Commission Regulation (EC) No 889/2008 of 5 September 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

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THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to 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[(1)], and in particular Article 9(4), the second paragraph of Article 11 Articles 12(3), 14(2), 16(3)(c), 17(2) and 18(5), the second subparagraph of Article 19(3), Articles 21(2), 22(1), 24(3), 25(3), 26, 28(6), 29(3) and 38(a), (b), (c) and (e), and Article 40 thereof,

Whereas:

(1) Regulation (EC) No 834/2007, and in particular Titles III, IV and V thereof, lay down basic requirements with regard to production, labelling and control of organic products in the plant and livestock sector. Detailed rules for the implementation of those requirements should be laid down.

(2) The evolution of new detailed production rules on certain animal species, organic aquaculture, seaweed and yeasts used as food or feed on community level will require more time and therefore should be elaborated in a subsequent procedure. It is therefore appropriate to exclude those products from the scope of this Regulation. However, as regards certain livestock species, aquaculture products and seaweed, the Community rules provided for production, controls and labelling should apply *mutatis mutandis* to those products, in accordance with Article 42 of Regulation (EC) No 834/2007.

(3) Certain definitions should be laid down in order to avoid ambiguities and to guarantee the uniform application of the organic production rules.

(4) Organic plant production is based on nourishing the plants primarily through the soil ecosystem. Therefore hydroponic cultivation, where plants grow with their roots in an inert medium feed with soluble minerals and nutrients, should not be allowed.

(5) Organic plant production involves varied cultivation practices and limited use of fertilisers and conditioners of low solubility, therefore these practices should be specified. In particular, conditions for the use of certain non-synthetic products should be laid down.

Changes to legislation: *There are outstanding changes not yet made to Commission Regulation (EC) No 889/2008. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(6) The use of pesticides, which may have detrimental effects on the environment or result in the presence of residues in agricultural products, should be significantly restricted. Preference should be given to the application of preventive measures in pest, disease and weed control. In addition, conditions for the use of certain plant protection products should be laid down.

(7) For the purpose of organic farming, the use of certain plant protection products, fertilisers, soil conditioners, as well as certain non-organic feed materials, feed additives and feed processing aids and certain products used for cleaning and disinfection was allowed under Council Regulation (EEC) No 2092/91[(2)] under well-defined conditions. For the sake of ensuring the continuity of organic farming the products and substances in question should, in accordance with the provisions laid down in Article 16(3)(c) of Regulation (EC) No 834/2007, continue to be allowed. Moreover, for the sake of clarity, it is appropriate to list in the Annexes to this Regulation the products and substances which had been allowed under Regulation (EEC) No 2092/91. Other products and substances may be added to these lists in the future under a different legal basis, namely Article 16(1) of Regulation (EC) No 834/2007. It is therefore appropriate to identify the distinct status of each category of products and substances by means of a symbol in the list.

(8) The holistic approach of organic farming requires a livestock production related to the land, where the produced manure is used to nourish the crop production. Since livestock farming always implies the management of agricultural land, provision should be made to prohibit landless livestock production. In organic livestock production the choice of breeds should take account of their capacity to adapt to local conditions, their vitality and their resistance to disease and a wide biological diversity should be encouraged.

(9) Under certain circumstances operators may face difficulties in obtaining organic breeding animals from a reduced gene pool, which would hamper the development of the sector. Therefore the possibility of bringing a limited number of non-organic animals onto a farm for breeding purposes should be provided for.

(10) Organic stock farming should ensure that specific behavioural needs of animals are met. In this regard, housing for all species of livestock should satisfy the needs of the animals concerned as regards ventilation, light, space and comfort and sufficient area should accordingly be provided to permit ample freedom of movement for each animal and to develop the animal's natural social behaviour. Specific housing conditions and husbandry practices with regard to certain animals, including bees, should be laid down. These specific housing conditions should serve a high level of animal welfare, which is a priority in organic livestock farming and therefore may go beyond Community welfare standards which apply to farming in general. Organic husbandry practices should prevent poultry from being reared too quickly. Therefore specific provisions to avoid intensive rearing methods should be laid down. In particular poultry shall either be reared until they reach a minimum age or else shall come from slow-growing poultry strains, so that in either case there is no incentive to use intensive rearing methods.

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(11) In most cases, livestock should have permanent access to open air areas for grazing, weather conditions permitting, and such open air areas should in principle be organised under an appropriate system of rotation.

(12) In order to avoid environmental pollution of natural resources such as soil and water by nutrients, an upper limit for the use of manure per hectare and for keeping livestock per hectare should be set. This limit should be related to the nitrogen content of the manure.

(13) Mutilations which lead to stress, harm, disease or the suffering of animals should be banned. However, specific operations essential to certain types of production and for the sake of security for animals and human beings may be permitted under restricted conditions.

(14) Livestock should be fed on grass, fodder and feedingstuffs produced in accordance with the rules of organic farming, preferably coming from the own holding, by taking into account their physiological needs. In addition, in order to provide for the basic nutritional requirements of livestock, certain minerals, trace elements and vitamins may need to be used under well-defined conditions.

(15) Since the existing regional differences in the possibility for organic ruminants to obtain the necessary essential vitamins A, D and E through their feed rations, as regards climate and available sources of feed, are expected to persist, the use of such vitamins for ruminants should be allowed.

(16) Animal-health management should mainly be based on prevention of disease. In addition specific cleaning and disinfection measures should be applied.

(17) The preventive use of chemically-synthesised allopathic medicinal products is not permitted in organic farming. However, in the event of a sickness or injury of an animal requiring an immediate treatment, the use of chemically-synthesised allopathic medicinal products should be limited to a strict minimum. Furthermore, in order to guarantee the integrity of organic production for consumers it should be possible to take restrictive measures such as doubling the withdrawal period after use of chemically synthesised allopathic medicinal products.

(18) Specific rules for disease prevention and veterinary treatment in beekeeping should be laid down.

(19) Provision should be made to require operators producing feed or food to take account of appropriate procedures based on a systematic identification of critical processing steps in order to ensure that the produced processed products comply with the organic production rules.

(20) Certain non-organic products and substances are needed in order to ensure the production of certain processed organic food and feed. The harmonization of wine processing rules on Community level will require more time. Therefore the mentioned products should be excluded for wine processing until, in a subsequent procedure, specific rules are laid down.

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(21) For the purpose of processing organic food, the use of certain ingredients of non-agricultural origin, certain food processing aid and certain non-organic ingredients of agricultural origin was allowed under Regulation (EEC) No 2092/91 under well-defined conditions. For the sake of ensuring the continuity of organic farming the products and substances in question should, in accordance with the provisions laid down in Article 21(2) of Regulation (EC) No 834/2007, continue to be allowed. Moreover, for the sake of clarity, it is appropriate to list in the Annexes to this Regulation the products and substances which had been allowed under Regulation (EEC) No 2092/91. Other products and substances may be added to these lists in the future under a different legal basis, namely Article 21(2) of Regulation (EC) No 834/2007. It is therefore appropriate to identify the distinct status of each category of products and substances by means of a symbol in the list.

(22) Under certain conditions organic products and non-organic products can be collected and transported simultaneously. In order to duly separate organic from non-organic products during handling and to avoid any commingling specific provisions should be laid down.

(23) The conversion to the organic production method requires certain periods of adaptation of all means in use. Depending on the previous farm production, specific time periods for the various production sectors should be laid down.

(24) In accordance with Article 22 of Regulation (EC) No 834/2007, specific conditions for the application of exceptions provided for in that Article should be laid down. It is appropriate to set out such conditions with regard to the non availability of organic animals, feed, beeswax, seeds and seed potatoes and organic ingredients as well as to specific problems related to the livestock management and in the case of catastrophic circumstances.

(25) Geographical and structural differences in agriculture and climatic constraints may hamper the development of organic production in certain regions and therefore call for exceptions for certain practices as regards the characteristics of livestock buildings and installations. Therefore tethering of animals should, under well-defined conditions, be allowed in holdings which, due to their geographical location and structural constraints, in particular with regard to mountainous areas, are of small size, and only where it is not possible to keep the cattle in groups appropriate to their behavioural needs.

(26) For the purpose of ensuring the development of an incipient organic livestock sector, several temporary derogations as regards tethering of animals, housing conditions for animals and stocking densities were granted under Regulation (EEC) No 2092/91. These derogations should, on a transitional basis, be maintained until their expiry date, in order not to disrupt the organic livestock sector.

(27) Considering the importance of pollination of the organic beekeeping sector it should be possible to grant exceptions permitting the parallel production of organic and non-organic beekeeping unit on the same farm.

(28) Under certain circumstances, farmers may experience difficulty in securing supplies of organically reared livestock and organic feedingstuffs and therefore authorisation

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should be granted for a limited number of non-organically produced farm input to be used in restricted quantities.

(29) Major efforts have been undertaken by producers involved in organic production for the development of the production of organic seeds and vegetative materials in order to establish a broad choice of plant varieties of plant species for which organic seeds and vegetative propagating material is available. However, currently for many species there is still not enough organic seed and vegetative propagating material available and, in those cases, the use of non-organic seed and vegetative propagating material should be allowed.

(30) In order to help operators to find organic seed and seed potatoes, each Member State should ensure that a database is set up that contains the varieties of which organic seed and seed potatoes are available on the market.

(31) The management of adult bovine animals may endanger the keeper and other persons handling the animals. Therefore provision should be made to allow for exceptions to be granted during the final fattening phase of mammals, in particular with regard to bovine animals.

(32) Catastrophic circumstances or widespread animal or plant diseases may have serious effects on the organic production in the regions concerned. Appropriate measures need to be taken to ensure the maintenance of farming or even the reestablishment of farming. Therefore the supply of non-organic animals, or non-organic feed should be made possible for a limited period in the affected areas.

(33) In accordance with Articles 24(3) and 25(3) of Regulation (EC) No 834/2007, specific criteria as regards the presentation, composition, size and design of the Community logo, as well as the presentation and composition of the code number of the control authority or control body and of the indication of the place where the agricultural product has been farmed should be laid down.

(34) In accordance with Article 26 of Regulation (EC) No 834/2007, specific requirements for the labelling of organic feed should be laid down taking into account the varieties and composition of feed and the horizontal labelling provisions applicable to feed.

(35) In addition to the control system based on the Regulation (EC) No 882/2004 of the European Parliament and of the Council of 29 April 2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules[(3)] specific control measures should be laid down. In particular, detailed requirements with regard to all stages of production, preparation and distribution related to organic products.

(36) Notifications of information by the Member States to the Commission must enable it to use the information sent directly and as effectively as possible for the management of statistical information and referential data. To achieve this objective, all information to be made available or to be communicated between the Member States and the Commission should be sent electronically or in digital form.