COMMISSION IMPLEMENTING REGULATION (EU) …/...

of XXX

amending Regulation (EC) No 889/2008 laying down detailed rules for the implementation of Council Regulation (EC) No 834/20007 on organic production and labelling of organic products with regard to organic production, labelling and control

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 834/2007 of 28 June 2007 on organic production and labelling of organic products and repealing Regulation (EEC) No 2092/91[[1]](#footnote-1), and in particular Article 22(1) thereof,

Whereas:

1. Article 25(l)(3)(b) of Commission Regulation (EC) No 889/2008[[2]](#footnote-2) allows to supplement natural feed in the grow-out stage of certain shrimp species. For shrimps in earlier life stages in nurseries and hatcheries supplementation of feed is essential for the shrimp's development, in particular the need for cholesterol. It is therefore necessary to extend the feed rations and the supplementation of feed with cholesterol to shrimps also in the early life stages.
2. According to Article 27(1)(f) of Regulation (EC) No 889/2008 minerals (trace elements included), vitamins, aminoacids, and micronutrients, can be used in the processing of organic food, as far as their use is legally required in the foodstuff in which they are incorporated. According to the Judgment of the European Court of Justice of 5 November 2015, C-137/13, the use of these substances in the processing of organic food is legally required only when a provision of EU law or a provision of national law compatible therewith directly requires that that substance be added to a foodstuff in order for that foodstuff to be placed on the market.
3. Regulation (EU) 2018/… will allow the use of minerals in infant formula and follow-on formula and processed cereal-based foods and baby food when the use of minerals is authorised by the relevant EU legislation.. In order to avoid a gap between the current interpretation of the use of minerals in foods for infants and young children and to ensure consistency with the upcoming organic legislation it is appropriate to allow the use of minerals in the production of organic baby foods for infants and young children.
4. Article 42 of Commission Regulation (EC) No 889/2008, allows exceptionally, until 31 December 2018, under certain conditions and when organic reared pullets are not available, for non-organically reared pullets for egg production of not more than 18 weeks to be brought into an organic livestock unit.
5. Production of organically reared pullets for egg production has not been available in sufficient quality and quantity on the Union market to meet the needs of laying hen farmers. Moreover, the development of harmonised organic production rules for young poultry at Union level is complex, as views on technical requirements vary widely. In order to allow more time to develop the production of organic pullets for egg production, and in order to allow more time to establish detailed rules for the production of organic pullets, the period of application of the exceptional production rules for using non-organically reared pullets for egg production of not more than 18 weeks should be extended until 31 December 2020.
6. Article 43 of Regulation (EC) No 889/2008 allows exceptionally, for calendar years 2015, 2016, 2017 and 2018, for a maximum of 5% of non-organic protein feed to be used for porcine and poultry species.
7. Organic protein supply has not been available in sufficient quality and quantity on the Union market to meet the nutritional requirements of pigs and poultry raised on organic farms. The production of organic protein crops is still lagging behind demand. It is therefore appropriate to extend the period of the exceptional possibility of using a limited proportion of non-organic protein feed until 31 December 2020.
8. In accordance with the procedure provided for in Article 16(3) of Regulation (EC) No 834/2007, Member States have submitted dossiers on certain substances to the other Member States and the Commission, in view of their authorisation and inclusion in Annex I, II and VIIIa to Regulation (EC) No 889/2008. Those dossiers have been examined by EGTOP and the Commission.
9. In its recommendations with regard to fertilisers (2), EGTOP concluded, inter alia, that the substances "industrial lime from cane sugar production"and "xylite" comply with the organic objectives and principles. Therefore, those substances should be included in Annex I to Regulation (EC) No 889/2008.
10. In its recommendations with regard to plant protection products (2), EGTOP concluded, inter alia, that the substances "garlic extract", "COS-OGA (aka fytofend)", "willow bark extract" and "sodium hydrogen carbonate" comply with the organic objectives and principles. Therefore, those substances should be included in Annex II to Regulation (EC) No 889/2008. In its recommendations with regard to products and substances used or added in organic products of the wine sector (2), EGTOP concluded, inter alia, that the substances "potato proteins and yeast protein extracts for clarification", "inactivated yeast, autolysates of yeast and yeast hulls for addition", "yeast mannoproteins " and "di-ammonium phosphate" comply with the organic objectives and principles. Therefore, those substances should be included in Annex VIIIa to Regulation (EC) No 889/2008.
11. Regulation (EC) No 889/2008 should therefore be amended accordingly.
12. The measures provided for in this Regulation are in accordance with the opinion of the Committee on Organic Production,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 889/2008 is amended as follows:

(1) Paragraph (3) (b) of Article 25 l is replaced by:

'(b) the feed ration of the shrimp species referred to in Section 7 of Annex XIIIa may comprise a maximum of 25 % fishmeal and 10 % fish oil derived from sustainable fisheries. In order to secure the quantitative dietary needs of shrimps, organic cholesterol may be used to supplement their diets; where organic cholesterol is not available, non-organic cholesterol derived from wool, shellfish or other sources may be used. These limits and the option to supplement their diet with cholesterol apply both in the grow-out stage and for shrimps in earlier life stages in nurseries and hatcheries.'

(2) Paragraph (1) (f) of Article 27 is replaced by:

'(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[[3]](#footnote-3), 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[[4]](#footnote-4), their use is authorised by that Directive.'

(3) In Article 42(b), the date '31 December 2018' is replaced by the date '31 December 2020'.

(4) In Article 43, the second subparagraph is replaced by the following:

'The maximum percentage of non-organic protein feed authorised per period of 12 months for those species shall be 5% for calendar years 2018, 2019 and 2020.

(5) In Article 92a, between paragraph (1) and (2), the following paragraph is inserted:

'(1a) Where a Member State finds irregularities or infringements relating to the application of this Regulation with regard to a product coming from that Member State and bearing indications as referred to in Title IV of Regulation (EC) No 834/2007 and in Title III and/or Annex XI to this Regulation, if such irregularities or infringements may have implications for another Member State or States, it shall notify the Member State or States which may be implicated, the other Member States and the Commission without delay via the system referred to in Article 94(1) of this Regulation.'

(6) Annexes I, II and VIIIa to Regulation (EC) No 889/2008 are amended as set out in the Annex

Article 2

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

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

Done at Brussels,

 For the Commission

 The President

1. OJ L 189, 20.7.2007, p. 1. [↑](#footnote-ref-1)
2. **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).** [↑](#footnote-ref-2)
3. ***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).*** [↑](#footnote-ref-3)
4. ***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. 16–35.*** [↑](#footnote-ref-4)