



STATUTORY INSTRUMENTS.

S.I. No. 683 of 2016



EUROPEAN UNION (ORGANIC) REGULATIONS 2016

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I, MICHAEL CREED, Minister for Agriculture, Food and the Marine, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) for the purposes of giving full effect to Council Regulation (EC) No 834/2007 of 28 June 2007¹ (as amended by Council Regulation (EC) No 967/2008 of 29 September 2008² and Council Regulation (EU) No 517/2013 of 13 May 2013³) Commission Regulation (EC) No 889/2008 of 5 September 2008⁴ (as amended by Commission Regulation (EC) No 1254/2008 of 15 December 2008⁵, Commission Regulation (EC) No 710/2009 of 5 August 2009⁶ Commission Regulation (EU) No 271/2010 of 24 March 2010⁷ Commission Implementing Regulation (EU) No 344/2011 of 8 April 2011⁸ Commission Implementing Regulation (EU) No 426/2011 of 2 May 2011⁹ Commission Implementing Regulation (EU) No 126/2012 of 14 February 2012¹⁰ Commission Implementing Regulation (EU) No 203/2012 of 8 March 2012¹¹ Commission Implementing Regulation (EU) No 505/2012 of 14 June 2012¹² Commission Implementing Regulation (EU) No 392/2013 of 29 April 2013¹³ Commission Regulation (EU) No 519/2013 of 21 February 2013¹⁴ Commission Implementing Regulation (EU) No 1030/2013 of 24 October 2013¹⁵ Commission Implementing Regulation (EU) No 1364/2013 of 17 December 2013¹⁶ Commission Implementing Regulation (EU) No 354/2014 of 8 April 2014¹⁷ Commission Implementing Regulation (EU) No 836/2014 of 31 July 2014¹⁸ Commission Implementing Regulation (EU) No 1358/2014 of 18 December 2014¹⁹ and Commission Implementing Regulation (EU) 2016/673 of 29 April 2016²⁰) and Commission Regulation (EC) No 1235/2008 of 8 December 2008²¹ (as amended by Commission Regulation (EC) No 537/2009 of 19 June 2009²² Commission Regulation

¹OJ L 189, 20.7.2007, p.1

²OJ L 264.3.10.2008,p.1

³OJ L 158, 10.6.2013, p.1

⁴OJ L 250,18.9.2008, p. 1

⁵OJ L 337, 16.12.2008, p. 80

⁶OJ L 204, 6.8.2009,p. 15

⁷OJ L 84, 31.3.2010,p. 19

⁸OJ L 96, 9.4.2011,p.15

⁹OJ L113, 3.5.2011,p. 1

¹⁰OJ L141, 15.2.2012, p. 5

¹¹OJ L 71, 9.3.2012, p.42

¹²OJ L1154, 15.6.2012, p. 12

¹³OJ L 118, 30.4.2013, p. 5

¹⁴OJ L1158, 10.6.2013, p. 74

¹⁵OJ L283, 25.10.2013,p.15

¹⁶OJ L343, 19.12.2013, p. 29

¹⁷OJ L 106, 9.4.2014,p.7

¹⁸OJ L 230, 1.8.2014, p. 10

¹⁹OJ L365, 19.12.2014, p. 97

²⁰OJ L116, 30.4.2016, p.8

²¹OJ L334, 12.12.2008, p. 25

²²OJ L 159, 20.6.2009,p.6

*Notice of the making of this Statutory Instrument was published in
"Iris Oifigiúil" of 24th January, 2017.*

(EU) No 471/2010 of 31 May 2010²³, Commission Implementing Regulation (EU) No 590/2011 of 20 June 2011²⁴, Commission Implementing Regulation (EU) No 1084/2011 of 27 October 2011²⁵, Commission Implementing Regulation (EU) No 1267/2011 of 6 December 2011²⁶, Commission Implementing Regulation (EU) No 126/2012 of 14 February 2012²⁷, Commission Implementing Regulation (EU) No 508/2012 of 20 June 2012²⁸, Commission Implementing Regulation (EU) No 751/2012 of 16 August 2012²⁹, Commission Implementing Regulation (EU) No 125/2013 of 13 February 2013³⁰, Commission Regulation (EU) No 519/2013 of 21 February 2013³¹, Commission Implementing Regulation (EU) No 567/2013 of 18 June 2013³², Commission Implementing Regulation (EU) No 586/2013 of 20 June 2013³³, Commission Implementing Regulation (EU) No 355/2014 of 8 April 2014³⁴, Commission Implementing Regulation (EU) No 442/2014 of 30 April 2014³⁵, Commission Implementing Regulation (EU) No 644/2014 of 16 June 2014³⁶, Commission Implementing Regulation (EU) No 829/2014 of 30 July 2014³⁷, Commission Implementing Regulation (EU) No 1287/2014 of 28 November 2014³⁸, Commission Implementing Regulation (EU) 2015/131 of 23 January 2015³⁹, Commission Implementing Regulation (EU) 2015/931 of 17 June 2015⁴⁰, Commission Implementing Regulation (EU) 2015/1980 of 4 November 2015⁴¹, Commission Implementing Regulation (EU) 2015/2345 of 15 December 2015⁴², Commission Implementing Regulation (EU) 2016/457 of 18 March 2016⁴³ and Commission Implementing Regulation (EU) 2016/910 of 9 June 2016⁴⁴), hereby make the following regulations:

Part 1

PRELIMINARY AND GENERAL

Citation

1. These Regulations may be cited as the European Union (Organic Farming) Regulations 2016.

²³OJ L 134, 1.6.2010, p. 1

²⁴OJ L161, 21.6.2011, p. 9

²⁵OJ L 281, 28.10.2011, p. 3

²⁶OJ L324, 7.12.2011, p. 9

²⁷OJ L 41, 15.2.2012, p.5

²⁸OJ L162, 21.6.2012, p.1

²⁹OJ L 222, 18.8.2012, p. 5

³⁰OJ L43,14.2.2013, p.1

³¹OJ L158, 10.6.2013, p. 74

³²OJ L167, 19.6.2013, p. 30

³³OJ L167, 21.6.2013, p. 51

³⁴OJ L106, 9.4.2014, p. 15

³⁵OJ L130, 1.5.2014, p. 39

³⁶OJ L177, 17.6.2014, p. 42

³⁷OJ L 228, 31.7.2014, p. 9

³⁸OJ L348, 4.12.2014, p. 1

³⁹OJ L 23, 29.1.2015, p. 1

⁴⁰OJ L151, 18.6.2015, p. 1

⁴¹OJ L 289, 5.11.2015, p. 6

⁴²OJ L330, 16.12.2015, p. 29

⁴³OJ LBO, 31.3.2016, p.14

⁴⁴OJ L153, 10.6.2016, p. 23

Interpretation

2. (1) In these Regulations- "authorised officer" means a person—

- (a) appointed under Regulation 53,
- (b) who immediately before the making of these Regulations was an authorised officer appointed under Regulation 8 of the European Communities (Organic Farming) Regulations 2004 (S.I. No. 112 of 2004), or
- (c) who is officer of customs within the meaning of Customs Act 2015 (No. 18 of 2015);

"Commission Regulation" means Commission Regulation (EC) No 889/2008 of 5 September 2008 as amended by Commission Regulation (EC) No 1254/2008 of 15 December 2008, Commission Regulation (EC) No 710/2009 of 5 August 2009, Commission Regulation (EU) No 271/2010 of 24 March 2010, Commission Implementing Regulation (EU) No 344/2011 of 8 April 2011, Commission Implementing Regulation (EU) No 426/2011 of 2 May 2011, Commission Implementing Regulation (EU) No 126/2012 of 14 February 2012, Commission Implementing Regulation (EU) No 203/2012 of 8 March 2012, Commission Implementing Regulation (EU) No 505/2012 of 14 June 2012, Commission Implementing Regulation (EU) No 392/2013 of 29 April 2013, Commission Regulation (EU) No 519/2013 of 21 February 2013, Commission Implementing Regulation (EU) No 1030/2013 of 24 October 2013, Commission Implementing Regulation (EU) No 1364/2013 of 17 December 2013, Commission Implementing Regulation (EU) No 354/2014 of 8 April 2014, Commission Implementing Regulation (EU) No 836/2014 of 31 July 2014, Commission Implementing Regulation (EU) No 1358/2014 of 18 December 2014 and Commission Implementing Regulation (EU) 2016/673 of 29 April 2016;

"Commission Import Regulation" means Commission Regulation (EC) No 1235/2008 of 8 December 2008 (as amended by Commission Regulation (EC) No 537/2009 of 19 June 2009, Commission Regulation (EU) No 471/2010 of 31 May 2010, Commission Implementing Regulation (EU) No 590/2011 of 20 June 2011, Commission Implementing Regulation (EU) No 1084/2011 of 27 October 2011, Commission Implementing Regulation (EU) No 1267/2011 of 6 December 2011, Commission Implementing Regulation (EU) No 126/2012 of 14 February 2012, Commission Implementing Regulation (EU) No 508/2012 of 20 June 2012, Commission Implementing Regulation (EU) No 751/2012 of 16 August 2012, Commission Implementing Regulation (EU) No 125/2013 of 13 February 2013, Commission Regulation (EU) No 519/2013 of 21 February 2013, Commission Implementing Regulation (EU) No 567/2013 of 18 June 2013, Commission Implementing Regulation (EU) No 586/2013 of 20 June 2013, Commission Implementing Regulation (EU) No 355/2014 of 8 April 2014, Commission Implementing Regulation (EU) No 442/2014 of 30 April 2014, Commission Implementing Regulation (EU) No 644/2014 of 16 June 2014, Commission Implementing Regulation (EU) No 829/2014 of 30 July 2014, Commission

Implementing Regulation (EU) No 1287/2014 of 28 November 2014, Commission Implementing Regulation (EU) 2015/131 of 23 January 2015, Commission Implementing Regulation (EU) 2015/931 of 17 June 2015, Commission Implementing Regulation (EU) 2015/1980 of 4 November 2015, Commission Implementing Regulation (EU) 2015/2345 of 15 December 2015, Commission Implementing Regulation (EU) 2016/457 of 18 March 2016 and Commission Implementing Regulation (EU) 2016/910 of 9 June 2016;

"Council Regulation" means Council Regulation (EC) No. 834/2007 of 28 June 2007 as amended by Council Regulation (EC) No 967/2008 of 29 September 2008 and Council Regulation (EU) No 517/2013 of 13 May 2013;

"Minister" means "Minister for Agriculture, Food and the Marine.

(2) A word or expression that is used in the Council Regulation or in the Commission Regulation and is also used in these Regulations has, in these Regulations, the same meaning as in the Council Regulation or in the Commission Regulation.

Part 2

PROHIBITIONS

Prohibition on use of GMOs

3. (1) A person who contravenes Article 9 of the Council Regulation, which relates to the prohibition on use of GMOs in organic production, commits an offence.

(2) A person who contravenes Article 69 of the Commission Regulation, which relates to a declaration that a product has not been produced from GMOs, commits an offence.

Prohibition on use of ionising radiation

4. A person who contravenes Article 10 of the Council Regulation, which relates to the prohibition on use of ionising radiation in organic production, commits an offence.

Prohibition on hydroponic production

5. A person who contravenes Article 4 of the Commission Regulation, which relates to the prohibition on hydroponic production, commits an offence.

Landless livestock production

6. A person who contravenes Article 16 of the Commission Regulation, which relates to the prohibition of landless livestock production, commits an offence.

Part 3

SEPARATION OF SITES

Separation of organic production sites

7. A person who contravenes Article 11 of the Council Regulation, which relates to separation of organic production into clearly separated units or, in the case of aquaculture, production sites, commits an offence.

Simultaneous production of organic and non-organic animals

8. A person who contravenes Article 17 of the Commission Regulation, which relates to the simultaneous production of organic and non-organic livestock, commits an offence.

Part 4

PLANT PRODUCTION

Plant production generally

9. A person who contravenes Article 12 of the Council Regulation, which relates to plant production rules, commits an offence.

Soil management and fertilisation

10. A person who contravenes Article 3 of the Commission Regulation, which relates to fertilisation and soil management, commits an offence.

Pest, disease and weed management

11. A person who contravenes Article 5 of the Commission Regulation, which relates to the use of certain products for pest, disease and weed management, commits an offence

Mushroom production

12. A person who contravenes Article 6 of the Commission Regulation, which relates to mushroom production, commits an offence

Seaweed production

13. A person who contravenes Article 13 of the Council Regulation or Chapter 1a of Title II or Article 29a of the Commission Regulation, which relates to seaweed production rules, commits an offence.

Part 5

LIVESTOCK PRODUCTION

Livestock production generally

14. A person who contravenes Article 14 of the Council Regulation, which relates to livestock production rules, commits an offence.

Origin of animals

15. (1) A person who contravenes Article 8, which relates to the origin of organic animals, or Article 9 of the Commission Regulation, which relates to the origin of non-organic animals, commits an offence.

(2) A person who contravenes Article 42 of the Commission Regulation, which relates to the use of non-organic animals, commits an offence.

Housing conditions of animals

16. A person who contravenes—

- (a) Article 10, which relates to housing conditions of animals,
- (b) Article 11, which relates to specific housing conditions and husbandry practices for mammals,
- (c) Article 12, which relates to specific housing conditions and husbandry practices for poultry,
- (d) Article 13, which relates to specific requirements and housing conditions in beekeeping or
- (d) Article 18, which relates to management of the animals of the Commission Regulation commits an offence.

Access to open areas

17. A person who contravenes Article 14 of the Commission Regulation, which relates to access to open air areas by animals, commits an offence.

Stocking density

18. A person who contravenes Article 15 of the Commission Regulation, which relates to stocking density, commits an offence.

Disease prevention

19. A person who contravenes Article 23, which provides for disease prevention measures, of the Commission Regulation commits an offence.

Veterinary treatment

20. (1) A person who contravenes Article 24, which relates to veterinary treatment and veterinary medicines, of the Commission Regulation commits an offence.

(2) This Regulation and Regulation 21 are in addition to and not in substitution for the European Communities (Animal Remedies) (Amendment) Regulations 2009 (S.I. No. 182 of 2009).

Specific measures relating to bees

21. (1) A person who contravenes Article 25, which relates to specific rules for disease prevention and veterinary treatment in beekeeping, of the Commission Regulation commits an offence.

(2) A person who contravenes Article 78 of the Commission Regulation, which provides for specific record keeping requirements for organic bee-keeping, commits an offence.

Non-organic bees

22. A person who contravenes Article 41 of the Commission Regulation, which relates to running organic and non-organic beekeeping units on the same holding commits an offence,

Non-organic beeswax

23. A person who contravenes Article 44 of the Commission Regulation, which relates to the use of non-organic beeswax, commits an offence.

Aquaculture production rules

24. A person who contravenes Article 15 of the Council Regulation, or Chapter 2a of Title IV, Article 79a, Article 79b or Article 79d of the Commission Regulation, which relates to production rules for aquaculture animals, commits an offence.

Part 6

CONVERSION TO ORGANIC PRODUCTION AND MARKETING

Conversion to organic production

25. (1) A person who contravenes Article 17 of the Council Regulation, which relates to conversion to organic production, commits an offence.

(2) A person who markets a product as organic if the product has been produced other than in accordance with the conversion rules set out in Chapter 5 of Title II of the Commission Regulation commits an offence.

Marketing

26. A person shall not display for sale a product that is produced in accordance with the Council Regulation and the Commission Regulation and a product that is not produced in accordance with those Regulations in such a manner that the display may confuse a customer as to the production processes of the products.

Part 7

ORGANIC PROCESSED FEED AND FOOD

Processed feed and food

27. (1) A person who contravenes Article 26 of the Commission Regulation, which relates to rules for the production of processed feed and food, commits an offence.

(2) A person who contravenes Article 29.1(a) of the Commission Regulation, which relates to ingredients, commits an offence.

Production of processed feed

28. A person who contravenes Article 18 of the Council Regulation, which relates to general rules on the production of processed feed, commits an offence.

Origin of feed

29. (1) A person who contravenes Article 19(1) of the Commission Regulation, which relates to the origin of feed for herbivores, commits an offence.

(2) A person who contravenes Article 19(2) of the Commission Regulation, which relates to feed for pigs and poultry, commits an offence.

Feed for bees

30. A person who contravenes Article 19(3) of the Commission Regulation, which relate to feeding bees, commits an offence.

Feed meeting nutritional requirements.

31. A person who contravenes—

(a) Article 20(1), which relates to feeding maternal milk,

(b) Article 20 (2), which relates to rations of herbivores,

(c) Article 20(3), which relates to roughage, fresh or dried fodder, or silage for pigs and poultry,

(d) Article 20 (4), which relates to anaemia, or

(e) Article 20 (5), which relates to fattening practices, of the Commission Regulation commits an offence.

In-conversion feed

32. A person who contravenes Article 21 of the Commission Regulation, which relates to in-conversion feed, commits an offence.

Use of certain products and substances in feed

33. A person who contravenes Article 22 or Article 43 of the Commission Regulation, which relates to non-organic feed, commits an offence

Production of processed food

34. A person who contravenes Article 19 of the Council Regulation, which relates to general rules on the production of processed food, commits an offence.

Use of certain products and substances

35. A person who contravenes Article 27 or Article 28 of the Commission Regulation, which relate to products and substances that may be used in the production of organic food, commits an offence.

Production of organic yeast

36. (1) A person who contravenes Article 20 of the Council Regulation, which relates to general rules on the production of organic yeast, commits an offence.

(2) A person who contravenes Article 27a of the Commission Regulation, which relates to substances that may be used in the production, confection and formulation of yeast, commits an offence.

(3) A person who contravenes Article 46a of the Commission Regulation, which relates to use of non-organic yeast extract, commits an offence.

Organic livestock

37. A person who contravenes Article 46 of the Commission Regulation, which relates to the final fattening of adult bovines, commits an offence.

Part 8

LABELLING, ADVERTISING ETC.

Use of terms implying organic production

38. A person who contravenes Article 23 of the Council Regulation, which relates to the use of terminology referring to, or implying, organic production, commits an offence.

Indications on processed feed

39. A person who contravenes Article 60 or Article 61 of the Commission Regulation, which relates to indications on processed feed, commits an offence.

Labelling, etc. requirements

40. A person who contravenes Article 24 or Article 30 of the Council Regulation, which relates to compulsory indications to appear onto labelling and advertising, commits an offence.

Organic production logos

41. A person who contravenes—

- (a) Article 25 of the Council Regulation, which relates to the use of logos, or
- (b) Chapter 1 of Title III of the Commission Regulation, which relates to the Community logo commits an offence.

Trade marks and sales descriptions

42. A person who contravenes Article 59 of the Commission Regulation, which relates to the use of trade marks and sales descriptions, commits an offence.

Indications on in-conversion products

43. A person who contravenes Article 62 of the Commission Regulation, which relates to indications on in-conversion products of plant origin, commits an offence.

Part 9

MISCELLANEOUS OBLIGATIONS

Transport, storage, etc.

44. A person who contravenes the following Articles of the Commission Regulation-

- (a) Article 30, which relates to the collection of products and transport to preparation units,
- (b) Article 31, which relates to the packaging and transport of products to other operators or units,
- (c) Article 32, which relates to the transport of feed to other preparation or storage premises,
- (d) Article 33, which provides for checking products received from other premises,
- (e) Article 34, which provides for procedures for reception of products from third countries,
- (f) Article 32a which provides for the transport of fish, or
- (g) Article 35, which provides rules for storage of products of the Commission Regulation commits an offence.

Notification

45. (1) A person who produces, prepares, stores, places on the market, exports or imports from a third country-

- (a) live or unprocessed agricultural products,
- (b) processed agricultural products for use as food,
- (c) feed,
- (d) vegetative propagating material or seeds for cultivation, or
- (e) yeasts used as feed or food

without giving prior notification to the Minister as required by Article 28(1)(a) of the Council Regulation other than a person to whom Article 28(2) of that Regulation applies commits an offence.

(2) A notification for the purposes of Article 28(1)(a) of the Council Regulation shall be in a form, contain the information and be made by means (including by electronic communication) as the Minister may determine.

(3) A notification under this Regulation has no effect unless it is accompanied by the fee (if any) set in accordance with Regulation 52.

(4) A person who fails to notify the information required by Article 63 (3) or Article 64 of the Commission Regulation commits an offence.

Operators' responsibilities

46. (1) A person who contravenes Article 63(1) or (2), Article 66, Article 70, Article 72, Article 74, Article 76, Article 80, Article 86, Article 88 or Article 89 of the Commission Regulation, which relate to records to be maintained by organic operators, commits an offence.

(2) A person who contravenes Article 91(1), which relates to measures to be taken in a case where it is suspected that a product does not conform to organic production rules, of the Commission Regulation commits an offence.

(3) A person who contravenes Article 28(1)(b) of the Council Regulation which relates to adherence to the control system commits an offence.

(4) A person who contravenes Article 92(1) of the Commission Regulation which relates to co-operation with different control bodies commits an offence.

(5) A person who contravenes Article 29.2 of the Council Regulation, which relates to documentary evidence, commits an offence.

Imports

47. A person who contravenes—

(a) Article 32(1) or Article 33(1) of the Council Regulation,

(b) Chapter 5 of Title IV of the Commission Regulation, which relate to the import of organic products, or

(c) Commission Import Regulation in particular Article 13 in relation to release into free circulation and Article 15 in relation to relabelling non compliant products commits an offence.

Parallel production

48. A person who contravenes Article 40 of the Commission Regulation, which relates to parallel production, commits an offence.

Schedule of production

49. A person who contravenes Article 71 of the Commission Regulation, which relates to information to be supplied to the control authority or body, commits an offence.

Identification of animals

50. A person who contravenes Article 75 or 77 of the Commission Regulation, which relates to the identification of livestock, commits an offence.

Part 10

ADMINISTRATION

Control authorities or bodies

51. (1) A person shall not purport to operate as a control authority or a control body except in accordance with an authorisation granted for the purposes of Article 27 of the Council Regulation.

(2) The Minister may grant an authorisation, attach conditions to an authorisation, revoke or vary a condition, insert a new condition, suspend, withdraw an authorisation or refuse an application.

(3) An application for an authorisation shall be made in a form, be accompanied by any material and contain any particulars that the Minister specifies.

(4) The Minister shall not consider an application for an authorisation, if the application does not contain all the material and particulars sought by the Minister or is not accompanied by the fee (if any) set under Regulation 52.

(5) The Minister shall not grant an authorisation unless he or she is satisfied that the applicant is qualified and competent to carry out the functions of a control body or a control authority and has available, suitable personnel and facilities for exercising those functions.

(6) Without prejudice to the generality of paragraph (2), the Minister may refuse an application, suspend or withdraw an authorisation, if, in the opinion of the Minister-

- (a) the applicant or person to whom an authorisation is granted fails to comply with a condition attached to the authorisation,
- (b) the applicant or person to whom an authorisation is granted is not a fit and proper person to hold an authorisation,
- (c) in relation to the application, information required has not been furnished or information that is false or misleading has been furnished, or
- (d) it is necessary, incidental, supplementary or consequential for the purposes of giving effect to an act of the institutions of the European Union relating to organic farming.

(7) Without prejudice to the generality of paragraph (1), the Minister shall refuse an application or suspend or withdraw an authorisation if the applicant or person to whom an authorisation is granted is convicted of an offence under these Regulations or an offence relating to fraud or intellectual property rights.

(8) Other than in the case of paragraph (9), if the Minister proposes to suspend or withdraw an authorisation or to refuse an application, he or she shall-

- (a) notify the applicant or holder of the authorisation in writing of the proposal and of the reasons for the proposal, and that he or she may make representations to the Minister in relation to the proposal within 14 days of the notification,
- (b) consider a representation duly made, and
- (c) notify the applicant or holder of the authorisation in writing of the decision and the reasons for the decision.

(9) If the Minister is of the opinion that it is necessary to give effect to an act of an institution of the European Union, he or she may withdraw an authorisation, in accordance with paragraph (10).

(10) If the Minister withdraws an authorisation, in accordance with paragraph (9), he or she shall-

- (a) notify the applicant or holder of the authorisation, in writing of the decision and the reasons for the decision, and that he or she may make representations to the Minister in relation to the decision within 14 days from the date of the notification,
- (b) consider a representation made, and
- (c) confirm, modify or annul the decision and notify the holder of the authorisation in writing of the decision and the reasons for the decision.

(11) A person to whom an authorisation is granted shall make such returns to the Minister as and when, and in such form as, the Minister may direct.

(12) A person who contravenes Article 67 or Article 90 of the Commission Regulation with regard to access for control authorities or control bodies commits an offence.

Fees

52. (1) A person shall pay a control authority or control body a fee approved by the Minister for services provided by the said authority or body to the person for the purposes of Commission Import Regulation.

(2) A person shall pay the Minister the fee payable appropriate to a service provided by the Minister.

(3) The Minister, a control authority or control body may refuse to consider an application unless it is accompanied by the appropriate fee.

(4) Monies received by the Minister under this Regulation shall be paid into or disposed of for the benefit of the Exchequer in accordance with the directions of the Minister for Public Expenditure and Reform.

Appointment of Authorised Officers

53. (1) The Minister may, by instrument in writing, appoint such and so many persons or a class of persons as he or she thinks fit to be authorised officers for the purposes of some or all of the functions of an authorised officer as may be specified in the instrument.

(2) The Minister may terminate the appointment of an authorised officer appointed by him or her and the Minister may terminate an appointment under paragraph (1), whether or not the appointment was for a fixed period.

(3) An appointment as an authorised officer ceases-

- (a) if it is terminated under paragraph (2),
- (b) if it is for a fixed period, on the expiry of that period, or
- (c) if the person appointed is an officer of the Minister upon the person ceasing to be such an officer.

(4) Nothing in paragraph (3) is to be construed so as to prevent the Minister from reappointing as an authorised officer a person to whom paragraph (3) relates.

(5) An officer of the Minister shall furnish an authorised officer with a warrant of his or her appointment as an authorised officer and, when exercising a power conferred on him or her, the officer shall, if requested by a person affected, produce the warrant or evidence that he or she is such an officer or member to the person.

Functions of authorised officers

54. (1) For the purposes of the Commission Regulation, the Commission Import Regulation, the Council Regulation or these Regulations an authorised officer may-

- (a) enter and inspect, at all reasonable times, any land or premises where he or she has reasonable grounds for believing that-
 - (i) an animal or product that may be subject to the Commission Regulation, the Commission Import Regulation, the Council Regulation or these Regulations is, may be or has been present,
 - (ii) a record relating to an animal or product that may be subject to the Commission Regulation, the Commission Import Regulation, the Council Regulation or these Regulations is, may be or has been present, or
 - (iii) equipment, machinery or other thing used in connection with an animal or product that may be subject to the Commission Regulation, the Commission Import Regulation, the Council Regulation or these Regulation is, may be or has been present,
- (b) examine and take samples and carry out or cause to be carried out on the sample such tests, analyses, examinations or inspections of an animal, product, equipment, machinery or other thing, or

- (c) require the name and address of the person in possession or control of an animal, product, equipment, machinery or other thing,
- (d) inspect a vehicle, a vessel, an aircraft, a railway wagon, a container, equipment, machinery or other thing used in connection with an animal or product that may be subject to the Commission Regulation, the Commission Import Regulation, the Council Regulation or these Regulation and require a person in charge or control of such to refrain from moving it,
- (e) require the owner, occupier or person in charge of land or premises or an animal, product, a vehicle, a vessel, an aircraft, a railway wagon, a container, equipment or machinery to produce to the officer such records (and in the case of a record stored in non-legible form, produce to him or her a copy in a legible form) that are in the person's possession or procurement, or under the person's control, as the officer may reasonably require, or
- (f) inspect and take copies of any record (including a legible reproduction of one stored in non-legible form) or extracts from the record that the officer finds or is produced to him or her during an inspection,

(2) An authorised officer may require a person to give information or produce for inspection any record regarding the ownership and identity of an animal, product, ownership of a vehicle, vessel, aircraft, container, equipment, machinery or other thing relating to an animal or product that may be subject to the Commission Regulation, the Commission Import Regulation, the Council Regulation or these Regulation as is in the person's knowledge or procurement.

(3) Where an authorised officer has reasonable grounds for believing that-

- (a) an offence is being or has been committed under the Commission Regulation, the Commission Import Regulation, the Council Regulation or these Regulations,
- (b) a contravention of the Commission Regulation, the Commission Import Regulation, the Council Regulation or these Regulations is, or has been taking place, or
- (c) evidence of an offence or contravention of the Commission Regulation, the Commission Import Regulation, the Council Regulation or these Regulations may be, is or has been on any land or premises, or in a vehicle, a vessel, an aircraft, a railway wagon, a container, equipment or machinery,

the officer may, in addition to the powers exercisable by him or her under paragraph (1):

- (i) search the land or premises;

- (ii) search the vehicle, vessel, aircraft, railway wagon, container, equipment or machinery;
 - (iii) require a person in charge or control of the vehicle, vessel, aircraft, railway wagon, container, equipment or machinery to—
 - (I) refrain from moving it, or move it to a location where it may be searched, and
 - (II) give information regarding its place of departure, journey or destination;
 - (iv) seize and detain an animal, animal product or animal feed and mark or otherwise identify it;
 - (v) detain the vehicle, vessel, aircraft, railway wagon, equipment, machinery or container for such reasonable period necessary for the purposes of permitting an inspection or a search under this section either at the place where it was first detained or require it to be moved to such other location as the authorised officer requires;
 - (vi) remove any equipment or machinery or books, documents or records and detain them for such reasonable period necessary for the purpose of his or her functions under these Regulations.
- (4) An authorised officer shall not enter, except with the consent of the occupier, a private dwelling unless he or she has obtained a search warrant under Regulation 55.
- (5) An authorised officer, when exercising a power under this Regulation, may be accompanied by other persons and may take with him or her, or those persons may take with them, any equipment or materials to assist the officer in the exercise of the power.
- (6) An authorised officer may use reasonable force, if necessary, to enter land or premises to exercise his or her powers under these Regulations.
- (7) Where, in the course of exercising a power under these Regulations, an authorised officer finds or comes into possession of anything that the officer has reasonable grounds for believing to be evidence of an offence or suspected offence under the Commission Regulation, the Commission Import Regulation, the Council Regulation or these Regulations, the officer may seize and retain it for use in evidence in proceedings for an offence under the Commission Regulation, the Commission Import Regulation, the Council Regulation or these Regulations.
- (8) Nothing in section 17 of the Industrial and Provident Societies Act 1893 (56 & 57 Vict. 39) prevents an authorised officer from exercising a power conferred on him or her by these Regulations.

Search warrant

55. (1) A judge of the District Court may issue a search warrant if that Judge is satisfied by information on oath of an authorised officer that there are reasonable grounds for suspecting-

- (a) an offence is being or has been committed under the Commission Regulation, the Commission Import Regulation, the Council Regulation or these Regulations,
- (b) a contravention of the Commission Regulation, the Commission Import Regulation, the Council Regulation or these Regulations is being or has been committed,
- (c) evidence of an offence or contravention or intended contravention to which paragraph (a) or (b) relate may be, is or has been on a premises,
- (d) there is or was animal or product or equipment or other thing to which the Commission Regulation, the Commission Import Regulation, the Council Regulation or these Regulations relate made used or adapted for use (including manufacture and transport) in connection with an animal or product, or
- (e) a document or other record related to subparagraph (a), (b), (c) or (d) refers is or may be on the premises.

(2) A search warrant under this Regulation shall be expressed and operate to authorise a named authorised officer, accompanied by such authorised officers or other persons as the named authorised officer thinks necessary, at any time, within one month from the date of issue of the warrant, on production if so requested of the warrant, to enter (if necessary by use of reasonable force) the premises, vehicle, vessel or aircraft named in the warrant.

(3) If a premises is entered pursuant to a warrant issued under this Regulation, an authorised officer so entering may exercise all or any of the powers conferred on an authorised officer under these Regulations.

Obstruction

56. A person who-

- (a) obstructs or impedes an authorised officer in the exercise of his or her powers under Regulation 54,
- (b) fails, without reasonable cause, to comply with a requirement of an authorised officer under Regulation 54, or
- (c) in purporting to give information to an authorised officer for the performance of the officer's powers under Regulation 54-
 - (i) makes a statement that he or she knows to be false in a material particular or recklessly makes a statement which is false in a material particular, or

- (ii) fails to disclose a material particular commits an offence.

Compliance notice

57. (1) If an authorised officer has reasonable grounds to suspect that—

- (a) the Commission Regulation, the Commission Import Regulation, the Council Regulation or these Regulations are not being or have not been complied with or such Regulations will not be complied with, or
- (b) it is necessary, ancillary or supplementary to the Commission Regulation, the Commission Import Regulation, the Council Regulation to have full effect, he or she may serve or cause to be served on the owner or person who appears to be in charge, possession or control of a product a notice ("compliance notice") stating that opinion and directing that—
 - (i) a product be dealt with in a manner specified in the notice,
 - (ii) such alterations be made to a premises or operations at a premises as the officer specifies in the notice,
 - (iii) misleading labelling including any words, particulars, trade marks, brand names, pictorial matter or symbols on any packaging, document, notice, label, board or collar accompanying or referring to any product be removed,
 - (iv) products that are not produced in accordance with the Council Regulation and Commission Regulation or imported in accordance with the Commission Import Regulation be clearly identified as such,
 - (v) a product be disposed of in such manner as the officer specifies in the notice,
 - (vi) a specified operation or activity cease on a premises,
 - (vii) a specified operation or activity take place only in a manner specified in the notice,
 - (viii) a specified type or level of sampling and analysis be undertaken for a period specified in the notice,
 - (ix) a specified operation or activity may only be carried out under and in accordance with such terms and conditions as are specified in the compliance notice,
 - (x) records as set out in the notice be retained for a specified period and be produced with 5 working days of request.

(2) A person shall comply with a compliance notice or a requirement of a compliance notice unless and until the notice is annulled under Regulation 58.

(3) A requirement contained in a compliance notice shall specify a time limit within which the notice is to be complied with.

(4) A requirement specified in a compliance notice (in this paragraph referred to as "the earlier compliance notice") may be amended or withdrawn by a further notice in writing and the earlier compliance notice has effect subject to such amendment or withdrawal.

(5) A compliance notice, whether amended under paragraph (4) or not, may require the owner or person in charge of the animal or product to choose between one or more of the requirements specified in the compliance notice and that person shall comply with the alternative requirement that he or she chooses.

Appeal against compliance notice

58. (1) A person affected by a compliance notice may, within 7 days of service of the compliance notice, apply to the Judge of the District Court having jurisdiction in the District Court District where the business is situated or to the Judge of the District Court having jurisdiction in the District Court District where the person ordinarily resides, on the grounds that the compliance notice or any term of the compliance notice are not reasonable, having regard to the Commission Regulation, the Commission Import Regulation, the Council Regulation or these Regulations (in this Regulation referred to as "an appeal").

(2) An appeal may be heard at any sitting of the District Court within the appropriate District Court Area.

(3) Notice of an appeal, which shall contain a statement of the grounds upon which it is alleged that the compliance notice or any term of the compliance notice is unreasonable having regard to the Commission Regulation, the Commission Import Regulation, the Council Regulation or these Regulations, shall be served on the Minister at least 48 hours prior to the hearing of the appeal and a copy thereof shall be lodged with the appropriate District Court Clerk.

(4) On the hearing of an appeal, a Judge of the District Court may confirm, with or without modification, or annul a compliance notice.

(5) A person, including a person on whom a compliance notice is served, shall not,

- (a) pending the determination of an appeal, deal with a product to which a compliance notice relates other than under and in accordance with the notice, or
- (b) after the appeal, deal with a product to which a compliance notice relates other than under and in accordance with the compliance notice or compliance notice as modified.

Emergency measures

59. (1) If—

- (a) a person, by act or omission, fails to comply, whether within the time specified therein or otherwise, with a compliance notice (including a compliance notice modified in accordance with Regulation 57(4)), or

- (b) an authorised officer has reasonable cause to suspect—
- (i) that a compliance notice (including a compliance notice modified in accordance with Regulation 57(4)) is not or will not be complied with, or
 - (ii) pending the determination of an appeal, a premises, animal or product to which the compliance notice relates is or will not be dealt with other than in accordance with Regulation 57(5),

an authorised officer may seize and detain an animal or product in such manner as he or she thinks fit and sell or dispose of the animal or product in a manner (including slaughter) as the authorised officer considers appropriate.

(2) Subject to paragraph (4), the proceeds of the sale or disposal of a product under paragraph (1) shall be paid to the owner of the product as soon as may be after such sale or disposal and after a person has satisfied the Minister that he or she is the owner or otherwise entitled to the proceeds of the sale or disposal of the animal or product.

(3) The costs of seizure, sale or disposal of a product under this Regulation shall be recoverable by the Minister-

- (a) as a simple contract debt in a court of competent jurisdiction, or
- (b) by deducting the costs from any sum due by the control body or the Minister to a person on whom a notice has been served.

(4) The costs of any action required by a compliance notice shall be borne by the owner of an animal or product to which the notice relates.

Service

60. (1) A compliance notice shall, subject to paragraph (2), be addressed to the person concerned by name and may be served on or given to the person—

- (a) by giving it to the person, his or her employee, servant or agent or in the case of a partnership by delivering to any of the partners,
- (b) by leaving it at the address at which the person ordinarily resides, normally carries out business, or, where an address for service has been furnished, at that address,
- (c) by sending it by post in a prepaid registered letter to the address at which the person ordinarily resides or, where an address for service has been furnished, at that address,
- (d) if the address at which the person ordinarily resides cannot be ascertained by reasonable enquiry and the compliance notice relates to a premises, by delivering it to the premises or by affixing it in a conspicuous position on or near the premises,

(e) by sending a copy by electronic mail or a facsimile machine, to a device or facility for the reception of electronic mail or facsimiles located at the address at which the person ordinarily resides or carries on business or, if an electronic address or facsimile number address for the service of notices has been furnished by the person, that address, provided that the sender's facsimile machine generates a message confirming successful transmission of the total number of pages of the notice or the recipient's facility for the reception of electronic mail generates a message confirming the successful receipt of the electronic mail.

(2) If a compliance notice is to be served on or given to a person who is the owner or occupier of a premises and the name of the person cannot be ascertained by reasonable enquiry, it may be addressed to the person by using the words the "owner" or the "occupier".

(3) A person shall not, at any time within 6 months after a compliance notice is affixed under paragraph (1)(d), remove, damage or deface the compliance notice without lawful authority.

(4) For the purposes of this Regulation, a company within the meaning of the Companies Act 2014 (No. 38 of 2014) is considered to be ordinarily resident at its registered office and every other body corporate or unincorporated body is considered to be ordinarily resident at its principal office or place of business.

Part 11

OFFENCES AND RELATED MATTERS

Penalties and prosecution

61. (1) A person who commits an offence under these Regulations, other than offences set out in Regulations 7, 8, 10, 11, 12, 13, 14, 15, 16, 18, 19, 20, 21, 22, 23, 30, 32, 37, 44, 46, 48, 49 and 50, is liable—

(a) on summary conviction, to a class A fine, or to imprisonment for a term not exceeding 6 months, or to both, or

(b) on conviction on indictment to a fine not exceeding €250,000, or to imprisonment for a term not exceeding 3 years, or to both.

(2) The Minister may prosecute summarily an offence under paragraph (1).

(3) A person who commits an offence under Regulations 7, 8, 10, 11, 12, 13, 14, 15, 16, 18, 19, 20, 21, 22, 23, 30, 32, 37, 44, 46, 48, 49 or 50 is liable on conviction to a class A fine.

(4) If an offence under these Regulations is committed by a body corporate and it is proved to have been so committed with the consent or connivance of or to be attributable to any neglect on the part of any person who, when the offence is committed, is a director, manager, secretary or other officer of the body corporate, or a person purporting to act in any such capacity, that person, as well as the body

corporate, is guilty of an offence and liable to be proceeded against and punished as if guilty of the first-mentioned offence.

(5) If the affairs of a body corporate or unincorporated body are managed by its members, paragraph (4) applies in relation to the acts and defaults of a member in connection with functions of management as if the member is a director or manager of the body corporate.

(6) In proceedings for an offence, evidence of an act of the institutions of the European Community may be given by production of a copy of the act certified by an officer of the Minister to be a copy of the act, and it is not necessary to prove the signature of the officer or that he or she is an officer of the Minister.

(7) Paragraph (6) is in addition to and not in substitution for the European Communities (Judicial Notice and Documentary Evidence) Regulations 1972 (S.I. No. 341 of 1972).

Fixed payment notice

62. (1) Where an authorised officer has reasonable grounds for believing that a person is committing or has committed an offence mentioned in Regulation 61(3), he or she shall report this to, another officer of the Minister authorised by the Minister in that behalf.

(2) An officer who receives a report under paragraph (1), if he or she considers it appropriate, may serve on the person a notice in writing ("fixed payment notice") stating that-

- (a) the person is alleged to have committed the offence,
- (b) the person may during the period of 28 days beginning on the date of the notice make to the Minister, at the address specified in the notice, a payment of €250, accompanied by the notice,
- (c) the person is not obliged to make the payment, and
- (d) a prosecution in respect of the alleged offence will not be instituted during the period specified in the notice and, if the payment specified in the notice is made during that period, no prosecution in respect of the alleged offence will be instituted.

(3) Where a fixed payment notice is served under paragraph (1)—

- (a) the person to whom the notice applies may, during the period specified in the notice, make to the Minister at the address specified in the notice the payment specified in the notice accompanied by the notice,
- (b) the Minister may receive the payment, issue a receipt for it and retain the money so paid, and any payment so received shall not be recoverable in any circumstances by the person who made it, and

(c) a prosecution in respect of the alleged offence shall not be instituted in the period specified in the notice, and if the payment so specified is made during that period, no prosecution in respect of the alleged offence shall be instituted.

(4) In proceedings for an offence under this Act, the onus of proving that a payment in accordance with a fixed payment notice has been made lies on the person on whom the fixed payment notice was served.

(5) In proceedings for an offence referred to in paragraph (1) it is a defence for the accused to show that he or she has made a payment in accordance with this section pursuant to a fixed payment notice issued in respect of that offence.

Part 12

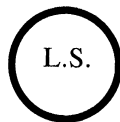
FINAL PROVISIONS

Revocations and savers

63. (1) The following are revoked-

- (a) the European Communities (Organic Farming) Regulations 2004 (S.I. No. 112 of 2004),
- (b) the European Communities (Organic Farming) (Amendment) Regulations 2007 (S.I. No. 698 of 2007), and
- (c) the European Communities (Organic Farming) (Amendment) Regulations 2009 (S.I. No. 30 of 2009).

(2) An authorised officer appointed under the Regulation revoked by paragraph (1)(a) shall continue to be an authorised officer as if appointed under Regulation 53 of these Regulations.



GIVEN under my Official Seal,
22 November 2016.

MICHAEL CREED,
Minister for Agriculture, Food and the Marine.

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