
DRAFT STATUTORY INSTRUMENTS

2019 No.

**The Agriculture (Legislative Functions)
(EU Exit) (No.2) Regulations 2019**

PART 4

Organics Amendments

Amendment of Council Regulation (EC) No 834/2007

66. Council Regulation (EC) No 834/2007 on organic production and labelling of organic products is amended in accordance with regulations 67 to 88.

67. In Article 2, after point (cc)(1) insert—

“(dd) ‘appropriate authority’ has the meaning given in Article 38a.”

68. In Article 9—

(a) at the end of paragraph 2 insert as a new subparagraph—

“For the purposes of this paragraph, requirements in Directive 2001/18/EC(2) imposed on Member States are to be read as imposing requirements on the appropriate authority”;

(b) in paragraph 4—

(i) for “Commission shall decide on” substitute “appropriate authority may by regulations impose”;

(ii) omit the words from “in accordance” to the end.

69. In Article 12(3), for the words from “shall be” to the end substitute “may be adopted by the appropriate authority by regulations”.

70. In Article 13(3), for the words from “shall be” to the end substitute “may be adopted by the appropriate authority by regulations”.

71. In Article 14(2), for the words from “shall be” to the end substitute “may be adopted by the appropriate authority by regulations”.

72. In Article 15(2), for the words from “shall be” to the end substitute “may be adopted by the appropriate authority by regulations”.

73. In Article 16—

(a) in paragraph 1, in the first subparagraph, for the words from “Commission shall” to “Article 37(2)” substitute “appropriate authority may, by regulations”;

(b) in paragraph 3—

(1) Point (cc) was added by the Organic Production and Control (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/XXX).
(2) OJ No L 106, 17.4.2001, p. 1, as last amended by Commission Directive (EU) 2018/350 (OJ No L 67, 9.3.2018, p. 30).

- (i) in point (a), for the words from “Commission may” to “Article 37(2)” substitute “appropriate authority may, by regulations”;
- (ii) omit point (b);
- (iii) in point (c), for the last sentence substitute “The appropriate authority may, by regulations, withdraw such products or substances.”.

74. In Article 17(2), for the words from “in accordance” to the end substitute “by the appropriate authority, by regulations”.

75. In Article 18(5), for the words from “in accordance” to the end substitute “by the appropriate authority by regulations”.

76. In Article 19(3), in the second subparagraph—

- (a) omit “by Member States”;
- (b) for the words from “in accordance” to the end substitute “by the appropriate authority by regulations”.

77. In Article 20(3), for the words from “in accordance” to the end substitute “by the appropriate authority by regulations”.

78. In Article 21(2)—

- (a) in the first subparagraph, for the words from “Commission shall” to “Article 37(2)” substitute “appropriate authority may, by regulations”;
- (b) in the fourth subparagraph, for the words “Commission may” to the end of the paragraph substitute “appropriate authority may, by regulations, withdraw such products or substances.”.

79. In Article 22—

- (a) in paragraph 1, for the words from “Commission may” to “Article 37(2) and” substitute “appropriate authority may, by regulations and in accordance with”;
- (b) in paragraph 3, for the words from “Commission may” to “Article 37(2)” substitute “appropriate authority may, by regulations.”.

80. In Article 23 omit paragraphs 5 and 6.

81. In Article 24(3), for the words from “Commission shall” to “Article 37(2)” substitute “appropriate authority may, by regulations”.

82. In Article 25(3)—

- (a) for the words from “Commission shall” to “Article 37(2)” substitute “appropriate authority may, by regulations”;
- (b) for “the Community logo” substitute “any organic production logo”.

83. In Article 26, for the words from “Commission shall” to “Article 37(2)” substitute “appropriate authority may, by regulations”.

84. In Article 27(2), for the words from “shall comprise” to the end substitute “must apply such precautionary and control measures as the appropriate authority may specify in regulations”.

85. In Article 28(6), for the words from “Commission, in” to “implementing” substitute “appropriate authority may, by regulations, prescribe”.

86. In Article 30(2), in the third subparagraph, for the words from “Commission may” to “Article 37(2),” substitute “appropriate authority may, by regulations”.

87. In Article 38, for the first sentence substitute—

“In relation to points (a) to (c) below, the appropriate authority may, by regulations, lay down detailed rules for the application of this Regulation.”.

88. After Article 38 insert—

“Article 38a

Regulations

1. This Article applies in relation to any power conferred by this Regulation on the appropriate authority to make provision by regulations.

2. The appropriate authority is—

- (a) for regulations applying in relation to England, the Secretary of State;
- (b) for regulations applying in relation to Wales, the Welsh Ministers;
- (c) for regulations applying in relation to Scotland, the Scottish Ministers;
- (d) for regulations applying in relation to Northern Ireland, the Department of Agriculture, Environment and Rural Affairs.

3. But the appropriate authority is the Secretary of State if consent is given by—

- (a) for regulations applying in relation to Wales, the Welsh Ministers;
- (b) for regulations applying in relation to Scotland, the Scottish Ministers;
- (c) for regulations applying in relation to Northern Ireland, the Department of Agriculture, Environment and Rural Affairs.

Article 38b

Regulations procedure

1. Regulations made by the Secretary of State or the Welsh Ministers under this Regulation are to be made by statutory instrument.

2. For regulations made under this Regulation by the Scottish Ministers, see section 27 of the Interpretation and Legislative Reform (Scotland) Act 2010⁽³⁾.

3. Any power of the Department of Agriculture, Environment and Rural Affairs to make regulations under this Regulation is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979⁽⁴⁾.

4. A statutory instrument containing regulations made by the Secretary of State under this Regulation is subject to annulment in pursuance of a resolution of either House of Parliament.

5. A statutory instrument containing regulations made by the Welsh Ministers under this Regulation is subject to annulment in pursuance of a resolution of the National Assembly for Wales.

6. Regulations made by the Scottish Ministers under this Regulation are subject to the negative procedure (see section 28 of the Interpretation and Legislative Reform (Scotland) Act 2010).

7. Regulations made by the Department of Agriculture, Environment and Rural Affairs under this Regulation are subject to negative resolution within the meaning of section 41⁽⁶⁾

(3) 2010 asp 10.

(4) S.I. 1979/1573 (N.I.12).

of the Interpretation Act (Northern Ireland) 1954⁽⁵⁾ as if they were a statutory instrument within the meaning of that Act.

8. Such regulations may—

- (a) contain consequential, incidental, supplementary, transitional or saving provision (including provision amending, repealing or revoking enactments (which has the meaning given by section 20(1) of the European Union (Withdrawal) Act 2018));
- (b) make different provision for different purposes.

9. Before making any regulations under this Regulation, an appropriate authority must consult—

- (a) such bodies or persons as appear to the appropriate authority to be representative of the interests likely to be substantially affected by the regulations;
- (b) such other bodies or persons as the appropriate authority may consider appropriate.”.

(5) 1954 c. 33 (N.I.). Section 41(6) was amended by S.I. 1999/663.