

Regulation (EU) 2018/848 of the European Parliament and of the Council of 30 May 2018 on organic production and labelling of organic products and repealing Council Regulation (EC) No 834/2007

CHAPTER V

CERTIFICATION

Article 34

Certification system

1 Prior to placing any products on the market as ‘organic’ or as ‘in-conversion’ or prior to the conversion period, operators and groups of operators referred to in Article 36 which produce, prepare, distribute or store organic or in-conversion products, which import such products from a third country or export such products to a third country, or which place such products on the market, shall notify their activity to the competent authorities of the Member State in which it is carried out and in which their undertaking is subject to the control system.

Where the competent authorities have conferred their responsibilities or delegated certain official control tasks or certain tasks related to other official activities to more than one control authority or control body, the operators or groups of operators shall indicate in the notification referred to in the first subparagraph which control authority or control body verifies whether their activity complies with this Regulation and provides the certificate referred to in Article 35(1).

2 Operators that sell prepacked organic products directly to the final consumer or user shall be exempted from the notification obligation referred to in paragraph 1 of this Article and from the obligation to be in the possession of a certificate referred to in Article 35(2) provided that they do not produce, prepare, store other than in connection with the point of sale, or import such products from a third country, or subcontract such activities to another operator.

3 Where operators or groups of operators subcontract any of their activities to third parties, both the operators or groups of operators and the third parties to whom those activities have been subcontracted shall comply with paragraph 1, unless the operator or group of operators has declared in the notification referred to in paragraph 1 that it remains responsible as regards organic production and that it has not transferred that responsibility to the subcontractor. In such cases, the competent authority, or, where appropriate, the control authority or control body, shall verify that the subcontracted activities comply with this Regulation, in the context of the control it carries out on the operators or groups of operators that have subcontracted their activities.

4 Member States may designate an authority or approve a body which is to receive the notifications referred to in paragraph 1.

5 Operators, groups of operators and subcontractors shall keep records in accordance with this Regulation on the different activities they engage in.

6 Member States shall keep updated lists containing the names and addresses of operators and groups of operators that have notified their activities in accordance with paragraph 1 and shall make public in an appropriate manner, including by means of links to a single internet website, a comprehensive list of this data, together with the information relating to

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the certificates provided to those operators and groups of operators in accordance with Article 35(1). When doing so, Member States shall comply with the requirements for the protection of personal data under Regulation (EU) 2016/679 of the European Parliament and of the Council⁽¹⁾.

7 Member States shall ensure that any operator or group of operators that complies with this Regulation and, in cases where a fee is collected in accordance with Articles 78 and 80 of Regulation (EU) 2017/625, that pays a reasonable fee covering the cost of controls is entitled to be covered by the control system. Member States shall ensure that any fees that may be collected are made public.

8 The Commission is empowered to adopt delegated acts in accordance with Article 54 amending Annex II as regards the requirements for keeping records.

9 The Commission may adopt implementing acts to provide details and specifications regarding:

- a the format and technical means of the notification referred to in paragraph 1;
- b the arrangements for the publication of the lists referred to in paragraph 6; and
- c the procedures and the arrangements for publication of the fees referred to in paragraph 7.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 55(2).

Article 35

Certificate

1 Competent authorities, or, where appropriate, control authorities or control bodies, shall provide a certificate to any operator or group of operators that has notified its activity in accordance with Article 34(1) and complies with this Regulation. The certificate shall:

- a be issued in electronic form wherever possible;
- b allow at least the identification of the operator or group of operators including the list of the members, the category of products covered by the certificate and its period of validity;
- c certify that the notified activity complies with this Regulation; and
- d be issued in accordance with the model set out in Annex VI.

2 Without prejudice to paragraph 8 of this Article and to Article 34(2), operators and groups of operators shall not place products referred to in Article 2(1) on the market as organic products or in-conversion products unless they are already in possession of a certificate as referred to in paragraph 1 of this Article.

3 The certificate referred to in this Article shall be an official certificate within the meaning of point (a) of Article 86(1) of Regulation (EU) 2017/625.

4 An operator or a group of operators shall not be entitled to obtain a certificate from more than one control body in relation to activities carried out in the same Member State regarding the same category of products, including cases in which that operator or group of operators operates at different stages of production, preparation and distribution.

5 Members of a group of operators shall not be entitled to obtain an individual certificate for any of the activities covered by the certification of the group of operators to which they belong.

6 Operators shall verify the certificates of those operators that are their suppliers.

7 For the purposes of paragraphs 1 and 4 of this Article, products shall be classified in accordance with the following categories:

- a unprocessed plants and plant products, including seeds and other plant reproductive material;
- b livestock and unprocessed livestock products;
- c algae and unprocessed aquaculture products;
- d processed agricultural products, including aquaculture products, for use as food;
- e feed;
- f wine;
- g other products listed in Annex I to this Regulation or not covered by the previous categories.

8 Member States may exempt from the obligation to be in the possession of a certificate, provided for in paragraph 2, operators that sell unpacked organic products other than feed directly to the final consumer, provided that those operators do not produce, prepare, store other than in connection with the point of sale, or import such products from a third country, or subcontract such activities to a third party, and provided that:

- a such sales do not exceed 5 000 kg per year;
- b such sales do not represent an annual turnover in relation to unpacked organic products exceeding EUR 20 000; or
- c the potential certification cost of the operator exceeds 2 % of the total turnover on unpacked organic products sold by that operator.

If a Member State decides to exempt the operators referred to in the first subparagraph, it may set stricter limits than those set in the first subparagraph.

Member States shall inform the Commission and the other Member States of any decision to exempt operators pursuant to the first subparagraph and of the limits up to which such operators are exempted.

9 The Commission is empowered to adopt delegated acts in accordance with Article 54 amending the model of the certificate set out in Annex VI.

10 The Commission shall adopt implementing acts to provide details and specifications regarding the form of the certificate referred to in paragraph 1 and the technical means by which it is issued.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 55(2).

Article 36

Group of operators

1 Each group of operators shall:

- a only be composed of members who are farmers or operators that produce algae or aquaculture animals and who in addition may be engaged in processing, preparation or placing on the market of food or feed;
- b only be composed of members:

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- (i) of which the individual certification cost represents more than 2 % of each member's turnover or standard output of organic production and whose annual turnover of organic production is not more than EUR 25 000 or whose standard output of organic production is not more than EUR 15 000 per year; or
 - (ii) who have each holdings of maximum:
 - five hectares,
 - 0,5 hectares, in the case of greenhouses, or
 - 15 hectares, exclusively in the case of permanent grassland;
 - c be established in a Member State or a third country;
 - d have legal personality;
 - e only be composed of members whose production activities take place in geographical proximity to each other;
 - f set up a joint marketing system for the products produced by the group; and
 - g establish a system for internal controls comprising a documented set of control activities and procedures in accordance with which an identified person or body is responsible for verifying compliance with this Regulation of each member of the group.
- 2 Competent authorities, or, where appropriate, control authorities or control bodies, shall withdraw the certificate referred to in Article 35 for the whole group where deficiencies in the set-up or functioning of the system for internal controls referred to in paragraph 1, in particular as regards failures to detect or address non-compliance by individual members of the group of operators, affect the integrity of organic and in-conversion products.
- 3 The Commission is empowered to adopt delegated acts in accordance with Article 54 amending paragraphs 1 and 2 of this Article by adding provisions, or by amending those added provisions, in particular as regards:
- a the responsibilities of the individual members of a group of operators;
 - b the criteria to determine the geographical proximity of the members of the group, such as the sharing of facilities or sites;
 - c the set-up and functioning of the system for internal controls, including the scope, content and frequency of the controls to be carried out and the criteria to identify deficiencies in the set-up or functioning of the system for internal controls.
- 4 The Commission may adopt implementing acts laying down specific rules concerning:
- a the composition and dimension of a group of operators;
 - b the documents and record-keeping systems, the system for internal traceability and the list of operators;
 - c the exchange of information between a group of operators and the competent authority or authorities, control authorities or control bodies, and between the Member States and the Commission.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 55(2).

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- (1) Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

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