

# EU Policy Update (EU2015.03) Organic Production and Labelling of Organic Products

EU Policy Update August 2015

## Introduction

On 24 March 2014 the European Commission published its package of legislative proposals for a *Regulation of the European Parliament and of the Council on organic production and labelling of organic products*.

The proposals follow a public consultation on the future of the EU's organic food sector. In broad terms, the proposals aim to limit the administrative burden of organic production and improve or maintain consumer confidence in organic products, in particular through the removal of derogations and exemptions allowed under current Council Regulation (EC) 834/2007.<sup>1</sup>

In addition to the regulatory proposals, the Commission has published an **Action Plan** on the future of Organic Production in Europe.

## Summary of main points in proposal

The European Commission states that the main objectives of the proposals are:

- **removing obstacles** to the sustainable development of organic production in the Union;
- **guaranteeing fair competition** for farmers and operators and allowing the internal market to function more efficiently;
- **maintaining or improving consumer confidence** in organic products.

<sup>1</sup> *OJ L 189, 20.7.2007* [accessed 29 October 2014]

Other stated expected outcomes include:

- **clearer and simpler production rules**, with the aim of making the sector more attractive to new farmers
- **a harmonisation of rules** and the recognition of control bodies in third countries, with the aim of making competition fairer and enhancing controllability and reducing complexity in legislation and trade rules
- **the removal of exceptions to rules**, such as the presence of non-authorised substance residues in organic products, as a response to incidents of organic fraud
- **A risk-based approach to controls and import regimes** aimed at improving the effectiveness and efficiency of controls in tackling issues of fraud
- A continuing emphasis on **positive environmental impacts and animal welfare conditions**

### Changes to production rules

Council Regulation (EC) 834/2007 permitted the possibility for certain types of retailers and producers to be exempt from production rules. However, according to the new proposals:

...The experience gained from the application of those provisions has shown that such exemptions have a negative impact on organic production. In particular, it has been found that the very existence of such exceptions impedes the production of inputs in organic form and that the high level of animal welfare associated with organic production is not ensured... the existence of exceptions has created conditions for distortions in competition and has threatened to undermine consumer confidence.



In particular, the Regulation proposes that, after a short conversion period, farm holdings must be exclusively organic with no conventional farming activity taking place on them.

The Regulation also proposes that exceptions which, under certain circumstances, allow the provision of non-organic feed to livestock be removed.

Therefore, livestock must be provided with organic feed composed of agricultural ingredients from organic production and of natural non-agricultural substances.

### Control systems

As part of a shift towards a risk-based approach for control, the Regulation also proposes the removal of yearly physical inspections to check operator compliance. This is designed to reduce costs and the administrative burdens for compliant operators.

A system of group certification for small farmers in the EU is intended to lead to more proportionate inspection and record-keeping and encourage more small farmers to join the EU's organic scheme.

The Regulation would also require all operators along the organic chain to be submitted to the control system. This would remove the ability for national competent authorities to exempt certain retail operations from the need to comply with organic certification requirements where fraud or contamination is deemed unlikely to take place.

### Trade in organics

A key focus of changes in trade rules is to improve the level playing field for the organic operators of the EU and in Third Countries and to better ensure consumer confidence.

A system of equivalency agreements is proposed whereby organic production rules in third countries are recognised as equivalent to those of the EU. Reciprocal agreements would be sought with these third parties with the aim of improving the access of Union organic products to the international market, as well as facilitating the import of organic products

into the Union that meet product compliance standards.

As control bodies shift towards a compliance regime, imported products would have to adhere to a single set of EU production rules.

### Action Plan

The **Action Plan** covers the period up to 2020 and aims to prepare the industry for the new regulations.

The Action Plan focuses on three priority areas:

- 01.** increasing the competitiveness of EU organic producers.
- 02.** consolidation of consumer confidence and trust in EU organic food and imported organic products.
- 03.** reinforcing the external dimension of the EU organic production scheme.

## Background context to proposal

### A principle-driven sector

Within the EU, organic farming must adhere to a strict set of governing principles designed to minimise human impact on the environment whilst ensuring the agricultural system operates as naturally as possible.

Organic production must respect natural cycles, aiming to achieve sustainable production through biological and mechanical processes and without genetically modified organisms (GMOs). 'Closed cycles', which use on-farm organic resources, are preferred over 'open cycles' using external resources. External resources should also be organic and chemical synthetic resources are permitted only when suitable alternatives are lacking.

Foods may only be marked as 'organic' if at least 95% of their agricultural ingredients are organic. Packaged organic food must display the EU organic logo and the place of production of the agricultural ingredients must be indicated.



## Growth of the organic sector

The organic sector within the EU has been rapidly developing; the total area cultivated as organic increased from 5.7 million hectares in 2002 to 9.6 million hectares in 2011 – 5.4% of the total agricultural area in the EU. The number of organic holdings increased almost tenfold during 2003-10 and in 2011 270,000 organic operators were registered in the EU<sup>2</sup>.

## The legislation

The Union adopted its first legislation on organic production in 1991 (Council Regulation (EEC) 2092/91)<sup>3</sup>, which provided a legal definition of organic production and a basis for protecting consumers and organic producers from false and misleading organic claims.

The Union has since adopted Council Regulation (EC) No 834/2007, which further outlines the objectives and principles of organic production. Greater emphasis was placed on achieving high standards of environmental protection, biodiversity and animal welfare and, significantly, the possibility of exceptions to the rules were introduced by ending national rules for animal products.

A review<sup>4</sup> of Council Regulation (EC) No 834/2007, conducted as part of the Commission's Regulatory Fitness and Performance Programme suggested that the existing rules could be simplified and regulatory costs could be reduced.

The review highlighted concerns that legislation has not kept pace with organic market expansion. The Council adopted conclusions on the Commission's report in May 2013 which specifically targeted ways of making the current legal framework clearer and simpler.

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<sup>2</sup> **European Commission, Facts and figures on organic agriculture in the European Union** [accessed 29 October 2014]

<sup>3</sup> *OJ L198, 22.7.1991* [accessed 29 October 2014]

<sup>4</sup> IFOAM EU Group (2012) *European Organic Regulations (EC) No 834/2007, 889/2008 and 1235/2008: An Evaluation of the First Three Years Looking for Further Development*. Brussels: IFOAM EU.

## Relevance to Wales

At the end of 2010, there were over 1,000 organic farms in Wales and approximately 8% of total land area was managed organically or in conversion to organic management; a comparatively higher proportion than in England, Scotland or Northern Ireland<sup>5</sup>. In 2012, Wales had the second largest share of organic operators in the UK after the south-west of England.<sup>6</sup> Whilst the area under organic management increased by more than 50% during 2006-10<sup>7</sup>, the area under conversion fell during 2010 and there was around a 25% decline in farm businesses choosing organic farming as their preferred business model<sup>8</sup>.

At a retail level, the UK market in organic products has declined significantly since 2007. The Welsh Government attributed this to the combined impacts of the recession and, latterly, challenging weather conditions leading to low productivity and high feed costs<sup>9</sup>. In 2012, there was a 5% decline in organic farm producers in Wales followed by a further 15% decline in 2013<sup>10</sup>. Since 2013, the situation has improved markedly.<sup>11</sup> The 2014 Organic Market Report showed that the sales of organic products in the UK grew by 2.8% to £1.79 Billion in 2013. The Organic Centre Wales stated that

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<sup>5</sup> **Organic Centre Wales** [accessed 29 October 2014]

<sup>6</sup> Department for Environment, Food & Rural Affairs (DEFRA) (2013) *Organic farming statistics 2012*. London, DEFRA.

<sup>7</sup> Department for Environment, Food & Rural Affairs (DEFRA) (2013) *Organic farming statistics 2012*. London, DEFRA.

<sup>8</sup> Welsh Government, Alun Davies (Minister for Natural Resources and Food), Cabinet Written Statement, 6 February 2014 [accessed 12 May 2014]

<sup>9</sup> Welsh Government, Organic Farming Support 2015-2020, Consultation Document, 21 January 2014 [accessed 13 May 2014]

<sup>10</sup> Welsh Government, Organic Farming Support 2015-2020, Consultation Document, 21 January 2014 [accessed 13 May 2014]

<sup>11</sup> Organic Centre Wales, **Written evidence for the Assembly inquiry into organic production and labelling**, October 2014 [accessed 11 August 2015].

these national trends are reflected in Wales.<sup>12</sup>

Support for organic farming in Wales is currently provided through Glastir. The Welsh Government consulted on its proposals for organic farm support under the next RDP in November 2013. In a statement published 6 February 2014<sup>13</sup>, the Welsh Government announced the outcomes of the consultation. This included the extension of existing conversion and maintenance payments for organic farmers into the next RDP 2014-20, as a stand-alone Glastir Organic scheme which the European Commission has now approved.

The UK Government is the competent authority in respect to the Regulations and will consult with the Welsh Government in the administration and enforcement of the proposals.

#### **Key areas of interest in the Commission's proposed Regulations for Wales will be:**

- **Mixed farms-** operators will have to manage the entirety of their holdings in compliance with the requirements of organic production;
- **Animal welfare standards-** prohibiting mutilation of animals including tail docking and de-horning;
- **De-certification-** de-certification due to the presence of non-organic residues;
- **Removal of the retail exemption-** requiring retailers to be subject to certification;
- **Inspections (controls)-** a move towards risk-based inspections for certification rather than annual inspections; and
- **Organic seed and breeding stock-** removal of the exemptions permitting the use of conventional seed and breeding-stock.

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<sup>12</sup> Organic Centre Wales, **Written evidence for the Assembly inquiry into organic production and labelling**, October 2014 [accessed 11 August 2015].

<sup>13</sup> Welsh Government, Alun Davies (Minister for Natural Resources and Food), Cabinet Written Statement, 6 February 2014 [accessed 12 May 2014]

## **UK Government position**

The UK Government published an Explanatory Memorandum (EM) setting out its reaction to the Commission's proposals on 25 March 2014.

In its EM, the UK Government points to some potential positives to the UK organic sector that could arise from some of the proposals, which includes:

- a shift to a risk-based approach for controls benefiting UK organic operators by reducing costs through the removal of annual inspections;
- the introduction of defined actions for non-compliance leading to a level playing field across EU Member States;
- mutual agreements between the EU and third countries potentially reducing barriers for UK exporters;
- the introduction of group certification benefiting some small operators in the medium to long term; and
- increased consumer confidence and increased demand for organic products.

However, the EM also highlights UK Government concern that stricter production rules may actually increase non-compliance, as the likelihood of inspection is less probable and there will be a net reduction in the number of operators inspected. The EM also suggests that the removal of certain exemptions, particularly those regarding the provision on non-organic feed, could also lead to increased production costs for UK operators and that this may limit the entry of small farmers into the UK organic sector.

The EM particularly raises the UK Government's concern over proposals to remove exceptions that allow parallel conventional-organic farms. The UK Government considers these types of business to be more prevalent within the UK organic sector than



elsewhere within the EU and states that removing this allowance could have a negative impact on organic land area within the UK.

### Welsh Government

The Welsh Government has stated that it has consulted with DEFRA on the draft regulations to ensure that the concerns of the devolved countries are captured in future UK-EU negotiations. The Deputy Minister for Food and Farming has stated that the proposals as drafted could have both positive and negative impacts on Wales.

### Key stakeholder reactions

Organic Farmers & Growers (OF&G) Ltd **announced a supporting position** with regards to the proposals, pointing towards benefits to the sector offered by the streamlining of regulations and removal of legislative obstacles.

The International Federation of Organic Agriculture Movements (IFOAM) **is supportive of the Commission's 'admirable aims'** and states that there are a number of 'good ideas in the proposals'. However, IFOAM has also stated that the new Regulation does not strengthen the legal and political framework enough for organic products and recommends the creation of a new Organic Action Plan and new Organic Regulation.

Conversely, **the National Farmers Union (NFU) considers existing Regulation to be already very stringent** and raises concern that the proposed new Regulations could threaten growth in the sector. The NFU highlights the revision of animal feed to become 100% organic as a particular challenge as, the NFU states, some livestock, such as pigs and poultry, require a nutritionally balanced diet.

Copa-Cogena – a collaborative group of over 90 EU farmers' and agricultural organisations – has presented a similar stance on the proposals as the NFU, in particular viewing the removal of the allowance for parallel organic-conventional farming

as a potential threat to the sector<sup>14</sup>. Copa-Cogeca Secretary-General Pekka Pesonen stated:

...in many regions, farms often convert into organic farming in a series of stages, for various reasons, like economic or structural reasons. Without the ability to adapt gradually to organic production, it will put the brakes [sic] on the development of the sector.

The National Assembly's Environment and Sustainability Committee have collected evidence from stakeholders during its inquiry into the proposals.<sup>15</sup> It has written to the European Institutions expressing these views.<sup>16</sup>

## Progress of dossier in European institutions

***This section will be updated as the negotiations take place in Brussels and the official positions of the EU Institutions become clear.***

The proposals were first published on 24 March by the Commission. The proposals are subject to the ordinary legislative procedure (ex- co-decision procedure) where both the Council and European Parliament have to reach an agreement on them.

### European Parliament

On 3 September 2014 the proposals were assigned to the Agriculture and Rural Development Committee (the Committee) of the European Parliament and Martin Häusling was appointed as Rapporteur. On 7 May 2015 the Rapporteur's Draft Report was published proposing 353 amendments, which included:

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<sup>14</sup> Copa-Cogeca, Press Release, *New EU legislation for the organic sector must promote European organic production*, 25 March 2014 [accessed 13 May 2014]

<sup>15</sup> National Assembly for Wales, Environment and Sustainability Committee, **Inquiry into the organic production and labelling of organic products** [accessed 12 August 2015].

<sup>16</sup> *ibid*

- Proposing that mixed farming could be maintained for a maximum period of 10 years during conversion;
- Allowing the tail docking and dehorning of young mammals to continue under certain circumstances;
- Proposing that feed for an organic holding would need to be sourced from within 'NUTS I' regions (Nomenclature of Territorial Units for Statistics). Wales alone is 1 'NUTS I' region;
- Removing the proposal to set residue thresholds above which products could not be sold as organic;
- Moving a number of provisions from suggested delegated acts into the basic Regulation and annexes (in particular with regard to production rules).

The MEPs of the Committee discussed the Draft Report on 26 May 2015. MEPs generally welcomed the Draft Report. In June 2015 MEPs from the Committee tabled amendments to the Draft Report. The Committee was due to vote on these before the summer recess but due to the large volume of suggested amendments the vote had been delayed until mid-September.

### European Council

The Agriculture and Fisheries Council (the Council) held discussions on the proposals over the course of both 2014 and 2015, and on 16 June 2015 the Council agreed upon a general approach.

Within this, the Council favored a move to a risk-based approach for inspection whereby farm holdings with a compliant track record of at least three years could move to checks every 30 months rather than on an annual basis.

The Council suggested not to include specific residue thresholds for organic products. However, contaminated products would not be allowed to be marketed as organic if the presence of non-authorized substances was due to deliberate use or

avoidable contamination. Member States that currently impose a national threshold of contamination triggering decertification could continue to do so until the end of 2020.

The Council proposed introduction of a derogation allowing mixed-holdings, provided that different livestock species and different plant varieties are involved that can be easily differentiated.

The Council proposed that the use of non-organic seeds would be allowed for a limited period of time where organic plant reproductive material was not available on the market.

Trilogue negotiations between the Council and MEPs are expected to start in the autumn of 2015.

### Further information

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