



STATUTORY INSTRUMENTS.

S.I. No. 396 of 2023



EUROPEAN UNION (AGRICULTURAL PRODUCER ORGANISATIONS)
REGULATIONS 2023

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I, Charlie McConalogue, Minister for Agriculture, Food and the Marine, in exercise of the powers conferred on me by section 3 of the European Communities Act, 1972 (No. 27 of 1972) for the purpose of giving effect to Chapter III of Title II of Part II of Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013¹, as amended by Regulation (EU) 2017/2393 of the European Parliament and of the Council of 13 December 2017² and Regulation (EU) 2021/2117 of the European Parliament and of the Council of 2 December 2021³, hereby make the following regulations:

1. These Regulations may be cited as the European Union (Agricultural Producer Organisations) Regulations 2023.

2. (1) In these Regulations—

“active agricultural supplier” means a farmer who has supplied the relevant agricultural product to a purchaser in the preceding year;

“authorised officer” means—

- (a) a person appointed under Regulation 9, or
- (b) an authorised officer within the meaning of the European Union (Food and Feed Hygiene) Regulations 2020 (S.I. No. 22 of 2020);

“Council Regulation” means Regulation (EU) No. 1308/2013 of the European Parliament and of the Council of 17 December 2013 as amended by Regulation (EU) No 1310/2013 of the European Parliament and of the Council of 17 December 2013⁴, Regulation (EU) 2016/791 of the European Parliament and of the Council of 11 May 2016⁵, Commission Delegated Regulation (EU) 2016/1166 of 17 May 2016⁶, Commission Delegated Regulation (EU) 2016/1226 of 4 May 2016⁷, Regulation (EU) 2017/2393 of the European Parliament and of the Council of 13 December 2017⁸, Regulation (EU) 2020/2220 of the European Parliament and of the Council of 23 December 2020⁹ and Regulation (EU) 2021/2117 of the European Parliament and of the Council of 2 December 2021¹⁰;

¹ OJ L 347, 20.12.2013, p. 671

² OJ L 350, 29.12.2017, p. 15

³ OJ L 435, 6.12.2021, p. 262

⁴ OJ L 347, 20.12.2013, p. 865

⁵ OJ L 135, 24.5.2016, p. 1

⁶ OJ L 193, 19.7.2016, p. 17

⁷ OJ L 202, 28.7.2016, p. 5

⁸ OJ L 350, 29.12.2017, p. 15

⁹ OJ L 437, 28.12.2020, p. 1

¹⁰ OJ L 435, 6.12.2021, p. 262

“purchaser” means a person who purchases relevant agricultural products from a primary producer;

“relevant agricultural product” means an agricultural product from a sector referred to in Article 1(2) of the Council Regulation in respect of which the producer organisation has applied to be recognised.

(2) A reference to a producer organisation in these Regulations includes associations of producer organisations.

(3) A word or expression which is used in these Regulations and is also used in the Council Regulation, has, unless the context otherwise requires, the same meaning in these Regulations as it has in the Council Regulation.

3. The Minister shall establish and maintain a register of recognised agricultural producer organisations in the beef and veal, sheep, milk and milk products, fruit and vegetables, potatoes, amenity plants and tillage sectors.

4. (1) The Minister may recognise a producer organisation that—

- (a) consists exclusively of active suppliers,
- (b) subject to Regulation 5—
 - (i) in the case of producer organisations in the beef and veal, sheep, milk and milk products sectors has at least 20 active agricultural suppliers as members, or
 - (ii) in the case of producer organisations in the fruit and vegetable, potato, amenity plants and tillage sectors has at least 5 active agricultural suppliers as members,
- (c) satisfies—
 - (i) where required, Articles 152, 153, 154 and 155 of the Council Regulation, and
 - (ii) in the case of producer organisations in the fruit and vegetable sector, satisfies Article 160 of the Council Regulation, or
 - (iii) in the case of producer organisations in the milk and milk products sector, satisfies Article 161 of the Council Regulation, and
- (d) is democratically constituted and has legal personality.

(2) The Minister may from time to time publish the register established under Regulation 3 or such extract as the Minister considers appropriate.

(3) A producer organisation wishing to apply for recognition under the Council Regulation shall apply to the Minister in a format as determined by the Minister providing such information as the Minister may request.

(4) The Minister may attach such conditions to a recognition as appears necessary to the Minister to give effect to the Council Regulation.

(5) A producer organisation shall provide such information to the Minister as the Minister requests for the purpose of these Regulations and the Council Regulation within 30 days of such request.

(6) The Minister may carry out such checks as the Minister considers necessary to verify that a recognised producer organisation is complying with the Council Regulation, these Regulations or a condition of a recognition.

(7) Where the Minister proposes to refuse an application for recognition or withdraw recognition, the Minister shall—

- (a) notify the applicant for, or holder of, the recognition, in writing of the proposal and of the reasons for the proposal, and that applicant or holder may make representations to the Minister in relation to the proposal within 21 days of the notification,
- (b) consider any representation duly made before deciding whether to proceed with, modify or annul the proposal, and
- (c) notify the applicant for, or holder of, the recognition, in writing of the decision and the reasons for the decision.

5. An active agricultural supplier may not be a member of more than one producer organisation for any given commodity unless the Minister is satisfied that Article 153(1)(b) of the Council Regulation applies and the producer organisations are in different geographic or production areas.

6. For the beef and veal, sheep, milk and milk products sectors, the Minister may recognise a Producer Organisation with less than 20 active suppliers where it operates in a specific production area or, in a particular geographic area.

7. The Minister may permit a recognised producer organisation to outsource any of its activities other than production in accordance with Article 155 of the Council Regulation.

8. The Minister may recognise a producer organisation with members who are active farmers in another Member State where—

- (a) the producer organisation's headquarters is located in the State, and
- (b) the majority of the members are resident in the State.

9. (1) The Minister may, appoint in writing, such persons or classes of persons as the Minister considers appropriate to be authorised officers for the exercise of all or any of the functions conferred on an authorised officer under these Regulations, specified in the appointment.

(2) The Minister may terminate the appointment of an authorised officer appointed by the Minister, whether or not the appointment was for a fixed period or specified purpose.

(3) An appointment as an authorised officer ceases—

- (a) if it is terminated in accordance with paragraph (2),
- (b) if it is for a fixed period, on the expiration of that period,
- (c) if it is for a specified purpose, on the completion of that purpose,
or
- (d) if the person appointed is an officer of the Minister upon the person ceasing to be such an officer or class of person.

(4) Nothing in paragraph (3) is to be construed so as to prevent the Minister from re-appointing as an authorised officer a person to whom paragraph (3) relates.

(5) An authorised officer appointed under this Regulation shall be furnished with a warrant of their appointment and, when exercising a function conferred on them as an authorised officer, the officer shall, if requested by a person affected, produce the warrant, or other evidence (including an identity document relating to the officer under section 17 of the Animal Remedies Act 1993) that they are such an officer, for inspection.

10. (1) For the purposes of ensuring compliance with these Regulations or the Council Regulation, an authorised officer may—

- (a) enter and inspect, at all reasonable times, any premises, land, vehicle, container or vessel if they are carrying out checks for the purposes of the Council Regulation or where they have reasonable grounds for believing that—
 - (i) Relevant animals, plants, products or other thing to which these Regulations relate is, may be or has been present,
 - (ii) a record relating to relevant animals, plants, products or other thing to which these Regulations or the Council Regulation relate is, may be or has been present, or
 - (iii) equipment, machinery, a container, a vehicle, a vessel or other thing used in connection with relevant animals, plants, products or other thing to which these Regulations or the Council Regulation relate is, may be or has been present,
- (b) examine equipment, machinery, a container, a vehicle, a vessel or other thing used in connection with relevant animals, plants, products or other thing to which these Regulations or the Council Regulation relate,
- (c) require the name and address of the owner, operator or person in possession or control of equipment, machinery, a container, a vehicle, a vessel or other thing used in connection with relevant animals, plants, products, or other thing to which these Regulations or the Council Regulation relate,

- (d) require the owner, person in possession or control of any premises, equipment, machinery, a container, a vehicle, a vessel or other thing used in connection with relevant animals, plants, products or other thing to which these Regulations or the Council Regulation relate to, produce to the officer such records (and in the case of a record stored in non-legible form, produce to them a copy in a legible form) that are in the person's possession or procurement, or under the person's control, as the officer may reasonably require,
- (e) inspect and take copies of any record (including a legible reproduction of one stored in non-legible form), or a record, document or extracts from the record or document that the officer finds or is produced to him or her during an inspection,
- (f) take photographs, video recordings or other electronic recordings, and
- (g) take, without making a payment, samples of relevant products or other thing to which these Regulations or the Council Regulation relate, or any article, substance or liquid as they may reasonably require and carry out or cause to be carried out on the samples such tests, analyses, examinations or inspections as they consider necessary or expedient and mark or otherwise identify it.

(2) An authorised officer may require a person to give information regarding the ownership and identity of equipment, machinery, a container, a vehicle, a vessel or other thing used in connection with relevant animals, plants, products or other thing to which these Regulations or the Council Regulation relate as is in the person's knowledge or procurement.

(3) An authorised officer, when exercising a function under this Regulation, may be accompanied by other persons and may take with them, or those persons may take with them, any equipment or materials to assist the officer in the exercise of the function.

(4) An authorised officer may use reasonable force, if necessary, to exercise their functions under these Regulations.

(5) Nothing in section 17 of the Industrial and Provident Societies Act 1893 prevents an authorised officer from exercising a function conferred on them by these Regulations.

(6) A person who has—

- (a) relevant animals, plants, products, record, document or other thing to which these Regulations or the Council Regulation relate, or
- (b) equipment, machinery, a container, a vehicle, a vessel or other thing used in connection with relevant animals, plants, products or other thing to which these Regulations or the Council Regulation relate,

in their possession or under their control, or information or a record relating to any of them, shall give such—

- (i) assistance to an authorised officer, or person who accompanies the officer, and
- (ii) information to an authorised officer

on request being made, in that behalf by the officer, as the officer may reasonably require for the exercise of their functions under these Regulations.

(7) An authorised officer may require a person to give to the officer such information as is in the person's power or procurement or as regards any premises specified by the officer including—

- (a) whether or not the premises is used, either partly or wholly, for or in connection with relevant animals, plants, products or other thing to which these Regulations or the Council Regulation relate,
- (b) the name of the owner, occupier or person who is in charge of the premises, and
- (c) whether or not the premises is let and, if let, the name and address of the person to whom, and the period of time for which, it is let.

(8) An authorised officer shall not enter, except with the consent of the occupier, a private dwelling unless the authorised officer has obtained a search warrant under paragraph (9) other than where the officer has reasonable grounds for believing that before a search warrant could be sought in relation to the dwelling under paragraph (9), any evidence of an offence under these Regulations is being or is likely to be disposed of or destroyed.

(9) If a judge of the District Court is satisfied by information on oath of an authorised officer that there are reasonable grounds for believing-

- (a) evidence of or relating to the commission or intended commission of an offence under these Regulations is to be found on a premises,
- (b) there is or was relevant animals, plants, products or another thing made, used or adapted for use (including manufacture and transport) in connection with relevant animals, plants, products, or
- (c) a document or other record related to a thing to which subparagraph (a) refers is or may be on the premises,

the judge may issue a search warrant.

(10) A search warrant under paragraph (9) shall be expressed and operate to authorise a named authorised officer, accompanied by such authorised officers or other persons as the named authorised officer thinks necessary, at any time, within one month from the date of issue of the warrant, on production if so requested of the warrant, to enter (if necessary by use of reasonable force) the premises, vehicle, vessel or aircraft named in the warrant.

(11) If a premises is entered under a warrant issued under paragraph (9), an authorised officer so entering may exercise all or any of the powers conferred on an authorised officer under these Regulations.

11. (1) A person who—
- (a) obstructs, interferes with or impedes an authorised officer, or any person who accompanies an authorised officer, in the course of exercising a function conferred on the officer under these Regulations,
 - (b) fails or refuses, without reasonable cause, to comply with a requirement, of an authorised officer under Regulation 10,
 - (c) fails, without reasonable cause, to give assistance or requested information to an authorised officer in accordance with these Regulations or the Council Regulation, or
 - (d) in purporting to give information to an authorised officer for the exercise of the officer’s functions under these Regulations—
 - (i) makes a statement that they know to be false in a material particular or recklessly makes a statement which is false, in a material particular, or
 - (ii) intentionally fails to disclose a material particular,

commits an offence and is liable on summary conviction to a class A fine.

(2) A statement or admission made by a person pursuant to a requirement under Regulation 10(6) is not admissible in evidence in proceedings brought against the person for an offence (other than an offence under this Regulation for failing to give information or false information) under these Regulations.

12. (1) Where an authorised officer is of the opinion that a contravention of these Regulations or the Council Regulation may have taken place, may be taking place, the officer may serve a notice (“compliance notice”) stating that opinion on the person—

- (a) who appears to be the owner, occupier, or person in charge of the premises, vehicle, vessel or container, or
- (b) in possession or control of relevant animals, plants, products or other thing to which the notice relates.

(2) A compliance notice shall—

- (a) require the person to whom it is served to take such action as specified in the notice,
- (b) inform the person to whom it is served that they may appeal the notice in the District Court under Regulation 13, and
- (c) state that if the person to whom it is served fails to comply with the notice, they commit an offence and are liable to a penalty set out in paragraph (9).

(3) A compliance notice may—

- (a) require that relevant animals, plants, products or other thing to which these Regulations or the Council Regulation relate be

detained, disposed of or destroyed in a manner and at a place (if any) specified in the notice,

- (b) prohibit or regulate any activity specified in the notice, including prohibiting or restricting entry onto the premises, vehicle, vessel or container specified in the notice,
- (c) require that the owner, or person in charge of any premises, vehicle, vessel or container dispose of a product or other thing to which these Regulations or the Council Regulation relate in a manner specified in the notice,
- (d) prohibit the transport or further transport of relevant animals, plants, products or other thing to which these Regulations or the Council Regulation relate, either absolutely or unless such conditions as may be specified in the notice are complied with,
- (e) require a person to undertake a specified type or level of sampling and analysis for a specified period,
- (f) require the removal or amendment of such labels as may be specified in the notice or re-label relevant products or other thing to which these Regulations or the Council Regulation relate, or
- (g) require a person to maintain such records as is specified in the notice and to produce any records, documents or other such information as the authorised officer specifies.

(4) A person to whom a compliance notice is served shall comply with it until the notice expires, is withdrawn under paragraph (6) or is annulled under Regulation 13, and not cause or permit another person to contravene the terms of the notice.

(5) A compliance notice may specify a time limit within which it is to be complied with.

(6) A compliance notice may be modified or withdrawn in a further notice and the earlier notice has effect subject to the modification or withdrawal.

(7) A compliance notice may require the owner, operator or person in charge of any premises, relevant animals, plants, products, vehicle, vessel, machinery, container, equipment or other thing to which these Regulations or the Council Regulation relate, to choose between two or more of the requirements specified in the notice.

(8) A compliance notice shall include an address for service of an appeal under Regulation 13.

(9) A person on whom a compliance notice is served who fails to comply with, or causes or permits another person to contravene, the notice commits an offence and is liable on summary conviction to a class A fine.

13. (1) A person to whom a compliance notice is served may, within 7 days from the date of service of the notice, appeal the notice to the judge of the District Court having jurisdiction in the District Court district—

- (a) where relevant animals, plants, products, premises, vehicle, machinery, container, equipment, vessel or other thing to which these Regulations or the Council Regulation relate, which is the subject of the notice, is situated, or
- (b) where the person bringing the appeal ordinarily resides or carries on business

on the grounds that the notice is unreasonable having regard to these Regulations or the Council Regulation.

(2) Notice of an appeal shall contain a statement on the grounds upon which it is alleged that the notice or any of the terms of the notice are unreasonable and shall be served on the authorised officer who served the compliance notice at the address included on the notice in accordance with Regulation 12(8) not later than 48 hours prior to the hearing of the appeal.

(3) A person bringing an appeal shall lodge a copy of the notice or appeal with the District Court Clerk concerned not later than 48 hours prior to the hearing of the appeal.

(4) On the hearing of an appeal a judge of the District Court may confirm, modify or annul a notice.

(5) A person, including a person on whom a compliance notice has been served, shall not—

- (a) pending the determination of an appeal, deal with relevant animals, plants, products, premises, vehicle, vessel, container, machinery, equipment or other thing to which the notice relates, other than in accordance with the terms of the compliance notice, or
- (b) if the notice is confirmed or modified on appeal, deal with relevant animals, plants, products, premises, vehicle, vessel, container, machinery, equipment or other thing to which the notice relates other than in accordance with the terms of the compliance notice as confirmed or modified.

(6) In this Regulation “appeal” means an appeal under paragraph (1).

14. (1) A person shall not forge or alter or utter knowing it to be forged or altered with intent to defraud or deceive a commercial document, a record or other document for the purposes of the Council Regulation or these Regulations or a document purporting to be an extract from such a document (hereafter in this Regulation referred to as “a forged or altered document”).

(2) A person shall not have, without lawful authority, in their possession or control a forged or altered document.

15. (1) A person who fails to comply with Regulation 4(5), Regulation 5 or Regulation 14 commits an offence and is liable on summary conviction to a class A fine.

(2) The Minister may prosecute an offence under these Regulations in a summary manner.

(3) If an offence under these Regulations is committed by a body corporate and it is proved to have been so committed with the consent or connivance of or to be attributable to any neglect on the part of any person who, when the offence is committed, is a director, manager, secretary or other officer of the body corporate, or a person purporting to act in any such capacity, that person, as well as the body corporate, is guilty of an offence and liable to be proceeded against and punished as if guilty of the first-mentioned offence.

(4) If the affairs of a body corporate or unincorporated body are managed by its members, paragraph (3) applies in relation to the acts and defaults of a member in connection with functions of management as if the member is a director or manager of the body corporate.

16. (1) Where an officer of the Minister, designated by the Minister in that behalf has reasonable grounds for believing that a person is committing or has committed an offence, the officer may serve a notice in writing (“fixed payment notice”) on that person stating that—

- (a) the person is alleged to have committed the offence,
- (b) the person may during the period of 28 days beginning on the date of the notice make to the Minister, at the address specified in the notice, a payment, accompanied by the notice, of €250,
- (c) the person is not obliged to make the payment, and
- (d) a prosecution in respect of the alleged offence will not be instituted during the period specified in the notice and, if the payment specified in the notice is made during that period, no prosecution in respect of the alleged offence will be instituted.

(2) Where a fixed payment notice is served under paragraph (1)—

- (a) the person to whom the notice applies may, during the period specified in the notice, make to the Minister at the address specified in the notice the payment specified in the notice accompanied by the notice,
- (b) the Minister may receive the payment, issue a receipt for it and retain the money so paid, and any payment so received shall not be recoverable in any circumstances by the person who made it, and
- (c) a prosecution in respect of the alleged offence shall not be instituted in the period specified in the notice, and if the payment so specified is made during that period, no prosecution in respect of the alleged offence shall be instituted.

(3) In proceedings for an offence referred to in paragraph (1)—

- (a) the onus of proving that a payment, in accordance with a fixed payment notice, has been made, lies on the person on whom the fixed payment notice was served, and

- (b) it is a defence for the accused to show that the accused has made a payment in accordance with this Regulation pursuant to a fixed payment notice issued in respect of that offence.

17. (1) The following are revoked:

- (a) the European Union (Beef Producer Organisations) Regulations 2016 (S.I. No. 49 of 2016);
- (b) the European Union (Beef Producer Organisations) (Amendment) Regulations 2016 (S.I. No. 492 of 2016).

(2) An entry in the register established under the Regulations revoked by paragraph (1) that is in force immediately before the making of these Regulations remains in force, is considered to be an entry in the register of recognised agricultural producer organisations and may be dealt with by the Minister as if it is an entry in the register of recognised agricultural producer organisations established under Regulation 3.

(3) Any reference made in an instrument to Regulations revoked by paragraph (1) shall be construed as a reference to these Regulations.



GIVEN under my Official Seal,
13 July, 2023.

CHARLIE MCCONALOGUE,
Minister for Agriculture, Food and the Marine.

EXPLANATORY NOTE

(This note is not part of the instrument and does not purport to be a legal interpretation.)

These regulations provide for the establishment and registration of producer organisations in Ireland supplying relevant animals, plants and products in seven sectors – namely beef and veal, sheep, milk and milk products, fruit and vegetables, potatoes, amenity plants and tillage.

The regulations also provide for enforcement powers to ensure compliance with EU and national rules and replace regulations in S.I. No. 49 of 2016, as amended, which applied only to producer organisations supplying cattle for beef or veal production.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ó
FOILSEACHÁIN RIALTAIS,
BÓTHAR BHAILE UÍ BHEOLÁIN,
CILL MHAIGHNEANN,
BAILE ÁTHA CLIATH 8,
D08 XAO6

Tel: 046 942 3100
r-phost: publications@opw.ie

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