



STATUTORY INSTRUMENTS

S.I. No. 698 of 2007



EUROPEAN COMMUNITIES (ORGANIC FARMING) (AMENDMENT)
REGULATIONS 2007

(Prn. A7/1813)

EUROPEAN COMMUNITIES (ORGANIC FARMING) (AMENDMENT)
REGULATIONS 2007

I, MARY COUGHLAN, Minister for Agriculture and Food, 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 further effect to Council Regulation (EEC) No. 2092/91 of 24 June 1991¹, as amended Commission Regulation (EEC) No. 1535/92 of 15 June 1992², Council Regulation (EEC) No. 2083/92 of 14 July 1992³, Commission Regulation (EEC) No. 207/93 of 29 January 1993⁴, Commission Regulation (EEC) No. 2608/93 of 23 September 1993⁵, Commission Regulation (EC) No. 468/94 of 2 March 1994⁶, Council Regulation (EC) No. 1468/94 of 20 June 1994⁷, Commission Regulation (EC) No. 2381/94 of 30 September 1994⁸, Commission Regulation (EC) No. 1201/95 of 29 May 1995⁹, Commission Regulation No. 1202/95 of 29 May 1995¹⁰, Council Regulation (EC) 1935/95 of 22 June 1995¹¹, Commission Regulation (EC) No. 418/96 of 7 March 1996¹², Commission Regulation (EC) No. 1488/97 of 29 July 1997¹³, Commission Regulation (EC) No. 1900/98 of 4 September 1998¹⁴, Commission Regulation (EC) No. 330/1999 of 12 February 1999¹⁵, Council Regulation (EC) No. 1804/1999 of 19 July 1999¹⁶, Commission Regulation (EC) No. 331/2000 of 17 December 1999¹⁷, Commission Regulation (EC) No. 1073/2000 of 19 May 2000¹⁸, Commission Regulation (EC) No. 1437/2000 of 30 June 2000¹⁹, Commission Regulation (EC) No. 2020/2000 of 25 September 2000²⁰, Commission Regulation (EC) No. 436/2001 of 2 March 2001²¹, Commission Regulation (EC) No. 1788/2001 of 7 September 2001²², Commission Regulation (EC) No. 2491/2001 of 19 December 2001²³, Commission Regulation (EC) No. 473/2002 of 15 March

¹OJ No. L198, p. 1, 22.7.1991.

²OJ No. L162, p15, 16.6.1992.

³OJ No. L208, p15, 24.7.1992.

⁴OJ No. L25, p5, 2.2.1993.

⁵OJ No. L239, p10, 24.9.1993.

⁶OJ No. L58, p1, 3.3.1994.

⁷OJ No. L159, p11, 28.6.1994.

⁸OJ No. L255, p84, 1.10.1994.

⁹OJ No. L119, p9, 30.5.1995.

¹⁰OJ No. L119, p11, 30.5.1995.

¹¹OJ No. L186, p1, 5.8.1995.

¹²OJ No. L59, p10, 8.3.1996.

¹³OJ No. L202, p12, 30.7.1997.

¹⁴OJ No. L247, p6, 5.9.1998.

¹⁵OJ No. L40, p23, 13.2.1999.

¹⁶OJ No. L222, p1, 24.8.1999.

¹⁷OJ No. L48, p1, 19.2.2000.

¹⁸OJ No. L119, p27, 20.5.2000.

¹⁹OJ No. L161, p62, 1.7.2000.

²⁰OJ No. L241, p39, 26.9.2000.

²¹OJ No. L63, p16, 3.3.2001.

²²OJ No. L243, p3, 13.9.2001.

²³OJ No. L337, p9, 20.12.2001.

*Notice of the making of this Statutory Instrument was published in
"Iris Oifigiúil" of 19th October, 2007.*

2002²⁴, Commission Regulation (EC) No. 1113/2002²⁵, Commission Regulation (EC) No. 1918/2002 of 25 October 2002²⁶, Commission Regulation (EC) No. 223/2003 of 5 February 2003²⁷, Commission Regulation (EC) No. 599/2003 of 1 April 2003²⁸, Council Regulation (EC) No. 806/2003 of 14 April 2003²⁹, Commission Regulation (EC) No. 1452/2003 of 14 August 2003³⁰, Commission Regulation (EC) No. 2277/2003 of 22 December 2003³¹, Council Regulation (EC) No. 392/2004³², Commission Regulation (EC) No. 746/2004 of 22 April 2004³³, Commission Regulation (EC) No. 1481/2004 of 19 August 2004³⁴, Commission Regulation (EC) No. 2254/2004 of 27 December 2004³⁵, Commission Regulation (EC) No. 1294/2005 of 5 August 2005³⁶, Commission Regulation (EC) No. 1318/2005 of 11 August 2005³⁷, Commission Regulation (EC) No. 1336/2005 of 12 August 2005³⁸, Council Regulation (EC) No. 1567/2005 of 20 September 2005³⁹, Commission Regulation (EC) No. 1916/2005 of 24 November 2005⁴⁰, Commission Regulation (EC) No. 592/2006 of 12 April 2006⁴¹, Commission Regulation (EC) No. 699/2006 of 5 May 2006⁴², Commission Regulation (EC) No. 780/2006 of 24 May 2006⁴³, Commission Regulation (EC) No. 1851/2006 of 14 December 2006⁴⁴, Council Regulation (EC) No. 1991/2006 of 21 December 2006⁴⁵, Commission Regulation (EC) No. 394/2007 of 12 April 2007⁴⁶ and Commission Regulation (EC) No. 807/2007 of 10 July 2007⁴⁷, hereby make the following Regulations—

1. These Regulations may be cited as the European Communities (Organic Farming) (Amendment) Regulations 2007.

2. The European Communities (Organic Farming) Regulations 2004 (S.I. No. 112 of 2004) are amended—

(a) in Regulation 2(1) by substituting for the definition of “European Regulation”, the following—

“ ‘European Regulation’ means Council Regulation (EEC) No. 2092/91 of 24 June 1991, as amended Commission Regulation (EEC)

²⁴OJ No. L75, p21, 16.3.2002.

²⁵OJ No. L168, p31, 27.6.2002.

²⁶OJ No. L289, p15, 26.10.2002.

²⁷OJ No. L31, p3, 6.2.2003.

²⁸OJ No. L85, p15, 2.4.2003.

²⁹OJ No. L122, p1, 16.5.2003.

³⁰OJ No. L206, p17, 15.8.2003.

³¹OJ No. L336, p68, 23.12.2003.

³²OJ No. L65, p1, 3.3.2004.

³³OJ No. L122, p10, 26.4.2004.

³⁴OJ No. L272, p11, 20.8.2004.

³⁵OJ No. L385, p20, 29.12.2004.

³⁶OJ No. L205, p16, 6.8.2005.

³⁷OJ No. L210, p11, 12.8.2005.

³⁸OJ No. L211, p11, 13.8.2005.

³⁹OJ No. L252, p1, 28.9.2005.

⁴⁰OJ No. L307, p10, 25.11.2005.

⁴¹OJ No. L104, p13, 13.4.2006.

⁴²OJ No. L121, p36, 6.5.2006.

⁴³OJ No. L137, p9, 25.5.2006.

⁴⁴OJ No. L355, p88, 15.12.2006.

⁴⁵OJ No. L411, p18, 30.12.2006.

⁴⁶OJ No. L98, p3, 13.4.2007

⁴⁷OJ No. L181, p10, 11.7.2007

No. 1535/92 of 15 June 1992, Council Regulation (EEC) No. 2083/92 of 14 July 1992, Commission Regulation (EEC) No. 207/93 of 29 January 1993, Commission Regulation (EEC) No. 2608/93 of 23 September 1993, Commission Regulation (EC) No. 468/94 of 2 March 1994, Council Regulation (EC) No. 1468/94 of 20 June 1994, Commission Regulation (EC) No. 2381/94 of 30 September 1994, Commission Regulation (EC) No. 1201/95 of 29 May 1995, Commission Regulation No. 1202/95 of 29 May 1995, Council Regulation (EC) 1935/95 of 22 June 1995, Commission Regulation (EC) No. 418/96 of 7 March 1996, Commission Regulation (EC) No. 1488/97 of 29 July 1997, Commission Regulation (EC) No. 1900/98 of 4 September 1998, Commission Regulation (EC) No. 330/1999 of 12 February 1999, Council Regulation (EC) No. 1804/1999 of 19 July 1999, Commission Regulation (EC) No. 331/2000 of 17 December 1999, Commission Regulation (EC) No. 1073/2000 of 19 May 2000, Commission Regulation (EC) No. 1437/2000 of 30 June 2000, Commission Regulation (EC) No. 2020/2000 of 25 September 2000, Commission Regulation (EC) No. 436/2001 of 2 March 2001, Commission Regulation (EC) No. 1788/2001 of 7 September 2001, Commission Regulation (EC) No. 2491/2001 of 19 December 2001, Commission Regulation (EC) No. 473/2002 of 15 March 2002, Commission Regulation (EC) No. 1113/2002, Commission Regulation (EC) No. 1918/2002 of 25 October 2002, Commission Regulation (EC) No. 223/2003 of 5 February 2003, Commission Regulation (EC) No. 599/2003 of 1 April 2003, Council Regulation (EC) No. 806/2003 of 14 April 2003, Commission Regulation (EC) No. 1452/2003 of 14 August 2003, Commission Regulation (EC) No. 2277/2003 of 22 December 2003, Council Regulation (EC) No. 392/2004, Commission Regulation (EC) No. 746/2004 of 22 April 2004, Commission Regulation (EC) No. 1481/2004 of 19 August 2004, Commission Regulation (EC) No. 2254/2004 of 27 December 2004, Commission Regulation (EC) No. 1294/2005 of 5 August 2005, Commission Regulation (EC) No. 1318/2005 of 11 August 2005, Commission Regulation (EC) No. 1336/2005 of 12 August 2005, Council Regulation (EC) No. 1567/2005 of 20 September 2005, Commission Regulation (EC) No. 1916/2005 of 24 November 2005, Commission Regulation (EC) No. 592/2006 of 12 April 2006, Commission Regulation (EC) No. 699/2006 of 5 May 2006, Commission Regulation (EC) No. 780/2006 of 24 May 2006, Commission Regulation (EC) No. 1851/2006 of 14 December 2006, Council Regulation (EC) No. 1991/2006 of 21 December 2006, Commission Regulation (EC) No. 394/2007 of 12 April 2007 and Commission Regulation (EC) No. 807/2007 of 10 July 2007.”,

(b) by inserting after Regulation 2 the following Regulation—

“Non-organic products

2A. A person shall not display for sale a product that is produced in accordance with the European Regulation and a product that is not produced in accordance with the European Regulation in such a manner that a customer may confuse a product that is not produced in

accordance with the European Regulation with a product that is produced in accordance with the European Regulation.”,

(c) by inserting after Regulation 5 the following Regulation—

“Organophosphates

5A. (1) Having regard to Article 12 of the European Regulation, a person, shall not, within the state, use a substance that consists of or contains an organophosphate in livestock production.

(2) A person shall not sell or supply a product produced in contravention of paragraph (1) as a product that purports to be produced in accordance with the European Regulation.”,

(d) by substituting for Regulation 9 the following—

“Functions of authorised officers

9. (1) If an authorised officer has reasonable cause to suspect that—

- (a) a product which purports to be a product to which the European Regulation applies, is present, has been present or may be present on a premises,
- (b) a product which purports to be a product to which the European Regulation applies is being, may be or has been produced, prepared, stored, imported from a third country, or otherwise dealt with on a premises,
- (c) a document relating to a product which purports to be a product to which the European Regulation applies is present, was present or may be present on a premises, or
- (d) an offence is being or has been committed under these Regulations,

the authorised officer may enter the premises and he or she may—

- (i) search the premises,
- (ii) stop a person, vehicle, vessel or container,
- (iii) board and search a vehicle, vessel or container,
- (iv) search a person, where the authorised officer considers it necessary,
- (v) examine a product, vehicle, vessel, container or other thing that may contain or consist of a product which purports to be a product to which the European Regulation applies,

- (vi) take, without payment, samples of a product or other thing or an article, substance or liquid as he or she may reasonably require and carry out or cause to be carried out on a sample such tests, analyses, examinations or inspections as he or she considers necessary or expedient,
- (vii) seize and detain (for so long as is necessary) a product, vehicle, vessel or container,
- (viii) require the production of a document or thing relating to a product, vehicle, vessel or container,
- (ix) retain a document or thing (for so long as is necessary),
- (x) dispose of, or require the owner or person in charge of or in possession of a product to deal with or dispose of it (or any equipment, machinery, plant or other thing used in connection with, or that may have been in contact with, the product) in a manner that the authorised officer sees fit,
- (xi) give a direction to, or request information of, a person regarding a product or a premises as he or she considers necessary,
- (xii) require the name and address of a person and the name and address of any other relevant person including the person to whom a product is being delivered or who is causing it to be delivered,
- (xiii) require of a person the ownership, identity and origin of a product, or
- (xiv) mark or otherwise identify a product or a sample taken under subparagraph (vi).

(2) 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 paragraph (8) other than if he or she has reasonable cause to suspect that before a search warrant could be sought in relation to the dwelling anything to which paragraph (1) relates is being or is likely to be destroyed or disposed of.

(3) An authorised officer may use reasonable force, if necessary, in exercise of his or her powers under this Regulation.

(4) 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.

(5) 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.

(6) Without prejudice to the generality of paragraph (1), a direction or requirement of an authorised officer may include conditions prohibiting, restricting or otherwise controlling the use, processing or movement of a product as may be specified by the authorised officer.

(7) If a member of the Garda Síochána has reasonable grounds to suspect that a person has committed an offence under these Regulations, the member may without warrant arrest the person.

(8) If a Judge of the District Court is satisfied, on the sworn information of an authorised officer that there are grounds for suspecting that there is a product to which the European Regulation applies on any premises or at any place or that is any apparatus or other equipment required by him or her for inspection or tests under this Regulation held in any premises or at any place, the Judge may issue a search warrant authorising an authorised officer, accompanied, if appropriate, by other authorised officers or by a member or members of the Garda Síochána at any time or times within one month from the date of issue of the warrant requested, to enter those premises or part of it, if need be by reasonable force, and exercise all or any of the powers conferred on an authorised officer under this Regulation.”,

(e) by substituting for Regulation 10 the following—

“Offences

10. A person who—

- (a) (i) contravenes Regulation 2A, 3, 4, 5, 5A, 6 or 7, or
 - (ii) Article 5, 6, 6a, 7, 8, 9, 10 or 11 of the European Regulation,
- (b) obstructs or impedes an authorised officer in the exercise of any of his or her functions under Regulation 9,
- (c) fails, without reasonable excuse to comply with a requirement or direction made by an authorised officer under Regulation 9,
- (d) in purporting to give information required by an authorised officer for the performance of the officer’s powers under Regulation 9—
 - (i) makes a statement to an authorised officer which he 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 any material particular to an authorised officer,

commits an offence and is liable on summary conviction to a fine not exceeding €5,000 or to a term of imprisonment not exceeding 6 months or to both.”,

- (f) by substituting for Regulation 11 the following—

“ Fixed penalty notice

11. (1) If an authorised officer has reasonable grounds for suspecting that a person is committing or has committed an offence under these Regulations, he or she may serve a notice (“fixed penalty notice”) in writing on that person stating that—

- (a) the person is alleged to have committed the offence,
- (b) the person may during the period of 28 days from the date of the notice make to the Minister a payment of €250 accompanied by the notice, and
- (c) 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.

- (2) If notice is given under paragraph (1)—

- (a) a 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.

(3) In a prosecution for an offence under these Regulations, the onus of proving that a payment pursuant to a notice under this Regulation has been made lies on the defendant.”, and

(g) by substituting Regulation 12 for the following—

“ Compliance notice

12. (1) Without prejudice to Regulation 9, if an authorised officer is of the opinion that—

- (a) the European Regulation or these Regulations are not being or have not been complied with or there are reasons to believe that the European Regulation or these Regulations will not be complied with, or
- (b) it is necessary, ancillary or supplementary for the European 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 premises or 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 European 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.

(2) A person shall comply with a compliance notice or a requirement of a compliance notice unless and until the notice is annulled under paragraph (9).

(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 a 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.

(6) A person affected by a compliance notice may, within 7 days of service of the compliance notice, apply to a Judge of the District Court having jurisdiction in the District Court District where the premises specified is situated or to a 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 is not reasonable, having regard to the European Regulation or these Regulations (in this Regulation referred to as “an appeal”).

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

(8) 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 European 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.

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

(10) 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.

(11) If—

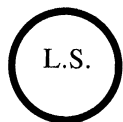
- (a) a person, by act or omission, fails to comply, whether within the time specified therein or otherwise, with a compliance notice (including a compliance notice modified in accordance with paragraph (9)), or
- (b) an authorised officer has reasonable cause to suspect—
 - (i) that a compliance notice (including a compliance notice modified in accordance with paragraph (9)) is not or will not be complied with, or
 - (ii) that pending the determination of an appeal, a product to which the compliance notice relates is not being or will not be dealt with other than in accordance with paragraph (10), an authorised officer may seize the product in such a manner as he or she thinks fit and sell or dispose of the product in such a manner as the authorised officer considers appropriate.

(12) Subject to paragraph (14), the proceeds of the sale or disposal of a product or other thing under paragraph (11) shall be paid to the owner of the product or other thing 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 product or other thing.

(13) The costs of seizure, sale or disposal of a product or other thing 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 Minister to a person on whom a notice has been served.

(14) The costs of any action required by a compliance notice shall be borne by the owner of a premises or a product to which the compliance notice relates.”.



GIVEN under my Official Seal,
3 October 2007

MARY COUGHLAN.
Minister for Agriculture and Food.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation)

These Regulations give further effect to Council Regulation (EEC) No. 2092/91 of 24 June 1991, as amended, providing additional powers for authorised officers including provision for the issue of fixed penalty notices and compliance notices.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ón
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TEACH SUN ALLIANCE, SRÁID THEACH LAIGHEAN, BAILE ÁTHA CLIATH 2
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