Commission Delegated Regulation (EU) 2020/1794 of 16 September 2020 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 (Text with EEA relevance)

COMMISSION DELEGATED REGULATION (EU) 2020/1794

of 16 September 2020

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

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to 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[(1)], and in particular Article 12(2)(b) thereof,

Whereas:

(1) Regulation (EU) 2018/848 and in particular Part I of Annex II thereto, lays down certain requirements with regard to the use of in-conversion and non-organic plant reproductive material.

(2) In view of the phasing out of the derogations from the use of organic plant reproductive material laid down in Article 53 of Regulation (EU) 2018/848, it is important to increase the production and placing on the market of organic and in-conversion plant reproductive material.

(3) In accordance with Article 10(4) of Regulation (EU) 2018/848, plant reproductive material may be marketed as ‘in-conversion’ when a conversion period of at least 12 months is respected. Pursuant to Article 26(1) of Regulation (EU) 2018/848 Member States are to ensure that a regularly updated database is established for the listing of the organic and in-conversion plant reproductive material, excluding seedlings but including seed potatoes, which is available in their territories. Moreover, Article 26(2) requires Member States to have in place systems that allow operators that market organic or in-conversion plant reproductive material and that are able to supply them in sufficient quantities and within a reasonable period, to make public on a voluntary basis, free of charge, together with their names and contact details, information on the organic and in-conversion plant reproductive material, such as plant reproductive material of organic heterogeneous material or of organic varieties suitable for organic production, excluding seedlings but including seed potatoes, which is available with the quantity in weight of that material and the period of the year of its availability. However, Article

Changes to legislation: *There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2020/1794. (See end of Document for details)*

26(5) provides that Member States may continue to use relevant information systems that are already in existence.

(4) It is therefore important when organic plant reproductive material is not sufficiently available and such unavailability is demonstrated through records collected in the above-mentioned database and systems, to prioritise the use of in-conversion plant reproductive material over non-organic plant reproductive material. In addition, in accordance with Article 6(i) of Regulation (EU) 2018/848, the use of self-produced organic and in-conversion plant reproductive material should be allowed.

(5) Taking into account the current divergent practices in Member States, it is also of particular importance to harmonise the specific criteria and conditions for issuing authorisations to use non-organic plant reproductive material where organic and in-conversion plant reproductive material is not available in sufficient quality or quantity. Such harmonisation should permit to avoid potential unfair competition in organic production and ensure that certain precautionary provisions are applied to plant reproductive material and, in case of prescribed phyto-sanitary treatments, it should be subject where appropriate to a period of conversion of the parcel as provided in points 1.7.3 and 1.7.4 of Part I of Annex II to Regulation (EU) 2018/848.

(6) Despite the efforts undertaken by operators involved in the production of organic plant reproductive material, there are still many species, subspecies or varieties for which organic and in-conversion plant reproductive material is not available and for which it is necessary to simplify the process of authorisations by reducing the administrative burden without jeopardising the organic nature of the products. Therefore, and in order to reduce the number of requests for individual authorisations, it is appropriate to provide for annual national general authorisations for species, subspecies or varieties, subject to certain conditions, and for the adoption of national lists of species or subspecies for which appropriate varieties of organic or in-conversion plant reproductive material are available in sufficient quantity. That approach should permit to limit the recourse to individual authorisations. In addition, those national lists constitute relevant information, which is expected to increase knowledge and certainty in the sector of organic plant reproductive material and thus to facilitate the further development both in this highly specialised production sector and in the use of organic plant reproductive material.

(7) Part I of Annex II to Regulation (EU) 2018/848 should therefore be amended accordingly.

(8) In the interest of clarity and legal certainty, this Regulation should apply from the date of application of Regulation (EU) 2018/848,

HAS ADOPTED THIS REGULATION:

Article 1

Part I of Annex II to Regulation (EU) 2018/848 is amended in accordance with the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

It shall apply from **[**[X1]1 January 2022**]**.

Editorial Information

X1 Substituted by Corrigendum to Commission Delegated Regulation (EU) 2020/1794 of 16 September 2020 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 (Official Journal of the European Union L 402 of 1 December 2020).

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Changes to legislation: *There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2020/1794. (See end of Document for details)*

ANNEX

Part I of Annex II to Regulation (EU) 2018/848 is amended as follows:

(1) points 1.8.5.1 to 1.8.5.5 are replaced by the following:

1.8.5.1. By way of derogation from point 1.8.1, where the data collected in the database referred to in Article 26(1) or the system referred to in point (a) of Article 26(2) shows that the qualitative or quantitative needs of the operator regarding relevant organic plant reproductive material are not met, the operator may use in-conversion plant reproductive material in accordance with point (a) of the second subparagraph of Article 10(4).

Where organic and in-conversion plant reproductive material is not available in sufficient quality or quantity to fulfil the operator's needs, competent authorities may authorise the use of non-organic plant reproductive material subject to points 1.8.5.3 to 1.8.5.7.

Such individual authorisation shall only be issued in one of the following situations:

(a) where no variety of the species that the operator wants to obtain is registered in the database referred to in Article 26(1) or the system referred to in point (a) of Article 26(2);

(b) where no supplier, meaning an operator who markets plant reproductive material, is able to deliver the relevant organic or in-conversion plant reproductive material in time for sowing or planting in situations where the user has ordered the plant reproductive material in reasonable time to allow the preparation and supply of organic or in conversion plant reproductive material;

(c) where the variety that the operator wants to obtain is not registered as organic or in-conversion plant reproductive material in the database referred to in Article 26(1) or the system referred to in point (a) of Article 26(2), and the operator is able to demonstrate that none of the registered alternatives of the same species are appropriate in particular to the agronomic and pedo-climatic conditions and necessary technological properties for the production to be obtained and that, therefore, the authorisation is significant for his or her production;

(d) where it is justified for use in research, test in small-scale field trials, for variety conservation purposes or for product innovation and agreed by the competent authorities of the Member State concerned.

Prior to requesting any such authorisation, the operator shall consult the database referred to in Article 26(1) or the system referred to in point (a) of Article 26(2) in order to verify whether relevant organic or in-conversion plant reproductive material is available and thus whether his or her request is justified.

When in compliance with Article 6 (i) operators may use both organic and in-conversion plant reproductive material obtained from their own holding, irrespective of the qualitative and quantitative availability according to the database referred to in Article 26(1) or the system referred to in point (a) of Article 26(2).

1.8.5.2. By way of derogation from point 1.8.1, operators in third countries may use in-conversion plant reproductive material in accordance with point (a) of the second