

II

(Non-legislative acts)

REGULATIONS

COMMISSION DELEGATED REGULATION (EU) 2022/474

of 17 January 2022

amending Annex II to Regulation (EU) 2018/848 of the European Parliament and of the Council as regards specific requirements for the production and use of non-organic, in-conversion and organic seedlings and other plant reproductive material

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2018/848 of the European Parliament and of the Council of 30 May 2018 on organic production and labelling of organic products and repealing Council Regulation (EC) No 834/2007 ⁽¹⁾, and in particular Article 12(2), points (b) and (e), thereof,

Whereas:

- (1) Regulation (EU) 2018/848, and in particular Part I of Annex II thereto, lays down certain requirements with regard to the use of in-conversion and non-organic plant reproductive material.
- (2) In view of the phasing out of the derogations from the use of organic plant reproductive material laid down in Article 53 of Regulation (EU) 2018/848, it is important to increase the production and placing on the market of organic and in-conversion plant reproductive material.
- (3) However, for some horticultural species, the current availability of organic and in-conversion seeds is limited, and the use of non-organic seeds for the production of seedlings as plant reproductive material, grown under organic conditions, is a common technique.
- (4) The databases and systems referred to in Article 26(1) and (2) of Regulation (EU) 2018/848, in which the Member States are required to make public information on the availability of organic and in-conversion plant reproductive material, do not include seedlings. Considering the particular nature of seedlings and the variable duration of their production cycles, it is necessary to clarify the rules on their use in organic production. The availability of organic and in-conversion seeds for the species and variety concerned should be taken into account to determine the potential availability on the market of organic and in-conversion seedlings.
- (5) In accordance with Article 10(4), second subparagraph, point (a), of Regulation (EU) 2018/848, non-organic plant reproductive material can also be marketed as in-conversion, provided that such material has completed a conversion period of at least 12 months. The use of in-conversion plant reproductive material should be prioritised over the use of non-organic plant reproductive material. In that context, it is necessary to clarify that 'in-conversion seedlings' may be used when their cultivation cycle has lasted at least 12 months on a land parcel that has completed a conversion period of 12 months or when cultivated in containers or on a land parcel, provided that the seedlings originate from in-conversion seeds that were harvested from plants grown on a land parcel that completed a conversion period of 12 months.

⁽¹⁾ OJ L 150, 14.6.2018, p. 1.

- (6) Nevertheless, as regards seedlings, it is necessary to prohibit the use of non-organic seedlings for crops that have completed a production cycle within one growing season from the transplantation of seedlings to the first harvest of the final product in order to ensure the integrity of organic products which could be undermined in case of presence of residues in the non-organic seeds used as starting material.
- (7) For certain fruit, grapevine and ornamental species or varieties, the availability of mother plants or, where relevant, other plants intended for the production of plant reproductive material, grown in compliance with point 1.8.2 of Part I of Annex II to Regulation (EU) 2018/848, is insufficient. Moreover, there are few organic fruit and grapevine nurseries that work currently with mother plants grown in compliance with point 1.8.2 due to the long term investments and technical difficulties to ensure full compliance with quality certification and phytosanitary requirements.
- (8) In order to promote the further development of this highly specialised production sector, it is appropriate to introduce the possibility to authorise the use of non-organic plant reproductive material grown under organic conditions for the production of plant reproductive material to be marketed and used for organic crops, provided that certain specific conditions are met.
- (9) Operators producing such plant reproductive material should be allowed to make public, on a voluntary basis, information on the availability of such material in the national systems established in accordance with Article 26(2) of Regulation (EU) 2018/848. This will allow operators to choose organically grown plant reproductive material when organic or in-conversion plant reproductive material is not available.
- (10) In order to ensure coherence, the authorisations to use non-organic plant reproductive material grown under organic conditions for the production of plant reproductive material should expire at the same time as the derogations to the use of organic plant reproductive material. The Commission should monitor the availability of organic plant reproductive material and will end or extend such authorisations in the light of the conclusions as regards availability of organic plant reproductive material presented in the report provided for in Article 53(7) of Regulation (EU) 2018/848 and in accordance with Article 53(2) of that Regulation.
- (11) Annex II to Regulation (EU) 2018/848 should therefore be amended accordingly.
- (12) In order to avoid a legal vacuum, this Regulation should apply retroactively from the date of application of Regulation (EU) 2018/848,

HAS ADOPTED THIS REGULATION:

Article 1

Annex II to Regulation (EU) 2018/848 is amended in accordance with the Annex to this Regulation.

Article 2

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

It shall apply from 1 January 2022.

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

Done at Brussels, 17 January 2022.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX

Part I of Annex II to Regulation (EU) 2018/848 is amended as follows:

(a) point 1.8.5.1 is amended as follows:

(i) the first paragraph is replaced by the following:

'By way of derogation from point 1.8.1, where the data collected in the database referred to in Article 26(1) or the systems referred to in Article 26(2) show that the qualitative or quantitative needs of the operator regarding relevant organic plant reproductive material are not met, the operator may use in-conversion plant reproductive material in accordance with Article 10(4), second subparagraph, point (a), or plant reproductive material authorised in accordance with point 1.8.6.:'

(ii) the following paragraph is inserted after the first paragraph:

'In addition, in case of a lack of availability of organic seedlings, "in-conversion seedlings", marketed in compliance with Article 10(4), second subparagraph, point (a), may be used when grown as follows:

(a) through a cultivation cycle from seeds to final seedling lasting at least 12 months on a land parcel that, during that same period, has completed a conversion period of at least 12 months; or

(b) on an organic or in-conversion land parcel or in containers if covered by the derogation referred to in point 1.4, provided that the seedlings have originated from in-conversion seeds, harvested from a plant grown on a land parcel that has completed a conversion period of at least 12 months.:'

(iii) the second, third and fourth paragraphs are replaced by the following:

'Where organic or in-conversion plant reproductive material or plant reproductive material authorised in accordance with point 1.8.6 is not available in sufficient quality or quantity to fulfil the operator's needs, competent authorities may authorise the use of non-organic plant reproductive material subject to points 1.8.5.3 to 1.8.5.8.

Such individual authorisation shall be issued only in one of the following situations:

(a) where no variety of the species that the operator wants to obtain is registered in the database referred to in Article 26(1) or the systems referred to in Article 26(2);

(b) where no operator who markets plant reproductive material, is able to deliver the relevant organic or in-conversion plant reproductive material or plant reproductive material authorised in accordance with point 1.8.6 in time for sowing or planting in situations where the user has ordered the plant reproductive material in reasonable time to allow the preparation and supply of organic or in-conversion plant reproductive material or of plant reproductive material authorised in accordance with point 1.8.6;

(c) where the variety that the operator wants to obtain is not registered as organic or in-conversion plant reproductive material or as plant reproductive material authorised in accordance with point 1.8.6 in the database referred to in Article 26(1) or the systems referred to Article 26(2) and the operator is able to demonstrate that none of the registered alternatives of the same species are appropriate in particular to the agronomic and pedo-climatic conditions and necessary technological properties for the production to be obtained;

(d) where it is justified for use in research, test in small-scale field trials, for variety conservation purposes or for product innovation and agreed by the competent authorities of the Member State concerned.

Prior to requesting any such authorisation, operators shall consult the database referred to in Article 26(1) or the systems referred to in Article 26(2) in order to verify whether relevant organic or in-conversion plant reproductive material or plant reproductive material authorised in accordance with point 1.8.6 is available and thus whether their request is justified.:'

(b) point 1.8.5.2 is amended as follows:

(i) the first paragraph is replaced by the following:

‘By way of derogation from point 1.8.1, operators in third countries may use in-conversion plant reproductive material in accordance with Article 10(4), second subparagraph, point (a), or plant reproductive material authorised in accordance with point 1.8.6 when organic plant reproductive material is justified to be not available in sufficient quality or quantity in the territory of the third country in which the operator is located.’;

(ii) the third paragraph is replaced by the following:

‘Control authorities or control bodies recognised in accordance with Article 46(1) may authorise operators in third countries to use non-organic plant reproductive material in an organic production unit, when organic or in-conversion plant reproductive material or plant reproductive material authorised in accordance with point 1.8.6 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 in points 1.8.5.3, 1.8.5.4, 1.8.5.5 and 1.8.5.8.’;

(c) the following points 1.8.5.8 and 1.8.6 are inserted:

‘1.8.5.8. Competent authorities shall not authorise the use of non-organic seedlings in the case of seedlings of species that have a cultivation cycle completed in one growing season, from the transplantation of the seedling to the first harvest of product.

1.8.6. Competent authorities or, where appropriate, control authorities or control bodies recognised in accordance with Article 46(1) may authorise operators producing plant reproductive material for use in organic production to use non-organic plant reproductive material, when mother plants or, where relevant, other plants intended for the production of plant reproductive material and produced in compliance with point 1.8.2 are not available in sufficient quantity or quality, and to place such material on the market for use in organic production provided that the following conditions are met:

(a) the non-organic plant reproductive material used has not been treated after harvest with plant protection products other than those authorised 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 authorities of the Member State concerned for all varieties and heterogeneous material of a given species in the area in which the plant reproductive material is to be used. Where non-organic plant reproductive material treated with such prescribed chemical treatment is used, the land parcel on which the treated plant reproductive material is growing shall be subject, where appropriate, to a conversion period as provided in points 1.7.3 and 1.7.4;

(b) the non-organic plant reproductive material used is not a seedling of species that have a cultivation cycle completed in one growing season, from the transplantation of the seedling to the first harvest of product;

(c) the plant reproductive material is grown in compliance with all other relevant organic plant production requirements;

(d) the authorisation to use non-organic plant reproductive material shall be obtained before that material is sown or planted;

(e) the competent authority, control authority or control body responsible for the authorisation shall grant the authorisation only to individual users and for one season at a time, and shall list the quantities of the authorised plant reproductive material;

(f) by way of derogation from point (e), the competent authorities of the Member States may annually grant a general authorisation for the use of a given species or subspecies or variety of non-organic plant reproductive material and make the list of species, subspecies or varieties publicly available and keep it updated on an annual basis. In that case, those competent authorities shall list the quantities of authorised non-organic plant reproductive material;

(g) the authorisations granted in accordance with this paragraph shall expire on 31 December 2036.

By 30 June of each year, and for the first time by 30 June 2023, the competent authorities of the Member States shall notify the Commission and the other Member States of the information on the authorisations granted in accordance with the first paragraph.

Operators who produce and market the plant reproductive material produced in accordance with the first paragraph shall be allowed to make public, on a voluntary basis, the relevant specific information on the availability of such plant reproductive material in the national systems established in accordance with Article 26(2). Operators that opt to include such information shall ensure that the information is updated regularly, and is withdrawn from the national systems once the plant reproductive material is no longer available. When relying on the general authorisation referred to in point (f), operators shall keep records of the quantity used.
