

**EXPLANATORY MEMORANDUM TO THE
ENVIRONMENTAL STEWARDSHIP (ENGLAND) AND ORGANIC
PRODUCTS (AMENDMENT) REGULATIONS 2005**

2005 No. 2003

1. This explanatory memorandum has been prepared by the Department for the Environment, Food and Rural Affairs and is laid before Parliament by Command of Her Majesty.

2. Description

- 2.1 This SI amends the Environmental Stewardship (England) Regulations 2005 (SI 2005/621) and The Organic Products Regulations 2004 (SI 2004/1604). It will:

- update references to the UK Compendium of Organic Standards, which has been amended and reissued as a version dated July 2005;
- update the reference to Council Regulation (EEC) No. 2092/91 to take into account recent amending legislation;
- delete the definition of 'business' within the Organic Products Regulations 2004 to take into account the view of the European Commission that catering establishments are not subject to Council Regulation (EEC) No. 2092/91 and make other consequential amendments;
- state that the exemption permitted by Article 8 of Council Regulation 2092/91, as amended by Council Regulation 392/2004, in respect of products sold to the final consumer/user and only stored in connection with the point of will be applied;
- delete Regulation 10(3) of the Organic Products Regulations 2004 because this is considered superfluous given that regulation 10 provides for the enforcement of the "specified Community provisions", which are primarily the EC Regulations, and the scope of those EC Regulations is considered to be sufficiently clear from the EC Regulations.

3. Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

4. Legislative Background

- 4.1 The amendment to the Environmental Stewardship (England) Regulations 2005 is being made under the Environment Act 2005 section 98, under which

those Regulations were made. Under this provision regulations can be made in connection with the making of grants conducive to the conservation or enhancement of the countryside and promotion of its enjoyment. Consent of Her Majesty's Treasury is required in order to do this. The amendment made to the Environmental Stewardship (England) Regulations 2005 relates to the Organic Entry Level Scheme which falls within those Regulations and the conditions for qualification for payments under the scheme include compliance with organic standards under EC Regulation 2092/91. These requirements in so far as they apply to England are set out in the Compendium which has been revised. The Countryside Agency, English Nature and the Historic Buildings and Monuments Commission for England have been consulted on the amendments.

- 4.2 The amendment to the Organic Products Regulations 2004, which relates primarily to the amendment to the Compendium and the updating of EC Regulation 2092/91, is being made under the European Communities Act 1972 section 2(2) and the implied power to amend in the Interpretation Act 1978 section 14.

5. Extent

- 5.1 This instrument applies to the United Kingdom in respect of amending the Organic Products Regulations 2004 and England only in respect of amending the Environmental Stewardship (England) Regulations 2005.

6. European Convention on Human Rights

- 6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy Background

- 7.1 This SI is required to amend the reference to the Compendium of UK Organic Standards in two SIs currently in force – the Environmental Stewardship (England) Regulations 2005 and The Organic Products Regulations 2004 – to take into account the recent revision of the Compendium.
- 7.2 Article 12 of Council Regulation (EEC) No. 2092/91 permits Member States to apply more stringent rules within their territory than those set out in that Regulation in respect to livestock and livestock products. The Compendium of UK Organic Standards May 2004 edition contained some rules for livestock production within the UK which were more stringent than the EU Regulation. These have been reviewed and many of them brought in line with the EU Regulation to reduce the additional regulatory burden they place on UK organic operators compared with those in other Member States. This has been done by removing certain additional standards. It is within this context that the Compendium has been amended, in consultation with stakeholders and the Advisory Committee in Organic Standards (ACOS). The Compendium has also been updated to include the most recent EC Regulations.

- 7.3 The amendment of the definition of 'business' in paragraph 2 of the Organic Products Regulations are to reflect notification from the Commission that it does not consider caterers to fall under the scope of Council Regulation 2092/91.
- 7.4 The inclusion of the exemption permitted by the amended Article 8 of Council Regulation 2092/91 in respect of products stored in connection with the point of sale aims to make it clear that it will be applied in the UK.
- 7.5 Regulation 10(3) of the Organic Products Regulations has been deleted because it is redundant given that the term marketing is defined in Council Regulation 2092/91.

8. Impact

- 8.1 A Regulatory Impact Assessment has not been prepared for this instrument as no additional regulatory burdens are imposed on organic operators.

9. Contact

- 9.1 Georgina Karlsson at the Department for Environment, Food and Rural Affairs; Tel: 020 7238 5758 or e-mail: georgina.karlsson@defra.gsi.gov.uk can answer any queries regarding the instrument.

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