

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

15533/22

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EXPLANATORY MEMORANDUM (EM) FOR PROPOSAL OF A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON THE LABELLING OF ORGANIC PET FOOD

Submitted by the Department for Environment, Food and Rural Affairs

09 January 2023

SUBJECT MATTER

1. By virtue of the Northern Ireland Protocol, the EU organic regulations continue to apply in respect of Northern Ireland. This includes Regulation (EU) 2018/848 which came into force on 1 January 2022, repealing Council Regulation (EC) 834/2007.
2. Regulation (EU) 2018/848 sets out the rules on production, certification, labelling and advertising of organic food and feed. It applies to organic products which are produced, processed, packed, sold or imported into the EU or Northern Ireland.
3. A proposal to establish specific labelling rules in addition to Regulation (EU) 2018/848 for organic pet food has been proposed by The European Parliament and by the Council. This Explanatory Memorandum outlines the changes and impacts to Northern Ireland under this proposal.

Background

4. Since 1 January 2022 when the new EU regulation 2018/848 came into force, pet food can no longer be labelled as organic unless it meets the rules of the regulation. The rules for organic pet food are not actually defined in the regulation, hence, this proposed new regulation aims to fill this gap.
5. Under Regulation (EU) 2018/848, while non-organic ingredients of agricultural origin are authorised in the production of organic feed for pets (pet food), the feed cannot be marketed or sold as organic unless at least 95% of the agricultural ingredients are organic.
6. As pet food is sold directly to final consumers, the rules for pet food will now be required to mirror the rules imposed for organic food for human consumption. Specific labelling requirements will be adopted to inform the consumer that the product is produced in compliance with the organic regulations. This includes:

- a. Pet food produced in accordance with Regulation (EU) 2018/848 and contains at least 95% organic agricultural ingredients being labelled as organic and bearing the organic production logo of the European Union;
 - b. Pet food produced in accordance with Regulation (EU) 2018/848 and containing less than 95% organic agricultural ingredients can only include references to the organic ingredients in the 'list of ingredients' and cannot include the organic production logo of the European Union.
7. This regulation will encourage and support the further development of the organic pet food sector by allowing producers to use the organic production logo of the European Union when promoting their products.
8. In summary, the Commission has proposed to establish a new regulation on specific labelling rules for organic pet food both produced in the EU and imported from third countries, which will be directly applicable in all Member States and Northern Ireland.

SCRUTINY HISTORY

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

MINISTERIAL RESPONSIBILITY

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

INTEREST OF THE DEVOLVED ADMINISTRATIONS

11. Defra officials meet monthly with the Devolved Governments through the Organics Four Nations Working Group to discuss organic policy across the United Kingdom. The Devolved Administrations of Northern Ireland, Scotland and Wales were consulted and agreed to the production of this EM.

LEGAL AND PROCEDURAL ISSUES

12.

i. Legal Basis

Article 43(2) of the Treaty on the Functioning of the European Union.

ii. Voting Procedure

Ordinary legislative procedure.

iii. Timetable for adoption and implementation

The proposed Regulation shall enter into force on the third day following that of its publication in the Official Journal of the European Union.

POLICY IMPLICATIONS

13. Under the Northern Ireland Protocol, EU organic regulations continue to apply directly in NI. Defra officials work closely with their Northern Ireland counterparts on the implementation of Regulation (EU) 2018/848.
14. Regulation (EU) 2018/848 creates further divergence between Northern Ireland and Great Britain, with operators in Great Britain continuing to follow Retained Regulations 834/2007, 889/2008 and 1235/2008. This means NI operators must meet different standards from GB operators in some areas of organic production.
15. The new Regulation would be subject to Article 13(4) of the Northern Ireland Protocol as a new act that falls within the scope of the Protocol, but which neither amends nor replaces a Union act listed in the Annexes to the Protocol. Should the proposed Regulation enter into force in Northern Ireland pursuant to the Protocol, businesses in Northern Ireland would need to adhere to the specific labelling rules imposed.
16. The trade of organic products between the UK and the EU is provided for in the Trade and Cooperation Agreement (TCA), Annex 14: Organic Products. Article 5 of the TCA requires organic products imported into the EU and/or NI to meet the labelling rules of the importing party. Therefore, should Annex 14 be updated to include reference to the new regulation, this change means that GB businesses importing organic pet food into NI must meet the labelling requirements imposed by this regulation.
17. Pet food currently certified as organic in GB is produced to the same standards as food for human consumption, which requires at least 95% of the ingredients to be organic, therefore the only changes to businesses in UK would be in regard to labelling requirements, including use of the organic production logo of the European Union.
18. We are aware that the implementation of the Northern Ireland Protocol is causing significant problems. It is our preference to find a negotiated solution and resolve these problems through ongoing talks with the EU. If these fail, we have tabled the Northern Ireland Protocol Bill which seeks to forge a way forward in reducing the negative impact of the Protocol on traders, manufacturers and consumers in GB and NI.

CONSULTATION

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

FINANCIAL IMPLICATIONS

20. Not applicable.

A handwritten signature in grey ink, appearing to read 'M. Spencer'.

**THE RT. HON. MARK SPENCER M.P.
MINISTER OF STATE FOR FOOD, FARMING AND FISHERIES
DEPARTMENT FOR ENVIRONMENT, FOOD AND RURAL AFFAIRS**

PARLIAMENTARY SCRUTINY HISTORY RELEVANT TO A:

PROPOSAL OF A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON THE LABELLING OF ORGANIC PET FOOD

THE CONSOLIDATED TEXT OF EP AND COUNCIL REGULATION 2018/848 ON ORGANIC PRODUCTION AND LABELLING OF ORGANIC PRODUCTS AND REPEALING COUNCIL REGULATION 834/2007

DEFRA EM DATED 17 MARCH 2022.

SCRUTINY COMMITTEES' RECOMMENDATIONS:

COMMONS	LORDS
THE HOUSE OF COMMONS EUROPEAN SCRUTINY COMMITTEE CONSIDERED THE TEXT RAISED ISSUES OF POLITICAL IMPORTANCE IN REPORT 12, 22/23 AND SCRUTINY WAS COMPLETED ON 11 MAY 2022.	CLEARED BY HOL LETTER 1 JULY 2022