



STATUTORY INSTRUMENTS.

S.I. No. 494 of 2022



EUROPEAN UNION (ORGANIC FARMING) REGULATIONS 2022

S.I. No. 494 of 2022

EUROPEAN UNION (ORGANIC FARMING) REGULATIONS 2022

Part 1

Preliminary and General

1. Citation
2. Interpretation

Part 2

Production Rules

3. General Production Rules
4. Conversion to organic production and marketing
5. Prohibition of the use of GMOs
6. Plant production rules
7. Marketing of plant reproductive material of organic heterogeneous material
8. Livestock production rules
9. Production rules for algae and aquaculture animals
10. Production rules for processed food
11. Production rules for processed feed
12. Production rules for wine
13. Production rules for yeast used as food or feed
14. Production rules for products not falling within the categories of products referred to in Articles 12 to 19
15. Adoption of exceptional production rules
16. Collection, packaging, transport and storage
17. Authorisation of products and substances for use in organic production
18. Use of non-organic agricultural ingredients for the production of organic food
19. Database and information systems
20. Suspicion of non-compliance
21. Precautionary measures to avoid the presence of non-authorised products and substances
22. Use of terms referring to organic production

23. Labelling of products and substances used in crop production
24. Compulsory indications
25. Organic production logo
26. Notification and record keeping; certification system
27. Certificates
28. Groups of operators
29. Official controls and other official activities
30. Export of organic products
31. Import of organic products
32. Forgery including fraudulent or deceptive activity

Part 3
Administration

33. Control authorities or bodies
34. Authorisations and approvals
35. Fees
36. Appointment of Authorised officer
37. Functions of Authorised officer
38. Search warrant
39. Compliance notice
40. Appeal against compliance notice
41. Seizure and detention for non-compliance with a compliance notice
42. Obstruction and false statements
43. Service
44. Offences and related matters
45. Fixed payment notice

Part 4
Final provisions

46. Revocations and savers

Schedule

S.I. No. 494 of 2022

EUROPEAN UNION (ORGANIC FARMING) REGULATIONS 2022

I, CHARLIE MCCONALOGUE, 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 purpose of giving full effect to the acts of the institutions of the European Union cited in the Schedule to these Regulations, hereby make the following regulations:

Part 1

PRELIMINARY AND GENERAL

Citation

1. These Regulations may be cited as the European Union (Organic Farming) Regulations 2022.

Interpretation

2. (1) In these Regulations-

"authorised officer" means a person-

- (a) appointed under Regulation 28,
- (b) who immediately before the making of these Regulations was an authorised officer appointed under Regulation 8 of the European Communities (Organic Farming) Regulations 2016 (S.I. No. 683 of 2016),
- (c) a member of the Garda Síochána, or
- (d) an officer of the Revenue Commissioners;

"Group of operators" is to be construed in accordance with Article 36 of Regulation 2018/848;

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

"Official Control Regulations" means Regulation 2017/625, Commission Delegated Regulation (EU) 2018/631 of 7 February 2018¹, Commission Implementing Regulation (EU) 2018/329 of 5 March 2018², Commission Implementing Regulation (EU) 2018/1587 of 22 October 2018³, Commission Delegated Regulation (EU) 2019/478 of 14 January 2019⁴, Commission

¹ OJ L 105, 25.4.2018, p. 1

² OJ L 63, 6.3.2018, p. 13

³ OJ L 264, 23.10.2018, p. 20

⁴ OJ L 82, 2

Notice of the making of this Statutory Instrument was published in "Iris Oifigiúil" of 7th October, 2022.

Implementing Regulation (EU) 2019/66 of 16 January 2019⁵ (as amended by Commission Implementing Regulation (EU) 2020/714 of 28 May 2020 and Commission Implementing Regulation (EU) 2020/887 of 26 June 2020), Commission Delegated Regulation (EU) 2019/624 of 8 February 2019⁶, Commission Delegated Regulation (EU) 2019/625 of 4 March 2019⁷, Commission Delegated Regulation (EU) 2019/1081 of 8 March 2019⁸, Commission Delegated Regulation (EU) 2019/1012 of 12 March 2019⁹, Commission Implementing Regulation (EU) 2019/530 of 27 March 2019¹⁰, Commission Implementing Regulation (EU) 2019/723 of 2 May 2019¹¹, Commission Implementing Regulation (EU) 2019/626 of 5 March 2019¹² (as amended by Commission Implementing Regulation (EU) 2019/1981 of 28 November 2019¹³), Commission Implementing Regulation (EU) 2019/627 of 15 March 2019¹⁴, Commission Implementing Regulation (EU) 2019/628 of 8 April 2019¹⁵, Commission Implementing Regulation (EU) 2019/1013 of 16 April 2019¹⁶, Commission Delegated Regulation (EU) 2019/1602 of 23 April 2019¹⁷, Commission Implementing Regulation (EU) 2019/1014 of 12 June 2019¹⁸, Commission Delegated Regulation (EU) 2019/2090 of 19 June 2019¹⁹, Commission Delegated Regulation (EU) 2019/1666 of 24 June 2019²⁰, Commission Implementing Regulation (EU) 2019/1139 of 3 July 2019²¹, Commission Delegated Regulation (EU) 2019/2074 of 23 September 2019²², Commission Implementing Regulation (EU) 2019/1715 of 30 September 2019²³, Commission Implementing Regulation (EU) 2019/1685 of 4 October 2019²⁴, Commission Delegated Regulation (EU) 2019/2122 of 10 October 2019²⁵, Commission Delegated Regulation (EU) 2019/2125 of 10 October 2019²⁶, Commission Delegated Regulation (EU) 2019/2124 of 10 October 2019²⁷, Commission Delegated Regulation (EU) 2019/2126 of 10 October 2019²⁸, Commission Delegated Regulation (EU) 2019/2127 of 10 October 2019²⁹, Commission Delegated Regulation (EU) 2019/2123 of 10 October

⁵ OJ L 15, 17.1.2019, p. 1

⁶ OJ L 131, 17.5.2019, p. 1

⁷ OJ L 131, 17.5.2019, p. 18

⁸ OJ L 171, 26.6.2019, p. 1

⁹ OJ L 165, 21.6.2019, p. 4

¹⁰ OJ L 88, 29.3.2019, p. 19

¹¹ OJ L 124, 13.5.2019, p. 1

¹² OJ L 131, 17.5.2019, p. 31

¹³ OJ L 308, 29.11.2019, p. 72

¹⁴ OJ L 131, 17.5.2019, p. 51

¹⁵ OJ L 131, 17.5.2019, p. 101

¹⁶ OJ L 165, 21.6.2019, p. 8

¹⁷ OJ L 250, 30.9.2019, p. 6

¹⁸ OJ L 165, 21.6.2019, p. 10

¹⁹ OJ L 317, 9.12.2019, p. 28

²⁰ OJ L 255, 4.10.2019, p. 1

²¹ OJ L 180, 4.7.2019, p. 12

²² OJ L 316, 6.12.2019, p. 6

²³ OJ L 261, 14.10.2019, p. 37

²⁴ OJ L 258, 9.10.2019, p. 11

²⁵ OJ L 321, 12.12.2019, p. 45

²⁶ OJ L 321, 12.12.2019, p. 99

²⁷ OJ L 321, 12.12.2019, p. 73

²⁸ OJ L 321, 12.12.2019, p. 104

²⁹ OJ L 321, 12.12.2019, p. 111

2019³⁰, Commission Implementing Regulation (EU) 2019/1793 of 22 October 2019³¹ (as amended by Commission Implementing Regulation (EU) 2020/625 of 6 May 2020), Commission Implementing Regulation (EU) 2019/1873 of 7 November 2019³², Commission Implementing Regulation (EU) 2019/2128 of 12 November 2019³³, Commission Implementing Regulation (EU) 2019/2007 of 18 November 2019³⁴, Commission Implementing Regulation (EU) 2019/2130 of 25 November 2019³⁵, Commission Implementing Regulation (EU) 2019/2129 of 25 November 2019³⁶, Commission Implementing Regulation (EU) 2019/2093 of 29 November 2019³⁷, Commission Implementing Regulation (EU) 2020/466 of 30 March 2020³⁸ (as amended by Commission Implementing Regulation (EU) 2020/1087 of 23 July 2020³⁹ and Commission Implementing Regulation (EU) 2020/1341 of 28 September 2020⁴⁰), Commission Implementing Regulation (EU) 2020/1158 of 5 August 2020⁴¹, Commission Delegated Regulation (EU) 2021/2305 of 21 October 2021 supplementing Regulation (EU) 2017/625 of the European Parliament and of the Council and Commission Implementing Regulation (EU) 2020/1191 of 11 August 2020, and Chapter VI of Regulation 2018/848 and the delegated or implementing acts mentioned in the Schedule;

“Regulation No 2017/625” means Regulation (EU) 2017/625 of the European Parliament and of the Council of 15 March 2017 (as amended by Commission Delegated Regulation (EU) 2019/478 of 14 January 2019 and Commission Delegated Regulation (EU) 2019/2127 of 10 October 2019);

“Regulation 2018/848” means Regulation (EU) 2018/848 of the European Parliament and of the Council of 30 May 2018 on organic production and labelling of organic products and repealing Council Regulation (EC) No 834/2007, as amended by Commission Delegated Regulation (EU) 2020/427 of the European Parliament and of the Council of 13 January 2020, Commission Delegated Regulation (EU) 2021/269 of the European Parliament and of the Council of 4 December 2020, Regulation (EU) 2020/1693 of the European Parliament and of the Council of 11 November 2020, Commission Delegated Regulation (EU) 2020/1794 of the European Parliament and of the Council of 16 September 2020, Commission Delegated Regulation (EU) 2021/642 of the European Parliament and of the Council of 30 October 2020, Commission Delegated Regulation (EU) 2021/715 of the European Parliament and of the Council of 20 January

³⁰ OJ L 321, 12.12.2019, p. 64

³¹ OJ L 277, 29.10.2019, p. 89

³² OJ L 289, 8.11.2019, p. 50

³³ OJ L 321, 12.12.2019, p. 114

³⁴ OJ L 312, 3.12.2019, p. 1

³⁵ OJ L 321, 12.12.2019, p. 128

³⁶ OJ L 321, 12.12.2019, p. 122

³⁷ OJ L 317, 9.12.2019, p. 96

³⁸ OJ L 98, 31.3.2020, p. 30

³⁹ OJ L 239, 24.07.2020, P. 12

⁴⁰ OJ L 314, 29.09.2020, p. 2

⁴¹ OJ L 257, 06.08.2020, p. 1

2021, Commission Delegated Regulation (EU) 2021/716 of the European Parliament and of the Council of 9 February 2021, Commission Delegated Regulation (EU) 2021/1006 of the European Parliament and of the Council of 12 April 2021, Commission Delegated Regulation (EU) 2021/1691 of the European Parliament and of the Council of 12 July 2021, Commission Delegated Regulation (EU) 2021/1697 of the European Parliament and of the Council of 13 July 2021, Commission Delegated Regulation (EU) 2022/474 of 17 January 2022 amending Annex II to Regulation (EU) 2018/848 of the European Parliament and of the Council.

(2) A word or expression that is used in an act of the institutions of the European Union cited in the Schedule and is also used in these Regulations has, in these Regulations, the same meaning as in the act of the institutions of the European Union in which it is used.

Part 2

PRODUCTION RULES

General Production Rules

3. A person who contravenes Article 9 of Regulation 2018/848 or a delegated act referred to in that Article and mentioned in the Schedule, which relates to general production rules, commits an offence.

Conversion to organic production and marketing

4. (1) A person who contravenes Article 10 of Regulation 2018/848 or a delegated or implementing act referred to in that Article and mentioned in the Schedule, in particular, Commission Implementing Regulation (EU) 2020/464 of 26 March 2020, which relates to conversion to organic production, commits an offence.

(2) A person who markets a product as organic other than in accordance with Article 10 of Regulation 2018/848 or a delegated or implementing act referred to in that Article and mentioned in the Schedule commits an offence.

Prohibition of the use of GMOs

5. A person who contravenes Article 11 of Regulation 2018/848, which relates to the prohibition on use of GMOs in organic production, commits an offence.

Plant production rules

6. A person who contravenes Article 12 of Regulation 2018/848 or a delegated act referred to in that Article and mentioned in the Schedule, which relates to plant production rules, commits an offence.

Marketing of plant reproductive material of organic heterogeneous material

7. A person who contravenes Article 13 of Regulation 2018/848 or a delegated act referred to in that Article and mentioned in the Schedule, which relates to plant reproductive material of organic heterogeneous material, commits an offence.

Livestock production rules

8. A person who contravenes Article 14 of Regulation 2018/848 or a delegated or implementing act referred to in that Article and mentioned in the Schedule, in particular, Commission Implementing Regulation (EU) 2020/464 of 26 March 2020, which relates to livestock production rules, commits an offence.

Production rules for algae and aquaculture animals

9. A person who contravenes Article 15 of Regulation 2018/848 or a delegated or implementing act referred to in that Article and mentioned in the Schedule, in particular, Commission Implementing Regulation (EU) 2020/464 of 26 March 2020, which relates to the production rules for algae and aquaculture animals, commits an offence.

Production rules for processed food

10. A person who contravenes Article 16 of Regulation 2018/848 or a delegated or implementing act referred to in that Article and mentioned in the Schedule, which relates to production rules for processed food, commits an offence.

Production rules for processed feed

11. A person who contravenes Article 17 of Regulation 2018/848 or a delegated or implementing act referred to in that Article and mentioned in the Schedule, which relates to production rules for processed feed, commits an offence.

Production rules for wine

12. A person who contravenes Article 18 of Regulation 2018/848 or a delegated act referred to in that Article and mentioned in the Schedule, which relates to production rules for wine, commits an offence.

Production rules for yeast used as food or feed

13. A person who contravenes Article 19 of Regulation 2018/848 or a delegated act referred to in that Article and mentioned in the Schedule, which relates to production rules for yeast used as food or feed, commits an offence.

Production rules for products not falling within the categories of products referred to in Articles 12 to 19

14. A person who contravenes Article 21 of Regulation 2018/848 or a delegated act referred to in that Article and mentioned in the Schedule, in relation to production rules for products not falling within the categories of products referred to in Articles 12 to 19, commits an offence.

Adoption of exceptional production rules

15. Where the Minister grants a derogation in accordance with Article 22 of Regulation 2018/848 or a delegated act referred to in that Article and mentioned in the Schedule in relation to the adoption of exceptional production rules, a person may avail of such derogation.

Collection, packaging, transport and storage

16. A person who contravenes Article 23 of Regulation 2018/848 or a delegated act referred to in that Article and mentioned in the Schedule, which relates to the collection, packaging, transport and storage of products, commits an offence.

Authorisation of products and substances for use in organic production

17. Without prejudice to the generality of Regulation 3, a person who contravenes Article 24 of Regulation 2018/848 or a delegated or implementing act referred to in that Article and mentioned in the Schedule, in particular, Commission Implementing Regulation (EU) 2021/1165 of 15 July 2021, in relation to the use of authorised products and substances for use in organic production for specified purposes commits an offence.

Use of non-organic agricultural ingredients for the production of organic food

18. (1) An operator may apply to the Minister for the provisional authorisation for the use of non-organic agricultural ingredients for the production of processed organic food, in accordance with Article 25(1) of Regulation 2018/848.

(2) Without prejudice to the generality of Regulation 3, a person who uses non-organic agricultural ingredients for the production of processed organic food, without first being approved to do so by the Minister commits an offence.

Database and information systems

19. Where the Minister—
- (a) establishes—

- (i) a database referred to in Article 26(1) of Regulation 2018/848, or
 - (ii) systems referred to in Article 26(2) or (3) of Regulation 2018/848, or
- (b) uses relevant information systems referred to in Article 26(5) of Article 26 of Regulation 2018/848

an operator who contravenes Article 26(4) of Regulation 2018/848 or an implementing act referred to in that Article and mentioned in the Schedule, which relates to the updating or withdrawing of information, commits an offence.

Suspicion of non-compliance

20. A person who contravenes Article 27 of Regulation 2018/848, which relates to the suspicion of non-compliance, commits an offence.

Precautionary measures to avoid the presence of non-authorised products and substances

21. A person who contravenes Article 28 of Regulation 2018/848 or an implementing act referred to in that Article and mentioned in the Schedule, in particular, Article 1 of Commission Implementing Regulation (EU) 2021/279 of 22 February 2021 which relates to precautionary measures to avoid the presence of non-authorised products and substances, commits an offence.

Use of terms referring to organic production

22. A person who contravenes Article 30 of Regulation 2018/848 or a delegated or implementing act referred to in that Article and mentioned in the Schedule, in particular, Article 3 of Commission Implementing Regulation (EU) 2021/279 of 22 February 2021, which relates to use of terms referring to organic production, commits an offence.

Labelling of products and substances used in crop production

23. A person who labels a product or substance used in crop production other than in accordance with Article 31 of Regulation 2018/848, commits an offence.

Compulsory indications

24. A person who labels a product referred to in Article 32 of Regulation 2018/848 other than in accordance with that Article or a

delegated or implementing act referred to in that Article and mentioned in the Schedule, in particular, Article 3 of Commission Implementing Regulation (EU) 2021/279 of 22 February 2021, which relates to Compulsory indications, commits an offence.

Organic production logo

25. A person who contravenes Article 33 of Regulation 2018/848 or a delegated act referred to in that Article and mentioned in the Schedule, which relates to the use of the organic production logo, commits an offence.

Notification and Record keeping: certification system

26. (1) A person who contravenes Article 34 of Regulation 2018/848 or a delegated or implementing act referred to in that Article and mentioned in the Schedule, in particular, Article 6 of Commission Implementing Regulation 2021/2307, which relates to the notification to competent authorities or keeping of records, commits an offence.

(2) A notification for the purposes of Article 34(1) of Regulation 2018/848 shall be made to the Minister and 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 35.

Certificates

27. (1) A person who contravenes Article 35 of Regulation 2018/848 or a delegated or implementing act referred to in that Article and mentioned in the Schedule, which relates to certificates or the verification of certificates, commits an offence.

(2) If the Minister, a control authority or control body proposes to refuse an application or to revoke a certificate referred to in Article 35 of Regulation 2018/848, it shall-

- (a) notify the applicant or holder of the proposal and the reasons for the proposal, and that he or she may make representations in relation to the proposal to the Minister, the control authority or the control body, as the case may be, within 14 days of notification,
- (b) consider a representation duly made before deciding whether to proceed with, modify or annul the proposal, and
- (c) notify the applicant or holder of the decision and the reasons for the decision.

(3) An Operator who meets the criteria set out in Article 35(8) of Regulation 2018/848, may avail of the derogation referred to in that Article in respect of the obligation to be in possession of a certificate.

Group of operators

28. Where a person is a member of a group of operators, and that person contravenes Article 36 of Regulation 2018/848 or a delegated or implementing act referred to in that Article and mentioned in the Schedule, in particular, Articles 4, 5 or 6 of Commission Implementing Regulation (EU) 2021/279 of 22 February 2021, which relates to a group of operators, then that person commits an offence.

Official Controls and other official activities

29. (1) A person who contravenes Chapter VI, particularly Article 39, of Regulation 2018/848 or a delegated or implementing act referred to in that Chapter and mentioned in the Schedule, in particular, Commission Delegated Regulation (EU) 2021/2306 of 21 October 2021 and Commission Implementing Regulation (EU) 2021/2119 of 1 December 2021 which relates to actions to be taken by an operator or a group of operators, commits an offence.

(2) A person who, by act or omission—

- (a) being an organic control authority or delegated body to which specific official control tasks have been delegated or an official laboratory, fails to comply with an obligation of confidentiality in contravention of Article 8,
- (b) being an operator, fails to report the arrival of an animal or goods in contravention of Article 9(7),
- (c) being an operator, fails to comply with a requirement (obligations of operators) in contravention of Article 15,
- (d) being an operator, organic control authority or delegated body, fails to comply with a requirement (Specific rules on official controls and other official activities for organic production and labelling of organic products) in contravention of Article 25,
- (e) being a body or natural person to which certain official control tasks or certain tasks related to other official activities have been delegated, fails to comply with an obligation in contravention of Article 32,
- (f) being an operator of an official laboratory, fails to comply with an obligation in contravention of Article 38,
- (g) being an operator, fails to present a consignment referred to in Article 47(1) at a border control post in contravention of Article 47(5),

- (h) being an operator, fails to present original official certificates or documents at a border control post in contravention of Article 50(1),
- (i) being an operator, splits a consignment in contravention of Article 50(3),
- (j) being an operator, fails to complete the Common Health Entry Document (CHED) in contravention of Article 56(1) or (3),
- (k) being an operator, fails to provide prior notification in contravention of Article 56(4),
- (l) being an operator, fails to comply with a direction in contravention of Article 69(1),
- (m) being an operator, re-dispatches a consignment in contravention of Article 72,
- (n) being an operator, fails to issue an official attestation in contravention of Article 91, or
- (o) otherwise contravenes a provision (mentioned in this Regulation)

of Regulation No 2017/625 commits an offence.

(3) A person who contravenes a delegated or implementing act referred to in Regulation 2017/625 and mentioned in these Regulations, in particular, Commission Delegated Regulation (EU) 2019/2123 of 10 October 2019, Commission Delegated Regulation (EU) 2019/2124 and Commission Delegated Regulation (EU) 2021/2305 of 21 October 2021, which relates to organics, commits an offence.

(4) Where a sample of an animal or product is purchased or taken for analysis, testing or inspection pursuant to Regulation 35, the authorised officer shall ensure that the operator whose animal or product is being analysed, tested or inspected has, in accordance with Article 35 of Regulation No 2017/625, the right to a second expert opinion, at the operator's own expense.

Export of organic products

30. A person who exports to a third country an organic product other than in accordance with Article 44 of Regulation 2018/848 or a delegated act referred to in that Article and mentioned in the Schedule, which relates to export of organic products, commits an offence.

Imports of organic products

31. A person who imports from a third country a product stated to be an organic product other than in accordance with Article 45 of Regulation 2018/848 or an implementing act referred to in that Article and mentioned in the Schedule, in particular, Articles 3,4, 5, 6 or 8 of

Commission Implementing Regulation 2021/2307 and Commission Implementing Regulation (EU) 2021/2119 of 1 December 2021 which relates to imports of organic products commits an offence.

Forgery including fraudulent or deceptive activity

32. (1) A person shall not forge or utter knowing it to be forged—
- (a) a document or record referred to in Article 9(10)(c), 34(5) or 39(1)(a) of Regulation 2018/848, or referred to in a delegated or implementing act referred to in that Regulation and mentioned in the Schedule,
 - (b) a certificate referred to in Article 88 of Regulation No 2017/625, and in particular, a certificate referred to in Article 35 of Regulation 2018/848,
 - (c) an attestation referred to in Article 91 of Regulation No 2017/625 or a private attestation, and in particular, the organic production logo of the European Union referred to in Article 33 of Regulation 2018/848,
 - (d) a record purporting to be maintained under Regulation 26, a requirement or direction of an authorised officer under Regulation 37 (if the requirement or direction is in writing), a compliance notice under Regulation 39 or notice under Regulation 45, a certificate or other document purporting to be issued, granted or given under these Regulations,

(in this Regulation referred to as “a forged document”).

- (2) A person shall not alter with intent to defraud or deceive, or to utter knowing it to be so altered—
- (a) a document or record referred to in Article 9(10)(c), 34(5) or 39(1)(a) of Regulation 2018/848, or referred to in a delegated or implementing act referred to in that Regulation and mentioned in the Schedule,
 - (b) a certificate referred to in Article 88 of Regulation No 2017/625, and in particular, a certificate referred to in Article 35 of Regulation 2018/848,
 - (c) an attestation referred to in Article 91 of Regulation No 2017/625 or a private attestation, and in particular, the organic production logo of the European Union referred to in Article 33 of Regulation 2018/848,
 - (d) a record purporting to be maintained under Regulation 26, a requirement or direction of an authorised officer under Regulation 37 (if the requirement or direction is in writing), a compliance notice under Regulation 38 or

notice under Regulation 44, a certificate or other document purporting to be issued, granted or given under these Regulations,

(in this Regulation referred to as “an altered document”).

(3) A person shall not have, without lawful authority, in his or her possession or under his or her control a forged document or an altered document.

(4) A person shall not knowingly misrepresent the status of a food or feed in relation to its method of production or organic status.

Part 3

ADMINISTRATION*Control authorities or bodies*

33. (1) A person may apply to the Minister for approval to operate as a control authority or a control body, in accordance with Article 40 of Regulation 2018/848.

(2) An application for approval referred to in paragraph (1) shall, in addition to the requirements of Regulation 34, provide evidence of the requirements referred to in Article 40(1) of Regulation 2018/848 and Chapter III of Regulation 2017/625.

(3) A person who purports to operate as a control authority or a control body without first been duly conferred with competences in accordance with Article 4(3) or delegated responsibilities in accordance with Article 28, as the case may be, of Regulation 2017/625 and Article 40 of Regulation 2018/848 commits an offence.

(4) A control authority or a control body may designate in writing such or so many of its members as the authority or body considers appropriate to be certifying officers for the purposes of these Regulations and an act of the institutions of the European Union cited in the Schedule.

(5) A control authority or control body may terminate the designation of a certifying officer designated by that authority or body.

(6) A person designated by a control authority or control body who issues false or misleading official certificates or contravenes chapter VII of Title II of Regulation 2017/625 in respect of an official certificate or official attestation commits an offence.

(7) A control authority or control body shall notify the Minister, in a form determined by the Minister, of any member duly designated as a certifying officer.

Authorisations and approvals

34. (1) The Minister may grant an authorisation or approval, attach conditions to an authorisation or approval, revoke or vary a condition, insert a new condition, suspend, withdraw an authorisation or approval or refuse an application in relation to any of the matters specified in paragraph (2).

(2) An authorisation or approval may be granted by the Minister in respect of an application:

- (a) for an authorisation referred to in Regulation 18(1) to provisionally authorise the use of non-organic agricultural ingredients for the production of processed organic food, in accordance with Article 25(1) of Regulation 2018/848;
- (b) for an approval referred to in Regulation 33(1) to operate as a control authority or a control body, in accordance with Article 40 of Regulation 2018/848;

- (c) for an authorisation referred to in a delegated or implementing act and where such authorisation or approval is not referred to in this paragraph.

(3) An application for an authorisation or approval 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 or approval, 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 33.

(5) The Minister shall not grant an authorisation or approval unless he or she is satisfied that the applicant is qualified and competent to carry out the activity the subject of the authorisation or approval.

(6) Without prejudice to the generality of paragraph (1), the Minister may refuse an application, suspend or withdraw an authorisation or approval, if, in the opinion of the Minister-

- (a) the applicant or person to whom an authorisation or approval is granted fails to comply with a condition attached to the authorisation or approval,
- (b) the applicant or person to whom an authorisation or approval is granted is not a fit and proper person to hold an authorisation or approval,
- (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 or approval if the applicant or person to whom an authorisation or approval 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 approval or to refuse an application, he or she shall-

- (a) notify the applicant or holder of the authorisation or approval 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 or approval 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 or approval, in accordance with paragraph (10).

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

- (a) notify the applicant or holder of the authorisation or approval, 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 or approval in writing of the decision and the reasons for the decision.

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

Fees

35. (1) A person shall pay a control authority or control body a fee referred to in Article 34(7) of Regulation 2018/848 and approved by the Minister for services referred to in that Article and provided by the said authority or body to the person.

(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 officer

36. (1) The Minister may appoint in writing such persons or classes of persons as he or she considers appropriate to be authorised officers for the exercise of all or any of the functions conferred on an authorised officer under these Regulations, as specified in the appointment.

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

(3) An appointment as an authorised officer ceases—

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

(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 that paragraph relates.

(5) An authorised officer appointed under this Regulation shall be furnished with a warrant of his or her appointment and, when exercising a power conferred on him or her, the officer, an officer of the Revenue Commissioners or a member of the Garda Síochána 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 officer

37. (1) For the purposes of these Regulations or an act of the institutions of the European Union mentioned in the Schedules an authorised officer may—

- (a) enter and inspect, at all reasonable times, any premises if he or she is carrying out an official control or other official activity for the purposes of these Regulations or an act of the institutions of the European Union mentioned in the Schedules or where he or she has reasonable grounds for believing that—
 - (i) an animal or product that may be subject to these Regulations or an act of the institutions of the European Union mentioned in the Schedule is, may be or has been present,
 - (ii) a record relating to an animal or product that may be subject to these Regulations or an act of the institutions of the European Union mentioned in the Schedule is, may be or has been present,
 - (iii) equipment, machinery, a vehicle, a vessel or other thing used in connection with an animal or product that may be subject to these Regulations or an act of the institutions of

the European Union mentioned in the Schedule is, may be or has been present,

- (b) examine an animal or product, or equipment, machinery or other thing used in connection with an animal or product that may be subject to these Regulations or an act of the institutions of the European Union mentioned in the Schedule,
- (c) require the name and address of the owner, or person in possession or control of an animal or product, or equipment, machinery, a document, a vehicle or a vessel used in connection with an animal or product that may be subject to these Regulations or an act of the institutions of the European Union mentioned in the Schedule, or require details of place of departure, journey or destination,
- (d) inspect a vehicle, a vessel, an aircraft, a railway wagon, a container, equipment, machinery, a computerised information management system or other thing used in connection with an animal or product that may be subject to these Regulations or an act of the institutions of the European Union mentioned in the Schedule and require the person in charge or control of such to refrain from moving it,
- (e) require the owner, person in possession or control of any premises, equipment, machinery, a computerised information management system, a vehicle, a vessel or other thing used in connection with an animal or product that may be subject to these Regulations or an act of the institutions of the European Union mentioned in the Schedule, 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,
- (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,
- (g) make a record, in particular, by means of writing, sound recording, photograph, video or other means, or
- (h) take, without making a payment, samples from an animal or product that may be subject to these Regulations or an act of the institutions of the European Union mentioned in the Schedule, or any article, substance or liquid as he or she may reasonably require and carry out or cause to be carried out on the samples such tests, analyses, examinations or inspections as he or she considers necessary or expedient and mark or otherwise identify it.

(2) An authorised officer may require a person to give information regarding the ownership and identity of an animal or product, or equipment, machinery, a vehicle, a vessel or other thing used in connection with an animal or product that may be subject to these Regulations or an act of the institutions of the European Union mentioned in the Schedule 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 these Regulations, or
- (b) evidence of an offence to which subparagraph (a) relates 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 (including any computerised information management system);
- (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,
 - (II) give information regarding its place of departure, journey or destination, and
 - (III) where the equipment or machinery is part of a computerised information management system, provide assistance (including passwords) to enable access to such devices or systems;
- (iv) seize and detain an animal or product that may be subject to these Regulations or an act of the institutions of the European Union mentioned in the Schedule and mark or otherwise identify it;
- (v) detain a vehicle, vessel, aircraft, railway wagon, equipment, machinery (including any computerised information management system) or container for such reasonable period necessary for the purposes of permitting an inspection or a search under this Regulation 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, machinery (including any computerised information management system), books, documents or records and detain them for such reasonable period necessary for the purpose of his or her functions under these Regulations;
- (vii) give such direction to a person who has an animal or product that may be subject to these Regulations or an act of the institutions of the European Union mentioned in the Schedule, or who has equipment, machinery, vehicle or vessel or other thing used in connection with an animal or product that may be subject to these Regulations or an act of the institutions of the European Union mentioned in the Schedule in his or her possession or under his or her control or who has information relating to such, as the authorised officer may reasonably consider necessary for the purposes of 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 38 other than where he or she has reasonable grounds for believing that before a search warrant could be sought in relation to the dwelling under Regulation 38, any evidence of an offence referred to in paragraph (3)(a) is being or is likely to be disposed of or destroyed.

(5) An authorised officer, when exercising a function 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 function.

(6) An authorised officer may use reasonable force, if necessary, to exercise his or her functions under these Regulations.

(7) Where, in the course of exercising a function 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 these Regulations, the officer may seize and retain it for use in evidence in proceedings for an offence under these Regulations.

(8) An authorised officer is not liable in any proceedings for anything done in the purported exercise of his or her powers under these Regulations if the court is satisfied that the act was done in good faith and that there were reasonable grounds for doing it.

(9) A member of the Garda Síochána may stop a vehicle or vessel, for the purposes of these Regulations and may require it to be moved for inspection to such place as he or she directs.

(10) A person who has—

- (a) an animal or product that may be subject to these Regulations or an act of the institutions of the European Union mentioned in the Schedule, or

- (b) equipment, machinery, a vehicle, a vessel or other thing used in connection with an animal or product that may be subject to these Regulations or an act of the institutions of the European Union mentioned in the Schedule

in his or her possession or under his or her control, or information or a record relating to any of them, shall give such—

- (i) assistance to an authorised officer, or person who accompanies the officer, and
- (ii) information to an authorised officer on request being made, in that behalf by the officer, as the officer may reasonably require for the exercise of his or her functions under these Regulations.

(11) The owner or person in charge of any premises used in connection with an animal or product that may be subject to these Regulations or an act of the institutions of the European Union mentioned in the Schedule shall, if required by an authorised officer, where it is practicable and possible, provide suitable equipment or facilities or a suitable part of the plant or establishment for the officer to carry out his or her functions under these Regulations.

(12) An authorised officer may require a person to give to the officer such information as is in the person's power or procurement as regards any premises specified by the officer including—

- (a) whether or not the premises is used, either partly or wholly, for or in connection with an animal or product that may be subject to these Regulations or an act of the institutions of the European Union mentioned in the Schedule,
- (b) the name of the owner, occupier or person who is in charge of the premises, and
- (c) whether or not the premises is let and, if let, the name and address of the person to whom, and the period of time for which, it is let.

(13) Nothing in section 17 of the Industrial and Provident Societies Act 1893 prevents an authorised officer from exercising a function conferred on him or her by these Regulations.

Search warrant

38. (1) If a judge of the District Court is satisfied by information on oath of an authorised officer that there are reasonable grounds for believing—

- (a) evidence of or relating to the commission or intended commission of an offence under these Regulations is to be found on a premises,
- (b) there is or was an animal or product, or equipment or other thing made, used or adapted for use (including manufacture and transport) in connection with an animal or product that may be

subject to these Regulations or an act of the institutions of the European Union mentioned in the Schedule, or

- (c) a document or other record related to a thing to which subparagraph (a) or (b) refers is or may be on the premises,

the judge may issue a search warrant.

(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 under 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.

Compliance notice

39. (1) Where an authorised officer is of the opinion that—

- (a) these Regulations or an act of the institutions of the European Union mentioned in the Schedules is not being or has not been complied with, or there are reasons to believe that these Regulations or an act of the institutions of the European Union mentioned in the Schedules will not be complied with, or
- (b) it is necessary, ancillary or supplementary for an act of the institutions of the European Union mentioned in the Schedules to have full effect,

the officer may serve a notice (“compliance notice”) stating that opinion to the person—

- (i) who appears to be the owner, occupier, or person in charge of the premises, or
- (ii) in possession or control of an animal or product, or other thing

to which the notice relates.

(2) A compliance notice shall—

- (a) require the person to whom it is served to take such action as specified in the notice,
- (b) inform the person to whom it is served that he or she may appeal the notice in the District Court under Regulation 40 and
- (c) state that if the person to whom it is served fails to comply with the notice, he or she commits an offence and is liable to a penalty set out in Regulation 44(1).

- (3) A compliance notice may require that—
- (a) an animal or product that may be subject to these Regulations or an act of the institutions of the European Union mentioned in the Schedule be dealt with in a manner specified in the notice,
 - (b) such alterations be made to a premises or operations at a premises as the officer specifies in the notice,
 - (c) misleading labelling or marketing material including any words, particulars, trade marks, brand names, pictorial matter or symbols (including misuse of the EU organic logo) on any packaging, document, notice, label, board or collar accompanying or referring to any product be removed or modified as specified in the notice,
 - (d) products that are not produced or imported in accordance with these Regulations or an act of the institutions of the European Union mentioned in the Schedule be clearly identified as such,
 - (e) an animal or product that may be subject to these Regulations or an act of the institutions of the European Union mentioned in the Schedule be detained, disposed of or destroyed in such manner and at a place (if any) as the officer specifies in the notice,
 - (f) a specified operation or activity cease on a premises,
 - (g) a specified operation or activity take place only in a manner specified in the notice,
 - (h) a specified type or level of sampling and analysis be undertaken for a period specified in the notice,
 - (i) 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,
 - (j) records as set out in the notice be retained for a specified period and be produced within 5 working days of request,
 - (k) prohibit the transport or further transport of an animal or product that may be subject to these Regulations or an act of the institutions of the European Union mentioned in the Schedule, either absolutely or unless such conditions as may be specified in the notice are complied with,
 - (l) require a person to return an animal or product that may be subject to these Regulations or an act of the institutions of the European Union mentioned in the Schedule, to the place of departure by a route which in the opinion of the authorised officer is the most direct or prudent,
 - (m) a measure within the meaning of Article 138(2) of Regulation No 2017/625 be taken as specified in the notice.

(4) A person to whom a compliance notice is served shall comply with the compliance notice until the notice expires, is withdrawn under paragraph (6) or

is annulled under Regulation 40, and not cause or permit another person to contravene the terms of the notice.

(5) A compliance notice may specify a time limit within which it is to be complied with.

(6) A compliance notice may be modified or withdrawn in a further notice and the earlier notice has effect subject to the modification or withdrawal.

(7) A compliance notice may require the owner, occupier, operator or person in charge of any premises, an animal or product, or vehicle, vessel, machinery (including any computerised information management system), equipment or other thing that may be subject to these Regulations or an act of the institutions of the European Union mentioned in the Schedule to choose between two or more of the requirements specified in the notice.

(8) A compliance notice shall include an address for service of an appeal under Regulation 40.

(9) A person on whom a compliance notice is served who fails to comply with, or causes or permits another person to contravene the notice commits an offence.

Appeal against compliance notice

40. (1) A person to whom a compliance notice is served may, within 7 days from the date of service of the notice, appeal the notice to the Judge of the District Court having jurisdiction in the District Court district—

- (a) where the animal or product, premises, vehicle, machinery (including any computerised information management system), equipment, vessel or other thing that may be subject to these Regulations or an act of the institutions of the European Union mentioned in the Schedule, which is the subject of the notice, is situated, or
- (b) where the person bringing the appeal ordinarily resides or carries on business,

on the grounds that the notice is unreasonable having regard to these Regulations or an act of the institutions of the European Union mentioned in the Schedule.

(2) Notice of an appeal shall contain a statement of the grounds upon which it is alleged that the notice or any of the terms of the notice are unreasonable and shall be served on the authorised officer who served the compliance notice at the address included on the notice in accordance with Regulation 38 not later than 48 hours prior to the hearing of the appeal.

(3) A person bringing an appeal shall lodge a copy of the notice or appeal with the District Court Clerk concerned not later than 48 hours prior to the hearing of the appeal.

(4) On the hearing of an appeal a Judge of the District Court may confirm, modify or annul a notice.

(5) A person, including a person on whom a compliance notice has been served, who —

- (a) pending the determination of an appeal, deals with an animal or product, or premises, vehicle, vessel, machinery (including any computerised information management system), equipment or other thing to which the notice relates, other than in accordance with the terms of the compliance notice, or
- (b) if the notice is confirmed or modified on appeal, deals with an animal or product, or any premises, vehicle, vessel, equipment, machinery (including any computerised information management system) or other thing to which the notice relates other than in accordance with the terms of the compliance notice as confirmed or modified

commits an offence.

(6) In this Regulation “appeal” means an appeal under paragraph (1).

Seizure and detention for non-compliance with a compliance notice

41. (1) Without prejudice to an appeal under Regulation 40, if—

- (a) a person in control of an animal or product that may be subject to a compliance notice relates, or in control of a premises, vessel, vehicle, equipment, machinery (including any computerised information management system) or other thing used in connection with an animal or product that may be subject to a compliance notice relates fails to comply with the terms of a compliance notice within the time specified,
- (b) an authorised officer has reasonable grounds for believing that the terms of a compliance notice, whether or not modified under Regulation 39(4), will not be complied with, or
- (c) a compliance notice has been confirmed with or without modification under Regulation 40(4) and the notice has not been complied with,

an authorised officer may at any time seize the animal or product, or other thing to which a compliance notice relates, or seize the vessel, vehicle, equipment, machinery (including any computerised information management system) or other thing used in connection with an animal or product that may be subject to a compliance notice relates.

(2) If the animal or product, or other thing to which a compliance notice relates, a vessel, vehicle, equipment, machinery (including any computerised information management system) or other thing used in connection with an animal or product that may be subject to a compliance notice relates is seized in accordance with paragraph (1), an authorised officer may—

- (a) sell, destroy or dispose of the animal or product, or other thing to which a compliance notice relates or cause it to be sold, destroyed or be disposed of, or

- (b) take such other measures in relation to the animal or product, or other thing to which a compliance notice relates, or in relation to the vessel, vehicle, equipment, machinery (including any computerised information management system) or other thing used in connection with an animal or product that may be subject to a compliance notice relates as the authorised officer considers appropriate in the circumstances.

(3) Any profits arising out of the sale, destruction or disposal of an animal or product that may be subject to a compliance notice in accordance with paragraph (2) shall be paid to the owner of the animal or product, or other thing to which a compliance notice relates less any expenses incurred in connection with the seizure, sale, destruction or disposal.

(4) The costs (including ancillary costs) of a measure taken under this Regulation are recoverable by the Minister—

- (a) as a simple contract debt in a court of competent jurisdiction from the person who was the owner of the animal or product, or other thing to which these Regulations or an act of the institutions of the European Union mentioned in the Schedule or from the person who was the owner of the means of transport at the time the measure was carried out, or
- (b) by deducting the costs from any sum payable from the Minister to a person on whom a notice has been served.

(5) The costs of any action required by a compliance notice shall be borne by the owner of a premises, animal or product, or other thing to which the notice relates.

Obstruction and false statements

42. (1) A person who —

- (a) obstructs, interferes with or impedes an authorised officer, or any person who accompanies an authorised officer, in the course of exercising a function conferred on the officer under these Regulations,
- (b) fails or refuses, without reasonable cause, to comply with a requirement of an authorised officer under Regulation 37,
- (c) fails, without reasonable cause, to give assistance or requested information to an authorised officer in accordance with Regulation 37,
- (d) in purporting to give information to an authorised officer for the exercise of the officer's functions under these Regulations—
 - (i) makes a statement that he or she knows to be false or misleading in a material particular or recklessly makes a statement which is false or misleading in a material particular, or
 - (ii) intentionally fails to disclose a material particular,

- (e) tampers or otherwise interferes with a sample taken under Regulation 37, or
- (f) aids or abets a contravention of these Regulations or an act of the institutions of the European Union mentioned in the Schedule,

commits an offence.

(2) A statement or admission made by a person pursuant to a requirement under Regulation 37(10)(ii) is not admissible in evidence in proceedings brought against the person for an offence (other than an offence under this Regulation for failing to give information or giving false information) under these Regulations.

Service

43. (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.

Offences and related matters

Penalties and prosecution

44. (1) A person who commits an offence under Regulations 19 or 28 is liable on conviction to a class A fine.

(2) A person who commits an offence under Regulations 3, 4, 5, 6, 7, 8, 10, 11, 12, 13, 14, 16, 18, 20, 21, 22, 23, 24, 25, 26, 27, 29, 30, 31, 32(3), 33(3), 33(6), 39, 40 or 42 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.

(3) A person who commits an offence under Regulation 32(1), (2) or (4), is liable-

- (a) on summary conviction, to—
 - (i) a class A fine,
 - (ii) imprisonment for a term not exceeding 6 months,
 - (iii) the forfeiture of any consideration or advantage obtained in connection with the offence or, in the alternative, the forfeiture of land, cash or other property of an equivalent value to such consideration or advantage, or
 - (iv) any combination of the penalties referred to in subparagraphs (i) to (iii), or
- (b) on conviction on indictment, to—
 - (i) a fine not exceeding €500,000,
 - (ii) imprisonment for a term not exceeding 3 years,
 - (iii) the forfeiture of any consideration or advantage obtained in connection with the offence or, in the alternative, the forfeiture of land, cash or other property of an equivalent value to such consideration or advantage, or
 - (iv) any combination of the penalties referred to in subparagraphs (i) to (iii).

(4) An offence under these Regulations may be prosecuted summarily by the Minister.

(5) 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.

(6) If the affairs of a body corporate or unincorporated body are managed by its members, paragraph (5) 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.

(7) In proceedings for an offence, evidence of an act of the institutions of the European Union 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.

(8) Paragraph (7) 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

45. (1) Where an authorised officer has reasonable grounds for believing that a person is committing or has committed an offence mentioned in Regulation 44(1), 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 4

FINAL PROVISIONS

Revocations and savers

46. (1) The following are revoked-

- (a) the European Union (Organic Farming) Regulations 2016 (S.I. No. 683 of 2016) and
- (b) the European Union (Organic Farming) (Amendment) Regulations 2018 (S.I. No. 331 of 2018).

(2) An authorised officer appointed under a Regulation revoked by paragraph (1) shall continue to be an authorised officer as if appointed under Regulation 36 of these Regulations.

(3) Where a transitional measure mentioned in Articles 57 to 60 of Regulation 2018/848 or in a delegated or implementing act referred to in those Articles and mentioned in the Schedule is applicable, a relevant provision of a Regulation revoked by paragraph 1 shall continue to apply.

Schedule

Preamble

Acts of the Institutions of the European Union

1. Regulation (EU) 2018/848 of the European Parliament and of the Council of 30 May 2018 repealing Council Regulation (EC) No 834/2007, as amended by Commission Delegated Regulation (EU) 2020/427 of the European Parliament and of the Council of 13 January 2020;
2. Commission Delegated Regulation (EU) 2021/269 of the European Parliament and of the Council of 4 December 2020;
3. Regulation (EU) 2020/1693 of the European Parliament and of the Council of 11 November 2020;
4. Commission Delegated Regulation (EU) 2020/1794 of the European Parliament and of the Council of 16 September 2020;
5. Commission Delegated Regulation (EU) 2021/642 of the European Parliament and of the Council of 30 October 2020;
6. Commission Delegated Regulation (EU) 2021/715 of the European Parliament and of the Council of 20 January 2021;
7. Commission Delegated Regulation (EU) 2021/716 of the European Parliament and of the Council of 9 February 2021;
8. Commission Delegated Regulation (EU) 2021/1006 of the European Parliament and of the Council of 12 April 2021;
9. Commission Delegated Regulation (EU) 2021/1691 of the European Parliament and of the Council of 12 July 2021;
10. Commission Delegated Regulation (EU) 2021/1697 of the European Parliament and of the Council of 13 July 2021;
11. Commission Delegated Regulation (EU) 2022/474 of 17 January 2022 amending Annex II to Regulation (EU) 2018/848 of the European Parliament and of the Council;
12. Commission Delegated Regulation (EU) 2020/427 of 13 January 2020;
13. Commission Delegated Regulation (EU) 2020/2146 of 24 September 2020;
14. Commission Delegated Regulation (EU) 2021/771 of 21 January 2021;
15. Commission Delegated Regulation (EU) 2021/1189 of 7 May 2021;
16. Commission Delegated Regulation (EU) 2021/1342 of 27 May 2021 supplementing Regulation (EU) 2018/848 of the European Parliament and of the Council;
17. Commission Delegated Regulation (EU) 2021/1698 of 13 July 2021 supplementing Regulation (EU) 2018/848 of the European Parliament and of the Council;

18. Commission Delegated Regulation (EU) 2021/2304 of 18 October 2021 supplementing Regulation (EU) 2018/848 of the European Parliament and of the Council;
19. Commission Delegated Regulation (EU) 2021/2306 of 21 October 2021 supplementing Regulation (EU) 2018/848 of the European Parliament and of the Council;
20. Commission Delegated Regulation (EU) 2022/760 of 8 April 2022;
21. Commission Implementing Regulation (EU) 2021/2325 of 16 December 2021 establishing, pursuant to Regulation (EU) 2018/848 of the European Parliament and of the Council;
22. Commission Implementing Regulation (EU) 2021/2307 of 21 October 2021;
23. Commission Implementing Regulation (EU) 2021/2119 of 1 December 2021 laying down detailed rules on certain records and declarations required from operators and groups of operators and on the technical means for the issuance of certificates in accordance with Regulation (EU) 2018/848 of the European Parliament and of the Council;
24. Commission Implementing Regulation (EU) 2021/1921 of 4 November 2021 correcting the Croatian language version of Implementing Regulation (EU) 2020/464 laying down certain rules for the application of Regulation (EU) 2018/848 of the European Parliament and of the Council;
25. Commission Implementing Regulation (EU) 2021/1849 of 21 October 2021 correcting certain language versions of Implementing Regulation (EU) 2020/464 laying down certain rules for the application of Regulation (EU) 2018/848 of the European Parliament and of the Council;
26. Commission Implementing Regulation (EU) 2021/1378 of 19 August 2021 laying down certain rules concerning the certificate issued to operators, groups of operators and exporters in third countries involved in the imports of organic and in-conversion products into the Union and establishing the list of recognised control authorities and control bodies in accordance with Regulation (EU) 2018/848 of the European Parliament and of the Council;
27. Commission Implementing Regulation (EU) 2021/1165 of 15 July 2021 authorising certain products and substances for use in organic production and establishing their lists;
28. Commission Implementing Regulation (EU) 2021/279 of 22 February 2021 laying down detailed rules for the implementation of Regulation (EU) 2018/848 of the European Parliament and of the Council;
29. Commission Implementing Regulation (EU) 2020/2042 of 11 December 2020 amending Implementing Regulation (EU) 2020/464 as regards its date of application and certain other dates that are relevant for the application of Regulation (EU) 2018/848 of the European Parliament and of the Council on organic production;
30. Commission Implementing Regulation (EU) 2020/464 of 26 March 2020 laying down certain rules for the application of Regulation (EU) 2018/848 of the European Parliament and of the Council.

36 [494]

31. Official Control Regulations.



GIVEN under my Official Seal,
30 September 2022.

CHARLIE MCCONALOGUE,
Minister for Agriculture, Food and the Marine.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ó
FOILSEACHÁIN RIALTAIS,
BÓTHAR BHAILE UÍ BHEOLÁIN,
CILL MHAIGHNEANN,
BAILE ÁTHA CLIATH 8,
D08 XAO6

Tel: 046 942 3100
r-phost: publications@opw.ie

DUBLIN
PUBLISHED BY THE STATIONERY OFFICE
To be purchased from
GOVERNMENT PUBLICATIONS,
MOUNTSHANNON ROAD,
KILMAINHAM, DUBLIN 8,
D08 XAO6

Tel: 046 942 3100
E-mail: publications@opw.ie

€ 8.00

