Commission Implementing Regulation (EU) 2020/464 of 26 March 2020 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 (Text with EEA relevance)

COMMISSION IMPLEMENTING REGULATION (EU) 2020/464

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(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 10(6), Article 14(3), Article 15(3), Article 16(3), Article 17(3) and Article 26(7)(d) thereof,

Whereas:

(1) Chapter III of Regulation (EU) 2018/848 lays down general production rules for organic products, while detailed production rules are set out in Annex II to that Regulation. In order to ensure harmonised conditions for the implementation of that Regulation, some additional rules should be laid down.

(2) The conversion to the organic production method requires certain periods of adaptation of all means in use. The required conversion period starts at the earliest after a farmer or an operator that produces algae or aquaculture animals has notified the activity to the competent authorities. As an exception and under certain conditions, a previous period may be retroactively recognised as being part of the conversion period. The documents to be submitted to the competent authorities for the purpose of the retroactive recognition of a previous period should be specified.

(3) In order to ensure the observance of a high level of animal welfare respecting species-specific needs in organic livestock production, it is necessary to lay down the stocking densities, the minimum surfaces for indoor and outdoor areas and their characteristics, as well as technical requirements and characteristics for buildings and open air areas for bovine animals, ovine animals, caprine animals, equine animals, cervine animals, porcine animals, poultry and rabbits. Additionally, for suckling animals the minimum

periods to be complied with for feeding preferably with maternal milk should also be laid down.

(4) In order to ensure the observance of a high level of animal welfare respecting species-specific needs in organic aquaculture production, it is also necessary to lay down rules per species or per group of species on the stocking densities and the characteristics for production systems and containments systems for aquaculture animals.

(5) Processed organic products should be produced using processing methods which guarantee that the organic characteristics and qualities of the products are maintained through all stages of organic production. Considering the great number of techniques used in the processing of food products in organic production, establishing an exhaustive list of all the techniques authorised is not possible. Therefore, as a general rule, techniques complying with the principles and relevant production rules as set out in Regulation (EU) 2018/848 should be considered as authorised in the processing of food products in organic production.

(6) However, for certain techniques used in the processing of specific organic food products, opinions of Member States may diverge on the compliance of a technique with the principles and relevant production rules as set out in Regulation (EU) 2018/848 for producing specific products. For such cases, it is necessary to lay down rules on how such a technique can be assessed and, if confirmed compliant with those principles and production rules, be authorised by the Commission for producing specific food products, where appropriate under certain conditions.

(7) Ion exchange and adsorption resin techniques may be needed to produce infant formula and follow-on formula and processed cereal-based food and baby food as referred to in points (a) and (b) of Article 1(1) of Regulation (EU) No 609/2013 of the European Parliament and of the Council[(2)] in order to meet the compositional requirements laid down in that Regulation and in acts adopted on the basis of Article 11(1) of that Regulation for the products concerned, or in products regulated by Commission Directive 2006/125/EC[(3)]. It is necessary to authorise the use of ion exchange and adsorption techniques for these categories of products.

(8) Similarly as for the techniques authorised for use in the processing of food products, techniques that reconstitute properties that are lost in the processing and storage of organic feed, that correct the results of negligence in the processing of organic feed, or that otherwise may be misleading as to the true nature of products intended to be marketed as organic feed, should not be used.

(9) Considering the great number of techniques used in the processing of specific feed products in organic production, establishing an exhaustive list of all the techniques authorised is not possible. Therefore, as a general rule, techniques complying with the principles and relevant production rules as set out in Regulation (EU) 2018/848 should be authorised in the processing of feed products in organic production.

(10) However, for certain techniques used in the processing of specific organic feed products, opinions of Member States may diverge on the compliance of a technique with the principles and relevant production rules as set out in Regulation (EU) 2018/848. For

such cases, it is necessary to lay down rules on how such a technique can be assessed and, if confirmed compliant with those principles and relevant production rules, be authorised by the Commission for producing specific feed products, where appropriate under certain conditions.

(11) Organic plant reproductive material, organic animals and organic aquaculture juveniles should be used in organic production. In order to help organic operators to find information on their availability, each Member State should have in place systems allowing operators that market organic and in-conversion plant reproductive material, organic animals or organic aquaculture juveniles to make information on their supplies publicly available. In particular, detailed information on such species that they are able to supply in sufficient quantities and within a reasonable period should be publicly available. Once a year, Member States should make available to the Commission the synthesis of such information as well as information on derogations granted in case of lack of availability.

(12) Seedlings are excluded from the collection and exchange of information on organic and in-conversion plant reproductive material. Therefore, to ensure a harmonised approach, it is appropriate to establish a definition of seedlings.

(13) In order to address the nutritional needs for specific protein compounds of young poultry and porcine animals of up to 35 kg, Member States may authorise the use of non-organic protein feed in poultry and porcine diets under strict conditions and until 31 December 2025. In view of phasing out these respective derogations and for the purposes of Article 53(6)(c) of Regulation (EU) 2018/848, the Commission should monitor their use taking into account the evolution of availability on the market of organic protein feed. For this purpose, a focused questionnaire should be designed by the Commission and Member States should annually submit to the Commission the filled in questionnaire summarising the relevant information collected on the availability of organic protein feed and the authorisations granted to use non-organic protein feed to poultry and porcine animals producers.

(14) Member States may also set up a similar system of information on availability in relation to breeds and strains adapted to organic production or organic pullets. Considering the possible phasing out of derogations for the use of non-organic animals or pullets, it is important to collect data on the availability of organically reared breeds and strains specifically selected in the respect of organic principles and objectives. Therefore, it is necessary to lay down details for harmonised data to be reported by Member States to the Commission and to the other Member States.

(15) Operators that have been producing livestock in accordance with Council Regulation (EC) No 834/2007[(4)] and Commission Regulation (EC) No 889/2008[(5)]will have to adapt their production systems to comply with the new specific technical requirements laid down in this Regulation affecting the livestock density, the structural characteristics of animals' premises and related equipment, the available spaces and land management and the productive system of the holding in general. These adaptations will require variable periods of time according to the extent of the necessary interventions to comply

with the new requirements laid down in this Regulation while taking into account on going productions.

(16) In particular, the provisions concerning the stocking density, minimum indoor and outdoor areas for pullets and brother roosters, the maximum extension of the open air areas for poultry houses, the maximum number of tiers and the equipment for an efficient system of manure removal in multi-tiered poultry houses may imply tangible works and investments like rebuilding of animals' premises and land acquisitions, or a complete refurbishment of animals' premises for certain holdings or production units that have been producing until now in compliance with Regulations (EC) No 834/2007 and (EC) No 889/2008. Hence, a transitional period of maximum 8 years from 1 January 2021 should be provided for in respect of these holdings or production units in order to permit them to carry out the necessary adaptations to comply with the new requirements.

(17) The requirement related to porcine animals concerning a minimum percentage of surface of outdoor area consisting of solid construction may imply the rebuilding of external facilities and changes in the system of collection of manure in holdings or production units that have been producing until now in compliance with Regulations (EC) No 834/2007 and (EC) No 889/2008. Hence, a transitional period of maximum 8 years from 1 January 2021 should be provided for in respect of these holdings or production units in order to permit them to carry out the necessary major renovation of animals' external premises or the replacement of the equipment to comply with the new requirements.

(18) Also the length of pop-holes between the verandas and the indoor part of the poultry house, the requirement on solid partitions for fattening poultry other than Gallus gallus, and the specific requirements on perches and raised sitting levels may imply tangible adaptations such as the renovation of part of the animals' premises and purchase of new equipment for holdings that have been producing until now in compliance with Regulations (EC) No 834/2007 and (EC) No 889/2008. Hence, a transitional period of maximum 3 years from 1 January 2021 should be provided for in respect of these holdings or production units to permit them to carry out the necessary adaptations of animals' premises or the replacement of the equipment to comply with the new requirements.

(19) Finally the method of calculation of minimum indoor surface areas in poultry houses with an outdoor part of the building may imply adaptations such as the major reduction of the stocking density of poultry or the renovation of the buildings for holdings that have been producing until now in compliance with Regulations (EC) No 834/2007 and (EC) No 889/2008. Hence a transitional period of maximum 3 years from 1 January 2021 should be provided for in respect of these holdings or production units to permit them to carry out the necessary adaptations of their business plans or of their animals' premises to comply with the new requirements.

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

(21) The measures provided for in this Regulation are in accordance with the opinion of the Organic Production Committee,

***Changes to legislation:** There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2020/464. (See end of Document for details)*

HAS ADOPTED THIS REGULATION:

CHAPTER I

CONVERSION

Article 1

Documents to be supplied for the purpose of the retroactive recognition of a previous period

1 For the purposes of point (a) of Article 10(3) of Regulation (EU) 2018/848, the operator shall submit to the competent authorities in the Member State in which the activity is carried out and in which that operator's holding is subject to the control system the official documents from the relevant competent authorities proving that the land parcels for which the retroactive recognition of a previous period is requested were subject to measures which were defined in a programme implemented pursuant to Regulation (EU) No 1305/2013 of the European Parliament and of the Council[(6)] and that no products or substances other than those authorised for use in organic production have been used on those land parcels.

2 For the purposes of point (b) of Article 10(3) of Regulation (EU) 2018/848, the operator shall submit to the competent authorities in the Member State in which the activity is carried out and in which that operator's holding is subject to the control system the following documents proving that the land parcels were natural or agricultural areas that, for a period of at least three years, have not been treated with products or substances that are not authorised for use in organic production in accordance with Regulation (EU) 2018/848:

a maps identifying clearly each land parcel covered by the request for retroactive recognition and information on the total surface of those land parcels and, if relevant, on the nature and the volume of the on-going production and, where available, their geolocation coordinates;

b the detailed risk analysis carried out by the control authority or control body to assess whether any land parcel covered by the request for retroactive recognition has been treated with products or substances that are not authorised for use in organic production for a period of at least three years, taking into account in particular the size of the total surface to which the request relates and the agronomic practices carried out during that period on each land parcel subject to the request;

c the laboratory analyses results from accredited laboratories on soil and/or plant samples taken by the control authority or control body from each land parcel identified as presenting the risk of being contaminated as a result of being treated with products and substances that are not authorised for use in organic production following the detailed risk analysis referred in point (b);

d an inspection report from the control authority or control body following a physical inspection of the operator for the purpose of verifying the consistency of the information collected on the land parcels covered by the request for retroactive recognition;

e any other relevant documents deemed necessary by the control authority or control body to assess the request for retroactive recognition;

f a final written statement of the control authority or control body indicating whether a retroactive recognition of a previous period as being part of the conversion period is justified and indicating the starting period considered as organic for each land parcel