EXPLANATORY MEMORANDUM TO

THE ORGANIC PRODUCTION (CONTROL OF IMPORTS) (AMENDMENT) REGULATIONS 2023

2023 No. 889

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Environment, Food and Rural Affairs and is laid before Parliament by Command of His Majesty.

2. Purpose of the instrument

2.1 The purpose of this statutory instrument is to remove redundant references to transitional period provisions concerning certificates of inspection in relation to the imports of organic products from third countries. To ensure imports of organic products from third countries were not interrupted during the UK-EU transition period, provisions were introduced to clarify what actions were required when importing those products. As the transition period ended on 31 December 2022 these provisions are now redundant: this statutory instrument removes them. This will clarify the requirements associated with importing organic products from third countries and third country control bodies.

2.2 The legislation amended by this instrument is:

- Retained Commission Regulation (EC) No 1235/2008 laying down detailed rules for the implementation of Council Regulation (EC) No 834/2007 as regards the arrangements for imports of organic products from third countries (EUR 2008/1235).

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Extent and Territorial Application

4.1 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales and Scotland.

4.2 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England and Wales and Scotland.

5. European Convention on Human Rights

5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

6. Legislative Context

6.1 This instrument makes amendments to retained EU legislation.

6.2 Under Article 33 of Council Regulation (EC) No 834/2007, organic products may be imported from third countries where the competent authorities, control authorities or control bodies of the third country are recognised as equivalent with GB. The Regulation also requires any organic imports from third countries to be accompanied by a certificate of inspection (COI).

6.3 The requirements regarding submission, receipt and endorsement of a COI are described in Article 13 of Commission Regulation (EC) No 1235/2008. The COI template and template extract are held in Annex V and VI of this Regulation, respectively.

6.4 Commission Regulation (EC) No 1235/2008 was amended by S.I. 2019/692 (itself amended by S.I. 2020/1452, 1661), 2020/1452, 2021/1266, 2022/609) to, amongst other things, make clear the requirements relating to certificates of inspection for the import of organic products during the UK-EU transition period. Specifically, three paragraphs were added to Article 13 (8) – (10), and consequential amendments were made to the COI template and extract in Annexes V and VI.

6.5 As the transition period ended on 31st December 2022, these provisions are redundant and should be removed from Article 13 of Regulation 1235/2008. Consequential amendments should also be made to Annexes V and VI of that Regulation.

7. Policy background

What is being done and why?

7.1 Great Britain now recognises third countries and third country control bodies operating in third countries to an equivalent GB standard rather than equivalent EU standards. Expired provisions describing requirements related to certificates of inspection for organic imports from third countries are being removed from Commission Regulation (EC) No 1235/2008. Associated text is being consequently removed from the COI template and COI extract template and notes in the same Regulation.

Explanations

What did any law do before the changes to be made by this instrument?

7.2 The COI templates and notes allowed for organic products to imported into Great Britain which were certified to an equivalent EU standard. This was a transitional period to allow for trade arrangements to be rolled over and for around 50 recognised control bodies operating in third countries to apply to be recognised to an equivalent GB standard for organic products.

Why is it being changed?

7.3 The references to regulations as they apply in the EU are now redundant so can be removed.

What will it now do?

7.4 The COI templates and notes will now only refer to standards as they apply in Great Britain. This means that only organic products which are equivalent to GB standards can be imported into Great Britain. We no longer accept organic products to equivalent EU standards.

8. European Union Withdrawal and Future Relationship

8.1 This instrument amends retained European legislation but does not use powers or trigger the statement requirements under the European Union (Withdrawal) Act 2018.

9. Consolidation

9.1 Defra does not intend to consolidate the relevant legislation at this time.

10. Consultation outcome

10.1 Targeted consultation of the Scottish and Welsh Governments was carried out via the organics Four Nations Working Group. This instrument, and the policy reflected within it, has been developed in collaboration with officials in the Scottish and Welsh Devolved Governments. These amendments to retained Regulation (EC) No 1235/2008 will not apply to Northern Ireland.

10.2 Due to the limited scope of this statutory instrument, a full public consultation was not considered appropriate.

11. Guidance

11.1 The clarification of these requirements will be communicated to the UK organic Control Bodies, who will disseminate the information to operators. Guidance with updated documents will be sent to third countries and third country control bodies.

11.2 The Devolved Governments are aware of the Statutory Instrument and the impacts it will have. No further guidance is needed.

12. Impact

12.1 There is no, or no significant, impact on business, charities or voluntary bodies.

12.2 There is no, or no significant, impact on the public sector.

12.3 An Impact Assessment has not been prepared for this instrument because there is a very low level of impact on businesses: this statutory instrument will remove redundant provisions and improve clarity of operators' obligations.

13. Regulating small business

13.1 The legislation applies to activities that are undertaken by small businesses.

13.2 No specific action is proposed to minimise regulatory burdens on small businesses, as this statutory instrument does not alter the regulatory burden.

14. Monitoring & review

14.1 The instrument does not include a statutory review clause, because the expected impact on businesses is significantly below £5 million and a review would be disproportionate.

14.2 Ongoing review and monitoring of this instrument is not necessary given it is removing redundant references and will not materially impact operators.

15. Contact

15.1 Megan Young at the Department for Environment, Food and Rural Affairs. Telephone: 02078955425 or email: megan.young@defra.gov.uk can be contacted with any queries regarding the instrument.

15.2 Karen Lepper, Deputy Director for Food Data Standards and Sustainability at the Department of the Environment, Food and Rural Affairs can confirm that this Explanatory Memorandum meets the required standard.

15.3 Rt Hon Mark Spencer MP, Minister of State for Food at the Department for Environment, Food and Rural Affairs can confirm that this Explanatory Memorandum meets the required standard.