems of entry into free circulation away from the port exist. As a result, in the longer term the adjustment will increase the viability of import into the UK compared with other Member States.
18. Correcting the drafting defect in The Organic Products Regulations 2009 will not result in additional monetary benefits but it will result in the Regulations reading correctly, removing the risk of confusion amongst stakeholders when following the legislation.
19. By amending the fee charged for registering information on the organic seeds database, the Soil Association will be able to continue to input the information onto the database and maintain this information. This will ensure that operators who wish to purchase organic seed have the facility to check what is available while giving seed companies a platform to inform potential customers of the seed they have available. It also means that the UK complies with Article 48 of Commission Regulation (EC) 889/2008, which requires each Member State to establish such a database.

Key Assumptions, Sensitivities and Risks

20. The Soil Association who manage the organic seed database on behalf of Defra have stated that 33 seed companies currently register their organic seed on the organic seed database. The number of seed companies who provide organic seed is relatively small and around 30 such companies normally register their seed on the database on an annual basis. We have therefore made the assumption that 33 seed companies will register their organic seed on the database in subsequent years.
21. The benefits of adjusting the requirement for where Certificates of Inspection for organic produce imported from third countries are to be verified are based on an assumption that goods are held in demurrage for 2 to 3 working days at a cost of about £35 per container per day as a result of the current wording. It is also assumed that around 1000 containers containing imported organic goods are held in demurrage each year in the UK.

Time Period for Assessment of Savings

22. The new arrangements will come into force in Autumn 2010 and the savings should be generated once the new system is established. An assessment of savings can be undertaken after 31 March 2011, once the first year of the new arrangements has been completed.

Net Benefit Range

23. It is expected that the benefits resulting from adjusting the requirement for where Certificates of Inspection for organic produce imported from third countries are to be verified will be around £100K per annum. As noted in paragraph 16, this figure is based on savings generated from operators not having to use storage facilities at the port while the goods are held in demurrage. This is based on an assumption that approximately 1000 containers worth of imported organic goods are held in demurrage per annum in the UK as a result of the Certificate of Inspection verification having to take place at the place of import.
24. If the actual number of containers held in demurrage as a result of the current requirement regarding the verification of Certificates of Inspection is lower, such as around 750, the savings generated from adjusting the requirement are likely to be around **£79K**.
25. Conversely, if the actual number of containers held in demurrage as a result of the current requirement is higher, such as around 1,250, the savings generated from adjusting the requirement are likely to be around **£130K**.

Annual Cost Per Organisation

26. Each seed company that wishes to register its organic seed on the organic seed database must currently pay the Soil Association a fee of £150 for doing so. This fee is the same regardless of the size of the seed company. The amending Statutory Instrument proposes to increase the fee to £182 per annum meaning that the costs to every seed company will be £32 per annum.

Administrative Burdens

27. It is anticipated that there will be decreases to the administrative burden arising from adjusting the requirement for where Certificates of Inspection for organic produce imported from third countries are verified. The adjustment will enable the Certificate of Inspection to be verified inland for example when the consignment is held away from a port, either before or after Customs clearance, awaiting completion of documentation to release into free circulation. This will provide greater flexibility for importers, as well as savings on the cost of holding produce at ports.

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	<i>Results in Evidence Base?</i>	<i>Results annexed?</i>
Competition Assessment	No	Yes
Small Firms Impact Test	No	Yes
Legal Aid	No	Yes
Sustainable Development	No	Yes
Carbon Assessment	No	Yes
Other Environment	No	Yes
Health Impact Assessment	No	Yes
Race Equality	No	Yes
Disability Equality	No	Yes
Gender Equality	No	Yes
Human Rights	No	Yes
Rural Proofing	No	Yes

ANNEX A Specific Impact Tests

Competition Assessment

1. The proposed changes to the Statutory Instrument will not have any negative effect on competition as all seed companies wishing to register their seeds on the organic seed database will be affected by the changes. The changes will not directly or indirectly limit the number or range of suppliers, they will not limit the ability of suppliers to compete and they will not reduce suppliers' incentive to compete vigorously. They will not affect the competitive position of organic operators relative to others producing non-organic products

Small Firms Impact Test

2. The effect on small firms of increasing the fee for registering seed on the organic seed database will be minimal as the increase is only small (£33 per annum). The fee has not been increased since 2004 and the amended fee reflects inflation under the Retail Price Index since 2004. Small firms will continue to benefit from being able to list the seeds they have available on the database, informing potential customers that these seeds are available. They will also benefit from the fact that the database will be managed and maintained effectively, helping to contribute to the functioning of a credible organic food market.
3. Small firms that import organic products are likely to benefit from the increased flexibility offered by adjusting the requirement for where Certificates of Inspection for organic produce imported from third countries are verified and are likely to benefit from a proportion of the savings that this is expected to generate. Small firms could benefit particularly from the change as, compared to large firms, they are less likely to be able to bear the cost of obtaining in-port facilities where inspection takes place.

Legal Aid

4. The proposed amendments to the Statutory Instrument will not introduce new criminal sanctions or civil penalties.

Sustainable Development

5. The proposed amendments to the Statutory Instrument will not have an impact on the following sustainable development principles:

- living within environmental limits (e.g. producer pays principle)
- ensuring a strong, healthy and just society
- achieving a sustainable economy (polluter pays principle)
- using sound science responsibly
- promoting good governance

There will be neither a positive nor negative impact on these principles.

Carbon Assessment

6. The proposed amendments to the Statutory Instrument will not lead to a change in the emission of Greenhouse Gases.

Other Environmental Issues

7. The proposed amendments to the Statutory Instrument will:
 - not be vulnerable to the predicted effects of climate change
 - not lead to a change in the financial costs or environmental and health impacts of waste management
 - not impact significantly on air quality
 - not involve any material change to the appearance of the landscape or townscape
 - not change the degree of water pollution; levels of abstraction of water or exposure to flood risk
 - not disturb or enhance habitat or wildlife
 - not affect the number of people exposed to noise or the levels of exposure

Health Impact Assessment

8. The proposed amendments to the Statutory Instrument will have no impact on health, well-being or health inequalities.

Race Equality Assessment

9. The proposed amendments to the Statutory Instrument will not result in policy that differs according to people's racial group. There will be no unlawful discrimination.

Disability Assessment

10. The proposed amendments to the Statutory Instrument will not have a negative impact on disabled people. There will be no unlawful discrimination.

Gender Assessment

11. The proposed amendments to the Statutory Instrument will apply equally to men and women. There will be no unlawful discrimination.

Human Rights Assessment

12. The proposed amendments to the Statutory Instrument will have no implications for human rights.

Rural proofing

13. The proposed amendments to the Statutory Instrument will not have any adverse impact on rural areas (see checklist at Annex B).

ANNEX B

RURAL PROOFING CHECKLIST

1. Will the policy affect the availability of public and private services?
No. The Organic Products (Amendment) Regulations 2010 amend the Organic Products Regulations 2009 that provide for the administration and enforcement of Council Regulation (EC) no 834/2007 and Commission Regulations (EC) 889/2008 and 1235/2008 which lay down detailed rules for implementing Council Regulation 834/2007 which together revoke and replace Council Regulation (EEC) 2092/91. No changes to the availability of public and private services will arise from these changes.
2. Is the policy to be delivered through existing service outlets, such as schools, banks and GP surgeries?
Yes. The policy will continue to be delivered by the Soil Association in the case of the registration and management of organic seed on the organic seed database. Organic operators (organic farmers, growers, food processors and importers) will continue to be licensed by the existing organic control bodies. These bodies (see http://www.defra.gov.uk/farm/organic/standards/certbodies/approved.htm) are readily accessible and licensing is on the basis of inspection carried out at operators' premises. The organic control bodies themselves and the other agencies subject to the Regulations (Local Authorities, Port Health Authorities and The Soil Association) are in routine, direct contact with Defra.
3. Will the cost of delivery be higher in rural areas where clients are more widely dispersed or economies of scale are harder to achieve?
No. See the answer to 2 above.
4. Will the policy affect travel needs or the ease and cost of travel?
No. The Organic Products (Amendment) Regulations 2010 will neither increase nor reduce travel needs.
5. Does the policy rely on communicating information to clients?
Yes. But the organic control bodies themselves and the other agencies subject to the Regulations (Local Authorities, Port Health Authorities and The Soil Association) are in routine, direct contact with Defra. Information needed by existing organic operators is conveyed to them as a routine by the organic control bodies which license them. Information needed by prospective organic operators is available on the websites of Defra, Natural England and the Organic Conversion information Service and the websites of the organic control bodies.

<p>6. Is the policy to be delivered by the private sector or through a public-private partnership?</p>
<p>The Soil Association is a registered charity while the importing of organic products is covered by the Port Health Authority. The other organisations covered by the Organic Products Regulations 2009 are organic control bodies are private sector bodies approved by Defra. UKAS is a private sector organisation reporting to DBRR. The Organic Conversion Information Service is a private sector organisation run by the Organic Research Centre under contract to Natural England. Natural England is a Defra Agency</p>
<p>7. Does the policy rely on infrastructure (e.g. broadband ICT, main roads, utilities) for delivery?</p>
<p>No particular infrastructure requirements are involved.</p>
<p>8. Will the policy impact on rural businesses, including the self-employed?</p>
<p>These measures apply specifically to businesses that are by their nature rural, they do not have a differential effect and do not require modification or adaptation.</p>
<p>9. Will the policy have a particular impact on land-based industries and, therefore, on rural economies and environments?</p>
<p>These measures apply specifically to businesses that are by their nature rural, they do not have a differential effect and do not require modification or adaptation.</p>
<p>10. Will the policy affect those on low wages or in part-time or seasonal employment?</p>
<p>The Organic Products (Amendment) Regulations 2010 will not themselves impact on wage levels or access to quality employment. But there is evidence that organic farming, to which the Regulations relate, generates higher level of employment than conventional agriculture.</p>
<p>11. Is the policy to be targeted at the disadvantaged?</p>
<p>No</p>
<p>12. Will the policy rely on local institutions for delivery?</p>
<p>Yes. See the answer to 2 above.</p>
<p>13. Does the policy depend on new buildings or development sites?</p>

No