



ORGANIC PRODUCTS REGULATIONS 2020

Index

Regulation	Page
PART 1	3
INTRODUCTORY PROVISIONS	3
1 Title	3
2 Commencement	3
3 Interpretation.....	3
PART 2	5
DESIGNATIONS AND EXEMPTIONS	5
4 Designation of competent authority etc.	5
5 Exemption from requirement to adhere to control system.....	5
PART 3	5
CONTROL OF THIRD COUNTRY IMPORTS	5
6 Advance notification	5
7 Control on movement	6
8 Consent to movement	6
PART 4	7
OFFENCES AND ENFORCEMENT	7
9 Obtaining samples and analysis etc.	7
10 Offences.....	8
11 Penalties	8
12 Offence due to fault of another person.....	8
13 Defence of due diligence.....	8
14 Enforcement.....	9
15 Powers of entry	9
16 Powers following entry.....	10
17 Power to require assistance	10
18 Obstruction etc. of authorised officers.....	11
19 Time limit for bringing prosecutions.....	11
20 Protection of officers etc. acting in good faith	11

21	Power to share information	11
SCHEDULE		13
SPECIFIED PROVISIONS		13

Statutory Document No. 2020/0580



European Communities (Isle of Man) Act 1973

ORGANIC PRODUCTS REGULATIONS 2020

Laid before Tynwald:

Coming into Operation: in accordance with regulation 2

The Council of Ministers makes the following Regulations under sections 2B and 2C of the European Communities (Isle of Man) Act 1973¹.

PART 1

INTRODUCTORY PROVISIONS

1 Title

These Regulations are the Organic Products Regulations 2020.

2 Commencement

These Regulations come into operation on the day they are made².

3 Interpretation

(1) In these Regulations—

“**authorised officer**” means a person authorised in writing by the Department for the purposes of these Regulations;

“**Commission Regulation 889/2008**” means Commission Regulation (EC) No 889/2008 laying down detailed rules for the implementation of Council Regulation (EC) No 834/2007 on organic production and labelling of

¹ In accordance with regulation 6 (Saving of the European Communities (Isle of Man) Act 1973 for implementation period) of the European Union and Trade Act 2019 (Withdrawal Agreement) Regulations 2020.

² Section 2B(9) of the European Communities (Isle of Man) Act 1973 specifies that regulations made under section 2B shall be laid before Tynwald as soon as possible after they are made and if Tynwald at the sitting before which the regulations are laid or at the next following sitting resolves that the regulations shall be annulled, the regulations shall upon such resolution cease to have effect.

organic products with regard to organic production, labelling and control³;

“**Commission Regulation 1235/2008**” means Commission Regulation (EC) No 1235/2008 laying down detailed rules for implementation of Council Regulation (EC) No 834/2007 as regards the arrangements for imports of organic products from third countries⁴;

“**consignment**” means a quantity of products being imported into the Isle of Man from a third country;

“**controlled consignment**” means any consignment the movement of which is, for the time being, prohibited under regulation 7;

“**Council Regulation 834/2007**” means Council Regulation (EC) No 834/2007 on organic production and labelling of organic products⁵;

“**Department**” means the Department of Environment, Food and Agriculture;

“**holding**” has the meaning given in Article 2(e) of Commission Regulation 889/2008;

“**importer**” means any person who imports from a third country any products referred to in Article 1 of Council Regulation 834/2007 with a view to the subsequent placing on the market of such products, and cognate expressions are construed accordingly;

“**organic product**” means a product referred to in Article 1(2) of Council Regulation 834/2007, as read with Article 1(2) of Commission Regulation 889/2008;

“**organic production**” has the same meaning as in Article 2(a) of Council Regulation 834/2007;

“**place of import**” means the place at which a consignment first arrives in the Isle of Man;

“**specified provision**” means those provisions specified in column 1 of the table in the Schedule, as read with any supplementary provisions specified in column 2 of that Schedule; and

“**third country**” means any country or territory other than —

- (a) the Isle of Man;
- (b) the United Kingdom;
- (c) the Bailiwick of Guernsey;
- (d) the Bailiwick of Jersey; or
- (e) until IP completion day, a member State.

³ OJ L 250, 18.9.2008, p. 1.

⁴ OJ L 334, 12.12.2008, p. 25.

⁵ OJ L 189, 20.7.2007, p.1.

- (2) Other expressions used in these Regulations have the same meaning as in Commission Regulation 889/2008, Commission Regulation 1235/2008 or Council Regulation 834/2007.

PART 2

DESIGNATIONS AND EXEMPTIONS

4 Designation of competent authority etc.

- (1) The Department is the competent authority for the purposes of Council Regulation 834/2007, Commission Regulation 889/2008 and Commission Regulation 1235/2008.
- (2) The Department is the authority responsible for the purposes of Article 28(3) of Council Regulation 834/2007 for the receipt of notification of the information specified in Article 63(3) of Commission Regulation 889/2008 made by an operator under Article 28(1)(a) of Council Regulation 834/2007.

5 Exemption from requirement to adhere to control system

Article 28 of Council Regulation 834/2007 (requirements to notify activities and submit undertakings to the control system) does not apply to an operator who sells an organic product directly to the final consumer or user, provided that the operator does not produce, prepare, store other than in connection with the point of sale, or import such a product from a third country, or has not contracted out such activities to a third party.

PART 3

CONTROL OF THIRD COUNTRY IMPORTS

6 Advance notification

- (1) A person seeking the release for free circulation in the Isle of Man of a consignment must, during the normal office hours of the Department, give to an authorised officer advance notice in writing of the intended arrival of the consignment in the Isle of Man directly from a third country.
- (2) Any such notice must be given at least six hours in advance in relation to a consignment arriving by air and at least twenty four hours in advance in relation to a consignment arriving by sea.

7 Control on movement

- (1) An authorised officer may prohibit the movement of a consignment from the place of import or from any other place from which release for free circulation in the Isle of Man is being sought if the officer has reason to believe that there has been a failure to comply with any relevant provision of Council Regulation 834/2007 or Commission Regulation 1235/2008.
- (2) An officer who has prohibited such movement must, as soon as possible, give written notice to the importer or person who appears to the officer to be in charge of the consignment.
- (3) The notice must—
 - (a) specify the controlled consignment;
 - (b) state that it may not be moved without the written consent of an authorised officer;
 - (c) specify the relevant provision of Council Regulation 834/2007 or Commission Regulation 1235/2008 in respect of which the officer has reason to believe that there has been a failure to comply; and
 - (d) specify what steps, if any, might be taken to achieve compliance with those provisions, and within what time such steps must be taken.
- (4) Where—
 - (a) no steps are specified for the purposes of paragraph (3)(d), or
 - (b) there has been a failure to take such steps as are specified within the time specified,an authorised officer may order that, under supervision, the controlled consignment be destroyed or otherwise disposed of.
- (5) If the person to whom the authorised officer gives the notice does not appear to the officer to be the importer or an agent, contractor or employee of the importer, the officer must use best endeavours to bring the contents of the notice to the attention of such a person as soon as possible.
- (6) An authorised officer may affix to any controlled consignment, or to any container in which the controlled consignment is packed, labels warning of the prohibition on movement.
- (7) An authorised officer who is satisfied that the steps specified in the notice under paragraph (3)(d) have been taken must, as soon as possible, remove the prohibition on movement.

8 Consent to movement

- (1) An authorised officer may, at any time, give written consent to the movement of a controlled consignment.

- (2) An authorised officer must, on request, give written consent to the movement of a controlled consignment if that officer or another authorised officer has been given a written undertaking by the importer to the effect that the consignment will—
 - (a) be moved to a place specified by an authorised officer; and
 - (b) not be moved from that place without the written consent of an authorised officer.
- (3) Any consent given under this regulation must—
 - (a) specify the controlled consignment to which it relates;
 - (b) specify the place to which the controlled consignment is to be moved; and
 - (c) state that the controlled consignment continues to be controlled.
- (4) Where such a consent has been given and the consignment has been moved to the place in question, the prohibition on movement under regulation 7 applies to it at the place in question as it applied at the place where the prohibition on movement under that regulation last applied.

PART 4

OFFENCES AND ENFORCEMENT

9 Obtaining samples and analysis etc.

- (1) An authorised officer may, for the purposes of ascertaining whether any offence under these Regulations has been committed, take a sample of any organic product.
- (2) An authorised officer who considers that the sample should be analysed, examined or tested, must submit it for that purpose to the public analyst for the Isle of Man (or, if the office of the public analyst for the Isle of Man is vacant, to a public analyst elsewhere in the British Islands).
- (3) The public analyst must then—
 - (a) ensure that the sample is analysed, examined or tested as soon as practicable; and
 - (b) give the person who submitted the sample a certificate specifying the result.
- (4) In any proceedings, the production by one of the parties—
 - (a) of a document purporting to be a certificate under paragraph (3)(b); or
 - (b) of a document supplied to the party by the other party as being a copy of such a certificate,

is evidence of the facts stated in it unless, in a case falling within subparagraph (a), the other party requires that the analyst be called as a witness.

- (5) In any such proceedings, if a person charged or summonsed intends to produce a certificate of a public analyst or require, under paragraph (4), the analyst to be called as a witness, written notice of the intention together with a copy of the certificate (if appropriate) must be given to the other party at least three clear days before the hearing or trial.
- (6) If such notice is not given, the court may adjourn the proceedings on such terms as it thinks fit.
- (7) In this regulation, “public analyst” has the same meaning as in section 22 of the Food Act 1996.

10 Offences

- (1) The Schedule (specified provisions) has effect.
- (2) It is an offence for a person to contravene any of the specified provisions or regulation 6 (advance notification).
- (3) It is an offence for a person, knowing a consignment to be a controlled consignment—
 - (a) to move it or cause it to be moved otherwise than in accordance with the written consent of an authorised officer; or
 - (b) to remove or cause to be removed from it a label which has been affixed under regulation 7(6).

11 Penalties

A person guilty of an offence under these Regulations is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

12 Offence due to fault of another person

- (1) Where the commission by a person (“A”) of an offence under regulation 11 is due to the act or default of another person (“B”), B is guilty of the offence.
- (2) B may be charged with and convicted of the offence whether or not proceedings are taken against A.

13 Defence of due diligence

- (1) In proceedings against a person for an offence under regulation 11, it is a defence for the person to prove that all reasonable precautions were taken and due diligence was exercised to avoid committing the offence.

- (2) However, where the defence provided by paragraph (1) involves an allegation that the commission of the offence was due to the act or default of another person, a person (“A”) is not, without leave of the court, entitled to rely on that defence unless A has served on the prosecutor a notice in writing in accordance with paragraph (3) giving such information identifying or assisting in the identification of that other person as was then in A's possession.
- (3) The notice must be served—
 - (a) at least seven clear days before the hearing; and
 - (b) where A has previously appeared before a court in connection with the alleged offence,
within one month of A's first such appearance.

14 Enforcement

These Regulations and the specified provisions are enforced by the Department.

15 Powers of entry

- (1) An authorised officer may, on producing (if so required) a duly authenticated document showing the officer's authority, at all reasonable hours enter any premises for the purposes of enforcing the specified provisions or these Regulations.
- (2) The authorised officer may be accompanied by such other persons as the officer considers necessary.
- (3) If a justice of the peace is satisfied on sworn information that there are reasonable grounds for believing—
 - (a) that an offence under these Regulations is being, or has been committed on any premises; and
 - (b) that any of the conditions in paragraph (4) is met in relation to the premises,
the justice of the peace may by signed warrant authorise an authorised person to enter the premises, if need be by force.
- (4) The conditions referred to are—
 - (a) that entry to the premises has been, or is likely to be, refused and notice of the intention to apply for a warrant under this regulation has been given to the occupier;
 - (b) that the case is one of urgency and the premises are unoccupied or the occupier is temporarily absent;
 - (c) that an application for admission to the premises or the giving of notice of the intention to apply for a warrant would defeat the object of entry.

- (5) A warrant under this regulation is valid for one month.
- (6) An authorised officer who enters any premises that are unoccupied or from which the occupier is temporarily absent must leave them as effectively secured against unauthorised entry as they were before entry.
- (7) It is an offence for a person who has entered premises under or by virtue of these Regulations to disclose any information obtained on the premises with regard to any trade secret, unless the disclosure is made in the performance of the person's duty.
- (8) In this regulation, “premises” includes any vehicle, stall or moveable structure but does not include any premises, or part of any premises, used only as a dwelling.

16 Powers following entry

- (1) An authorised officer entering premises under regulation 15 (powers of entry) may—
 - (a) inspect any documents or records (in whatever form they are held) relating to a business dealing with any organic product; and
 - (b) seize and detain any such records which the officer has reason to believe may be required as evidence in any proceedings under these Regulations.
- (2) For the purposes of paragraph (1), an authorised officer may—
 - (a) have access to, inspect and check the operation of any computer and any associated apparatus or material which is or has been in use in connection with the records;
 - (b) require any person having charge of, or otherwise concerned with the operation of, any such computer, apparatus or material to give the officer such assistance as may reasonably be required;
 - (c) where the records are kept by means of a computer, require them to be produced in a form in which they may be taken away.
- (3) If it is decided that records seized and detained under paragraph (1)(b) are no longer needed as evidence in proceedings under these Regulations, an authorised officer must return them as soon as reasonably practicable after that decision.
- (4) In this regulation, “business” includes any undertaking whether it operates for profit or not and any undertaking or activity carried on by a public authority, including a local authority.

17 Power to require assistance

An authorised officer may require any person to provide the officer with such assistance, information or facilities as the officer may reasonably require for the purposes of carrying out functions under these Regulations.

18 Obstruction etc. of authorised officers

- (1) It is an offence for a person—
 - (a) intentionally to obstruct a person acting in the execution or enforcement of these Regulations or the specified provisions; or
 - (b) without reasonable excuse, the proof of which lies on the person, to fail to comply with any requirement made by an authorised officer under regulation 16 (powers following entry) or 17 (power to require assistance).
- (2) A person who, in response to a requirement made under regulation 16 or 17, makes any representation which is false or misleading in a material particular and does so recklessly or knowing it to be false or misleading in that particular is guilty of an offence.
- (3) Nothing in paragraph (1)(b) requires a person to answer any question or give any information if to do so might incriminate the person.

19 Time limit for bringing prosecutions

No prosecution for an offence under these Regulations may be begun after the expiry of one year from the commission of the offence or six months from its discovery by the prosecutor, whichever is the earlier.

20 Protection of officers etc. acting in good faith

- (1) An authorised officer is not liable in any civil or criminal proceedings for anything done in the purported execution of these Regulations, Council Regulation 834/2007, Commission Regulation 889/2008 or Commission Regulation 1235/2008 if the court is satisfied that the act was done in good faith and there were reasonable grounds for doing it.
- (2) Paragraph (1) does not relieve the Department from liability in respect of the acts of their officers.

21 Power to share information

- (1) The Department may share any information obtained in the course of enforcing these Regulations or by virtue of a notification received under Article 28(1)(a) of Council Regulation 834/2007 with —
 - (a) the competent authority for the United Kingdom;
 - (b) relevant authorities of the United Kingdom; and
 - (c) control bodies in the United Kingdom,for the purpose of assisting those bodies to undertake their functions under the Organic Products Regulations 2009⁶.

⁶ SI 2009/842

- (2) In this regulation —
- (a) “competent authority for the United Kingdom” means the competent authority designated under regulation 3 of the Organic Products Regulations 2009;
 - (b) “relevant authority” has the meaning given in Article 2 of Council Regulation (EC) No 834/2007 of 28 June 2007 on organic production and labelling of organic products and repealing Regulation (EEC) No 2092/91 as it forms part of the law of England and Wales, Scotland and Northern Ireland by virtue of section 3 of the European Union (Withdrawal) Act 2018 (of Parliament) as amended from time to time by that law; and
 - (c) “control bodies in the United Kingdom” have the meaning given to “control body” in regulation 2 of the Organic Products Regulations 2009.

MADE 21 DECEMBER 2020

W GREENHOW
Chief Secretary

SCHEDULE

[Regulations 2(1) and 18]

SPECIFIED PROVISIONS

Specified provisions

Column 1	Column 2	Column 3
Provision	Supplementary provision	Subject matter
Article 23(1), (2), (3) or (4) of Council Regulation 834/2007	Title III of Commission Regulation 889/2008	Use of terms referring to organic production in labelling, advertising and commercial documents of products
Article 24(1) or (2) of Council Regulation 834/2007	Articles 23 and 25 of Council Regulation 834/2007 and Title III of Commission Regulation 889/2008	Compulsory indications
Article 25(2) of Council Regulation 834/2007		Use of National or private logo in labelling, presentation and advertising of products
Article 32(1) of Council Regulation 834/2007	Articles 6 to 10, 13, 13a, 13b, 13d, 14, 15, 18 and 19 of Commission Regulation 1235/2008	Requirements for placing on the market of compliant products imported from third countries
Article 33(1) of Council Regulation 834/2007	Articles 6 to 10, 13, 13a, 13b, 13d, 14, 15, 18 and 19 of Commission Regulation 1235/2008	Requirements for placing on the market of products imported from third countries providing equivalent guarantees
Article 62 of Commission Regulation 889/2008		Use of indication “product under conversion to organic farming” in relation to in-conversion products of plant origin
Article 13(7) of Commission Regulation 1235/2008		Requirements on first consignees relating to certificates of inspection of consignments imported from third countries
Article 14 of Commission Regulation 1235/2008		Special customs procedures for consignments imported from third countries
Article 15 of Commission Regulation 1235/2008		Requirements relating to non-compliant products imported from third countries



EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement the following three European Union Regulations in the Isle of Man:

- Council Regulation (EC) No 834/2007 on organic production and labelling of organic products;
- Commission Regulation (EC) No 889/2008 laying down detailed rules for the implementation of Council Regulation (EC) No 834/2007 on organic production and labelling of organic products with regard to organic production, labelling and control; and
- Commission Regulation (EC) No 1235/2008 laying down detailed rules for implementation of Council Regulation (EC) No 834/2007 as regards the arrangements for imports of organic products from third countries.

Regulation 4 designates the Department as the competent authority for the purposes of those EU Regulations and as the authority responsible of receiving notifications of operators working with organic products as required under Council Regulation (EC) No 834/2007.

Regulation 5 provides for exemptions from the requirement for operators to notify the Department under certain circumstances.

Regulation 6 requires importers of consignments containing organic products, or products purporting to be organic, arriving in the Isle of Man from a third country, to notify the Department at least six hours prior to arrival of the consignment.

Regulation 7 enables the Department to stop the onward movement or release into free circulation of the consignment where it is suspected that the consignment does not comply with these Regulations or the provisions specified in the Schedule. Regulation 8 enables the Department to permit the movement of the consignment while it is still under its control.

Regulation 9 enables the Department to obtain samples of organic products for analysis for the purpose of confirming compliance with these Regulations or the provisions set out in the Schedule.

Regulation 10 sets out the offences relating to the Regulations and Regulation 11 sets out the penalties for those offences. Regulations 12 and 13 relate to offences due to the fault of another person and offences where a defence may be made as a result of due diligence having been exercised.

Regulations 14 states that the Department is responsible for enforcing these Regulations and the provisions set out in the Schedule. Regulations 15 to 18 provide

powers of entry, powers following entry and powers to obtain information for the purposes of enforcing these Regulations and the provisions set out in the Schedule.

Regulation 18 makes it an offence to obstruct an officer of the Department undertaking that officer's functions under these Regulations.

Regulation 19 provides the time limit for prosecutions of offences under these Regulations.

Regulation 20 limits to liability of authorised officers acting in good faith.

Regulation 21 permits the Department to share information with relevant UK bodies for the purposes of those bodies enforcing UK legislation equivalent to these Regulations.

The Schedule sets out specific provisions from the three EU Regulations listed above for the purposes of the Regulations.