



Llywodraeth Cymru
Welsh Government

WRITTEN STATEMENT BY THE WELSH GOVERNMENT

TITLE **The Organics (Equivalence and Control Bodies Listing)
(Amendment) Regulations 2021**

DATE **09 August 2021**

BY **Lesley Griffiths MS, Minister for Rural Affairs, North Wales and
Trefnydd**

**SI laid in Parliament, which amends Retained EU Law and secondary legislation in a
devolved area**

**The Organics (Equivalence and Control Bodies Listing) (Amendment) Regulations
2021**

The 2021 Regulations amend the following retained European Union (“EU”) legislation:

EU Legislation amended

- Council Regulation (EC) No 834/2007 on organic production and labelling of organic products and repealing Regulation (EEC) No 2092/91
- Commission Regulation (EC) No 889/2008 laying down detailed rules for the implementation of Council Regulation (EC) No 834/2007 on organic production and labelling of organic products with regard to organic production, labelling and control
- Commission Regulation (EC) No 1235/2008 laying down detailed rules for implementation of Council Regulation (EC) No 834/2007 as regards the arrangements for imports of organic products from third countries

**Any impact the SI may have on the Senedd’s legislative competence and/or the
Welsh Ministers’ executive competence**

Welsh Government officials are of the view the 2021 Regulations contain provisions, which are within the scope of the Senedd’s legislative competence, and as such the related functions should not be solely conferred on the Secretary of State.

DEFRA take the view that amendments in the 2021 Regulations relate to reserved matters. On this basis, DEFRA intend to transfer functions relating to the recognition of the equivalence of third-country organic control bodies to the Secretary of State.

The purpose of the amendments

The purpose of the 2021 Regulations is to end the process of needing to amend existing legislation every time a new third country or organics control body is recognised as being equivalent to GB organic standards, or for such amendments being needed should a control body change its contact details. The lists of approved third countries and control bodies will be placed on Gov.UK instead of in a statutory instrument, which will reduce the burden on the UK Parliament and policy officials.

The 2021 Regulations will not change the system of third countries or control bodies applying for recognition, as the system of application, review, consultation, comparison of standards and audits will remain the same.

Third-country control bodies already listed in the annexes of Commission Regulation (EC) No 1235/2008 will be removed and their details transferred to Gov.UK.

Port health authorities, local authorities and businesses will be able to access and search this list on Gov.UK to determine where organic products may be imported from and under what conditions, without having to search through legislation and related amending statutory instruments.

The 2021 Regulations will fulfil the UK's commitment under the Trade and Cooperation Agreement to recognise the EU as having equivalent organic standards. This recognition of the EU as equivalent until 31 December 2023 will be included in the online lists.

The 2021 Regulations and accompanying Explanatory Memorandum, setting out the detail of the provenance, purpose and effect of the amendments are available here: <https://statutoryinstruments.parliament.uk/timeline/R6m4FRKK/SI-2021/>

Response to the UK Government

The Welsh Government's position is organic production and the Common Agricultural Policy are devolved and so are an exception to reserved matters under Schedule 7A to the Government of Wales Act 2006. The UK Government does not agree, however, and believes the subject matter of the 2021 Regulations is reserved. The UK Government has therefore not sought the consent of Welsh Ministers.

The Welsh Government's view is the above functions directly relate to regulation of movement into and out of Wales of food, plants, animals and related things for the purposes of protecting human, animal or plant health, animal welfare or the environment and observing or implementing obligations under the Common Agriculture Policy. The subject

matter of agriculture and CAP is within the legislative competence of the Senedd (i.e. devolved). Under the terms of the Intergovernmental Agreement, the consent of Welsh Ministers should have been sought prior to laying the 2021 Regulations.

The Welsh Ministers have written to the UK Government to inform them of our view that it is not appropriate for UK Government Ministers to take unilateral decisions on matters which have a direct effect upon areas of devolved competence.