

EXPLANATORY MEMORANDUM FOR EUROPEAN UNION LEGISLATION WITHIN THE SCOPE OF THE UK/EU WITHDRAWAL AGREEMENT AND THE WINDSOR FRAMEWORK

Regulation (EU) 2023/2419 of the European Parliament and of the Council of 18 October 2023 on the labelling of organic pet food.

Submitted by the Department for Environment, Food and Rural Affairs on 04 April 2024

SUMMARY

1. The following explanatory memorandum relates to the EU's adoption of new pet food labelling requirements. If accepted at the Withdrawal Agreement Joint Committee under the Article 13(4) procedure, the scheme would apply in Northern Ireland. The scheme would sit alongside the existing organic labelling schemes for food for human consumption and animal feed.

SUBJECT MATTER

2. On 18 October 2023 the EU adopted a Regulation for new requirements for the production and labelling of organic pet food. The Regulation entered into force on 30 October 2023 and the new provisions will be applicable from 1 May 2024.
3. This Regulation extends the labelling and production requirements that are in place for organic food for human consumption to organic pet food.
4. Prior to this regulation, to be considered organic, pet food needed to be produced with 100% organic ingredients. Under this Regulation, to be labelled organic, pet food will need to be produced with at least 95% organic agricultural ingredients. Pet food marketed this way would need to bear a specified organic production logo.
5. Pet food containing less than 95% organic agricultural ingredients can only include references to the organic ingredients in the 'list of ingredients', but cannot be marketed as organic and cannot display the organic production logo on its packaging.
6. This is a measure that the EU is seeking to apply via the process set out in Article 13(4) of the Windsor Framework. As such, it would apply in Northern Ireland only if agreed by the UK in the UK-EU Joint Committee.
7. Were this measure to apply in Northern Ireland, the UK's position would be that it should not apply to pet food moved from Great Britain to Northern Ireland under the NI Retail Movements Scheme within the UK internal market (though this would be subject to engagement with the European Commission). This is

because Annex I of the SPS Regulation (2023/1231) carves out comparable regulations in this area - for example 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.

SCRUTINY HISTORY

1. The Parliamentary scrutiny history relevant to this Explanatory Memorandum is contained in the attached Annex A.

MINISTERIAL RESPONSIBILITY

2. The Secretary of State for Environment, Food and Rural Affairs is responsible for this policy.

INTEREST OF THE DEVOLVED ADMINISTRATIONS

3. The Secretary of State for Environment, Food and Rural Affairs is the Competent Authority for the purposes of organic production in the United Kingdom. Organic production is a devolved matter and is managed through the structures of the [Provisional Common Framework on Organic Production](#).
4. Defra officials meet with the Devolved Administrations monthly at the Organics Four Nations Working Group, which discusses organic policy across the United Kingdom. The Devolved Governments also attend regular meetings with the organic control bodies. This provides the opportunity for Devolved Governments to participate in decision making at a policy level as well as a more technical implementation level.
5. The Devolved Administrations of Northern Ireland, Scotland and Wales were consulted on this EM.

LEGAL AND PROCEDURAL ISSUES

6. **i. EU Legal Basis**
Article 43(2) of the Treaty on the Functioning of the European Union.
- ii. Voting Procedure**
Ordinary legislative procedure.
- iii. Timetable for adoption and implementation**

7. The Regulation was adopted on 18 October 2023 by the Council and entered into force on 30 October 2023, aside from Article 4(2) regarding use of the organic production logo which enters into force on 1 May 2024.
8. This measure does not replace or amend any EU legislation already present in the annexes of the Windsor Framework. The EU has formally informed the UK it wishes to add this legislation to the Windsor Framework via the Article 13(4) process. As such, whether it applies in Northern Ireland is a decision subject to the agreement of the UK Government at the UK-EU Joint Committee.
9. In making any such decision, UK Government Ministers are subject to the procedures applied by Schedule 6B of the Northern Ireland Act 1998. The Government will therefore make the appropriate notification to the Northern Ireland Assembly to enable consideration by the Assembly of an applicability motion.

POLICY IMPLICATIONS

Intent and focus

10. This Regulation would extend the same labelling requirements as those which apply for other organic food to organic pet food. That means pet food produced in accordance with the Regulation would need to be produced with at least 95% organic agricultural ingredients to be labelled as organic. If the pet food is marketed as organic, it must meet those conditions and bear an organic production logo. Pet food containing less than 95% organic agricultural ingredients can only include references to the organic ingredients in the list of ingredients.
11. Currently, producers in Northern Ireland must meet more stringent requirements, and ensure that all ingredients used are organic in order to market their pet food as such. This has been extremely challenging to comply with due to the lack of availability of appropriate organic ingredients especially vitamins and minerals. This Regulation brings the requirements for producing organic pet food in line with the requirements that are already in place for human food.
12. In Great Britain, those producing organic pet food can already market pet food as organic as long as up to 95% of ingredients are organic. Consequently, the effect of the Regulation, if adopted in NI, would be to bring the production requirements for organic pet food into alignment across the UK.
13. Should this Regulation apply in Northern Ireland, we would consider that it should not affect pet food moving from Great Britain to Northern Ireland via the Northern

Ireland Retail Movement Scheme, though this will require further engagement with the European Commission. This is because Annex I of the SPS Regulation (2023/1231) carves out comparable regulations where requirements such as this relating to marketing standards apply. Other EU organic regulations in relation to food and feed, such as Regulation 2018/848 are already carved out here.

14. In the event that it is agreed that the Regulation was both added to the Windsor Framework, and added to Annex 1 of the SPS Regulation in parallel, then organic pet food produced in accordance with the regulatory framework in Great Britain would continue to be able to be placed on the market in NI through the Northern Ireland Retail Movement Scheme in the same way it has since 1 October 2023.
15. In line with the Government's commitment to ensuring Northern Ireland traders have unfettered access to the rest of the UK internal market, any differences in the production or labelling of organic products would in no way impede the movement of qualifying Northern Ireland goods from Northern Ireland to Great Britain. Such goods will also continue to benefit from the market access principles set out in the United Kingdom Internal Market Act 2020. Accordingly, so long as those goods meet the standards applicable in Northern Ireland, they can be sold anywhere in the UK internal market. In practice, the adoption of the Regulation would in fact mean that Northern Ireland businesses could use a single standard applying across the UK when producing and marketing organic pet food, avoiding NI producers having to apply more stringent standards than competitors in Great Britain.
16. As such, should it be introduced in Northern Ireland and subject to confirmation of the parallel addition of the Regulation to Annex 1 of the SPS Regulation, we would not expect any material impact on trade either between Great Britain and Northern Ireland or from Northern Ireland to Great Britain, save for a limited positive benefit from the creation of a common standard for organic pet food production across the UK.

Business impact

17. In Northern Ireland, our engagement to date has shown that there are very few relevant pet food producers, with most organic pet food sold in NI moved from GB (and therefore would be unaffected if this regulation was added to the Windsor Framework, subject to the process noted above).
18. Northern Ireland producers, as noted above, may benefit from the more flexible approach to classifying 'organic' pet food products set out in the Regulation, which brings the EU regulatory framework in line with the rules applied in Great

Britain, and therefore would have the effect of creating a common production standard across the UK. The small number of producers identified in Northern Ireland also appear to market and sell their products in the Republic of Ireland extensively. It is clear that this is a sector that benefits significantly from EU market access and there is therefore a strong case to ensure that single labels and production standards can be maintained.

19. Ultimately the Regulation does not mandate any business to decide to classify themselves as producing 'organic pet food' and therefore any impact on business is a voluntary choice dependent on decisions by individual traders as to how they choose to market their products.
20. The Regulation relates to a comparatively very small and defined area of trade and business, and its impact in any direction should not therefore be overstated. However, in the event that the Regulation was not adopted, we would expect the impact to be negative from the perspective of both internal UK trade (as noted above in terms of comparable requirements placed on GB producers) and NI-EU trade. In respect of NI-EU trade, there is a risk that businesses in Northern Ireland could be placed at a disadvantage relative to businesses in Ireland, who would automatically be able to take advantage of the greater flexibility provided by this EU law when marketing their products in Ireland and across the EU.

CONSULTATION

21. Defra has consulted with Northern Ireland organic certification bodies, pet food trade associations and businesses who are involved in the manufacturing of organic pet food.
22. No businesses or trade associations have raised concerns with this Regulation. UK pet food, the trade body, representing pet food manufacturers across the UK has engaged with their membership who have raised no issues.
23. Specifically, Defra has consulted with the following Northern Ireland organic certification bodies - the Organic Food Federation, the Organic Trust, the Soil Association, Organic Farmers and Growers and the Irish Organic Association.
24. Additionally Defra has contacted the following pet food companies - Mackle Petfoods, Barkin Bistro and Letzpet. We understand that the majority of producers of organic pet food in the United Kingdom are already complying with the requirements of this regulation in order to produce goods that can be sold in both markets.

25. Defra, as the Competent Authority, will continue to engage with industry and certification bodies and provide guidance, should these requirements be introduced.