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Finlay Carson MSP  
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Scottish Parliament  
Edinburgh  
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Copied to [UKSIs@parliament.scot](mailto:UKSIs@parliament.scot)

12 September 2025

Dear Finlay,

**THE ORGANIC PRODUCTION (AMENDMENT) REGULATIONS 2025  
EU EXIT LEGISLATION – PROTOCOL WITH SCOTTISH PARLIAMENT**

I am writing in relation to the protocol on obtaining the approval of the Scottish Parliament to proposals by the Scottish Ministers to consent to the making of UK secondary legislation affecting devolved areas arising from EU Exit.

That protocol, as agreed between the Scottish Government and the Parliament, accompanied the letter from the then Cabinet Secretary for Government Business and Constitutional Relations, Michael Russell MSP, to the Conveners of the Finance & Constitution and Delegated Powers and Law Reform Committees on 4 November 2020 and replaced the previous protocol that was put in place in 2018.

I attach a Type 1 notification which sets out the details of the SI which the UK Government propose to make and the reasons why I am content that Scottish devolved matters are to be included in this SI. Please note, we are yet to have sight of the final SI and it is not available in the public domain at this stage. We will, in accordance with the protocol, advise you when the final SI is laid and advise you as to whether the final SI is in keeping with the terms of this notification.

I am copying this letter to the Convener of the Delegated Powers and Law Reform Committee.

I look forward to hearing from you by 10 October.

**MAIRI GOUGEON**

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See [www.lobbying.scot](http://www.lobbying.scot)



## **NOTIFICATION TO THE SCOTTISH PARLIAMENT**

### **Name of the SI(s) (if known) or a title describing the policy area**

The Organic Production (Amendment) Regulations 2025 – AFC/070.

### **Is the notification Type 1 or Type 2**

Type 1

### **A brief overview of the SI (including reserved position)**

UK Ministers are exercising powers to extend derogations to allow specific non-organic alternatives for pullets, protein feed and gellan gum if such organic substances, feed or organically-reared livestock are not available on the market.

These derogations have previously been extended, with approval sought and given by the RAINE Committee in a previous SI - The Organic Production (Amendment) Regulations (No. 2) 2022 (also known as AFC/028).

This instrument makes amendments to assimilated direct legislation. These derogations are implemented by Commission Regulation (EC) No 889/2008.

- Regulation 2(2) of this instrument amends Article 42(b) of Regulation (EC) No 889/2008 so as to provide that until 31st December 2026, non-organically reared pullets of not more than 18 weeks of age may be introduced into an organic flock for egg production when organically reared pullets are not available, subject to conditions.
- Regulation 2(3) amends Article 43 of Regulation (EC) No 889/2008 so as to provide that, where farmers are unable to obtain protein feed for piglets less than 35 kilograms and poultry up to 30 weeks exclusively from organic production, up to 5% of non-organic protein feed may be used until 31st December 2026.
- Regulation 2(4) amends the table in Annex VIII, Section A, so as to provide that the permitted use of gellan gum in high-acyl form should be from organic production if available.

The UK Government expects to lay this instrument in Parliament on 22 October 2025 and it will come into force on 1 January 2026.

### **Details of the provisions that Scottish Ministers are being asked to consent to.**

The Secretary of State proposed these Regulations in exercise of the powers conferred by Articles 22(1) and 38b(8) of Council Regulation (EC) No 834/2007 on organic production and labelling of organic products(a). The Scottish Ministers

propose to consent to the Secretary of State making these Regulations for the purposes of Article 38a(3) of that Regulation.

Under Article 22 of Council Regulation (EC) No 834/2007, derogations to the rules of organic production may be authorised where certain criteria are met. This criteria includes a lack of availability of organically reared livestock and organic feed.

## **Summary of the proposals**

### Non-organic pullets

Article 42(b) of Regulation 889/2008 permits the use of non-organic pullets for egg production up to the age of 18 weeks, when organically reared pullets are unavailable. This instrument extends the derogation from 31 December 2025 until 31 December 2026.

There are insufficient organically reared pullets for egg production available, both in terms of quality and quantity, on the GB market. In discussion with Organic Control Bodies and key sector stakeholders, the sector has clear intentions to invest and improve the organic pullet sector. However, this cannot be achieved without establishing organic pullet standards with appropriate transitional rules to allow for land conversion and structural changes to be made. Since there continues to be a shortage of organically reared pullets on the market, this statutory instrument extends the derogation.

This derogation continues divergence with the EU Regulation 848/2018. The EU regulation only allows non-organic pullets that are less than 3 days old to be brought into an organic livestock unit. The current GB derogation proposed for extension by this SI allows non-organically reared pullets of up to 18 weeks to be brought in.

### Non-organic protein feed for pigs and poultry

Article 43 of Regulation 889/2008 permits the use of up to 5% of non-organic protein feed for pigs and poultry species until 31 December 2025. This instrument extends the derogation until 31 December 2026 and limits the scope of the derogation to piglets less than 35 kilograms and poultry of no more than 30 weeks (referred to in this notification and accompanying documents as 'young poultry') only.

The non-organic protein feed derogation was introduced based on the recognition that feeding animals a 100% organic diet can put a considerable strain on the organic pig and poultry sectors as well as broader constraints of nutritional requirements and resulting welfare issues.

In discussion with Organic Control Bodies and key sector stakeholders, it is acknowledged that whilst some improvements have been made to the organic protein feeds available, there is still significant issues with balancing key amino acids that are required to ensure feed for young poultry and piglets meets the nutritional requirements to keep the animals healthy. Therefore, whilst this

derogation is being extended, the scope of the derogation is being limited to piglets less than 35 kilograms and young poultry only.

This removes a current instance of non-alignment with the EU Regulation 848/2018. However, it should be noted the EU regulation applies its derogation to “young poultry” (though this term is not defined within the EU Regulation), whereas AFC/070 will apply the derogation to “poultry of not more than 30 weeks”.

### Gellan gum

Annex 8 of Regulation 889/2008 requires gellan gum, a food additive, to be derived from organic sources from 1 January 2026. Since organic gellan gum remains unavailable to producers in Great Britain, this instrument removes the mandatory requirement for gellan gum to be derived from organic production.

This change will align with recent changes to EU law made by commission implementing regulation 2025/973.

### **Does the SI relate to a common framework or other scheme?**

Yes, the instrument relates to the provisional Organic Production Common Framework. The framework is intended to cover the principles and overarching standards for organic production and certification; Official controls, labelling and trade of organic produce; and organic aquaculture. The framework has, in principle, been agreed by all four nations but has not yet been finalised.

### **Summary of stakeholder engagement/consultation**

Defra consulted the Scottish and Welsh Administrations on these provisions via the Organics Four Nations Working Group. The administrations expressed support for the measures. These amendments to Regulation (EC) No 889/2008 will not apply to Northern Ireland.

Defra have undertaken targeted consultation of Organic Control Bodies and Industry Groups in Great Britain with regards to the extension of the non-organic pullets up to 18 weeks and 5% non-organic protein feed derogations. Stakeholders shared their concerns regarding the ongoing issues the sector faces with providing 100% organic feed, in particular for pigs less than 35 kilograms and young poultry. They are supportive of the extensions provided for these derogations.

They also undertook targeted consultation with the Organic Control Bodies with regards to the availability of organic gellan gum. The control bodies are supportive of the mandatory requirement for gellan gum to be derived from organic production being removed.

As the Organic Control Bodies operate in Scotland and the supply issues are GB wide, there is no need for targeted engagement specifically with Scottish organic businesses.

### **A note of other impact assessments, (if available)**

Impact assessments are not required for this instrument. There is no, or no significant, impact on business, charities or voluntary bodies. This statutory instrument will permit operators to continue using non-organic pullets and non-organic gellan gum as they have done and will permit up to 5% non-organic protein feed for piglets up to 35 kilograms and young poultry from 1 January 2026.

### **Summary of reasons for Scottish Ministers' proposing to consent to UK Ministers legislation**

This instrument is necessary to ensure that derogations are extended to allow specific non-organic alternatives for pullets, protein feed for pigs and poultry and gellan gum if such organic substances, feed or organically-reared livestock are not available on the market.

The current derogations are due to expire and this instrument is intended to extend them further. Through the targeted stakeholder consultation, the Organic Control Bodies have indicated the need to extend these derogations.

As noted in previous advice on proposed regulations to fix deficiencies in the organics legislation (e.g. AG/048 The Organic (Derogations) (Amendment) Regulations 2022) and AFC/028 The Organic Production (Amendment) Regulations (No. 2) 2022), the development of policy on organics has been consistent to date between Defra and the devolved administrations. There are economic and practical benefits to that continuing and the proposed regulations permit a regime on a GB wide basis to address that scenario.

### **Intended laying date (if known) of instruments likely to arise**

The UK Government intends to lay this instrument before Parliament on 22 October 2025.

## SI NOTIFICATION: SUMMARY

<b>Title of Instrument</b>
The Organic Production (Amendment) Regulations 2025
<b>Proposed laying date at Westminster</b>
22 October 2025
<b>Date by which Committee has been asked to respond</b>
A response has been requested by 10 October. This will ensure Defra can be notified of the result of the Committee's consideration with enough time to allow the SI to be laid on 22 October.
<b>Power(s) under which SI is to be made</b>
Articles 22(1) and 38b(8) of Council Regulation (EC) No 834/2007 on organic production and labelling of organic products
<b>Categorisation under SI Protocol</b>
Type 1
<b>Purpose</b>
This instrument will extend derogations to allow specific non-organic alternatives for pullets, protein feed and gellan gum if such organic substances, feed or organically-reared livestock are not available on the market.
<b>Other information</b>
<p>This instrument makes amendments to assimilated direct legislation. These derogations are implemented by Commission Regulation (EC) No 889/2008.</p> <ul style="list-style-type: none"><li>• Regulation 2(2) of this instrument amends Article 42(b) of Regulation (EC) No 889/2008 so as to provide that until 31st December 2026, non-organically reared pullets of not more than 18 weeks of age may be introduced into an organic flock for egg production when organically reared pullets are not available, subject to conditions.</li><li>• Regulation 2(3) amends Article 43 of Regulation (EC) No 889/2008 so as to provide that, where farmers are unable to obtain protein feed for piglets less than 35 kilograms and poultry up to 30 weeks exclusively from organic production, up to 5% of non-organic protein feed may be used until 31st December 2026.</li><li>• Regulation 2(4) amends the table in Annex VIII, Section A, so as to provide that the permitted use of gellan gum in high-acyl form should be from organic production if available.</li></ul> <p>The instrument will come into force on 1 January 2026.</p>
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