

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 IV

CONTROLS

CHAPTER 8

**Infringements and exchange of information**

*Article 91*

**Measures in case of suspicion of infringements and irregularities**

1 Where an operator considers or suspects that a product which he has produced, prepared, imported or that he has received from another operator, is not in compliance with organic production rules, he shall initiate procedures either to withdraw from this product any reference to the organic production method or to separate and identify the product. He may only put it into processing or packaging or on the market after elimination of that doubt, unless it is placed on the market without indication referring to the organic production method. In case of such doubt, the operator shall immediately inform the control body or authority. The control authority or control body may require that the product cannot be placed on the market with indications referring to the organic production method until it is satisfied, by the information received from the operator or from other sources, that the doubt has been eliminated.

2 Where [<sup>F1</sup>the control authority] or control body has a substantiated suspicion that an operator intends to place on the market a product not in compliance with the organic production rules but bearing a reference to the organic [<sup>F2</sup>production method, the control] authority or control body can require that the operator may provisionally not market the product with this reference for a time period to be [<sup>F3</sup>set by the control authority] or control body. Before taking such a decision, the control authority or control body shall allow the operator to comment. This decision shall be supplemented by the obligation to withdraw from this product any reference to the organic production method if the control authority or control body is sure that the product does not fulfil the requirements of organic production.

However, if the suspicion is not confirmed within the said time period, the decision referred to in the first subparagraph shall be cancelled not later than the expiry of that time period. The operator shall cooperate fully with the control body or authority in resolving the suspicion.

<sup>F4</sup>3 .....

**Textual Amendments**

**F1** Words in Art. 91(2) substituted (31.12.2020) by [The Organic Production and Control \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/693\)](#), regs. 1(2), **3(41)(a)(i)**; 2020 c. 1, Sch. 5 para. 1(1)

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| <b>F2</b> | Words in Art. 91(2) substituted (31.12.2020) by The Organic Production and Control (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/693), regs. 1(2), <b>3(41)(a)(ii)</b> ; 2020 c. 1, Sch. 5 para. 1(1)  |
| <b>F3</b> | Words in Art. 91(2) substituted (31.12.2020) by The Organic Production and Control (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/693), regs. 1(2), <b>3(41)(a)(iii)</b> ; 2020 c. 1, Sch. 5 para. 1(1) |
| <b>F4</b> | Art. 91(3) omitted (31.12.2020) by virtue of The Organic Production and Control (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/693), regs. 1(2), <b>3(41)(b)</b> ; 2020 c. 1, Sch. 5 para. 1(1)         |

## <sup>F5</sup> Article 92

### **Exchange of information between control authorities, control bodies and competent authorities**

1 Where the operator and/or the subcontractors of that operator are checked by different control authorities or control bodies, the control authorities or control bodies shall exchange the relevant information on the operations under their control.

2 Where operators and/or their subcontractors change their control authority or control body, the change shall be notified without delay to the competent authority by the control authorities or control bodies concerned.

The previous control authority or control body shall hand over the relevant elements of the control file of the operator concerned and the reports referred to in the second subparagraph of Article 63(2) to the subsequent control authority or control body.

The new control authority or control body shall ensure that non-conformities noted in the report of the previous control authority or control body have been or are being addressed by the operator.

3 Where the operator withdraws from the control system, the control authority or control body of that operator shall, without delay, inform the competent authority.

4 Where a control authority or control body finds irregularities or infringements affecting the organic status of products, it shall without delay inform the competent authority <sup>F6</sup>... in accordance with Article 27 of Regulation (EC) No 834/2007.

That competent authority may require, on its own initiative, also any other information on irregularities or infringements.

In case of irregularities or infringements found with regard to products under the control of other control authorities or control bodies, it shall also inform those authorities or bodies without delay.

5 [<sup>F7</sup>The relevant authority] shall take the appropriate measures and establish documented procedures to enable exchange of information between all control authorities they have designated and/or all control bodies they have approved in accordance with Article 27 of Regulation (EC) No 834/2007, including procedures for the exchange of information for the purpose of verifying documentary evidence referred to in Article 29(1) of that Regulation.

6 [<sup>F8</sup>The relevant authority] shall take the appropriate measures and establish documented procedures in order to ensure that information on the results of inspections and visits as referred to in Article 65 of this Regulation is communicated to the paying agency in accordance with the needs of that paying agency as provided for in Article 33(1) of Commission Regulation (EU) No 65/2011 <sup>(1)</sup>.

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### Textual Amendments

- F5** Substituted by [Commission Implementing Regulation \(EU\) No 392/2013 of 29 April 2013 amending Regulation \(EC\) No 889/2008 as regards the control system for organic production.](#)
- F6** Words in Art. 92(4) omitted (31.12.2020) by virtue of [The Organic Production and Control \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/693\)](#), regs. 1(2), **3(42)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F7** Words in Art. 92(5) substituted (31.12.2020) by [The Organic Production and Control \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/693\)](#), regs. 1(2), **3(42)(b)**; 2020 c. 1, Sch. 5 para. 1(1)
- F8** Words in Art. 92(6) substituted (31.12.2020) by [The Organic Production and Control \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/693\)](#), regs. 1(2), **3(42)(c)**; 2020 c. 1, Sch. 5 para. 1(1)

### <sup>F9</sup> Article 92a

#### Exchange of information between different Member States and the Commission

### Textual Amendments

- F9** Art. 92a omitted (31.12.2020) by virtue of [The Organic Production and Control \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/693\)](#), regs. 1(2), **3(43)**; 2020 c. 1, Sch. 5 para. 1(1)

### Article 92b

#### Publication of information

[<sup>F10</sup>The relevant authority] shall make available to the public, in an appropriate manner including publication on the internet, the updated lists referred to in Article 28(5) of Regulation (EC) No 834/2007 containing updated documentary evidence related to each operator, as provided for in Article 29(1) of that Regulation and using the model set out in Annex XII to this Regulation. [<sup>F11</sup>The relevant authority] shall duly observe the requirements of the protection of personal data as laid down in [<sup>F12</sup>Regulation (EU) 2016/679].]

### Textual Amendments

- F5** Substituted by [Commission Implementing Regulation \(EU\) No 392/2013 of 29 April 2013 amending Regulation \(EC\) No 889/2008 as regards the control system for organic production.](#)
- F10** Words in Art. 92b substituted (31.12.2020) by [The Organic Production and Control \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/693\)](#), regs. 1(2), **3(44)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F11** Words in Art. 92b substituted (31.12.2020) by [The Organic Production and Control \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/693\)](#), regs. 1(2), **3(44)(b)**; 2020 c. 1, Sch. 5 para. 1(1)
- F12** Words in Art. 92b substituted (31.12.2020) by [The Organic Production and Control \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/693\)](#), regs. 1(2), **3(44)(c)**; 2020 c. 1, Sch. 5 para. 1(1)

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(1) [<sup>F5</sup>[OJ L 25, 28.1.2011, p. 8.](#)]

**Textual Amendments**

**F5** Substituted by [Commission Implementing Regulation \(EU\) No 392/2013 of 29 April 2013 amending Regulation \(EC\) No 889/2008 as regards the control system for organic production.](#)

**Changes to legislation:**

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