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English edition

## Legislation

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Acts whose titles are printed in light type are those relating to day-to-day management of agricultural matters, and are generally valid for a limited period.

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(Legislative acts)

## REGULATIONS

### 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

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 43(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee <sup>(1)</sup>,

Having regard to the opinion of the Committee of the Regions <sup>(2)</sup>,

Acting in accordance with the ordinary legislative procedure <sup>(3)</sup>,

Whereas:

- (1) Organic production is an overall system of farm management and food production that combines best environmental and climate action practices, a high level of biodiversity, the preservation of natural resources and the application of high animal welfare standards and high production standards in line with the demand of a growing number of consumers for products produced using natural substances and processes. Organic production thus plays a dual societal role, where, on the one hand, it provides for a specific market responding to consumer demand for organic products and, on the other hand, it delivers publicly available goods that contribute to the protection of the environment and animal welfare, as well as to rural development.
- (2) The observance of high standards for health, the environment and animal welfare in the production of organic products is intrinsic to the high quality of those products. As underlined in the communication of the Commission of 28 May 2009 on agricultural product quality policy, organic production forms part of the Union's agricultural product quality schemes, together with geographical indications and traditional specialities guaranteed in accordance with Regulation (EU) No 1151/2012 of the European Parliament and of the Council <sup>(4)</sup> and products of the outermost regions of the Union in accordance with Regulation (EU) No 228/2013 of the European Parliament and of the Council <sup>(5)</sup>. In this sense, organic production pursues the same objectives within the common agricultural policy ('CAP'), which are inherent to all the agricultural product quality schemes of the Union.
- (3) In particular, the objectives of the organic production policy are embedded in the objectives of the CAP by ensuring that farmers receive a fair return for complying with the organic production rules. In addition, the growing consumer demand for organic products creates conditions for further development and expansion of the market in those products and thus for an increase in the return of farmers engaged in organic production.

<sup>(1)</sup> OJ C 12, 15.1.2015, p. 75.

<sup>(2)</sup> OJ C 19, 21.1.2015, p. 84.

<sup>(3)</sup> Position of the European Parliament of 19 April 2018 (not yet published in the Official Journal) and decision of the Council of 22 May 2018.

<sup>(4)</sup> Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs (OJ L 343, 14.12.2012, p. 1).

<sup>(5)</sup> Regulation (EU) No 228/2013 of the European Parliament and of the Council of 13 March 2013 laying down specific measures for agriculture in the outermost regions of the Union and repealing Council Regulation (EC) No 247/2006 (OJ L 78, 20.3.2013, p. 23).

- (4) Furthermore, organic production is a system that contributes to the integration of environmental protection requirements into the CAP and that promotes sustainable agricultural production. This is why measures that support organic production financially have been introduced under the CAP, notably under Regulation (EU) No 1307/2013 of the European Parliament and of the Council <sup>(1)</sup>, and strengthened, in particular, in the reform of the legal framework for rural development policy established by Regulation (EU) No 1305/2013 of the European Parliament and of the Council <sup>(2)</sup>.
- (5) Organic production also contributes to the achievement of the objectives of the Union's environmental policy, in particular those set out in the communications of the Commission of 22 September 2006 entitled 'Thematic Strategy for Soil Protection', of 3 May 2011 entitled 'Our life insurance, our natural capital: an EU biodiversity strategy to 2020' and of 6 May 2013 entitled 'Green Infrastructure (GI) — Enhancing Europe's Natural Capital', and in environmental legislation such as Directives 2000/60/EC <sup>(3)</sup>, 2001/81/EC <sup>(4)</sup>, 2009/128/EC <sup>(5)</sup> and 2009/147/EC <sup>(6)</sup> of the European Parliament and of the Council and Council Directives 91/676/EEC <sup>(7)</sup> and 92/43/EEC <sup>(8)</sup>.
- (6) In view of the objectives of the Union's organic production policy, the legal framework established for implementing that policy should aim at ensuring fair competition and the proper functioning of the internal market in organic products, at maintaining and justifying consumer confidence in products labelled as organic, and at providing conditions under which the policy can progress in line with production and market developments.
- (7) The policy priorities of the Europe 2020 strategy, set out in the communication of the Commission of 3 March 2010 entitled 'Europe 2020: A strategy for smart, sustainable and inclusive growth', include achieving a competitive economy based on knowledge and innovation, fostering a high-employment economy delivering social and territorial cohesion, and supporting the shift towards a resource-efficient and low-carbon economy. The organic production policy should therefore provide operators with the right tools to better identify and promote their products while protecting them against unfair practices.
- (8) The organic farming sector in the Union has developed rapidly in the past years, in terms not only of the area used for organic farming but also of the number of holdings and the overall number of organic operators registered in the Union.
- (9) Given the dynamic evolution of the organic sector, Council Regulation (EC) No 834/2007 <sup>(9)</sup> identified the need for a future review of the Union rules on organic production, taking into account the experience gained from the application of those rules. The results of that review carried out by the Commission show that the Union legal framework governing organic production should be improved to provide for rules that correspond to the high expectations of consumers and that guarantee sufficient clarity for those to whom they are addressed. Regulation (EC) No 834/2007 should be therefore repealed and replaced by a new Regulation.
- (10) Experience gained so far with the application of Regulation (EC) No 834/2007 shows the need to make clear to which products this Regulation applies. Primarily, it should cover products originating from agriculture, including aquaculture and beekeeping, as listed in Annex I to the Treaty on the Functioning of the European Union (TFEU). Moreover, it should cover processed agricultural products for use as food or feed because the placing of such products on the market as organic products provides a major outlet for agricultural products and ensures that the organic nature of the agricultural products from which they are processed is visible to the consumer. Likewise, this

<sup>(1)</sup> Regulation (EU) No 1307/2013 of the European Parliament and of the Council of 17 December 2013 establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy and repealing Council Regulation (EC) No 637/2008 and Council Regulation (EC) No 73/2009 (OJ L 347, 20.12.2013, p. 608).

<sup>(2)</sup> Regulation (EU) No 1305/2013 of the European Parliament and of the Council of 17 December 2013 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) and repealing Council Regulation (EC) No 1698/2005 (OJ L 347, 20.12.2013, p. 487).

<sup>(3)</sup> Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy (OJ L 327, 22.12.2000, p. 1).

<sup>(4)</sup> Directive 2001/81/EC of the European Parliament and of the Council of 23 October 2001 on national emission ceilings for certain atmospheric pollutants (OJ L 309, 27.11.2001, p. 22).

<sup>(5)</sup> Directive 2009/128/EC of the European Parliament and of the Council of 21 October 2009 establishing a framework for Community action to achieve the sustainable use of pesticides (OJ L 309, 24.11.2009, p. 71).

<sup>(6)</sup> Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (OJ L 20, 26.1.2010, p. 7).

<sup>(7)</sup> Council Directive 91/676/EEC of 12 December 1991 concerning the protection of waters against pollution caused by nitrates from agricultural sources (OJ L 375, 31.12.1991, p. 1).

<sup>(8)</sup> Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ L 206, 22.7.1992, p. 7).

<sup>(9)</sup> 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 (OJ L 189, 20.7.2007, p. 1).

Regulation should cover certain other products which are linked to agricultural products in a similarly close way as processed agricultural products for use as food and feed because those other products either constitute a major outlet for agricultural products or form an integral part of the production process. Finally, sea salt and other salts used for food and feed should be included in the scope of this Regulation because they may be produced by applying natural production techniques, and because their production contributes to the development of rural areas, and thus falls within the objectives of this Regulation. For reasons of clarity, such other products not listed in Annex I to the TFEU should be listed in an Annex to this Regulation.

- (11) In order to supplement or amend certain non-essential elements of this Regulation, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making <sup>(1)</sup>. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.
- (12) In order to take into account new production methods, new materials or international commitments, the power to adopt certain acts should be delegated to the Commission in respect of enlarging the list of other products closely linked to agriculture falling within the scope of this Regulation.
- (13) Products covered by this Regulation but originating from hunting or fishing of wild animals should not be considered organic since their production process cannot be fully controlled.
- (14) Because of the local nature of mass catering operations, measures taken by Member States and private schemes in this area are considered adequate to ensure the functioning of the single market. Therefore, food prepared by mass caterers on their premises should not be subject to this Regulation and should therefore not be labelled or advertised with the organic production logo of the European Union.
- (15) Research projects have demonstrated that consumer confidence is crucial in the market for organic food. In the long run, rules that are not trustworthy can jeopardise public confidence and lead to market failure. Therefore, the sustainable development of organic production in the Union should be based on sound production rules which are harmonised at Union level and which meet operators' and consumers' expectations regarding the quality of organic products and compliance with the principles and rules laid down in this Regulation.
- (16) This Regulation should apply without prejudice to related legislation, in particular in the fields of safety of the food chain, animal health and welfare, plant health, plant reproductive material, labelling and the environment.
- (17) This Regulation should provide the basis for the sustainable development of organic production and its positive effects on the environment, while ensuring the effective functioning of the internal market in organic products and fair competition, thereby helping farmers to achieve a fair income, ensuring consumer confidence, protecting consumer interest and encouraging short distribution channels and local production. Those objectives should be achieved through compliance with general and specific principles and general and detailed production rules applicable to organic production.
- (18) Having regard to the particularities of the organic production systems, the choice of plant varieties should focus on agronomic performance, genetic diversity, disease resistance, longevity, and adaptation to diverse local soil and climate conditions, and should respect the natural crossing barriers.
- (19) The risk of non-compliance with organic production rules is considered higher in agricultural holdings which include units that are not managed under those rules. Therefore, after an appropriate conversion period, all

<sup>(1)</sup> OJ L 123, 12.5.2016, p. 1.

agricultural holdings in the Union which aim to become organic should be entirely managed in compliance with the requirements applicable to organic production. However, holdings including both units managed under organic production rules and units managed under non-organic production rules should be allowed under certain conditions, including in particular the condition of clear and effective separation between organic, in-conversion and non-organic production units and between the products produced by those units.

- (20) Since the use of external inputs should be restricted in organic production, certain objectives should be identified for which products and substances are often used in the production of agricultural products or processed agricultural products. When normally used for those objectives, the use of products or substances should only be allowed when they have been authorised in accordance with this Regulation. However, such authorisation should only be valid as long as the use of such external inputs in non-organic production is not prohibited by Union law or by national law that is based on Union law. The use of products or substances which plant protection products contain or consist of, other than active substances, should be allowed in organic production as long as their use is authorised in accordance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council <sup>(1)</sup> and as long as neither the placing of those plant protection products on the market nor use of those plant protection products is prohibited by Member States in accordance with that Regulation.
- (21) When the entire holding or parts of the holding are intended to produce organic products, they should be subject to a conversion period during which they are managed under organic production rules, but cannot produce organic products. Products should only be allowed to be placed on the market as organic products once the conversion period has elapsed. That period should not start before the farmer or operator producing algae or aquaculture animals has notified that conversion to organic production to the competent authorities of the Member State where the holding is situated, and is therefore subject to the control system that is to be set up by Member States in accordance with Regulation (EU) 2017/625 of the European Parliament and of the Council <sup>(2)</sup> and this Regulation. Competent authorities should only be able retroactively to recognise periods before the date of notification as conversion periods where the holding or the relevant parts thereof have been subject to agri-environmental measures supported by Union funds or are natural or agricultural areas which for a period of at least three years have not been treated with products or substances not authorised for use in organic production.
- (22) In order to ensure quality, traceability, compliance with this Regulation as regards organic production and adaptation to technical developments, the power to adopt certain acts should be delegated to the Commission in respect of further rules on the splitting of holdings into organic, in-conversion and non-organic production units.
- (23) The use of ionising radiation, animal cloning and artificially induced polyploid animals or genetically modified organisms ('GMOs'), as well as products produced from or by GMOs, is incompatible with the concept of organic production and consumers' perception of organic products. Such use should therefore be prohibited in organic production.
- (24) In order to support and facilitate compliance with this Regulation, operators should take preventive measures at every stage of production, preparation and distribution, where appropriate, to ensure the preservation of biodiversity and soil quality, to prevent and control pests and diseases and to avoid negative effects on the environment, animal health and plant health. They should also take, where appropriate, proportionate precautionary measures

<sup>(1)</sup> Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC (OJ L 309, 24.11.2009, p. 1).

<sup>(2)</sup> Regulation (EU) 2017/625 of the European Parliament and of the Council of 15 March 2017 on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products, amending Regulations (EC) No 999/2001, (EC) No 396/2005, (EC) No 1069/2009, (EC) No 1107/2009, (EU) No 1151/2012, (EU) No 652/2014, (EU) 2016/429 and (EU) 2016/2031 of the European Parliament and of the Council, Council Regulations (EC) No 1/2005 and (EC) No 1099/2009 and Council Directives 98/58/EC, 1999/74/EC, 2007/43/EC, 2008/119/EC and 2008/120/EC, and repealing Regulations (EC) No 854/2004 and (EC) No 882/2004 of the European Parliament and of the Council, Council Directives 89/608/EEC, 89/662/EEC, 90/425/EEC, 91/496/EEC, 96/23/EC, 96/93/EC and 97/78/EC and Council Decision 92/438/EEC (Official Controls Regulation) (OJ L 95, 7.4.2017, p. 1).



which are under their control to avoid contamination with products or substances that are not authorised for use in organic production in accordance with this Regulation and to avoid commingling organic, in-conversion and non-organic products.

- (25) Products produced during the conversion period should not be placed on the market as organic products. To avoid the risk of confusing and misleading consumers, those products also should not be marketed as in-conversion products, except in the cases of plant reproductive material, food products of plant origin and feed products of plant origin that have only one agricultural crop ingredient, in all cases subject to the condition that a conversion period of at least 12 months before the harvest has been complied with.
- (26) In order to ensure quality, traceability, compliance with this Regulation and adaptation to technical developments, the power to adopt certain acts should be delegated to the Commission in respect of conversion rules for further animal species.
- (27) Detailed production rules should be established with regard to plant, livestock and aquaculture production, including rules for the collection of wild plants and algae, and with regard to the production of processed food and feed, as well as of wine and yeast used as food or feed, to ensure harmonisation of and compliance with the objectives and principles of organic production.
- (28) As organic plant production is based on nourishing the plants primarily through the soil ecosystem, plants should be produced on and in living soil in connection with the subsoil and bedrock. Consequently, hydroponic production should not be allowed, nor growing plants in containers, bags or beds where the roots are not in contact with the living soil.
- (29) However, certain cultivation practices which are not soil-related, such as the production of sprouted seeds or chicory heads and the production of ornamentals and herbs in pots that are sold in pots to the consumers, for which the principle of soil-related crop cultivation is not adapted or for which no risk exists that the consumer is misled regarding the production method, should be allowed. In order to facilitate organic production at an earlier growing stage of plants, growing seedlings or transplants in containers for further transplanting should also be permitted.
- (30) The principle of land-related crop cultivation and the nourishing of plants primarily through the soil ecosystem was established by Regulation (EC) No 834/2007. Some operators have, however, developed an economic activity by growing plants in 'demarcated beds' and have been certified as organic under Regulation (EC) No 834/2007 by their national authorities. An agreement has been reached within the ordinary legislative procedure on 28 June 2017 that the organic production should be based on nourishing the plants primarily through the soil ecosystem and be soil-related, and that growing plants in demarcated beds should not be allowed anymore from that date. In order to give the operators who have developed such economic activity until that date the possibility to adapt, they should be allowed to maintain their production surfaces, if they were certified as organic under Regulation (EC) No 834/2007 before that date by their national authorities, for further 10 years after the date of application of this Regulation. On the basis of the information provided by Member States to the Commission, such activity had only been authorised in the Union before 28 June 2017 in Finland, Sweden and Denmark. The use of demarcated beds in organic agriculture should be subject to a report of the Commission which is to be published five years after the date of application of this Regulation.
- (31) Organic plant production should involve the use of production techniques that prevent or minimise any contribution to the contamination of the environment.
- (32) While non-organic agriculture has more external means to adapt to the environment to achieve optimal crop growth, organic plant production systems need plant reproductive material which is able to adapt to disease resistance, diverse local soil and climate conditions and to the specific cultivation practices of organic agriculture contributing to the development of the organic sector. Therefore, it is important to develop organic plant reproductive material suitable for organic agriculture.
- (33) Concerning soil management and fertilisation, cultivation practices allowed in organic plant production should be specified and conditions should be laid down for the use of fertilisers and conditioners.

- (34) The use of plant protection products should be significantly restricted. Preference should be given to measures to prevent damage by pests and weeds through techniques which do not involve the use of plant protection products, such as crop rotation. Presence of pests and weeds should be monitored to decide whether any intervention is economically and ecologically justified. However, the use of certain plant protection products should be allowed if such techniques do not provide adequate protection and only if those plant protection products have been authorised in accordance with Regulation (EC) No 1107/2009, after having been assessed and found to be compatible with the objectives and principles of organic production, including where those products have been authorised subject to restrictive conditions of use, and consequently have been authorised in accordance with this Regulation.
- (35) In order to ensure quality, traceability, compliance with this Regulation and adaptation to technical developments, the power to adopt certain acts should be delegated to the Commission in respect of certain derogations, the use of in-conversion or non-organic plant reproductive material, agreements between operators of agricultural holdings, further pest and weed management measures, and further detailed rules and cultivation practices for specific plants and plant production.
- (36) Research in the Union on plant reproductive material that does not fulfil the variety definition as regards uniformity shows that there could be benefits of using such diverse material, in particular with regard to organic production, for example to reduce the spread of diseases, to improve resilience and to increase biodiversity.
- (37) Therefore, plant reproductive material that does not belong to a variety, but rather belongs to a plant grouping within a single botanical taxon with a high level of genetic and phenotypic diversity between individual reproductive units, should be available for use in organic production.

For that reason, operators should be allowed to market plant reproductive material of organic heterogeneous material without having to comply with the requirements for registration and without having to comply with the certification categories of pre-basic, basic and certified material or with the requirements for other categories set out in Council Directives 66/401/EEC <sup>(1)</sup>, 66/402/EEC <sup>(2)</sup>, 68/193/EEC <sup>(3)</sup>, 98/56/EC <sup>(4)</sup>, 2002/53/EC <sup>(5)</sup>, 2002/54/EC <sup>(6)</sup>, 2002/55/EC <sup>(7)</sup>, 2002/56/EC <sup>(8)</sup>, 2002/57/EC <sup>(9)</sup>, 2008/72/EC <sup>(10)</sup> and 2008/90/EC <sup>(11)</sup>, or in acts adopted pursuant to those Directives.

That marketing should take place following a notification to the responsible bodies referred to in those Directives and, after the Commission has adopted harmonised requirements for such material, provided that it complies with those requirements.

- (38) In order to ensure quality, traceability, compliance with this Regulation and adaptation to technical developments, the power to adopt certain acts should be delegated to the Commission in respect of setting out certain rules for the production and marketing of plant reproductive material of organic heterogeneous material of particular genera or species.
- (39) In order to meet the needs of organic producers, to foster research and to develop organic varieties suitable for organic production, taking into account the specific needs and objectives of organic agriculture such as enhanced genetic diversity, disease resistance or tolerance and adaptation to diverse local soil and climate conditions, a

<sup>(1)</sup> Council Directive 66/401/EEC of 14 June 1966 on the marketing of fodder plant seed (OJ L 25, 11.7.1966, p. 2298).

<sup>(2)</sup> Council Directive 66/402/EEC of 14 June 1966 on the marketing of cereal seed (OJ L 25, 11.7.1966, p. 2309).

<sup>(3)</sup> Council Directive 68/193/EEC of 9 April 1968 on the marketing of material for the vegetative propagation of the vine (OJ L 93, 17.4.1968, p. 15).

<sup>(4)</sup> Council Directive 98/56/EC of 20 July 1998 on the marketing of propagating material of ornamental plants (OJ L 226, 13.8.1998, p. 16).

<sup>(5)</sup> Council Directive 2002/53/EC of 13 June 2002 on the common catalogue of varieties of agricultural plant species (OJ L 193, 20.7.2002, p. 1).

<sup>(6)</sup> Council Directive 2002/54/EC of 13 June 2002 on the marketing of beet seed (OJ L 193, 20.7.2002, p. 12).

<sup>(7)</sup> Council Directive 2002/55/EC of 13 June 2002 on the marketing of vegetable seed (OJ L 193, 20.7.2002, p. 33).

<sup>(8)</sup> Council Directive 2002/56/EC of 13 June 2002 on the marketing of seed potatoes (OJ L 193, 20.7.2002, p. 60).

<sup>(9)</sup> Council Directive 2002/57/EC of 13 June 2002 on the marketing of seed of oil and fibre plants (OJ L 193, 20.7.2002, p. 74).

<sup>(10)</sup> Council Directive 2008/72/EC of 15 July 2008 on the marketing of vegetable propagating and planting material, other than seed (OJ L 205, 1.8.2008, p. 28).

<sup>(11)</sup> Council Directive 2008/90/EC of 29 September 2008 on the marketing of fruit plant propagating material and fruit plants intended for fruit production (OJ L 267, 8.10.2008, p. 8).



temporary experiment should be organised in accordance with Directives 66/401/EEC, 66/402/EEC, 68/193/EEC, 2002/53/EC, 2002/54/EC, 2002/55/EC, 2002/56/EC, 2002/57/EC, 2008/72/EC and 2008/90/EC. That temporary experiment should be for a term of seven years, should involve sufficient quantities of plant reproductive material and should be subject to yearly reporting. It should help to establish the criteria for the description of the characteristics of that material and to determine the production and marketing conditions for that material.

- (40) As livestock production naturally involves the management of agricultural land, where manure is used to nourish crop production, landless livestock production should be prohibited, except in the case of beekeeping. In the choice of breeds, the choice of characteristics that are important for organic agriculture, such as a high degree of genetic diversity, the capacity to adapt to local conditions and disease resistance, should be encouraged.
- (41) Organic animals are not always available in sufficient quantity and quality to meet the needs of farmers who wish to constitute a herd or a flock for the first time or to increase or renew their livestock. Under certain conditions, it should therefore be possible to bring non-organically raised animals to an organic production unit.
- (42) Livestock should be fed on feed materials produced in accordance with the rules of organic production, and preferably coming from the farmer's own holding, taking into account the physiological needs of the livestock. However, farmers should be given the possibility to use also in-conversion feed coming from their own holdings, under certain conditions. In addition, in order to provide for the basic nutritional requirements of livestock, farmers should be allowed to use certain feed material of microbial or of mineral origin or certain feed additives and processing aids under well-defined conditions.
- (43) Animal health management should mainly be based on the prevention of disease. In addition, specific cleaning and disinfection measures should be applied. The preventive use of chemically synthesised allopathic medicinal products, including antibiotics, should not be permitted in organic production. In the event of sickness or injury of an animal requiring immediate treatment, the use of such products should be limited to the minimum necessary to re-establish the well-being of the animal. In such cases, in order to guarantee the integrity of organic production for consumers, the official withdrawal period after use of such medicinal products as specified in the relevant Union legislation should be double the normal withdrawal period and have a minimum duration of 48 hours.
- (44) Organic livestock housing conditions and husbandry practices should satisfy the behavioural needs of the animals and should ensure a high level of animal welfare, certain aspects of which should go beyond the Union animal welfare standards applicable to livestock production in general. In most cases, livestock should have permanent access to open-air areas for exercise. Any suffering, pain or distress should be avoided, or should be kept to a minimum at all stages of the animals' lives. Tethering and mutilation, such as tail-docking for sheep, beak trimming in the first three days of life and disbudding, should only be possible if allowed by competent authorities, and only under certain conditions.
- (45) Since organic production is the most developed for bovine animals, ovine animals, caprine animals, equine animals, cervine animals and porcine animals, as well as for poultry, rabbits and bees, additional detailed production rules should apply to those species. For those species it is necessary for the Commission to lay down certain requirements that are important for the production of those animals, such as requirements for stocking density, minimum surfaces and characteristics, as well as technical requirements for housing. For other species, such requirements should be laid down once additional detailed production rules apply to those species.
- (46) In order to ensure quality, traceability, compliance with this Regulation and adaptation to technical developments, the power to adopt certain acts should be delegated to the Commission in respect of the reduction of the derogations concerning the origin of animals, limits on organic nitrogen linked to the total stocking density, the feeding of bee colonies, acceptable treatments for the disinfection of apiaries, methods and treatments to fight against *Varroa destructor*, and detailed livestock production rules for further species.
- (47) This Regulation reflects the objectives of the new Common Fisheries Policy as regards aquaculture, which plays a key role in ensuring sustainable, long-term food security as well as growth and employment, while reducing pressure on wild fish stocks, in the context of growing global aquatic food demand. The communication of the Commission of 29 April 2013 on Strategic Guidelines for the sustainable development of EU aquaculture highlights the main challenges faced by aquaculture in the Union and its potential for growth. That communication identifies organic aquaculture as a particularly promising sector, and highlights the competitive advantages that derive from organic certification.

- (48) Organic aquaculture is a relatively new field of organic production as compared to organic agriculture, where long experience exists at the farm level. Given consumers' growing interest in organic aquaculture products, further growth in the rate of conversions of aquaculture units to organic production is likely. This will lead to increased experience, technical knowledge and development, with improvements in organic aquaculture that should be reflected in the production rules.
- (49) Organic aquaculture should be based on the rearing of young stock originating from organic production units. Organic aquaculture animals for breeding or on-growing purposes are not always available in sufficient quantity and quality to meet the needs of operators that produce aquaculture animals. Under certain conditions, it should be possible to bring wild caught or non-organic aquaculture animals to an organic production unit.
- (50) In order to ensure quality, traceability, compliance with this Regulation and adaptation to technical developments, the power to adopt certain acts should be delegated to the Commission in respect of feed for aquaculture animals and the veterinary treatment of those animals, and in respect of detailed conditions for broodstock management, breeding and juvenile production.
- (51) Operators producing organic food or feed should follow appropriate procedures based on the systematic identification of critical processing steps, in order to ensure that processed products comply with the organic production rules. 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.
- (52) Provisions concerning the composition of processed organic food and feed should be laid down. In particular, such food should be produced mainly from organic agricultural ingredients or from other ingredients falling within the scope of this Regulation that are organic, with the limited possibility of using certain non-organic agricultural ingredients specified in this Regulation. In addition, only certain products and substances authorised in accordance with this Regulation should be allowed for use in the production of processed organic food and feed.
- (53) In order to ensure quality, traceability, compliance with this Regulation and adaptation to technical developments, the power to adopt certain acts should be delegated to the Commission in respect of precautionary and preventive measures to be taken by operators producing processed food or feed, in respect of the type and composition of products and substances that are allowed for use in processed food, as well as conditions under which they may be used, and in respect of the calculation of the percentage of agricultural ingredients, including the specification of the additives allowed for use in organic production that are considered as agricultural ingredients for the purpose of calculating the percentage that needs to be achieved in order to describe the product as organic in the sales description.
- (54) Organic wine should be subject to the relevant rules on processed organic food. However, since wine is a specific and important category of organic products, additional detailed production rules should be laid down specifically for organic wine. Organic wine should be produced entirely from organic raw material, and only certain products and substances authorised in accordance with this Regulation should be allowed to be added. The use of certain oenological practices, processes and treatments in the production of organic wine should be prohibited. Other practices, processes and treatments should be permitted under well-defined conditions.
- (55) In order to ensure quality, traceability, compliance with this Regulation and adaptation to technical developments, the power to adopt certain acts should be delegated to the Commission in respect of specifying additional prohibited oenological practices, processes and treatments and in respect of amending the list of permitted oenological practices, processes and treatments.
- (56) Initially, yeast was not considered an agricultural ingredient under Regulation (EC) No 834/2007 and therefore it did not count for the agricultural composition of organic products. However, Commission Regulation (EC) No 889/2008 <sup>(1)</sup> introduced the obligation to consider yeast and yeast products as agricultural ingredients for

<sup>(1)</sup> 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 (OJ L 250, 18.9.2008, p. 1).

the purposes of organic production from 31 December 2013. Accordingly, from 1 January 2021, only organically produced substrates should be used in the production of organic yeast for use as food and feed. In addition, only certain products and substances should be allowed for use in its production, confection and formulation.

- (57) In order to ensure quality, traceability, compliance with this Regulation and adaptation to technical developments, the power to adopt certain acts should be delegated to the Commission in respect of additional detailed yeast production rules.
- (58) While this Regulation should harmonise the organic production rules in the Union for all products falling within its scope, and should lay down detailed production rules for different categories of products, it will only be possible at a later stage to adopt certain production rules, such as additional detailed production rules for further animal species or for products that do not fall within the categories for which detailed production rules have been laid down in this Regulation. In the absence of such production rules at Union level, Member States should still have the possibility to lay down national rules for their own national production, provided that those rules are not contrary to this Regulation. However, Member States should not apply those national rules to products produced or marketed in other Member States where those products comply with this Regulation. In the absence of such national detailed production rules, operators should at least comply with the general production rules and with the principles for organic production, insofar as those rules and principles could apply to the products concerned, when placing such products on the market with terms referring to organic production.
- (59) In order to take account of any future need to have specific production rules for products whose production does not fall within any of the categories of specific production rules laid down in this Regulation, as well as in order to ensure quality, traceability, compliance with this Regulation and, subsequently, adaptation to technical developments, the power to adopt certain acts should be delegated to the Commission in respect of laying down detailed production rules, as well as rules on the obligation to convert, for such products.
- (60) Exceptions from organic production rules should be provided for only in the event of catastrophic circumstances. In order to allow organic production to continue or recommence in such cases, the power to adopt certain acts should be delegated to the Commission in respect of laying down the criteria to determine whether a situation qualifies as catastrophic circumstances as well as specific rules, including possible derogation from this Regulation, on how Member States are to deal with such catastrophic circumstances and on the necessary monitoring and reporting requirements in such cases.
- (61) Under certain conditions organic products, in-conversion products and non-organic products can be collected and transported simultaneously. In order to duly separate organic, in-conversion and non-organic products during their handling and to avoid any commingling, specific provisions should be laid down.
- (62) In order to ensure the integrity of organic production and adaptation to technical developments, the power to adopt certain acts should be delegated to the Commission in respect of rules on packaging and transport of organic products.
- (63) The use in organic production of certain products or substances as active substances to be used in plant protection products falling within the scope of Regulation (EC) No 1107/2009, fertilisers, soil conditioners, nutrients, non-organic components of animal nutrition of various origin, feed additives, processing aids and products for cleaning and disinfection should be limited to the minimum and made subject to the specific conditions laid down in this Regulation. The same approach should be followed regarding the use of products and substances as food additives and processing aids and regarding the use of non-organic agricultural ingredients in the production of processed organic food. Therefore, any possible use of such products and substances in organic production in general, and in the production of processed organic food in particular, should be defined, subject to the principles laid down in this Regulation and to certain criteria.
- (64) In order to ensure quality, traceability, and compliance with this Regulation as regards organic production in general and the production of processed organic food in particular, as well as to ensure adaptation to technical developments, the power to adopt certain acts should be delegated to the Commission in respect of additional criteria for the authorisation of products and substances for use in organic production in general, and in the production of processed organic food in particular, as well as criteria for the withdrawal of such authorisations.

- (65) In order to ensure access to agricultural ingredients, where such ingredients are not available in organic form in sufficient quantity for the production of processed organic food, Member States should also have the possibility to allow the use of non-organic agricultural ingredients under certain conditions and for a limited period.
- (66) In order to foster organic production and address the need for reliable data, information and data on the availability on the market for organic and in-conversion plant reproductive material, for organic animals and for organic aquaculture juveniles needs to be collected and disseminated to farmers and operators. For that purpose, Member States should ensure that regularly updated databases and systems with such information are established on their territories, and the Commission should make such information public.
- (67) In order to ensure compliance with the requirements for organic production and to ensure consumer trust in this production method, it is necessary that operators inform competent authorities, or, where appropriate, control authorities or control bodies, of cases of suspicion of non-compliance with this Regulation, which is substantiated or cannot be eliminated, concerning products they produce, prepare, import or receive from other operators. Such suspicion may, *inter alia*, arise due to the presence of a product or substance that is not authorised for use in the production of a product that is intended to be used or marketed as an organic or in-conversion product. Operators should inform competent authorities where they are in position to substantiate a suspicion of non-compliance or where they cannot eliminate such a suspicion. In such cases, the products concerned should not be placed on the market as organic or in-conversion products for as long as the suspicion cannot be eliminated. Operators should cooperate with the competent authorities, and, where appropriate, with the control authorities or control bodies, in identifying and verifying the reasons for such non-compliance.
- (68) In order to avoid the contamination of organic production with products or substances that have not been authorised by the Commission for use in organic production for certain purposes, operators should take proportionate and appropriate measures which are under their control to identify and avoid risks of such contamination. Such measures should be regularly reviewed and adjusted if necessary.
- (69) In order to ensure a harmonised approach across the Union as regards the measures to be taken in the case of suspicion of non-compliance, especially where such suspicion arises due to the presence of non-authorised products and substances in organic or in-conversion products, and to avoid uncertainties for operators, competent authorities, or, where appropriate, control authorities or control bodies, should carry out an official investigation in accordance with Regulation (EU) 2017/625 in order to verify compliance with the requirements for organic production. In the specific case of suspicion of non-compliance due to the presence of non-authorised products or substances, the investigation should determine the source and the cause of the presence of such products or substances, in order to ensure that operators comply with the requirements for organic production and, in particular, have not used products or substances that are not authorised for use in organic production, and to ensure that those operators have taken proportionate and appropriate precautionary measures to avoid the contamination of organic production with such products and substances. Such investigations should be proportionate to the suspected non-compliance, and therefore should be completed as soon as possible within a reasonable period, taking into account the durability of the product and the complexity of the case. They could include any method and technique for official controls which is considered appropriate to efficiently eliminate or confirm, without any unnecessary delay, any suspicion of non-compliance with this Regulation, including the use of any relevant information that would permit the elimination or confirmation of any suspicion of non-compliance without an on-the spot inspection.
- (70) The occurrence of the presence of products or substances that are not authorised for use in organic production in products that are marketed as organic or in-conversion products, as well as the measures taken in that respect, should be subject to further observation by Member States and the Commission. The Commission should therefore present a report to the European Parliament and the Council four years after the date of application of this Regulation, based on the information collected by Member States about the cases where non-authorised products and substances in organic production have been investigated. Such report could be accompanied, if appropriate, by a legislative proposal for further harmonisation.

- (71) In the absence of such further harmonisation, Member States that have developed approaches to avoid products that contain a certain level of products or substances not authorised for use in organic production for certain purposes being marketed as organic or in-conversion products should have the possibility to keep applying those approaches. However, in order to ensure the free movement of organic and in-conversion products in the internal market of the Union, such approaches should not prohibit, restrict or impede the placing of products produced in other Member States in compliance with this Regulation on the market. Such approaches should therefore only be applied to products produced on the territory of the Member State that has chosen to continue to apply that approach. Member States that decide to use this possibility should inform the Commission without delay.
- (72) In addition to the obligations concerning measures to be taken by operators producing, preparing, importing or using organic and in-conversion products and by competent authorities, or, where appropriate, by control authorities or control bodies, laid down in this Regulation in order to avoid the contamination of organic or in-conversion products with products or substances not authorised for use in organic production, Member States should also have the possibility of taking other appropriate measures on their territory to avoid the unintended presence of non-authorised products and substances in organic agriculture. Member States that decide to use this possibility should inform the Commission and other Member States without delay.
- (73) The labelling of agricultural products and foodstuffs should be subject to the general rules laid down in Regulation (EU) No 1169/2011 of the European Parliament and of the Council <sup>(1)</sup>, and in particular to the provisions aimed at preventing labelling that might confuse or mislead consumers. In addition, specific provisions relating to the labelling of organic and in-conversion products should be laid down in this Regulation. They should protect both the interests of operators in having their products correctly identified on the market and in enjoying conditions of fair competition, and the interests of consumers in being able to make informed choices.
- (74) Accordingly, the terms used to indicate organic products should be protected throughout the Union against their use in the labelling of non-organic products, independently of the language used. That protection should also apply to the usual derivatives or diminutives of those terms, whether they are used alone or combined.
- (75) Processed food should be labelled as organic only where all or almost all of the ingredients of agricultural origin are organic. To encourage the use of organic ingredients, it should also be possible to refer to organic production only in the list of ingredients of processed food where certain conditions are satisfied, in particular that the food in question complies with certain organic production rules. Special labelling provisions should also be laid down to allow operators to identify the organic ingredients that are used in products which consist mainly of an ingredient that stems from hunting or fishing.
- (76) Processed feed should be labelled as organic only where all or almost all the ingredients of agricultural origin are organic.
- (77) In order to create clarity for consumers throughout the Union market, the use of the organic production logo of the European Union should be obligatory for all organic prepacked food produced within the Union. In addition, it should be possible to use that logo on a voluntary basis in the case of non-prepacked organic products that are produced within the Union and in the case of any organic products imported from third countries, as well as for information and educational purposes. The model of the organic production logo of the European Union should be set out.
- (78) However, in order not to mislead consumers as to the organic nature of the entire product, it is appropriate to limit the use of that logo to products which contain only, or almost only, organic ingredients. It should therefore not be allowed to use it in the labelling of in-conversion products or processed products of which less than 95 % by weight of their ingredients of agricultural origin are organic.

<sup>(1)</sup> Regulation (EU) No 1169/2011 of the European Parliament and of the Council of 25 October 2011 on the provision of food information to consumers, amending Regulations (EC) No 1924/2006 and (EC) No 1925/2006 of the European Parliament and of the Council, and repealing Commission Directive 87/250/EEC, Council Directive 90/496/EEC, Commission Directive 1999/10/EC, Directive 2000/13/EC of the European Parliament and of the Council, Commission Directives 2002/67/EC and 2008/5/EC and Commission Regulation (EC) No 608/2004 (OJ L 304, 22.11.2011, p. 18).



- (79) To avoid any possible confusion among consumers about the Union or non-Union origin of a product, whenever the organic production logo of the European Union is used, consumers should be informed about the place where the agricultural raw materials of which the product is composed have been farmed. In that context, it should be allowed to refer to aquaculture in the label of products from organic aquaculture instead of referring to agriculture.
- (80) In order to provide clarity for consumers, and to ensure that the appropriate information is communicated to them, the power to adopt certain acts should be delegated to the Commission in respect of laying down additional rules on the labelling of organic products and amending the list of terms referring to organic production set out in this Regulation, the organic production logo of the European Union, and the rules relating thereto.
- (81) Certain products or substances used in plant protection products or as fertilisers should not fall within the scope of this Regulation and should therefore, in principle, not be subject to the rules of this Regulation, including the rules on labelling. However, since those products and substances play an important role in organic agriculture and their use in organic production is subject to authorisation under this Regulation, and since certain uncertainties as regards their labelling appeared in practice, in particular as regards the use of terms referring to organic production, it should be made clear that where such products or substances are authorised for use in organic production in accordance with this Regulation, they may be labelled accordingly.
- (82) Organic production is only credible if accompanied by effective verification and controls at all stages of production, processing and distribution.
- (83) Specific requirements for operators should be laid down to ensure compliance with this Regulation. In particular, provisions should be made for the notification of operator's activities to the competent authorities and for a certification system to identify the operators that comply with the rules governing organic production and the labelling of organic products. Those provisions should in principle also apply to any subcontractors of the operators concerned, unless the subcontracting activity is entirely integrated within the main activity of the subcontracting operator, and is controlled in that context. The transparency of the certification system should be ensured by requiring Member States to make public the lists of operators that have notified their activities, and any fees that may be collected in relation to the controls performed for the verification of compliance with the rules governing organic production.
- (84) Small retail shops not selling organic products other than prepacked organic products present a relatively low risk of non-compliance with organic production rules, and they should not face disproportionate burdens for selling organic products. They should therefore not be subject to the notification and certification obligations, but should remain subject to official controls performed for the verification of compliance with the rules governing organic production and the labelling of organic products. Equally, small retail shops selling unpacked organic products should be subject to official controls, but in order to facilitate the marketing of organic products, Member States should have the possibility of exempting such shops from the obligation to certify their activities.
- (85) Small farmers and operators that produce algae or aquaculture animals in the Union individually face relatively high inspection costs and administrative burdens linked to organic certification. A system of group certification should be allowed in order to reduce the inspection and certification costs and the associated administrative burdens, strengthen local networks, contribute to better market outlets and ensure a level playing field with operators in third countries. For that reason, the concept of 'group of operators' should be introduced and defined, and rules should be established that reflect the needs and resource capacity of small farmers and operators.
- (86) In order to ensure the effectiveness, efficiency and transparency of the organic production and of the labelling of organic products, the power to adopt certain acts should be delegated to the Commission in respect of the requirements for keeping records by operators or groups of operators and the model of the certificate of compliance.
- (87) In order to ensure that the certification of groups of operators is done effectively and efficiently, the power to adopt certain acts should be delegated to the Commission in respect of the responsibilities of the individual members of groups of operators, the criteria to determine the geographical proximity of their members, and the set-up and functioning of their systems for internal controls.



- (88) Organic production is subject to official controls and to other official activities carried out in accordance with Regulation (EU) 2017/625 to verify compliance with the rules on organic production and the labelling of organic products. However, except as otherwise provided for in this Regulation, rules should apply to organic production in addition to those which are laid down in that Regulation as regards official controls and actions by competent authorities, and, where appropriate, by control authorities and control bodies, as regards actions to be taken by operators and groups of operators, as regards the delegation of certain official control tasks or certain tasks related to other official activities and their supervision, and as regards actions in cases of suspected or established non-compliance, including the prohibition against marketing products as organic or in-conversion products where the established non-compliance affects the integrity of those products.
- (89) In order to ensure a uniform approach on their territories, it should be solely up to the competent authorities to provide for a catalogue of measures to be taken in cases of suspected or established non-compliance.
- (90) Provisions on the exchange of certain relevant information among competent authorities, control authorities, control bodies and certain other bodies and on the action of such authorities and bodies, additional to the provisions of Regulation (EU) 2017/625, should be laid down in this Regulation.
- (91) In order to support the performance of official controls and other official activities to verify compliance with this Regulation, the power to adopt certain acts should be delegated to the Commission in respect of specific criteria and conditions for the performance of official controls conducted to ensure the traceability at all stages of production, preparation and distribution, and compliance with this Regulation and in respect of additional elements to be taken into account in the determination, based on practical experience, of the likelihood of non-compliance.
- (92) In order to support the performance of official controls and other official activities to verify compliance with this Regulation, the power to adopt certain acts should be delegated to the Commission in respect of the conditions for the delegation of official control tasks and tasks related to other official activities to control bodies, in addition to the conditions laid down in this Regulation.
- (93) The experience with the arrangements for the import of organic products into the Union under Regulation (EC) No 834/2007 has shown that there is a need to revise those arrangements in order to respond to consumer expectations that imported organic products meet standards as high as those of the Union, as well as in order to better ensure the access of Union organic products to the international market. In addition, it is necessary to provide clarity regarding the rules applicable to export of organic products, in particular by establishing organic export certificates.
- (94) The provisions governing the import of products that comply with the Union production and labelling rules, in respect of which operators have been subject to the control of control authorities and control bodies recognised by the Commission to carry out in third countries controls and certification in the field of organic production, should be further reinforced. In particular, requirements concerning the accreditation bodies which accredit control bodies for the purposes of import of compliant organic products into the Union should be laid down in order to ensure a level playing field for the supervision of the control bodies by the Commission. Furthermore, it is necessary to provide for the possibility for the Commission to contact directly the accreditation bodies and competent authorities in third countries to render the supervision of control authorities and control bodies respectively more efficient. In the case of products imported from third countries or the outermost regions of the Union with specific climatic and local conditions, it is appropriate to provide for the possibility for the Commission to grant specific authorisations for the use of products and substances in organic production.
- (95) It should remain possible for organic products to have access to the Union market where such products do not comply with the Union rules on organic production but come from third countries whose organic production and control systems have been recognised as equivalent to those of the Union. However, the recognition of equivalence of third countries, as laid down in Regulation (EC) No 834/2007, should only be granted through international agreements between the Union and those third countries, where a reciprocal recognition of equivalence would be also pursued for the Union.
- (96) Third countries recognised for the purpose of equivalence under Regulation (EC) No 834/2007 should continue to be recognised as such under this Regulation, for a limited period necessary to ensure a smooth transition to the scheme of recognition through an international agreement, provided that they continue to ensure that their organic

production and control rules are equivalent to the relevant Union rules in force and that they fulfil all requirements relating to the supervision of their recognition by the Commission. That supervision should be based in particular on the annual reports those recognised third countries send to the Commission.

- (97) The experience with the scheme of control authorities and control bodies recognised by the Commission to carry out controls and to issue certificates in third countries for the purpose of importing products, which provides equivalent guarantees, shows that the rules applied by those authorities and bodies differ, and it could be difficult to consider such rules as equivalent to the respective Union rules. Furthermore, the multiplication of standards for control authorities and control bodies hampers adequate supervision by the Commission. Therefore, that scheme of recognition of equivalence should be abolished. However, those control authorities and control bodies should be given sufficient time so that they can prepare themselves to obtain recognition for the purposes of import of products that comply with Union rules. Furthermore, the new rules for the recognition of control authorities and control bodies for the purpose of importing compliant products should already apply from the date of entry into force of this Regulation, in order to allow the Commission to prepare for the recognition of such control authorities and control bodies from the date of application of this Regulation.
- (98) The placing of any product on the market as an organic product, where that product has been imported into the Union under any of the import arrangements provided for in this Regulation, should be subject to the availability of the information necessary to ensure the traceability of the product on the food chain.
- (99) In order to ensure fair competition among operators, the power to adopt certain acts should be delegated to the Commission in respect of the documents intended for customs authorities in third countries, in particular organic export certificates.
- (100) In order to ensure the transparency of the recognition and supervision procedure for control authorities and control bodies within the context of import of compliant organic products and the effectiveness, efficiency and transparency of the controls of imported products, the power to adopt certain acts should be delegated to the Commission in respect of further criteria for recognition of control authorities and control bodies in the context of import of organic products that comply with this Regulation, as well as further criteria for the withdrawal of such recognition, in respect of the exercise of the supervision of the control authorities and control bodies recognised by the Commission and in respect of the controls and other actions to be performed by control authorities and control bodies for that purpose.
- (101) Where serious or repetitive infringements as regards the certification or the controls and actions under this Regulation have been detected, and where the control authority or control body concerned fails to take appropriate and timely remedial action in reaction to a request by the Commission, the recognition of that control authority or control body should be withdrawn without delay.
- (102) In order to ensure the management of the list of third countries recognised for the purpose of equivalence under Regulation (EC) No 834/2007, the power to adopt certain acts should be delegated to the Commission in respect of the information to be sent by those recognised third countries which is necessary for the supervision of their recognition and the exercise of that supervision by the Commission.
- (103) Provision should be made for ensuring that the movement of organic products that comply with this Regulation and have been subject to a control in one Member State cannot be restricted in another Member State.
- (104) For the purpose of obtaining reliable information for the implementation of this Regulation, Member States should regularly provide the Commission with the necessary information. For reasons of clarity and transparency, Member States should keep updated lists of competent authorities, control authorities and control bodies. The lists of control authorities and control bodies should be made public by the Member States and published by the Commission.
- (105) In view of the phasing out of the derogations concerning the use of non-organic plant reproductive material, non-organically reared poultry, and non-organic livestock for breeding purposes, the Commission should consider the availability of such material in organic form on the market in the Union. To that end, and on the basis of the data on the availability of organic material collected through the database and systems set up by Member States, five years after the date of application of this Regulation, the Commission should present a report to the European Parliament and the Council on the availability and reasons of a possible limited access of organic operators to such material.

- (106) In view of the phasing out of the derogations concerning the use of non-organic protein feed for poultry and porcine animals, and on the basis of the data provided every year by Member States on the availability of such protein feed in organic form on the market in the Union, five years after the date of application of this Regulation, the Commission should present a report to the European Parliament and to the Council on the availability of and reasons for a possible limited access of organic operators to such organic protein feed.
- (107) In order to take into account the evolution of availability on the market of organic plant reproductive material, organic animals and organic protein feed for poultry and porcine animals, the power to adopt certain acts should be delegated to the Commission in respect of ending or extending derogations and authorisations concerning the use of non-organic plant reproduction material, non-organic animals and non-organic protein feed for poultry and porcine animals.
- (108) It is necessary to lay down measures to ensure a smooth transition to the legal framework governing the import of organic and in-conversion products into the Union as modified by this Regulation.
- (109) Furthermore, a time limit for the expiry of the recognition of control authorities and control bodies for the purpose of equivalence granted under Regulation (EC) No 834/2007 should be set, and provisions to address the situation up to the expiry of their recognition should be laid down. Provisions should also be laid down regarding applications from third countries for recognition for the purpose of equivalence which have been submitted under Regulation (EC) No 834/2007 and which are pending on the date of entry into force of this Regulation.
- (110) In order to ensure the management of the list of control authorities and control bodies recognised for the purpose of equivalence under Regulation (EC) No 834/2007, the power to adopt certain acts should be delegated to the Commission in respect of the information that those control authorities and control bodies should send for the purpose of the supervision of their recognition and in respect of the exercise of that supervision by the Commission.
- (111) In order to facilitate the completion of the examination of applications from third countries for recognition for the purpose of equivalence that are pending on the date of entry into force of this Regulation, the power to adopt certain acts should be delegated to the Commission in respect of the procedural rules necessary for the examination of the pending applications from third countries.
- (112) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission as regards the documents that are to be supplied for the purpose of recognising a previous period as being part of the conversion period, as regards the minimum period for feeding of suckling animals with maternal milk and certain technical rules for livestock housing and husbandry practices, as regards detailed rules per species or per group of species of aquaculture animal on the stocking density and on the specific characteristics for production systems and containment systems, as regards techniques authorised in the processing of food and feed products, as regards the authorisation of the products and substances that may be used in organic production in general, and in the production of processed organic food in particular, as well as the withdrawal of such authorisations, and as regards the procedures for the authorisation and the lists of such products and substances and, where appropriate, the description, compositional requirement and conditions for the use of such products.
- (113) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission as regards the technical details for establishing and maintaining the databases that list the available organic or in-conversion plant reproductive material obtained by the organic production method, as regards the technical details for establishing and maintaining the systems for making available data on organic or in-conversion plant reproductive material or organic animals or organic aquaculture juveniles and the specifications for the collection of data for that purpose, as regards the arrangements for operators' participation in those systems, and as regards details concerning the information to be provided by Member State as regards derogations from the use of organic plant reproductive material, organic animals and organic feed and as regards the availability on the market of certain organic products.
- (114) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission as regards the measures to be adopted and reviewed by operators to identify and avoid risk of contamination of organic production and products with non-authorised products and substances, as regards the procedural steps to be taken in the case of a suspicion of non-compliance and the relevant documents, as regards the methodology on detection and evaluation of the presence of non-authorised products and substances, and as regards the details and format of the information to be transmitted by Member States to the Commission and other Member States concerning results of investigations on the presence of non-authorised products or substances.

- (115) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission as regards detailed requirements for the labelling and advertising of certain in-conversion products, as regards the practical arrangements for the use, presentation, composition and size of the indications referring to the code numbers of control authorities and control bodies and the use, presentation, composition and size of the indication of the place where the agricultural raw materials have been farmed, as regards the assignment of code numbers to control authorities and control bodies and as regards the indication of the place where the agricultural raw materials have been farmed.
- (116) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission as regards the details and specifications regarding the format and technical means by which operators and groups of operators are to notify their activities to the competent authorities, as regards the arrangements for the publication of the lists of such operators and groups of operators, as regards the procedures and the arrangements for the publication of the fees that may be collected in relation to the controls, as regards details and specifications regarding the form of the certificate for operators and groups of operators and the technical means by which it is issued, as regards the composition and dimensions of groups of operators, as regards the relevant documents and record-keeping systems, as regards the system for internal traceability and the list of operators, and as regards the exchange of information between groups of operators and competent authorities, control authorities or control bodies and the exchange of information between the Member States and the Commission.
- (117) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission as regards the minimum percentage of all official controls to be carried out without prior notice and the minimum percentage of additional controls, as well as the minimum number of samples to be taken and of operators to be controlled within a group of operators, as regards the records for demonstrating compliance, as regards the declarations and other communications that are necessary for official controls, as regards the relevant practical measures for ensuring compliance, as regards uniform arrangements for the cases where competent authorities are to take measures in relation to suspected or established non-compliance, as regards the information to be provided in the case of suspected or established non-compliance, as regards the recipients of such information, and as regards the procedures for the provision of such information, including the functionalities of the computer system used.
- (118) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission as regards the content of certificates of inspection issued by third countries, as regards the procedure to be followed for the issuance and verification of such certificates, as regards the technical means by which such certificates are issued, as regards the recognition of control authorities and control bodies competent to carry out controls and to issue organic certificate in third countries, as well as the withdrawal of such recognition, as regards the establishment of the list of those control authorities and control bodies, as regards rules to ensure the application of measures in relation to cases of suspected or established non-compliance, in particular those cases that affect the integrity of imported organic or in-conversion products, as regards the establishment of a list of third countries recognised under Article 33(2) of Regulation (EC) No 834/2007 and the amendment of that list, and as regards rules to ensure the application of measures in relation to cases of suspected or established non-compliance, in particular those cases that affect the integrity of organic or in-conversion products imported from those countries.
- (119) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission as regards the system to be used for transmitting the information necessary for the implementation and monitoring of this Regulation, as regards the details of the information to be transmitted and the date by which that information is to be transmitted, and as regards the establishment of the list of control authorities and control bodies recognised under Article 33(3) of Regulation (EC) No 834/2007 and the amendment of that list.
- (120) The implementing powers conferred on the Commission should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council <sup>(1)</sup>.
- (121) The Commission should be empowered to adopt immediately applicable implementing acts, where, in duly justified cases relating to unfair practices or practices which are incompatible with the principles and rules on organic production, the protection of consumers' confidence or the protection of fair competition between operators, imperative grounds of urgency so require, to ensure the application of measures in relation to cases of suspected or established non-compliance under the control of recognised control authorities or control bodies.

<sup>(1)</sup> Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

- (122) Provision should be made to allow the exhaustion after the date of application of this Regulation of stocks of products which have been produced in accordance with Regulation (EC) No 834/2007 before that date.
- (123) Since the objectives of this Regulation, in particular fair competition and the proper functioning of the internal market in organic products, as well as ensuring consumer confidence in those products and in the organic production logo of the European Union, cannot be sufficiently achieved by the Member States themselves but can rather, by reason of the required harmonisation of the rules on organic production, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.
- (124) It is appropriate to provide for a date of application of this Regulation that would give the possibility to operators to adapt to the new requirements,

HAVE ADOPTED THIS REGULATION:

#### CHAPTER I

### SUBJECT MATTER, SCOPE AND DEFINITIONS

#### *Article 1*

#### **Subject matter**

This Regulation establishes the principles of organic production and lays down the rules concerning organic production, related certification and the use of indications referring to organic production in labelling and advertising, as well as rules on controls additional to those laid down in Regulation (EU) 2017/625.

#### *Article 2*

#### **Scope**

1. This Regulation applies to the following products originating from agriculture, including aquaculture and beekeeping, as listed in Annex I to the TFEU and to products originating from those products, where such products are, or are intended to be, produced, prepared, labelled, distributed, placed on the market, imported into or exported from the Union:

- (a) live or unprocessed agricultural products, including seeds and other plant reproductive material;
- (b) processed agricultural products for use as food;
- (c) feed.

This Regulation also applies to certain other products closely linked to agriculture listed in Annex I to this Regulation, where they are, or are intended to be, produced, prepared, labelled, distributed, placed on the market, imported into or exported from the Union.

2. This Regulation applies to any operator involved, at any stage of production, preparation and distribution, in activities relating to the products referred to in paragraph 1.

3. Mass catering operations carried out by a mass caterer as defined in point (d) of Article 2(2) of Regulation (EU) No 1169/2011 are not subject to this Regulation except as set out in this paragraph.

Member States may apply national rules or, in the absence thereof, private standards, on the production, labelling and control of products originating from mass catering operations. The organic production logo of the European Union shall not be used in the labelling, the presentation or the advertising of such products, and shall not be used to advertise the mass caterer.

4. Except where otherwise provided, this Regulation applies without prejudice to related Union legislation, in particular, legislation in the fields of safety of the food chain, animal health and welfare, plant health and plant reproductive material.

5. This Regulation applies without prejudice to other specific Union law relating to the placing of products on the market and, in particular, to Regulation (EU) No 1308/2013 of the European Parliament and of the Council <sup>(1)</sup> and to Regulation (EU) No 1169/2011.

<sup>(1)</sup> Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 (OJ L 347, 20.12.2013, p. 671).



6. The Commission is empowered to adopt delegated acts in accordance with Article 54 amending the list of products set out in Annex I by adding further products to the list, or by amending those added entries. Only products which are closely linked to agricultural products shall be eligible for inclusion in that list.

### *Article 3*

#### **Definitions**

For the purposes of this Regulation, the following definitions apply:

- (1) 'organic production' means the use, including during the conversion period referred to in Article 10, of production methods that comply with this Regulation at all stages of production, preparation and distribution;
- (2) 'organic product' means a product resulting from organic production, other than a product produced during the conversion period referred to in Article 10. The products of hunting or fishing of wild animals are not considered as organic products;
- (3) 'agricultural raw material' means an agricultural product that has not been subjected to any operation of preservation or processing;
- (4) 'preventive measures' means measures that are to be taken by operators at every stage of production, preparation and distribution in order to ensure the preservation of biodiversity and soil quality, measures for the prevention and control of pests and diseases and measures that are to be taken to avoid negative effects on the environment, animal health and plant health;
- (5) 'precautionary measures' means measures that are to be taken by operators at every stage of production, preparation, and distribution to avoid contamination with products or substances that are not authorised for use in organic production in accordance with this Regulation, and to avoid the commingling of organic products with non-organic products;
- (6) 'conversion' means the transition from non-organic to organic production within a given period, during which the provisions of this Regulation concerning organic production apply;
- (7) 'in-conversion product' means a product that is produced during the conversion period referred to in Article 10;
- (8) 'holding' means all the production units operated under single management for the purpose of producing live or unprocessed agricultural products, including products originating from aquaculture and beekeeping, referred to in point (a) of Article 2(1) or products listed in Annex I other than essential oils and yeast;
- (9) 'production unit' means all assets of a holding, such as primary production premises, land parcels, pasturages, open air areas, livestock buildings or parts thereof, hives, fish ponds, containment systems and sites for algae or aquaculture animals, rearing units, shore or seabed concessions, and premises for the storage of crops, of crop products, of algae products, of animal products, of raw materials and of any other relevant inputs managed as described in point (10), point (11) or point (12);
- (10) 'organic production unit' means a production unit, excluding during the conversion period referred to in Article 10, which is managed in compliance with the requirements applicable to organic production;
- (11) 'in-conversion production unit' means a production unit, during the conversion period referred to in Article 10, which is managed in compliance with the requirements applicable to organic production; it may be constituted of land parcels or other assets for which the conversion period referred to in Article 10 starts at different moments in time;
- (12) 'non-organic production unit' means a production unit which is not managed in compliance with the requirements applicable to organic production;
- (13) 'operator' means the natural or legal person responsible for ensuring that this Regulation is complied with at every stage of production, preparation and distribution that are under that person's control;
- (14) 'farmer' means a natural or legal person, or a group of natural or legal persons, regardless of the legal status of that group and its members under national law, who exercises an agricultural activity;
- (15) 'agricultural area' means agricultural area as defined in point (e) of Article 4(1) of Regulation (EU) No 1307/2013;
- (16) 'plants' means plants as defined in point (5) of Article 3 of Regulation (EC) No 1107/2009;



- (17) 'plant reproductive material' means plants and all parts of plants, including seeds, at any stage of growth that are capable of, and intended for, producing entire plants;
- (18) 'organic heterogeneous material' means a plant grouping within a single botanical taxon of the lowest known rank which:
- (a) presents common phenotypic characteristics;
  - (b) is characterised by a high level of genetic and phenotypic diversity between individual reproductive units, so that that plant grouping is represented by the material as a whole, and not by a small number of units;
  - (c) is not a variety within the meaning of Article 5(2) of Council Regulation (EC) No 2100/94 <sup>(1)</sup>;
  - (d) is not a mixture of varieties; and
  - (e) has been produced in accordance with this Regulation;
- (19) 'organic variety suitable for organic production' means a variety as defined in Article 5(2) of Regulation (EC) No 2100/94 which:
- (a) is characterised by a high level of genetic and phenotypic diversity between individual reproductive units; and
  - (b) results from organic breeding activities referred to in point 1.8.4 of Part I of Annex II to this Regulation;
- (20) 'mother plant' means an identified plant from which plant reproductive material is taken for the reproduction of new plants;
- (21) 'generation' means a group of plants constituting a single step in the line of descent of plants;
- (22) 'plant production' means production of agricultural crop products including harvesting of wild plant products for commercial purposes;
- (23) 'plant products' means plant products as defined in point (6) of Article 3 of Regulation (EC) No 1107/2009;
- (24) 'pest' means a pest as defined in Article 1(1) of Regulation (EU) 2016/2031 of the European Parliament and of the Council <sup>(2)</sup>;
- (25) 'biodynamic preparations' means mixtures traditionally used in biodynamic farming;
- (26) 'plant protection products' means the products referred to in Article 2 of Regulation (EC) No 1107/2009;
- (27) 'livestock production' means the production of domestic or domesticated terrestrial animals, including insects;
- (28) 'veranda' means an additional, roofed, uninsulated, outdoor part of a building intended for poultry, the longest side usually being equipped with wire fencing or netting, with an outdoor climate, natural and, where necessary, artificial illumination, and a littered floor;
- (29) 'pullets' means young animals of the *Gallus gallus* species that are of an age of less than 18 weeks;
- (30) 'laying hens' means animals of the *Gallus gallus* species that are intended for the production of eggs for consumption and that are of an age of at least 18 weeks;
- (31) 'usable area' means usable area as defined in point (d) of Article 2(2) of Council Directive 1999/74/EC <sup>(3)</sup>;
- (32) 'aquaculture' means aquaculture as defined in point (25) of Article 4(1) of Regulation (EU) No 1380/2013 of the European Parliament and of the Council <sup>(4)</sup>;
- (33) 'aquaculture products' means aquaculture products as defined in point (34) of Article 4(1) of Regulation (EU) No 1380/2013;

<sup>(1)</sup> Council Regulation (EC) No 2100/94 of 27 July 1994 on Community plant variety rights (OJ L 227, 1.9.1994, p. 1).

<sup>(2)</sup> Regulation (EU) 2016/2031 of the European Parliament and of the Council of 26 October 2016 on protective measures against pests of plants, amending Regulations (EU) No 228/2013, (EU) No 652/2014 and (EU) No 1143/2014 of the European Parliament and of the Council and repealing Council Directives 69/464/EEC, 74/647/EEC, 93/85/EEC, 98/57/EC, 2000/29/EC, 2006/91/EC and 2007/33/EC (OJ L 317, 23.11.2016, p. 4).

<sup>(3)</sup> Council Directive 1999/74/EC of 19 July 1999 laying down minimum standards for the protection of laying hens (OJ L 203, 3.8.1999, p. 53).

<sup>(4)</sup> Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy, amending Council Regulations (EC) No 1954/2003 and (EC) No 1224/2009 and repealing Council Regulations (EC) No 2371/2002 and (EC) No 639/2004 and Council Decision 2004/585/EC (OJ L 354, 28.12.2013, p. 22).

- (34) 'closed recirculation aquaculture facility' means a facility on land or in a vessel where aquaculture takes place within an enclosed environment involving the recirculation of water and which depends on permanent external energy input to stabilise the environment for the aquaculture animals;
- (35) 'energy from renewable sources' means energy from renewable non-fossil sources such as wind, solar, geothermal, wave, tidal, hydropower, landfill gas, sewage treatment plant gas and biogases;
- (36) 'hatchery' means a place for the breeding, hatching and rearing through the early life stages of aquaculture animals, in particular finfish and shellfish;
- (37) 'nursery' means a place where an intermediate aquaculture production system is applied between the hatchery and grow-out stages. The nursery stage is completed within the first third of the production cycle, with the exception of species undergoing a smoltification process;
- (38) 'water pollution' means pollution as defined in point (33) of Article 2 of Directive 2000/60/EC and in point (8) of Article 3 of Directive 2008/56/EC of the European Parliament and of the Council <sup>(1)</sup>, in the waters to which each of those Directives applies;
- (39) 'polyculture' means the rearing in aquaculture of two or more species, usually from different trophic levels, in the same culture unit;
- (40) 'production cycle' means the lifespan of an aquaculture animal or alga, from the earliest life stage (fertilised eggs, in the case of aquaculture animals) to harvesting;
- (41) 'locally grown species' means aquaculture species which are neither alien nor locally absent species within the meaning of points (6) and (7), respectively, of Article 3 of Council Regulation (EC) No 708/2007 <sup>(2)</sup>, as well as the species listed in Annex IV to that Regulation;
- (42) 'veterinary treatment' means all courses of a curative or preventive treatment against an occurrence of a specific disease;
- (43) 'veterinary medicinal product' means a veterinary medicinal product as defined in point (2) of Article 1 of Directive 2001/82/EC of the European Parliament and of the Council <sup>(3)</sup>;
- (44) 'preparation' means the operations of preserving or processing of organic or in-conversion products, or any other operation that is carried out on an unprocessed product without altering the initial product, such as slaughtering, cutting, cleaning or milling, as well as packaging, labelling or alterations made to the labelling relating to organic production;
- (45) 'food' means food as defined in Article 2 of Regulation (EC) No 178/2002 of the European Parliament and of the Council <sup>(4)</sup>;
- (46) 'feed' means feed as defined in point (4) of Article 3 of Regulation (EC) No 178/2002;
- (47) 'feed materials' mean feed materials as defined in point (g) of Article 3(2) of Regulation (EC) No 767/2009 of the European Parliament and of the Council <sup>(5)</sup>;
- (48) 'placing on the market' means placing on the market as defined in point (8) of Article 3 of Regulation (EC) No 178/2002;
- (49) 'traceability' means the ability to trace and follow food, feed or any product referred to in Article 2(1), and any substance intended or expected to be incorporated into food, feed or any product referred to in Article 2(1), through all stages of production, preparation and distribution;
- (50) 'stage of production, preparation and distribution' means any stage from the primary production of an organic product through its storage, processing, transport, and sale or supply to the final consumer, including, where relevant, labelling, advertising, import, export and subcontracting activities;

<sup>(1)</sup> Directive 2008/56/EC of the European Parliament and of the Council of 17 June 2008 establishing a framework for community action in the field of marine environmental policy (Marine Strategy Framework Directive) (OJ L 164, 25.6.2008, p. 19).

<sup>(2)</sup> Council Regulation (EC) No 708/2007 of 11 June 2007 concerning use of alien and locally absent species in aquaculture (OJ L 168, 28.6.2007, p. 1).

<sup>(3)</sup> Directive 2001/82/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to veterinary medicinal products (OJ L 311, 28.11.2001, p. 1).

<sup>(4)</sup> Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety (OJ L 31, 1.2.2002, p. 1).

<sup>(5)</sup> Regulation (EC) No 767/2009 of the European Parliament and of the Council of 13 July 2009 on the placing on the market and use of feed, amending European Parliament and Council Regulation (EC) No 1831/2003 and repealing Council Directive 79/373/EEC, Commission Directive 80/511/EEC, Council Directives 82/471/EEC, 83/228/EEC, 93/74/EEC, 93/113/EC and 96/25/EC and Commission Decision 2004/217/EC (OJ L 229, 1.9.2009, p. 1).

- (51) 'ingredient' means an ingredient as defined in point (f) of Article 2(2) of Regulation (EU) No 1169/2011 or, for products other than food, any substance or product used in the manufacture or preparation of products that is still present in the finished product, even in altered form;
- (52) 'labelling' means any words, particulars, trade marks, brand name, pictorial matter or symbol relating to a product that are placed on any packaging, document, notice, label, ring or collar that accompanies or refers to that product;
- (53) 'advertising' means any presentation of products to the public, by any means other than a label, that is intended or is likely to influence and shape attitudes, beliefs and behaviours in order to directly or indirectly promote the sale of products;
- (54) 'competent authorities' means competent authorities as defined in point (3) of Article 3 of Regulation (EU) 2017/625;
- (55) 'control authority' means an organic control authority as defined in point (4) of Article 3 of Regulation (EU) 2017/625, or an authority recognised by the Commission or by a third country recognised by the Commission for the purposes of carrying out controls in third countries for the import of organic and in-conversion products into the Union;
- (56) 'control body' means a delegated body as defined in point (5) of Article 3 of Regulation (EU) 2017/625, or a body recognised by the Commission or by a third country recognised by the Commission for the purposes of carrying out controls in third countries for the import of organic and in-conversion products into the Union;
- (57) 'non-compliance' means non-compliance with this Regulation or non-compliance with the delegated or implementing acts adopted in accordance with this Regulation;
- (58) 'genetically modified organism' or 'GMO' means a genetically modified organism as defined in point (2) of Article 2 of Directive 2001/18/EC of the European Parliament and of the Council <sup>(1)</sup> which is not obtained through the techniques of genetic modification listed in Annex I.B to that Directive;
- (59) 'produced from GMOs' means derived in whole or in part from GMOs but not containing or consisting of GMOs;
- (60) 'produced by GMOs' means derived by using a GMO as the last living organism in the production process, but not containing or consisting of GMOs nor produced from GMOs;
- (61) 'food additive' means a food additive as defined in point (a) of Article 3(2) of Regulation (EC) No 1333/2008 of the European Parliament and of the Council <sup>(2)</sup>;
- (62) 'feed additives' mean feed additives as defined in point (a) of Article 2(2) of Regulation (EC) No 1831/2003 of the European Parliament and of the Council <sup>(3)</sup>;
- (63) 'engineered nanomaterial' means an engineered nanomaterial as defined in point (f) of Article 3(2) of Regulation (EU) 2015/2283 of the European Parliament and of the Council <sup>(4)</sup>;
- (64) 'equivalence' means meeting the same objectives and principles by applying rules which ensure the same level of assurance of conformity;
- (65) 'processing aid' means a processing aid as defined in point (b) of Article 3(2) of Regulation (EC) No 1333/2008 for food and in point (h) of Article 2(2) of Regulation (EC) No 1831/2003 for feed;
- (66) 'food enzyme' means a food enzyme as defined in point (a) of Article 3(2) of Regulation (EC) No 1332/2008 of the European Parliament and of the Council <sup>(5)</sup>;
- (67) 'ionising radiation' means ionising radiation as defined in point (46) of Article 4 of Council Directive 2013/59/Euratom <sup>(6)</sup>;

<sup>(1)</sup> Directive 2001/18/EC of the European Parliament and of the Council of 12 March 2001 on the deliberate release into the environment of genetically modified organisms and repealing Council Directive 90/220/EEC (OJ L 106, 17.4.2001, p. 1).

<sup>(2)</sup> Regulation (EC) No 1333/2008 of the European Parliament and of the Council of 16 December 2008 on food additives (OJ L 354, 31.12.2008, p. 16).

<sup>(3)</sup> Regulation (EC) No 1831/2003 of the European Parliament and of the Council of 22 September 2003 on additives for use in animal nutrition (OJ L 268, 18.10.2003, p. 29).

<sup>(4)</sup> Regulation (EU) 2015/2283 of the European Parliament and of the Council of 25 November 2015 on novel foods, amending Regulation (EU) No 1169/2011 of the European Parliament and of the Council and repealing Regulation (EC) No 258/97 of the European Parliament and of the Council and Commission Regulation (EC) No 1852/2001 (OJ L 327, 11.12.2015, p. 1).

<sup>(5)</sup> Regulation (EC) No 1332/2008 of the European Parliament and of the Council of 16 December 2008 on food enzymes and amending Council Directive 83/417/EEC, Council Regulation (EC) No 1493/1999, Directive 2000/13/EC, Council Directive 2001/112/EC and Regulation (EC) No 258/97 (OJ L 354, 31.12.2008, p. 7).

<sup>(6)</sup> Council Directive 2013/59/Euratom of 5 December 2013 laying down basic safety standards for protection against the dangers arising from exposure to ionising radiation, and repealing Directives 89/618/Euratom, 90/641/Euratom, 96/29/Euratom, 97/43/Euratom and 2003/122/Euratom (OJ L 13, 17.1.2014, p. 1).

- (68) 'prepacked food' means prepacked food as defined in point (e) of Article 2(2) of Regulation (EU) No 1169/2011;
- (69) 'poultry house' means a fixed or mobile building for accommodating flocks of poultry, which includes all surfaces covered by roofs, including a veranda; the house may be subdivided into separate compartments, each accommodating a single flock;
- (70) 'soil-related crop cultivation' means production in living soil or in soil that is mixed or fertilised with materials and products that are allowed in organic production in connection with the subsoil and bedrock;
- (71) 'unprocessed products' means unprocessed products as defined in point (n) of Article 2(1) of Regulation (EC) No 852/2004 of the European Parliament and of the Council <sup>(1)</sup>, irrespective of packaging or labelling operations;
- (72) 'processed products' means processed products as defined in point (o) of Article 2(1) of Regulation (EC) No 852/2004, irrespective of packaging or labelling operations;
- (73) 'processing' means processing as defined in point (m) of Article 2(1) of Regulation (EC) No 852/2004; this includes the use of substances referred to in Articles 24 and 25 of this Regulation but does not include packaging or labelling operations;
- (74) 'integrity of organic or in-conversion products' means the fact that the product does not exhibit non-compliance which:
- (a) in any stage of production, preparation and distribution affects the organic or in-conversion characteristics of the product; or
  - (b) is repetitive or intentional;
- (75) 'pen' means an enclosure that includes a part in which animals are provided with protection from adverse weather conditions.

## CHAPTER II

### OBJECTIVES AND PRINCIPLES OF ORGANIC PRODUCTION

#### *Article 4*

#### **Objectives**

Organic production shall pursue the following general objectives:

- (a) contributing to protection of the environment and the climate;
- (b) maintaining the long-term fertility of soils;
- (c) contributing to a high level of biodiversity;
- (d) substantially contributing to a non-toxic environment;
- (e) contributing to high animal welfare standards and, in particular, to meeting the species-specific behavioural needs of animals;
- (f) encouraging short distribution channels and local production in the various areas of the Union;
- (g) encouraging the preservation of rare and native breeds in danger of extinction;
- (h) contributing to the development of the supply of plant genetic material adapted to the specific needs and objectives of organic agriculture;
- (i) contributing to a high level of biodiversity, in particular by using diverse plant genetic material, such as organic heterogeneous material and organic varieties suitable for organic production;
- (j) fostering the development of organic plant breeding activities in order to contribute to favourable economic perspectives of the organic sector.

#### *Article 5*

#### **General principles**

Organic production is a sustainable management system that is based on the following general principles:

- (a) respect for nature's systems and cycles and the sustainment and enhancement of the state of the soil, the water and the air, of the health of plants and animals, and of the balance between them;
- (b) the preservation of natural landscape elements, such as natural heritage sites;

<sup>(1)</sup> Regulation (EC) No 852/2004 of the European Parliament and of the Council of 29 April 2004 on the hygiene of foodstuffs (OJ L 139, 30.4.2004, p. 1).

- (c) the responsible use of energy and natural resources, such as water, soil, organic matter and air;
- (d) the production of a wide variety of high-quality food and other agricultural and aquaculture products that respond to consumers' demand for goods that are produced by the use of processes that do not harm the environment, human health, plant health or animal health and welfare;
- (e) ensuring the integrity of organic production at all stages of the production, processing and distribution of food and feed;
- (f) the appropriate design and management of biological processes, based on ecological systems and using natural resources which are internal to the management system, using methods that:
  - (i) use living organisms and mechanical production methods;
  - (ii) practice soil-related crop cultivation and land-related livestock production, or practice aquaculture which complies with the principle of the sustainable exploitation of aquatic resources;
  - (iii) exclude the use of GMOs, products produced from GMOs, and products produced by GMOs, other than veterinary medicinal products;
  - (iv) are based on risk assessment and the use of precautionary measures and preventive measures, where appropriate;
- (g) the restriction of the use of external inputs; where external inputs are required or the appropriate management practices and methods referred to in point (f) do not exist, the external inputs shall be limited to:
  - (i) inputs from organic production; in the case of plant reproductive material, priority shall be given to varieties selected for their ability to meet the specific needs and objectives of organic agriculture;
  - (ii) natural or naturally-derived substances;
  - (iii) low solubility mineral fertilisers;
- (h) the adaptation of the production process, where necessary and within the framework of this Regulation, to take account of the sanitary status, regional differences in the ecological balance, climatic and local conditions, stages of development and specific husbandry practices;
- (i) the exclusion from the whole organic food chain of animal cloning, of rearing artificially induced polyploid animals and of ionising radiation;
- (j) the observance of a high level of animal welfare respecting species-specific needs.

#### Article 6

##### **Specific principles applicable to agricultural activities and aquaculture**

As regards agricultural activities and aquaculture, organic production shall, in particular, be based on the following specific principles:

- (a) the maintenance and enhancement of soil life and natural soil fertility, soil stability, soil water retention and soil biodiversity, preventing and combating loss of soil organic matter, soil compaction and soil erosion, and the nourishing of plants primarily through the soil ecosystem;
- (b) the limitation of the use of non-renewable resources and external inputs to a minimum;
- (c) the recycling of waste and by-products of plant and animal origin as input in plant and livestock production;
- (d) the maintenance of plant health by preventive measures, in particular the choice of appropriate species, varieties or heterogeneous material resistant to pests and diseases, appropriate crop rotations, mechanical and physical methods and protection of the natural enemies of pests;
- (e) the use of seeds and animals with a high degree of genetic diversity, disease resistance and longevity;
- (f) in the choosing of plant varieties, having regard to the particularities of the specific organic production systems, focussing on agronomic performance, disease resistance, adaptation to diverse local soil and climate conditions and respect for the natural crossing barriers;

- (g) the use of organic plant reproductive material, such as plant reproductive material of organic heterogeneous material and of organic varieties suitable for organic production;
- (h) the production of organic varieties through natural reproductive ability and focussing on containment within natural crossing barriers;
- (i) without prejudice to Article 14 of Regulation (EC) No 2100/94 and to the national plant variety rights granted under Member States' national law, the possibility for farmers to use plant reproductive material obtained from their own farms in order to foster genetic resources adapted to the special conditions of organic production;
- (j) in the choosing of animal breeds, having regard to a high degree of genetic diversity, the capacity of animals to adapt to local conditions, their breeding value, their longevity, their vitality and their resistance to disease or health problems;
- (k) the practice of site-adapted and land-related livestock production;
- (l) the application of animal husbandry practices which enhance the immune system and strengthen the natural defence against diseases, including regular exercise and access to open air areas and pastures;
- (m) the feeding of livestock with organic feed composed of agricultural ingredients resulting from organic production and of natural non-agricultural substances;
- (n) the production of organic livestock products derived from animals that have been raised on organic holdings throughout their lives since birth or hatching;
- (o) the continuing health of the aquatic environment and the quality of surrounding aquatic and terrestrial ecosystems;
- (p) the feeding of aquatic organisms with feed from sustainably exploited fisheries in accordance with Regulation (EU) No 1380/2013 or with organic feed composed of agricultural ingredients resulting from organic production, including organic aquaculture, and of natural non-agricultural substances;
- (q) avoiding any endangerment of species of conservation interest that might arise from organic production.

#### *Article 7*

##### **Specific principles applicable to the processing of organic food**

The production of processed organic food shall be based, in particular, on the following specific principles:

- (a) the production of organic food from organic agricultural ingredients;
- (b) the restriction of the use of food additives, of non-organic ingredients with mainly technological and sensory functions, and of micronutrients and processing aids, so that they are used to a minimum extent and only in cases of essential technological need or for particular nutritional purposes;
- (c) the exclusion of substances and processing methods that might be misleading as regards the true nature of the product;
- (d) the processing of organic food with care, preferably through the use of biological, mechanical and physical methods;
- (e) the exclusion of food containing, or consisting of, engineered nanomaterials.

#### *Article 8*

##### **Specific principles applicable to the processing of organic feed**

The production of processed organic feed shall be based, in particular, on the following specific principles:

- (a) the production of organic feed from organic feed materials;
- (b) the restriction of the use of feed additives and processing aids, so that they are used to a minimum extent and only in cases of essential technological or zootechnical needs or for particular nutritional purposes;



- (c) the exclusion of substances and processing methods that might be misleading as regards the true nature of the product;
- (d) the processing of organic feed with care, preferably through the use of biological, mechanical and physical methods.

### CHAPTER III

## PRODUCTION RULES

### Article 9

#### General production rules

1. Operators shall comply with the general production rules laid down in this Article.
2. The entire holding shall be managed in compliance with the requirements of this Regulation that apply to organic production.
3. For the purposes and uses referred to in Articles 24 and 25 and in Annex II, only products and substances that have been authorised pursuant to those provisions may be used in organic production, provided that their use in non-organic production has also been authorised in accordance with the relevant provisions of Union law and, where applicable, in accordance with national provisions based on Union law.

The following products and substances referred to in Article 2(3) of Regulation (EC) No 1107/2009 shall be allowed for use in organic production, provided that they are authorised pursuant to that Regulation:

- (a) safeners, synergists and co-formulants as components of plant protection products;
- (b) adjuvants that are to be mixed with plant protection products.

The use in organic production of products and substances for purposes other than those covered by this Regulation shall be allowed, provided that their use complies with the principles laid down in Chapter II.

4. Ionising radiation shall not be used in the treatment of organic food or feed, and in the treatment of raw materials used in organic food or feed.
5. The use of animal cloning, and the rearing of artificially induced polyploid animals, shall be prohibited.
6. Preventive and precautionary measures shall be taken, where appropriate, at every stage of production, preparation and distribution.
7. Notwithstanding paragraph 2, a holding may be split into clearly and effectively separated production units for organic, in-conversion and non-organic production, provided that for the non-organic production units:
  - (a) as regards livestock, different species are involved;
  - (b) as regards plants, different varieties that can be easily differentiated are involved.

As regards algae and aquaculture animals, the same species may be involved, provided that there is a clear and effective separation between the production sites or units.

8. By way of derogation from point (b) of paragraph 7, in the case of perennial crops which require a cultivation period of at least three years, different varieties that cannot be easily differentiated, or the same varieties, may be involved, provided that the production in question is within the context of a conversion plan, and provided that the conversion of the last part of the area related to the production in question to organic production begins as soon as possible and is completed within a maximum of five years.

In such cases:

- (a) the farmer shall notify the competent authority, or, where appropriate, the control authority or the control body, of the start of harvest of each of the products concerned at least 48 hours in advance;
  - (b) upon completion of the harvest, the farmer shall inform the competent authority, or, where appropriate, the control authority or the control body, of the exact quantities harvested from the units concerned and of the measures taken to separate the products;
  - (c) the conversion plan and the measures to be taken to ensure the effective and clear separation shall be confirmed each year by the competent authority, or, where appropriate, by the control authority or the control body, after the start of the conversion plan.
9. The requirements concerning different species and varieties, laid down in points (a) and (b) of paragraph 7, shall not apply in the case of research and educational centres, plant nurseries, seed multipliers and breeding operations.

10. Where, in the cases referred to in paragraphs 7, 8 and 9, not all production units of a holding are managed under organic production rules, the operators shall:

- (a) keep the products used for the organic and in-conversion production units separate from those used for the non-organic production units;
- (b) keep the products produced by the organic, in-conversion and non-organic production units separate from each other;
- (c) keep adequate records to show the effective separation of the production units and of the products.

11. The Commission is empowered to adopt delegated acts in accordance with Article 54 amending paragraph 7 of this Article by adding further rules on the splitting of a holding into organic, in-conversion and non-organic production units, in particular in relation to products listed in Annex I, or by amending those added rules.

#### Article 10

##### Conversion

1. Farmers and operators that produce algae or aquaculture animals shall comply with a conversion period. During the whole conversion period they shall apply all rules on organic production laid down in this Regulation, in particular the applicable rules on conversion set out in this Article and in Annex II.

2. The conversion period shall start at the earliest when the farmer or the operator that produces algae or aquaculture animals has notified the activity to the competent authorities, in accordance with Article 34(1), in the Member State in which the activity is carried out and in which that farmer or operator's holding is subject to the control system.

3. No previous period may be retroactively recognised as being part of the conversion period, except where:

- (a) the operator's land parcels were subject to measures which were defined in a programme implemented pursuant to Regulation (EU) No 1305/2013 for the purpose of ensuring that no products or substances other than those authorised for use in organic production have been used on those land parcels; or
- (b) the operator can provide proof 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.

4. Products produced during the conversion period shall not be marketed as organic products or as in-conversion products.

However, the following products produced during the conversion period and in compliance with paragraph 1 may be marketed as in-conversion products:

- (a) plant reproductive material, provided that a conversion period of at least 12 months has been complied with;
- (b) food products of plant origin and feed products of plant origin, provided that the product contains only one agricultural crop ingredient, and provided that a conversion period of at least 12 months before the harvest has been complied with.

5. The Commission is empowered to adopt delegated acts in accordance with Article 54 amending point 1.2.2 of Part II of Annex II by adding conversion rules for species other than those regulated in Part II of Annex II on 17 June 2018, or by amending those added rules.

6. The Commission shall, where appropriate, adopt implementing acts specifying the documents to be supplied for the purpose of the retroactive recognition of a previous period in accordance with paragraph 3 of this Article.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 55(2).

#### Article 11

##### Prohibition of the use of GMOs

1. GMOs, products produced from GMOs, and products produced by GMOs shall not be used in food or feed, or as food, feed, processing aids, plant protection products, fertilisers, soil conditioners, plant reproductive material, micro-organisms or animals in organic production.

2. For the purposes of the prohibition laid down in paragraph 1, with regard to GMOs and products produced from GMOs for food and feed, operators may rely on the labels of a product that have been affixed or provided pursuant to Directive 2001/18/EC, Regulation (EC) No 1829/2003 of the European Parliament and of the Council <sup>(1)</sup> or Regulation (EC) No 1830/2003 of the European Parliament and of the Council <sup>(2)</sup> or any accompanying document provided pursuant thereto.

3. Operators may assume that no GMOs and no products produced from GMOs have been used in the manufacture of purchased food and feed where such products do not have a label affixed or provided, or are not accompanied by a document provided, pursuant to the legal acts referred to in paragraph 2, unless they have obtained other information indicating that the labelling of the products concerned is not in conformity with those legal acts.

4. For the purposes of the prohibition laid down in paragraph 1, with regard to products not covered by paragraphs 2 and 3, operators using non-organic products purchased from third parties shall require the vendor to confirm that those products are not produced from GMOs or produced by GMOs.

#### Article 12

##### Plant production rules

1. Operators that produce plants or plant products shall comply, in particular, with the detailed rules set out in Part I of Annex II.

2. The Commission is empowered to adopt delegated acts in accordance with Article 54 amending:

- (a) points 1.3 and 1.4 of Part I of Annex II as regards derogations;
- (b) point 1.8.5 of Part I of Annex II as regards the use of in-conversion and non-organic plant reproductive material;
- (c) point 1.9.5 of Part I of Annex II by adding further provisions concerning agreements between operators of agricultural holdings, or by amending those added provisions;
- (d) point 1.10.1 of Part I of Annex II by adding further pest- and weed-management measures, or by amending those added measures;
- (e) Part I of Annex II by adding further detailed rules and cultivation practices for specific plants and plant products, including rules for sprouted seeds, or by amending those added rules.

#### Article 13

##### Specific provisions for the marketing of plant reproductive material of organic heterogeneous material

1. Plant reproductive material of organic heterogeneous material may be marketed without complying with the requirements for registration and without complying with the certification categories of pre-basic, basic and certified material or with the requirements for other categories, which are set out in Directives 66/401/EEC, 66/402/EEC, 68/193/EEC, 98/56/EC, 2002/53/EC, 2002/54/EC, 2002/55/EC, 2002/56/EC, 2002/57/EC, 2008/72/EC and 2008/90/EC or acts adopted pursuant to those Directives.

2. Plant reproductive material of organic heterogeneous material as referred to in paragraph 1 may be marketed following a notification of the organic heterogeneous material by the supplier to the responsible official bodies referred to in Directives 66/401/EEC, 66/402/EEC, 68/193/EEC, 98/56/EC, 2002/53/EC, 2002/54/EC, 2002/55/EC, 2002/56/EC, 2002/57/EC, 2008/72/EC and 2008/90/EC, made by means of a dossier containing:

- (a) the contact details of the applicant;
- (b) the species and denomination of the organic heterogeneous material;
- (c) the description of the main agronomic and phenotypic characteristics that are common to that plant grouping, including breeding methods, any available results from tests on those characteristics, the country of production and the parental material used;
- (d) a declaration by the applicant concerning the truth of the elements in points (a), (b) and (c); and
- (e) a representative sample.

<sup>(1)</sup> Regulation (EC) No 1829/2003 of the European Parliament and of the Council of 22 September 2003 on genetically modified food and feed (OJ L 268, 18.10.2003, p. 1).

<sup>(2)</sup> Regulation (EC) No 1830/2003 of the European Parliament and of the Council of 22 September 2003 concerning the traceability and labelling of genetically modified organisms and the traceability of food and feed products produced from genetically modified organisms and amending Directive 2001/18/EC (OJ L 268, 18.10.2003, p. 24).

That notification shall be sent by registered letter, or by any other means of communication accepted by the official bodies, with confirmation of receipt requested.

Three months after the date shown on the return receipt, provided that no additional information was requested or that no formal refusal for reasons of incompleteness of the dossier or non-compliance as defined in Article 3(57) was communicated to the supplier, the responsible official body shall be deemed to have acknowledged the notification and its content.

After having expressly or implicitly acknowledged the notification, the responsible official body may proceed to the listing of the notified organic heterogeneous material. That listing shall be free of charge to the supplier.

The listing of any organic heterogeneous material shall be communicated to the competent authorities of the other Member States and to the Commission.

Such organic heterogeneous material shall fulfil the requirements laid down in the delegated acts adopted in accordance with paragraph 3.

3. The Commission is empowered to adopt delegated acts in accordance with Article 54 supplementing this Regulation by setting out rules governing the production and marketing of plant reproductive material of organic heterogeneous material of particular genera or species, as regards:

- (a) the description of the organic heterogeneous material, including the relevant breeding and production methods and parental material used;
- (b) the minimum quality requirements for seeds lots, including identity, specific purity, germination rates and sanitary quality;
- (c) labelling and packaging;
- (d) information and samples of production to be kept by the professional operators;
- (e) where applicable, maintenance of the organic heterogeneous material.

#### Article 14

#### **Livestock production rules**

1. Livestock operators shall comply, in particular, with the detailed production rules set out in Part II of Annex II and in any implementing acts referred to in paragraph 3 of this Article.

2. The Commission is empowered to adopt delegated acts in accordance with Article 54 amending:

- (a) points 1.3.4.2, 1.3.4.4.2 and 1.3.4.4.3 of Part II of Annex II by reducing the percentages as regards the origin of animals, once sufficient availability on the Union market of organic animals has been established;
- (b) point 1.6.6 of Part II of Annex II as regards the limit on organic nitrogen linked to the total stocking density;
- (c) point 1.9.6.2(b) of Part II of Annex II as regards the feeding of bee colonies;
- (d) points 1.9.6.3(b) and (e) of Part II of Annex II as regards the acceptable treatments for the disinfection of apiaries and the methods and treatments to fight against *Varroa destructor*;
- (e) Part II of Annex II by adding detailed rules on livestock production for species other than species regulated in that Part on 17 June 2018, or by amending those added rules, as regards:
  - (i) derogations as regards the origin of animals;
  - (ii) nutrition;
  - (iii) housing and husbandry practices;
  - (iv) health care;
  - (v) animal welfare.

3. The Commission shall, where appropriate, adopt implementing acts regarding Part II of Annex II providing rules on:

- (a) the minimum period to be complied with for feeding of suckling animals with maternal milk, referred to in point 1.4.1(g);
- (b) the stocking density and the minimum surface for indoor and outdoor areas that are to be complied with for specific livestock species to ensure that the developmental, physiological and ethological needs of animals are met in accordance with points 1.6.3, 1.6.4 and 1.7.2,

- (c) the characteristics of and technical requirements for the minimum surface for indoor and outdoor areas;
- (d) the characteristics of and technical requirements for buildings and pens for all livestock species other than bees, to ensure that the developmental, physiological and ethological needs of animals are met in accordance with point 1.7.2;
- (e) requirements for vegetation and the characteristics of protected facilities and open air areas.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 55(2).

#### *Article 15*

##### **Production rules for algae and aquaculture animals**

1. Operators that produce algae and aquaculture animals shall comply, in particular, with the detailed production rules set out in Part III of Annex II and in any implementing acts referred to in paragraph 3 of this Article.
2. The Commission is empowered to adopt delegated acts in accordance with Article 54 amending:
  - (a) point 3.1.3.3 of Part III of Annex II as regards feed for carnivorous aquaculture animals;
  - (b) point 3.1.3.4 of Part III of Annex II by adding further specific rules on feed for certain aquaculture animals, or by amending those added rules;
  - (c) point 3.1.4.2 of Part III of Annex II as regards veterinary treatments for aquaculture animals;
  - (d) Part III of Annex II by adding further detailed conditions per species for broodstock management, breeding and juvenile production, or by amending those added detailed conditions.
3. The Commission shall, where appropriate, adopt implementing acts laying down detailed rules per species or per group of species on the stocking density, and on the specific characteristics for production systems and containment systems, in order to ensure that the species-specific needs are met.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 55(2).

4. For the purpose of this Article and of Part III of Annex II, 'stocking density' means the live weight of aquaculture animals per cubic metre of water at any time during the grow-out phase and, in the case of flatfish and shrimp, the weight per square metre of surface.

#### *Article 16*

##### **Production rules for processed food**

1. Operators that produce processed food shall comply, in particular, with the detailed production rules set out in Part IV of Annex II and in any implementing acts referred to in paragraph 3 of this Article.
2. The Commission is empowered to adopt delegated acts in accordance with Article 54 amending:
  - (a) point 1.4 of Part IV of Annex II as regards precautionary measures and preventive measures to be taken by operators;
  - (b) point 2.2.2 of Part IV of Annex II as regards the types and composition of products and substances that are allowed for use in processed food, as well as conditions under which they may be used;
  - (c) point 2.2.4 of Part IV of Annex II as regards the calculation of the percentage of agricultural ingredients referred to in points (a)(ii) and (b)(i) of Article 30(5), including the food additives authorised pursuant to Article 24 for use in organic production that are considered as agricultural ingredients for the purpose of such calculations.

Those delegated acts shall not include the possibility of using flavouring substances or flavouring preparations which are neither natural, within the meaning of Article 16(2), (3) and (4) of Regulation (EC) No 1334/2008 of the European Parliament and of the Council <sup>(1)</sup>, nor organic.

3. The Commission may adopt implementing acts laying down the techniques authorised in the processing of food products.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 55(2).

<sup>(1)</sup> Regulation (EC) No 1334/2008 of the European Parliament and of the Council of 16 December 2008 on flavourings and certain food ingredients with flavouring properties for use in and on foods and amending Council Regulation (EEC) No 1601/91, Regulations (EC) No 2232/96 and (EC) No 110/2008 and Directive 2000/13/EC (OJ L 354, 31.12.2008, p. 34).

*Article 17***Production rules for processed feed**

1. Operators that produce processed feed shall comply, in particular, with the detailed production rules set out in Part V of Annex II and in any implementing acts referred to in paragraph 3 of this Article.
2. The Commission is empowered to adopt delegated acts in accordance with Article 54 amending point 1.4 of Part V of Annex II by adding further precautionary and preventive measures to be taken by operators, or by amending those added measures.
3. The Commission may adopt implementing acts laying down the techniques authorised for use in the processing of feed products.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 55(2).

*Article 18***Production rules for wine**

1. Operators that produce products of the wine sector shall comply, in particular, with the detailed production rules set out in Part VI of Annex II.
2. The Commission is empowered to adopt delegated acts in accordance with Article 54 amending:
  - (a) point 3.2 of Part VI of Annex II by adding further oenological practices, processes and treatments that are prohibited, or by amending those added elements;
  - (b) point 3.3. of Part VI of Annex II.

*Article 19***Production rules for yeast used as food or feed**

1. Operators that produce yeast to be used as food or feed shall comply, in particular, with the detailed production rules set out in Part VII of Annex II.
2. The Commission is empowered to adopt delegated acts in accordance with Article 54 amending point 1.3 of Part VII of Annex II by adding further detailed yeast production rules, or by amending those added rules.

*Article 20***Absence of certain production rules for specific livestock species and species of aquaculture animals**

Pending the adoption of:

- (a) additional general rules for other livestock species than those regulated in point 1.9 of Part II of Annex II in accordance with point (e) of Article 14(2);
- (b) the implementing acts referred to in Article 14(3) for livestock species; or
- (c) the implementing acts referred to in Article 15(3) for species or group of species of aquaculture animals;

a Member State may apply detailed national production rules for specific species or groups of species of animals in relation to the elements to be covered by the measures referred to in points (a), (b) and (c), provided that those national rules are in accordance with this Regulation, and provided that they do not prohibit, restrict or impede the placing on the market of products which have been produced outside its territory and which comply with this Regulation.

*Article 21***Production rules for products not falling within the categories of products referred to in Articles 12 to 19**

1. The Commission is empowered to adopt delegated acts in accordance with Article 54 amending Annex II by adding detailed production rules, as well as rules on the obligation to convert, for products that do not fall within the categories of products referred to in Articles 12 to 19, or by amending those added rules.

Those delegated acts shall be based on the objectives and principles of organic production laid down in Chapter II and shall comply with the general production rules laid down in Articles 9, 10 and 11 as well as existing detailed production rules laid down for similar products in Annex II. They shall lay down requirements concerning, in particular, the treatments, practices and inputs that are allowed or prohibited, or conversion periods for the products concerned.



2. In the absence of the detailed production rules referred to in paragraph 1:
  - (a) operators shall, as regards products referred to in paragraph 1, comply with the principles laid down in Articles 5 and 6, *mutatis mutandis* with the principles laid down in Article 7, and with the general production rules laid down in Articles 9 to 11;
  - (b) a Member State may, as regards products referred to in paragraph 1, apply detailed national production rules, provided that those rules are in accordance with this Regulation, and provided that they do not prohibit, restrict or impede the placing on the market of products which have been produced outside its territory and which comply with this Regulation.

#### Article 22

##### **Adoption of exceptional production rules**

1. The Commission is empowered to adopt delegated acts in accordance with Article 54 supplementing this Regulation by laying down:
  - (a) the criteria to determine whether a situation qualifies as catastrophic circumstances deriving from an 'adverse climatic event', 'animal diseases', an 'environmental incident', a 'natural disaster' or a 'catastrophic event', as defined in points (h), (i), (j), (k) and (l) of Article 2(1) of Regulation (EU) No 1305/2013, respectively, as well as any comparable situation;
  - (b) specific rules, including possible derogations from this Regulation, on how Member States are to deal with such catastrophic circumstances if they decide to apply this Article; and
  - (c) specific rules on monitoring and reporting in such cases.

Those criteria and rules shall be subject to the principles of organic production laid down in Chapter II.

2. Where a Member State has formally recognised an event as a natural disaster as referred to in Article 18(3) or Article 24(3) of Regulation (EU) No 1305/2013, and that event makes it impossible to comply with the production rules laid down in this Regulation, that Member State may grant derogations from the production rules for a limited period until organic production can be re-established, subject to the principles laid down in Chapter II and to any delegated act adopted in accordance with paragraph 1.

3. Member States may adopt measures in accordance with the delegated act referred to in paragraph 1 to allow organic production to continue or recommence in the event of catastrophic circumstances.

#### Article 23

##### **Collection, packaging, transport and storage**

1. Operators shall ensure that organic products and in-conversion products are collected, packaged, transported and stored in accordance with the rules set out in Annex III.
2. The Commission is empowered to adopt delegated acts in accordance with Article 54 amending:
  - (a) Section 2 of Annex III;
  - (b) Sections 3, 4 and 6 of Annex III by adding further special rules for the transport and reception of the products concerned, or by amending those added rules.

#### Article 24

##### **Authorisation of products and substances for use in organic production**

1. The Commission may authorise certain products and substances for use in organic production, and shall include any such authorised products and substances in restrictive lists, for the following purposes:
  - (a) as active substances to be used in plant protection products;
  - (b) as fertilisers, soil conditioners and nutrients;
  - (c) as non-organic feed material of plant, algal, animal or yeast origin or as feed material of microbial or mineral origin;
  - (d) as feed additives and processing aids;
  - (e) as products for the cleaning and disinfection of ponds, cages, tanks, raceways, buildings or installations used for animal production;
  - (f) as products for the cleaning and disinfection of buildings and installations used for plant production, including for storage on an agricultural holding;

(g) as products for cleaning and disinfection in processing and storage facilities.

2. In addition to products and substances authorised in accordance with paragraph 1, the Commission may authorise certain products and substances for use in the production of processed organic food and of yeast used as food or feed, and shall include any such authorised products and substances in restrictive lists, for the following purposes:

(a) as food additives and processing aids;

(b) as non-organic agricultural ingredients to be used for the production of processed organic food;

(c) as processing aids for the production of yeast and yeast products.

3. The authorisation of the products and substances referred to in paragraph 1 for use in organic production shall be subject to the principles laid down in Chapter II and to the following criteria, which shall be evaluated as a whole:

(a) they are essential for sustained production and for the use for which they are intended;

(b) all of the products and substances concerned are of plant, algal, animal, microbial or mineral origin, except in cases where products or substances from such sources are not available in sufficient quantities or qualities or where alternatives are not available;

(c) in the case of products referred to in point (a) of paragraph 1:

(i) their use is essential for the control of a pest for which other biological, physical or breeding alternatives, cultivation practices or other effective management practices are not available;

(ii) if such products are not of plant, algal, animal, microbial or mineral origin and are not identical to their natural form, their conditions for use preclude any direct contact with the edible parts of the crop;

(d) in the case of products referred to in point (b) of paragraph 1, their use is essential for building or maintaining the fertility of the soil or to fulfil specific nutritional requirements of crops, or for specific soil-conditioning purposes;

(e) in the case of products referred to in points (c) and (d) of paragraph 1:

(i) their use is necessary to maintain animal health, animal welfare and vitality and contributes to an appropriate diet fulfilling the physiological and behavioural needs of the species concerned or their use is necessary to produce or preserve feed because the production or preservation of feed is not possible without having recourse to such substances;

(ii) feed of mineral origin, trace elements, vitamins or provitamins are of natural origin, except in cases where products or substances from such sources are not available in sufficient quantities or qualities or where alternatives are not available;

(iii) the use of non-organic feed material of plant or animal origin is necessary because feed material of plant or animal origin produced in accordance with organic production rules is not available in sufficient quantity;

(iv) the use of non-organic spices, herbs and molasses is necessary because such products are not available in organic form; they have to be produced or prepared without chemical solvents and their use is limited to 1 % of the feed ration for a given species, calculated annually as a percentage of the dry matter of feed from agricultural origin.

4. The authorisation of the products and substances referred to in paragraph 2 for use in the production of processed organic food or for the production of yeast used as food or feed shall be subject to the principles laid down in Chapter II and to the following criteria, which shall be evaluated as a whole:

(a) alternative products or substances authorised in accordance with this Article or techniques compliant with this Regulation are not available;

(b) it would be impossible to produce or preserve the food or to fulfil given dietary requirements provided for on the basis of Union legislation without having recourse to those products and substances;

(c) they are to be found in nature and may only have undergone mechanical, physical, biological, enzymatic or microbial processes, except in cases where products or substances from such sources are not available in sufficient quantities or qualities;

(d) the organic ingredient is not available in sufficient quantity.

5. The authorisation of the use of chemically synthesised products and substances, in accordance with paragraphs 1 and 2 of this Article, shall be strictly limited to cases where the use of external inputs referred to in point (g) of Article 5 would contribute to unacceptable impacts on the environment.

6. The Commission is empowered to adopt delegated acts in accordance with Article 54 amending paragraphs 3 and 4 of this Article by adding further criteria for the authorisation of products and substances referred to in paragraphs 1 and 2 of this Article for use in organic production in general, and in the production of processed organic food in particular, as well as further criteria for the withdrawal of such authorisations, or by amending those added criteria.

7. Where a Member State considers that a product or substance should be added to or withdrawn from the lists of authorised products and substances referred to in paragraphs 1 and 2, or that the specifications of use referred to in the production rules should be amended, it shall ensure that a dossier giving the reasons for the inclusion, withdrawal or other amendments is officially sent to the Commission and to the other Member States and is made publicly available, subject to Union and national legislation on data protection.

The Commission shall publish any requests referred to in this paragraph.

8. The Commission shall regularly review the lists referred to in this Article.

The list of non-organic ingredients referred to in point (b) of paragraph 2 shall be reviewed at least once a year.

9. The Commission shall adopt implementing acts concerning the authorisation or withdrawal of authorisation of products and substances in accordance with paragraphs 1 and 2 that may be used in organic production in general and in the production of processed organic food in particular, and establishing the procedures to be followed for such authorisations and the lists of such products and substances and, where appropriate, their description, compositional requirements and conditions for use.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 55(2).

#### *Article 25*

##### **Authorisation of non-organic agricultural ingredients for processed organic food by Member States**

1. Where it is necessary in order to ensure access to certain agricultural ingredients, and where such ingredients are not available in organic form in sufficient quantity, a Member State may, at the request of an operator, provisionally authorise the use of non-organic agricultural ingredients for the production of processed organic food on its territory for a period of maximum six months. That authorisation shall apply to all operators in that Member State.

2. The Member State shall immediately notify the Commission and the other Member States, via a computer system that enables the electronic exchange of documents and information made available by the Commission, of any authorisation granted for its territory in accordance with paragraph 1.

3. The Member State may prolong the authorisation provided for in paragraph 1 two times for a maximum of six months each, provided that no other Member State has objected by indicating, via the system referred to in paragraph 2, that such ingredients are available in organic form in sufficient quantity.

4. A control authority or a control body recognised in accordance with Article 46(1) may grant a provisional authorisation, as referred to in paragraph 1 of this Article, for a maximum of six months to operators in third countries that request such an authorisation and that are subject to controls by that control authority or control body, provided that the conditions of that paragraph are fulfilled in the third country concerned. The authorisation may be prolonged for a maximum of two times six months each.

5. Where, after two prolongations of a provisional authorisation, a Member State considers, on the basis of objective information, that the availability of such ingredients in organic form remains insufficient to meet the qualitative and quantitative needs of operators, it may make a request to the Commission in accordance with Article 24(7).

#### *Article 26*

##### **Collection of data concerning the availability on the market of organic and in-conversion plant reproductive material, organic animals and organic aquaculture juveniles**

1. Each Member State shall 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 on its territory.

2. Member States shall have in place systems that allow operators that market organic or in-conversion plant reproductive material, organic animals or organic aquaculture juveniles, 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 following:

- (a) 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; the quantity in weight of that material; and the period of the year of its availability; such material shall be listed using at least the Latin scientific name;
- (b) the organic animals for which derogation may be provided in accordance with point 1.3.4.4 of Part II of Annex II; the number of available animals categorised by sex; information, if relevant, relating to the different species of animals as regards the breeds and strains available; the races of the animals; the age of the animals; and any other relevant information;
- (c) the organic aquaculture juveniles available on the holding and their health status in accordance with Council Directive 2006/88/EC <sup>(1)</sup> and the production capacity for each aquaculture species.

3. Member States may also set up systems which allow operators that market breeds and strains adapted to organic production in accordance with point 1.3.3 of Part II of Annex II or organic pullets and that are able to supply those animals in sufficient quantities and within a reasonable period to make public the relevant information on a voluntary basis, free of charge, together with names and contact details.

4. Operators that opt to include information on plant reproductive material, animals or aquaculture juveniles in the systems referred to in paragraphs 2 and 3 shall ensure that the information is updated regularly, and shall ensure that the information is withdrawn from the lists once the plant reproductive material, animals or aquaculture juveniles are no longer available.

5. For the purpose of paragraphs 1, 2 and 3, Member States may continue to use relevant information systems that are already in existence.

6. The Commission shall make public the link to each of the national databases or systems on a dedicated website of the Commission, in order to allow users to have access to such databases or systems throughout the Union.

7. The Commission may adopt implementing acts providing:

- (a) technical details for establishing and maintaining the databases referred to in paragraph 1 and the systems referred to in paragraph 2;
- (b) specifications as regards the collection of information referred to in paragraph 1 and 2;
- (c) specifications as regards the arrangements for participation in the databases referred to in paragraph 1 and in the systems referred to in paragraphs 2 and 3; and
- (d) details as regards the information to be provided by Member States in accordance with Article 53(6).

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 55(2).

#### *Article 27*

#### **Obligations and actions in the event of suspicion of non-compliance**

Where an operator suspects that a product it has produced, prepared, imported or has received from another operator does not comply with this Regulation, that operator shall, subject to Article 28(2):

- (a) identify and separate the product concerned;
- (b) check whether the suspicion can be substantiated;
- (c) not place the product concerned on the market as an organic or in-conversion product and not use it in organic production, unless the suspicion can be eliminated;
- (d) where the suspicion has been substantiated or where it cannot be eliminated, immediately inform the relevant competent authority, or, where appropriate, the relevant control authority or control body, and provide it with available elements, where appropriate;
- (e) fully cooperate with the relevant competent authority, or, where appropriate, with the relevant control authority or control body, in verifying and identifying the reasons for the suspected non-compliance.

<sup>(1)</sup> Council Directive 2006/88/EC of 24 October 2006 on animal health requirements for aquaculture animals and products thereof, and on the prevention and control of certain diseases in aquatic animals (OJ L 328, 24.11.2006, p. 14).

*Article 28***Precautionary measures to avoid the presence of non-authorised products and substances**

1. In order to avoid contamination with products or substances that are not authorised in accordance with the first subparagraph of Article 9(3) for use in organic production, operators shall take the following precautionary measures at every stage of production, preparation and distribution:

- (a) put in place and maintain measures that are proportionate and appropriate to identify the risks of contamination of organic production and products with non-authorised products or substances, including systematic identification of critical procedural steps;
- (b) put in place and maintain measures that are proportionate and appropriate to avoid risks of contamination of organic production and products with non-authorised products or substances;
- (c) regularly review and adjust such measures; and
- (d) comply with other relevant requirements of this Regulation that ensure the separation of organic, in-conversion and non-organic products.

2. Where an operator suspects, due to the presence of a product or substance that is not authorised pursuant to the first subparagraph of Article 9(3) for use in organic production in a product that is intended to be used or marketed as an organic or in-conversion product, that the latter product does not comply with this Regulation, the operator shall:

- (a) identify and separate the product concerned;
- (b) check whether the suspicion can be substantiated;
- (c) not place the product concerned on the market as an organic or in-conversion product and not use it in organic production unless the suspicion can be eliminated;
- (d) where the suspicion has been substantiated or where it cannot be eliminated, immediately inform the relevant competent authority, or, where appropriate, the relevant control authority or control body, and provide it with available elements, where appropriate;
- (e) fully cooperate with the relevant competent authority, or, where appropriate, with the relevant control authority or control body, in identifying and verifying the reasons for the presence of non-authorised products or substances.

3. The Commission may adopt implementing acts laying down uniform rules to specify:

- (a) the procedural steps to be followed by operators in accordance with points (a) to (e) of paragraph 2 and the relevant documents to be provided by them;
- (b) the proportionate and appropriate measures to be adopted and reviewed by operators to identify and avoid risks of contamination in accordance with points (a), (b) and (c) of paragraph 1.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 55(2).

*Article 29***Measures to be taken in the event of the presence of non-authorised products or substances**

1. Where the competent authority, or, where appropriate, the control authority or control body, receives substantiated information about the presence of products or substances that are not authorised pursuant to the first subparagraph of Article 9(3) for use in organic production, or has been informed by an operator in accordance with point (d) of Article 28(2), or detects such products or substances in an organic or an in-conversion product:

- (a) it shall immediately carry out an official investigation in accordance with Regulation (EU) 2017/625 with a view to determining the source and the cause in order to verify compliance with the first subparagraph of Article 9(3) and with Article 28(1); such investigation shall be completed as soon as possible, within a reasonable period, and shall take into account the durability of the product and the complexity of the case;
- (b) it shall provisionally prohibit both the placing on the market of the products concerned as organic or in-conversion products and their use in organic production pending the results of the investigation referred to in point (a).

2. The product concerned shall not be marketed as an organic or in-conversion product or used in organic production where the competent authority, or, where appropriate, the control authority or control body, has established that the operator concerned:

- (a) has used products or substances not authorised pursuant to the first subparagraph of Article 9(3) for use in organic production;
- (b) has not taken the precautionary measures referred to in Article 28(1); or
- (c) has not taken measures in response to relevant previous requests from the competent authorities, control authorities or control bodies.

3. The operator concerned shall be given an opportunity to comment on the results of the investigation referred to in point (a) of paragraph 1. The competent authority, or, where appropriate, the control authority or control body, shall keep records of the investigation it has carried out.

Where required, the operator concerned shall take such corrective measures as necessary to avoid future contamination.

4. By 31 December 2024, the Commission shall present a report to the European Parliament and the Council on the implementation of this Article, on the presence of products and substances not authorised pursuant to the first subparagraph of Article 9(3) for use in organic production and on the assessment of the national rules referred to in paragraph 5 of this Article. That report may be accompanied, where appropriate, by a legislative proposal for further harmonisation.

5. Member States having in place rules providing for products that contain more than a certain level of products or substances not authorised pursuant to the first subparagraph of Article 9(3) for use in organic production not to be marketed as organic products may continue to apply those rules, provided that those rules do not prohibit, restrict or impede the placing on the market of products produced in other Member States as organic products, where those products were produced in compliance with this Regulation. Member States that make use of this paragraph shall inform the Commission without delay.

6. The competent authorities shall document the results of the investigations referred to in paragraph 1, as well as any measures they have taken for the purpose of formulating best practices and further measures to avoid the presence of products and substances not authorised pursuant to the first subparagraph of Article 9(3) for use in organic production.

Member States shall make such information available to the other Member States and to the Commission via a computer system that enables the electronic exchange of documents and information made available by the Commission.

7. Member States may take appropriate measures on their territory to avoid the unintended presence in organic agriculture of products and substances not authorised pursuant to the first subparagraph of Article 9(3) for use in organic production. Such measures shall not prohibit, restrict or impede the placing on the market of products produced in other Member States as organic or in-conversion products, where those products were produced in compliance with this Regulation. Member States that make use of this paragraph shall inform the Commission and the other Member States without delay.

8. The Commission shall adopt implementing acts laying down uniform rules to specify:

- (a) the methodology to be applied by competent authorities, or, where appropriate, by control authorities or control bodies, for the detection and evaluation of the presence of products and substances not authorised pursuant to the first subparagraph of Article 9(3) for use in organic production;
- (b) the details and format of the information to be made available by Member States to the Commission and other Member States in accordance with paragraph 6 of this Article.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 55(2).

9. By 31 March of each year, Member States shall electronically transmit to the Commission relevant information about cases involving contamination with non-authorised products or substances in the previous year, including information collected at border control posts, concerning the nature of contamination detected, and in particular the cause, the source and the level of contamination as well as the volume and nature of products contaminated. This information shall be collected by the Commission through the computer system made available by the Commission and shall be used to facilitate the formulation of best practices for avoiding contamination.



## CHAPTER IV

## LABELLING

## Article 30

**Use of terms referring to organic production**

1. For the purposes of this Regulation, a product shall be regarded as bearing terms referring to organic production where, in the labelling, advertising material or commercial documents, such a product, its ingredients or feed materials used for its production are described in terms suggesting to the purchaser that the product, ingredients or feed materials have been produced in accordance with this Regulation. In particular, the terms listed in Annex IV and their derivatives and diminutives, such as 'bio' and 'eco', whether alone or in combination, may be used throughout the Union and in any language listed in that Annex for the labelling and advertising of products referred to in Article 2(1) which comply with this Regulation.

2. For the products referred to in Article 2(1), the terms referred to in paragraph 1 of this Article shall not be used anywhere in the Union, in any language listed in Annex IV, for the labelling, advertising material or commercial documents of a product which does not comply with this Regulation.

Furthermore, no terms, including terms used in trademarks or company names, or practices shall be used in labelling or advertising if they are liable to mislead the consumer or user by suggesting that a product or its ingredients comply with this Regulation.

3. Products that have been produced during the conversion period shall not be labelled or advertised as organic products or as in-conversion products.

However, plant reproductive material, food products of plant origin and feed products of plant origin that have been produced during the conversion period, which comply with Article 10(4), may be labelled and advertised as in-conversion products by using the term 'in-conversion' or a corresponding term, together with the terms referred to in paragraph 1.

4. The terms referred to in paragraph 1 and 3 shall not be used for a product for which Union law requires the labelling or advertising to state that the product contains GMOs, consists of GMOs or is produced from GMOs.

5. For processed food, the terms referred to in paragraph 1 may be used:

(a) in the sales description, and in the list of ingredients where such a list is mandatory pursuant to Union legislation, provided that:

(i) the processed food complies with the production rules set out in Part IV of Annex II and with the rules laid down in accordance with Article 16(3);

(ii) at least 95 % of the agricultural ingredients of the product by weight are organic; and

(iii) in the case of flavourings, they are only used for natural flavouring substances and natural flavouring preparations labelled in accordance with Article 16(2), (3) and (4) of Regulation (EC) No 1334/2008 and all of the flavouring components and carriers of flavouring components in the flavouring concerned are organic;

(b) only in the list of ingredients, provided that:

(i) less than 95 % of the agricultural ingredients of the product by weight are organic, and provided that those ingredients comply with the production rules set out in this Regulation; and

(ii) the processed food complies with the production rules set out in points 1.5, 2.1(a), 2.1(b) and 2.2.1 of Part IV of Annex II and with the rules laid down in accordance with Article 16(3);

(c) in the sales description and in the list of ingredients, provided that:

(i) the main ingredient is a product of hunting or fishing;

(ii) the term referred to in paragraph 1 is clearly related in the sales description to another ingredient which is organic and different from the main ingredient;

(iii) all other agricultural ingredients are organic; and

(iv) the food complies with points 1.5, 2.1(a), 2.1(b) and 2.2.1 of Part IV of Annex II and with the rules laid down in accordance with Article 16(3).

The list of ingredients referred to in points (a), (b) and (c) of the first subparagraph shall indicate which ingredients are organic. The references to organic production may only appear in relation to the organic ingredients.

The list of ingredients referred to in points (b) and (c) of the first subparagraph shall include an indication of the total percentage of organic ingredients in proportion to the total quantity of agricultural ingredients.

The terms referred to in paragraph 1, when used in the list of ingredients referred to in points (a), (b), and (c) of the first subparagraph of this paragraph, and the indication of the percentage referred to in the third subparagraph of this paragraph shall appear in the same colour, identical size and style of lettering as the other indications in the list of ingredients.

6. For processed feed, the terms referred to in paragraph 1 may be used in the sales description and in the list of ingredients, provided that:

- (a) the processed feed complies with the production rules set out in Parts II, III and V of Annex II and with the specific rules laid down in accordance with Article 16(3);
- (b) all of the ingredients of agricultural origin that are contained in the processed feed are organic; and
- (c) at least 95 % of the dry matter of the product are organic.

7. The Commission is empowered to adopt delegated acts in accordance with Article 54 amending:

- (a) this Article by adding further rules on the labelling of products listed in Annex I, or by amending those added rules; and
- (b) the list of terms set out in Annex IV, taking into account linguistic developments within the Member States.

8. The Commission may adopt implementing acts to set detailed requirements for the application of paragraph 3 of this Article.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 55(2).

#### Article 31

### Labelling of products and substances used in crop production

Notwithstanding the scope of this Regulation as set out in Article 2(1), products and substances used in plant protection products or as fertilisers, soil conditioners or nutrients that have been authorised in accordance with Articles 9 and 24 may bear a reference indicating that those products or substances have been authorised for use in organic production in accordance with this Regulation.

#### Article 32

### Compulsory indications

1. Where products bear terms as referred to in Article 30(1), including products labelled as in-conversion products in accordance with Article 30(3):

- (a) the code number of the control authority or control body to which the operator that carried out the last production or preparation operation is subject shall also appear in the labelling; and
- (b) in the case of prepacked food, the organic production logo of the European Union referred to in Article 33 shall also appear on the packaging, except in cases referred to in Article 30(3) and points (b) and (c) of Article 30(5).

2. Where the organic production logo of the European Union is used, an indication of the place where the agricultural raw materials of which the product is composed have been farmed shall appear in the same visual field as the logo and shall take one of the following forms, as appropriate:

- (a) 'EU Agriculture', where the agricultural raw material has been farmed in the Union;
- (b) 'non-EU Agriculture', where the agricultural raw material has been farmed in third countries;
- (c) 'EU/non-EU Agriculture', where a part of the agricultural raw materials has been farmed in the Union and a part of it has been farmed in a third country.

For the purposes of the first subparagraph, the word 'Agriculture' may be replaced by 'Aquaculture' where appropriate and the words 'EU' and 'non-EU' may be replaced or supplemented by the name of a country, or by the name of a country and a region, if all of the agricultural raw materials of which the product is composed have been farmed in that country and, if applicable, in that region.

For the indication of the place where the agricultural raw materials of which the product is composed have been farmed, as referred to in the first and third subparagraphs, small quantities by weight of ingredients may be disregarded, provided that the total quantity of the disregarded ingredients does not exceed 5 % of the total quantity by weight of agricultural raw materials.

The words 'EU' or 'non-EU' shall not appear in a colour, size and style of lettering that is more prominent than the name of the product.

3. The indications referred to in paragraphs 1 and 2 of this Article and in Article 33(3) shall be marked in a conspicuous place in such a way as to be easily visible, and shall be clearly legible and indelible.

4. The Commission is empowered to adopt delegated acts in accordance with Article 54 amending paragraph 2 of this Article and Article 33(3) by adding further rules on labelling, or by amending those added rules.

5. The Commission shall adopt implementing acts relating to:

- (a) practical arrangements for the use, presentation, composition and size of the indications referred to in point (a) of paragraph 1 and in paragraph 2 of this Article and in Article 33(3);
- (b) the assignment of code numbers to control authorities and control bodies;
- (c) the indication of the place where the agricultural raw materials were farmed, in accordance with paragraph 2 of this Article and with Article 33(3).

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 55(2).

#### *Article 33*

### **Organic production logo of the European Union**

1. The organic production logo of the European Union may be used in the labelling, presentation and advertising of products which comply with this Regulation.

The organic production logo of the European Union may also be used for information and educational purposes related to the existence and advertising of the logo itself, provided that such use is not liable to mislead the consumer as regards the organic production of specific products, and provided that the logo is reproduced in accordance with the rules set out in Annex V. In such case, the requirements of Article 32(2) and point 1.7 of Annex V shall not apply.

The organic production logo of the European Union shall not be used for processed food as referred to in points (b) and (c) of Article 30(5) and for in-conversion products as referred to in Article 30(3).

2. Except where used in accordance with the second subparagraph of paragraph 1, the organic production logo of the European Union is an official attestation in accordance with Articles 86 and 91 of Regulation (EU) 2017/625.

3. The use of the organic production logo of the European Union shall be optional for products imported from third countries. Where that logo appears in the labelling of such products, the indication referred to in Article 32(2) shall also appear in the labelling.

4. The organic production logo of the European Union shall follow the model set out in Annex V, and shall comply with the rules set out in that Annex.

5. National logos and private logos may be used in the labelling, presentation and advertising of products which comply with this Regulation.

6. The Commission is empowered to adopt delegated acts in accordance with Article 54 amending Annex V as regards the organic production logo of the European Union and the rules relating thereto.

#### CHAPTER V

### **CERTIFICATION**

#### *Article 34*

### **Certification system**

1. Prior to placing any products on the market as 'organic' or as 'in-conversion' or prior to the conversion period, operators and groups of operators referred to in Article 36 which produce, prepare, distribute or store organic or in-conversion products, which import such products from a third country or export such products to a third country, or which place such products on the market, shall notify their activity to the competent authorities of the Member State in which it is carried out and in which their undertaking is subject to the control system.

Where the competent authorities have conferred their responsibilities or delegated certain official control tasks or certain tasks related to other official activities to more than one control authority or control body, the operators or groups of operators shall indicate in the notification referred to in the first subparagraph which control authority or control body verifies whether their activity complies with this Regulation and provides the certificate referred to in Article 35(1).

2. Operators that sell prepacked organic products directly to the final consumer or user shall be exempted from the notification obligation referred to in paragraph 1 of this Article and from the obligation to be in the possession of a certificate referred to in Article 35(2) provided that they do not produce, prepare, store other than in connection with the point of sale, or import such products from a third country, or subcontract such activities to another operator.

3. Where operators or groups of operators subcontract any of their activities to third parties, both the operators or groups of operators and the third parties to whom those activities have been subcontracted shall comply with paragraph 1, unless the operator or group of operators has declared in the notification referred to in paragraph 1 that it remains responsible as regards organic production and that it has not transferred that responsibility to the subcontractor. In such cases, the competent authority, or, where appropriate, the control authority or control body, shall verify that the subcontracted activities comply with this Regulation, in the context of the control it carries out on the operators or groups of operators that have subcontracted their activities.

4. Member States may designate an authority or approve a body which is to receive the notifications referred to in paragraph 1.

5. Operators, groups of operators and subcontractors shall keep records in accordance with this Regulation on the different activities they engage in.

6. Member States shall keep updated lists containing the names and addresses of operators and groups of operators that have notified their activities in accordance with paragraph 1 and shall make public in an appropriate manner, including by means of links to a single internet website, a comprehensive list of this data, together with the information relating to the certificates provided to those operators and groups of operators in accordance with Article 35(1). When doing so, Member States shall comply with the requirements for the protection of personal data under Regulation (EU) 2016/679 of the European Parliament and of the Council <sup>(1)</sup>.

7. Member States shall ensure that any operator or group of operators that complies with this Regulation and, in cases where a fee is collected in accordance with Articles 78 and 80 of Regulation (EU) 2017/625, that pays a reasonable fee covering the cost of controls is entitled to be covered by the control system. Member States shall ensure that any fees that may be collected are made public.

8. The Commission is empowered to adopt delegated acts in accordance with Article 54 amending Annex II as regards the requirements for keeping records.

9. The Commission may adopt implementing acts to provide details and specifications regarding:

- (a) the format and technical means of the notification referred to in paragraph 1;
- (b) the arrangements for the publication of the lists referred to in paragraph 6; and
- (c) the procedures and the arrangements for publication of the fees referred to in paragraph 7.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 55(2).

#### Article 35

#### Certificate

1. Competent authorities, or, where appropriate, control authorities or control bodies, shall provide a certificate to any operator or group of operators that has notified its activity in accordance with Article 34(1) and complies with this Regulation. The certificate shall:

- (a) be issued in electronic form wherever possible;
- (b) allow at least the identification of the operator or group of operators including the list of the members, the category of products covered by the certificate and its period of validity;
- (c) certify that the notified activity complies with this Regulation; and
- (d) be issued in accordance with the model set out in Annex VI.

2. Without prejudice to paragraph 8 of this Article and to Article 34(2), operators and groups of operators shall not place products referred to in Article 2(1) on the market as organic products or in-conversion products unless they are already in possession of a certificate as referred to in paragraph 1 of this Article.

<sup>(1)</sup> Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

3. The certificate referred to in this Article shall be an official certificate within the meaning of point (a) of Article 86(1) of Regulation (EU) 2017/625.

4. An operator or a group of operators shall not be entitled to obtain a certificate from more than one control body in relation to activities carried out in the same Member State regarding the same category of products, including cases in which that operator or group of operators operates at different stages of production, preparation and distribution.

5. Members of a group of operators shall not be entitled to obtain an individual certificate for any of the activities covered by the certification of the group of operators to which they belong.

6. Operators shall verify the certificates of those operators that are their suppliers.

7. For the purposes of paragraphs 1 and 4 of this Article, products shall be classified in accordance with the following categories:

- (a) unprocessed plants and plant products, including seeds and other plant reproductive material;
- (b) livestock and unprocessed livestock products;
- (c) algae and unprocessed aquaculture products;
- (d) processed agricultural products, including aquaculture products, for use as food;
- (e) feed;
- (f) wine;
- (g) other products listed in Annex I to this Regulation or not covered by the previous categories.

8. Member States may exempt from the obligation to be in the possession of a certificate, provided for in paragraph 2, operators that sell unpacked organic products other than feed directly to the final consumer, provided that those operators do not produce, prepare, store other than in connection with the point of sale, or import such products from a third country, or subcontract such activities to a third party, and provided that:

- (a) such sales do not exceed 5 000 kg per year;
- (b) such sales do not represent an annual turnover in relation to unpacked organic products exceeding EUR 20 000; or
- (c) the potential certification cost of the operator exceeds 2 % of the total turnover on unpacked organic products sold by that operator.

If a Member State decides to exempt the operators referred to in the first subparagraph, it may set stricter limits than those set in the first subparagraph.

Member States shall inform the Commission and the other Member States of any decision to exempt operators pursuant to the first subparagraph and of the limits up to which such operators are exempted.

9. The Commission is empowered to adopt delegated acts in accordance with Article 54 amending the model of the certificate set out in Annex VI.

10. The Commission shall adopt implementing acts to provide details and specifications regarding the form of the certificate referred to in paragraph 1 and the technical means by which it is issued.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 55(2).

#### Article 36

#### **Group of operators**

1. Each group of operators shall:

- (a) only be composed of members who are farmers or operators that produce algae or aquaculture animals and who in addition may be engaged in processing, preparation or placing on the market of food or feed;
- (b) only be composed of members:
  - (i) of which the individual certification cost represents more than 2 % of each member's turnover or standard output of organic production and whose annual turnover of organic production is not more than EUR 25 000 or whose standard output of organic production is not more than EUR 15 000 per year; or
  - (ii) who have each holdings of maximum:
    - five hectares,

- 0,5 hectares, in the case of greenhouses, or
  - 15 hectares, exclusively in the case of permanent grassland;
- (c) be established in a Member State or a third country;
- (d) have legal personality;
- (e) only be composed of members whose production activities take place in geographical proximity to each other;
- (f) set up a joint marketing system for the products produced by the group; and
- (g) establish a system for internal controls comprising a documented set of control activities and procedures in accordance with which an identified person or body is responsible for verifying compliance with this Regulation of each member of the group.
2. Competent authorities, or, where appropriate, control authorities or control bodies, shall withdraw the certificate referred to in Article 35 for the whole group where deficiencies in the set-up or functioning of the system for internal controls referred to in paragraph 1, in particular as regards failures to detect or address non-compliance by individual members of the group of operators, affect the integrity of organic and in-conversion products.
3. The Commission is empowered to adopt delegated acts in accordance with Article 54 amending paragraphs 1 and 2 of this Article by adding provisions, or by amending those added provisions, in particular as regards:
- (a) the responsibilities of the individual members of a group of operators;
  - (b) the criteria to determine the geographical proximity of the members of the group, such as the sharing of facilities or sites;
  - (c) the set-up and functioning of the system for internal controls, including the scope, content and frequency of the controls to be carried out and the criteria to identify deficiencies in the set-up or functioning of the system for internal controls.
4. The Commission may adopt implementing acts laying down specific rules concerning:
- (a) the composition and dimension of a group of operators;
  - (b) the documents and record-keeping systems, the system for internal traceability and the list of operators;
  - (c) the exchange of information between a group of operators and the competent authority or authorities, control authorities or control bodies, and between the Member States and the Commission.
- Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 55(2).

## CHAPTER VI

### OFFICIAL CONTROLS AND OTHER OFFICIAL ACTIVITIES

#### Article 37

#### **Relationship with Regulation (EU) 2017/625 and additional rules for official controls and other official activities in relation to organic production and labelling of organic products**

The specific rules of this Chapter shall apply, in addition to the rules laid down in Regulation (EU) 2017/625, save as otherwise provided for in Article 40(2) of this Regulation, and in addition to Article 29 of this Regulation, save as otherwise provided for in Article 41(1) of this Regulation, to the official controls and other official activities performed to verify throughout the entire process at all stages of production, preparation and distribution that the products referred to in Article 2(1) of this Regulation have been produced in compliance with this Regulation.

#### Article 38

#### **Additional rules on official controls and on action to be taken by the competent authorities**

1. Official controls performed in accordance with Article 9 of Regulation (EU) 2017/625 for the verification of compliance with this Regulation shall include, in particular:
- (a) the verification of the application by operators of preventive and precautionary measures, as referred to in Article 9(6) and in Article 28 of this Regulation, at every stage of production, preparation and distribution;



- (b) where the holding includes non-organic or in-conversion production units, the verification of the records and of the measures or procedures or arrangements in place to ensure the clear and effective separation between organic, in-conversion and non-organic production units as well as between the respective products produced by those units, and of the substances and products used for organic, in-conversion and non-organic production units; such verification shall include checks on parcels for which a previous period was recognised retroactively as part of the conversion period, and checks on the non-organic production units;
- (c) where organic, in-conversion and non-organic products are collected simultaneously by operators, are prepared or stored in the same preparation unit, area or premises, or are transported to other operators or units, the verification of the records and of the measures, procedures or arrangements in place to ensure that operations are carried out separated by place or time, that suitable cleaning measures and, where appropriate, measures to prevent substitution of products are implemented, that organic products and in-conversion products are identified at all times and that organic, in-conversion and non-organic products are stored, before and after the preparation operations, separated by place or time from each other;
- (d) the verification of the set-up and functioning of the internal control system of groups of operators;
- (e) where operators are exempted from the notification obligation in accordance with Article 34(2) of this Regulation or from the obligation to be in the possession of a certificate in accordance with Article 35(8) of this Regulation, the verification that the requirements for that exemption have been fulfilled and the verification of the products sold by those operators.

2. Official controls performed in accordance with Article 9 of Regulation (EU) 2017/625 for the verification of compliance with this Regulation shall be performed throughout the entire process at all stages of production, preparation and distribution on the basis of the likelihood of non-compliance as defined in point (57) of Article 3 of this Regulation, which shall be determined taking into account, in addition to the elements referred to in Article 9 of Regulation (EU) 2017/625, in particular the following elements:

- (a) the type, size and structure of the operators and groups of operators;
- (b) the length of time during which operators and groups of operators have been involved in organic production, preparation and distribution;
- (c) the results of the controls performed in accordance with this Article;
- (d) the point in time relevant for the activities carried out;
- (e) the product categories;
- (f) the type, quantity and value of products and their development over time;
- (g) the possibility of commingling of products or contamination with non-authorised products or substances;
- (h) the application of derogations or exceptions to the rules by operators and groups of operators;
- (i) the critical points for non-compliance and the likelihood of non-compliance at every stage of production, preparation and distribution;
- (j) subcontracting activities.

3. In any case, all operators and groups of operators, with the exception of those referred to in Articles 34(2) and 35(8), shall be subject to a verification of compliance at least once a year.

The verification of compliance shall include a physical on-the-spot inspection, except where the following conditions have been satisfied:

- (a) the previous controls of the operator or group of operators concerned have not revealed any non-compliance affecting the integrity of organic or in-conversion products during at least three consecutive years; and
- (b) the operator or group of operators concerned has been assessed on the basis of the elements referred to in paragraph 2 of this Article and in Article 9 of Regulation (EU) 2017/625 as presenting a low likelihood of non-compliance.

In this case, the period between two physical on-the-spot inspections shall not exceed 24 months.

4. Official controls performed in accordance with Article 9 of Regulation (EU) 2017/625 for the verification of compliance with this Regulation shall:
- (a) be performed in accordance with Article 9(4) of Regulation (EU) 2017/625 while ensuring that a minimum percentage of all official controls of operators or groups of operators are carried out without prior notice;
  - (b) ensure that a minimum percentage of additional controls to those referred in paragraph 3 of this Article are carried out;
  - (c) be carried out by taking a minimum number of the samples that have been taken in accordance with point (h) of Article 14 of Regulation (EU) 2017/625;
  - (d) ensure that a minimum number of operators that are members of a group of operators are controlled in connection with the verification of compliance referred to in paragraph 3 of this Article.
5. The delivery or renewal of the certificate referred to in Article 35(1) shall be based on the results of the verification of compliance referred to in paragraphs 1 to 4 of this Article.
6. The written record to be drawn up regarding each official control that has been performed to verify compliance with this Regulation in accordance with Article 13(1) of Regulation (EU) 2017/625 shall be countersigned by the operator or groups of operators as confirmation of their receipt of that written record.
7. Article 13(1) of Regulation (EU) 2017/625 shall not apply to audits and inspections carried out by competent authorities in the context of their supervisory activities over control bodies to which certain official control tasks or certain tasks related to other official activities have been delegated.
8. The Commission is empowered to adopt delegated acts in accordance with Article 54:
- (a) supplementing this Regulation by laying down specific criteria and conditions for the performance of official controls conducted to ensure the traceability at all stages of production, preparation and distribution, and compliance with this Regulation, concerning:
    - (i) checks of documentary accounts;
    - (ii) controls performed on specific categories of operators;
    - (iii) where appropriate, the period within which the controls provided for in this Regulation, including the physical on-the-spot inspections referred to in paragraph 3 of this Article, are to be performed and the particular premises in or area on which they are to be performed;
  - (b) amending paragraph 2 of this Article by adding further elements based on practical experience, or by amending those added elements.
9. The Commission may adopt implementing acts to specify:
- (a) the minimum percentage of all official controls of operators or groups of operators that are to be carried out without prior notice as referred to in point (a) of paragraph 4;
  - (b) the minimum percentage of additional controls referred to in point (b) of paragraph 4;
  - (c) the minimum number of samples referred to in point (c) of paragraph 4;
  - (d) the minimum number of operators that are members of a group of operators referred to in point (d) of paragraph 4.
- Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 55(2).

#### Article 39

##### **Additional rules on actions to be taken by the operators and groups of operators**

1. In addition to the obligations laid down in Article 15 of Regulation (EU) 2017/625, operators and groups of operators shall:
- (a) keep records to demonstrate their compliance with this Regulation;
  - (b) make all declarations and other communications that are necessary for official controls;
  - (c) take relevant practical measures to ensure compliance with this Regulation;
  - (d) provide, in form of a declaration to be signed and updated as necessary:
    - (i) the full description of the organic or in-conversion production unit and of the activities to be performed in accordance with this Regulation;
    - (ii) the relevant practical measures to be taken to ensure compliance with this Regulation;

(iii) an undertaking:

- to inform in writing and without undue delay buyers of the products and to exchange relevant information with the competent authority, or, where appropriate, with the control authority or control body, in the event that a suspicion of non-compliance has been substantiated, that a suspicion of non-compliance cannot be eliminated, or that non-compliance that affects the integrity of the products in question has been established,
- to accept the transfer of the control file in the case of change of control authority or control body or, in the case of withdrawal from organic production, the keeping of the control file for at least five years by the last control authority or control body,
- to immediately inform the competent authority or the authority or body designated in accordance with Article 34(4) in the event of withdrawal from organic production, and
- to accept the exchange of information among those authorities or bodies in the event that subcontractors are subject to controls by different control authorities or control bodies.

2. The Commission may adopt implementing acts to provide details and specifications regarding:

- (a) the records for demonstrating compliance with this Regulation;
- (b) the declarations and other communications that are necessary for official controls;
- (c) the relevant practical measures for ensuring compliance with this Regulation.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 55(2).

#### Article 40

##### **Additional rules on the delegation of official control tasks and tasks related to other official activities**

1. Competent authorities may delegate to control bodies certain official control tasks and certain tasks related to other official activities only if the following conditions, in addition to those set out in Chapter III of Regulation (EU) 2017/625, are satisfied:

- (a) the delegation contains a detailed description of the delegated official control tasks and tasks related to other official activities, including reporting obligations and other specific obligations, and of the conditions under which the control body may carry them out. In particular, the control body shall have submitted the following to the competent authorities for prior approval:
  - (i) its risk assessment procedure, which is to determine, in particular, the basis for the intensity and frequency of the verification of compliance of the operators and groups of operators, which is to be established on the basis of the elements referred to in Article 9 of Regulation (EU) 2017/625 and of Article 38 of this Regulation, and which is to be followed for official controls on operators and groups of operators;
  - (ii) the standard control procedure, which is to contain a detailed description of the control measures that the control body undertakes to apply to the operators and groups of operators that are subject to its controls;
  - (iii) a list of measures that are in conformity with the common catalogue referred to in Article 41(4), and that are to be applied to operators and groups of operators in cases of suspected or established non-compliance;
  - (iv) the arrangements for the effective monitoring of the official control tasks and tasks related to other official activities carried out in relation to operators and groups of operators and the arrangements for reporting on those tasks.

The control body shall notify subsequent amendment of the elements referred to in points (i) to (iv) to the competent authority;

- (b) those competent authorities have procedures and arrangements in place to ensure the supervision of control bodies, including to verify that the delegated tasks are carried out effectively, independently and objectively, in particular as regards the intensity and frequency of the verification of compliance.

At least once a year, competent authorities shall, pursuant to point (a) of Article 33 of Regulation (EU) 2017/625, organise audits of the control bodies to whom they have delegated official control tasks or tasks related to other official activities.

2. By way of derogation from Article 31(3) of Regulation (EU) 2017/625, competent authorities may delegate to a control body the decision concerning the tasks provided for in point (b) of Article 138(1) and in Article 138(2) and (3) of that Regulation.

3. For the purpose of point (b)(iv) of Article 29 of Regulation (EU) 2017/625, the standard for the delegation of certain official control tasks and certain tasks related to other official activities to verify compliance with this Regulation which is relevant in relation to the scope of this Regulation is the most recently notified version of the international harmonised standard for 'Conformity assessment – Requirements for bodies certifying products, processes and services', the reference of which has been published in the *Official Journal of the European Union*.

4. Competent authorities shall not delegate the following official control tasks and tasks related to other official activities to control bodies:

- (a) the supervision and audit of other control authorities or control bodies;
- (b) the power to grant derogations other than derogations for the use of plant reproductive material not obtained from organic production;
- (c) the authority to receive notifications of activities by operators or groups of operators under Article 34(1) of this Regulation;
- (d) the assessment of the likelihood of non-compliance with the provisions of this Regulation that determine the frequency with which physical checks are to be performed on organic consignments prior to their release for free circulation into the Union in accordance with Article 54 of Regulation (EU) 2017/625;
- (e) the establishment of the common catalogue of measures referred to in Article 41(4) of this Regulation.

5. Competent authorities shall not delegate official control tasks or tasks related to other official activities to natural persons.

6. Competent authorities shall ensure that information received from control bodies pursuant to Article 32 of Regulation (EU) 2017/625 and information on the measures applied by control bodies in the case of established or likely non-compliance is collected and used by the competent authorities in order to supervise the activities of those control bodies.

7. Where a competent authority has fully or partially withdrawn the delegation of certain official control tasks or certain tasks related to other official activities in accordance with point (b) of Article 33 of Regulation (EU) 2017/625, it shall decide whether any certificates issued by the control bodies concerned before the date of that partial or full withdrawal are to remain valid, and shall inform the operators concerned of that decision.

8. Without prejudice to point (b) of Article 33 of Regulation (EU) 2017/625, before fully or partly withdrawing the delegation of official control tasks or tasks related to other official activities in the cases referred to in that point, competent authorities may fully or partly suspend that delegation:

- (a) for a period that shall not exceed 12 months, during which the control body is to remedy the shortcomings identified during audits and inspections or to address the non-compliance about which information was shared with other control authorities and control bodies, with competent authorities as well as with the Commission in accordance with Article 43 of this Regulation; or
- (b) for the period during which the accreditation referred to in point (b)(iv) of Article 29 of Regulation (EU) 2017/625, in connection with Article 40(3) of this Regulation, is suspended.

Where the delegation of official control tasks or tasks related to other official activities has been suspended, the control bodies concerned shall not issue certificates referred to in Article 35 for those parts for which the delegation has been suspended. Competent authorities shall decide whether any certificates issued by the control bodies concerned before the date of that partial or full suspension are to remain valid, and shall inform the operators concerned of that decision.

Without prejudice to Article 33 of Regulation (EU) 2017/625, the competent authorities shall lift the suspension of the delegation of official control tasks or tasks related to other official activities as soon as possible once the control body has remedied the shortcomings or non-compliances referred to in point (a) of the first subparagraph or once the accreditation body has lifted the suspension of the accreditation referred to in point (b) of the first subparagraph.

9. Where a control body to whom competent authorities have delegated certain official control tasks or certain tasks related to other official activities has also been recognised by the Commission in accordance with Article 46(1) of this Regulation to carry out control activities in third countries, and the Commission intends to withdraw or has withdrawn the recognition of that control body, competent authorities shall organise audits or inspections on the control body as regards its activities in the Member State(s) concerned in accordance with point (a) of Article 33 of Regulation (EU) 2017/625.

10. The control bodies shall transmit to the competent authorities:

- (a) a list of the operators which were subject to their controls on 31 December of the previous year by 31 January of each year; and
- (b) information on the official controls and other official activities carried out in the previous year to support the preparation of the part on organic production and labelling of organic products of the annual report referred to in Article 113 of Regulation (EU) 2017/625 by 31 March of each year.

11. The Commission is empowered to adopt delegated acts in accordance with Article 54 supplementing this Regulation as regards conditions for the delegation of official control tasks and tasks related to other official activities to control bodies additional to the conditions laid down in paragraph 1 of this Article.

#### Article 41

##### **Additional rules on actions in case of non-compliance**

1. Subject to Article 29, where a competent authority, or, where appropriate, a control authority or control body, suspects or receives substantiated information, including information from other competent authorities, or, where appropriate, from other control authorities or control bodies, that an operator intends to use or to place on the market a product which may not be in compliance with this Regulation but which bears terms referring to the organic production, or where such competent authority, control authority or control body has been informed by an operator of a suspicion of non-compliance in accordance with Article 27:

- (a) it shall immediately carry out an official investigation in accordance with Regulation (EU) 2017/625 with a view to verifying compliance with this Regulation; such investigation shall be completed as soon as possible, within a reasonable period, and shall take into account the durability of the product and the complexity of the case;
- (b) it shall provisionally prohibit both the placing on the market of the products concerned as organic or in-conversion products and their use in organic production pending the results of the investigation referred to in point (a). Before taking such a decision, the competent authority, or, where appropriate, the control authority or control body, shall give the operator an opportunity to comment.

2. In the event that the results of the investigation referred to in point (a) of paragraph 1 do not show any non-compliance affecting the integrity of organic or in-conversion products, the operator shall be allowed to use the products concerned or to place them on the market as organic or in-conversion products.

3. Member States shall take any measures, and provide for any necessary sanctions, to prevent fraudulent use of the indications referred to in Chapter IV of this Regulation.

4. Competent authorities shall provide a common catalogue of measures for cases of suspected non-compliance and established non-compliance to be applied in their territory, including by control authorities and control bodies.

5. The Commission may adopt implementing acts to specify uniform arrangements for the cases where competent authorities are to take measures in relation to suspected or established non-compliance.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 55(2).

#### Article 42

##### **Additional rules on measures in the event of non-compliance**

1. In the event of non-compliance affecting the integrity of organic or in-conversion products throughout any of the stages of production, preparation and distribution, for example as result of the use of non-authorised products, substances or techniques, or commingling with non-organic products, competent authorities, and, where appropriate, control authorities and control bodies, shall ensure, in addition to the measures to be taken in accordance with Article 138 of Regulation (EU) 2017/625, that no reference is made to organic production in the labelling and advertising of the entire lot or production run concerned.

2. In the event of serious, or repetitive or continued non-compliance, competent authorities, and, where appropriate, control authorities and control bodies, shall ensure that the operators or the groups of operators concerned, in addition to the measures laid down in paragraph 1 and any appropriate measures taken in particular in accordance with Article 138 of Regulation (EU) 2017/625, are prohibited from marketing products which refer to organic production for a given period, and that their certificate referred to in Article 35 be suspended or withdrawn, as appropriate.

*Article 43***Additional rules on the exchange of information**

1. In addition to the obligations laid down in Article 105(1) and Article 106(1) of Regulation (EU) 2017/625, competent authorities shall immediately share information with other competent authorities, as well as with the Commission, on any suspicion of non-compliance that affects the integrity of organic or in-conversion products.

Competent authorities shall share that information with other competent authorities and the Commission via a computer system that enables the electronic exchanges of documents and information made available by the Commission.

2. In cases where suspected or established non-compliance has been identified with regard to products under the control of other control authorities or control bodies, control authorities and control bodies shall immediately inform those other control authorities or control bodies.

3. Control authorities and control bodies shall exchange other relevant information with other control authorities and control bodies.

4. Upon receiving a request for information that is justified by the need to guarantee that a product has been produced in accordance with this Regulation, control authorities and control bodies shall exchange with other competent authorities, as well as with the Commission, information on the results of their controls.

5. Competent authorities shall exchange information on the supervision of the control bodies with national accreditation bodies as defined in point (11) of Article 2 of Regulation (EC) No 765/2008 of the European Parliament and of the Council <sup>(1)</sup>.

6. Competent authorities shall take appropriate measures and establish documented procedures in order to ensure that information about the results of controls is communicated to the paying agency in accordance with its needs for the purpose of Article 58 of Regulation (EU) No 1306/2013 of the European Parliament and of the Council <sup>(2)</sup> and the acts adopted on the basis of that Article.

7. The Commission may adopt implementing acts to specify the information to be provided by the competent authorities, control authorities and control bodies in charge of the official controls and other official activities in accordance with this Article, the relevant recipients of that information and the procedures in accordance with which this information is to be provided, including the functionalities of the computer system referred to in paragraph 1.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 55(2).

## CHAPTER VII

**TRADE WITH THIRD COUNTRIES***Article 44***Export of organic products**

1. A product may be exported from the Union as an organic product and may bear the organic production logo of the European Union, provided that it complies with the rules for organic production under this Regulation.

2. The Commission is empowered to adopt delegated acts in accordance with Article 54 supplementing this Regulation as regards documents intended for customs authorities in third countries, in particular as regards the issuing of organic export certificates in electronic form wherever possible and the provision of assurances that exported organic products comply with this Regulation.

<sup>(1)</sup> Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93 (OJ L 218, 13.8.2008, p. 30).

<sup>(2)</sup> Regulation (EU) No 1306/2013 of the European Parliament and of the Council of 17 December 2013 on the financing, management and monitoring of the common agricultural policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008 (OJ L 347, 20.12.2013, p. 549).



*Article 45***Import of organic and in-conversion products**

1. A product may be imported from a third country for the purpose of placing that product on the market within the Union as an organic product or as an in-conversion product, provided that the following three conditions are met:

- (a) the product is a product as referred to in Article 2(1);
- (b) one of the following applies:
  - (i) the product complies with Chapters II, III and IV of this Regulation, and all operators and groups of operators referred to in Article 36, including exporters in the third country concerned, have been subject to controls by control authorities or control bodies recognised in accordance with Article 46, and those authorities or bodies have provided all such operators, groups of operators and exporters with a certificate confirming that they comply with this Regulation;
  - (ii) in cases where the product comes from a third country which is recognised in accordance with Article 47, that product complies with the conditions laid down in the relevant trade agreement; or
  - (iii) in cases where the product comes from a third country which is recognised in accordance with Article 48, that product complies with the equivalent production and control rules of that third country and is imported with a certificate of inspection confirming this compliance that was issued by the competent authorities, control authorities or control bodies of that third country; and
- (c) the operators in third countries are able at any time to provide the importers and the national authorities in the Union and in those third countries with information allowing the identification of the operators that are their suppliers and the control authorities or control bodies of those suppliers, with a view to ensuring the traceability of the organic or in-conversion product concerned. That information shall also be made available to the control authorities or control bodies of the importers.

2. The Commission may, in accordance with the procedure set out in Article 24(9), grant specific authorisations for the use of products and substances in third countries and in the outermost regions of the Union, taking into account differences in the ecological balance in plant or animal production, specific climatic conditions, traditions and local conditions in those areas. Such specific authorisations may be granted for a renewable period of two years and shall be subject to the principles laid down in Chapter II and to the criteria set out in Article 24(3) and (6).

3. When providing for the criteria for determining whether a situation qualifies as catastrophic circumstances, and when laying down specific rules on how to deal with such circumstances in accordance with Article 22, the Commission shall take into account differences in the ecological balance, climate and local conditions in third countries and in the outermost regions of the Union.

4. The Commission shall adopt implementing acts to lay down specific rules concerning the content of the certificates referred to in point (b) of paragraph 1, the procedure to be followed for their issuance, their verification and the technical means by which the certificate is issued, in particular as regards the role of competent authorities, control authorities and control bodies, ensuring the traceability and compliance of imported products intended to be placed on the Union market as organic products or as in-conversion products as referred to in paragraph 1.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 55(2).

5. Compliance with the conditions and measures for the import of organic products and in-conversion products referred to in paragraph 1 into the Union shall be ascertained at border control posts, in accordance with Article 47(1) of Regulation (EU) 2017/625. The frequency of the physical checks referred to in Article 49(2) of that Regulation shall depend on the likelihood of non-compliance as defined in point (57) of Article 3 of this Regulation.

*Article 46***Recognition of control authorities and control bodies**

1. The Commission may adopt implementing acts to recognise control authorities and control bodies that are competent to carry out controls and to issue organic certificates in third countries, to withdraw the recognition of such control authorities and control bodies, and to establish a list of recognised control authorities and control bodies.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 55(2).

2. Control authorities or control bodies shall be recognised in accordance with paragraph 1 of this Article for the control of import of the categories of products listed in Article 35(7) if they fulfil the following criteria:

- (a) they are legally established in one Member State or third country;
- (b) they have the capacity to carry out controls to ensure that the conditions set out in points (a), (b)(i) and (c) of Article 45(1) and in this Article are met in relation to organic products and in-conversion products intended for import into the Union;
- (c) they offer adequate guarantees of objectivity and impartiality and are free from any conflict of interest as regards the exercise of their control tasks;
- (d) in the case of control bodies, they are accredited under the relevant harmonised standard for 'Conformity assessment – Requirements for bodies certifying products, processes and services', the reference of which has been published in the *Official Journal of the European Union*;
- (e) they have the expertise, equipment and infrastructure required to carry out control tasks, and have a sufficient number of suitable qualified and experienced staff; and
- (f) they meet any additional criteria that may be laid down in a delegated act adopted pursuant to paragraph 7.

3. The accreditation referred to in point (d) of paragraph 2 may only be granted by:

- (a) a national accreditation body in the Union in accordance with Regulation (EC) No 765/2008; or
- (b) an accreditation body outside the Union that is a signatory of a multilateral recognition arrangement under the auspices of the International Accreditation Forum.

4. Control authorities and control bodies shall submit a request for recognition to the Commission. Such request shall consist of a technical dossier containing all information that is necessary to ensure that the criteria set out in paragraph 2 are met.

The control authorities shall provide the latest assessment report issued by the competent authority, and the control bodies shall provide the accreditation certificate issued by the accreditation body. Where appropriate, control authorities or control bodies shall also provide latest reports on the regular on-the-spot evaluation, surveillance and multiannual re-assessment of their activities.

5. Based on the information referred to under paragraph 4 and on any other relevant information relating to the control authority or control body, the Commission shall ensure appropriate supervision of the recognised control authorities and control bodies by regularly reviewing their performance and recognition. For the purposes of that supervision, the Commission may request additional information from the accreditation bodies or the competent authorities, as appropriate.

6. The nature of the supervision referred to in paragraph 5 shall be determined on the basis of an assessment of the likelihood of non-compliance, taking into account, in particular, the activity of the control authority or control body, the type of products and operators under its control and the changes in the production rules and control measures.

The recognition of control authorities or of control bodies referred to in paragraph 1 shall in particular be withdrawn without delay, in accordance with the procedure referred to in that paragraph, where serious or repetitive infringements as regards the certification or the controls and actions laid down in accordance with paragraph 8 have been detected and where the control authority or control body concerned has failed to take appropriate and timely remedial action in reaction to a request by the Commission within a period determined by the Commission. Such period shall be determined in accordance with the severity of the problem and in general shall not be less than 30 days.

7. The Commission is empowered to adopt delegated acts in accordance with Article 54:

- (a) amending paragraph 2 of this Article by adding further criteria to those laid down therein for the recognition of the control authorities and control bodies referred to in paragraph 1 of this Article and for the withdrawal of such recognition, or by amending those added criteria;
- (b) supplementing this Regulation as regards:
  - (i) the exercise of the supervision of the control authorities and control bodies recognised by the Commission in accordance with paragraph 1, including on-the-spot examinations; and
  - (ii) the controls and other actions to be performed by those control authorities and control bodies.

8. The Commission may adopt implementing acts to ensure the application of the measures to be taken in relation to cases of suspected or established non-compliance, in particular those affecting the integrity of organic or in-conversion products imported under the recognition provided for in this Article. Such measures may consist in particular in the verification of the integrity of organic or in-conversion products before placing the products on the market within the Union and, where appropriate, in the suspension of the authorisation for the placing on the market of such products within the Union as organic products or in-conversion products.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 55(2).

9. On duly justified imperative grounds of urgency relating to unfair practices or practices which are incompatible with the principles and rules on organic production, the protection of consumers' confidence or the protection of fair competition between operators, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 55(3) to take the measures referred to in paragraph 8 of this Article or to decide on the withdrawal of the recognition of the control authorities and control bodies referred to in paragraph 1 of this Article.

#### Article 47

##### **Equivalence under a trade agreement**

A recognised third country referred to in point (b)(ii) of Article 45(1) is a third country which the Union has recognised under a trade agreement as having a system of production meeting the same objectives and principles by applying rules which ensure the same level of assurance of conformity as those of the Union.

#### Article 48

##### **Equivalence under Regulation (EC) No 834/2007**

1. A recognised third country referred to in point (b)(iii) of Article 45(1) is a third country which has been recognised for the purposes of equivalence under Article 33(2) of Regulation (EC) No 834/2007, including those recognised under the transitional measure provided for in Article 58 of this Regulation.

That recognition shall expire on 31 December 2025.

2. On the basis of annual reports to be sent to the Commission, by 31 March of each year, by the third countries referred to in paragraph 1 regarding the implementation and enforcement of the control measures established by them, and in the light of any other information received, the Commission shall ensure appropriate supervision of the recognised third countries by regularly reviewing their recognition. For this purpose, the Commission may request the assistance of Member States. The nature of the supervision shall be determined on the basis of an assessment of the likelihood of non-compliance, taking into account in particular the volume of exports to the Union from the third country concerned, the results of the monitoring and supervisory activities carried out by the competent authority and the results of previous controls. The Commission shall regularly report to the European Parliament and the Council on the outcome of its review.

3. The Commission shall, by means of an implementing act, establish a list of the third countries referred to in paragraph 1 and may amend that list by means of implementing acts.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 55(2).

4. The Commission is empowered to adopt delegated acts in accordance with Article 54 supplementing this Regulation as regards the information to be sent by the third countries listed in accordance with paragraph 3 of this Article which is necessary for the supervision of their recognition by the Commission, as well as the exercise of that supervision by the Commission, including through on-the-spot examination.

5. The Commission may adopt implementing acts to ensure the application of measures in relation to cases of suspected or established non-compliance, in particular those affecting the integrity of organic or in-conversion products imported from third countries referred to in this Article. Such measures may consist in particular in the verification of the integrity of organic or in-conversion products before placing the products on the market within the Union and, where appropriate, in the suspension of the authorisation for the placing on the market of such products within the Union as organic products or in-conversion products.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 55(2).

*Article 49***Report from the Commission on the application of Articles 47 and 48**

By 31 December 2021, the Commission shall present a report to the European Parliament and the Council on the state of application of Articles 47 and 48, in particular as regards the recognition of third countries for the purpose of equivalence.

## CHAPTER VIII

## GENERAL PROVISIONS

## SECTION 1

***Free movement of organic and in-conversion products****Article 50***Non-prohibition and non-restriction of the marketing of organic and in-conversion products**

Competent authorities, control authorities and control bodies shall not, on grounds that relate to the production, labelling or presentation of the products, prohibit or restrict the marketing of organic or in-conversion products subject to control by another competent authority, control authority or control body located in another Member State where those products comply with this Regulation. In particular, no official controls and other official activities other than those under Regulation (EU) 2017/625 shall be performed and no fees for official controls and other official activities other than those provided for in Chapter VI of that Regulation shall be collected.

## SECTION 2

***Information, reporting and related derogations****Article 51***Information relating to the organic sector and trade**

1. Each year Member States shall transmit to the Commission the information necessary for the implementation and monitoring of the application of this Regulation. As far as possible, such information shall be based on established sources of data. The Commission shall take into account the data needs and synergies between potential data sources, in particular their use for statistical purposes where appropriate.

2. The Commission shall adopt implementing acts as regards the system to be used for transmitting the information referred to in paragraph 1, the details of information to be transmitted, and the date by which that information is to be transmitted.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 55(2).

*Article 52***Information relating to the competent authorities, control authorities and control bodies**

1. Member States shall keep a regularly updated list of:

- (a) the names and addresses of the competent authorities; and
- (b) the names, addresses and code numbers of the control authorities and control bodies.

Member States shall transmit those lists, and any change thereof, to the Commission and make them public, except where such transmission and publication has already taken place in accordance with Article 4(4) of Regulation (EU) 2017/625.

2. Based on the information provided for under paragraph 1, the Commission shall regularly publish on the internet an updated list of control authorities and control bodies referred to in point (b) of paragraph 1.

*Article 53***Derogations, authorisations and report**

1. The derogations from the use of organic plant reproductive material and from the use of organic animals provided in points 1.8.5 of Part I of Annex II and points 1.3.4.3 and 1.3.4.4 of Part II of Annex II, with the exception of point 1.3.4.4.2 of Part II of Annex II, shall expire on 31 December 2035.

2. From 1 January 2028, based on the conclusions as regards availability of organic plant reproductive material and animals presented in the report provided for in paragraph 7 of this Article, the Commission shall be empowered to adopt delegated acts in accordance with Article 54 amending this Regulation by:

- (a) ending the derogations referred to in point 1.8.5 of Part I of Annex II and in points 1.3.4.3 and 1.3.4.4 of Part II of Annex II, with the exception of point 1.3.4.4.2 of Part II of Annex II, at an earlier date than 31 December 2035 or extending them beyond that date; or
- (b) ending the derogation referred to in point 1.3.4.4.2 of Part II of Annex II.

3. From 1 January 2026, the Commission shall be empowered to adopt delegated acts in accordance with Article 54 amending point (b) of Article 26(2) to extend the scope of the information system referred to in Article 26(2) to pullets and point 1.3.4.3 of Part II of Annex II to base the derogations concerning pullets on the data collected in accordance with this system.

4. From 1 January 2025, the Commission shall be empowered to adopt delegated acts in accordance with Article 54, based on the information as regards availability of organic protein feed for poultry and porcine animals made available by Member States in accordance with paragraph 6 of this Article or presented in the report referred to in paragraph 7 of this Article, ending the authorisations to use non-organic protein feed in the nutrition of poultry and porcine animals referred to in points 1.9.3.1(c) and 1.9.4.2(c) of Part II of Annex II at an earlier date than 31 December 2025 or extending them beyond that date.

5. When extending the derogations or authorisations referred to in paragraphs 2, 3 and 4, the Commission shall do so only for as long as it has information, in particular information provided by Member States in accordance with paragraph 6, that confirms the unavailability on the Union market of the plant reproductive material, animal or feed concerned.

6. By 30 June of each year, Member States shall make available to the Commission and to the other Member States:

- (a) information provided in the database referred to in Article 26(1) and in the systems referred to in Article 26(2) and, if relevant, in the systems referred to in Article 26(3);
- (b) information on the derogations granted in accordance with point 1.8.5 of Part I of Annex II and points 1.3.4.3 and 1.3.4.4 of Part II of Annex II; and
- (c) information on the availability on the Union market of organic protein feed for poultry and porcine animals and on the authorisations granted in accordance with points 1.9.3.1(c) and 1.9.4.2(c) of Part II of Annex II.

7. By 31 December 2025, the Commission shall present a report to the European Parliament and the Council on the availability on the Union market of and, if relevant, on the causes of limited access to:

- (a) organic plant reproductive material;
- (b) organic animals covered by the derogations referred to in points 1.3.4.3 and 1.3.4.4 of Part II of Annex II;
- (c) organic protein feed intended for the nutrition of poultry and porcine animals subject to the authorisations referred to in points 1.9.3.1(c) and 1.9.4.2(c) of Part II of Annex II.

In drawing up that report, the Commission shall take into account, in particular, the data collected in accordance with Article 26 and the information relating to the derogations and the authorisations referred to in paragraph 6 of this Article.

## CHAPTER IX

### PROCEDURAL, TRANSITIONAL AND FINAL PROVISIONS

#### SECTION 1

#### *Procedural provisions*

#### *Article 54*

#### **Exercise of the delegation**

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Article 2(6), Article 9(11), Article 10(5), Article 12(2), Article 13(3), Article 14(2), Article 15(2), Article 16(2), Article 17(2), Article 18(2), Article 19(2), Article 21(1), Article 22(1), Article 23(2), Article 24(6), Article 30(7), Article 32(4), Article 33(6), Article 34(8), Article 35(9), Article 36(3), Article 38(8), Article 40(11), Article 44(2), Article 46(7), Article 48(4), Article 53(2), (3) and (4), Article 57(3) and Article 58(2) shall be conferred on the Commission for a period of five years from 1 January 2021. The Commission shall draw up a report in respect of the delegation of power no later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

3. The delegation of power referred to in Article 2(6), Article 9(11), Article 10(5), Article 12(2), Article 13(3), Article 14(2), Article 15(2), Article 16(2), Article 17(2), Article 18(2), Article 19(2), Article 21(1), Article 22(1), Article 23(2), Article 24(6), Article 30(7), Article 32(4), Article 33(6), Article 34(8), Article 35(9), Article 36(3), Article 38(8), Article 40(11), Article 44(2), Article 46(7), Article 48(4), Article 53(2), (3) and (4), Article 57(3) and Article 58(2) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect on the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6. A delegated act adopted pursuant to Article 2(6), Article 9(11), Article 10(5), Article 12(2), Article 13(3), Article 14(2), Article 15(2), Article 16(2), Article 17(2), Article 18(2), Article 19(2), Article 21(1), Article 22(1), Article 23(2), Article 24(6), Article 30(7), Article 32(4), Article 33(6), Article 34(8), Article 35(9), Article 36(3), Article 38(8), Article 40(11), Article 44(2), Article 46(7), Article 48(4), Article 53(2), (3) and (4), Article 57(3) and Article 58(2) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

#### Article 55

##### **Committee procedure**

1. The Commission shall be assisted by a committee called the 'Organic Production Committee'. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

3. Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011, in conjunction with Article 5 thereof, shall apply.

4. Where the Committee delivers no opinion, the Commission shall not adopt the draft implementing act and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply.

#### SECTION 2

##### **Repeal and transitional and final provisions**

#### Article 56

##### **Repeal**

Regulation (EC) No 834/2007 is repealed.

However, that Regulation shall continue to apply for the purpose of completing the examination of pending applications from third countries, as provided for in Article 58 of this Regulation.

References to the repealed Regulation shall be construed as references to this Regulation.



*Article 57***Transitional measures relating to control authorities and control bodies recognised under Article 33(3) of Regulation (EC) No 834/2007**

1. The recognition of control authorities and control bodies granted under Article 33(3) of Regulation (EC) No 834/2007 shall expire by 31 December 2023 at the latest.
2. The Commission shall, by means of an implementing act, establish a list of the control authorities and control bodies recognised under Article 33(3) of Regulation (EC) No 834/2007, and may amend that list by means of implementing acts.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 55(2).

3. The Commission is empowered to adopt delegated acts in accordance with Article 54 supplementing this Regulation as regards the information to be sent by the control authorities and control bodies referred to in paragraph 2 of this Article which is necessary for the purpose of the supervision of their recognition by the Commission, as well as the exercise of that supervision by the Commission, including through on-the-spot examination.

*Article 58***Transitional measures relating to applications from third countries submitted under Article 33(2) of Regulation (EC) No 834/2007**

1. The Commission shall complete the examination of applications from third countries which have been submitted under Article 33(2) of Regulation (EC) No 834/2007 and which are pending on 17 June 2018. That Regulation shall apply to the examination of such applications.
2. The Commission is empowered to adopt delegated acts in accordance with Article 54 supplementing this Regulation by laying down the procedural rules necessary for the examination of the applications referred to in paragraph 1 of this Article, including on the information to be submitted by third countries.

*Article 59***Transitional measures relating to the first recognition of control authorities and control bodies**

By way of derogation from the date of application referred to in the second paragraph of Article 61, Article 46 shall apply from 17 June 2018 insofar as necessary in order to allow a timely recognition of control authorities and control bodies.

*Article 60***Transitional measures for stocks of organic products produced in accordance with Regulation (EC) No 834/2007**

Products produced in accordance with Regulation (EC) No 834/2007 before 1 January 2021 may be placed on the market after that date until stocks are exhausted.

*Article 61***Entry into force and application**

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

It shall apply from 1 January 2021.

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

Done at Strasbourg, 30 May 2018.

*For the European Parliament*  
*The President*  
A. TAJANI

*For the Council*  
*The President*  
L. PAVLOVA

## ANNEX I

**OTHER PRODUCTS REFERRED TO IN ARTICLE 2(1)**

- Yeasts used as food or feed,
  - maté, sweetcorn, vine leaves, palm hearts, hop shoots, and other similar edible parts of plants and products produced therefrom,
  - sea salt and other salts for food and feed,
  - silkworm cocoon suitable for reeling,
  - natural gums and resins,
  - beeswax,
  - essential oils,
  - cork stoppers of natural cork, not agglomerated, and without any binding substances,
  - cotton, not carded or combed,
  - wool, not carded or combed,
  - raw hides and untreated skins,
  - plant-based traditional herbal preparations.
-

## ANNEX II

## DETAILED PRODUCTION RULES REFERRED TO IN CHAPTER III

## Part I: Plant production rules

In addition to the production rules laid down in Articles 9 to 12, the rules set out in this Part shall apply to organic plant production.

1. General requirements
- 1.1. Organic crops, except those which are naturally grown in water, shall be produced in living soil, or in living soil mixed or fertilised with materials and products allowed in organic production, in connection with the subsoil and bedrock.
- 1.2. Hydroponic production, which is a method of growing plants which do not naturally grow in water with their roots in a nutrient solution only or in an inert medium to which a nutrient solution is added, is prohibited.
- 1.3. By way of derogation from point 1.1, the production of sprouts by moistening of seeds and the obtaining of chicory heads including by dipping in clear water shall be allowed.
- 1.4. By way of derogation from point 1.1, the following practices shall be allowed:
  - (a) growing plants for the production of ornamentals and herbs in pots to be sold together with the pot to the final consumer;
  - (b) growing seedlings or transplants in containers for further transplanting.
- 1.5. By way of derogation from point 1.1, growing crops in demarcated beds shall only be allowed for the surfaces that have been certified as organic for that practice before 28 June 2017 in Finland, Sweden and Denmark. No extension of those surfaces shall be permitted.

That derogation shall expire on 31 December 2030.

By 31 December 2025, the Commission shall present a report to the European Parliament and the Council on the use of demarcated beds in organic agriculture. That report may be accompanied, where appropriate, by a legislative proposal on the use of demarcated beds in organic agriculture.

- 1.6. All plant production techniques used shall prevent or minimise any contribution to the contamination of the environment.
- 1.7. Conversion
  - 1.7.1. For plants and plant products to be considered as organic products, the production rules laid down in this Regulation shall have been applied with respect to the parcels during a conversion period of at least two years before sowing, or, in the case of grassland or perennial forage, during a period of at least two years before its use as organic feed, or, in the case of perennial crops other than forage, during a period of at least three years before the first harvest of organic products.
  - 1.7.2. Where the land or one or more parcels thereof have been contaminated with products or substances not authorised for use in organic production, the competent authority may decide to extend the conversion period for the land or parcels concerned beyond the period referred to in point 1.7.1.
  - 1.7.3. In the case of treatment with a product or a substance not authorised for use in organic production, the competent authority shall require a new conversion period in accordance with point 1.7.1.

That period may be shortened in the following two cases:

- (a) treatment with a product or a substance not authorised for use in organic production as part of a compulsory control measure for pests or weeds, including quarantine organisms or invasive species, imposed by the competent authority of the Member State concerned;
- (b) treatment with a product or a substance not authorised for use in organic production as part of scientific tests approved by the competent authority of the Member State concerned.

- 1.7.4. In the cases referred to in points 1.7.2 and 1.7.3, the length of the conversion period shall be fixed taking into account the following requirements:
- (a) the process of degradation of the product or substance concerned must guarantee, at the end of the conversion period, an insignificant level of residues in the soil and, in the case of a perennial crop, in the plant;
  - (b) the harvest following the treatment may not be placed on the market as organic or in-conversion products.
- 1.7.4.1. Member States shall inform the Commission and the other Member States of any decision taken by them which lays down compulsory measures related to treatment with a product or a substance not authorised for use in organic production.
- 1.7.4.2. In the case of treatment with a product or a substance which is not authorised for use in organic production, point 1.7.5(b) shall not apply.
- 1.7.5. In the case of land associated with organic livestock production:
- (a) the conversion rules shall apply to the whole area of the production unit on which animal feed is produced;
  - (b) notwithstanding point (a), the conversion period may be reduced to one year for pasturages and open air areas used by non-herbivore species.
- 1.8. Origin of plants including plant reproductive material
- 1.8.1. For the production of plants and plant products other than plant reproductive material, only organic plant reproductive material shall be used.
- 1.8.2. To obtain organic plant reproductive material to be used for the production of products other than plant reproductive material, the mother plant and, where relevant, other plants intended for plant reproductive material production shall have been produced in accordance with this Regulation for at least one generation, or, in the case of perennial crops, for at least one generation during two growing seasons.
- 1.8.3. When choosing organic plant reproductive material, operators shall give preference to organic plant reproductive material suitable for organic agriculture.
- 1.8.4. For the production of organic varieties suitable for organic production, the organic breeding activities shall be conducted under organic conditions and shall focus on enhancement of genetic diversity, reliance on natural reproductive ability, as well as agronomic performance, disease resistance and adaptation to diverse local soil and climate conditions.
- All multiplication practices except meristem culture shall be carried out under certified organic management.
- 1.8.5. Use of in-conversion and non-organic plant reproductive material
- 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, excluding seedlings, are not met, competent authorities may authorise the use of in-conversion or non-organic plant reproductive material under the conditions laid down in points 1.8.5.3, 1.8.5.4 and 1.8.5.5.
- Prior to requesting any such derogation, 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 his or her request is justified.
- 1.8.5.2. Control authorities or control bodies recognised in accordance with Article 46(1) may authorise operators in third countries to use in-conversion or non-organic plant reproductive material in an organic production unit when organic plant reproductive material is not available in sufficient quality or quantity in the territory of the third country in which the operator is located, under the conditions laid down under points 1.8.5.3, 1.8.5.4 and 1.8.5.5.
- 1.8.5.3. Non-organic plant reproductive material shall not be treated with plant protection products other than those authorised for the treatment of seed in accordance with Article 24(1) of this Regulation, unless chemical treatment has been prescribed in accordance with Regulation (EU) 2016/2031 for phytosanitary purposes by the competent authority of the Member State concerned for all varieties of a given species in the area in which the plant reproductive material is to be used.
- 1.8.5.4. The authorisation to use in-conversion or non-organic plant reproductive material shall be obtained before the sowing of the crop.

- 1.8.5.5. The authorisation to use in-conversion or non-organic plant reproductive material shall be granted only to individual users for one season at a time, and the competent authority responsible for authorisations shall list the quantities of the authorised plant reproductive material.
- 1.9. Soil management and fertilisation
- 1.9.1. In organic plant production, tillage and cultivation practices shall be used that maintain or increase soil organic matter, enhance soil stability and soil biodiversity, and prevent soil compaction and soil erosion.
- 1.9.2. The fertility and biological activity of the soil shall be maintained and increased:
- (a) except in the case of grassland or perennial forage, by the use of multiannual crop rotation including mandatory leguminous crops as the main or cover crop for rotating crops and other green manure crops;
  - (b) in the case of greenhouses or perennial crops other than forage, by the use of short-term green manure crops and legumes as well as the use of plant diversity; and
  - (c) in all cases, by the application of livestock manure or organic matter, both preferably composted, from organic production.
- 1.9.3. Where the nutritional needs of plants cannot be met by the measures provided for in points 1.9.1 and 1.9.2, only fertilisers and soil conditioners that have been authorised pursuant to Article 24 for use in organic production shall be used, and only to the extent necessary. Operators shall keep records of the use of those products.
- 1.9.4. The total amount of livestock manure, as defined in Directive 91/676/EEC, used in the in-conversion and organic production units shall not exceed 170 kg of nitrogen per year/hectare of agricultural area used. That limit shall only apply to the use of farmyard manure, dried farmyard manure and dehydrated poultry manure, composted animal excrement, including poultry manure, composted farmyard manure and liquid animal excrement.
- 1.9.5. Operators of agricultural holdings may establish written cooperation agreements exclusively with operators of other agricultural holdings and undertakings which comply with the organic production rules, for the purpose of spreading surplus manure from organic production units. The maximum limit referred to in point 1.9.4 shall be calculated on the basis of all of the organic production units involved in such cooperation.
- 1.9.6. Preparations of micro-organisms may be used to improve the overall condition of the soil or to improve the availability of nutrients in the soil or in the crops.
- 1.9.7. For compost activation, appropriate plant-based preparations and preparations of micro-organisms may be used.
- 1.9.8. Mineral nitrogen fertilisers shall not be used.
- 1.9.9. Biodynamic preparations may be used.
- 1.10. Pest and weed management
- 1.10.1. The prevention of damage caused by pests and weeds shall rely primarily on the protection by:
- natural enemies,
  - the choice of species, varieties and heterogeneous material,
  - crop rotation,
  - cultivation techniques such as biofumigation, mechanical and physical methods, and
  - thermal processes such as solarisation and, in the case of protected crops, shallow steam treatment of the soil (to a maximum depth of 10 cm).
- 1.10.2. Where plants cannot adequately be protected from pests by measures provided for in point 1.10.1 or in the case of an established threat to a crop, only products and substances authorised pursuant to Articles 9 and 24 for use in organic production shall be used, and only to the extent necessary. Operators shall keep records proving the need for the use of such products.
- 1.10.3. In relation to products and substances used in traps or in dispensers of products and substances other than pheromones, the traps or dispensers shall prevent the products and substances from being released into the environment and shall prevent contact between the products and substances and the crops being cultivated. All traps, including pheromone traps, shall be collected after use and shall be safely disposed of.

1.11. Products used for cleaning and disinfection

Only those products for cleaning and disinfection in plant production authorised pursuant to Article 24 for use in organic production shall be used for that purpose.

1.12. Record-keeping obligation

Operators shall keep records regarding the parcels concerned and the amount of the harvest.

1.13. Preparation of unprocessed products

If preparation operations other than processing are carried out on plants, the general requirements laid down in points 1.2, 1.3, 1.4, 1.5 and 2.2.3 of Part IV shall apply *mutatis mutandis* to such operations.

2. Detailed rules for specific plants and plant products

2.1. Rules on mushroom production

For the production of mushrooms, substrates may be used if they are composed only of the following components:

(a) farmyard manure and animal excrement:

(i) either from organic production units or from in-conversion units in their second year of conversion; or

(ii) referred to in point 1.9.3, only when the product referred to in point (i) is not available, provided that that farmyard manure and animal excrement do not exceed 25 % of the weight of total components of the substrate, excluding the covering material and any added water, before composting;

(b) products of agricultural origin, other than those referred to in point (a), from organic production units;

(c) peat, not treated with chemical products;

(d) wood, not treated with chemical products after felling;

(e) mineral products referred to in point 1.9.3, water and soil.

2.2. Rules concerning the collection of wild plants

The collection of wild plants and parts thereof growing naturally in natural areas, forests and agricultural areas is considered as organic production, provided that:

(a) for a period of at least three years before the collection, those areas were not treated with products or substances other than those authorised pursuant to Articles 9 and 24 for use in organic production;

(b) the collection does not affect the stability of the natural habitat or the maintenance of the species in the collection area.

## Part II: Livestock production rules

In addition to the production rules laid down in Articles 9, 10, 11 and 14, the rules laid down in this Part shall apply to organic livestock production.

1. General requirements

1.1. Except in the case of beekeeping, landless livestock production, where the farmer intending to produce organic livestock does not manage agricultural land and has not established a written cooperation agreement with a farmer as regards the use of organic production units or in-conversion production units for that livestock, shall be prohibited.

1.2. Conversion

1.2.1. In the case of simultaneous start of conversion of the production unit, including pasturage or any land used for animal feed, and of the animals existing on this production unit at the beginning of the conversion period of this production unit as referred to in points 1.7.1 and 1.7.5(b) of Part I, animals and animal products may be considered organic at the end of the conversion period of the production unit, even if the conversion period laid down in point 1.2.2 of this Part for the type of animal concerned is longer than the conversion period for the production unit.

By derogation from point 1.4.3.1, in the case of such simultaneous conversion and during the conversion period of the production unit, animals present in this production unit since the beginning of the conversion period may be fed with in-conversion feed produced on the in-conversion production unit during the first year of conversion and/or with feed in accordance with point 1.4.3.1 and/or with organic feed.



Non-organic animals may be introduced into an in-conversion production unit after the start of the conversion period in accordance with point 1.3.4.

1.2.2. Conversion periods specific to the type of animal production are set out as follows:

- (a) 12 months in the case of bovine animals and equine animals for meat production, and in any case no less than three quarters of their lifetime;
- (b) six months in the case of ovine animals, caprine animals and porcine animals and animals for milk production;
- (c) 10 weeks for poultry for meat production, except for Peking ducks, brought in before they are three days old;
- (d) seven weeks for Peking ducks brought in before they are three days old;
- (e) six weeks in the case of poultry for egg production brought in before they are three days old;
- (f) 12 months for bees.

During the conversion period, the wax shall be replaced with wax coming from organic beekeeping.

However, non-organic beeswax may be used:

- (i) where beeswax from organic beekeeping is not available on the market;
  - (ii) where it is proven free of contamination with products or substances not authorised for use in organic production; and
  - (iii) provided that it comes from the cap;
- (g) three months for rabbits;
  - (h) 12 months for cervine animals.

1.3. Origin of animals

1.3.1. Without prejudice to the rules on conversion, organic livestock shall be born or hatched and raised on organic production units.

1.3.2. With regard to the breeding of organic animals:

- (a) reproduction shall use natural methods; however, artificial insemination shall be allowed;
- (b) reproduction shall not be induced or impeded by treatment with hormones or other substances with a similar effect, except as a form of veterinary therapeutic treatment in the case of an individual animal;
- (c) other forms of artificial reproduction, such as cloning and embryo transfer, shall not be used;
- (d) the choice of breeds shall be appropriate to the principles of organic production, shall ensure a high standard of animal welfare and shall contribute to the prevention of any suffering and to avoiding the need for the mutilation of animals.

1.3.3. When choosing breeds or strains, operators shall consider giving preference to breeds or strains with a high degree of genetic diversity, the capacity of animals to adapt to local conditions, their breeding value, their longevity, their vitality and their resistance to disease or health problems, all without impairment of their welfare. In addition, breeds or strains of animals shall be selected to avoid specific diseases or health problems associated with some breeds or strains used in intensive production, such as porcine stress syndrome, possibly leading to pale-soft-exudative (PSE) meat, sudden death, spontaneous abortion and difficult births requiring caesarean operations. Preference shall be given to indigenous breeds and strains.

To choose the breeds and strains in accordance with the first paragraph, operators shall use the information available in the systems referred to in Article 26(3).

1.3.4. Use of non-organic animals

1.3.4.1. By way of derogation from point 1.3.1, for breeding purposes, non-organically raised animals may be brought to an organic production unit when breeds are in danger of being lost to farming as referred to in point (b) of Article 28(10) of Regulation (EU) No 1305/2013 and acts adopted on the basis thereof. In such case, the animals of those breeds need not necessarily be nulliparous.

- 1.3.4.2. By way of derogation from point 1.3.1, for the renovation of apiaries, 20 % per year of the queen bees and swarms may be replaced by non-organic queen bees and swarms in the organic production unit, provided that the queen bees and swarms are placed in hives with combs or comb foundations coming from organic production units. In any case, one swarm or queen bee may be replaced per year by a non-organic swarm or a queen bee.
- 1.3.4.3. By way of derogation from point 1.3.1, where a flock is constituted for the first time, or is renewed or reconstituted, and where the qualitative and quantitative needs of farmers cannot be met, the competent authority may decide that non-organically reared poultry may be brought into an organic poultry production unit, provided that the pullets for the production of eggs and poultry for meat production are less than three days old. Products derived from them may only be considered as organic if the conversion period specified in point 1.2 has been complied with.
- 1.3.4.4. By way of derogation from point 1.3.1, where the data collected in the system referred to in point (b) of Article 26(2) shows that the qualitative or quantitative needs of the farmer regarding organic animals are not met, competent authorities may authorise the introduction of non-organic animals into an organic production unit, subject to the conditions provided for in points 1.3.4.4.1 to 1.3.4.4.4.

Prior to requesting any such derogation, the farmer shall consult the data collected in the system referred to in point (b) of Article 26(2) in order to verify whether his or her request is justified.

For operators in third countries, control authorities and control bodies recognised in accordance with Article 46(1) may authorise the introduction of non-organic animals into an organic production unit where organic animals are not available in sufficient quality or quantity in the territory of the country where the operator is located.

- 1.3.4.4.1. For breeding purposes, non-organic young animals may be introduced when a herd or flock is constituted for the first time. They shall be reared in accordance with the organic production rules immediately after they are weaned. In addition, the following restrictions shall apply on the date on which those animals enter the herd or flock:
- (a) bovine animals, equine animals and cervine animals shall be less than six months old;
  - (b) ovine animals and caprine animals shall be less than 60 days old;
  - (c) porcine animals shall weigh less than 35 kg;
  - (d) rabbits shall be less than three months old.
- 1.3.4.4.2. For breeding purposes, non-organic adult male and non-organic nulliparous female animals may be introduced for the renewal of a herd or flock. They shall be reared subsequently in accordance with the organic production rules. In addition, the number of female animals shall be subject to the following restrictions per year:
- (a) up to a maximum of 10 % of adult equine animals or bovine animals and 20 % of the adult porcine animals, ovine animals, caprine animals, rabbits or cervine animals may be introduced;
  - (b) for units with fewer than 10 equine animals, cervine animals or bovine animals or rabbits, or with fewer than five porcine animals, ovine animals or caprine animals, any such renewal shall be limited to a maximum of one animal per year.
- 1.3.4.4.3. The percentages set in point 1.3.4.4.2 may be increased up to 40 %, provided that the competent authority has confirmed that any of following conditions is fulfilled:
- (a) a major extension to the farm has been undertaken;
  - (b) one breed has been replaced with another;
  - (c) a new livestock specialisation has been initiated.
- 1.3.4.4.4. In the cases referred to in points 1.3.4.4.1, 1.3.4.4.2 and 1.3.4.4.3, non-organic animals may only be considered as organic if the conversion period specified in point 1.2 has been complied with. The conversion period laid down in point 1.2.2 shall start, at the earliest, once the animals are introduced into the in-conversion production unit.
- 1.3.4.4.5. In the cases referred to in points 1.3.4.4.1 to 1.3.4.4.4, non-organic animals shall either be kept separate from other livestock or shall be kept identifiable until the end of the conversion period referred to in point 1.3.4.4.4.

#### 1.4. Nutrition

##### 1.4.1. General nutrition requirements

With regard to nutrition, the following rules shall apply:

- (a) feed for livestock shall be obtained primarily from the agricultural holding where the animals are kept or shall be obtained from organic or in-conversion production units belonging to other holdings in the same region;
- (b) livestock shall be fed with organic or in-conversion feed that meets the animal's nutritional requirements at the various stages of its development; restricted feeding shall not be permitted in livestock production unless justified for veterinary reasons;
- (c) livestock shall not be kept in conditions or on a diet which may encourage anaemia;
- (d) fattening practices shall always respect the normal nutritional patterns for each species and the animals' welfare at each stage of the rearing process; force-feeding is forbidden;
- (e) with the exception of porcine animals, poultry and bees, livestock shall have permanent access to pasture whenever conditions allow or shall have permanent access to roughage;
- (f) growth promoters and synthetic amino-acids shall not be used;
- (g) suckling animals shall preferably be fed on maternal milk for a minimum period laid down by the Commission in accordance with point (a) of Article 14(3); milk replacers containing chemically synthesised components or components of plant origin shall not be used during that period;
- (h) feed materials of plant, algal, animal or yeast origin shall be organic;
- (i) non-organic feed materials of plant, algal, animal or yeast origin, feed materials of microbial or of mineral origin, feed additives and processing aids may be used only if they have been authorised pursuant to Article 24 for use in organic production.

##### 1.4.2. Grazing

###### 1.4.2.1. Grazing on organic land

Without prejudice to point 1.4.2.2, organic animals shall graze on organic land. However, non-organic animals may use organic pasturage for a limited period each year, provided that they have been raised in an environmental friendly way on land supported under Articles 23, 25, 28, 30, 31 and 34 of Regulation (EU) No 1305/2013 and that they are not present on the organic land at the same time as organic animals.

###### 1.4.2.2. Grazing on common land and transhumance

###### 1.4.2.2.1. Organic animals may graze on common land, provided that:

- (a) the common land has not been treated with products or substances not authorised for use in organic production for at least three years;
- (b) any non-organic animals which use the common land have been raised in an environmental friendly way on land supported under Articles 23, 25, 28, 30, 31 and 34 of Regulation (EU) No 1305/2013;
- (c) any livestock products from organic animals that were produced during the period when those animals grazed on common land are not considered as organic products unless adequate segregation from non-organic animals can be proved.

###### 1.4.2.2.2. During the period of transhumance, organic animals may graze on non-organic land when they are being moved on foot from one grazing area to another. During that period, organic animals shall be kept separate from other animals. The uptake of non-organic feed, in the form of grass and other vegetation on which the animals graze, shall be allowed:

- (a) for a maximum of 35 days covering both the outward and return journeys; or
- (b) for a maximum of 10 % of the total feed ration per year, calculated as a percentage of the dry matter of feedstuffs of agricultural origin.

#### 1.4.3. In-conversion feed

##### 1.4.3.1. For agricultural holdings that produce organic livestock:

- (a) up to 25 % on average of the feed formula of rations may comprise in-conversion feed from the second year of conversion. This percentage may be increased to 100 % if this in-conversion feed comes from the holding where the livestock is kept; and
- (b) up to 20 % of the total average amount of feed fed to livestock may originate from the grazing or harvesting of permanent pastures, perennial forage parcels or protein crops sown under organic management on lands in their first year of conversion, provided that those lands are part of the holding itself.

When both types of in-conversion feed referred to in points (a) and (b) are being used for feeding, the total combined percentage of such feed shall not exceed the percentage fixed in point (a).

##### 1.4.3.2. The figures in point 1.4.3.1 shall be calculated annually as a percentage of the dry matter of feed of plant origin.

#### 1.5. Health care

##### 1.5.1. Disease prevention

###### 1.5.1.1. Disease prevention shall be based on breed and strain selection, husbandry management practices, high-quality feed, exercise, appropriate stocking density and adequate and appropriate housing maintained in hygienic conditions.

###### 1.5.1.2. Immunological veterinary medicinal products may be used.

###### 1.5.1.3. Chemically synthesised allopathic veterinary medicinal products, including antibiotics and boluses of synthesised allopathic chemical molecules, shall not be used for preventive treatment.

###### 1.5.1.4. Substances to promote growth or production (including antibiotics, coccidiostats and other artificial aids for growth promotion purposes) and hormones and similar substances for the purpose of controlling reproduction or for other purposes (e.g. induction or synchronisation of oestrus) shall not be used.

###### 1.5.1.5. Where livestock is obtained from non-organic production units, special measures such as screening tests or quarantine periods shall apply, depending on local circumstances.

###### 1.5.1.6. Only the products for cleaning and disinfection in livestock buildings and installations authorised pursuant to Article 24 for use in organic production shall be used for that purpose.

###### 1.5.1.7. Housing, pens, equipment and utensils shall be properly cleaned and disinfected to prevent cross-infection and the build-up of disease carrying organisms. Faeces, urine and uneaten or spilt feed shall be removed as often as necessary to minimise smell and to avoid attracting insects or rodents. Rodenticides, to be used only in traps, and products and substances authorised pursuant to Articles 9 and 24 for use in organic production may be used for the elimination of insects and other pests in buildings and other installations where livestock are kept.

##### 1.5.2. Veterinary treatment

###### 1.5.2.1. Where animals become sick or injured despite preventive measures to ensure animal health, they shall be treated immediately.

###### 1.5.2.2. Disease shall be treated immediately to avoid suffering of the animal. Chemically synthesised allopathic veterinary medicinal products, including antibiotics, may be used where necessary, under strict conditions and under the responsibility of a veterinarian, when the use of phytotherapeutic, homeopathic and other products is inappropriate. In particular, restrictions with respect to courses of treatment and withdrawal periods shall be defined.

###### 1.5.2.3. Feed materials of mineral origin authorised pursuant to Article 24 for use in organic production, nutritional additives authorised pursuant to Article 24 for use in organic production, and phytotherapeutic and homeopathic products shall be used in preference to treatment with chemically synthesised allopathic veterinary medicinal products, including antibiotics, provided that their therapeutic effect is effective for the species of animal and for the condition for which the treatment is intended.

- 1.5.2.4. With the exception of vaccinations, treatments for parasites and compulsory eradication schemes, where an animal or a group of animals receives more than three courses of treatments with chemically synthesised allopathic veterinary medicinal products, including antibiotics, within 12 months, or more than one course of treatment if their productive lifecycle is less than one year, neither the livestock concerned nor produce derived from such livestock shall be sold as organic products, and the livestock shall be subject to the conversion periods referred to in point 1.2.
- 1.5.2.5. The withdrawal period between the last administration to an animal of a chemically synthesised allopathic veterinary medicinal product, including of an antibiotic, under normal conditions of use, and the production of organically produced foodstuffs from that animal shall be twice the withdrawal period referred to in Article 11 of Directive 2001/82/EC, and shall be at least 48 hours.
- 1.5.2.6. Treatments related to the protection of human and animal health imposed on the basis of Union legislation shall be allowed.
- 1.6. Housing and husbandry practices
- 1.6.1. Insulation, heating and ventilation of the building shall ensure that air circulation, dust level, temperature, relative air humidity and gas concentration are kept within limits which ensure the well-being of the animals. The building shall permit plentiful natural ventilation and light to enter.
- 1.6.2. Housing for livestock shall not be mandatory in areas with appropriate climatic conditions enabling animals to live outdoors. In such cases, animals shall have access to shelters or shady areas to protect them from adverse weather conditions.
- 1.6.3. The stocking density in buildings shall provide for the comfort, well-being and species-specific needs of the animals, and shall depend in particular on the species, the breed and the age of the animals. It shall also take account of the behavioural needs of the animals, which depend in particular on the size of the group and the animals' sex. The density shall ensure the animals' welfare by providing them with sufficient space to stand naturally, to move, to lie down easily, to turn round, to groom themselves, to assume all natural postures and to make all natural movements, such as stretching and wing flapping.
- 1.6.4. The minimum surface for indoor and outdoor areas, and the technical details relating to housing, laid down in the implementing acts referred to in Article 14(3), shall be complied with.
- 1.6.5. Open air areas may be partially covered. Verandas shall not be considered as open air areas.
- 1.6.6. The total stocking density shall not exceed the limit of 170 kg of organic nitrogen per year and hectare of agricultural area.
- 1.6.7. To determine the appropriate density of livestock referred to in point 1.6.6, the competent authority shall set out the livestock units equivalent to the limit referred to in point 1.6.6, following the figures laid down in each of the specific requirements per type of animal production.
- 1.6.8. Cages, boxes and flat decks to raise livestock shall not be used for any livestock species.
- 1.6.9. When livestock is treated individually for veterinary reasons, it shall be kept in spaces that have a solid floor and shall be provided with straw or appropriate bedding. The animal must be able to turn around easily and to lie down comfortably at full length.
- 1.6.10. Organic livestock may not be reared in a pen on very wet or marshy soil.
- 1.7. Animal welfare
- 1.7.1. All persons involved in keeping animals and in handling animals during transport and slaughter shall possess the necessary basic knowledge and skills as regards the health and the welfare needs of the animals and shall have followed adequate training, as required in particular in Council Regulation (EC) No 1/2005 <sup>(1)</sup> and Council Regulation No (EC) 1099/2009 <sup>(2)</sup>, to ensure proper application of the rules set out in this Regulation.
- 1.7.2. Husbandry practices, including stocking densities and housing conditions, shall ensure that the developmental, physiological and ethological needs of the animals are met.

<sup>(1)</sup> Council Regulation (EC) No 1/2005 of 22 December 2004 on the protection of animals during transport and related operations and amending Directives 64/432/EEC and 93/119/EC and Regulation (EC) No 1255/97 (OJ L 3, 5.1.2005, p. 1).

<sup>(2)</sup> Council Regulation (EC) No 1099/2009 of 24 September 2009 on the protection of animals at the time of killing (OJ L 303, 18.11.2009, p. 1).

- 1.7.3. Livestock shall have permanent access to open air areas that allow the animals to exercise, preferably pasture, whenever weather and seasonal conditions and the state of the ground allow, except where restrictions and obligations related to the protection of human and animal health have been imposed on the basis of Union legislation.
- 1.7.4. The number of livestock shall be limited with a view to minimising overgrazing, poaching of soil, erosion, and pollution caused by animals or by the spreading of their manure.
- 1.7.5. Tethering or isolation of livestock shall be prohibited, except in relation to individual animals for a limited period and insofar as this is justified for veterinary reasons. The isolation of livestock may only be authorised, and only for a limited period, where workers' safety is compromised or for animal welfare reasons. Competent authorities may authorise the tethering of cattle in farms with a maximum of 50 animals (excluding young stock) where it is not possible to keep the cattle in groups appropriate to their behaviour requirements, provided they have access to pastures during the grazing period, and have access to open air areas at least twice a week when grazing is not possible.
- 1.7.6. Duration of transport of livestock shall be minimised.
- 1.7.7. Any suffering, pain and distress shall be avoided and shall be kept to a minimum during the entire life of the animal, including at the time of slaughter.
- 1.7.8. Without prejudice to developments in Union legislation on animal welfare, tail-docking of sheep, beak trimming undertaken in the first three days of life, and dehorning may exceptionally be allowed, but only on a case-by-case basis and only when those practices improve the health, welfare or hygiene of the livestock or where workers' safety would otherwise be compromised. Disbudding may be allowed only on a case by case basis when it improves the health, welfare or hygiene of the livestock or where workers' safety would otherwise be compromised. The competent authority shall only authorise such operations where the operator has duly notified and justified the operations to that competent authority and where the operation is to be carried out by qualified personnel.
- 1.7.9. Any suffering to the animals shall be reduced to a minimum by applying adequate anaesthesia and/or analgesia and by carrying out each operation at only the most appropriate age by qualified personnel.
- 1.7.10. Physical castration shall be allowed in order to maintain the quality of products and traditional production practices, but only under the conditions set out in point 1.7.9.
- 1.7.11. The loading and unloading of animals shall be carried out without the use of any type of electrical or other painful stimulation to coerce the animals. The use of allopathic tranquillisers, prior to or during transport, shall be prohibited.
- 1.8. Preparation of unprocessed products
- If preparation operations other than processing are carried out on livestock, the general requirements laid down in points 1.2, 1.3, 1.4, 1.5 and 2.2.3 of Part IV shall apply *mutatis mutandis* to such operations.
- 1.9. Additional general rules
- 1.9.1. For bovine animals, ovine animals, caprine animals and equine animals
- 1.9.1.1. Nutrition
- With regard to nutrition, the following rules shall apply:
- (a) at least 60 % of the feed shall come from the farm itself or, if this is not feasible or such feed is not available, shall be produced in cooperation with other organic or in-conversion production units and feed operators using feed and feed material from the same region. This percentage shall be raised to 70 % as from 1 January 2023;
  - (b) animals shall have access to pasturage for grazing whenever conditions allow;
  - (c) notwithstanding point (b), male bovine animals over one year old shall have access to pasturage or an open air area;
  - (d) where animals have access to pasturage during the grazing period and where the winter housing system allows the animals to move freely, the obligation to provide open air areas during the winter months may be waived;
  - (e) rearing systems shall be based on maximum use of grazing pasturage, by reference to the availability of pastures in the different periods of the year;



- (f) at least 60 % of the dry matter in daily rations shall consist of roughage, fresh or dried fodder, or silage. This percentage may be reduced to 50 % for animals in dairy production for a maximum period of three months in early lactation.

#### 1.9.1.2. Housing and husbandry practices

With regard to housing and husbandry practices, the following rules shall apply:

- (a) housing shall have smooth, but not slippery floors;
- (b) housing shall be provided with a comfortable, clean and dry laying or rest area of sufficient size, which shall consist of a solid construction which is not slatted. Ample dry bedding strewn with litter material shall be provided in the rest area. The litter shall comprise straw or other suitable natural material. The litter may be improved and enriched with any mineral product that is authorised pursuant to Article 24 as a fertiliser or soil conditioner for use in organic production;
- (c) notwithstanding point (a) of the first subparagraph of Article 3(1) and the second subparagraph of Article 3(1) of Council Directive 2008/119/EC <sup>(1)</sup>, the housing of calves in individual boxes shall be forbidden after the age of one week, unless for individual animals for a limited period, and insofar as this is justified for veterinary reasons;
- (d) when a calf is treated individually for veterinary reasons, it shall be kept in spaces that have a solid floor and shall be provided with straw bedding. The calf must be able to turn around easily and to lie down comfortably at full length.

#### 1.9.2. For cervine animals

##### 1.9.2.1. Nutrition

With regard to nutrition, the following rules shall apply:

- (a) at least 60 % of the feed shall come from the farm itself or, if this is not feasible or such feed is not available, shall be produced in cooperation with other organic or in-conversion production units and feed operators using feed and feed material from the same region. This percentage shall be raised to 70 % as from 1 January 2023;
- (b) animals shall have access to pasturage for grazing whenever conditions allow;
- (c) where animals have access to pasturage during the grazing period and where the winter housing system allows the animals to move freely, the obligation to provide open air areas during the winter months may be waived;
- (d) rearing systems shall be based on maximum use of grazing pasturage by reference to the availability of pastures in the different periods of the year;
- (e) at least 60 % of the dry matter in daily rations shall consist of roughage, fresh or dried fodder, or silage. This percentage may be reduced to 50 % for female cervine animals in milk production for a maximum period of three months in early lactation;
- (f) natural grazing shall be ensured in a pen during the period of vegetation. Pens that cannot provide feed by grazing during the period of vegetation shall not be allowed;
- (g) feeding shall only be allowed in the event of a shortage of grazing due to poor weather conditions;
- (h) farmed animals in a pen shall be provided with clean and fresh water. If a natural source of water that is easily accessible to animals is not available, watering places shall be provided.

##### 1.9.2.2. Housing and husbandry practices

With regard to housing and husbandry practices, the following rules shall apply:

- (a) cervine animals shall be provided with hiding places, shelters and fences that do not harm animals;
- (b) in red deer pens, animals must be able to roll in the mud to ensure skin grooming and body temperature regulation;

<sup>(1)</sup> Council Directive 2008/119/EC of 18 December 2008 laying down minimum standards for the protection of calves (OJ L 10, 15.1.2009, p. 7).

- (c) any housing shall have smooth, but not slippery floors;
- (d) any housing shall be provided with a comfortable, clean and dry laying or rest area of sufficient size, consisting of a solid construction which is not slatted. Ample dry bedding strewn with litter material shall be provided in the rest area. The litter shall comprise straw or other suitable natural material. The litter may be improved and enriched with any mineral product authorised pursuant to Article 24 as a fertiliser or soil conditioner for use in organic production;
- (e) feeding places shall be installed in areas protected from the weather and accessible both to animals and to persons attending to them. The soil where feeding places are located shall be consolidated, and the feeding apparatus shall be equipped with a roof;
- (f) if permanent access to feed cannot be ensured, the feeding places shall be designed so that all animals can feed at the same time.

1.9.3. For porcine animals

1.9.3.1. Nutrition

With regard to nutrition, the following rules shall apply:

- (a) at least 30 % of the feed shall come from the farm itself or, if this is not feasible or such feed is not available, shall be produced in cooperation with other organic or in-conversion production units and feed operators using feed and feed material from the same region;
- (b) roughage, fresh or dried fodder, or silage shall be added to the daily ration;
- (c) where farmers are unable to obtain protein feed exclusively from organic production, and the competent authority has confirmed that organic protein feed is not available in sufficient quantity, non-organic protein feed may be used until 31 December 2025 provided that the following conditions are fulfilled:
  - (i) it is not available in organic form;
  - (ii) it is produced or prepared without chemical solvents;
  - (iii) its use is limited to the feeding of piglets of up to 35 kg with specific protein compounds; and
  - (iv) the maximum percentage authorised per period of 12 months for those animals does not exceed 5 %. The percentage of the dry matter of feed from agricultural origin shall be calculated.

1.9.3.2. Housing and husbandry practices

With regard to housing and husbandry practices, the following rules shall apply:

- (a) the housing shall have smooth, but not slippery floors;
- (b) the housing shall be provided with a comfortable, clean and dry laying or rest area of sufficient size, consisting of a solid construction which is not slatted. Ample dry bedding strewn with litter material shall be provided in the rest area. The litter shall comprise straw or other suitable natural material. The litter may be improved and enriched with any mineral product authorised pursuant to Article 24 as a fertiliser or soil conditioner for use in organic production;
- (c) there shall always be a bed made of straw or other suitable material large enough to ensure that all pigs in a pen can lie down at the same time in the most space-consuming way;
- (d) sows shall be kept in groups, except in the last stages of pregnancy and during the suckling period, during which time the sow must be able to move freely in her pen and her movement shall only be restricted for short periods;
- (e) without prejudice to any additional requirements for straw, a few days before expected farrowing, sows shall be provided with a quantity of straw or other suitable natural material sufficient to enable them to build nests;
- (f) exercise areas shall permit dunging and rooting by porcine animals. For the purposes of rooting, different substrates may be used.

#### 1.9.4. For poultry

##### 1.9.4.1. Origin of animals

To prevent the use of intensive rearing methods, poultry shall either be reared until they reach a minimum age or else shall come from slow-growing poultry strains adapted to outdoor rearing.

The competent authority shall define the criteria of slow-growing strains or draw up a list of those strains and provide this information to operators, other Member States and the Commission.

Where slow-growing poultry strains are not used by the farmer, the minimum age at slaughter shall be as follows:

- (a) 81 days for chickens;
- (b) 150 days for capons;
- (c) 49 days for Peking ducks;
- (d) 70 days for female Muscovy ducks;
- (e) 84 days for male Muscovy ducks;
- (f) 92 days for Mallard ducks;
- (g) 94 days for guinea fowl;
- (h) 140 days for male turkeys and roasting geese; and
- (i) 100 days for female turkeys.

##### 1.9.4.2. Nutrition

With regard to nutrition, the following rules shall apply:

- (a) at least 30 % of the feed shall come from the farm itself or, if this is not feasible or such feed is not available, be produced in cooperation with other organic or in-conversion production units and feed operators using feed and feed material from the same region;
- (b) roughage, fresh or dried fodder, or silage shall be added to the daily ration;
- (c) where farmers are unable to obtain protein feed exclusively from organic production for poultry species, and the competent authority has confirmed that organic protein feed is not available in sufficient quantity, non-organic protein feed may be used until 31 December 2025, provided that the following conditions are fulfilled:
  - (i) it is not available in organic form;
  - (ii) it is produced or prepared without chemical solvents;
  - (iii) its use is limited to the feeding of young poultry with specific protein compounds; and
  - (iv) the maximum percentage authorised per period of 12 months for those animals does not exceed 5 %.  
The percentage of the dry matter of feed of agricultural origin shall be calculated.

##### 1.9.4.3. Animal welfare

Live plucking of poultry shall be prohibited.

##### 1.9.4.4. Housing and husbandry practices

With regard to housing and husbandry practices, the following rules shall apply:

- (a) at least one third of the floor area shall be solid, that is, not of slatted or of grid construction, and shall be covered with a litter material such as straw, wood shavings, sand or turf;
- (b) in poultry houses for laying hens, a sufficiently large part of the floor area available to the hens shall be available for the collection of bird droppings;
- (c) buildings shall be emptied of livestock between each batch of poultry that has been reared. The buildings and fittings shall be cleaned and disinfected during this time. In addition, when the rearing of each batch of poultry has been completed, runs shall be left empty during a period to be established by the Member States in order to allow vegetation to grow back. Those requirements shall not apply where poultry are not reared in batches, are not kept in runs and are free to roam throughout the day;

- (d) poultry shall have access to an open air area for at least one third of their life. However, laying hens and finisher poultry shall have access to an open air area for at least one third of their life, except where temporary restrictions have been imposed on the basis of Union legislation;
- (e) continuous daytime open air access shall be provided from as early an age as practically possible and whenever physiological and physical conditions allow, except where temporary restrictions have been imposed on the basis of Union legislation;
- (f) by way of derogation from point 1.6.5, in the case of breeding birds and pullets aged under 18 weeks, when the conditions specified in point 1.7.3 as regards restrictions and obligations related to the protection of human and animal health imposed on the basis of Union legislation are met and prevent breeding birds and pullets aged under 18 weeks from having access to open air areas, verandas shall be considered as open air areas and, in such cases, shall have a wire mesh barrier to keep other birds out;
- (g) open air areas for poultry shall permit fowl to have easy access to adequate numbers of drinking troughs;
- (h) open air areas for poultry shall be covered mainly with vegetation;
- (i) under conditions where feed availability from the range area is limited, for example, due to long term snow cover or arid weather conditions, supplementary feeding of roughage shall be included as part of poultry diets;
- (j) where poultry are kept indoors due to restrictions or obligations imposed on the basis of Union legislation, they shall have permanent access to sufficient quantities of roughage and suitable material in order to meet their ethological needs;
- (k) water fowl shall have access to a stream, pond, lake or a pool whenever the weather and hygienic conditions permit, in order to respect their species-specific needs and animal welfare requirements; when weather conditions do not permit such access, they shall have access to water which enables them to dip their head therein so as to clean plumage;
- (l) natural light may be supplemented by artificial means to provide a maximum of 16 hours light per day, with a continuous nocturnal rest period without artificial light of at least eight hours;
- (m) the total usable surface area for fattening poultry in poultry houses of any production unit shall not exceed 1 600 m<sup>2</sup>;
- (n) not more than 3 000 laying hens shall be allowed in a single compartment of a poultry house.

#### 1.9.5. For rabbits

##### 1.9.5.1. Nutrition

With regard to nutrition, the following rules shall apply:

- (a) at least 70 % of the feed shall come from the farm itself or, if this is not feasible or such feed is not available, shall be produced in cooperation with other organic or in-conversion production units and feed operators using feed and feed material from the same region;
- (b) rabbits shall have access to pasturage for grazing whenever conditions allow;
- (c) rearing systems shall be based on maximum use of grazing pasturage by reference to the availability of pastures in the different periods of the year;
- (d) fibrous feed such as straw or hay shall be provided when grass is not sufficient. Forage shall comprise at least 60 % of the diet.

##### 1.9.5.2. Housing and husbandry practices

With regard to housing and husbandry practices, the following rules shall apply:

- (a) housing shall be provided with a comfortable, clean and dry laying or rest area of sufficient size, consisting of a solid construction which is not slatted. Ample dry bedding strewn with litter material shall be provided in the rest area. The litter shall comprise straw or other suitable natural material. The litter may be improved and enriched with any mineral product authorised pursuant to Article 24 as a fertiliser or soil conditioner for use in organic production;
- (b) rabbits shall be kept in groups.

- (c) rabbit farms shall use robust breeds adapted to outdoor conditions;
- (d) rabbits shall have access to:
  - (i) covered shelter including dark hiding places;
  - (ii) an outdoor run with vegetation, preferably pasture;
  - (iii) a raised platform on which they can sit, either inside or out;
  - (iv) nesting material for all nursing does.

1.9.6. For bees

1.9.6.1. Origin of animals

For beekeeping, preference shall be given to the use of *Apis mellifera* and their local ecotypes.

1.9.6.2. Nutrition

With regard to nutrition, the following rules shall apply:

- (a) at the end of the production season hives shall be left with sufficient reserves of honey and pollen for the bees to survive the winter;
- (b) bee colonies may only be fed where the survival of the colony is endangered due to climatic conditions. In such case, bee colonies shall be fed with organic honey, organic sugar syrups, or organic sugar.

1.9.6.3. Health care

With regard to health care, the following rules shall apply:

- (a) for the purposes of protecting frames, hives and combs, in particular from pests, only rodenticides used in traps, and appropriate products and substances authorised pursuant to Articles 9 and 24 for use in organic production shall be permitted;
- (b) physical treatments for disinfection of apiaries such as steam or direct flame shall be permitted;
- (c) the practice of destroying the male brood shall only be permitted for the purpose of isolating the infestation of *Varroa destructor*;
- (d) if, despite all preventive measures, the colonies become sick or infested, they shall be treated immediately and, if necessary, may be placed in isolation apiaries;
- (e) formic acid, lactic acid, acetic acid and oxalic acid, as well as menthol, thymol, eucalyptol or camphor, may be used in cases of infestation with *Varroa destructor*;
- (f) if a treatment is applied with chemically synthesised allopathic products, including antibiotics, other than products and substances authorised pursuant to Articles 9 and 24 for use in organic production, for the duration of that treatment, the treated colonies shall be placed in isolation apiaries and all the wax shall be replaced with wax coming from organic beekeeping. Subsequently, the conversion period of 12 months laid down in point 1.2.2 shall apply to those colonies.

1.9.6.4. Animal welfare

With regard to beekeeping, the following additional general rules shall apply:

- (a) the destruction of bees in the combs as a method associated with the harvesting of apiculture products shall be prohibited;
- (b) mutilation such as clipping the wings of queen bees shall be prohibited.

1.9.6.5. Housing and husbandry practices

With regard to housing and husbandry practices, the following rules shall apply:

- (a) apiaries shall be placed in areas which ensure the availability of nectar and pollen sources consisting essentially of organically produced crops or, where appropriate, of spontaneous vegetation or non-organically managed forests or crops that are only treated with low environmental impact methods;
- (b) apiaries shall be kept at sufficient distance from sources that may lead to the contamination of apiculture products or to the poor health of the bees;

- (c) the siting of the apiaries shall be such that, within a radius of 3 km from the apiary site, nectar and pollen sources consist essentially of organically produced crops or spontaneous vegetation or crops treated with low environmental impact methods equivalent to those provided for in Articles 28 and 30 of Regulation (EU) No 1305/2013 which cannot affect the qualification of beekeeping production as being organic. That requirement does not apply where flowering is not taking place, or the bee colonies are dormant;
- (d) the hives and materials used in beekeeping shall be made basically of natural materials presenting no risk of contamination to the environment or the apiculture products;
- (e) the beeswax for new foundations shall come from organic production units;
- (f) only natural products such as propolis, wax and plant oils may be used in the hives;
- (g) synthetic chemical repellents shall not be used during honey extraction operations;
- (h) brood combs shall not be used for honey extraction;
- (i) beekeeping shall not be considered as organic when practiced in regions or areas designated by Member States as regions or areas where organic beekeeping is not practicable.

### **Part III: Production rules for algae and aquaculture animals**

1. General requirements
  - 1.1. Operations shall be situated in locations that are not subject to contamination with products or substances not authorised for use in organic production, or with pollutants that would compromise the organic nature of the products.
  - 1.2. Organic and non-organic production units shall be adequately separated in accordance with the minimum separation distances set by Member States, where applicable. Such separation measures shall be based on the natural situation, separate water distribution systems, distances, the tidal flow, and the upstream and the downstream location of the organic production unit. Algae and aquaculture production shall not be considered as organic when practiced at locations or in areas designated by Member State authorities as locations or areas which are unsuitable for such activities.
  - 1.3. An environmental assessment that is appropriate to the production unit shall be required for any new operators applying for organic production and producing more than 20 tonnes of aquaculture products per year to ascertain the conditions of the production unit and its immediate environment and likely effects of its operation. The operator shall provide the environmental assessment to the control authority or control body. The content of the environmental assessment shall be based on Annex IV to Directive 2011/92/EU of the European Parliament and of the Council <sup>(1)</sup>. If the production unit has already been subject to an equivalent assessment, that assessment may be used for this purpose.
  - 1.4. Mangrove destruction shall not be permitted.
  - 1.5. The operator shall provide a sustainable management plan proportionate to the production unit for aquaculture and algae harvesting.
  - 1.6. The plan shall be updated annually and shall detail the environmental effects of the operation and the environmental monitoring to be undertaken, and shall list the measures to be taken to minimise negative impacts on the surrounding aquatic and terrestrial environments, including, where applicable, nutrient discharge into the environment per production cycle or per annum. The plan shall record the surveillance and repair of technical equipment.
  - 1.7. Defensive and preventive measures taken against predators in accordance with Directive 92/43/EEC and national rules shall be recorded in the sustainable management plan.
  - 1.8. Where applicable, coordination shall take place with the neighbouring operators in drawing up the management plan.
  - 1.9. Aquaculture and algae business operators shall draw up as part of the sustainable management plan a waste reduction schedule to be put in place at the commencement of operations. Where possible, the use of residual heat shall be limited to energy from renewable sources.

<sup>(1)</sup> Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment (OJ L 26, 28.1.2012, p. 1).



#### 1.10. Preparation of unprocessed products

If preparation operations, other than processing, are carried out on algae or aquaculture animals, the general requirements laid down in points 1.2, 1.3, 1.4, 1.5 and 2.2.3 of Part IV shall apply *mutatis mutandis* to such operations.

#### 2. Requirements for algae

In addition to the general production rules laid down in Articles 9, 10, 11 and 15, and where relevant in Section 1 of this Part, the rules laid down in this Section shall apply to the organic collection and production of algae. Those rules shall apply *mutatis mutandis* to the production of phytoplankton.

##### 2.1. Conversion

2.1.1. The conversion period for a production unit for algae collection shall be six months.

2.1.2. The conversion period for a production unit for algae cultivation shall be a period of six months or one full production cycle, whichever is the longer.

##### 2.2. Production rules for algae

2.2.1. The collection of wild algae and parts thereof is considered as organic production provided that:

(a) the growing areas are suitable from a health point of view and are of high ecological status as defined by Directive 2000/60/EC, or are of equivalent quality to:

— the production zones classed as A and B in Regulation (EC) No 854/2004 of the European Parliament and of the Council <sup>(1)</sup>, until 13 December 2019, or

— the corresponding classification areas set out in the implementing acts adopted by the Commission in accordance with Article 18(8) of Regulation (EU) 2017/625, from 14 December 2019;

(b) the collection does not affect significantly the stability of the natural ecosystem or the maintenance of the species in the collection area.

2.2.2. The cultivation of algae shall take place in areas with environmental and health characteristics at least equivalent to those outlined in point 2.2.1(a) in order to be considered organic. In addition the following production rules shall apply:

(a) sustainable practices shall be used in all stages of production, from the collection of juvenile algae to harvesting;

(b) to ensure that a wide gene-pool is maintained, the collection of juvenile algae in the wild shall take place on a regular basis so as to maintain and increase the diversity of indoor culture stock;

(c) fertilisers shall not be used, except in indoor facilities, and only if they have been authorised pursuant to Article 24 for use in organic production for this purpose.

##### 2.3. Algae cultivation

2.3.1. Algae culture at sea shall only utilise nutrients naturally occurring in the environment, or from organic aquaculture animal production, preferably located nearby as part of a polyculture system.

2.3.2. In facilities on land where external nutrient sources are used, the nutrient levels in the effluent water shall be verifiably the same, or lower, than the inflowing water. Only nutrients of plant or mineral origin authorised pursuant to Article 24 for use in organic production may be used.

2.3.3. Culture density or operational intensity shall be recorded and shall maintain the integrity of the aquatic environment by ensuring that the maximum quantity of algae which can be supported without negative effects on the environment is not exceeded.

2.3.4. Ropes and other equipment used for growing algae shall be re-used or recycled where possible.

##### 2.4. Sustainable collection of wild algae

2.4.1. A once-off biomass estimate shall be undertaken at the outset of algae collection.

<sup>(1)</sup> Regulation (EC) No 854/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific rules for the organisation of official controls on products of animal origin intended for human consumption (OJ L 139, 30.4.2004, p. 206).

- 2.4.2. Documentary accounts shall be maintained in the unit or premises and shall enable the operator to identify and the control authority or control body to verify that the collectors have supplied only wild algae produced in accordance with this Regulation.
- 2.4.3. Collection shall be carried out in such a way that the amounts collected do not cause a significant impact on the state of the aquatic environment. Measures such as collection technique, minimum sizes, ages, reproductive cycles or size of remaining algae shall be taken to ensure that algae can regenerate and to ensure that by-catches are prevented.
- 2.4.4. If algae are collected from a shared or common collection area, documentary evidence produced by the relevant authority designated by the Member State concerned shall be available showing that the total collection complies with this Regulation.
3. Requirements for aquaculture animals
- In addition to the general production rules laid down in Article 9, 10, 11 and 15, and where relevant in Section 1 of this Part, the rules laid down in this Section shall apply to the organic production of species of fish, crustaceans, echinoderms and molluscs. Those rules also shall apply *mutatis mutandis* to the production of zooplankton, micro-crustaceans, rotifers, worms and other aquatic feed animals.
- 3.1. General requirements
- 3.1.1. Conversion
- The following conversion periods for aquaculture production units shall apply for the following types of aquaculture facilities including the existing aquaculture animals:
- (a) for facilities that cannot be drained, cleaned and disinfected, a conversion period of 24 months;
  - (b) for facilities that have been drained, or fallowed, a conversion period of 12 months;
  - (c) for facilities that have been drained, cleaned and disinfected, a conversion period of six months;
  - (d) for open water facilities, including those producing bivalve molluscs, a conversion period of three months.
- 3.1.2. Origin of aquaculture animals
- 3.1.2.1. With regard to the origin of the aquaculture animals, the following rules shall apply:
- (a) organic aquaculture shall be based on the rearing of young stock originating from organic broodstock and from organic production units;
  - (b) locally grown species shall be used, and breeding shall aim to produce strains which are better adapted to production conditions, ensuring good animal health and welfare and good utilisation of feed resources. Documentary evidence of their origin and treatment shall be provided for the competent authority, or, where appropriate, the control authority or control body;
  - (c) species shall be chosen which are robust and can be produced without causing significant damage to wild stocks;
  - (d) for breeding purposes, wild-caught or non-organic aquaculture animals may be brought into a holding only in duly justified cases where no organic breed is available or where new genetic stock for breeding purposes is brought into the production unit after an authorisation has been granted by the competent authority with a view to improving the suitability of genetic stock. Such animals shall be kept under organic management for at least three months before they may be used for breeding. For animals that are on the IUCN Red List of endangered species, the authorisation to use wild-caught specimens may only be granted in the context of conservation programmes recognised by the relevant public authority in charge of the conservation effort;
  - (e) for on-growing purposes, the collection of wild aquaculture juveniles shall be specifically restricted to the following cases:
    - (i) natural influx of fish or crustacean larvae and juveniles when filling ponds, containment systems and enclosures;

- (ii) restocking of wild fry or crustacean larvae of species that are not on the IUCN Red List of endangered species in extensive aquaculture farming inside wetlands, such as brackish water ponds, tidal areas and coastal lagoons, provided that:
  - the restocking is in line with management measures approved by the relevant authorities to ensure the sustainable exploitation of the species concerned, and
  - the animals are fed exclusively with feed naturally available in the environment.

By way of derogation from point (a), Member States may authorise the introduction for on-growing purposes on an organic production unit of a maximum of 50 % of non-organic juveniles of species that were not developed as organic in the Union by 1 January 2021, provided that at least the latter two thirds of the duration of the production cycle are managed under organic management. Such derogation may be granted for a maximum period of two years and shall not be renewable.

For aquaculture holdings situated outside the Union, such derogation may only be granted by control authorities or control bodies that have been recognised in accordance with Article 46(1) for species that were not developed as organic in either the territory of the country in which the holding is located or the Union. Such derogation may be granted for a maximum period of two years and shall not be renewable.

3.1.2.2. With regard to breeding, the following rules shall apply:

- (a) hormones and hormone-derivates shall not be used;
- (b) the artificial production of monosex strains, except by hand-sorting, the induction of polyploidy, artificial hybridisation and cloning shall not be used;
- (c) appropriate strains shall be chosen.

3.1.3. Nutrition

3.1.3.1. With regard to feed for fish, crustaceans and echinoderms, the following rules shall apply:

- (a) animals shall be fed with feed that meets the animals' nutritional requirements at the various stages of its development;
- (b) feeding regimes shall be designed with the following priorities:
  - (i) animal health and welfare;
  - (ii) high product quality, including the nutritional composition of the product, which shall ensure high quality of the final edible product;
  - (iii) low environmental impact;
- (c) the plant fraction of feed shall be organic and the feed fraction derived from aquatic animals shall originate from organic aquaculture or from fisheries that have been certified as sustainable under a scheme recognised by the competent authority in line with the principles laid down in Regulation (EU) No 1380/2013;
- (d) non-organic feed materials of plant, animal, algal or yeast origin, feed materials of mineral or microbial origin, feed additives, and processing aids shall only be used if they have been authorised under this Regulation for use in organic production;
- (e) growth promoters and synthetic amino-acids shall not be used.

3.1.3.2. With regard to bivalve molluscs and other species which are not fed by man, but instead feed on natural plankton, the following rules shall apply:

- (a) such filter-feeding animals shall receive all their nutritional requirements from nature, except in the case of juveniles reared in hatcheries and nurseries;
- (b) the growing areas shall be suitable from a health point of view and shall either be of high ecological status as defined by Directive 2000/60/EC or of good environmental status as defined by Directive 2008/56/EC or of equivalent quality to:
  - the production zones classed as A in Regulation (EC) No 854/2004, until 13 December 2019, or

- the corresponding classification areas set out in the implementing acts adopted by the Commission in accordance with Article 18(8) of Regulation (EU) 2017/625, from 14 December 2019.

#### 3.1.3.3. Specific rules on feed for carnivorous aquaculture animals

Feed for carnivorous aquaculture animals shall be sourced with the following priorities:

- (a) organic feed of aquaculture origin;
- (b) fish meal and fish oil from organic aquaculture trimmings sourced from fish, crustaceans or molluscs;
- (c) fish meal and fish oil and feed material of fish origin derived from trimmings of fish, crustaceans or molluscs already caught for human consumption in sustainable fisheries;
- (d) fish meal and fish oil and feed material of fish origin derived from whole fish, crustaceans or molluscs caught in sustainable fisheries and not used for human consumption;
- (e) organic feed materials of plant or animal origin; plant material shall not exceed 60 % of total ingredients.

#### 3.1.3.4. Specific rules on feed for certain aquaculture animals

In the grow-out phase, fish in inland waters, penaeid shrimps and freshwater prawns and tropical freshwater fish shall be fed as follows:

- (a) they shall be fed with feed naturally available in ponds and lakes;
- (b) where natural feed referred to in point (a) is not available in sufficient quantities, organic feed of plant origin, preferably grown on the farm itself, or algae may be used. Operators shall keep documentary evidence of the need to use additional feed;
- (c) where natural feed is supplemented in accordance with point (b):
  - (i) the feed ration of penaeid shrimps and freshwater prawns (*Macrobrachium* spp.) may consist of a maximum of 25 % fishmeal and 10 % fish oil derived from sustainable fisheries;
  - (ii) the feed ration of siamese catfish (*Pangasius* spp.) may consist of a maximum of 10 % fishmeal or fish oil derived from sustainable fisheries.

#### 3.1.4. Health care

##### 3.1.4.1. Disease prevention

With regard to disease prevention, the following rules shall apply:

- (a) disease prevention shall be based on keeping the animals in optimal conditions by appropriate siting, taking into account, inter alia, the species' requirements for good water quality, flow and exchange rate, the optimal design of the holdings, the application of good husbandry and management practices, including regular cleaning and disinfection of premises, high-quality feed, appropriate stocking density, and breed and strain selection;
- (b) immunological veterinary medicines may be used;
- (c) an animal health management plan shall detail biosecurity and disease prevention practices including a written agreement for health counselling, proportionate to the production unit, with qualified aquaculture animal health services who shall visit the farm at a frequency of not less than once per year or, in the case of bivalve shellfish, not less than once every two years;
- (d) holding systems, equipment and utensils shall be properly cleaned and disinfected;
- (e) bio-fouling organisms shall be removed only by physical means or by hand and where appropriate returned to the sea at a distance from the farm;
- (f) only substances for cleaning and disinfection of equipment and facilities authorised pursuant to Article 24 for use in organic production may be used;

- (g) with regard to fallowing, the following rules shall apply:
- (i) the competent authority, or, where appropriate, control authority or control body, shall determine whether fallowing is necessary and shall determine the appropriate duration which shall be applied and documented after each production cycle in open water containment systems at sea;
  - (ii) it shall not be mandatory for bivalve mollusc cultivation;
  - (iii) during fallowing the cage or other structure used for aquaculture animal production is emptied, disinfected and left empty before being used again;
- (h) where appropriate, uneaten fish-feed, faeces and dead animals shall be removed promptly to avoid any risk of significant environmental damage as regards water status quality, to minimise disease risks, and to avoid attracting insects or rodents;
- (i) ultraviolet light and ozone may only be used in hatcheries and nurseries;
- (j) for biological control of ectoparasites, preference shall be given to the use of cleaner fish and to the use of freshwater, marine water and sodium chloride solutions.

#### 3.1.4.2. Veterinary treatments

With regard to veterinary treatments, the following rules shall apply:

- (a) disease shall be treated immediately to avoid suffering to the animal. Chemically synthesised allopathic veterinary medicinal products, including antibiotics, may be used where necessary, under strict conditions and under the responsibility of a veterinarian, where the use of phytotherapeutic, homeopathic and other products is inappropriate. Where appropriate, restrictions with respect to courses of treatment and withdrawal periods shall be defined;
- (b) treatments related to the protection of human and animal health imposed on the basis of Union legislation shall be allowed;
- (c) when despite preventive measures to ensure animal health referred to in point 3.1.4.1 a health problem arises, veterinary treatments may be used in the following order of preference:
  - (i) substances from plants, animals or minerals in a homeopathic dilution;
  - (ii) plants and their extracts not having anaesthetic effects; and
  - (iii) substances such as trace elements, metals, natural immunostimulants or authorised probiotics;
- (d) the use of allopathic treatments shall be limited to two courses of treatment per year, with the exception of vaccinations and compulsory eradication schemes. However, in the cases of a production cycle of less than a year, a limit of one allopathic treatment shall apply. Where the indicated limits for allopathic treatments are exceeded, the aquaculture animals concerned shall not be marketed as organic products;
- (e) the use of parasite treatments, other than through compulsory control schemes operated by Member States, shall be limited to twice per year, or once per year where the production cycle is less than 18 months;
- (f) the withdrawal period for allopathic veterinary treatments and parasite treatments in accordance with point (d), including treatments under compulsory control and eradication schemes, shall be twice the withdrawal period referred to in Article 11 of Directive 2001/82/EC or, where this period is not specified, 48 hours;
- (g) any use of veterinary medicinal products shall be declared to the competent authority, or, where appropriate, to the control authority or control body, before the animals are marketed as organic products. Treated stock shall be clearly identifiable.

#### 3.1.5. Housing and husbandry practices

- 3.1.5.1. Closed recirculation aquaculture animal production facilities shall be prohibited, with the exception of hatcheries and nurseries or facilities for the production of species used for organic feed organisms.

3.1.5.2. Artificial heating or cooling of water shall only be permitted in hatcheries and nurseries. Natural borehole water may be used to heat or cool water at all stages of production.

3.1.5.3. The husbandry environment of the aquaculture animals shall be designed in such a way that, in accordance with their species-specific needs, the aquaculture animals:

- (a) have sufficient space for their welfare and have the relevant stocking density laid down in the implementing acts referred to in Article 15(3);
- (b) are kept in water of good quality with, inter alia, an adequate flow and exchange rate, sufficient oxygen levels and keeping a low level of metabolites;
- (c) are kept in temperature and light conditions in accordance with the requirements of the species and having regard to the geographic location.

In considering the effects of stocking density on the welfare of produced fish, the condition of the fish (such as fin damage, other injuries, growth rate, behaviour expressed and overall health) and the water quality shall be monitored and taken into account.

In the case of freshwater fish, the bottom type shall be as close as possible to natural conditions.

In the case of carp and similar species:

- the bottom shall be natural earth,
- organic and mineral fertilisation of the ponds and lakes shall be carried out only with fertilisers and soil conditioners that have been authorised pursuant to Article 24 for use in organic production, with a maximum application of 20 kg nitrogen/ha,
- treatments involving synthetic chemicals for the control of hydrophytes and plant coverage present in production waters shall be prohibited.

3.1.5.4. The design and construction of aquatic containment systems shall provide flow rates and physiochemical parameters that safeguard the animals' health and welfare, and that provide for their behavioural needs.

The specific characteristics for production systems and containment systems for species or group of species laid down in the implementing acts referred to in Article 15(3) shall be complied with.

3.1.5.5. Rearing units on land shall meet the following conditions:

- (a) flow-through systems shall allow the monitoring and control of the flow rate and water quality of both in-flowing and out-flowing water;
- (b) at least 10 % of the perimeter ('land-water interface') area shall have natural vegetation.

3.1.5.6. Containment systems at sea shall meet the following conditions:

- (a) they shall be located where water flow, depth and water-body exchange rates are adequate to minimise the impact on the seabed and the surrounding water body;
- (b) they shall have suitable cage design, construction and maintenance with regard to their exposure to the operating environment.

3.1.5.7. Containment systems shall be designed, located and operated to minimise the risk of escape incidents.

3.1.5.8. If fish or crustaceans escape, appropriate action shall be taken to reduce the impact on the local ecosystem, including recapture where appropriate. Records shall be kept.

3.1.5.9. For aquaculture animal production in fishponds, tanks or raceways, farms shall be equipped with either natural-filter beds, settlement ponds, biological filters or mechanical filters to collect waste nutrients or use algae or animals (bivalves) which contribute to improving the quality of the effluent. Effluent monitoring shall be carried out at regular intervals where appropriate.



### 3.1.6. Animal welfare

- 3.1.6.1. All persons involved in keeping aquaculture animals shall possess the necessary basic knowledge and skills as regards the health and the welfare needs of those animals.
- 3.1.6.2. The handling of aquaculture animals shall be minimised, and shall be undertaken with the greatest care. Proper equipment and protocols shall be used to avoid stress and physical damage associated with handling procedures. Broodstock shall be handled in such a manner as to minimise physical damage and stress, and shall be handled under anaesthesia where appropriate. Grading operations shall be kept to a minimum and shall only be used where required to ensure fish welfare.
- 3.1.6.3. The following restrictions shall apply to the use of artificial light:
- (a) for prolonging natural day length, it shall not exceed a maximum that respects the ethological needs, geographical conditions and general health of the animals; this maximum shall not exceed 14 hours per day, except where necessary for reproductive purposes;
  - (b) abrupt changes in light intensity shall be avoided at the changeover time through the use of dimmable lights or background lighting.
- 3.1.6.4. Aeration shall be permitted to ensure animal welfare and health. Mechanical aerators shall be preferably powered by renewable energy sources.
- 3.1.6.5. Oxygen may only be used for uses linked to animal health and welfare requirements and for critical periods of production or transport, and only in the following cases:
- (a) exceptional cases of a change in temperature, a drop in atmospheric pressure or accidental water pollution;
  - (b) occasional stock management procedures, such as sampling and sorting;
  - (c) in order to assure the survival of the farm stock.
- 3.1.6.6. Appropriate measures shall be taken to keep the duration of the transport of aquaculture animals to a minimum.
- 3.1.6.7. Any suffering shall be kept to a minimum during the entire life of the animal, including at the time of slaughter.
- 3.1.6.8. Eyestalk ablation, including all similar practices such as ligation, incision and pinching, is prohibited.
- 3.1.6.9. Slaughter techniques shall render fish immediately unconscious and insensible to pain. Handling prior to slaughter shall be performed in a way that avoids injuries while keeping suffering and stress at a minimum. Differences in harvesting sizes, species, and production sites shall be taken into account when considering optimal slaughtering methods.

### 3.2. Detailed rules for molluscs

#### 3.2.1. Origin of seed

With regard to the origin of seed, the following rules shall apply:

- (a) wild seed from outside the boundaries of the production unit may be used in the case of bivalve shellfish, provided that there is no significant damage to the environment, provided that it is permitted by local legislation and provided that the wild seed comes from:
  - (i) settlement beds which are unlikely to survive winter weather or are surplus to requirements; or
  - (ii) natural settlement of shellfish seed on collectors;
- (b) for the cupped oyster (*Crassostrea gigas*), preference shall be given to stock which is selectively bred to reduce spawning in the wild;
- (c) records shall be kept of how, where and when wild seed was collected to allow traceability back to the collection area;
- (d) wild seed may only be collected after the competent authority has granted authorisation to do so.

### 3.2.2. Housing and husbandry practices

With regard to housing and husbandry practices, the following rules shall apply:

- (a) production may be carried out in the same area of water as organic finfish and algae production, in a polyculture system that shall be documented in the sustainable management plan. Bivalve molluscs may also be grown together with gastropod molluscs, such as periwinkles, in polyculture;
- (b) organic bivalve mollusc production shall take place within areas delimited by posts, floats or other clear markers and shall, where appropriate, be restrained by net bags, cages or other man made means;
- (c) organic shellfish farms shall minimise risks to species of conservation interest. If predator nets are used, their design shall not permit diving birds to be harmed.

### 3.2.3. Cultivation

With regard to cultivation, the following rules shall apply:

- (a) cultivation on mussel ropes and other methods listed in the implementing acts referred to in Article 15(3) may be used in organic production;
- (b) the bottom cultivation of molluscs is only permitted where no significant environmental impact is caused at the collection and growing sites. A survey and report supporting the evidence of minimal environmental impact shall be added as a separate chapter to the sustainable management plan, and shall be provided by the operator to the competent authority, or, where appropriate, to the control authority or control body, before starting operations.

### 3.2.4. Management

With regard to management, the following rules shall apply:

- (a) production shall use a stocking density not in excess of that used for non-organic molluscs in the locality. Sorting, thinning and stocking density adjustments shall be made according to the biomass and to ensure animal welfare and high product quality;
- (b) biofouling organisms shall be removed by physical means or by hand and where appropriate returned to the sea away from mollusc farms. Molluscs may be treated once during the production cycle with a lime solution to control competing fouling organisms.

### 3.2.5. Specific cultivation rules for oysters

Cultivation in bags on trestles shall be permitted. Those or other structures in which the oysters are contained shall be set out so as to avoid the formation of a total barrier along the shoreline. Stock shall be positioned carefully on the beds in relation to tidal flow to optimise production. Production shall meet the requirements set out in the implementing acts referred to in Article 15(3).

## Part IV: Processed food production rules

In addition to the general production rules laid down in Articles 9, 11 and 16, the rules laid down in this Part shall apply to the organic production of processed food.

### 1. General requirements for the production of processed food

- 1.1. Food additives, processing aids and other substances and ingredients used for processing food and any processing practice applied, such as smoking, shall comply with the principles of good manufacturing practice <sup>(1)</sup>.
- 1.2. Operators producing processed food shall establish and update appropriate procedures based on a systematic identification of critical processing steps.

<sup>(1)</sup> Good manufacturing practices (GMPs) as defined in Article 3(a) of Commission Regulation (EC) No 2023/2006 of 22 December 2006 on good manufacturing practice for materials and articles intended to come into contact with food (OJ L 384, 29.12.2006, p. 75).

- 1.3. The application of the procedures referred to in point 1.2 shall ensure that the produced processed products comply with this Regulation at all times.
- 1.4. Operators shall comply with and implement the procedures referred to in point 1.2, and, without prejudice to Article 28, shall in particular:
  - (a) take precautionary measures;
  - (b) implement suitable cleaning measures, monitor their effectiveness and keep records of those operations;
  - (c) guarantee that non-organic products are not placed on the market with an indication referring to organic production.
- 1.5. The preparation of processed organic, in-conversion and non-organic products shall be kept separate from each other in time or space. Where organic, in-conversion and non-organic products, in any combination, are prepared or stored in the preparation unit concerned, the operator shall:
  - (a) inform the competent authority, or, where appropriate, the control authority or control body, accordingly;
  - (b) carry out the operations continuously until the production run has been completed, separately in place or time from similar operations performed on any other kind of product (organic, in-conversion or non-organic);
  - (c) store organic, in-conversion and non-organic products, before and after the operations, separate by place or time from each other;
  - (d) keep available an updated register of all operations and quantities processed;
  - (e) take the necessary measures to ensure identification of lots and to avoid mixtures or exchanges between organic, in-conversion and non-organic products;
  - (f) carry out operations on organic or in-conversion products only after suitable cleaning of the production equipment.
- 1.6. Products, substances and techniques that reconstitute properties that are lost in the processing and storage of organic food, that correct the results of negligence in the processing of organic food, or that otherwise may be misleading as to the true nature of products intended to be marketed as organic food, shall not be used.
2. Detailed requirements for the production of processed food
  - 2.1. The following conditions shall apply to the composition of processed organic food:
    - (a) the product shall be produced mainly from agricultural ingredients or products intended for use as food listed in Annex I; for the purpose of determining whether a product has been produced mainly from those products, added water and salt shall not be taken into account;
    - (b) an organic ingredient shall not be present together with the same ingredient in non-organic form;
    - (c) an in-conversion ingredient shall not be present together with the same ingredient in organic or non-organic form.
  - 2.2. Use of certain products and substances in processing of food
    - 2.2.1. Only food additives, processing aids and non-organic agricultural ingredients authorised pursuant to Article 24 or Article 25 for use in organic production, and the products and substances referred to in point 2.2.2 may be used in the processing of food, with the exception of products and substances of the wine sector, for which point 2 of Part VI shall apply, and with the exception of yeast, for which point 1.3 of Part VII shall apply.
    - 2.2.2. In the processing of food, the following products and substances may be used:
      - (a) preparations of micro-organisms and food enzymes normally used in food processing, provided that food enzymes to be used as food additives have been authorised pursuant to Article 24 for use in organic production;
      - (b) substances and products defined in points (c) and (d)(i) of Article 3(2) of Regulation (EC) No 1334/2008 that have been labelled as natural flavouring substances or natural flavouring preparations in accordance with Article 16(2), (3) and (4) of that Regulation;

- (c) colours for stamping meat and eggshells in accordance with Article 17 of Regulation (EC) No 1333/2008;
  - (d) natural colours and natural coating substances for the traditional decorative colouring of the shell of boiled eggs produced with the intention of placing them on the market at a given period of the year;
  - (e) drinking water and organic or non-organic salt (with sodium chloride or potassium chloride as basic components) generally used in food processing;
  - (f) minerals (trace elements included), vitamins, amino acids and micronutrients, provided that:
    - (i) their use in food for normal consumption is 'directly legally required', in the meaning of being directly required by provisions of Union law or provisions of national law compatible with Union law, with the consequence that the food cannot be placed at all on the market as food for normal consumption if those minerals, vitamins, amino acids or micronutrients are not added; or
    - (ii) as regards food placed on the market as having particular characteristics or effects in relation to health or nutrition or in relation to needs of specific groups of consumers:
      - in products 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<sup>(1)</sup> their use is authorised by that Regulation and 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<sup>(2)</sup>, their use is authorised by that Directive.
- 2.2.3. Only the products for cleaning and disinfection authorised pursuant to Article 24 for use in processing shall be used for that purpose.
- 2.2.4. For the purpose of the calculation referred to in Article 30(5), the following rules shall apply:
- (a) certain food additives authorised pursuant to Article 24 for use in organic production shall be calculated as agricultural ingredients;
  - (b) preparations and substances referred to in points (a), (c), (d), (e) and (f) of point 2.2.2 shall not be calculated as agricultural ingredients;
  - (c) yeast and yeast products shall be calculated as agricultural ingredients.

#### **Part V: Processed feed production rules**

In addition to the general production rules laid down in Articles 9, 11 and 17, the rules laid down in this Part shall apply to the organic production of processed feed.

1. General requirements for the production of processed feed
  - 1.1. Feed additives, processing aids and other substances and ingredients used for processing feed, and any processing practice used, such as smoking, shall comply with the principles of good manufacturing practice.
  - 1.2. Operators that produce processed feed shall establish and update appropriate procedures based on a systematic identification of the critical processing steps.
  - 1.3. The application of the procedures referred to in point 1.2 shall ensure that the produced processed products comply with this Regulation at all times.
  - 1.4. Operators shall comply with and implement the procedures referred to in point 1.2, and, without prejudice to Article 28, shall in particular:
    - (a) take precautionary measures;
    - (b) implement suitable cleaning measures, monitor their effectiveness and keep records of those operations;

<sup>(1)</sup> Regulation (EU) No 609/2013 of the European Parliament and of the Council of 12 June 2013 on food intended for infants and young children, food for special medical purposes, and total diet replacement for weight control and repealing Council Directive 92/52/EEC, Commission Directives 96/8/EC, 1999/21/EC, 2006/125/EC and 2006/141/EC, Directive 2009/39/EC of the European Parliament and of the Council and Commission Regulations (EC) No 41/2009 and (EC) No 953/2009 (OJ L 181, 29.6.2013, p. 35).

<sup>(2)</sup> Commission Directive 2006/125/EC of 5 December 2006 on processed cereal-based foods and baby foods for infants and young children (OJ L 339, 6.12.2006, p. 16).

- (c) guarantee that non-organic products are not placed on the market with an indication referring to organic production.
- 1.5. The preparation of processed organic, in-conversion and non-organic products shall be kept separate from each other in time or space. Where organic, in-conversion and non-organic products, in any combination, are prepared or stored in the preparation unit concerned, the operator shall:
- (a) inform the control authority or control body accordingly;
  - (b) carry out the operations continuously until the production run has been completed, separately in place or time from similar operations performed on any other kind of product (organic, in-conversion or non-organic);
  - (c) store organic, in-conversion and non-organic products, before and after the operations, separate by place or time from each other;
  - (d) keep available an updated register of all operations and quantities processed;
  - (e) take the necessary measures to ensure identification of lots and to avoid mixtures or exchanges between organic, in-conversion and non-organic products;
  - (f) carry out operations on organic or in-conversion products only after suitable cleaning of the production equipment.
2. Detailed requirements for the production of processed feed
- 2.1. Organic feed materials, or in-conversion feed materials, shall not enter simultaneously with the same feed materials produced by non-organic means into the composition of the organic feed product.
- 2.2. Any feed materials used or processed in organic production shall not have been processed with the aid of chemically synthesised solvents.
- 2.3. Only non-organic feed material of plant, algal, animal or yeast origin, feed material of mineral origin, and feed additives and processing aids authorised pursuant to Article 24 for use in organic production may be used in the processing of feed.
- 2.4. Only the products for cleaning and disinfection authorised pursuant to Article 24 for use in processing shall be used for that purpose.

## Part VI: Wine

1. Scope
- 1.1. In addition to the general production rules laid down in Articles 9, 10, 11, 16 and 18, the rules laid down in this Part shall apply to the organic production of the products of the wine sector as referred to in point (l) of Article 1(2) of Regulation (EU) No 1308/2013.
- 1.2. Commission Regulations (EC) No 606/2009 <sup>(1)</sup> and (EC) No 607/2009 <sup>(2)</sup> shall apply, save as explicitly provided otherwise in this Part.
2. Use of certain products and substances
- 2.1. Products of the wine sector shall be produced from organic raw material.
- 2.2. Only products and substances authorised pursuant to Article 24 for use in organic production may be used for the making of products of the wine sector, including during the oenological practices, processes and treatments, subject to the conditions and restrictions laid down in Regulation (EU) No 1308/2013 and Regulation (EC) No 606/2009, and in particular in Annex I A to the latter Regulation.

<sup>(1)</sup> Commission Regulation (EC) No 606/2009 of 10 July 2009 laying down certain detailed rules for implementing Council Regulation (EC) No 479/2008 as regards the categories of grapevine products, oenological practices and the applicable restrictions (OJ L 193, 24.7.2009, p. 1).

<sup>(2)</sup> Commission Regulation (EC) No 607/2009 of 14 July 2009 laying down certain detailed rules for the implementation of Council Regulation (EC) No 479/2008 as regards protected designations of origin and geographical indications, traditional terms, labelling and presentation of certain wine sector products (OJ L 193, 24.7.2009, p. 60).

3. Oenological practices and restrictions
- 3.1. Without prejudice to Sections 1 and 2 of this Part and to specific prohibitions and restrictions provided for in points 3.2, 3.3 and 3.4, only oenological practices, processes and treatments, including the restrictions provided for in Article 80 and Article 83(2) of Regulation (EU) No 1308/2013, in Article 3, Articles 5 to 9 and Articles 11 to 14 of Regulation (EC) No 606/2009, and in the Annexes to those Regulations used before 1 August 2010 shall be permitted.
- 3.2. The use of the following oenological practices, processes and treatments shall be prohibited:
  - (a) partial concentration through cooling in accordance with point (c) of Section B.1 of Part I of Annex VIII to Regulation (EU) No 1308/2013;
  - (b) elimination of sulphur dioxide by physical processes in accordance with point 8 of Annex I A to Regulation (EC) No 606/2009;
  - (c) electrodialysis treatment to ensure the tartaric stabilisation of the wine in accordance with point 36 of Annex I A to Regulation (EC) No 606/2009;
  - (d) partial dealcoholisation of wine in accordance with point 40 of Annex I A to Regulation (EC) No 606/2009;
  - (e) treatment with cation exchangers to ensure the tartaric stabilisation of the wine in accordance with point 43 of Annex I A to Regulation (EC) No 606/2009.
- 3.3. The use of the following oenological practices, processes and treatments is permitted under the following conditions:
  - (a) heat treatments in accordance with point 2 of Annex I A to Regulation (EC) No 606/2009, provided that the temperature does not exceed 75 °C;
  - (b) centrifuging and filtration with or without an inert filtering agent in accordance with point 3 of Annex I A to Regulation (EC) No 606/2009, provided that the size of the pores is not smaller than 0,2 micrometres.
- 3.4. Any amendment introduced after 1 August 2010 concerning the oenological practices, processes and treatments provided for in Regulation (EC) No 1234/2007 or Regulation (EC) No 606/2009 may apply to the organic production of wine only after those measures have been included as permitted in this Section and, if required, after an evaluation in accordance with Article 24 of this Regulation.

#### **Part VII: Yeast used as food or feed**

In addition to the general production rules laid down in Articles 9, 11, 16, 17 and 19, the rules laid down in this Part shall apply to the organic production of yeast used as food or feed.

1. General requirements
  - 1.1. For the production of organic yeast, only organically produced substrates shall be used. However, until 31 December 2023, the addition of up to 5 % non-organic yeast extract or autolysate to the substrate (calculated in weight of dry matter) is allowed for the production of organic yeast where operators are unable to obtain yeast extract or autolysate from organic production.
  - 1.2. Organic yeast shall not be present in organic food or feed together with non-organic yeast.
  - 1.3. The following products and substances may be used in the production, confection and formulation of organic yeast:
    - (a) processing aids authorised pursuant to Article 24 for use in organic production;
    - (b) products and substances referred to in points (a), (b) and (e) of point 2.2.2 of Part IV.
  - 1.4. Only the products for cleaning and disinfection authorised pursuant to Article 24 for use in processing shall be used for that purpose.
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## ANNEX III

**COLLECTION, PACKAGING, TRANSPORT AND STORAGE OF PRODUCTS****1. Collection of products and transport to preparation units**

Operators may carry out the simultaneous collection of organic, in-conversion and non-organic products only where appropriate measures have been taken to prevent any possible mixture or exchange between organic, in-conversion and non-organic products and to ensure the identification of the organic and in-conversion products. The operator shall keep the information relating to collection days, hours, the circuit and date and time of the reception of the products available to the control authority or control body.

**2. Packaging and transport of products to other operators or units****2.1. Operators shall ensure that organic and in-conversion products are transported to other operators or units, including wholesalers and retailers, only in appropriate packaging, containers or vehicles closed in such a manner that substitution of the content cannot be achieved without manipulation or damage of the seal and provided with a label stating, without prejudice to any other indications required by Union law:**

- (a) the name and address of the operator and, where different, of the owner or seller of the product;
- (b) the name of the product or a description of the compound feedstuff accompanied by a reference to organic production;
- (c) the name or the code number of the control authority or control body to which the operator is subject; and
- (d) where relevant, the lot identification mark in accordance with a marking system either approved at national level or agreed with the control authority or control body and which permits the linking of the lot with the records referred to in Article 34(5).

The information referred to in points (a) to (d) may also be presented on an accompanying document, if such a document can be undeniably linked with the packaging, container or vehicular transport of the product. This accompanying document shall include information on the supplier or the transporter.

**2.2. The closing of packaging, containers or vehicles shall not be required where:**

- (a) the transport takes place directly between two operators, both of which are subject to the organic control system;
- (b) the transport includes only organic or only in-conversion products;
- (c) the products are accompanied by a document giving the information required under point 2.1; and
- (d) both the expediting and the receiving operators keep documentary records of such transport operations available for the control authority or control body.

**3. Special rules for transporting feed to other production or preparation units or storage premises**

When transporting feed to other production or preparation units or storage premises, operators shall ensure that the following conditions are met:

- (a) during transport, organically produced feed, in-conversion feed, and non-organic feed are effectively physically separated;

(b) vehicles or containers which have transported non-organic products are only used to transport organic or in-conversion products if:

(i) suitable cleaning measures, the effectiveness of which has been checked, have been carried out before commencing the transport of organic or in-conversion products and the operators keep records of those operations;

(ii) all appropriate measures are implemented, depending on the risks evaluated in accordance with control arrangements, and where necessary, operators guarantee that non-organic products cannot be placed on the market with an indication referring to organic production;

(iii) the operator keeps documentary records of such transport operations available for the control authority or control body;

(c) the transport of finished organic or in-conversion feed is separated physically or in time from the transport of other finished products;

(d) during transport, the quantity of products at the start and each individual quantity delivered in the course of a delivery round is recorded.

#### 4. Transport of live fish

4.1. Live fish shall be transported in suitable tanks with clean water which meets their physiological needs in terms of temperature and dissolved oxygen.

4.2. Before transport of organic fish and fish products, tanks shall be thoroughly cleaned, disinfected and rinsed.

4.3. Precautions shall be taken to reduce stress. During transport, the density shall not reach a level which is detrimental to the species.

4.4. Records shall be kept for operations referred to in points 4.1, 4.2 and 4.3.

#### 5. Reception of products from other operators of units

On receipt of an organic or in-conversion product, the operator shall check the closing of the packaging, container or vehicle where it is required and the presence of the indications provided for in Section 2.

The operator shall cross-check the information on the label referred to in Section 2 with the information on the accompanying documents. The result of those verifications shall be explicitly mentioned in the records referred to in Article 34(5).

#### 6. Special rules for the reception of products from a third country

Where organic or in-conversion products are imported from a third country, they shall be transported in appropriate packaging or containers, closed in a manner that prevents the substitution of the content and bearing the identification of the exporter and any other marks and numbers that serve to identify the lot, and shall be accompanied by the certificate of control for import from third countries where appropriate.

On receipt of an organic or in-conversion product imported from a third country, the natural or legal person to whom the imported consignment is delivered and who receives it for further preparation or marketing shall check the closing of the packaging or container and, in the case of products imported in accordance with point (b)(iii) of Article 45(1), shall check that the certificate of inspection referred to in that Article covers the type of product contained in the consignment. The result of this verification shall be explicitly mentioned in the records referred to in Article 34(5).

## 7. Storage of products

- 7.1. Areas for the storage of products shall be managed in such a way as to ensure identification of lots and to avoid any mixing or contamination with products or substances not in compliance with the organic production rules. Organic and in-conversion products shall be clearly identifiable at all times.
  - 7.2. No input products or substances other than those authorised pursuant to Articles 9 and 24 for use in organic production shall be stored in organic or in-conversion plant and livestock production units.
  - 7.3. Allopathic veterinary medicinal products, including antibiotics, may be stored in agricultural and aquaculture holdings provided that they have been prescribed by a veterinarian in connection with the treatment referred to in points 1.5.2.2 of Part II and 3.1.4.2(a) of Part III of Annex II, that they are stored in a supervised location and that they are entered in the records referred to in Article 34(5).
  - 7.4. Where operators handle organic, or in-conversion or non-organic products in any combination and the organic or in-conversion products are stored in storage facilities in which also other agricultural products or foodstuffs are stored:
    - (a) the organic or in-conversion products shall be kept separate from the other agricultural products or foodstuffs;
    - (b) every measure shall be taken to ensure identification of consignments and to avoid mixtures or exchanges between organic, in-conversion and non-organic products;
    - (c) suitable cleaning measures, the effectiveness of which has been checked, shall have been carried out before the storage of organic or in-conversion products and the operators shall keep records of those operations.
  - 7.5. Only the products for cleaning and disinfection authorised pursuant to Article 24 for use in organic production shall be used in storage facilities for that purpose.
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## ANNEX IV

## TERMS REFERRED TO IN ARTICLE 30

BG:	биологичен.
ES:	ecológico, biológico, orgánico.
CS:	ekologické, biologické.
DA:	økologisk.
DE:	ökologisch, biologisch.
ET:	mahe, ökoloogiline.
EL:	βιολογικό.
EN:	organic.
FR:	biologique.
GA:	orgánach.
HR:	ekološki.
IT:	biologico.
LV:	bioloģisks, ekoloģisks.
LT:	ekologiškas.
LU:	biologesch, ökologesch.
HU:	ökológiai.
MT:	organiku.
NL:	biologisch.
PL:	ekologiczne.
PT:	biológico.
RO:	ecologic.
SK:	ekologické, biologické.
SL:	ekološki.
FI:	luonnonmukainen.
SV:	ekologisk.

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## ANNEX V

**ORGANIC PRODUCTION LOGO OF THE EUROPEAN UNION AND CODE NUMBERS**

## 1. Logo

1.1. The organic production logo of the European Union shall comply with the model below:



1.2. The reference colour in Pantone is Green Pantone No 376 and Green (50 % Cyan + 100 % Yellow), when a four-colour process is used.

1.3. The organic production logo of the European Union may also be used in black and white as shown, only where it is not practicable to apply it in colour:



1.4. If the background colour of the packaging or label is dark, the symbols may be used in negative format, using the background colour of the packaging or label.

1.5. If a logo is used in colour on a coloured background which makes it difficult to see, a delimiting outer line around the logo can be used to improve contrast with the background colours.

- 1.6. Where there are indications in a single colour on the packaging, the organic production logo of the European Union may be used in the same colour.
- 1.7. The organic production logo of the European Union shall have a height of at least 9 mm and a width of at least 13,5 mm; the proportion ratio height/width shall always be 1:1,5. Exceptionally, the minimum size may be reduced to a height of 6 mm for very small packages.
- 1.8. The organic production logo of the European Union may be associated with graphical or textual elements referring to organic production under the condition that they do not modify or change the nature of the organic production logo of the European Union, nor any of the indications defined in accordance with Article 32. When associated to national or private logos using a green colour different from the reference colour provided for in point 1.2, the organic production logo of the European Union may be used in that non-reference colour.

## 2. Code numbers

The general format of the code numbers shall be as follows:

AB-CDE-999

where:

- (a) 'AB' is the ISO code for the country where the controls take place;
- (b) 'CDE' is a term, indicated in three letters to be decided by the Commission or each Member State, like 'bio' or 'öko' or 'org' or 'eko' establishing a link with organic production; and
- (c) '999' is the reference number, indicated in maximum three digits, to be assigned by:
  - (i) each Member State's competent authority to the control authorities or control bodies to which it has delegated control tasks;
  - (ii) the Commission, to:
    - the control authorities and control bodies recognised by the Commission pursuant to Article 46,
    - to the competent authorities of third countries recognised by the Commission pursuant to Article 48.

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## ANNEX VI

## MODEL OF CERTIFICATE

**Certificate pursuant to Article 35(1) of Regulation (EU) 2018/848 on organic production and labelling of organic products**

1. Document number:	
2. (tick one box as appropriate) <input type="checkbox"/> Operator <input type="checkbox"/> Group of operators – see annex	3. Name and address of operator or group of operators:
4. Activit(y)(ies) of the operator or group of operators (choose as appropriate): <input type="checkbox"/> Agricultural production <input type="checkbox"/> Preparation <input type="checkbox"/> Distribution <input type="checkbox"/> Storing <input type="checkbox"/> Import <input type="checkbox"/> Export <input type="checkbox"/> Placing on the market	5. Name, address and code number of control authority or control body of the operator or group of operators:
6. Categor(y)(ies) of products as referred to in Article 35(7) of Regulation (EU) 2018/848 and production methods (choose as appropriate):	
— unprocessed plants and plant products, including seeds and other plant reproductive material Production method: <input type="checkbox"/> organic production excluding during the conversion period <input type="checkbox"/> production during the conversion period <input type="checkbox"/> organic production with non-organic production (pursuant to Article 9(7) of Regulation (EU) 2018/848 or in the case of preparation, distribution, storing, import, export, placing on the market)	Certificate validity period from ..... to .....
— livestock and unprocessed livestock products Production method: <input type="checkbox"/> organic production excluding during the conversion period <input type="checkbox"/> production during the conversion period <input type="checkbox"/> organic production with non-organic production (pursuant to Article 9(7) of Regulation (EU) 2018/848 or in the case of preparation, distribution, storing, import, export, placing on the market)	Certificate validity period from ..... to .....
— algae and unprocessed aquaculture products Production method: <input type="checkbox"/> organic production excluding during the conversion period <input type="checkbox"/> production during the conversion period <input type="checkbox"/> organic production with non-organic production (pursuant to Article 9(7) of Regulation (EU) 2018/848 or in the case of preparation, distribution, storing, import, export, placing on the market)	Certificate validity period from ..... to .....

— processed agricultural products, including aquaculture products, for use as food Production method: <input type="checkbox"/> production of organic products <input type="checkbox"/> production of in-conversion products <input type="checkbox"/> organic production with non-organic production (pursuant to Article 9(7) of Regulation (EU) 2018/848 or in the case of preparation, distribution, storing, import, export, placing on the market)	Certificate validity period from ..... to .....
— feed Production method: <input type="checkbox"/> production of organic products <input type="checkbox"/> production of in-conversion products <input type="checkbox"/> organic production with non-organic production (pursuant to Article 9(7) of Regulation (EU) 2018/848 or in the case of preparation, distribution, storing, import, export, placing on the market)	Certificate validity period from ..... to .....
— wine Production method: <input type="checkbox"/> production of organic products <input type="checkbox"/> production of in-conversion products <input type="checkbox"/> organic production with non-organic production (pursuant to Article 9(7) of Regulation (EU) 2018/848 or in the case of preparation, distribution, storing, import, export, placing on the market)	Certificate validity period from ..... to .....
— other products listed in Annex I to Regulation (EU) 2018/848 or not covered by previous categories (please specify): Production method: <input type="checkbox"/> production of organic products <input type="checkbox"/> production of in-conversion products <input type="checkbox"/> organic production with non-organic production (pursuant to Article 9(7) of Regulation (EU) 2018/848 or in the case of preparation, distribution, storing, import, export, placing on the market)	Certificate validity period from ..... to .....
This document has been issued in accordance with Regulation (EU) 2018/848 to certify that the operator or group of operators (choose as appropriate) meets the requirements of that Regulation.	
Date, place:	
Signature on behalf of the issuing control authority or control body:	

**Annex – List of members of group of operators as defined in Article 36 of Regulation (EU) 2018/848**

Name of member	Address

# DIRECTIVES

## DIRECTIVE (EU) 2018/849 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 30 May 2018

**amending Directives 2000/53/EC on end-of-life vehicles, 2006/66/EC on batteries and accumulators and waste batteries and accumulators, and 2012/19/EU on waste electrical and electronic equipment**

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 192(1) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee <sup>(1)</sup>,

Having regard to the opinion of the Committee of the Regions <sup>(2)</sup>,

Acting in accordance with the ordinary legislative procedure <sup>(3)</sup>,

Whereas:

- (1) Waste management in the Union should be improved, with a view to protecting, preserving and improving the quality of the environment, protecting human health, ensuring prudent, efficient and rational utilisation of natural resources and promoting the principles of the circular economy.
- (2) To reduce the regulatory burden on small establishments or undertakings, simplification of the permitting and registration requirements for small establishments or undertakings should be introduced.
- (3) Implementation reports prepared by Member States every three years have not proved to be an effective tool for verifying compliance or ensuring good implementation, and are generating unnecessary administrative burdens. It is therefore appropriate to repeal provisions obliging Member States to produce such reports. Instead, compliance monitoring should be exclusively based on the data which Member States report every year to the Commission.
- (4) Data reported by Member States are essential for the Commission to assess compliance with Union waste law by Member States. The quality, reliability and comparability of data should be improved by introducing a single entry point for all waste data, deleting obsolete reporting requirements, benchmarking national reporting methodologies and introducing a data quality check report.

<sup>(1)</sup> OJ C 264, 20.7.2016, p. 98.

<sup>(2)</sup> OJ C 17, 18.1.2017, p. 46.

<sup>(3)</sup> Position of the European Parliament of 18 April 2018 (not yet published in the Official Journal) and decision of the Council of 22 May 2018.

- (5) Reliable reporting of data concerning waste management is paramount to efficient implementation and to ensuring comparability of data among Member States. Therefore, when reporting on attainment of the targets set out in Directives 2000/53/EC <sup>(1)</sup>, 2006/66/EC <sup>(2)</sup> and 2012/19/EU <sup>(3)</sup> of the European Parliament and of the Council, Member States should use the most recent rules developed by the Commission and methodologies developed by the respective national competent authorities responsible for implementing those Directives.
- (6) The waste hierarchy laid down in Directive 2008/98/EC of the European Parliament and of the Council <sup>(4)</sup> applies as an order of priority in Union waste prevention and management legislation. When complying with the objectives of this Directive, Member States should take the necessary measures to take the order of priorities of the waste hierarchy into account and ensure the practical implementation of those priorities.
- (7) In the context of the Union's commitment to making the transition towards a circular economy, Directives 2000/53/EC, 2006/66/EC and 2012/19/EU should be reviewed and, if necessary, amended, taking account of their implementation and giving consideration, inter alia, to the feasibility of setting targets for specific materials contained in the relevant waste streams. During the review of Directive 2000/53/EC, attention should also be paid to the problem of end-of-life vehicles that are not accounted for, including the shipment of used vehicles suspected to be end-of-life vehicles, and to the application of the Correspondents' Guidelines No 9 on shipments of waste vehicles. During the review of Directive 2006/66/EC, the technical development of new types of batteries that do not use hazardous substances should also be taken into account.
- (8) In order to amend and supplement Directive 2000/53/EC and to amend Directive 2012/19/EU, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of point (b) of Article 4(2) and Articles 5(5), 6(6) and 8(2) of Directive 2000/53/EC, as amended by this Directive, and Article 19 of Directive 2012/19/EU, as amended by this Directive. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making <sup>(5)</sup>. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.
- (9) In order to ensure uniform conditions for the implementation of Directive 2000/53/EC in respect of Articles 7(2) and 9(1d) thereof as amended by this Directive, and for the implementation of Directive 2012/19/EU in respect of Article 16(9) thereof as amended by this Directive, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council <sup>(6)</sup>.
- (10) Since the objectives of this Directive, namely to improve the waste management in the Union, and thereby to contribute to the protection, preservation and improvement of the quality of the environment and to the prudent and rational utilisation of natural resources, cannot be sufficiently achieved by the Member States, but can rather, by reason of the scale and effects of the measures, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.

<sup>(1)</sup> Directive 2000/53/EC of the European Parliament and of the Council of 18 September 2000 on end-of life vehicles (OJ L 269, 21.10.2000, p. 34).

<sup>(2)</sup> Directive 2006/66/EC of the European Parliament and of the Council of 6 September 2006 on batteries and accumulators and waste batteries and accumulators and repealing Directive 91/157/EEC (OJ L 266, 26.9.2006, p. 1).

<sup>(3)</sup> Directive 2012/19/EU of the European Parliament and of the Council of 4 July 2012 on waste electrical and electronic equipment (WEEE) (OJ L 197, 24.7.2012, p. 38).

<sup>(4)</sup> Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (OJ L 312, 22.11.2008, p. 3).

<sup>(5)</sup> OJ L 123, 12.5.2016, p. 1.

<sup>(6)</sup> Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

- (11) Directives 2000/53/EC, 2006/66/EC and 2012/19/EU should therefore be amended accordingly.
- (12) In accordance with the Joint Political Declaration of 28 September 2011 of Member States and the Commission on explanatory documents <sup>(1)</sup>, Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments. With regard to this Directive, the legislator considers the transmission of such documents to be justified,

HAVE ADOPTED THIS DIRECTIVE:

*Article 1*

**Amendment of Directive 2000/53/EC**

Directive 2000/53/EC is amended as follows:

- (1) in Article 4(2), point (b) is replaced by the following:

‘(b) The Commission is empowered to adopt delegated acts in accordance with Article 9a, amending Annex II on a regular basis to adapt it to technical and scientific progress, in order to:

- (i) as necessary, establish maximum concentration values up to which the existence of the substances referred to in point (a) of this paragraph in specific materials and components of vehicles is to be tolerated;
- (ii) exempt certain materials and components of vehicles from point (a) of this paragraph if the use of the substances referred to in that point is unavoidable;
- (iii) delete materials and components of vehicles from Annex II if the use of the substances referred to in point (a) of this paragraph is avoidable;
- (iv) under points (i) and (ii) designate those materials and components of vehicles that can be stripped before further treatment and require them to be labelled or made identifiable by other appropriate means.

The Commission shall adopt a separate delegated act with respect to each substance, material or component concerned by points (i) to (iv).’;

- (2) in Article 5, paragraph 5 is replaced by the following:

‘5. Member States shall take the necessary measures to ensure that their competent authorities mutually recognise and accept the certificates of destruction issued in other Member States in accordance with paragraph 3 of this Article.

The Commission is empowered to adopt delegated acts in accordance with Article 9a in order to supplement this Directive by establishing minimum requirements for the certificate of destruction.’;

- (3) Article 6 is amended as follows:

- (a) paragraph 1 is replaced by the following:

‘1. Member States shall take the necessary measures to ensure that all end-of-life vehicles are stored (even temporarily) and treated in accordance with the waste hierarchy and the general requirements laid down in Article 4 of Directive 2008/98/EC of the European Parliament and of the Council (\*), and in compliance with the minimum technical requirements set out in Annex I to this Directive, without prejudice to national regulations on health and environment.

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(\*) Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (OJ L 312, 22.11.2008, p. 3).’;

- (b) paragraph 6 is replaced by the following:

‘6. The Commission is empowered to adopt delegated acts in accordance with Article 9a, amending Annex I to adapt it to technical and scientific progress.’;

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<sup>(1)</sup> OJ C 369, 17.12.2011, p. 14.

(4) in Article 7(2), the third subparagraph is replaced by the following:

The Commission may adopt implementing acts concerning the detailed rules necessary to control compliance of Member States with the targets set out in the first subparagraph of this paragraph. When preparing such rules, the Commission shall take into account all relevant factors, inter alia, the availability of data and the issue of exports and imports of end-of-life vehicles. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 11(2).;

(5) in Article 8, paragraph 2 is replaced by the following:

‘2. The Commission is empowered to adopt delegated acts in accordance with Article 9a, in order to supplement this Directive by establishing the standards referred to in paragraph 1 of this Article. When preparing such standards, the Commission shall take account of the work going on in this area in the relevant international forums. The Commission shall contribute to this work as appropriate.’;

(6) Article 9 is amended as follows:

(a) paragraph 1 is deleted;

(b) the following paragraphs are inserted:

‘1a. Member States shall report the data concerning the implementation of Article 7(2) for each calendar year to the Commission.

They shall report the data electronically within 18 months of the end of the reporting year for which the data are collected. The data shall be reported in the format established by the Commission in accordance with paragraph 1d of this Article.

The first reporting period shall start in the first full calendar year after the adoption of the implementing act that establishes the format for reporting, in accordance with paragraph 1d of this Article, and it shall cover the data for that reporting period.

1b. The data reported by Member States in accordance with paragraph 1a shall be accompanied by a quality check report.

1c. The Commission shall review the data reported in accordance with paragraph 1a and publish a report on the results of its review. The report shall assess the organisation of the data collection, the sources of data and the methodology used in Member States as well as the completeness, reliability, timeliness and consistency of that data. The assessment may include specific recommendations for improvement. The report shall be drawn up after the first reporting of the data by the Member States and every four years thereafter.

1d. The Commission shall adopt implementing acts laying down the format for reporting the data referred to in paragraph 1a of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 11(2).;

(7) the following article is inserted:

‘Article 9a

#### **Exercise of the delegation**

1. The power to adopt delegated acts is conferred to the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in point (b) of Article 4(2) and in Articles 5(5), 6(6) and 8(2) shall be conferred on the Commission for a period of five years from 4 July 2018. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

3. The delegation of power referred to in point (b) of Article 4(2) and in Articles 5(5), 6(6) and 8(2) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.



4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making (\*).

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6. A delegated act adopted pursuant to point (b) of Article 4(2) and to Articles 5(5), 6(6) and 8(2) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and to the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

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(\*) OJ L 123, 12.5.2016, p. 1.;

(8) the following article is inserted:

*‘Article 10a*

**Review**

By 31 December 2020, the Commission shall review this Directive, and to that end, shall submit a report to the European Parliament and to the Council, accompanied, if appropriate, by a legislative proposal.’;

(9) Article 11 is replaced by the following:

*‘Article 11*

**Committee procedure**

1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011 of the European Parliament and of the Council (\*).

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

Where the committee delivers no opinion, the Commission shall not adopt the draft implementing act and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply.

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(\*) Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission’s exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).’.

*Article 2*

**Amendment of Directive 2006/66/EC**

Directive 2006/66/EC is amended as follows:

(1) in Article 10, paragraph 3 is replaced by the following:

‘3. Member States shall monitor collection rates on a yearly basis according to the scheme set out in Annex I to this Directive. Without prejudice to Regulation (EC) No 2150/2002 of the European Parliament and of the Council (\*), Member States shall electronically transmit reports to the Commission within 18 months of the end of the reporting year for which the data are collected. Reports shall indicate how the data necessary to calculate the collection rate was obtained.

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(\*) Regulation (EC) No 2150/2002 of the European Parliament and of the Council of 25 November 2002 on waste statistics (OJ L 332, 9.12.2002, p. 1).’;

(2) in Article 12, paragraph 5 is replaced by the following:

‘5. Member States shall report on the levels of recycling achieved in each calendar year concerned and whether the recycling efficiencies referred to in Annex III, Part B have been met. They shall electronically submit the data to the Commission within 18 months of the end of the reporting year for which the data are collected.’;

(3) Article 22 is deleted;

(4) the following article is inserted:

*'Article 22a*

**Incentives for the application of the waste hierarchy**

In order to contribute to the objectives laid down in this Directive, Member States may make use of economic instruments and other measures to provide incentives for the application of the waste hierarchy, such as those indicated in Annex IVa to Directive 2008/98/EC or other appropriate instruments and measures.'

(5) Article 23 is amended as follows:

(a) paragraph 1 is replaced by the following:

'1. By 31 December 2018, the Commission shall draw up a report on the implementation of this Directive and its impact on the environment and the functioning of the internal market.'

(b) in paragraph 2, the introductory part is replaced by the following:

'2. In its report, the Commission shall include an evaluation on the following aspects of this Directive:'.

*Article 3*

**Amendment of Directive 2012/19/EU**

Directive 2012/19/EU is amended as follows:

(1) Article 16 is amended as follows:

(a) paragraph 5 is deleted;

(b) the following paragraphs are added:

'6. Member States shall report the data concerning the implementation of paragraph 4 for each calendar year to the Commission.

They shall report the data electronically within 18 months of the end of the reporting year for which the data are collected. The data shall be reported in the format established by the Commission in accordance with paragraph 9.

The first reporting period shall start in the first full calendar year after the adoption of the implementing act that establishes the format for reporting, in accordance with paragraph 9, and it shall cover the data for that reporting period.

7. The data reported by Member States in accordance with paragraph 6 shall be accompanied by a quality check report.

8. The Commission shall review the data reported in accordance with paragraph 6 and publish a report on the results of its review. The report shall assess the organisation of the data collection, the sources of data and the methodology used in Member States as well as the completeness, reliability, timeliness and consistency of that data. The assessment may include specific recommendations for improvement. The report shall be drawn up after the first reporting of the data by the Member States and every four years thereafter.

9. The Commission shall adopt implementing acts laying down the format for reporting the data referred to in paragraph 6 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 21(2).';

(2) the following article is inserted:

*'Article 16a*

**Incentives for the application of the waste hierarchy**

In order to contribute to the objectives laid down in this Directive, Member States may make use of economic instruments and other measures to provide incentives for the application of the waste hierarchy, such as those indicated in Annex IVa to Directive 2008/98/EC or other appropriate instruments and measures.'

(3) in Article 19, the first paragraph is replaced by the following:

The Commission is empowered to adopt delegated acts in accordance with Article 20 of this Directive concerning the amendments necessary in order to adapt Annexes IV, VII, VIII and IX to this Directive to scientific and technical progress. The Commission shall adopt a separate delegated act in respect of each Annex to be amended. When amending Annex VII to this Directive, the exemptions granted under Directive 2011/65/EU of the European Parliament and of the Council (\*) shall be taken into consideration.

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(\*) Directive 2011/65/EU of the European Parliament and of the Council of 8 June 2011 on the restriction of the use of certain hazardous substances in electrical and electronic equipment (OJ L 174, 1.7.2011, p. 88).'

#### *Article 4*

#### **Transposition**

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 5 July 2020. They shall immediately inform the Commission thereof.

When Member States adopt those measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

2. Member States shall communicate to the Commission the text of the main measures of national law which they adopt in the field covered by this Directive. The Commission shall inform the other Member States thereof.

#### *Article 5*

#### **Entry into force**

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

#### *Article 6*

#### **Addressees**

This Directive is addressed to the Member States.

Done at Strasbourg, 30 May 2018.

*For the European Parliament*  
*The President*  
A. TAJANI

*For the Council*  
*The President*  
L. PAVLOVA

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**DIRECTIVE (EU) 2018/850 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**  
**of 30 May 2018**  
**amending Directive 1999/31/EC on the landfill of waste**  
**(Text with EEA relevance)**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 192(1) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee <sup>(1)</sup>,

Having regard to the opinion of the Committee of the Regions <sup>(2)</sup>,

Acting in accordance with the ordinary legislative procedure <sup>(3)</sup>,

Whereas:

- (1) Waste management in the Union should be improved, with a view to protecting, preserving and improving the quality of the environment, protecting human health, ensuring prudent, efficient and rational utilisation of natural resources, promoting the principles of the circular economy, increasing energy efficiency and reducing the dependence of the Union on imported resources.
- (2) The targets laid down in Council Directive 1999/31/EC <sup>(4)</sup> setting landfill restrictions should be strengthened to make them better reflect the Union's ambition to move to a circular economy and make progress in the implementation of the Commission Communication of 4 November 2008 on 'The raw materials initiative: meeting our critical needs for growth and jobs in Europe' by gradually reducing to a minimum landfilling of waste destined for landfills for non-hazardous waste. The Commission and Member States should ensure that such reduction fits into an integrated policy which ensures a sound application of the waste hierarchy, enhances a shift towards prevention including re-use, preparing for re-use and recycling, and prevents a shift from landfilling towards incineration.
- (3) In order to ensure greater coherence in Union waste law, the definitions set out in Directive 1999/31/EC should be aligned, where relevant, with those in Directive 2008/98/EC of the European Parliament and of the Council <sup>(5)</sup>.
- (4) The existing definition of 'isolated settlement' needs to be adapted as regards outermost regions, in order to take account of the specificities of such settlements, which raise materially different concerns from an environmental perspective as compared to other regions.
- (5) The scope of Directive 1999/31/EC should be aligned with that of Directive 2006/21/EC of the European Parliament and of the Council <sup>(6)</sup> and should continue to cover the deposit of waste from the extractive industries that are not covered by Directive 2006/21/EC.

<sup>(1)</sup> OJ C 264, 20.7.2016, p. 98.

<sup>(2)</sup> OJ C 17, 18.1.2017, p. 46.

<sup>(3)</sup> Position of the European Parliament of 18 April 2018 (not yet published in the Official Journal) and decision of the Council of 22 May 2018.

<sup>(4)</sup> Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste (OJ L 182, 16.7.1999, p. 1).

<sup>(5)</sup> Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (OJ L 312, 22.11.2008, p. 3).

<sup>(6)</sup> Directive 2006/21/EC of the European Parliament and of the Council of 15 March 2006 on the management of waste from extractive industries and amending Directive 2004/35/EC (OJ L 102, 11.4.2006, p. 15).

- (6) Clear environmental, economic and social benefits would be derived from further restricting landfilling, starting with waste streams that are subject to separate collection, such as plastics, metals, glass, paper and bio-waste. Technical, environmental or economical feasibility of recycling or other recovery of residual waste resulting from separately collected waste should be taken into account in the implementation of those landfill restrictions.
- (7) Biodegradable municipal waste accounts for a large proportion of municipal waste. Landfilling of untreated biodegradable waste poses significant negative environmental effects in terms of greenhouse gas emissions and pollution of surface water, groundwater, soil and air. Although Directive 1999/31/EC already sets landfill diversion targets for biodegradable waste, it is appropriate to put in place further restrictions on the landfilling of biodegradable waste by prohibiting the landfilling of biodegradable waste that has been separately collected for recycling in accordance with Directive 2008/98/EC.
- (8) In order to ensure proper application of the waste hierarchy, appropriate measures should be taken to apply, as of 2030, restrictions on landfilling to all waste that is suitable for recycling or other material or energy recovery. Those restrictions should not apply where it can be demonstrated that waste is not suitable for recycling or other recovery and that landfilling would result in the best overall environmental outcome in accordance with the waste hierarchy laid down in Directive 2008/98/EC.
- (9) Many Member States have not yet completely developed the necessary waste management infrastructure. The setting of landfill reduction targets will require major changes in waste management in many Member States and will facilitate further progress and investment in separate collection, sorting and recycling of waste and avoid locking recyclable materials at the lower level of the waste hierarchy.
- (10) A progressive reduction of landfilling is necessary to prevent detrimental impacts on human health and the environment and to ensure that economically valuable waste materials are gradually and effectively recovered through proper waste management and in line with the waste hierarchy as laid down in Directive 2008/98/EC. That reduction should avoid the development of excessive capacity for the treatment of residual waste facilities, such as through energy recovery or low grade mechanical biological treatment of untreated municipal waste, as this could result in undermining the attainment of the Union's long-term preparing for re-use and recycling targets for municipal waste as laid down in Directive 2008/98/EC. Similarly, while to prevent detrimental impacts on human health and the environment Member States should take all necessary measures to ensure that only waste that has been subject to treatment is landfilled, compliance with that obligation should not lead to the creation of overcapacities for the treatment of residual municipal waste. In addition, in order to ensure consistency between the targets laid down in Directive 2008/98/EC and the landfill reduction target set out in Directive 1999/31/EC, as amended by this Directive, and to ensure a coordinated planning of the infrastructures and investments needed to meet those targets, Member States which, according to data reported under the Joint Questionnaire of the OECD and Eurostat, landfilled more than 60 % of their municipal waste in 2013 should be allowed to decide to extend the time for complying with the landfill target established for 2035.
- (11) In order to ensure the reliability of data, it is important to lay down more precisely the rules according to which Member States should report municipal waste that has been landfilled. Reporting should be based on the amount of municipal waste landfilled after treatment operations to prepare such waste for subsequent landfilling, such as the stabilisation of biodegradable municipal waste, and on the input into disposal incineration operations. As for municipal waste that enters treatment operations prior to recycling and recovery of waste, such as sorting and mechanical treatment, the waste resulting from such operations that is ultimately landfilled should also be considered for the purposes of calculating the landfill target.
- (12) When implementing the obligation laid down in Directive 1999/31/EC to ensure treatment of waste before its landfilling, Member States should apply the most appropriate treatment, including the stabilisation of the organic fraction of waste, in order to reduce as far as possible the adverse effects of landfilling such waste on the environment and human health. When assessing the appropriateness of a treatment, Member States should take into account measures already implemented to reduce those adverse effects, notably the separation of bio-waste and the separate collection of paper and cardboard.
- (13) In order to ensure better, more timely, and more uniform implementation of this Directive and anticipate any implementation weaknesses, a system of early warning reports should be established to detect shortcomings and allow taking action ahead of the deadlines for meeting the targets.

- (14) In order to help achieve the objectives of Directive 1999/31/EC, and to boost the transition to a circular economy, the Commission should promote the coordination and exchange of information and best practices among Member States and different sectors of the economy.
- (15) Implementation reports prepared by Member States every three years have not proved to be an effective tool for verifying compliance or ensuring good implementation, and are generating unnecessary administrative burdens. It is therefore appropriate to repeal provisions obliging Member States to produce such reports. Instead, compliance monitoring should be exclusively based on the data which Member States report every year to the Commission.
- (16) Data reported by Member States are essential for the Commission to assess compliance with Union waste law by Member States. The quality, reliability and comparability of data should be improved by introducing a single entry point for all waste data, deleting obsolete reporting requirements, benchmarking national reporting methodologies and introducing a data quality check report. Reliable reporting of data concerning waste management is paramount to efficient implementation, to sound planning of waste treatment infrastructure, and to ensuring comparability of data among Member States. Therefore, when reporting on the attainment of the targets set out in Directive 1999/31/EC, as amended by this Directive, Member States should use the most recent rules developed by the Commission and methodologies developed by the respective national competent authorities responsible for implementing this Directive.
- (17) In order to ensure uniform conditions for the implementation of Directive 1999/31/EC, implementing powers should be conferred on the Commission in respect of Articles 5a(4) and 15(5) and Articles 15b and 15c thereof as amended by this Directive. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council <sup>(1)</sup>.
- (18) Since the objectives of this Directive, namely to improve the waste management in the Union, and thereby to contribute to the protection, preservation and improvement of the quality of the environment and to the prudent and rational utilisation of natural resources, cannot be sufficiently achieved by the Member States, but can rather, by reason of the scale and effects of the measures, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.
- (19) Directive 1999/31/EC should therefore be amended accordingly.
- (20) In accordance with the Joint Political Declaration of 28 September 2011 of Member States and the Commission on explanatory documents <sup>(2)</sup>, Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments. With regard to this Directive, the legislator considers the transmission of such documents to be justified,

HAVE ADOPTED THIS DIRECTIVE:

#### *Article 1*

#### **Amendments**

Directive 1999/31/EC is amended as follows:

- (1) in Article 1, paragraph 1 is replaced by the following:

‘1. With a view to supporting the Union’s transition to a circular economy and meeting the requirements of Directive 2008/98/EC of the European Parliament and of the Council (\*), and in particular Articles 4 and 12 thereof, the aim of this Directive is to ensure a progressive reduction of landfilling of waste, in particular of waste that is suitable for recycling or other recovery, and, by way of stringent operational and technical requirements on the waste and landfills, to provide for measures, procedures and guidance to prevent or reduce as far as possible

<sup>(1)</sup> Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission’s exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

<sup>(2)</sup> OJ C 369, 17.12.2011, p. 14.



negative effects on the environment, in particular the pollution of surface water, groundwater, soil and air, and on the global environment, including the greenhouse effect, as well as any resulting risk to human health, from landfilling of waste, during the whole life-cycle of the landfill.

(\*) Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (OJ L 312, 22.11.2008, p. 3).;

(2) Article 2 is amended as follows:

(a) point (a) is replaced by the following:

‘(a) the definitions of “waste”, “hazardous waste”, “non-hazardous waste”, “municipal waste”, “waste producer”, “waste holder”, “waste management”, “separate collection”, “recovery”, “preparing for re-use”, “recycling” and “disposal” laid down in Article 3 of Directive 2008/98/EC shall apply;’

(b) points (b), (c), (d) and (n) are deleted;

(c) in point (r), the following subparagraph is added:

‘In outermost regions within the meaning of Article 349 of the Treaty, Member States may decide to apply the following definition:

“isolated settlement” means a settlement:

- with no more than 2 000 inhabitants per settlement and no more than five inhabitants per square kilometre, or with more than 2 000 but less than 5 000 inhabitants per settlement and no more than five inhabitants per square kilometre and whose production of waste does not exceed 3 000 tonnes per year, and
- where the distance to the nearest urban agglomeration with at least 250 inhabitants per square kilometre is not less than 100 km and with no access by road;’

(3) Article 3 is amended as follows:

(a) in paragraph 2, the last indent is deleted;

(b) paragraph 3 is replaced by the following:

‘3. The management of waste from land-based extractive industries, that is to say, the waste arising from the prospecting, extraction, including the pre-production development stage, treatment and storage of mineral resources and from the working of quarries shall be excluded from the scope of this Directive where it falls within the scope of other Union legislative acts;’

(4) Article 5 is amended as follows:

(a) in paragraph 2, the following subparagraph is deleted:

‘Two years before the date referred to in paragraph (c) the Council shall re-examine the above target, on the basis of a report from the Commission on the practical experience gained by Member States in the pursuance of the targets laid down in paragraphs (a) and (b) accompanied, if appropriate, by a proposal with a view to confirming or amending this target in order to ensure a high level of environmental protection;’

(b) in paragraph 3, the following point is added:

‘(f) waste that has been separately collected for preparing for re-use and recycling pursuant to Article 11(1) of Directive 2008/98/EC and Article 22 of that Directive, with the exception of waste resulting from subsequent treatment operations of the separately collected waste for which landfilling delivers the best environmental outcome in accordance with Article 4 of that Directive;’

(c) the following paragraph is inserted:

‘3a. Member States shall endeavour to ensure that as of 2030, all waste suitable for recycling or other recovery, in particular in municipal waste, shall not be accepted in a landfill with the exception of waste for which landfilling delivers the best environmental outcome in accordance with Article 4 of Directive 2008/98/EC.

Member States shall include information on the measures taken pursuant to this paragraph in the waste management plans referred to in Article 28 of Directive 2008/98/EC, or in other strategic documents covering the entire territory of the Member State concerned;’

(d) the following paragraphs are added:

‘5. Member States shall take the necessary measures to ensure that by 2035 the amount of municipal waste landfilled is reduced to 10 % or less of the total amount of municipal waste generated (by weight).

6. A Member State may postpone the deadline for attaining the target referred to in paragraph 5 by up to five years provided that that Member State:

(a) landfilled more than 60 % of its municipal waste generated in 2013 as reported under the Joint Questionnaire of the OECD and Eurostat; and

(b) at the latest 24 months before the deadline laid down in paragraph 5 of this Article, notifies the Commission of its intention to postpone the deadline and submits an implementation plan in accordance with Annex IV to this Directive. That plan may be combined with an implementation plan submitted according to point (b) of Article 11(3) of Directive 2008/98/EC.

7. Within three months of receipt of the implementation plan submitted pursuant to point (b) of paragraph 6, the Commission may request a Member State to revise that plan if the Commission considers that the plan does not comply with the requirements of Annex IV. The Member State concerned shall submit a revised plan within three months of receipt of the Commission’s request.

8. In the event of postponing the deadline in accordance with paragraph 6, the Member State shall take the necessary measures to reduce by 2035 the amount of municipal waste landfilled to 25 % or less of the total amount of municipal waste generated (by weight).

9. By 31 December 2024, the Commission shall review the target laid down in paragraph 5 with a view to maintaining or, if appropriate, reducing it, to considering quantitative target per capita on landfilling and to introducing restrictions to the landfilling of non-hazardous waste other than municipal waste. To that end, the Commission shall submit a report to the European Parliament and to the Council, accompanied, if appropriate, by a legislative proposal.’;

(5) the following articles are inserted:

‘Article 5a

**Rules on the calculation of the attainment of the targets**

1. For the purpose of calculating whether the targets laid down in Article 5(5) and (6) have been attained:

(a) the weight of the municipal waste generated and directed to landfilling shall be calculated in a given calendar year;

(b) the weight of waste resulting from treatment operations prior to recycling or other recovery of municipal waste, such as sorting or mechanical biological treatment, which is subsequently landfilled shall be included in the weight of municipal waste reported as landfilled;

(c) the weight of municipal waste that enters incineration disposal operations and the weight of waste produced in the stabilisation operations of the biodegradable fraction of municipal waste in order to be subsequently landfilled shall be reported as landfilled;

(d) the weight of waste produced during recycling or other recovery operations of municipal waste which is subsequently landfilled shall not be included in the weight of municipal waste reported as landfilled.

2. Member States shall establish an effective system of quality control and traceability of the municipal waste landfilled to ensure that the conditions laid down in paragraph 1 of this Article are met. They may use the system established in accordance with Article 11a(3) of Directive 2008/98/EC for that purpose.

3. Where municipal waste is shipped to another Member State or exported from the Union for the purposes of landfilling, in accordance with Regulation (EC) No 1013/2006 of the European Parliament and of the Council (\*), it shall be counted towards the amount of waste landfilled, in accordance with paragraph 1 by the Member State in which that waste was collected.

4. In order to ensure uniform conditions for the application of this Article, the Commission shall adopt by 31 March 2019 implementing acts establishing rules for the calculation, verification and reporting of data. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 17(2).

#### *Article 5b*

##### **Early warning report**

1. The Commission shall, in cooperation with the European Environment Agency, draw up a report on the progress towards the attainment of the targets laid down in Article 5(5) and (6) at the latest three years before each deadline laid down therein.

2. The reports referred to in paragraph 1 shall include the following:

- (a) an estimation of the attainment of the targets by each Member State;
- (b) a list of Member States at risk of not attaining the targets within the respective deadlines accompanied by appropriate recommendations for the Member States concerned;
- (c) examples of best practices that are used throughout the Union which could provide guidance for progressing towards attaining the targets.

#### *Article 5c*

##### **Exchange of information and best practices**

The Commission shall organise a regular exchange of information and of best practices among Member States, including, where appropriate, with regional and local authorities, on the practical implementation of the requirements of this Directive.

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(\*) Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste (OJ L 190, 12.7.2006, p. 1).;

- (6) in point (a) of Article 6, the following sentence is added:

‘Member States shall ensure that measures taken in accordance with this point do not compromise the achievement of the objectives of Directive 2008/98/EC, notably on the waste hierarchy and on the increase of preparing for re-use and recycling as set out in Article 11 of that Directive.’;

- (7) in Article 11(2), the second subparagraph is deleted;

- (8) Article 15 is replaced by the following:

#### *‘Article 15*

##### **Reporting**

1. Member States shall report the data concerning the implementation of Article 5(2), (5) and (6) for each calendar year to the Commission.

They shall report the data electronically within 18 months of the end of the reporting year for which the data are collected. The data shall be reported in the format established by the Commission in accordance with paragraph 5 of this Article.

The first reporting period on the implementation of Article 5(5) and (6) shall start in the first full calendar year after the adoption of the implementing act that establishes the format for reporting, in accordance with paragraph 5 of this Article, and shall cover the data for that reporting period.

2. Member States shall report the data concerning the implementation of Article 5(2) until 1 January 2025.

3. The data reported by Member States in accordance with this Article shall be accompanied by a quality check report.

4. The Commission shall review the data reported in accordance with this Article and publish a report on the results of its review. The report shall assess the organisation of the data collection, the sources of data and the methodology used in Member States as well as the completeness, reliability, timeliness and consistency of that data. The assessment may include specific recommendations for improvement. The report shall be drawn up after the first reporting of the data by the Member States and every four years thereafter.

5. By 31 March 2019, the Commission shall adopt implementing acts laying down the format for reporting the data referred to in paragraph 1 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 17(2).;

(9) the following articles are inserted:

*'Article 15a*

**Instruments to promote a shift to a more circular economy**

In order to contribute to the objectives laid down in this Directive, Member States shall make use of economic instruments and other measures to provide incentives for the application of the waste hierarchy. Such instruments and measures may include those indicated in Annex IVa to Directive 2008/98/EC or other appropriate instruments and measures.

*Article 15b*

**Determination of the permeability coefficient for landfills**

The Commission shall adopt implementing acts to lay down the method to be used for the determination of the permeability coefficient for landfills, in the field and for the whole extension of the site. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 17(2).

*Article 15c*

**Union standard for sampling of waste**

The Commission shall adopt implementing acts to develop a standard for sampling of waste. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 17(2). Until those implementing acts have been adopted, the Member States may apply national standards and procedures.;

(10) Article 16 is replaced by the following:

*'Article 16*

**Review of the Annexes**

The Commission shall keep the Annexes under review and, where necessary, it shall make appropriate legislative proposals.;

(11) Article 17 is replaced by the following:

*'Article 17*

**Committee procedure**

1. The Commission shall be assisted by the Committee established by Article 39 of Directive 2008/98/EC. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011 of the European Parliament and of the Council (\*).

2. When reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

Where the committee delivers no opinion, the Commission shall not adopt the draft implementing act and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply.

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(\*) Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).;

- (12) in Annex I, point 3.5 is deleted;
- (13) in Annex II, point 5 is deleted;
- (14) in Annex III, point 2, the first subparagraph is deleted;
- (15) Annex IV is added as set out in the Annex to this Directive.

#### *Article 2*

#### **Transposition**

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 5 July 2020. They shall immediately inform the Commission thereof.

When Member States adopt those measures, they shall contain a reference to this Directive or shall be accompanied by such a reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

2. Member States shall communicate to the Commission the text of the main measures of national law which they adopt in the field covered by this Directive. The Commission shall inform the other Member States thereof.

#### *Article 3*

#### **Entry into force**

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

#### *Article 4*

#### **Addressees**

This Directive is addressed to the Member States.

Done at Strasbourg, 30 May 2018.

*For the European Parliament*

*The President*

A. TAJANI

*For the Council*

*The President*

L. PAVLOVA

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## ANNEX

The following annex is added:

## ‘ANNEX IV

## IMPLEMENTATION PLAN TO BE SUBMITTED PURSUANT TO ARTICLE 5(6)

The implementation plan to be submitted pursuant to Article 5(6) shall contain the following:

1. assessment of the past, current and projected rates of recycling, landfilling and other treatment of municipal waste and the streams of which it is composed;
  2. assessment of the implementation of waste management plans and waste prevention programmes in place pursuant to Articles 28 and 29 of Directive 2008/98/EC;
  3. reasons for which the Member State considers that it might not be able to attain the relevant target laid down in Article 5(5) within the deadline set therein and an assessment of the time extension necessary to meet that target;
  4. measures necessary to attain the targets set out in Article 5(8) of this Directive applicable to the Member State during the time extension, including appropriate economic instruments and other measures to provide incentives for the application of the waste hierarchy as set out in Article 4(1) of, and Annex IVa to, Directive 2008/98/EC;
  5. a timetable for the implementation of the measures identified in point 4, determination of the body competent for their implementation and an assessment of their individual contribution to attaining the targets applicable in the event of a time extension;
  6. information on funding for waste management in line with the polluter-pays principle;
  7. measures to improve data quality, as appropriate, with a view to better planning and monitoring performance in waste management.’.
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**DIRECTIVE (EU) 2018/851 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**  
**of 30 May 2018**  
**amending Directive 2008/98/EC on waste**  
**(Text with EEA relevance)**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 192(1) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee <sup>(1)</sup>,

Having regard to the opinion of the Committee of the Regions <sup>(2)</sup>,

Acting in accordance with the ordinary legislative procedure <sup>(3)</sup>,

Whereas:

- (1) Waste management in the Union should be improved and transformed into sustainable material management, with a view to protecting, preserving and improving the quality of the environment, protecting human health, ensuring prudent, efficient and rational utilisation of natural resources, promoting the principles of the circular economy, enhancing the use of renewable energy, increasing energy efficiency, reducing the dependence of the Union on imported resources, providing new economic opportunities and contributing to long-term competitiveness. In order to make the economy truly circular, it is necessary to take additional measures on sustainable production and consumption, by focusing on the whole life cycle of products in a way that preserves resources and closes the loop. The more efficient use of resources would also bring substantial net savings for Union businesses, public authorities and consumers, while reducing total annual greenhouse gas emissions.
- (2) Improving the efficiency of resource use and ensuring that waste is valued as a resource can contribute to reducing the Union's dependence on the import of raw materials and facilitate the transition to more sustainable material management and to a circular economy model. That transition should contribute to the smart, sustainable and inclusive growth goals set out in the Europe 2020 strategy and create important opportunities for local economies and stakeholders, while helping to increase synergies between the circular economy and energy, climate, agriculture, industry and research policies as well as bringing benefits to the environment in terms of greenhouse gas emission savings and to the economy.
- (3) The targets laid down in Directive 2008/98/EC of the European Parliament and of the Council <sup>(4)</sup> for preparing for re-use and recycling of waste should be increased to make them better reflect the Union's ambition to move to a circular economy.
- (4) The coherence between Directive 2008/98/EC and related Union legislative acts such as Directive 2009/28/EC of the European Parliament and of the Council <sup>(5)</sup> and Regulation (EC) No 1907/2006 of the European Parliament and of the Council <sup>(6)</sup> needs to be ensured.

<sup>(1)</sup> OJ C 264, 20.7.2016, p. 98.

<sup>(2)</sup> OJ C 17, 18.1.2017, p. 46.

<sup>(3)</sup> Position of the European Parliament of 18 April 2018 (not yet published in the Official Journal) and decision of the Council of 22 May 2018.

<sup>(4)</sup> Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (OJ L 312, 22.11.2008, p. 3).

<sup>(5)</sup> Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC (OJ L 140, 5.6.2009, p. 16).

<sup>(6)</sup> Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC (OJ L 396, 30.12.2006, p. 1).

- (5) Many Member States have not yet completely developed the necessary waste management infrastructure. It is therefore essential to set clear long-term policy objectives in order to guide measures and investments, notably by preventing the creation of structural overcapacities for the treatment of residual waste and lock-ins of recyclable materials at the lower levels of the waste hierarchy.
- (6) Municipal waste constitutes approximately between 7 and 10 % of the total waste generated in the Union. That waste stream, however, is amongst the most complex ones to manage, and the way it is managed generally gives a good indication of the quality of the overall waste management system in a country. The challenges of municipal waste management result from its highly complex and mixed composition, direct proximity of the generated waste to citizens, a very high public visibility and its impact on the environment and human health. As a result, the management of municipal waste requires a highly complex system including an efficient collection scheme, an effective sorting system and a proper tracing of waste streams, the active engagement of citizens and businesses, an infrastructure adjusted to the specific waste composition, and an elaborate financing system. Countries which have developed efficient municipal waste management systems generally perform better in overall waste management, including the attainment of the recycling targets.
- (7) Experience has shown that, irrespective of the allocation of responsibilities for waste management between public and private actors, waste management systems can help to achieve a circular economy and that the decision on the allocation of responsibilities frequently depends on geographical and structural conditions. The rules laid down in this Directive allow for waste management systems where the municipalities have the general responsibility for collecting municipal waste, for systems where such services are contracted out to private operators, or for any other type of allocation of responsibilities between public and private actors. The choice for any such systems, and whether or not to change them, remains the responsibility of Member States.
- (8) Plant-based substances from the agri-food industry and food of non-animal origin no longer intended for human consumption which are destined for oral animal feeding should, in order to avoid duplication of rules, be excluded from the scope of Directive 2008/98/EC if in full compliance with Union feed legislation. Directive 2008/98/EC should therefore not apply to those products and substances when used for feed, and the scope of that Directive needs to be clarified accordingly. Without prejudice to other Union provisions applicable in the field of animal nutrition, animal by-products destined to be used as feed materials in accordance with Regulation (EC) No 767/2009 of the European Parliament and of the Council<sup>(1)</sup> are already excluded from the scope of Directive 2008/98/EC to the extent that they are covered by other Union legislation.
- (9) Definitions of non-hazardous waste, municipal waste, construction and demolition waste, food waste, material recovery, backfilling and extended producer responsibility scheme need to be included in Directive 2008/98/EC so that the scope of these concepts is clarified.
- (10) To ensure that preparing for re-use and recycling targets are based on reliable and comparable data and to enable a more effective monitoring of progress in attaining those targets, the definition of municipal waste in Directive 2008/98/EC should be in line with the definition used for statistical purposes by Eurostat and the Organisation for Economic Cooperation and Development (OECD), on the basis of which Member States have been reporting data for several years. Municipal waste is defined as waste from households and waste from other sources, such as retail, administration, education, health services, accommodation and food services, and other services and activities, which is similar in nature and composition to waste from households. Therefore, municipal waste includes, *inter alia*, waste from park and garden maintenance, such as leaves, grass and tree clippings, and waste from market and street cleaning services, such as the content of litter containers and sweepings except materials such as sand, rock, mud or dust. Member States are to ensure that waste from large commerce and industry which is not similar to waste from households is not included in the scope of municipal waste. Waste from production, agriculture, forestry, fishing, construction and demolition, septic tanks and sewage network and treatment, and end-of-life vehicles are excluded from the scope of municipal waste. Municipal waste is to be understood as corresponding to

<sup>(1)</sup> Regulation (EC) No 767/2009 of the European Parliament and of the Council of 13 July 2009 on the placing on the market and use of feed, amending European Parliament and Council Regulation (EC) No 1831/2003 and repealing Council Directive 79/373/EEC, Commission Directive 80/511/EEC, Council Directives 82/471/EEC, 83/228/EEC, 93/74/EEC, 93/113/EC and 96/25/EC and Commission Decision 2004/217/EC (OJ L 229, 1.9.2009, p. 1).

the types of waste included in Chapter 15 01 and Chapter 20, with the exception of codes 20 02 02, 20 03 04 and 20 03 06, of the list of waste established by Commission Decision 2014/955/EU <sup>(1)</sup> in the version in force on 4 July 2018. Waste falling under other chapters of that list is not to be considered as municipal waste except in cases where municipal waste undergoes treatment and is assigned codes listed in Chapter 19 of that list. Member States may use relevant categories in that list for statistical purposes. The definition of municipal waste in this Directive is introduced for the purposes of determining the scope of application of the preparing for re-use and recycling targets and their calculation rules. It is neutral with regard to the public or private status of the operator managing the waste and therefore includes waste from households and other sources that is managed by or on behalf of municipalities or directly by private operators.

- (11) While the definition of construction and demolition waste refers to waste that results from construction and demolition activities in a general way, it also includes waste arising from minor do-it-yourself construction and demolition activities within private households. Construction and demolition waste should be understood as corresponding to the types of waste included in Chapter 17 of the list of waste established by Decision 2014/955/EU in the version in force on 4 July 2018.
- (12) A definition of material recovery should be introduced to cover forms of recovery other than energy recovery and other than the reprocessing of waste into materials used as fuels or other means to generate energy. It includes preparing for re-use, recycling and backfilling and other forms of material recovery such as the reprocessing of waste into secondary raw materials for engineering purposes in construction of roads or other infrastructure. Depending on the specific factual circumstances, such reprocessing can fulfil the definition of recycling if the use of materials is based on proper quality control and meets all relevant standards, norms, specifications and environmental and health protection requirements for the specific use.
- (13) A definition of backfilling should be introduced to clarify that it means any recovery operation of suitable non-hazardous waste for the purposes of reclamation in excavated areas or for engineering purposes in landscaping. The waste used for backfilling should be limited to the amount strictly necessary to achieve those purposes.
- (14) A definition of extended producer responsibility scheme should be introduced to clarify that it means a set of measures taken by Member States requiring producers of products to bear financial or financial and organisational responsibility for the management of the waste stage of a product's life cycle including separate collection, sorting and treatment operations. That obligation can also include organisational responsibility and a responsibility to contribute to waste prevention and to the reusability and recyclability of products. Producers of products can fulfil the obligations of the extended producer responsibility scheme individually or collectively.
- (15) In order to contribute to achieving the objectives laid down in Directive 2008/98/EC, Member States should make use of economic instruments and other measures to provide incentives for the application of the waste hierarchy such as those indicated in Annex IVa, which includes, *inter alia*, landfill and incineration charges, pay-as-you-throw schemes, extended producer responsibility schemes, facilitation of food donation, and incentives for local authorities, or other appropriate instruments and measures.
- (16) In order to promote sustainable use of resources and industrial symbiosis, Member States should take appropriate measures to facilitate the recognition as a by-product of a substance or an object resulting from a production process the primary aim of which is not the production of that substance or object if the harmonised conditions established at Union level are respected. The Commission should be empowered to adopt implementing acts in order to establish detailed criteria on the application of the by-product status, prioritising replicable practices of industrial symbiosis.
- (17) In order to provide operators in markets for secondary raw materials with more certainty as to the waste or non-waste status of substances or objects and to promote a level playing field, it is important that Member States take appropriate measures to ensure that waste that has undergone a recovery operation is considered to have ceased to be waste if it complies with all the conditions laid down in Article 6(1) of Directive 2008/98/EC as amended by this Directive. Such measures may include the adoption of legislation transposing those conditions supported by procedures for their implementation, such as the establishment of material and application-specific end-of-waste criteria, guidance documents, case-by-case decisions and other procedures for the ad hoc application of the harmonised conditions established at Union level. Such measures should include enforcement provisions to verify that waste that is considered to have ceased to be waste as a result of a recovery operation complies with the law of the Union on waste, chemicals and products, in particular prioritising waste streams that pose a

<sup>(1)</sup> Commission Decision 2014/955/EU of 18 December 2014 amending Decision 2000/532/EC on the list of waste pursuant to Directive 2008/98/EC of the European Parliament and of the Council (OJ L 370, 30.12.2014, p. 44).

higher risk to human health and the environment due to the nature and volume of those waste streams, waste that is subject to innovative recovery processes or waste that is recovered for subsequent further use in other Member States. Measures may also include the setting of a requirement on the operators recovering waste or holders of recovered waste materials to demonstrate compliance with the conditions laid down in Article 6(1) of Directive 2008/98/EC as amended by this Directive. In order to prevent illegal shipments of waste and to raise awareness among Member States and economic operators, there should be greater transparency about Member State approaches to end-of-waste status, in particular with regard to their case-by-case decisions and the result of verification by competent authorities, as well as the specific concerns of Member States and competent authorities about certain waste streams. The final determination whether the conditions laid down in Article 5 or in Article 6 of Directive 2008/98/EC as amended by this Directive are fulfilled remains the exclusive responsibility of the Member State based on all relevant information provided by the holder of the material or waste.

- (18) Implementing powers should be conferred on the Commission in order to establish detailed criteria on the application of the end-of-waste status. In that context, specific end-of-waste criteria should be considered at least for aggregates, paper, tyres and textiles.
- (19) The application of rules on by-products and end-of-waste should be without prejudice to other provisions of Union law, particularly Article 28 and Article 50(4a) and (4b) of Regulation (EC) No 1013/2006 of the European Parliament and of the Council <sup>(1)</sup> on shipments of waste, legislation on chemicals and legislation concerning the placing on the market of certain products. End-of-waste status can only be achieved if substances or objects comply with relevant requirements applicable to products. End-of-waste rules can be established in product-specific legislation.
- (20) Member States should take appropriate measures to encourage the development, production, marketing and use of products and components of products that are suitable for multiple use, that contain recycled materials, that are technically durable and easily repairable and that are, after having become waste, suitable for preparing for re-use and recycling in order to facilitate proper implementation of the waste hierarchy and without compromising the free movement of goods in the internal market. Those measures should take into account the impact of products throughout their life cycle, the waste hierarchy and, where appropriate, the potential for multiple recycling.
- (21) Extended producer responsibility schemes form an essential part of efficient waste management. However, their effectiveness and performance differ significantly between Member States. It is necessary therefore to set minimum operating requirements for such extended producer responsibility schemes, and to clarify that those requirements also apply to extended producer responsibility schemes established pursuant to other legislative acts of the Union, in particular Directives 2000/53/EC <sup>(2)</sup>, 2006/66/EC <sup>(3)</sup> and 2012/19/EU <sup>(4)</sup> of the European Parliament and of the Council, in addition to the requirements already laid down therein, unless explicitly stated otherwise. It is necessary to make a distinction between those general minimum requirements that apply to all schemes and those that only apply to organisations implementing extended producer responsibility obligations on behalf of producers of products. Unless Member States decide otherwise, the general minimum requirements for extended producer responsibility schemes do not apply to schemes that do not fulfil the definition of an extended producer responsibility scheme.
- (22) The general minimum requirements should reduce costs and boost performance, as well as ensure a level playing field, including for small and medium-sized enterprises and e-commerce enterprises, and avoid obstacles to the smooth functioning of the internal market. They should also contribute to the incorporation of end-of-life costs into product prices and provide incentives for producers, when designing their products, to take better into account recyclability, reusability, reparability and the presence of hazardous substances. Overall, those requirements should improve the governance and transparency of extended producer responsibility schemes and reduce the

<sup>(1)</sup> Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste (OJ L 190, 12.7.2006, p. 1).

<sup>(2)</sup> Directive 2000/53/EC of the European Parliament and of the Council of 18 September 2000 on end-of life vehicles (OJ L 269, 21.10.2000, p. 34).

<sup>(3)</sup> Directive 2006/66/EC of the European Parliament and of the Council of 6 September 2006 on batteries and accumulators and waste batteries and accumulators and repealing Directive 91/157/EEC (OJ L 266, 26.9.2006, p. 1).

<sup>(4)</sup> Directive 2012/19/EU of the European Parliament and of the Council of 4 July 2012 on waste electrical and electronic equipment (WEEE) (OJ L 197, 24.7.2012, p. 38).

possibility of conflicts of interest emerging between organisations implementing extended producer responsibility obligations on behalf of producers of products and waste operators that those organisations contract. The requirements should apply to both new and existing extended producer responsibility schemes. A transitional period is however necessary for existing extended producer responsibility schemes to adapt their structures and procedures to the new requirements.

- (23) Public authorities play an important role in the organisation of municipal waste collection and treatment and related communication with citizens. Provisions relating to the financial responsibility of producers of products introduced as part of the general minimum requirements for extended producer responsibility schemes should apply without prejudice to the competence of public authorities as regards the collection and treatment of municipal waste.
- (24) In cases where public authorities are responsible for organising the operational aspects of managing waste from products that are subject to extended producer responsibility schemes, those services should be provided in a cost-efficient manner and the financial responsibility of producers of products should not exceed the costs necessary to provide those services. Such costs should be established in a transparent way between the actors concerned, including producers of products, their organisations and public authorities.
- (25) In order to ensure proper waste management, where producers of products or organisations implementing extended producer responsibility obligations on their behalf are responsible for the management of waste from products that they place on the market, they should ensure continuity of waste management services throughout the year, even if the targets and objectives applicable to them are met. They should also not restrict those services in terms of geographical, product and material coverage to the areas where the collection and management of waste are the most profitable.
- (26) Producers of products should cover the costs necessary to meet the waste management targets and other targets and objectives, including on waste prevention, defined for the relevant extended producer responsibility scheme. Under strict conditions, those costs can be shared with the original waste producers or distributors where justified by the need to ensure proper waste management and the economic viability of the extended producer responsibility scheme.
- (27) The Commission should adopt guidelines on the modulation of financial contributions of producers of products to extended producer responsibility schemes in order to assist Member States in the implementation of this Directive in facilitating the functioning of the internal market. To ensure coherence in the internal market, the Commission should be able to adopt harmonised criteria for that purpose by means of implementing acts.
- (28) Authorised representatives established to fulfil extended producer responsibility obligations of producers of products may be subject to requirements that enable the Member State on whose territory they are established to monitor and verify compliance with those obligations. However, those requirements should not go beyond the requirements that are applicable to the producers of products and organisations implementing extended producer responsibility obligations on their behalf established in that Member State.
- (29) Waste prevention is the most efficient way to improve resource efficiency and to reduce the environmental impact of waste. It is important therefore that Member States take appropriate measures to prevent waste generation and monitor and assess progress in the implementation of such measures. As part of such measures, Member States should facilitate innovative production, business and consumption models that reduce the presence of hazardous substances in materials and products, that encourage the increase of the lifespan of products and that promote re-use including through the establishment and support of re-use and repair networks, such as those run by social economy enterprises, deposit-refund and return-refill schemes and by incentivising remanufacturing, refurbishment and, where appropriate, repurposing of products as well as sharing platforms. In order to ensure a uniform measurement of the overall progress in the implementation of waste prevention measures, common indicators and targets should be established.



- (30) The promotion of sustainability in production and consumption can contribute significantly to waste prevention. Member States should take steps to make consumers aware of that contribution and encourage them to participate more actively in order to improve resource efficiency. As part of measures to reduce waste generation, Member States should include continuous communication and education initiatives to raise awareness on the issues surrounding waste prevention and littering and may include the use of deposit-refund schemes and the setting of quantitative targets, and provide, as appropriate, adequate economic incentives to producers.
- (31) Member States should take measures to promote prevention and reduction of food waste in line with the 2030 Agenda for Sustainable Development, adopted by the United Nations (UN) General Assembly on 25 September 2015, and in particular its target of halving per capita global food waste at the retail and consumer levels and reduce food losses along production and supply chains, including post-harvest losses, by 2030. Those measures should aim to prevent and reduce food waste in primary production, in processing and manufacturing, in retail and other distribution of food, in restaurants and food services as well as in households. In order to contribute and ensure to be on track towards the attainment of the UN Sustainable Development Goal, Member States should aim to achieve an indicative Union-wide food waste reduction target of 30 % by 2025 and 50 % by 2030. Having regard to the environmental, social and economic benefits of preventing food waste, Member States should establish specific food waste prevention measures, including awareness campaigns to demonstrate how to prevent food waste, in their waste prevention programmes. Member States should measure progress made in the reduction of food waste. To measure that progress and to facilitate the exchange of good practices across the Union both between Member States and between food business operators, a common methodology for such measurement should be established. Based on those methodologies, reporting on food waste levels should take place on an annual basis.
- (32) In order to prevent food waste, Member States should provide incentives for the collection of unsold food products at all stages of the food supply chain and for their safe redistribution, including to charitable organisations. Consumer awareness of the meaning of 'use-by' and 'best-before' dates should also be improved in order to reduce food waste.
- (33) Litter, whether in cities, on land, in rivers and seas or elsewhere, has direct and indirect detrimental impacts on the environment, the well-being of citizens and the economy, and the costs to clean it up present an unnecessary economic burden for society. Member States should take measures aimed at preventing all forms of abandonment, dumping, uncontrolled management or other forms of discarding of waste. Member States should also take measures to clean up litter present in the environment, irrespective of its source or size and regardless of whether waste has been discarded wilfully or by negligence. Measures to prevent and reduce litter from products that are the main sources of littering in the natural and marine environments could consist of, *inter alia*, improvements in waste management infrastructure and practices, economic instruments and awareness raising campaigns. When considering a measure having restrictive effects on intra-Union trade, Member States should be able to demonstrate that the measure in question is adequate to attain the objective of preventing and reducing littering in the natural and marine environment, does not go beyond what is necessary to attain that objective and does not constitute a means of arbitrary discrimination or a disguised restriction on trade between Member States.
- (34) The fight against litter should be a shared effort between competent authorities, producers and consumers. Consumers should be incentivised to change their behaviour including through education and awareness raising, while producers should promote the sustainable use of and contribute to appropriate end-of-life management of their products.
- (35) Litter in the marine environment is a particularly pressing problem, and Member States should take measures that aim at halting the generation of marine litter in the Union, thereby contributing to the goal of the 2030 Agenda for Sustainable Development adopted by the UN General Assembly on 25 September 2015 to prevent and significantly reduce by 2025 marine pollution of all kinds, in particular from land-based activities, including marine debris and nutrient pollution. Since marine litter, in particular for plastic waste, stems to a large extent from land-based activities caused mainly by poor solid waste management practices and infrastructure, littering by citizens and lack of public awareness, specific measures should be laid down in waste prevention programmes and waste management plans. Those measures should contribute to the goal of achieving good environmental status in



the marine environment by 2020 as laid down in Directive 2008/56/EC of the European Parliament and of the Council <sup>(1)</sup>. In accordance with that Directive, Member States are required to establish specific strategies and measures and update them every six years. They are also required to regularly report, starting in 2018, on the progress to maintain or achieve the goal of good environmental status. Measures to tackle litter in Directive 2008/98/EC should therefore be coordinated with the measures required under Directive 2008/56/EC and Directive 2000/60/EC of the European Parliament and of the Council <sup>(2)</sup>.

- (36) Certain raw materials are of a high importance to the economy of the Union and their supply is associated with a high risk. In order to ensure security of supply of those raw materials and in line with the Raw Materials Initiative established by the Commission in its communication of 4 November 2008 on 'The raw materials initiative — meeting our critical needs for growth and jobs in Europe' and the objectives and targets of the European Innovation Partnership on Raw Materials, Member States should take measures to promote the re-use of products constituting the main sources of critical raw materials to prevent that those materials become waste. In that context, the Commission has established a list of such materials for the Union in its communication of 13 September 2017 on 'the 2017 list of Critical Raw Materials for the EU' and that list is subject to regular review.
- (37) To further support effective implementation of the Raw Materials Initiative, Member States should also take measures to achieve the best possible management of waste containing significant amounts of critical raw materials, taking economic and technological feasibility and environmental and health benefits into account. They should also include in their waste management plans nationally appropriate measures regarding collection, sorting and recovery of waste containing significant amounts of those raw materials. The measures should be included in the waste management plans when they are updated for the first time following the entry into force of this Directive. The Commission should provide information about the relevant product groups and waste streams at Union level. The provision of that information does not preclude, however, Member States from taking measures for other raw materials considered as important to their national economy.
- (38) When products, materials and substances become waste, the presence of hazardous substances may render that waste unsuitable for recycling or the production of secondary raw materials of high quality. Therefore, in line with the 7th Environment Action Programme, which calls for the development of non-toxic material cycles, it is necessary to promote measures to reduce the content of hazardous substances in materials and products, including recycled materials, and to ensure that sufficient information about the presence of hazardous substances and especially substances of very high concern is communicated throughout the whole life cycle of products and materials. In order to achieve those objectives, it is necessary to improve the coherence among the law of the Union on waste, on chemicals and on products and to provide a role for the European Chemicals Agency to ensure that the information about the presence of substances of very high concern is available throughout the whole life cycle of products and materials, including at the waste stage.
- (39) Improving resource use could bring substantial net savings for Union businesses, public authorities and consumers while reducing total annual greenhouse gas emissions. For that reason, the Commission should propose, by the end of 2018, a lead indicator and a dashboard of sub-indicators on resource efficiency in order to monitor the progress towards the target of increasing resource efficiency at Union level.
- (40) Fostering a sustainable bio-economy can contribute to decreasing the Union's dependence on imported raw materials. Bio-based recyclable products and compostable bio-degradable products could represent therefore an opportunity to stimulate further research and innovation and to substitute fossil fuel-based feedstock with renewable resources.
- (41) In order to avoid waste treatment which locks in resources at the lower levels of the waste hierarchy, increase preparing for re-use and recycling rates, enable high-quality recycling and boost the uptake of quality secondary raw materials, Member States should ensure enhanced compliance with the obligation to collect waste separately, as laid down in Articles 10(2) and 11(1) of Directive 2008/98/EC, including the obligation to set up separate collection for at least paper, metal, plastic and glass waste that Member States had to meet by 2015, and should

<sup>(1)</sup> Directive 2008/56/EC of the European Parliament and of the Council of 17 June 2008 establishing a framework for Community action in the field of marine environmental policy (Marine Strategy Framework Directive) (OJ L 164, 25.6.2008, p. 19).

<sup>(2)</sup> Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy (OJ L 327, 22.12.2000, p. 1).

introduce separate collection of bio-waste, hazardous waste produced by households and textile waste. Where appropriate, hazardous bio-waste and packaging waste containing hazardous substances should be subject to specific collection requirements.

- (42) Separate collection could be achieved through door-to-door collection, bring and reception systems or other collection arrangements. While the obligation to separately collect waste requires that waste be kept separate by type and nature, it should be possible to collect certain types of waste together provided that this does not impede high-quality recycling or other recovery of waste, in line with the waste hierarchy. Member States should also be allowed to deviate from the general obligation to separately collect waste in other duly justified cases, for instance where the separate collection of specific waste streams in remote and scarcely populated areas causes negative environmental impacts that outweigh its overall environmental benefits or entails disproportionate economic costs. When assessing any cases in which economic costs might be disproportionate, Member States should take into account the overall economic benefits of separate collection, including in terms of avoided direct costs and costs of adverse environmental and health impacts associated with the collection and treatment of mixed waste, revenues from sales of secondary raw materials and the possibility to develop markets for such materials, as well as contributions by waste producers and producers of products, which could further improve the cost-efficiency of waste management systems.
- (43) The targets for preparing for re-use and recycling of municipal waste should be increased in order to deliver substantial environmental, economic and social benefits and to accelerate the shift towards a circular economy.
- (44) Through a progressive increase of the existing targets for preparing for re-use and recycling of municipal waste, it should be ensured that economically valuable waste materials are effectively prepared for re-use or recycled, while ensuring a high-level protection of human health and the environment, and that economically valuable materials found in waste are channelled back into the European economy, thus advancing the Raw Materials Initiative and the creation of a circular economy.
- (45) Large differences exist among Member States with respect to their waste management performance, particularly as regards recycling of municipal waste. In order to take account of those differences, those Member States which in 2013 prepared for re-use and recycled less than 20 % of their municipal waste or landfilled more than 60 % of their municipal waste according to data reported under the Joint Questionnaire of the OECD and Eurostat should be allowed to decide to extend the time for complying with the preparing for re-use and recycling targets established for 2025, 2030 and 2035. In light of average annual progression rates observed in Member States over the past 15 years, those Member States would need to increase their recycling capacity to levels that are well above past averages to meet those targets. In order to ensure that steady progress towards the targets is made and that implementation gaps are tackled in due time, Member States that make use of additional time should meet interim-targets and, based on detailed criteria, establish an implementation plan.
- (46) In order to ensure the reliability of data, it is important to lay down more precisely the rules according to which Member States should report what is effectively recycled and prepared for re-use and can be counted towards the attainment of the targets. The calculation of the recycling targets should be based on the weight of municipal waste which enters recycling. As a general rule, the actual measurement of the weight of municipal waste counted as recycled should be at the point where municipal waste enters the recycling operation. Nevertheless, in order to limit administrative burdens, Member States should, under strict conditions and by way of derogation from the general rule, be allowed to establish the weight of municipal waste recycled on the basis of measuring the output of any sorting operation. Losses of materials which occur before the waste enters the recycling operation, for instance due to sorting or other preliminary operations, should not be included in the waste amounts reported as recycled. Those losses can be established on the basis of electronic registries, technical specifications, detailed rules on the calculation of average loss rates for various waste streams or other equivalent measures. Member States should report on such measures in the quality check reports accompanying the data on waste recycling which they report to the Commission. The average loss rates should preferably be established at the level of individual sorting facilities and should be linked to the different main types of waste, different sources (such as household or

commercial), different collection schemes and different types of sorting processes. Average loss rates should only be used in cases where no other reliable data are available, in particular in the context of shipment and export of waste. Losses in weight of materials or substances due to physical or chemical transformation processes inherent in the recycling operation whereby waste materials are actually reprocessed into products, materials or substances should not be deducted from the weight of the waste reported as recycled.

- (47) With the alignment of the definitions contained in European Parliament and Council Directive 94/62/EC<sup>(1)</sup>, Directive 2000/53/EC, Directive 2006/66/EC, Directive 2008/98/EC, and Directive 2012/19/EU, the provision in Article 6 of Directive 2008/98/EC on considering waste that ceases to be waste for the purposes of the recovery and recycling targets set in those Directives is no longer necessary. Materials that cease to be waste through a recovery or recycling operation are to be counted for the attainment of the respective recovery or recycling targets set in those Directives in line with the applicable calculation methods. Where waste materials cease to be waste as a result of a preparatory operation before being actually reprocessed, such materials can be counted as recycled provided that they are destined for subsequent reprocessing into products, materials or substances, whether for the original or other purposes. End-of-waste materials which are to be used as fuels or other means to generate energy, which are backfilled or disposed of, or which are to be used in any operation that has the same purpose as recovery of waste other than preparing for re-use and recycling, should not be counted towards the attainment of the recycling targets.
- (48) Where the calculation of the recycling rate is applied to aerobic or anaerobic treatment of biodegradable waste, the amount of waste that enters aerobic or anaerobic treatment can be counted as recycled provided that such treatment generates output which is to be used as a recycled product, material or substance. While the output of such treatment is most commonly compost or digestate, other output could also be taken into account provided that it contains comparable quantities of recycled content in relation to the amount of the treated biodegradable waste. In other cases, in line with the definition of recycling, the reprocessing of biodegradable waste into materials which are to be used as fuels or other means to generate energy, which are disposed of, or which are to be used in any operation that has the same purpose as recovery of waste other than preparing for re-use and recycling, should not be counted towards the attainment of the recycling targets.
- (49) Member States should be able, for the purposes of calculating whether the preparing for re-use and recycling targets are attained, to take into account the recycling of metals that are separated after incineration of municipal waste. In order to ensure a uniform calculation of this data, the Commission should adopt detailed rules on the quality criteria for recycled metals and on the calculation, verification and reporting of data.
- (50) In the case of exports of waste from the Union for preparing for re-use or recycling, Member States should make effective use of the inspection powers provided for in Article 50(4c) of Regulation (EC) No 1013/2006 to require documentary evidence to ascertain whether a shipment is destined for recovery operations which are in compliance with Article 49 of that Regulation and therefore managed in an environmentally sound manner at a facility operating in accordance with human health and environmental protection standards that are broadly equivalent to standards established in Union legislation. In carrying out that task, Member States could cooperate with other relevant actors, such as the competent authorities in the country of destination, independent third-party verification bodies or organisations implementing extended producer responsibility obligations on behalf of producers of products established under extended producer responsibility schemes, which could carry out physical and other checks of facilities in third countries. In the quality check report accompanying the data on the attainment of the targets, Member States should report on the measures to implement the obligation to ensure that waste exported from the Union is treated in broadly equivalent conditions to those required under relevant Union environmental law.
- (51) In order to ensure better, more timely and more uniform implementation of this Directive and anticipate any implementation weaknesses, a system of early warning reports should be established to detect shortcomings and allow taking action ahead of the deadlines for meeting the targets.
- (52) Industrial waste, certain parts of commercial waste and extractive waste are extremely diversified in terms of composition and volume, and very different depending on the economic structure of a Member State, the structure of the industry or commerce sector that generates the waste and the industrial or commercial density in a given geographical area. Hence, for most industrial and extractive waste, an industry-oriented approach using Best Available Techniques reference documents and similar instruments to address the specific issues related to the management of a given type of waste has been considered a suitable solution. However, industrial and commercial

<sup>(1)</sup> European Parliament and Council Directive 94/62/EC of 20 December 1994 on packaging and packaging waste (OJ L 365, 31.12.1994, p. 10).

packaging waste should continue to be covered by the requirements of Directives 94/62/EC and 2008/98/EC, including their respective improvements. With a view to exploring further the potential to increase the preparing for re-use and recycling of commercial waste, non-hazardous industrial waste and other key waste streams, the Commission should consider the setting of targets for those waste streams.

- (53) With a view to ensuring that the objectives of Union waste law continue to be met, it is important that the Commission reviews the disposal operations listed in Annex I to Directive 2008/98/EC. That review should be carried out in the light of Article 13 of that Directive while taking into account relevant information, such as developments at international level, in particular in relation to the Basel Convention of 22 March 1989 on the control of transboundary movements of hazardous wastes and their disposal <sup>(1)</sup>.
- (54) Hazardous waste that is produced by households, such as hazardous waste from paints, varnishes, solvents or cleaning products, should also be collected separately in order to avoid contamination of municipal waste with hazardous waste fractions that could lower recycling quality and to ensure the environmentally sound management of that hazardous waste. In that regard, specific collection obligations are already in place for waste electrical and electronic equipment and waste batteries and accumulators produced by households.
- (55) The separate collection of waste oils and preventing their mixing with other kinds of waste or substances are essential to ensure that their treatment delivers the best overall environmental outcome. In treating waste oils, priority should be given to regeneration or alternatively to other recycling operations delivering an equivalent or a better overall environmental outcome than regeneration. With a view to further improving the management of waste oils, the Commission should consider, and, if appropriate, propose measures to improve the treatment of waste oils, including quantitative targets on their regeneration. During that review, attention should be paid to the treatment options regarding the regeneration of waste oils as well as to the quality and final use of the regenerated and recycled products.
- (56) In order to avoid waste treatment which locks in resources at the lower levels of the waste hierarchy, to enable high-quality recycling and to boost the uptake of quality secondary raw materials, Member States should ensure that bio-waste is separately collected and undergoes recycling in a way that fulfils a high level of environmental protection and the output of which meets relevant high quality standards.
- (57) This Directive sets long-term objectives for the Union's waste management and gives economic operators and Member States a clear direction for the investments needed to achieve those objectives. In developing their national waste management plans and planning investments in waste management infrastructure, Member States should assess and take into account the required investments and other financial means, including for local authorities. That assessment should be included in the waste management plan or other strategic documents. In that context, Member States should make sound use of investments, including through Union Funds, by prioritising prevention including re-use, preparing for re-use and recycling, in line with the waste hierarchy. The Commission should assist competent authorities in developing an effective financial framework, including through the use of Union Funds where appropriate, to implement the requirements of this Directive in accordance with the waste hierarchy and to support innovation in technologies and waste management.
- (58) Proper management of hazardous waste still presents a problem in the Union, and data on its treatment are partly missing. It is therefore necessary to strengthen record keeping and traceability mechanisms through the establishment of electronic registries for hazardous waste in Member States. Electronic data collection should be extended to other types of waste, where appropriate, in order to simplify record-keeping for businesses and administrations and improve the monitoring of waste flows in the Union.
- (59) Implementation reports prepared by Member States every three years have not proved to be an effective tool for verifying compliance or ensuring good implementation, and are generating unnecessary administrative burdens. It is therefore appropriate to repeal provisions obliging Member States to produce such reports. Instead, compliance monitoring should be exclusively based on the data which Member States report every year to the Commission.

<sup>(1)</sup> OJ L 39, 16.2.1993, p. 3.

- (60) Data reported by Member States are essential for the Commission to assess compliance with Union waste law by Member States. The quality, reliability and comparability of data should be improved by introducing a single entry point for all waste data, deleting obsolete reporting requirements, benchmarking national reporting methodologies and introducing a data quality check report. Therefore, when reporting on the attainment of the targets set out in legislative acts of the Union on waste, Member States should use the most recent rules developed by the Commission and methodologies developed by the respective national competent authorities responsible for implementing this Directive.
- (61) To facilitate adequate interpretation and implementation of the requirements set out in Directive 2008/98/EC, it is appropriate to develop and periodically review guidelines concerning those requirements and to ensure the exchange of information and sharing of best practices among Member States on the practical implementation and enforcement of those requirements. Such guidelines, information exchange and sharing of best practices should, *inter alia*, facilitate a common understanding and application in practice of the definition of 'waste', including the term 'discard', and should take into account circular business models in which, for instance, a substance or object is transferred from one holder to another holder without the intention to discard.
- (62) In order to supplement or amend Directive 2008/98/EC, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of Articles 7(1), 9(8), 11a(10), 27(1), 27(4), 38(2) and 38(3) of that Directive, as amended by this Directive. It is of particular importance that the Commission carries out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making <sup>(1)</sup>. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.
- (63) In order to ensure uniform conditions for the implementation of Directive 2008/98/EC, implementing powers should be conferred on the Commission in respect of Articles 5(2), 6(2), 8(5), 9(7), 11a(9), 33(2), 35(5) and 37(7) thereof as amended by this Directive. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council <sup>(2)</sup>.
- (64) Since the objectives of this Directive, namely to improve waste management in the Union, and thereby to contribute to the protection, preservation and improvement of the quality of the environment, the health of the oceans and the safety of seafood by reducing marine litter, and to the prudent and rational utilisation of natural resources across the Union, cannot be sufficiently achieved by the Member States, but can rather, by reason of the scale and effects of the measures, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.
- (65) Directive 2008/98/EC should therefore be amended accordingly.
- (66) In accordance with the Joint Political Declaration of 28 September 2011 of Member States and the Commission on explanatory documents <sup>(3)</sup>, Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments. With regard to this Directive, the legislator considers the transmission of such documents to be justified.
- (67) This Directive has been adopted taking into account the commitments set out in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making and it should be implemented and applied in accordance with the guidance contained in that Agreement,

<sup>(1)</sup> OJ L 123, 12.5.2016, p. 1.

<sup>(2)</sup> Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

<sup>(3)</sup> OJ C 369, 17.12.2011, p. 14.



HAVE ADOPTED THIS DIRECTIVE:

*Article 1*

**Amendments**

Directive 2008/98/EC is amended as follows:

(1) Article 1 is replaced by the following:

*'Article 1*

**Subject matter and scope**

This Directive lays down measures to protect the environment and human health by preventing or reducing the generation of waste, the adverse impacts of the generation and management of waste and by reducing overall impacts of resource use and improving the efficiency of such use, which are crucial for the transition to a circular economy and for guaranteeing the Union's long-term competitiveness.;

(2) in Article 2(2), the following point is added:

'(e) substances that are destined for use as feed materials as defined in point (g) of Article 3(2) of Regulation (EC) No 767/2009 of the European Parliament and of the Council (\*) and that do not consist of or contain animal by-products.

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(\*) Regulation (EC) No 767/2009 of the European Parliament and of the Council of 13 July 2009 on the placing on the market and use of feed, amending European Parliament and Council Regulation (EC) No 1831/2003 and repealing Council Directive 79/373/EEC, Commission Directive 80/511/EEC, Council Directives 82/471/EEC, 83/228/EEC, 93/74/EEC, 93/113/EC and 96/25/EC and Commission Decision 2004/217/EC (OJ L 229, 1.9.2009, p. 1).;

(3) Article 3 is amended as follows:

(a) the following points are inserted:

2a. "non-hazardous waste" means waste which is not covered by point 2;

2b. "municipal waste" means:

(a) mixed waste and separately collected waste from households, including paper and cardboard, glass, metals, plastics, bio-waste, wood, textiles, packaging, waste electrical and electronic equipment, waste batteries and accumulators, and bulky waste, including mattresses and furniture;

(b) mixed waste and separately collected waste from other sources, where such waste is similar in nature and composition to waste from households;

Municipal waste does not include waste from production, agriculture, forestry, fishing, septic tanks and sewage network and treatment, including sewage sludge, end-of-life vehicles or construction and demolition waste.

This definition is without prejudice to the allocation of responsibilities for waste management between public and private actors;

2c. "construction and demolition waste" means waste generated by construction and demolition activities;;

(b) point 4 is replaced by the following:

'4. "bio-waste" means biodegradable garden and park waste, food and kitchen waste from households, offices, restaurants, wholesale, canteens, caterers and retail premises and comparable waste from food processing plants;';



(c) the following point is inserted:

‘4a. “food waste” means all food as defined in Article 2 of Regulation (EC) No 178/2002 of the European Parliament and of the Council (\*) that has become waste;

(\*) Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety (OJ L 31, 1.2.2002, p. 1).’;

(d) point 9 is replaced by the following:

‘9. “waste management” means the collection, transport, recovery (including sorting), and disposal of waste, including the supervision of such operations and the after-care of disposal sites, and including actions taken as a dealer or broker;’;

(e) in point 12, point (c) is replaced by the following:

‘(c) the content of hazardous substances in materials and products;’;

(f) the following point is inserted:

‘15a. “material recovery” means any recovery operation, other than energy recovery and the reprocessing into materials that are to be used as fuels or other means to generate energy. It includes, *inter alia*, preparing for re-use, recycling and backfilling;’;

(g) the following point is inserted:

‘17a. “backfilling” means any recovery operation where suitable non-hazardous waste is used for purposes of reclamation in excavated areas or for engineering purposes in landscaping. Waste used for backfilling must substitute non-waste materials, be suitable for the aforementioned purposes, and be limited to the amount strictly necessary to achieve those purposes;’;

(h) the following point is added:

‘21. “extended producer responsibility scheme” means a set of measures taken by Member States to ensure that producers of products bear financial responsibility or financial and organisational responsibility for the management of the waste stage of a product’s life cycle;’;

(4) in Article 4, the following paragraph is added:

‘3. Member States shall make use of economic instruments and other measures to provide incentives for the application of the waste hierarchy, such as those indicated in Annex IVa or other appropriate instruments and measures;’;

(5) Article 5 is amended as follows:

(a) in paragraph 1, the introductory part is replaced by the following:

‘1. Member States shall take appropriate measures to ensure that a substance or object resulting from a production process the primary aim of which is not the production of that substance or object is considered not to be waste, but to be a by-product if the following conditions are met:’;

(b) paragraph 2 is replaced by the following:

‘2. The Commission may adopt implementing acts in order to establish detailed criteria on the uniform application of the conditions laid down in paragraph 1 to specific substances or objects.

Those detailed criteria shall ensure a high level of protection of the environment and human health and facilitate the prudent and rational utilisation of natural resources.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 39(2). When adopting those implementing acts, the Commission shall take as a starting point the most stringent and environmentally protective of any criteria adopted by Member States in accordance with paragraph 3 of this Article and shall prioritise replicable practices of industrial symbiosis in the development of the detailed criteria.’;

(c) the following paragraph is added:

'3. Where criteria have not been set at Union level under paragraph 2, Member States may establish detailed criteria on the application of the conditions laid down in paragraph 1 to specific substances or objects.

Member States shall notify the Commission of those detailed criteria in accordance with Directive (EU) 2015/1535 of the European Parliament and of the Council (\*) where so required by that Directive.

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(\*) Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services (OJ L 241, 17.9.2015, p. 1).';

(6) Article 6 is amended as follows:

(a) paragraph 1 is amended as follows:

(i) the introductory part and point (a) are replaced by the following:

'1. Member States shall take appropriate measures to ensure that waste which has undergone a recycling or other recovery operation is considered to have ceased to be waste if it complies with the following conditions:

(a) the substance or object is to be used for specific purposes;';

(ii) the second subparagraph is deleted;

(b) paragraphs 2, 3 and 4 are replaced by the following:

'2. The Commission shall monitor the development of national end-of-waste criteria in Member States, and assess the need to develop Union-wide criteria on this basis. To that end, and where appropriate, the Commission shall adopt implementing acts in order to establish detailed criteria on the uniform application of the conditions laid down in paragraph 1 to certain types of waste.

Those detailed criteria shall ensure a high level of protection of the environment and human health and facilitate the prudent and rational utilisation of natural resources. They shall include:

(a) permissible waste input material for the recovery operation;

(b) allowed treatment processes and techniques;

(c) quality criteria for end-of-waste materials resulting from the recovery operation in line with the applicable product standards, including limit values for pollutants where necessary;

(d) requirements for management systems to demonstrate compliance with the end-of-waste criteria, including for quality control and self-monitoring, and accreditation, where appropriate; and

(e) a requirement for a statement of conformity.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 39(2).

When adopting those implementing acts, the Commission shall take account of the relevant criteria established by Member States in accordance with paragraph 3 and shall take as a starting point the most stringent and environmentally protective of those criteria.

3. Where criteria have not been set at Union level under paragraph 2, Member States may establish detailed criteria on the application of the conditions laid down in paragraph 1 to certain types of waste. Those detailed criteria shall take into account any possible adverse environmental and human health impacts of the substance or object and shall satisfy the requirements laid down in points (a) to (e) of paragraph 2.

Member States shall notify the Commission of those criteria in accordance with Directive (EU) 2015/1535 where so required by that Directive.

4. Where criteria have not been set at either Union or national level under paragraph 2 or 3, respectively, a Member State may decide on a case-by-case basis, or take appropriate measures to verify, that certain waste has ceased to be waste on the basis of the conditions laid down in paragraph 1 and, where necessary, reflecting the requirements laid down in points (a) to (e) of paragraph 2, and taking into account limit values for pollutants and any possible adverse environmental and human health impacts. Such case-by-case decisions are not required to be notified to the Commission in accordance with Directive (EU) 2015/1535.

Member States may make information about case-by-case decisions and about the results of verification by competent authorities publicly available by electronic means.;

(c) the following paragraph is added:

‘5. The natural or legal person who:

(a) uses, for the first time, a material that has ceased to be waste and that has not been placed on the market; or

(b) places a material on the market for the first time after it has ceased to be waste,

shall ensure that the material meets relevant requirements under the applicable chemical and product related legislation. The conditions laid down in paragraph 1 have to be met before the legislation on chemicals and products applies to the material that has ceased to be waste.;

(7) Article 7 is amended as follows:

(a) in paragraph 1, the first sentence is replaced by the following:

‘1. The Commission is empowered to adopt delegated acts in accordance with Article 38a in order to supplement this Directive by establishing, and reviewing in accordance with paragraphs 2 and 3 of this Article, a list of waste.;

(b) paragraph 2 is replaced by the following:

‘2. A Member State may consider waste as hazardous waste where, even though it does not appear as such on the list of waste, it displays one or more of the properties listed in Annex III. The Member State shall notify the Commission of any such cases without delay and provide the Commission with all relevant information. In the light of notifications received, the list shall be reviewed in order to decide on its adaptation.;

(c) paragraph 5 is deleted;

(8) Article 8 is amended as follows:

(a) in paragraph 1, the following subparagraphs are added:

‘Where such measures include the establishment of extended producer responsibility schemes, the general minimum requirements laid down in Article 8a shall apply.

Member States may decide that producers of products that undertake financial or financial and organisational responsibilities for the management of the waste stage of a product’s life cycle of their own accord should apply some or all of the general minimum requirements laid down in Article 8a.;

(b) paragraph 2 is replaced by the following:

‘2. Member States may take appropriate measures to encourage the design of products and components of products in order to reduce their environmental impact and the generation of waste in the course of the production and subsequent use of products, and in order to ensure that the recovery and disposal of products that have become waste take place in accordance with Articles 4 and 13.

Such measures may encourage, *inter alia*, the development, production and marketing of products and components of products that are suitable for multiple use, that contain recycled materials, that are technically durable and easily repairable and that are, after having become waste, suitable for preparing for re-use and recycling in order to facilitate proper implementation of the waste hierarchy. The measures shall take into account the impact of products throughout their life cycle, the waste hierarchy and, where appropriate, the potential for multiple recycling.;

(c) the following paragraph is added:

‘5. The Commission shall organise an exchange of information between Member States and the actors involved in extended producer responsibility schemes on the practical implementation of the general minimum requirements laid down in Article 8a. This includes, *inter alia*, exchange of information on best practices to ensure adequate governance, cross-border cooperation concerning extended producer responsibility schemes and a smooth functioning of the internal market, on the organisational features and the monitoring of organisations implementing extended producer responsibility obligations on behalf of producers of products, on the modulation of financial contributions, on the selection of waste management operators and on the prevention of littering. The Commission shall publish the results of the exchange of information and may provide guidelines on these and other relevant aspects.

The Commission shall publish guidelines, in consultation with Member States, on cross-border cooperation concerning extended producer responsibility schemes and on the modulation of financial contributions referred to in point (b) of Article 8a(4).

Where necessary to avoid distortion of the internal market, the Commission may adopt implementing acts in order to lay down criteria with a view to the uniform application of point (b) of Article 8a(4), but excluding any precise determination of the level of the contributions. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 39(2).’;

(9) the following article is inserted:

‘Article 8a

**General minimum requirements for extended producer responsibility schemes**

1. Where extended producer responsibility schemes are established in accordance with Article 8(1), including pursuant to other legislative acts of the Union, Member States shall:

- (a) define in a clear way the roles and responsibilities of all relevant actors involved, including producers of products placing products on the market of the Member State, organisations implementing extended producer responsibility obligations on their behalf, private or public waste operators, local authorities and, where appropriate, re-use and preparing for re-use operators and social economy enterprises;
- (b) in line with the waste hierarchy, set waste management targets, aiming to attain at least the quantitative targets relevant for the extended producer responsibility scheme as laid down in this Directive, Directive 94/62/EC, Directive 2000/53/EC, Directive 2006/66/EC and Directive 2012/19/EU of the European Parliament and of the Council (\*), and set other quantitative targets and/or qualitative objectives that are considered relevant for the extended producer responsibility scheme;
- (c) ensure that a reporting system is in place to gather data on the products placed on the market of the Member State by the producers of products subject to extended producer responsibility and data on the collection and treatment of waste resulting from those products specifying, where appropriate, the waste material flows, as well as other data relevant for the purposes of point (b);
- (d) ensure equal treatment of producers of products regardless of their origin or size, without placing a disproportionate regulatory burden on producers, including small and medium-sized enterprises, of small quantities of products.

2. Member States shall take the necessary measures to ensure that the waste holders targeted by the extended producer responsibility schemes established in accordance with Article 8(1), are informed about waste prevention measures, centres for re-use and preparing for re-use, take-back and collection systems, and the prevention of littering. Member States shall also take measures to create incentives for the waste holders to assume their responsibility to deliver their waste into the separate collection systems in place, notably, where appropriate, through economic incentives or regulations.

3. Member States shall take the necessary measures to ensure that any producer of products or organisation implementing extended producer responsibility obligations on behalf of producers of products:

- (a) has a clearly defined geographical, product and material coverage without limiting those areas to those where the collection and management of waste are the most profitable;
- (b) provides an appropriate availability of waste collection systems within the areas referred to in point (a);

- (c) has the necessary financial means or financial and organisational means to meet its extended producer responsibility obligations;
- (d) puts in place an adequate self-control mechanism, supported, where relevant, by regular independent audits, to appraise:
  - (i) its financial management, including compliance with the requirements laid down in points (a) and (b) of paragraph 4;
  - (ii) the quality of data collected and reported in accordance with point (c) of paragraph 1 of this Article and with the requirements of Regulation (EC) No 1013/2006;
- (e) makes publicly available information about the attainment of the waste management targets referred to in point (b) of paragraph 1, and, in the case of collective fulfilment of extended producer responsibility obligations, also information about:
  - (i) its ownership and membership;
  - (ii) the financial contributions paid by producers of products per unit sold or per tonne of product placed on the market; and
  - (iii) the selection procedure for waste management operators.

4. Member States shall take the necessary measures to ensure that the financial contributions paid by the producer of the product to comply with its extended producer responsibility obligations:

- (a) cover the following costs for the products that the producer puts on the market in the Member State concerned:
  - costs of separate collection of waste and its subsequent transport and treatment, including treatment necessary to meet the Union waste management targets, and costs necessary to meet other targets and objectives as referred to in point (b) of paragraph 1, taking into account the revenues from re-use, from sales of secondary raw material from its products and from unclaimed deposit fees,
  - costs of providing adequate information to waste holders in accordance with paragraph 2,
  - costs of data gathering and reporting in accordance with point (c) of paragraph 1.

This point shall not apply to extended producer responsibility schemes established pursuant to Directive 2000/53/EC, 2006/66/EC or 2012/19/EU;

- (b) in the case of collective fulfilment of extended producer responsibility obligations, are modulated, where possible, for individual products or groups of similar products, notably by taking into account their durability, reparability, re-usability and recyclability and the presence of hazardous substances, thereby taking a life-cycle approach and aligned with the requirements set by relevant Union law, and where available, based on harmonised criteria in order to ensure a smooth functioning of the internal market; and
- (c) do not exceed the costs that are necessary to provide waste management services in a cost-efficient way. Such costs shall be established in a transparent way between the actors concerned.

Where justified by the need to ensure proper waste management and the economic viability of the extended producer responsibility scheme, Member States may depart from the division of financial responsibility as laid down in point (a), provided that:

- (i) in the case of extended producer responsibility schemes established to attain waste management targets and objectives established under legislative acts of the Union, the producers of products bear at least 80 % of the necessary costs;
- (ii) in the case of extended producer responsibility schemes established on or after 4 July 2018 to attain waste management targets and objectives solely established in Member State legislation, the producers of products bear at least 80 % of the necessary costs;
- (iii) in the case of extended producer responsibility schemes established before 4 July 2018 to attain waste management targets and objectives solely established in Member State legislation, the producers of products bear at least 50 % of the necessary costs,

and provided that the remaining costs are borne by original waste producers or distributors.

This derogation may not be used to lower the proportion of costs borne by producers of products under extended producer responsibility schemes established before 4 July 2018.

5. Member States shall establish an adequate monitoring and enforcement framework with a view to ensuring that producers of products and organisations implementing extended producer responsibility obligations on their behalf implement their extended producer responsibility obligations, including in the case of distance sales, that the financial means are properly used and that all actors involved in the implementation of the extended producer responsibility schemes report reliable data.

Where, in the territory of a Member State, multiple organisations implement extended producer responsibility obligations on behalf of producers of products, the Member State concerned shall appoint at least one body independent of private interests or entrust a public authority to oversee the implementation of extended producer responsibility obligations.

Each Member State shall allow the producers of products established in another Member State and placing products on its territory to appoint a legal or natural person established on its territory as an authorised representative for the purposes of fulfilling the obligations of a producer related to extended producer responsibility schemes on its territory.

For the purposes of monitoring and verifying compliance with the obligations of the producer of the product in relation to extended producer responsibility schemes, Member States may lay down requirements, such as registration, information and reporting requirements, to be met by a legal or natural person to be appointed as an authorised representative on their territory.

6. Member States shall ensure a regular dialogue between relevant stakeholders involved in the implementation of extended producer responsibility schemes, including producers and distributors, private or public waste operators, local authorities, civil society organisations and, where applicable, social economy actors, re-use and repair networks and preparing for re-use operators.

7. Member States shall take measures to ensure that extended producer responsibility schemes that have been established before 4 July 2018, comply with this Article by 5 January 2023.

8. The provision of information to the public under this Article shall be without prejudice to preserving the confidentiality of commercially sensitive information in conformity with the relevant Union and national law.

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(\*) Directive 2012/19/EU of the European Parliament and of the Council of 4 July 2012 on waste electrical and electronic equipment (WEEE) (OJ L 197, 24.7.2012, p. 38).;

(10) Article 9 is replaced by the following:

*‘Article 9*

**Prevention of waste**

1. Member States shall take measures to prevent waste generation. Those measures shall, at least:

- (a) promote and support sustainable production and consumption models;
- (b) encourage the design, manufacturing and use of products that are resource-efficient, durable (including in terms of life span and absence of planned obsolescence), repairable, re-usable and upgradable;
- (c) target products containing critical raw materials to prevent that those materials become waste;
- (d) encourage the re-use of products and the setting up of systems promoting repair and re-use activities, including in particular for electrical and electronic equipment, textiles and furniture, as well as packaging and construction materials and products;



- (e) encourage, as appropriate and without prejudice to intellectual property rights, the availability of spare parts, instruction manuals, technical information, or other instruments, equipment or software enabling the repair and re-use of products without compromising their quality and safety;
- (f) reduce waste generation in processes related to industrial production, extraction of minerals, manufacturing, construction and demolition, taking into account best available techniques;
- (g) reduce the generation of food waste in primary production, in processing and manufacturing, in retail and other distribution of food, in restaurants and food services as well as in households as a contribution to the United Nations Sustainable Development Goal to reduce by 50 % the per capita global food waste at the retail and consumer levels and to reduce food losses along production and supply chains by 2030;
- (h) encourage food donation and other redistribution for human consumption, prioritising human use over animal feed and the reprocessing into non-food products;
- (i) promote the reduction of the content of hazardous substances in materials and products, without prejudice to harmonised legal requirements concerning those materials and products laid down at Union level, and ensure that any supplier of an article as defined in point 33 of Article 3 of Regulation (EC) No 1907/2006 of the European Parliament and of the Council (\*) provides the information pursuant to Article 33(1) of that Regulation to the European Chemicals Agency as from 5 January 2021;
- (j) reduce the generation of waste, in particular waste that is not suitable for preparing for re-use or recycling;
- (k) identify products that are the main sources of littering, notably in natural and marine environments, and take appropriate measures to prevent and reduce litter from such products; where Member States decide to implement this obligation through market restrictions, they shall ensure that such restrictions are proportionate and non-discriminatory;
- (l) aim to halt the generation of marine litter as a contribution towards the United Nations Sustainable Development Goal to prevent and significantly reduce marine pollution of all kinds; and
- (m) develop and support information campaigns to raise awareness about waste prevention and littering.

2. The European Chemicals Agency shall establish a database for the data to be submitted to it pursuant to point (i) of paragraph 1 by 5 January 2020 and maintain it. The European Chemicals Agency shall provide access to that database to waste treatment operators. It shall also provide access to that database to consumers upon request.

3. Member States shall monitor and assess the implementation of the waste prevention measures. For that purpose, they shall use appropriate qualitative or quantitative indicators and targets, notably on the quantity of waste that is generated.

4. Member States shall monitor and assess the implementation of their measures on re-use by measuring re-use on the basis of the common methodology established by the implementing act referred to in paragraph 7, as from the first full calendar year after the adoption of that implementing act.

5. Member States shall monitor and assess the implementation of their food waste prevention measures by measuring the levels of food waste on the basis of the methodology established by the delegated act referred to in paragraph 8, as from the first full calendar year after the adoption of that delegated act.

6. By 31 December 2023, the Commission shall examine the data on food waste provided by Member States in accordance with Article 37(3) with a view to considering the feasibility of establishing a Union-wide food waste reduction target to be met by 2030 on the basis of the data reported by Member States in accordance with the common methodology established pursuant to paragraph 8 of this Article. To that end, the Commission shall submit a report to the European Parliament and to the Council, accompanied, if appropriate, by a legislative proposal.

7. The Commission shall adopt implementing acts to establish indicators to measure the overall progress in the implementation of waste prevention measures and shall, by 31 March 2019, adopt an implementing act to establish a common methodology to report on re-use of products. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 39(2).

8. By 31 March 2019, the Commission shall adopt, on the basis of the outcome of the work of the EU Platform on Food Losses and Food Waste, a delegated act in accordance with Article 38a to supplement this Directive by establishing a common methodology and minimum quality requirements for the uniform measurement of levels of food waste.

9. By 31 December 2024, the Commission shall examine data on re-use provided by Member States in accordance with Article 37(3) with a view to considering the feasibility of measures to encourage the re-use of products, including the setting of quantitative targets. The Commission shall also examine the feasibility of setting other waste prevention measures, including waste reduction targets. To that end, the Commission shall submit a report to the European Parliament and to the Council, accompanied, if appropriate, by a legislative proposal.

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(\*) Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC (OJ L 396, 30.12.2006, p. 1).';

(11) Article 10 is replaced by the following:

*'Article 10*

**Recovery**

1. Member States shall take the necessary measures to ensure that waste undergoes preparing for re-use, recycling or other recovery operations, in accordance with Articles 4 and 13.

2. Where necessary to comply with paragraph 1 and to facilitate or improve preparing for re-use, recycling and other recovery operations, waste shall be subject to separate collection and shall not be mixed with other waste or other materials with different properties.

3. Member States may allow derogations from paragraph 2 provided that at least one of the following conditions is met:

- (a) collecting certain types of waste together does not affect their potential to undergo preparing for re-use, recycling or other recovery operations in accordance with Article 4 and results in output from those operations which is of comparable quality to that achieved through separate collection;
- (b) separate collection does not deliver the best environmental outcome when considering the overall environmental impacts of the management of the relevant waste streams;
- (c) separate collection is not technically feasible taking into consideration good practices in waste collection;
- (d) separate collection would entail disproportionate economic costs taking into account the costs of adverse environmental and health impacts of mixed waste collection and treatment, the potential for efficiency improvements in waste collection and treatment, revenues from sales of secondary raw materials as well as the application of the polluter-pays principle and extended producer responsibility.

Member States shall regularly review derogations under this paragraph taking into account good practices in separate collection of waste and other developments in waste management.

4. Member States shall take measures to ensure that waste that has been separately collected for preparing for re-use and recycling pursuant to Article 11(1) and Article 22 is not incinerated, with the exception of waste resulting from subsequent treatment operations of the separately collected waste for which incineration delivers the best environmental outcome in accordance with Article 4.

5. Where necessary to comply with paragraph 1 of this Article and to facilitate or improve recovery, Member States shall take the necessary measures, before or during recovery, to remove hazardous substances, mixtures and components from hazardous waste with a view to their treatment in accordance with Articles 4 and 13.

6. By 31 December 2021, Member States shall submit a report to the Commission on the implementation of this Article as regards municipal waste and bio-waste, including on the material and territorial coverage of separate collection and any derogations under paragraph 3.;

(12) Article 11 is amended as follows:

(a) the title is replaced by the following:

*'Preparing for re-use and recycling';*

(b) paragraph 1 is replaced by the following:

'1. Member States shall take measures to promote preparing for re-use activities, notably by encouraging the establishment of and support for preparing for re-use and repair networks, by facilitating, where compatible with proper waste management, their access to waste held by collection schemes or facilities that can be prepared for re-use but is not destined for preparing for re-use by those schemes or facilities, and by promoting the use of economic instruments, procurement criteria, quantitative objectives or other measures.

Member States shall take measures to promote high-quality recycling and, to this end, subject to Article 10(2) and (3), shall set up separate collection of waste.

Subject to Article 10(2) and (3), Member States shall set up separate collection at least for paper, metal, plastic and glass, and, by 1 January 2025, for textiles.

Member States shall take measures to promote selective demolition in order to enable removal and safe handling of hazardous substances and facilitate re-use and high-quality recycling by selective removal of materials, and to ensure the establishment of sorting systems for construction and demolition waste at least for wood, mineral fractions (concrete, bricks, tiles and ceramics, stones), metal, glass, plastic and plaster.;

(c) paragraph 2 is amended as follows:

(i) the introductory part is replaced by the following:

'2. In order to comply with the objectives of this Directive, and move to a European circular economy with a high level of resource efficiency, Member States shall take the necessary measures designed to achieve the following targets.;

(ii) the following points are added:

'(c) by 2025, the preparing for re-use and the recycling of municipal waste shall be increased to a minimum of 55 % by weight;

(d) by 2030, the preparing for re-use and the recycling of municipal waste shall be increased to a minimum of 60 % by weight;

(e) by 2035, the preparing for re-use and the recycling of municipal waste shall be increased to a minimum of 65 % by weight.;

(d) paragraphs 3, 4 and 5 are replaced by the following:

'3. A Member State may postpone the deadlines for attaining the targets referred to in points (c), (d) and (e) of paragraph 2 by up to five years provided that that Member State:

(a) prepared for re-use and recycled less than 20 % or landfilled more than 60 % of its municipal waste generated in 2013 as reported under the Joint Questionnaire of the OECD and Eurostat; and

(b) at the latest 24 months before the respective deadline laid down in point (c), (d) or (e) of paragraph 2, notifies the Commission of its intention to postpone the respective deadline and submits an implementation plan in accordance with Annex IVb.

4. Within three months of receipt of the implementation plan submitted pursuant to point (b) of paragraph 3, the Commission may request a Member State to revise that plan if the Commission considers that the plan does not comply with the requirements set out in Annex IVb. The Member State concerned shall submit a revised plan within three months of receipt of the Commission's request.

5. In the event of postponing the attainment of the targets in accordance with paragraph 3, the Member State concerned shall take the necessary measures to increase the preparing for re-use and the recycling of municipal waste:

(a) to a minimum of 50 % by 2025 in the event of postponing the deadline for attaining the target referred to in point (c) of paragraph 2;

(b) to a minimum of 55 % by 2030 in the event of postponing the deadline for attaining the target referred to in point (d) of paragraph 2;

(c) to a minimum of 60 % by 2035 in the event of postponing the deadline for attaining the target referred to in point (e) of paragraph 2.;

(e) the following paragraphs are added:

‘6. By 31 December 2024, the Commission shall consider the setting of preparing for re-use and recycling targets for construction and demolition waste and its material-specific fractions, textile waste, commercial waste, non-hazardous industrial waste and other waste streams, as well as preparing for re-use targets for municipal waste and recycling targets for municipal bio-waste. To that end, the Commission shall submit a report to the European Parliament and to the Council, accompanied, if appropriate, by a legislative proposal.

7. By 31 December 2028, the Commission shall review the target laid down in point (e) of paragraph 2. To that end, the Commission shall submit a report to the European Parliament and to the Council, accompanied, if appropriate, by a legislative proposal.

The Commission shall assess co-processing technology that allows the incorporation of minerals in the co-incineration process of municipal waste. Where a reliable methodology can be found, as part of this review, the Commission shall consider whether such minerals may be counted towards recycling targets.’;

(13) the following articles are inserted:

*‘Article 11a*

**Rules on the calculation of the attainment of the targets**

1. For the purpose of calculating whether the targets laid down in points (c), (d) and (e) of Article 11(2) and in Article 11(3) have been attained:

- (a) Member States shall calculate the weight of the municipal waste generated and prepared for re-use or recycled in a given calendar year;
- (b) the weight of the municipal waste prepared for re-use shall be calculated as the weight of products or components of products that have become municipal waste and have undergone all necessary checking, cleaning or repairing operations to enable re-use without further sorting or pre-processing;
- (c) the weight of the municipal waste recycled shall be calculated as the weight of waste which, having undergone all necessary checking, sorting and other preliminary operations to remove waste materials that are not targeted by the subsequent reprocessing and to ensure high-quality recycling, enters the recycling operation whereby waste materials are actually reprocessed into products, materials or substances.

2. For the purposes of point (c) of paragraph 1, the weight of the municipal waste recycled shall be measured when the waste enters the recycling operation.

By way of derogation from the first subparagraph, the weight of municipal waste recycled may be measured at the output of any sorting operation provided that:

- (a) such output waste is subsequently recycled;
- (b) the weight of materials or substances that are removed by further operations preceding the recycling operation and are not subsequently recycled is not included in the weight of waste reported as recycled.

3. Member States shall establish an effective system of quality control and traceability of municipal waste to ensure that the conditions laid down in point (c) of paragraph 1 of this Article and in paragraph 2 of this Article are met. To ensure the reliability and accuracy of the data gathered on recycled waste, the system may consist of electronic registries set up pursuant to Article 35(4), technical specifications for the quality requirements of sorted waste, or average loss rates for sorted waste for various waste types and waste management practices respectively. Average loss rates shall only be used in cases where reliable data cannot be obtained otherwise and shall be calculated on the basis of the calculation rules established in the delegated act adopted pursuant to paragraph 10 of this Article.

4. For the purpose of calculating whether the targets laid down in points (c), (d) and (e) of Article 11(2) and in Article 11(3) have been attained, the amount of municipal biodegradable waste that enters aerobic or anaerobic treatment may be counted as recycled where that treatment generates compost, digestate, or other output with a similar quantity of recycled content in relation to input, which is to be used as a recycled product, material or substance. Where the output is used on land, Member States may count it as recycled only if this use results in benefits to agriculture or ecological improvement.

As from 1 January 2027, Member States may count municipal bio-waste entering aerobic or anaerobic treatment as recycled only if, in accordance with Article 22, it has been separately collected or separated at source.

5. For the purposes of calculating whether the targets laid down in points (c), (d) and (e) of Article 11(2) and in Article 11(3) have been attained, the amount of waste materials that have ceased to be waste as a result of a preparatory operation before being reprocessed may be counted as recycled provided that such materials are destined for subsequent reprocessing into products, materials or substances to be used for the original or other purposes. However, end-of-waste materials to be used as fuels or other means to generate energy, or to be incinerated, backfilled or landfilled, shall not be counted towards the attainment of the recycling targets.

6. For the purposes of calculating whether the targets laid down in points (c), (d) and (e) of Article 11(2) and in Article 11(3) have been attained, Member States may take into account the recycling of metals separated after incineration of municipal waste provided that the recycled metals meet certain quality criteria laid down in the implementing act adopted pursuant to paragraph 9 of this Article.

7. Waste sent to another Member State for the purposes of preparing for re-use, recycling or backfilling in that other Member State may only be counted towards the attainment of the targets laid down in Article 11(2) and (3) by the Member State in which that waste was collected.

8. Waste exported from the Union for preparing for re-use or recycling shall count towards the attainment of the targets laid down in Article 11(2) and (3) of this Directive by the Member State in which it was collected only if the requirements of paragraph 3 of this Article are met and if, in accordance with Regulation (EC) No 1013/2006, the exporter can prove that the shipment of waste complies with the requirements of that Regulation and that the treatment of waste outside the Union took place in conditions that are broadly equivalent to the requirements of the relevant Union environmental law.

9. In order to ensure uniform conditions for the application of this Article, the Commission shall adopt by 31 March 2019 implementing acts establishing rules for the calculation, verification and reporting of data, in particular as regards:

- (a) a common methodology for the calculation of the weight of metals that have been recycled in accordance with paragraph 6, including quality criteria for the recycled metals, and
- (b) bio-waste separated and recycled at source.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 39(2).

10. By 31 March 2019, the Commission shall adopt a delegated act in accordance with Article 38a in order to supplement this Directive by establishing rules for the calculation, verification and reporting of the weight of materials or substances which are removed after a sorting operation and which are not subsequently recycled, based on average loss rates for sorted waste.

#### *Article 11b*

##### **Early warning report**

1. The Commission shall, in cooperation with the European Environment Agency, draw up reports on the progress towards the attainment of the targets laid down in points (c), (d) and (e) of Article 11(2) and in Article 11(3) at the latest three years before each deadline laid down therein.

2. The reports referred to in paragraph 1 shall include the following:

- (a) an estimation of the attainment of the targets by each Member State;
- (b) a list of Member States at risk of not attaining the targets within the respective deadlines, accompanied by appropriate recommendations for the Member States concerned;
- (c) examples of best practices that are used throughout the Union which could provide guidance for progressing towards attaining the targets;

(14) Article 12 is replaced by the following:

*'Article 12*

**Disposal**

1. Member States shall ensure that, where recovery in accordance with Article 10(1) is not undertaken, waste undergoes safe disposal operations which meet the provisions of Article 13 on the protection of human health and the environment.

2. By 31 December 2024, the Commission shall carry out an assessment of the disposal operations listed in Annex I, in particular in light of Article 13, and shall submit a report to the European Parliament and to the Council, accompanied, if appropriate, by a legislative proposal, with a view to regulating disposal operations, including through possible restrictions, and to consider a disposal reduction target, to ensure environmentally sound waste management.';

(15) Article 14 is replaced by the following:

*'Article 14*

**Costs**

1. In accordance with the polluter-pays principle, the costs of waste management, including for the necessary infrastructure and its operation, shall be borne by the original waste producer or by the current or previous waste holders.

2. Without prejudice to Articles 8 and 8a, Member States may decide that the costs of waste management are to be borne partly or wholly by the producer of the product from which the waste came and that the distributors of such product may share these costs.';

(16) in Article 18, paragraph 3 is replaced by the following:

'3. Where hazardous waste has been unlawfully mixed in breach of this Article, Member States shall ensure, without prejudice to Article 36, that separation is carried out where technically feasible and necessary to comply with Article 13.

Where separation is not required pursuant to the first subparagraph of this paragraph, Member States shall ensure that the mixed waste is treated in a facility that has obtained a permit in accordance with Article 23 to treat such a mixture.';

(17) Article 20 is replaced by the following:

*'Article 20*

**Hazardous waste produced by households**

1. By 1 January 2025, Member States shall set up separate collection for hazardous waste fractions produced by households to ensure that they are treated in accordance with Articles 4 and 13 and do not contaminate other municipal waste streams.

2. Articles 17, 18, 19 and 35 shall not apply to mixed waste produced by households.

3. Articles 19 and 35 shall not apply to separate fractions of hazardous waste produced by households until they are accepted for collection, disposal or recovery by an establishment or an undertaking which has obtained a permit or has been registered in accordance with Article 23 or 26.

4. By 5 January 2020, the Commission shall draw up guidelines to assist and facilitate Member States in the separate collection of hazardous waste fractions produced by households.';

(18) Article 21 is amended as follows:

(a) in paragraph 1, points (a), (b) and (c) are replaced by the following:

(a) waste oils are collected separately, unless separate collection is not technically feasible taking into account good practices;

(b) waste oils are treated, giving priority to regeneration or alternatively to other recycling operations delivering an equivalent or a better overall environmental outcome than regeneration, in accordance with Articles 4 and 13;

(c) waste oils of different characteristics are not mixed and waste oils are not mixed with other kinds of waste or substances, if such mixing impedes their regeneration or another recycling operation delivering an equivalent or a better overall environmental outcome than regeneration.';



(b) the following paragraph is added:

‘4. By 31 December 2022, the Commission shall examine data on waste oils provided by Member States in accordance with Article 37(4) with a view to considering the feasibility of adopting measures for the treatment of waste oils, including quantitative targets on the regeneration of waste oils and any further measures to promote the regeneration of waste oils. To that end, the Commission shall submit a report to the European Parliament and to the Council, accompanied, if appropriate, by a legislative proposal.’;

(19) Article 22 is replaced by the following:

‘Article 22

**Bio-waste**

1. Member States shall ensure that, by 31 December 2023 and subject to Article 10(2) and (3), bio-waste is either separated and recycled at source, or is collected separately and is not mixed with other types of waste.

Member States may allow waste with similar biodegradability and compostability properties which complies with relevant European standards or any equivalent national standards for packaging recoverable through composting and biodegradation, to be collected together with bio-waste.

2. Member States shall take measures in accordance with Articles 4 and 13, to:

(a) encourage the recycling, including composting and digestion, of bio-waste in a way that fulfils a high level of environment protection and results in output which meets relevant high-quality standards;

(b) encourage home composting; and

(c) promote the use of materials produced from bio-waste.

3. By 31 December 2018, the Commission shall request the European standardisation organisations to develop European standards for bio-waste entering organic recycling processes, for compost and for digestate, based on best available practices.’;

(20) Article 27 is amended as follows:

(a) paragraph 1 is replaced by the following:

‘1. The Commission shall adopt delegated acts in accordance with Article 38a in order to supplement this Directive by setting out technical minimum standards for treatment activities, including for sorting and recycling of waste, which require a permit pursuant to Article 23 where there is evidence that a benefit in terms of the protection of human health and the environment would be gained from such minimum standards.’;

(b) paragraph 4 is replaced by the following:

‘4. The Commission shall adopt delegated acts in accordance with Article 38a in order to supplement this Directive by setting out the minimum standards for activities that require registration pursuant to points (a) and (b) of Article 26 where there is evidence that a benefit in terms of the protection of human health and the environment or in avoiding disruption to the internal market would be gained from such minimum standards.’;

(21) Article 28 is amended as follows:

(a) paragraph 3 is amended as follows:

(i) points (b) and (c) are replaced by the following:

‘(b) existing major disposal and recovery installations, including any special arrangements for waste oils, hazardous waste, waste containing significant amounts of critical raw materials, or waste streams addressed by specific Union legislation;

(c) an assessment of the need for closure of existing waste installations, and for additional waste installation infrastructure in accordance with Article 16.

Member States shall ensure that an assessment of the investments and other financial means, including for local authorities, required to meet those needs is carried out. This assessment shall be included in the relevant waste management plans or in other strategic documents covering the entire territory of the Member State concerned.’;

(ii) the following points are inserted:

- ‘(ca) information on the measures to attain the objective laid down in Article 5(3a) of Directive 1999/31/EC or in other strategic documents covering the entire territory of the Member State concerned;
- (cb) an assessment of existing waste collection schemes, including the material and territorial coverage of separate collection and measures to improve its operation, of any derogations granted in accordance with Article 10(3), and of the need for new collection schemes;’

(iii) the following points are added:

- ‘(f) measures to combat and prevent all forms of littering and to clean up all types of litter;
- (g) appropriate qualitative or quantitative indicators and targets, including on the quantity of generated waste and its treatment and on municipal waste that is disposed of or subject to energy recovery;’

(b) paragraph 5 is replaced by the following:

‘5. Waste management plans shall conform to the waste planning requirements laid down in Article 14 of Directive 94/62/EC, to the targets laid down in Article 11(2) and (3) of this Directive and to the requirements laid down in Article 5 of Directive 1999/31/EC, and for the purposes of litter prevention, to the requirements laid down in Article 13 of Directive 2008/56/EC of the European Parliament and of the Council (\*) and Article 11 of Directive 2000/60/EC of the European Parliament and of the Council (\*\*).’

(\*) Directive 2008/56/EC of the European Parliament and of the Council of 17 June 2008 establishing a framework for Community action in the field of marine environmental policy (Marine Strategy Framework Directive) (OJ L 164, 25.6.2008, p. 19).

(\*\*) Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy (OJ L 327, 22.12.2000, p. 1).’

(22) Article 29 is amended as follows:

(a) paragraph 1 is replaced by the following:

‘1. Member States shall establish waste prevention programmes setting out at least the waste prevention measures as laid down in Article 9(1) in accordance with Articles 1 and 4.

Such programmes shall be integrated either into the waste management plans required under Article 28 or into other environmental policy programmes, as appropriate, or shall function as separate programmes. If any such programme is integrated into the waste management plan or into those other programmes, the waste prevention objectives and measures shall be clearly identified.’

(b) in paragraph 2, the first subparagraph is replaced by the following:

‘2. When establishing such programmes, Member States shall, where relevant, describe the contribution of instruments and measures listed in Annex IVa to waste prevention and shall evaluate the usefulness of the examples of measures indicated in Annex IV or other appropriate measures. The programmes shall also describe existing waste prevention measures and their contribution to waste prevention.’

(c) the following paragraph is inserted:

‘2a. Member States shall adopt specific food waste prevention programmes within their waste prevention programmes.’

(d) paragraphs 3 and 4 are deleted;

(23) in Article 30, paragraph 2 is replaced by the following:

‘2. The European Environment Agency shall publish, every two years, a report containing a review of the progress made in the completion and implementation of waste prevention programmes, including an assessment of the evolution as regards the prevention of waste generation for each Member State and for the Union as a whole, and as regards the decoupling of waste generation from economic growth and the transition towards a circular economy.’

(24) in Article 33, paragraph 2 is replaced by the following:

‘2. The Commission shall adopt implementing acts to establish the format for notifying the information on the adoption and substantial revisions of the waste management plans and the waste prevention programmes. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 39(2).’;

(25) Article 35 is amended as follows:

(a) paragraph 1 is replaced by the following:

‘1. The establishments and undertakings referred to in Article 23(1), the producers of hazardous waste, and the establishments and undertakings which collect or transport hazardous waste on a professional basis, or act as dealers and brokers of hazardous waste, shall keep a chronological record of:

- (a) the quantity, nature and origin of that waste and the quantity of products and materials resulting from preparing for re-use, recycling or other recovery operations; and
- (b) where relevant, the destination, frequency of collection, mode of transport and treatment method foreseen in respect of the waste.

They shall make that data available to the competent authorities through the electronic registry or registries to be established pursuant to paragraph 4 of this Article.’;

(b) the following paragraphs are added:

‘4. Member States shall set up an electronic registry or coordinated registries to record the data on hazardous waste referred to in paragraph 1 covering the entire geographical territory of the Member State concerned. Member States may establish such registries for other waste streams, in particular for those waste streams for which targets are set in legislative acts of the Union. Member States shall use the data on waste reported by industrial operators in the European Pollutant Release and Transfer Register set up under Regulation (EC) No 166/2006 of the European Parliament and of the Council (\*).

5. The Commission may adopt implementing acts to establish minimum conditions for the operation of such registries. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 39(2).

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(\*) Regulation (EC) No 166/2006 of the European Parliament and of the Council of 18 January 2006 concerning the establishment of a European Pollutant Release and Transfer Register and amending Council Directives 91/689/EEC and 96/61/EC (OJ L 33, 4.2.2006, p. 1).’;

(26) in Article 36, paragraph 1 is replaced by the following:

‘1. Member States shall take the necessary measures to prohibit the abandonment, dumping or uncontrolled management of waste, including littering.’;

(27) Article 37 is replaced by the following:

‘Article 37

### **Reporting**

1. Member States shall report the data concerning the implementation of points (a) to (e) of Article 11(2) and Article 11(3) for each calendar year to the Commission.

They shall report the data electronically within 18 months of the end of the reporting year for which the data are collected. The data shall be reported in the format established by the Commission in accordance with paragraph 7 of this Article.

The first reporting period shall start in the first full calendar year after the adoption of the implementing act that establishes the format for reporting, in accordance with paragraph 7 of this Article.

2. For the purposes of verifying compliance with point (b) of Article 11(2), Member States shall report the amount of waste used for backfilling and other material recovery operations separately from the amount of waste prepared for re-use or recycled. Member States shall report the reprocessing of waste into materials that are to be used for backfilling operations as backfilling.

For the purposes of verifying compliance with points (c), (d) and (e) of Article 11(2) and Article 11(3), Member States shall report the amount of waste prepared for re-use separately from the amount of waste recycled.

3. Member States shall report the data concerning the implementation of Article 9(4) and (5) to the Commission every year.

They shall report the data electronically within 18 months of the end of the reporting year for which the data are collected. The data shall be reported in the format established by the Commission in accordance with paragraph 7 of this Article.

The first reporting period shall start in the first full calendar year after the adoption of the implementing act that establishes the format for reporting, in accordance with paragraph 7 of this Article.

4. Member States shall report the data on mineral or synthetic lubrication or industrial oils placed on the market and waste oils separately collected and treated for each calendar year to the Commission.

They shall report the data electronically within 18 months of the end of the reporting year for which the data are collected. The data shall be reported in the format established by the Commission in accordance with paragraph 7.

The first reporting period shall start in the first full calendar year after the adoption of the implementing act that establishes the format for reporting, in accordance with paragraph 7.

5. The data reported by Member States in accordance with this Article shall be accompanied by a quality check report and a report on the measures taken pursuant to Article 11a(3) and (8), including detailed information about the average loss rates where applicable. That information shall be reported in the format for reporting established by the Commission in accordance with paragraph 7 of this Article.

6. The Commission shall review the data reported in accordance with this Article and publish a report on the results of its review. The report shall assess the organisation of the data collection, the sources of data and the methodology used in Member States as well as the completeness, reliability, timeliness and consistency of that data. The assessment may include specific recommendations for improvement. The report shall be drawn up after the first reporting of the data by Member States and every four years thereafter.

7. By 31 March 2019, the Commission shall adopt implementing acts laying down the format for reporting the data referred to in paragraphs 1, 3, 4 and 5 of this Article. For the purposes of reporting on the implementation of points (a) and (b) of Article 11(2), Member States shall use the format established in Commission Implementing Decision of 18 April 2012 establishing a questionnaire for Member States reports on the implementation of Directive 2008/98/EC of the European Parliament and of the Council on waste. For the purpose of reporting on food waste, the methodology developed under Article 9(8) shall be taken into account when developing the format for reporting. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 39(2) of this Directive.;

(28) Article 38 is replaced by the following:

*'Article 38*

**Exchange of information and sharing of best practices, interpretation and adaptation to technical progress**

1. The Commission shall organise a regular exchange of information and sharing of best practices among Member States, including, where appropriate, with regional and local authorities, on the practical implementation and enforcement of the requirements of this Directive, including on:

- (a) the application of the calculation rules set out in Article 11a and the development of measures and systems to trace municipal waste streams from sorting to recycling;
- (b) adequate governance, enforcement, cross-border cooperation;
- (c) innovation in the field of waste management;
- (d) national by-product and end-of-waste criteria, as referred to in Article 5(3) and in Article 6(3) and (4), facilitated by a Union-wide electronic register to be established by the Commission;

- (e) the economic instruments and other measures used in accordance with Article 4(3) in order to boost the achievement of the objectives laid down in that Article;
- (f) measures laid down in Article 8(1) and (2);
- (g) prevention and the setting up of systems which promote re-use activities and the extension of life span;
- (h) the implementation of the obligations with regard to separate collection;
- (i) the instruments and incentives towards achieving the targets laid down in points (c), (d) and (e) of Article 11(2).

The Commission shall make the results of the exchange of information and sharing of best practices publicly available.

2. The Commission may develop guidelines for the interpretation of the requirements set out in this Directive, including on the definition of waste, prevention, re-use, preparing for re-use, recovery, recycling, disposal, and on the application of the calculation rules set out in Article 11a.

The Commission shall develop guidelines on the definitions of municipal waste and backfilling.

The Commission is empowered to adopt delegated acts in accordance with Article 38a to amend this Directive by specifying the application of the formula for incineration facilities referred to in point R1 of Annex II. Local climatic conditions may be taken into account, such as the severity of the cold and the need for heating insofar as they influence the amounts of energy that can technically be used or produced in the form of electricity, heating, cooling or processing steam. Local conditions of the outermost regions as recognised in the third paragraph of Article 349 of the Treaty on the Functioning of the European Union and of the territories mentioned in Article 25 of the 1985 Act of Accession may also be taken into account.

3. The Commission is empowered to adopt delegated acts in accordance with Article 38a to amend Annexes IV and V in the light of scientific and technical progress.;

(29) the following article is inserted:

‘Article 38a

#### **Exercise of the delegation**

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Articles 7(1), 9(8), 11a(10), 27(1), 27(4), 38(2) and 38(3) shall be conferred on the Commission for a period of five years from 4 July 2018. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

3. The delegation of power referred to in Articles 7(1), 9(8), 11a(10), 27(1), 27(4), 38(2) and 38(3) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law Making (\*).

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6. A delegated act adopted pursuant to Articles 7(1), 9(8), 11a(10), 27(1), 27(4), 38(2) and 38(3) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and to the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

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(\*) OJ L 123, 12.5.2016, p. 1.;

(30) Article 39 is replaced by the following:

*'Article 39*

**Committee procedure**

1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011 of the European Parliament and of the Council (\*).

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

Where the committee delivers no opinion, the Commission shall not adopt the draft implementing act and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply.

(\*) Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).';

(31) In Annex II, operations R 3, R 4 and R 5 are replaced by the following:

'R 3 Recycling/reclamation of organic substances which are not used as solvents (including composting and other biological transformation processes) (\*\*)

R 4 Recycling/reclamation of metals and metal compounds (\*\*\*)

R 5 Recycling/reclamation of other inorganic materials (\*\*\*\*)

(\*\*) This includes preparing for re-use, gasification and pyrolysis using the components as chemicals and recovery of organic materials in the form of backfilling.

(\*\*\*) This includes preparing for re-use.

(\*\*\*\*) This includes preparing for re-use, recycling of inorganic construction materials, recovery of inorganic materials in the form of backfilling, and soil cleaning resulting in recovery of the soil.';

(32) The text set out in the Annex to this Directive is inserted as Annexes IVa and IVb.

*Article 2*

**Transposition**

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 5 July 2020. They shall immediately inform the Commission thereof.

When Member States adopt those measures, they shall contain a reference to this Directive or shall be accompanied by such a reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

2. Member States shall communicate to the Commission the text of the main measures of national law which they adopt in the field covered by this Directive. The Commission shall inform the other Member States thereof.

*Article 3*

**Entry into force**

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

*Article 4*

**Addressees**

This Directive is addressed to the Member States.

Done at Strasbourg, 30 May 2018.

*For the European Parliament*

*The President*

A. TAJANI

*For the Council*

*The President*

L. PAVLOVA



## ANNEX

The following Annexes are inserted:

## ‘ANNEX IVa

EXAMPLES OF ECONOMIC INSTRUMENTS AND OTHER MEASURES TO PROVIDE INCENTIVES FOR THE APPLICATION OF THE WASTE HIERARCHY REFERRED TO IN ARTICLE 4(3) <sup>(1)</sup>

1. Charges and restrictions for the landfilling and incineration of waste which incentivise waste prevention and recycling, while keeping landfilling the least preferred waste management option;
2. “Pay-as-you-throw” schemes that charge waste producers on the basis of the actual amount of waste generated and provide incentives for separation at source of recyclable waste and for reduction of mixed waste;
3. Fiscal incentives for donation of products, in particular food;
4. Extended producer responsibility schemes for various types of waste and measures to increase their effectiveness, cost efficiency and governance;
5. Deposit-refund schemes and other measures to encourage efficient collection of used products and materials;
6. Sound planning of investments in waste management infrastructure, including through Union funds;
7. Sustainable public procurement to encourage better waste management and the use of recycled products and materials;
8. Phasing out of subsidies which are not consistent with the waste hierarchy;
9. Use of fiscal measures or other means to promote the uptake of products and materials that are prepared for re-use or recycled;
10. Support to research and innovation in advanced recycling technologies and remanufacturing;
11. Use of best available techniques for waste treatment;
12. Economic incentives for regional and local authorities, in particular to promote waste prevention and intensify separate collection schemes, while avoiding support to landfilling and incineration;
13. Public awareness campaigns, in particular on separate collection, waste prevention and litter reduction, and mainstreaming these issues in education and training;
14. Systems for coordination, including by digital means, between all competent public authorities involved in waste management;
15. Promoting continuous dialogue and cooperation between all stakeholders in waste management and encouraging voluntary agreements and company reporting on waste.

## ANNEX IVb

## IMPLEMENTATION PLAN TO BE SUBMITTED PURSUANT TO ARTICLE 11(3)

The implementation plan to be submitted pursuant to Article 11(3) shall contain the following:

1. assessment of the past, current and projected rates of recycling, landfilling and other treatment of municipal waste and the streams of which it is composed;

<sup>(1)</sup> While these instruments and measures may provide incentives for waste prevention, which is the highest step in the waste hierarchy, a comprehensive list of more specific examples of waste prevention measures is set out in Annex IV.

2. assessment of the implementation of waste management plans and waste prevention programmes in place pursuant to Articles 28 and 29;
  3. reasons for which the Member State considers that it might not be able to attain the relevant target laid down in Article 11(2) within the deadline set therein and an assessment of the time extension necessary to meet that target;
  4. measures necessary to attain the targets set out in Article 11(2) and (5) that are applicable to the Member State during the time extension, including appropriate economic instruments and other measures to provide incentives for the application of the waste hierarchy as set out in Article 4(1) and Annex IVa;
  5. a timetable for the implementation of the measures identified in point 4, determination of the body competent for their implementation and an assessment of their individual contribution to attaining the targets applicable in the event of a time extension;
  6. information on funding for waste management in line with the polluter-pays principle;
  7. measures to improve data quality, as appropriate, with a view to better planning and monitoring performance in waste management.’.
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**DIRECTIVE (EU) 2018/852 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**  
**of 30 May 2018**  
**amending Directive 94/62/EC on packaging and packaging waste**  
**(Text with EEA relevance)**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee <sup>(1)</sup>,

Having regard to the opinion of the Committee of the Regions <sup>(2)</sup>,

Acting in accordance with the ordinary legislative procedure <sup>(3)</sup>,

Whereas:

- (1) Waste management in the Union should be improved, with a view to protecting, preserving and improving the quality of the environment, protecting human health, ensuring prudent efficient and rational utilisation of natural resources, promoting the principles of the circular economy, enhancing the use of renewable energy, increasing energy efficiency, reducing the dependence of the Union on imported resources, providing new economic opportunities and contributing to long-term competitiveness. The more efficient use of resources would also bring substantial net savings for Union businesses, public authorities and consumers, while reducing total annual greenhouse gas emissions.
- (2) The targets laid down in European Parliament and Council Directive 94/62/EC <sup>(4)</sup> for the recovery and recycling of packaging and packaging waste should be amended by increasing the recycling of packaging waste to make them better reflect the Union's ambition to move to a circular economy.
- (3) Furthermore, in order to ensure greater coherence in Union waste law, the definitions in Directive 94/62/EC should be aligned, where relevant, with those of Directive 2008/98/EC of the European Parliament and of the Council <sup>(5)</sup> which is applicable to waste in general.
- (4) Waste prevention is the most efficient way to improve resource efficiency and to reduce the environmental impact of waste. It is important therefore that Member States take appropriate measures to encourage the increase in the share of reusable packaging placed on the market and the reuse of packaging. Such measures can include the use of deposit-return schemes and other incentives, such as setting quantitative targets, taking reuse into account for the attainment of recycling targets, and differentiated financial contributions for reusable packaging under extended producer responsibility schemes for packaging. Member States should take measures to incentivise the take-up of reusable packaging and to achieve a reduction in consumption of packaging that is not recyclable and of excessive packaging.
- (5) As reuse entails the avoidance of placing new packaging on the market and increasing the volumes of packaging waste generated, reusable sales packaging that is placed on the market for the first time and wooden packaging that is repaired for reuse should be taken into account for the purposes of attaining the respective packaging recycling targets.

<sup>(1)</sup> OJ C 264, 20.7.2016, p. 98.

<sup>(2)</sup> OJ C 17, 18.1.2017, p. 46.

<sup>(3)</sup> Position of the European Parliament of 18 April 2018 (not yet published in the Official Journal) and decision of the Council of 22 May 2018.

<sup>(4)</sup> European Parliament and Council Directive 94/62/EC of 20 December 1994 on packaging and packaging waste (OJ L 365, 31.12.1994, p. 10).

<sup>(5)</sup> Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (OJ L 312, 22.11.2008, p. 3).

- (6) Member States should put in place adequate incentives for the application of the waste hierarchy including economic instruments and other measures. Such measures should aim at minimising the environmental impacts of packaging and packaging waste from a life-cycle perspective, taking into account, where appropriate, the benefits of using bio-based materials and materials suitable for multiple recycling. Measures to increase public awareness of the benefits deriving from packaging made from recycled materials can contribute to expanding the recycling sector for packaging waste. Where single use packaging is indispensable to guarantee food hygiene and the health and safety of consumers, Member States should take measures to ensure recycling of such packaging.
- (7) Fostering a sustainable bio-economy can contribute to decreasing the Union's dependence on imported raw materials. Bio-based recyclable packaging and compostable biodegradable packaging could represent an opportunity to promote renewable sources for the production of packaging, where shown to be beneficial from a life-cycle perspective.
- (8) Litter, whether in cities, on land, in rivers and seas, or elsewhere, has direct and indirect detrimental impacts on the environment, the well-being of citizens and the economy, and the costs to clean it up present an unnecessary economic burden for society. Many of the most commonly found items on beaches include packaging waste and have long-term impacts on the environment while affecting tourism and the public benefit of these natural areas. Additionally, the presence of packaging waste in the marine environment entails subverting the priority order of the waste hierarchy, in particular by avoiding reuse, recycling and other recovery.
- (9) Clear environmental, economic and social benefits would be derived from further increasing the targets laid down in Directive 94/62/EC for recycling of packaging waste. It should be ensured that economically valuable waste materials are progressively and effectively recovered through proper waste management and in line with the waste hierarchy as laid down in Directive 2008/98/EC, and are channelled back into the European economy, thereby making progress in the implementation of the Commission Communication of 4 November 2008 on 'The raw materials initiative: meeting our critical needs for growth and jobs in Europe' and the creation of a circular economy.
- (10) Many Member States have not yet completely developed the necessary waste management infrastructure. It is therefore essential to set clear long-term policy objectives in order to avoid locking recyclable materials at the lower levels of the waste hierarchy.
- (11) This Directive sets long-term objectives for the Union's waste management and gives economic operators and Member States a clear direction for the investments needed to achieve those objectives. In developing their national waste management plans and planning investments in waste management infrastructure, Member States should make sound use of investments, including through Union Funds, by prioritising prevention including reuse, and recycling, in line with the waste hierarchy.
- (12) As a result of the combination of recycling targets and landfill restrictions laid down in Directive 2008/98/EC and Council Directive 1999/31/EC <sup>(1)</sup>, setting targets for recovery and maximum targets for recycling of packaging waste is no longer necessary.
- (13) Separate recycling targets should be set for ferrous metals and aluminium in order to achieve significant economic and environmental benefits because more aluminium would be recycled leading to significant savings in energy and reduction of carbon dioxide emissions. The existing recycling target for metal packaging should therefore be split into separate targets for those two types of waste.
- (14) The 2030 recycling targets for packaging should be examined with a view to maintaining or, if appropriate, increasing them. During that review, attention should also be paid to specific packaging waste streams such as household, commercial and industrial packaging waste as well as composite packaging waste.

<sup>(1)</sup> Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste (OJ L 182, 16.7.1999, p. 1).

- (15) The calculation of the recycling targets should be based on the weight of packaging waste which enters recycling. As a general rule, the actual measurement of the weight of packaging waste counted as recycled should be at the point where packaging waste enters the recycling operation. Nevertheless, in order to limit administrative burdens, Member States should, under strict conditions and by way of derogation from the general rule, be allowed to establish the weight of packaging waste recycled on the basis of measuring the output of any sorting operation. Losses of materials which occur before the waste enters the recycling operation, for instance due to sorting or other preliminary operations, should not be included in the waste amounts reported as recycled. Those losses can be established on the basis of electronic registries, technical specifications, detailed rules on the calculation of average loss rates for various waste streams or other equivalent measures. Member States should report on such measures in the quality check reports accompanying the data which they report to the Commission on waste recycling. The average loss rates should preferably be established at the level of individual sorting facilities and should be linked to the different main types of waste, different sources (such as household or commercial), different collection schemes and different types of sorting processes. Average loss rates should only be used in cases where no other reliable data are available, in particular in the context of shipment and export of waste. Losses in weight of materials or substances due to physical or chemical transformation processes inherent in the recycling operation where packaging waste is actually reprocessed into products, materials or substances should not be deducted from the weight of the waste reported as recycled.
- (16) Where packaging waste materials cease to be waste as a result of a preparatory operation before being actually reprocessed, such materials can be counted as recycled provided that they are destined for subsequent reprocessing into products, materials or substances, whether for their original or other purposes. End-of-waste materials which are to be used as fuels or other means to generate energy, which are backfilled or disposed of, or which are to be used in any operation that has the same purpose as recovery of waste other than recycling, should not be counted towards the attainment of the recycling targets.
- (17) Where the calculation of the recycling rate is applied to aerobic or anaerobic treatment of biodegradable packaging waste, the amount of waste that enters aerobic or anaerobic treatment can be counted as recycled provided that such treatment generates output which is to be used as a recycled product, material or substance. While the output of such treatment is most commonly compost or digestate, other output could also be taken into account provided that it contains comparable quantities of recycled content in relation to the amount of the treated biodegradable packaging waste. In other cases, in line with the definition of recycling, the reprocessing of biodegradable packaging waste into materials which are to be used as fuels or other means to generate energy, which are disposed of, or which are to be used in any operation that has the same purpose as recovery of waste other than recycling, should not be counted towards the attainment of the recycling targets.
- (18) In the case of exports of packaging waste from the Union for recycling, Member States should make effective use of the inspection powers provided for in Article 50(4c) of Regulation (EC) No 1013/2006 of the European Parliament and of the Council<sup>(1)</sup> to require documentary evidence to ascertain whether a shipment is destined for recovery operations which are in compliance with Article 49 of that Regulation and therefore managed in an environmentally sound manner at a facility operating in accordance with human health and environmental protection standards that are broadly equivalent to standards established in Union legislation. In carrying out that task, Member States could cooperate with other relevant actors, such as the competent authorities in the country of destination, independent third-party verification bodies or organisations implementing extended producer responsibility obligations on behalf of producers of products established under extended producer responsibility schemes, which could carry out physical and other checks of facilities in third countries. In the quality check report accompanying the data on the attainment of the targets, Member States should report on the measures to implement the obligation to ensure that waste exported from the Union is treated in broadly equivalent conditions to those required under relevant Union environmental law.
- (19) In order to ensure better, more timely and more uniform implementation of this Directive and anticipate any implementation weaknesses, a system of early warning reports should be established to detect shortcomings and allow taking action ahead of the deadlines for meeting the targets.

<sup>(1)</sup> Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste (OJ L 190, 12.7.2006, p. 1).

- (20) As the amount and type of packaging used generally depends on choices made by the producer rather than the consumer, extended producer responsibility schemes should be established. Effective extended producer responsibility schemes can have a positive environmental impact by reducing the generation of packaging waste and increasing its separate collection and recycling. While extended producer responsibility schemes for packaging already exist in most Member States, there are wide disparities in the way they are set up, in their efficiency and in the scope of responsibility of producers. The rules on extended producer responsibility laid down in Directive 2008/98/EC should therefore apply to extended producer responsibility schemes for producers of packaging.
- (21) In order to boost the prevention of packaging waste, reduce its impact on the environment and promote recycling materials of high quality, while ensuring the functioning of the internal market, avoiding obstacles to trade and avoiding distortion and restriction of competition within the Union, the essential requirements of Directive 94/62/EC and Annex II thereto should be reviewed, and if necessary amended in order to strengthen the requirements with a view to enhancing the design for reuse and a high quality recycling of packaging.
- (22) Data reported by Member States are essential for the Commission to assess compliance with Union waste law by Member States. The quality, reliability and comparability of data should be improved by introducing a single entry point for all waste data, deleting obsolete reporting requirements, benchmarking national reporting methodologies and introducing a data quality check report.
- (23) Implementation reports prepared by Member States every three years have not proved to be an effective tool for verifying compliance or ensuring good implementation, and are generating unnecessary administrative burdens. It is therefore appropriate to repeal provisions obliging Member States to produce such reports. Instead, compliance monitoring should be exclusively based on the data which Member States report every year to the Commission.
- (24) Reliable reporting of data concerning waste management is paramount to efficient implementation and to ensuring comparability of data among Member States. Therefore, when reporting on the attainment of the targets set out in Directive 94/62/EC as amended by this Directive, Member States should use the most recent rules developed by the Commission and methodologies developed by the respective national competent authorities responsible for implementing this Directive.
- (25) In order to supplement or amend Directive 94/62/EC, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of Articles 11(3) and 19(2) and Article 20 of that Directive, as amended by this Directive. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making <sup>(1)</sup>. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.
- (26) In order to ensure uniform conditions for the implementation of Directive 94/62/EC, implementing powers should be conferred on the Commission in respect of Articles 5(4), 6a(9), 12(3d) and 19(1) thereof as amended by this Directive. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council <sup>(2)</sup>.
- (27) Since the objectives of this Directive, namely on the one hand, to prevent any impact from packaging and packaging waste on the environment or to reduce such impact, thereby providing a high level of environmental protection, and, on the other, to ensure the functioning of the internal market and to avoid obstacles to trade and distortion and restriction of competition within the Union, cannot be sufficiently achieved by the Member States, but can rather, by reason of the scale and effects of the measures, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.

<sup>(1)</sup> OJ L 123, 12.5.2016, p. 1.

<sup>(2)</sup> Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).



- (28) Directive 94/62/EC should therefore be amended accordingly.
- (29) According to the Interinstitutional Agreement of 28 November 2001 on a more structured use of the recasting technique for legal acts <sup>(1)</sup>, the recasting technique is an appropriate means of ensuring the readability of Union legislation on a permanent and universal basis, by preventing the proliferation of isolated amending acts which often make legal acts difficult to understand. Moreover, in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making, the three institutions confirmed their commitment to using the legislative technique of recasting for the modification of existing legislation more frequently. Therefore, in view of the fact that Directive 94/62/EC has already been amended six times, it would be appropriate to recast Directive 94/62/EC in the near future.
- (30) In accordance with the Joint Political Declaration of 28 September 2011 of Member States and the Commission on explanatory documents <sup>(2)</sup>, Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments. With regard to this Directive, the legislator considers the transmission of such documents to be justified,

HAVE ADOPTED THIS DIRECTIVE:

#### *Article 1*

#### **Amendments**

Directive 94/62/EC is amended as follows:

- (1) in Article 1, paragraph 2 is replaced by the following:

‘2. To that end, this Directive lays down measures aimed, as a first priority, at preventing the production of packaging waste and, as additional fundamental principles, at reusing packaging, at recycling and other forms of recovering packaging waste and, therefore, at reducing the final disposal of such waste in order to contribute to the transition towards a circular economy.’;

- (2) Article 3 is amended as follows:

- (a) in point 1, the following text is deleted:

‘The Commission shall, as appropriate, examine and, where necessary, review the illustrative examples for the definition of packaging given in Annex I. As a priority, the following items shall be addressed: CD and video cases, flower pots, tubes and cylinders around which flexible material is wound, release paper of self-adhesive labels and wrapping paper. Those measures, designed to amend non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 21(3).’;

- (b) point 2 is replaced by the following:

‘2. “packaging waste” shall mean any packaging or packaging material covered by the definition of waste laid down in Article 3 of Directive 2008/98/EC, excluding production residues’;

- (c) the following points are inserted:

‘2a. “reusable packaging” shall mean packaging which has been conceived, designed and placed on the market to accomplish within its lifecycle multiple trips or rotations by being refilled or reused for the same purpose for which it was conceived;

2b. “composite packaging” shall mean packaging made of two or more layers of different materials which cannot be separated by hand and form a single integral unit, consisting of an inner receptacle and an outer enclosure, that it is filled, stored, transported and emptied as such;

2c. the definitions of “waste”, “waste management”, “collection”, “separate collection”, “prevention”, “reuse”, “treatment”, “recovery”, “recycling”, “disposal”, and “extended producer responsibility scheme” laid down in Article 3 of Directive 2008/98/EC shall apply’;

- (d) points 3 to 10 are deleted;

<sup>(1)</sup> OJ C 77, 28.3.2002, p. 1.

<sup>(2)</sup> OJ C 369, 17.12.2011, p. 14.

(3) Article 4 is amended as follows:

(a) paragraph 1 is replaced by the following:

‘1. Member States shall ensure that, in addition to the measures taken in accordance with Article 9, other preventive measures are implemented in order to prevent generation of packaging waste and to minimise the environmental impact of packaging.

Such other preventive measures may consist of national programmes, incentives through extended producer responsibility schemes to minimise the environmental impact of packaging, or similar actions adopted, if appropriate, in consultation with economic operators, and consumer and environmental organisations, and designed to bring together and take advantage of the many initiatives taken within Member States as regards prevention.

Member States shall make use of economic instruments and other measures to provide incentives for the application of the waste hierarchy such as those indicated in Annex IVa to Directive 2008/98/EC or other appropriate instruments and measures.’;

(b) paragraph 3 is deleted;

(4) Article 5 is replaced by the following:

‘Article 5

#### **Reuse**

1. In line with the waste hierarchy laid down in Article 4 of Directive 2008/98/EC, Member States shall take measures to encourage the increase in the share of reusable packaging placed on the market and of systems to reuse packaging in an environmentally sound manner and in conformity with the Treaty, without compromising food hygiene or the safety of consumers. Such measures may include, inter alia:

- (a) the use of deposit-return schemes;
- (b) the setting of qualitative or quantitative targets;
- (c) the use of economic incentives;
- (d) the setting up of a minimum percentage of reusable packaging placed on the market every year for each packaging stream.

2. A Member State may decide to attain an adjusted level of the targets referred to in points (f) to (i) of Article 6(1) for a given year by taking into account the average share, in the preceding three years, of reusable sales packaging placed on the market for the first time and reused as part of a system to reuse packaging.

The adjusted level shall be calculated by subtracting:

- (a) from the targets laid down in points (f) and (h) of Article 6(1), the share of the reusable sales packaging referred to in the first subparagraph of this paragraph in all sales packaging placed on the market, and
- (b) from the targets laid down in points (g) and (i) of Article 6(1), the share of the reusable sales packaging referred to in the first subparagraph of this paragraph, composed of the respective packaging material, in all sales packaging composed of that material placed on the market.

No more than five percentage points of such share shall be taken into account for the calculation of the respective adjusted target level.

3. A Member State may take into account the amounts of wooden packaging that is repaired for reuse in the calculation of the targets laid down in point (f), point (g)(ii), point (h) and point (i)(ii) of Article 6(1).

4. In order to ensure uniform conditions for the application of paragraphs 2 and 3 of this Article, the Commission shall adopt by 31 March 2019 implementing acts establishing rules for the calculation, verification and reporting of data, and for the calculation of the targets pursuant to paragraph 3 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 21(2).

5. By 31 December 2024, the Commission shall examine data on reusable packaging provided by Member States in accordance with Article 12 and Annex III with a view to considering the feasibility of setting quantitative targets on reuse of packaging, including the calculation rules, and any further measures to promote reuse of packaging. To that end, the Commission shall submit a report to the European Parliament and to the Council, accompanied, if appropriate, by a legislative proposal.;

(5) Article 6 is amended as follows:

(a) in paragraph 1, the following points are added:

‘(f) no later than 31 December 2025 a minimum of 65 % by weight of all packaging waste will be recycled;

(g) no later than 31 December 2025 the following minimum targets by weight for recycling will be met regarding the following specific materials contained in packaging waste:

(i) 50 % of plastic;

(ii) 25 % of wood;

(iii) 70 % of ferrous metals;

(iv) 50 % of aluminium;

(v) 70 % of glass;

(vi) 75 % of paper and cardboard;

(h) no later than 31 December 2030 a minimum of 70 % by weight of all packaging waste will be recycled;

(i) no later than 31 December 2030 the following minimum targets by weight for recycling will be met regarding the following specific materials contained in packaging waste:

(i) 55 % of plastic;

(ii) 30 % of wood;

(iii) 80 % of ferrous metals;

(iv) 60 % of aluminium;

(v) 75 % of glass;

(vi) 85 % of paper and cardboard.;

(b) the following paragraphs are inserted:

‘1a. Without prejudice to points (f) and (h) of paragraph 1, a Member State may postpone the deadlines for attaining the targets referred to in point (g)(i) to (vi) and point (i)(i) to (vi) of paragraph 1 by up to five years, under the following conditions:

(a) the derogation is limited to a maximum of 15 percentage points from a single target or divided between two targets,

(b) as a result of the derogation, the recycling rate for a single target is not reduced below 30 %,

(c) as a result of the derogation, the recycling rate for a single target referred to in point (g)(v) and (vi) and point (i)(v) and (vi) of paragraph 1 is not reduced below 60 %, and

(d) at the latest 24 months before the respective deadline laid down in point (g) or (i) of paragraph 1 of this Article, the Member State notifies the Commission of its intention to postpone the respective deadline and submits an implementation plan in accordance with Annex IV to this Directive. The Member State may combine that plan with an implementation plan submitted pursuant to point (b) of Article 11(3) of Directive 2008/98/EC.

1b. Within three months of receipt of the implementation plan submitted pursuant to point (d) of paragraph 1a, the Commission may request a Member State to revise that plan if the Commission considers that the plan does not comply with the requirements set out in Annex IV. The Member State concerned shall submit a revised plan within three months of receipt of the Commission's request.

1c. By 31 December 2024, the Commission shall review the targets laid down in points (h) and (i) of paragraph 1 with a view to maintaining or, if appropriate, increasing them. To that end, the Commission shall submit a report to the European Parliament and to the Council, accompanied, if appropriate, by a legislative proposal.;

(c) paragraphs 2, 3, 5, 8 and 9 are deleted;

(6) the following article is inserted:

*'Article 6a*

**Rules on the calculation of the attainment of the targets**

1. For the purpose of calculating whether the targets laid down in points (f) to (i) of Article 6(1) have been attained:

(a) Member States shall calculate the weight of packaging waste generated and recycled in a given calendar year. Packaging waste generated in a Member State may be deemed to be equal to the amount of packaging placed on the market in the same year within that Member State;

(b) the weight of packaging waste recycled shall be calculated as the weight of packaging that has become waste which, having undergone all necessary checking, sorting and other preliminary operations to remove waste materials that are not targeted by the subsequent reprocessing and to ensure high-quality recycling, enters the recycling operation whereby waste materials are actually reprocessed into products, materials or substances.

2. For the purposes of point (a) of paragraph 1, the weight of packaging waste recycled shall be measured when the waste enters the recycling operation.

By way of derogation from the first subparagraph, the weight of the packaging waste recycled may be measured at the output of any sorting operation provided that:

(a) such output waste is subsequently recycled;

(b) the weight of materials or substances that are removed by further operations preceding the recycling operation and are not subsequently recycled is not included in the weight of waste reported as recycled.

3. Member States shall establish an effective system of quality control and traceability of the packaging waste to ensure that the conditions laid down in point (a) of paragraph 1 of this Article and points (a) and (b) of paragraph 2 of this Article are met. To ensure the reliability and accuracy of the data gathered on recycled packaging waste, the system may consist of electronic registries set up pursuant to Article 35(4) of Directive 2008/98/EC, technical specifications for the quality requirements of sorted waste, or average loss rates for sorted waste for various waste types and waste management practices respectively. Average loss rates shall only be used in cases where reliable data cannot be otherwise obtained and shall be calculated on the basis of the calculation rules established in the delegated act adopted pursuant to Article 11a(10) of Directive 2008/98/EC.

4. For the purposes of calculating whether the targets laid down in points (f) to (i) of Article 6(1) have been attained, the amount of biodegradable packaging waste that enters aerobic or anaerobic treatment may be counted as recycled where that treatment generates compost, digestate, or other output with a similar quantity of recycled content in relation to input, which is to be used as a recycled product, material or substance. Where the output is used on land, Member States may count it as recycled only if this use results in benefits to agriculture or ecological improvement.

5. The amount of packaging waste materials that have ceased to be waste as a result of a preparatory operation before being reprocessed may be counted as recycled provided that such materials are destined for subsequent reprocessing into products, materials or substances to be used for the original or other purposes. However, end-of-waste materials to be used as fuels or other means to generate energy, or to be incinerated, backfilled or landfilled, shall not be counted towards the attainment of the recycling targets.

6. For the purposes of calculating whether the targets laid down in points (f) to (i) of Article 6(1) have been attained, Member States may take into account the recycling of metals separated after incineration of waste in proportion to the share of the packaging waste incinerated provided that the recycled metals meet certain quality criteria laid down in the implementing act adopted pursuant to Article 11a(9) of Directive 2008/98/EC.

7. Packaging waste sent to another Member State for the purposes of recycling in that other Member State may only be counted towards the attainment of the targets laid down in points (f) to (i) of Article 6(1) by the Member State in which that packaging waste was collected.

8. Packaging waste exported from the Union shall count towards the attainment of the targets laid down in Article 6(1) of this Directive by the Member State in which it was collected only if the requirements of paragraph 3 of this Article are met and if, in accordance with Regulation (EC) No 1013/2006 of the European Parliament and of the Council (\*), the exporter can prove that the shipment of waste complies with the requirements of that Regulation and that the treatment of packaging waste outside the Union took place in conditions that are broadly equivalent to the requirements of the relevant Union environmental law.

9. In order to ensure uniform conditions for the application of paragraphs 1 to 5 of this Article, the Commission shall adopt by 31 March 2019 implementing acts establishing rules for the calculation, verification and reporting of data, in particular as regards the weight of packaging waste generated. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 21(2).

(\*) Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste (OJ L 190, 12.7.2006, p. 1).;

(7) the following article is inserted:

*'Article 6b*

**Early warning report**

1. The Commission shall, in cooperation with the European Environment Agency, draw up reports on the progress towards the attainment of the targets laid down in points (f) to (i) of Article 6(1) at the latest three years before each of the deadlines laid down therein.

2. The reports referred to in paragraph 1 shall include the following:

- (a) an estimation of the attainment of the targets by each Member State;
- (b) a list of Member States at risk of not attaining the targets within the respective deadlines, accompanied by appropriate recommendations for the Member States concerned;
- (c) examples of best practices that are used throughout the Union which could provide guidance for progressing towards attaining the targets.;

(8) Article 7 is replaced by the following:

*'Article 7*

**Return, collection and recovery systems**

1. In order to meet the objectives laid down in this Directive, Member States shall take the necessary measures to ensure that systems are set up to provide for:

- (a) the return and/or collection of used packaging and/or packaging waste from the consumer, other final user, or from the waste stream in order to channel it to the most appropriate waste management alternatives;
- (b) the reuse or recovery including recycling of the packaging and/or packaging waste collected.

Those systems shall be open to the participation of the economic operators of the sectors concerned and to the participation of the competent public authorities. They shall also apply to imported products under non-discriminatory conditions, including the detailed arrangements and any tariffs imposed for access to the systems, and shall be designed so as to avoid barriers to trade or distortions of competition in conformity with the Treaty.

2. Member States shall ensure that, by 31 December of 2024, extended producer responsibility schemes are established for all packaging in accordance with Articles 8 and 8a of Directive 2008/98/EC.

3. The measures referred to in paragraphs 1 and 2 shall form part of a policy covering all packaging and packaging waste and shall take into account, in particular, requirements regarding the protection of the environment and consumer health, safety and hygiene, the protection of the quality, the authenticity and the technical characteristics of the packed goods and materials used, and the protection of industrial and commercial property rights.

4. Member States shall take measures to promote high quality recycling of packaging waste and to meet the necessary quality standards for the relevant recycling sectors. To that end, Article 11(1) of Directive 2008/98/EC shall apply to packaging waste, including from composite packaging.;

(9) in Article 9, the following paragraph is added:

‘5. By 31 December 2020, the Commission shall examine the feasibility of reinforcing the essential requirements with a view to, inter alia, improving design for reuse and promoting high quality recycling, as well as strengthening their enforcement. To that end, the Commission shall submit a report to the European Parliament and to the Council, accompanied, if appropriate, by a legislative proposal.’;

(10) Article 11(3) is replaced by the following:

‘3. The Commission shall adopt delegated acts in accordance with Article 21a in order to supplement this Directive by determining the conditions under which the concentration levels referred to in paragraph 1 of this Article do not apply to recycled materials and to product loops which are in a closed and controlled chain, as well as by determining the types of packaging which are exempted from the requirement laid down in the third indent of paragraph 1 of this Article.’;

(11) Article 12 is amended as follows:

(a) the title is replaced by ‘*Information systems and reporting*’;

(b) paragraph 2 is replaced by the following:

‘2. The databases referred to in paragraph 1 shall include the data based on Annex III and shall provide in particular information on the magnitude, characteristics and evolution of the packaging and packaging waste flows at the level of individual Member States, including information on the toxicity or danger of packaging materials and components used for their manufacture.’;

(c) paragraph 3 is deleted;

(d) the following paragraphs are inserted:

‘3a. Member States shall report the data concerning the implementation of points (a) to (i) of Article 6(1) and data on reusable packaging, for each calendar year to the Commission.

They shall report the data electronically within 18 months of the end of the reporting year for which the data are collected. The data shall be reported in the format established by the Commission on the basis of Annex III in accordance with paragraph 3d of this Article.

The first reporting period concerning the targets set out in points (f) to (i) of Article 6(1) and data on reusable packaging shall start in the first full calendar year after the adoption of the implementing act that establishes the format for reporting, in accordance with paragraph 3d of this Article, and shall cover the data for that reporting period.

3b. The data reported by Member States in accordance with this Article shall be accompanied by a quality check report and a report on the measures taken pursuant to Article 6a(3) and (8), including detailed information about the average loss rates where applicable.

3c. The Commission shall review the data reported in accordance with this Article and publish a report on the results of its review. The report shall assess the organisation of the data collection, the sources of data and the methodology used in Member States as well as the completeness, reliability, timeliness and consistency of that data. The assessment may include specific recommendations for improvement. The report shall be drawn up after the first reporting of the data by the Member States and every four years thereafter.



3d. By 31 March 2019, the Commission shall adopt implementing acts laying down the format for reporting data in accordance with paragraph 3a of this Article. For the purposes of reporting on the implementation of points (a) to (e) of Article 6(1) of this Directive, Member States shall use the format established in Commission Decision 2005/270/EC (\*). Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 21(2) of this Directive.

(\*) Commission Decision 2005/270/EC of 22 March 2005 establishing the formats relating to the database system pursuant to Directive 94/62/EC of the European Parliament and of the Council on packaging and packaging waste (OJ L 86, 5.4.2005, p. 6).;

(e) paragraph 5 is deleted;

(12) Article 17 is deleted;

(13) Article 19 is replaced by the following:

*‘Article 19*

#### **Adaptation to scientific and technical progress**

1. The Commission shall adopt implementing acts necessary for adapting the identification system referred to in Article 8(2) and Article 10, second paragraph, sixth indent, to scientific and technical progress. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 21(2).

2. The Commission is empowered to adopt delegated acts in accordance with Article 21a to amend the illustrative examples for the definition of packaging listed in Annex I.;

(14) Article 20 is replaced by the following:

*‘Article 20*

#### **Specific measures**

The Commission is empowered to adopt delegated acts in accordance with Article 21a in order to supplement this Directive where necessary to deal with any difficulties encountered in applying the provisions of this Directive, in particular, to inert packaging materials placed on the market in very small quantities (i.e. approximately 0,1 % by weight) in the Union, primary packaging for medical devices and pharmaceutical products, small packaging and luxury packaging.;

(15) Article 21 is replaced by the following:

*‘Article 21*

#### **Committee procedure**

1. The Commission shall be assisted by the committee established by Article 39 of Directive 2008/98/EC. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011 of the European Parliament and of the Council (\*).

2. When reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

Where the committee delivers no opinion, the Commission shall not adopt the draft implementing act and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply.

(\*) Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).;

(16) the following article is inserted:

*‘Article 21a*

#### **Exercise of the delegation**

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Articles 11(3) and 19(2) and Article 20 shall be conferred on the Commission for a period of five years from 4 July 2018. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

3. The delegation of power referred to in Articles 11(3) and 19(2) and Article 20 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making (\*).

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6. A delegated act adopted pursuant to Articles 11(3) and 19(2) and Article 20 shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and to the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

(\*) OJ L 123, 12.5.2016, p. 1.;

(17) Annexes II and III are amended as set out in the Annex to this Directive;

(18) Annex IV is added as set out in the Annex to this Directive.

#### Article 2

#### Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 5 July 2020. They shall immediately inform the Commission thereof.

When Member States adopt those measures, they shall contain a reference to this Directive or shall be accompanied by such a reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

2. Member States shall communicate to the Commission the text of the main measures of national law which they adopt in the field covered by this Directive. The Commission shall inform the other Member States thereof.

#### Article 3

#### Entry into force

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

#### Article 4

#### Addressees

This Directive is addressed to the Member States.

Done at Strasbourg, 30 May 2018.

*For the European Parliament*

*The President*

A. TAJANI

*For the Council*

*The President*

L. PAVLOVA

## ANNEX

(1) Annex II is amended as follows:

(a) in point 1, the second indent is replaced by the following:

‘— Packaging shall be designed, produced and commercialised in such a way as to permit its reuse or recovery, including recycling, in line with the waste hierarchy, and to minimise its impact on the environment when packaging waste or residues from packaging waste management operations are disposed of.’;

(b) in point 3, points (c) and (d) are replaced by the following:

‘(c) *Packaging recoverable in the form of composting*

Packaging waste processed for the purpose of composting shall be of such a biodegradable nature that it does not hinder the separate collection and the composting process or activity into which it is introduced.

(d) *Biodegradable packaging*

Biodegradable packaging waste shall be of such a nature that it is capable of undergoing physical, chemical, thermal or biological decomposition such that most of the finished compost ultimately decomposes into carbon dioxide, biomass and water. Oxo-degradable plastic packaging shall not be considered as biodegradable.’.

(2) Annex III is amended as follows:

(a) in Tables 1 and 2, the rows entitled ‘Metal’ are each replaced by two rows entitled ‘Ferrous metal’ and ‘Aluminium’;

(b) Table 2 is amended as follows:

(i) in the second column, the title ‘Tonnage of packaging consumed’ is replaced by ‘Tonnage of packaging placed on the market for the first time’;

(ii) in the third column, the title ‘Packaging reused’ is replaced by ‘Reusable packaging’;

(iii) after the third column, the following is added:

‘Reusable sales packaging	
Tonnage	Percentage’

(c) in Tables 3 and 4, the rows entitled ‘Metal packaging’ are each replaced by two rows entitled ‘Ferrous metal packaging’ and ‘Aluminium packaging’.

(3) The following annex is added:

## ‘ANNEX IV

## IMPLEMENTATION PLAN TO BE SUBMITTED PURSUANT TO POINT (D) OF ARTICLE 6(1A)

The implementation plan to be submitted pursuant to point (d) of Article 6(1a) shall contain the following:

1. assessment of the past, current and projected rates of recycling, landfilling and other treatment of packaging waste and the streams of which it is composed;

2. assessment of the implementation of waste management plans and waste prevention programmes in place pursuant to Articles 28 and 29 of Directive 2008/98/EC;
  3. reasons for which the Member State considers that it might not be able to attain the relevant target laid down in points (g) and (i) of Article 6(1) within the deadline set therein and an assessment of the time extension necessary to meet that target;
  4. measures necessary to attain the targets set out in points (g) and (i) of Article 6(1) of this Directive that are applicable to the Member State during the time extension, including appropriate economic instruments and other measures to provide incentives for the application of the waste hierarchy as set out in Article 4(1) of, and Annex IVa to, Directive 2008/98/EC;
  5. a timetable for the implementation of the measures identified in point 4, determination of the body competent for their implementation and an assessment of their individual contribution to attaining the targets applicable in the event of a time extension;
  6. information on funding for waste management in line with the polluter-pays principle;
  7. measures to improve data quality, as appropriate, with a view to better planning and monitoring performance in waste management.’
-

# DECISIONS

## DECISION (EU) 2018/853 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 30 May 2018

**amending Regulation (EU) No 1257/2013 and Directives 94/63/EC and 2009/31/EC of the European Parliament and of the Council and Council Directives 86/278/EEC and 87/217/EEC as regards procedural rules in the field of environmental reporting and repealing Council Directive 91/692/EEC**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 192(1) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee <sup>(1)</sup>,

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure <sup>(2)</sup>,

Whereas:

- (1) Council Directives 86/278/EEC <sup>(3)</sup> and 87/217/EEC <sup>(4)</sup> are based on Articles 100 and 235 of the Treaty establishing the European Economic Community, now Articles 115 and 352 of the Treaty on the Functioning of the European Union (TFEU). Amendments to those Directives in this Decision are related to Union policy on the environment and are a direct consequence of the repeal of Council Directive 91/692/EEC <sup>(5)</sup> on the basis of Article 192(1) TFEU. It is therefore appropriate to base those amendments on Article 192(1) TFEU.
- (2) European Parliament and Council Directive 94/63/EC <sup>(6)</sup> is based on Article 100a of the Treaty establishing the European Community, now Article 114 TFEU. Amendments to that Directive in this Decision are related to Union policy on the environment and are a direct consequence of the repeal of Directive 91/692/EEC on the basis of Article 192(1) TFEU. It is therefore appropriate to base those amendments on Article 192(1) TFEU.
- (3) Directive 91/692/EEC was adopted to rationalise and improve, on a sectoral basis, the provisions on the transmission of information and the publication of reports concerning certain directives on the protection of the environment. To achieve that objective, Directive 91/692/EEC amended several directives by introducing uniform reporting requirements.

<sup>(1)</sup> OJ C 173, 31.5.2017, p. 82.

<sup>(2)</sup> Position of the European Parliament of 18 April 2018 (not yet published in the Official Journal) and decision of the Council of 14 May 2018.

<sup>(3)</sup> Council Directive 86/278/EEC of 12 June 1986 on the protection of the environment, and in particular of the soil, when sewage sludge is used in agriculture (OJ L 181, 4.7.1986, p. 6).

<sup>(4)</sup> Council Directive 87/217/EEC of 19 March 1987 on the prevention and reduction of environmental pollution by asbestos (OJ L 85, 28.3.1987, p. 40).

<sup>(5)</sup> Council Directive 91/692/EEC of 23 December 1991 standardizing and rationalizing reports on the implementation of certain Directives relating to the environment (OJ L 377, 31.12.1991, p. 48).

<sup>(6)</sup> European Parliament and Council Directive 94/63/EC of 20 December 1994 on the control of volatile organic compound (VOC) emissions resulting from the storage of petrol and its distribution from terminals to service stations (OJ L 365, 31.12.1994, p. 24).

- (4) The implementation of the reporting requirements introduced by Directive 91/692/EEC has become burdensome and ineffective. Moreover, many of the Union acts amended by Directive 91/692/EEC have been replaced and no longer contain the reporting requirements as introduced by that Directive. For example, Directive 2000/60/EC of the European Parliament and of the Council <sup>(1)</sup> repealed seven Union acts in the field of water policy and did not take over the reporting system introduced by Directive 91/692/EEC. In addition, Directive 2010/75/EU of the European Parliament and of the Council <sup>(2)</sup> contains no reference to Directive 91/692/EEC and instead provides for a separate system of reporting.
- (5) Directive 91/692/EEC does not provide for use of electronic tools. With the successful development of the European Environmental Agency's Reportnet and sectoral initiatives on streamlining of reporting, such as the Water Information System for Europe, the need for and effectiveness of a horizontal instrument on reporting has increasingly been called into question. Finally, the adoption of Directive 2007/2/EC of the European Parliament and of the Council <sup>(3)</sup> and the related development of the Shared Environment Information System, introduced a more modern and effective horizontal approach to information management and reporting related to Union environmental policy.
- (6) Directive 91/692/EEC should therefore be repealed.
- (7) Most of the Directives amended by Directive 91/692/EEC are no longer in force. However, Directives 86/278/EEC and 87/217/EEC are still in force.
- (8) Directive 86/278/EEC requires Member States to provide a report on the implementation of that Directive on the basis of a questionnaire or outline drafted by the Commission in accordance with the procedure laid down in Directive 91/692/EEC. In order to avoid a legal vacuum due to the repeal of Directive 91/692/EEC, it is necessary to replace the reference to Directive 91/692/EEC with a reference to the procedure referred to in Directive 86/278/EEC.
- (9) Reporting by Member States under Directive 87/217/EEC is no longer necessary following the adoption of Regulation (EC) No 1907/2006 of the European Parliament and of the Council <sup>(4)</sup>, which provides for the phasing out of the production and use of raw asbestos and products containing asbestos in the Union. It is therefore appropriate to delete those reporting requirements set out in that Directive.
- (10) After the entry into force of Directive 91/692/EEC, the following Regulations and Directives included a reference to that Directive: European Parliament and Council Directive 94/62/EC <sup>(5)</sup>, Directive 94/63/EC, Council Directive 1999/31/EC <sup>(6)</sup>, Directive 2000/53/EC of the European Parliament and of the Council <sup>(7)</sup>, Directive 2003/87/EC of the European Parliament and of the Council <sup>(8)</sup>, Directive 2008/98/EC of the European Parliament and of the Council <sup>(9)</sup>, Directive 2009/31/EC of the European Parliament and of the Council <sup>(10)</sup> and Regulation (EU) No 1257/2013 of the European Parliament and of the Council <sup>(11)</sup>.
- (11) As part of an EU action plan for the circular economy, the Commission proposed to amend Directives 94/62/EC, 1999/31/EC, 2000/53/EC and 2008/98/EC in order to replace the reference to Directive 91/692/EEC.

<sup>(1)</sup> Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy (OJ L 327, 22.12.2000, p. 1).

<sup>(2)</sup> Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control) (OJ L 334, 17.12.2010, p. 17).

<sup>(3)</sup> Directive 2007/2/EC of the European Parliament and of the Council of 14 March 2007 establishing an Infrastructure for Spatial Information in the European Community (INSPIRE) (OJ L 108, 25.4.2007, p. 1).

<sup>(4)</sup> Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC (OJ L 396, 30.12.2006, p. 1).

<sup>(5)</sup> European Parliament and Council Directive 94/62/EC of 20 December 1994 on packaging and packaging waste (OJ L 365, 31.12.1994, p. 10).

<sup>(6)</sup> Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste (OJ L 182, 16.7.1999, p. 1).

<sup>(7)</sup> Directive 2000/53/EC of the European Parliament and of the Council of 18 September 2000 on end-of life vehicles (OJ L 269, 21.10.2000, p. 34).

<sup>(8)</sup> Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC (OJ L 275, 25.10.2003, p. 32).

<sup>(9)</sup> Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (OJ L 312, 22.11.2008, p. 3).

<sup>(10)</sup> Directive 2009/31/EC of the European Parliament and of the Council of 23 April 2009 on the geological storage of carbon dioxide and amending Council Directive 85/337/EEC, European Parliament and Council Directives 2000/60/EC, 2001/80/EC, 2004/35/EC, 2006/12/EC, 2008/1/EC and Regulation (EC) No 1013/2006 (OJ L 140, 5.6.2009, p. 114).

<sup>(11)</sup> Regulation (EU) No 1257/2013 of the European Parliament and of the Council of 20 November 2013 on ship recycling and amending Regulation (EC) No 1013/2006 and Directive 2009/16/EC (OJ L 330, 10.12.2013, p. 1).



- (12) In order to ensure that certain provisions of the Annexes to Directive 86/278/EEC are up to date, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of the adaptation of those provisions to technical and scientific progress. Likewise, in order to ensure that the Annexes to Directive 2009/31/EC are up to date, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of the adaptation of those Annexes to technical and scientific progress. The adaptation of the Annexes to Directive 2009/31/EC should not result in a lowering of the level of safety, or in a weakening of the monitoring principles, provided by the criteria contained in those Annexes. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making <sup>(1)</sup>. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.
- (13) The second subparagraph of Article 21(2) of Regulation (EU) No 1257/2013 refers to Directive 91/692/EEC, which is to be repealed. Pursuant to that provision, the first reporting exercise is due to start on the date of application of Regulation (EU) No 1257/2013. On 19 December 2016, by means of Implementing Decision (EU) 2016/2323 <sup>(2)</sup>, the Commission established the first version of the European List of ship recycling facilities ('the European List'). In accordance with Article 26 of Regulation (EU) No 1257/2013, Member States may authorise the recycling of ships in ship recycling facilities included in the European List prior to the date of application of that Regulation. In such circumstances, Regulation (EC) No 1013/2006 of the European Parliament and of the Council <sup>(3)</sup> does not apply. In order to avoid a gap during which time information is not collected under Regulation (EC) No 1013/2006 or Regulation (EU) No 1257/2013, it is appropriate to introduce a transitional reporting period between the date of the first anticipated authorisation under Article 26 of Regulation (EU) No 1257/2013 in a given Member State and the date of application of that Regulation for each Member State that decides to use the transitional period provided for in that Article. To limit the related administrative burden for each such Member State, it is not necessary that the information collected during that transitional period form the basis of a separate report. Instead, it should be sufficient that such information be incorporated or form part of the first regular report covering the three-year period from the date of application of Regulation (EU) No 1257/2013.
- (14) The reporting requirement set out in Directive 94/63/EC is no longer necessary for the purposes of monitoring implementation of that Directive. The relevant provision should therefore be deleted.
- (15) Since the objective of this Decision, namely to amend or repeal Union legal acts in the field of environmental reporting that are no longer applicable or relevant, cannot be sufficiently achieved by the Member States but can rather, by reason of its nature, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Decision does not go beyond what is necessary in order to achieve that objective.
- (16) Regulation (EU) No 1257/2013 and Directives 94/63/EC, 2009/31/EC, 86/278/EEC and 87/217/EEC should therefore be amended accordingly,

HAVE ADOPTED THIS DECISION:

#### Article 1

#### Amendments to Directive 2009/31/EC

Directive 2009/31/EC is amended as follows:

- (1) in Article 27, paragraph 1 is replaced by the following:

'1. Every three years the Member States shall submit to the Commission a report on the implementation of this Directive, including the register referred to in point (b) of Article 25(1). The first report shall be sent to the Commission by 30 June 2011. The report shall be drawn up on the basis of a questionnaire or outline adopted by the Commission in the form of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 30(2). The questionnaire or outline shall be sent to Member States at least six months before the deadline for the submission of the report.'

<sup>(1)</sup> OJ L 123, 12.5.2016, p. 1.

<sup>(2)</sup> Commission Implementing Decision (EU) 2016/2323 of 19 December 2016 establishing the European List of ship recycling facilities pursuant to Regulation (EU) No 1257/2013 of the European Parliament and of the Council on ship recycling (OJ L 345, 20.12.2016, p. 119).

<sup>(3)</sup> Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste (OJ L 190, 12.7.2006, p. 1).

- (2) Article 29 is replaced by the following:

*'Article 29*

**Amendments to the Annexes**

The Commission is empowered to adopt delegated acts in accordance with Article 29a to amend the Annexes in order to adapt them to technical and scientific progress. Such adaptation may not result in a lowering of the level of safety provided by the criteria contained in Annex I or in a weakening of the monitoring principles contained in Annex II.';

- (3) the following Article is inserted:

*'Article 29a*

**Exercise of the delegation**

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Article 29 shall be conferred on the Commission for a period of five years from 4 July 2018. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The report shall be submitted to the European Parliament and Council. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.
3. The delegation of power referred to in Article 29 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making (\*).
5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
6. A delegated act adopted pursuant to Article 29 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

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(\*) OJ L 123, 12.5.2016, p. 1.';

- (4) Article 30 is replaced by the following:

*'Article 30*

**Committee procedure**

1. The Commission shall be assisted by the Climate Change Committee established by Article 26 of Regulation (EU) No 525/2013 of the European Parliament and of the Council (\*). That committee shall be a committee within the meaning of Regulation (EU) No 182/2011 of the European Parliament and of the Council (\*\*).
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

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(\*) Regulation (EU) No 525/2013 of the European Parliament and of the Council of 21 May 2013 on a mechanism for monitoring and reporting greenhouse gas emissions and for reporting other information at national and Union level relevant to climate change and repealing Decision No 280/2004/EC (OJ L 165, 18.6.2013, p. 13).

(\*\*) Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).'

## Article 2

**Amendments to Directive 86/278/EEC**

Directive 86/278/EEC is amended as follows:

- (1) Article 13 is replaced by the following:

*'Article 13*

The Commission is empowered to adopt delegated acts in accordance with Article 15a to amend the Annexes in order to adapt them to technical and scientific progress.

The first paragraph shall not apply to the parameters and values listed in Annexes I A, I B and I C, any factors likely to affect the evaluation of those values, and the parameters for analysis referred to in Annexes II A and II B.;

- (2) Article 14 is deleted;

- (3) Article 15 is replaced by the following:

*'Article 15*

1. The Commission shall be assisted by the committee established by Article 39 of Directive 2008/98/EC of the European Parliament and of the Council (\*). That committee shall be a committee within the meaning of Regulation (EU) No 182/2011 of the European Parliament and of the Council (\*\*).

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

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(\*) Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (OJ L 312, 22.11.2008, p. 3).

(\*\*) Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).;

- (4) the following Article is inserted:

*'Article 15a*

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Article 13 shall be conferred on the Commission for a period of five years from 4 July 2018. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The report shall be submitted to the European Parliament and Council. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

3. The delegation of power referred to in Article 13 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making (\*).

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6. A delegated act adopted pursuant to Article 13 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

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(\*) OJ L 123, 12.5.2016, p. 1.;

(5) in Article 17, the first paragraph is replaced by the following:

‘At intervals of three years Member States shall send information to the Commission on the implementation of this Directive, in the form of a sectoral report which shall also cover other pertinent Community Directives. The sectoral reports shall be drawn up on the basis of a questionnaire or outline adopted by the Commission in the form of an implementing act. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 15(2). The questionnaire or outline shall be sent to the Member States six months before the start of the period covered by the report. The report shall be sent to the Commission within nine months of the end of the three-year period covered by it.’.

#### *Article 3*

#### **Amendment to Directive 87/217/EEC**

In Article 13 of Directive 87/217/EEC, paragraph 1 is deleted.

#### *Article 4*

#### **Amendment to Regulation (EU) No 1257/2013**

In Article 21 of Regulation (EU) No 1257/2013, paragraph 2 is replaced by the following:

‘2. Each report shall cover three years and shall be electronically transmitted to the Commission no later than nine months after the end of the three-year period covered by it.

The first electronic report shall cover the three-year period starting on the date of application of this Regulation, in accordance with Article 32(1). Where a Member State authorises the recycling of ships in ship recycling facilities that are included in the European List prior to the date of application of this Regulation in accordance with Article 26, the first electronic report of that Member State shall also cover the period from the date of such authorisation to the date of application of this Regulation.

The Commission shall publish a report on the application of this Regulation no later than nine months after receiving the reports from the Member States.’.

#### *Article 5*

#### **Amendments to Directive 94/63/EC**

Directive 94/63/EC is amended as follows:

(1) in Article 4(4), the second subparagraph is replaced by the following:

‘Member States shall inform the Commission of terminals concerned by such a derogation.’;

(2) in Article 6(4), the second subparagraph is replaced by the following:

‘Member States shall inform the Commission of the details of the areas within which they intend to grant such derogation and subsequently of any changes to such areas.’;

(3) Article 9 is replaced by the following:

#### *Article 9*

#### **Monitoring and reporting**

The Commission is invited to submit with its reports, where appropriate, proposals for the amendment of this Directive, including in particular the extension of the scope to include vapour control and recovery systems for loading installations and ships.’.

#### *Article 6*

#### **Repeal of Directive 91/692/EEC**

Directive 91/692/EEC is repealed.

*Article 7***Entry into force**

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

Done at Strasbourg, 30 May 2018.

*For the European Parliament*

*The President*

A. TAJANI

*For the Council*

*The President*

L. PAVLOVA

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