

EXPLANATORY MEMORANDUM TO
Organic Product Regulations (Northern Ireland) 2020

SR 2020 No. 272

1. Introduction

- 1.1. This Explanatory Memorandum has been prepared by the Department of Agriculture, Environment and Rural Affairs to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2. The Statutory Rule is made under section 2(2) of and paragraph 1A of Schedule 2 to the European Communities Act 1972 and section 56(1) and (2) of the Finance Act 1973 and is subject to the negative resolution procedure.

2. Purpose

- 2.1. These Regulations ensure that Northern Ireland continues to have legislation for the administration and enforcement of Council Regulation (EC) No 834/2007 and Commission Regulations (EC) Nos 889/2008 and 1235/2008, which lay down detailed rules for implementing Council Regulation 834/2007 (the EU Regulations), following the EU Exit transition period.
- 2.2. These Regulations will implement the following into Northern Ireland legislation, none of which is a change from current UK organic policy:
- 2.3. Designate the Secretary of State as the Competent Authority for ensuring that EU Regulations are implemented, which includes approving and supervising the organic control bodies which licence individual organic operators and approving certain exemptions from the normal rules;
- 2.4. Designate the organic control bodies as the bodies to which application must be made for licencing as an organic operator;
- 2.5. Provide for the regulations to be enforced by District Councils;
- 2.6. Give control bodies the role of managing certain derogations permitted by the EU Regulations;
- 2.7. Provide for fees to be paid i) to the Competent Authority for approving the organic control bodies, for issuing authorisations to import organic products from third countries and for permission to use conventional ingredients in organic food products as required by the EU Regulations; ii) to the organic control bodies for licencing individual organic operators; iii) to District Councils for verifying that imports of organic products from third countries are imported in accordance with the rules laid down in the EU Regulations; iv) to the Soil Association for entries on the database of organic seeds and seed potatoes, which the EU Regulations require to be made available and which is managed for Defra by the Soil Association.

3. Background

- 3.1. This Statutory Rule is needed to provide powers appropriate for the administration and enforcement of the EU Regulations. These powers have been provided for in Northern Ireland by Statutory Instrument 2009 No 842, which came into force on 27 April 2009, across the UK.
- 3.2. Due to the amendments to support the United Kingdom's Exit from the European Union, the 2009 Regulations will extend only to England, Scotland and Wales from the end of the EU Exit Transition Period.
- 3.3. Northern Ireland, by virtue of Annex 2 to the Northern Ireland Protocol, will continue to align to the EU Regulations for Organic Standards. Therefore, this Statutory Rule will retain the administration and enforcement measures in place immediately before the end of the EU Exit Transition Period, with some minor and technical changes only.
- 3.4. The minor and technical changes include updating the Soil Association's contact address, removing references to other parts of the UK which are not required as these Regulations apply only to Northern Ireland, and removing provisions which are not required because they are already covered under the Interpretation Act (NI) 1954.
- 3.5. This Statutory Rule is made under the European Communities Act 1972, section 2(2) and the Finance Act 1973 section 56(1) and (2).

4. Consultation

- 4.1. There was no public consultation, as these Regulations retain the legislative provisions which are already in place. This Statutory Rule does not introduce any new policy or legislative provisions which are not already in operation across the UK.
- 4.2. DAERA has obtained permission from counterparts in the Department of Justice and Department of Finance in relation to fees, offences and penalties when drafting these regulations.

5. Equality Impact

- 5.1. No adverse equality impacts were identified under section 75 of the Northern Ireland Act 1998.

6. Regulatory Impact

- 6.1. A Regulatory Impact Assessment has not been prepared for this Statutory Rule as it does not result in any additional costs for business, charity or voluntary bodies.
- 6.2. This Statutory Rule does not introduce any new policy or legislative provisions which are not already in operation across the UK.

7. Financial Implications

- 7.1. These Regulations do not introduce any new fees or penalties which are not already in place across the UK.

8. Section 24 of the Northern Ireland Act 1998

- 8.1. The proposed Regulations are continued policy.

- 8.2. The Regulations are deemed to comply with the requirements of section 24 of the Northern Ireland Act 1998.

9. EU Implications

- 9.1. Since January 1993, when EU Council Regulation 2092/91 became effective, organic food production has been strictly regulated. Regulation 2092/91 was replaced by Council Regulation (EC) No 853/2007, which came into force on 1 January 2009. The Regulations set out the inputs and practices which may be used in organic farmings 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.
- 9.2. At the end of the EU Exit Transition Period, by virtue of Annex 2 to the Northern Ireland Protocol, Northern Ireland will be required to continue to align to the EU Regulations.
- 9.3. Therefore, it is necessary for Northern Ireland to replicate the Organic Products Regulations 2009 (SI 2009/842), by way of this Statutory Rule, to provide powers appropriate for the administration and enforcement of the EU Regulations.

10. Parity or Replicatory Measure

- 10.1. This Statutory Rule replicates the Organic Products Regulations 2009 (SI 2009/842) as they had effect immediately before the end of the EU Exit Transition Period. The only changes are minor and technical in nature.

11. Additional Information

- 11.1. Not applicable.