

**EXPLANATORY MEMORANDUM FOR EUROPEAN UNION LEGISLATION  
WITHIN THE SCOPE OF THE UK/EU WITHDRAWAL AGREEMENT AND  
NORTHERN IRELAND PROTOCOL**

**UNNUMBERED DOCUMENT**

**CONSOLIDATED TEXT OF REGULATION 2018/848**

**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**

Submitted by the Department for Environment, Food and Rural Affairs

17 March 2022

**SUBJECT MATTER**

1. Regulation (EU) 2018/848 sets out the rules on production, certification, labelling and advertising of organic food and feed. It applies to any organic products which are produced, processed, packed or imported in the EU or Northern Ireland.
2. Regulation (EU) 2018/848 came into force on 1 January 2022, repealing the previous Council Regulation (EC) 834/2007.
3. The implementation of Regulation 2018/848 was delayed by a year due to the disruption caused by the Covid-19 pandemic, as set out in the Explanatory Memorandum COM (20) 483.
4. Through the action of the Withdrawal Agreement and the Protocol on Ireland/Northern Ireland, Regulation 2018/848 now applies in Northern Ireland, while retained Regulation 834/2007 continues to apply in Great Britain, creating divergence. The Trade and Cooperation Agreement recognises the EU and UK as equivalent for the purpose of trade in organic products so there is no impact for GB/EU trade.
5. Regulation 2018/848 is the new “basic act” for EU organics. The delegated acts and implementing acts set out the detailed technical rules (see Annex B). Many of the requirements remain unchanged from the previous legislation, or have been subjected to minor alterations or clarifications. However, there are also some more substantial changes as outlined in points 6-15 below, as based on Soil Association’s published guidance.

6. **Transition period** – goods produced before 1 January 2022 may continue to be marketed as organic until stocks run out.
7. **Certification** – operators will need to be issued with a new certificate referencing Regulation 2018/848. An operator may not be certified by 2 different organic certification bodies for the same category of products in the same country.
8. **Cleaning and disinfection products** – the list of products permitted for use in cleaning and disinfection of buildings and equipment is restricted. This list is still being developed and implementing regulation 2021/1165 permits operators to use existing cleaning and disinfectant products until 31 December 2023.
9. **Non-organic inputs** – The list of permitted non-organic agricultural ingredients is considerably reduced, although implementing regulation 2021/1165 permits operators to use previously permitted non-organic agricultural ingredients until 31 December 2023. Derogations to use non-organic agricultural ingredients, where they are not available organically, will last up to 6 months and may be renewed twice, allowing a maximum derogation period of 18 months (Article 25 of Regulation 2018/848). Under the previous regulation, derogations lasted up to 12 months and could be renewed 3 times.
10. **Group certification** – a collective of small organic operators may obtain group certification. Under the previous regulation, certification was restricted to a single operator.
11. **Statement of agricultural origin** – The labelling may name a specific country of origin if at least 95% of the ingredients were farmed or grown in that country. This is change from the previous regulation, which required 98% of the ingredients to be farmed or grown in the named country.
12. **Natural flavourings** – there are new restrictions on the natural flavourings that are permitted. There is also a new requirement to include flavourings within the product percentage calculations.
13. **Crop Production**
  - After 12 months of conversion, seeds and propagating materials (not seedlings) may be marketed as 'in-conversion'.
  - Crop rotation is now required to include leguminous crops as a main or cover crop, as well as other green manure crops (with the exception of grassland and perennial forage).

- For greenhouses and perennial crops (other than forage), there is a requirement to include short-term green manure crops and legumes and introduce plant diversity.
- If the same variety of organic and conventional perennial crops are grown or if they are of different varieties but cannot be easily differentiated, the whole area must convert to organic production within 5 years.

#### **14. Livestock production**

- The proportion of feed which must come from the farm itself or, if that is not possible, must be produced in the region, remains at 60% initially, but will increase to 70% from 1 January 2024.
- During the second year of conversion, the maximum percentage of conversion feed not originating from the farm is reduced to 25%, compared to 30% under the previous regulation. Farmers may still feed organic livestock on 100% in-conversion feed when the feed is produced on their holding.
- If it is not possible to feed animals with maternal milk, the milk replacer must be 100% organic.
- It will no longer be permitted to carry out the final fattening phase for adult cattle for meat production exclusively indoors.

#### **15. Poultry**

- Non-organic pullets (defined as poultry under 18 weeks of age) may no longer be brought into organic flocks unless they are less than three days old.
- For young poultry and young pigs, the option of using 5% non-organic protein feed ends on 31 December 2026.
- Additional rules for livestock are provided in Commission Implementing Regulation 2020/464, including the following requirements for poultry:
  - Requirement that perches and/or raised sitting level should be available not only for laying hens, but for all poultry from an early age (except ducks and geese).
  - New requirements have been introduced allowing the subdivision of poultry houses into compartments to accommodate several batches, which must not be allowed to mix. The requirements differ according to the type of poultry.
  - There are several transitional periods for the requirements around poultry housing. These have various dates by which the new rules must be fully met. The longest transitional measures run until 2030.

### **SCRUTINY HISTORY**

16. The Parliamentary scrutiny history relevant to this Explanatory Memorandum is contained in the attached Annex A.

### **MINISTERIAL RESPONSIBILITY**

17. Responsibility lies with the Secretary of State for Environment, Food and Rural Affairs.

### **INTEREST OF THE DEVOLVED ADMINISTRATIONS**

18. The Devolved Administrations of Northern Ireland, Scotland and Wales were consulted on the production of this EM.

19. As an area of agriculture, much of the organics regime is devolved, for example matters relating to support for operators. Areas related to trade and international issues remain reserved matters.

### **LEGAL AND PROCEDURAL ISSUES**

20. The legislation has been adopted and implemented on 1 January 2022.

#### **i. Legal Basis**

The legal basis for Regulation 2018/848 is Article 43(2) of the Treaty on the Functioning of the European Union.

#### **ii. Voting Procedure**

The UK will not be involved in a voting procedure.

#### **iii. Timetable for adoption and implementation**

The new regulation came into force on 1 January 2022. The implementation of Regulation 2018/848 will require new domestic enforcement legislation in NI which is currently being drafted.

### **POLICY IMPLICATIONS**

21. Under the Northern Ireland Protocol, EU organic regulations continue to apply directly in NI.

22. The Northern Ireland Competent Authority (NICA) for organics currently sits as a separate entity within Defra. Defra officials work closely with their Northern Ireland counterparts on the implementation of Regulation 2018/848.

23. Officials from Defra and the NI Department of Agriculture, Environment and Rural Affairs (DAERA) meet regularly with organic control bodies and port health authorities operating in NI to resolve any technical queries and address industry concerns about the new Regulation.
24. Both Defra and DAERA are also working with colleagues in the Republic of Ireland to allow a common approach to organics across the island of Ireland where possible whilst respecting section 46 of the United Kingdom Internal Market Act 2020.
25. The implementation of Regulation 2018/848 creates divergence between Northern Ireland and Great Britain, with operators in Great Britain continuing to follow the retained Council Regulation 834/2007 and Commission Regulations 889/2008 and 1235/2008. Due to the Trade and Cooperation Agreement, this will have no impact to trade flows.
26. This means that NI operators must meet different standards from GB operators in some areas of organic production.
27. In particular, the requirement for organic pullets plus 100% organic poultry feed for older poultry under Regulation 2018/848, rather than 95% under retained Regulation 834/2007, means that NI operators are likely to face negligible higher production costs for eggs compared to their GB counterparts.
28. We recognise the impact the Northern Ireland Protocol is having on the ground. The UK Government has been clear for some time that the Protocol has been causing serious problems. That is why we are in negotiations with the EU to work towards a negotiated solution to sort out these very real issues for the people of Northern Ireland. It is perfectly possible for the United Kingdom and EU to work out a solution which delivers for the people of Northern Ireland.

## **CONSULTATION**

29. No consultation has taken place and impact assessment is not within scope.

## **FINANCIAL IMPLICATIONS**

30. Minimal financial implications to the industry as there are benefits for industry and many of the changes are introduced over a long phased period. One of the benefits of the new regulations is that it now requires 95% of organic ingredients in processed products compared to 98% of organic ingredients in the old regulation. Pullet rearing houses face additional costs for organic certification which puts them in line with the rest of the organic sector.

*Victoria Prentis*

**VICTORIA PRENTIS MP  
MINISTER OF STATE FOR FARMING, FISHERIES AND FOOD  
DEPARTMENT FOR ENVIRONMENT, FOOD AND RURAL AFFAIRS**

**PARLIAMENTARY SCRUTINY HISTORY RELEVANT TO A:**

**CONSOLIDATED TEXT OF REGULATION 2018/848**

**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**

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**EM COM (2020) 483 FINAL: PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL AMENDING REGULATION (EU) 2018/848 ON ORGANIC PRODUCTION AS REGARDS ITS DATE OF APPLICATION AND CERTAIN OTHER DATES REFERRED TO IN THAT REGULATION**

**DATE EM SIGNED: 21/09/2020**

**SCRUTINY COMMITTEES' RECOMMENDATIONS:**

<b>COMMONS</b>	<b>LORDS</b>
CLEARED AS NOT IMPORTANT (ESC Report no 23 1/10/2020)	CLEARED BY HOL LETTER 10/3/2021. SIFTED FOR SCRUTINY (EU ENVIRONMENT SUB COM) AT CHAIR'S SIFT no.28 on 30/9/2020

**EM 5227/20 + ADD 1: COMMISSION DELEGATED REGULATION (EU) .../... OF 13.1.2020 AMENDING ANNEX II TO REGULATION (EU) 2018/848 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL AS REGARDS CERTAIN DETAILED PRODUCTION RULES FOR ORGANIC PRODUCTS**

**DATE EM SIGNED: 02/02/2020**

**SCRUTINY COMMITTEES' RECOMMENDATIONS:**

<b>COMMONS</b>	<b>LORDS</b>
SCRUTINY COMPLETED (ESC report no.20 on 10/9/2020)	NOT SIFTED FOR SCRUTINY (ENERGY AND ENVIRONMENT) AT CHAIR'S SIFT no.2 no 12/2/2020

**EM 7956/14: PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON ORGANIC PRODUCTION AND LABELLING OF ORGANIC PRODUCTS, AMENDING REGULATION (EU) NO XXX/XXX OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL [OFFICIAL CONTROLS REGULATION] AND REPEALING COUNCIL REGULATION (EC) NO 834/2007**

**8194/14: COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS ACTION PLAN FOR THE FUTURE OF ORGANIC PRODUCTION IN THE EUROPEAN UNION**

**DATE EM SIGNED: 08/04/2014**

**SCRUTINY COMMITTEES' RECOMMENDATIONS:**

<b>COMMONS</b>	<b>LORDS</b>
NO FURTHER UPDATES 09/09/2015	CLEARED BY MINISTERIAL CORRESPONDENCE 04/03/2015 SIFTED TO SUB-COMMITTEE D AT CHAIRMAN'S SIFT 29/04/2014



**List of delegated and implementing acts amending, supplementing or pursuant to Regulation 2018/848**

**CORRIGENDUM to 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, the list of third countries and the list of control authorities and control bodies that have been recognised under Article 33(2) and (3) of**

Document type

Corrigendum

Reference

C(2022)1039

Date

15/02/2022

**Council Regulation (EC) No 834/2007 for the purpose of importing organic products into the Union (Official Journal of the European Union L 465 of 29 December 2021)**

Document type

Corrigendum

Reference

C(2022)1039

Date

15/02/2022

**COMMISSION DELEGATED REGULATION (EU) /... amending Annex II to Regulation (EU) 2018/848 of the European Parliament and of the Council as regards specific requirements for the production and use of non-organic, in-conversion and organic seedlings and other plant reproductive material**

Document type

Delegated regulation

Reference

C(2022)101

Date

17/01/2022

**COMMISSION IMPLEMENTING REGULATION (EU) /... establishing, pursuant to Regulation (EU) 2018/848 of the European Parliament and of the Council, the list of third countries and the list of control authorities and control bodies that have been recognised under Article 33(2) and (3) of Council Regulation (EC) No 834/2007 for the purpose of importing organic products into the Union**

Document type

Implementing regulation

Reference

C(2021)9341

Date

16/12/2021

**CORRIGENDUM to Commission Delegated Regulation of 18 October 2021 supplementing Regulation (EU) 2018/848 of the European Parliament and of the Council with rules on the issuance of complementary certificates certifying the non-use of antibiotics in organic production of animal products for the purpose of export (C(2021) 7376 final)**

Document type

Corrigendum

Reference

C(2021)8916

Date

13/12/2021

**CORRIGENDUM to Commission Delegated Regulation of 21 October 2021 supplementing Regulation (EU) 2018/848 of the European Parliament and of the Council with rules on the official controls in respect of consignments of organic products and in-conversion products intended for import into the Union and on the certificate of inspection**

Document type

Corrigendum

Reference

C(2021)8944

Date

03/12/2021

**COMMISSION IMPLEMENTING REGULATION (EU) .../... 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 and amending Commission Implementing Regulation (EU) 2021/1378 as regards the issuance of the certificate for operators, groups of operators and exporters in third countries**

Document type

Implementing regulation

Reference

C(2021)8546

Date

01/12/2021

**CORRIGENDUM to Commission Delegated Regulation (EU) 2021/771 of 21 January 2021 supplementing Regulation (EU) 2018/848 of the European Parliament and of the Council by laying down specific criteria and conditions for the checks of documentary accounts in the framework of official controls in organic production and the official controls of groups of operators (Official Journal of the European Union OJ L 165 of 11.5.2021)**

Document type

Corrigendum

Reference

C(2021)8348

Date

15/11/2021

**COMMISSION IMPLEMENTING REGULATION (EU) .../... 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 as regards the documents needed for the retroactive recognition of periods for the purpose of conversion, the production of organic products and information to be provided by Member States**

Document type

Implementing regulation

Reference

C(2021)7761

Date

04/11/2021

**COMMISSION DELEGATED REGULATION (EU) .../... supplementing Regulation (EU) 2018/848 of the European Parliament and of the Council with rules on the official controls in respect of consignments of organic products and in-conversion products intended for import into the Union and on the certificate of inspection**

Document type

Delegated regulation

Reference

C(2021)7387

Date

21/10/2021

**COMMISSION IMPLEMENTING REGULATION (EU) .../... 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 as regards the documents needed for the retroactive recognition of periods for the purpose of conversion, the production of organic products and information to be provided by Member States**

Document type

Implementing regulation

Reference

C(2021)7475

Date

21/10/2021

**COMMISSION DELEGATED REGULATION (EU) .../... supplementing Regulation (EU) 2018/848 of the European Parliament and of the Council with rules on the issuance of complementary certificates certifying the non-use of antibiotics in**

**organic production of animal products for the purpose of export**

Document type

Delegated regulation

Reference

C(2021)7376

Date

18/10/2021

**COMMISSION IMPLEMENTING REGULATION (EU) .../... 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**

Document type

Implementing regulation

Reference

C(2021)6052

Date

19/08/2021

**COMMISSION DELEGATED REGULATION (EU) .../... amending Regulation (EU) 2018/848 of the European Parliament and of the Council as regards the criteria for the recognition of control authorities and control bodies that are competent to carry out controls on organic products in third countries, and for the withdrawal of their recognition**

Document type

Delegated regulation

Reference

C(2021)5010

Date

13/07/2021

**COMMISSION DELEGATED REGULATION (EU) .../... supplementing Regulation (EU) 2018/848 of the European Parliament and of the Council with procedural requirements for the recognition of control authorities and control bodies that are competent to carry out controls on operators and groups of operators certified organic and on organic products in third countries and with rules on their supervision and the controls and other actions to be performed by those control authorities and control bodies**

Document type

Delegated regulation

Reference

C(2021)5100

Date

13/07/2021

**COMMISSION DELEGATED REGULATION (EU) .../... amending Annex II to**

**Regulation (EU) 2018/848 of the European Parliament and of the Council as regards the requirements for record-keeping for operators in organic production**

THIS DELEGATED REGULATION WAS DEPOSITED AS PROPOSAL 10741/21

Document type

Delegated regulation

Reference

C(2021)5001

Date

12/07/2021

**COMMISSION DELEGATED REGULATION (EU) .../... supplementing Regulation (EU) 2018/848 of the European Parliament and of the Council with rules on the information to be sent by third countries and by control authorities and control bodies for the purpose of supervision of their recognition under Article 33(2) and (3) of Council Regulation (EC) No 834/2007 for imported organic products and the measures to be taken in the exercise of that supervision**

Document type

Delegated regulation

Reference

C(2021)3572

Date

27/05/2021

**COMMISSION DELEGATED REGULATION (EU) .../... supplementing Regulation (EU) 2018/848 of the European Parliament and of the Council as regards the production and marketing of plant reproductive material of organic heterogeneous material of particular genera or species**

Document type

Delegated regulation

Reference

C(2021)3163

Date

07/05/2021

**COMMISSION DELEGATED REGULATION (EU) .../... amending Regulation (EU) 2018/848 of the European Parliament and of the Council as regards the model of the certificate attesting compliance with the rules on organic production**

Document type

Delegated regulation

Reference

C(2021)2360

Date

12/04/2021

**CORRIGENDUM to Commission Delegated Regulation of 20 January 2021 amending Regulation (EU) 2018/848 of the European Parliament and of the**

**Council as regards the requirements for groups of operators (C(2021) 166 final)**

Document type

Corrigendum

Reference

C(2021)2362

Date

12/04/2021

**COMMUNICATION TO THE COMMISSION on the adoption of the Irish language version of Commission Delegated Regulation (EU) of 30 October 2020 amending Annex III to Regulation (EU) 2018/848 of the European Parliament and of the Council as regards certain information to be provided on the labelling of organic products (C(2020)7397 final)**

Document type

Communication

Reference

C(2021)2265

Date

08/04/2021

**COMMISSION IMPLEMENTING REGULATION (EU) .../... laying down detailed rules for the implementation of Regulation (EU) 2018/848 of the European Parliament and of the Council on controls and other measures ensuring traceability and compliance in organic production and the labelling of organic products**

Document type

Implementing regulation

Reference

C(2021)939

Date

22/02/2021

**COMMISSION DELEGATED REGULATION (EU) .../... amending Annex II to Regulation (EU) 2018/848 of the European Parliament and of the Council as regards organic production rules on sprouted seeds and chicory heads, on feed for certain aquaculture animals and on aquaculture parasite treatments**

Document type

Delegated regulation

Reference

C(2021)667

Date

09/02/2021

**COMMISSION DELEGATED REGULATION (EU) .../... supplementing Regulation (EU) 2018/848 of the European Parliament and of the Council by laying down specific criteria and conditions for the checks of documentary accounts in the framework of official controls in organic production and the official controls of groups of operators**

Document type  
Delegated regulation

Reference  
C(2021)254

Date  
21/01/2021

**COMMISSION DELEGATED REGULATION (EU) .../... amending Regulation (EU) 2018/848 of the European Parliament and of the Council as regards the requirements for groups of operators**

Document type  
Delegated regulation

Reference  
C(2021)166

Date  
20/01/2021

**CORRIGENDUM to Commission Delegated Regulation (EU) 2020/1794 of 16 September 2020 amending Part I of Annex II to Regulations (EU) 2018/848 of the European Parliament and of the Council as regards the use of in-conversion and non-organic plant reproductive material (Official Journal of the European Union L 402 of 1 December 2020)**

Document type  
Corrigendum

Reference  
C(2020)9516

Date  
21/12/2020

**COMMISSION IMPLEMENTING REGULATION (EU) .../... 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**

Document type  
Implementing regulation

Reference  
C(2020)8722

Date  
11/12/2020

**COMMISSION DELEGATED REGULATION (EU) .../... amending Delegated Regulation (EU) 2020/427 as regards the date of application of the amendments to certain detailed production rules for organic products in Annex II to Regulation (EU) 2018/848 of the European Parliament and of the Council**

Document type  
Delegated regulation

Reference  
C(2020)8462

Date

04/12/2020

**COMMISSION DELEGATED REGULATION (EU) .../... amending Annex III to Regulation (EU) 2018/848 of the European Parliament and of the Council as regards certain information to be provided on the labelling of organic products**

Document type

Delegated regulation

Reference

C(2020)7397

Date

30/10/2020

**COMMISSION DELEGATED REGULATION (EU) .../... supplementing Regulation (EU) 2018/848 of the European Parliament and of the Council as regards exceptional production rules in organic production**

Document type

Delegated regulation

Reference

C(2020)2990

Date

24/09/2020

**COMMISSION DELEGATED REGULATION (EU) .../... amending Part I of Annex II to Regulation (EU) 2018/848 of the European Parliament and of the Council as regards the use of in-conversion and non-organic plant reproductive material**

Document type

Delegated regulation

Reference

C(2020)6224

Date

16/09/2020

**Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) 2018/848 on organic production as regards its date of application and certain other dates referred to in that Regulation**

THIS DOCUMENT WAS DEPOSITED WITH AN EM IN 2020 AS COM(20)483

Document type

Proposal for a regulation

Reference

COM(2020)483

Date

04/09/2020

**COMMISSION IMPLEMENTING REGULATION (EU) .../... laying down certain rules for the application of Regulation (EU) 2018/848 of the European Parliament and of the Council as regards the documents needed for the retroactive**



**recognition of periods for the purpose of conversion, the production of organic products and information to be provided by Member States**

Document type

Implementing regulation

Reference

C(2020)1772

Date

26/03/2020

**COMMISSION DELEGATED REGULATION (EU) .../... amending Annex II to Regulation (EU) 2018/848 of the European Parliament and of the Council as regards certain detailed production rules for organic products**

THIS DELEGATED ACT WAS DEPOSITED IN 2020 AS PROPOSAL 5227/20

Document type

Delegated regulation

Reference

C(2020)51

Date

13/01/2020