

National Assembly for Wales
Environment and Sustainability Committee
ORG 07
Inquiry into Organic Production and Labelling of Organic Products
Response from Soil Association

**Soil Association submission to Environment and Sustainability Committee Inquiry
into ‘organic production and labelling of organic products’.**

October 2014

Introduction

- 1 Soil Association welcomes the opportunity to respond to the Environment & Sustainability Committee Inquiry into Organic Production and Labelling of Organic Products. We are pleased to contribute our views on how the legislative proposal for a new EU Organic Regulation and Action Plan will affect Wales. We note that there may be an opportunity to submit oral evidence to the Committee on 13th November and would be happy to send a representative.

Summary

- 2 We welcome many of the stated aims of the legislative proposal put forward by the EU Commission including those related to continued growth of the organic sector and for this to be supported by a regulation based on organic principles and in line with consumer expectations. The proposal contains a number of new and innovative elements and features and we welcome these. However, many other aspects of the proposal give rise to significant reservations as to whether it is adequate to achieve these aims without substantial amendment.
- 3 A detailed assessment of the likely impact of the proposal on organic operators – farmers and those supplying farm inputs and all those involved in the organic value chain - is problematic as many of the detailed rules which define day to day practice are not yet stated. It is foreseen that these will be decided at a later date through ‘delegated acts’.
- 4 Assessment of impact is also difficult because the Impact Assessment provided by the Commission to support their proposal is inadequate. In many instances there is little more than assertion to support the analysis and intended outcomes. The Impact Assessment is meant to be informed by an independent evaluation of the EU Organic Legislation that was led by the Thünen Institute; however, in places the independent evaluation does not appear to support the conclusions of the Commission.
- 5 We also note that the independent evaluation was not asked to examine the underlying problems behind areas of the legislation that the Commission is now seeking to ‘improve’ and that this represents a significant missed opportunity to utilise leading expert and stakeholder input that could have helped to avoid inappropriate and inadequate aspects of the legislative proposal
- 6 The revision of the organic legislation is taking place at the same time as revision of Regulation (EC) 882/2004 on ‘Official Controls’. It is planned that many aspects of how organic inspection and certification are carried out will be contained in this new legislation. As the text for new 882/2004 is not available this adds yet another element of uncertainty as to what the impact of all of these changes will be on certified businesses in Wales.
- 7 The Commission states that many of the proposals are driven by a desire to simplify rules for organic production and to increase integrity and growth of the sector. This is manifested most frequently in their proposal for a new Organic Regulation by little more than removal of all exception rules either immediately or in a very short time frame. We consider that this approach is inadequate and runs counter to the stated desire to grow the sector. The cause of this deficiency is in our opinion a failure to

- analyse and learn from the current situation and a poor analysis in the Impact Assessment of how the sector will react to the new legislation.
- 8 Our preference would be to use a comprehensive analysis of current structural and technical challenges to inform the drafting of intelligent transitional rules which wherever possible should use market oriented solutions based around transparency, accountability and sector engagement to further support and reward the development of organic inputs and practices
 - 9 We welcome the publication of the EU Organic Action plan, but we note that this document has no legislative force or associated budget. Many of the actions are aspirational or relate to topics that will probably have little direct impact on Wales.
 - 10 We have limited our comments to those provisions of the proposal that we anticipate will have the most significant impact on Wales, but it should be noted that this root and branch review contains many uncertainties and elements which mean that it is difficult to foresee or predict the consequences for organic production in Wales and further afield.

The impacts of proposals on the organic sector in Wales

- 11 We consider that the following elements of the proposals for a new EU Organic Regulation should be amended or withdrawn in order to avoid negative impact on the organic sector in Wales:
 - The prohibition of ‘mixed’ farms – those holdings with units not managed under organic production rules;
 - The prohibition on the use of conventional seed and plant reproductive material when organic seed and plant reproductive material is not available;
 - Ending the possibility of the restricted use of non-organic animals for breeding purposes;
 - Unclear provisions to improve animal welfare;
 - Unclear proposals to introduce mandatory decertification thresholds for prohibited substances;
 - The use of delegated acts to define essential aspects of the regulation.

Mixed farms

- 12 The Commission has proposed that it should no longer be possible to certify mixed farms under any circumstances – including those farms carrying out research. We understand that this provision could affect more than 25% of farms in the UK and have no reason to believe that Wales would not be significantly affected by this proposal.
- 13 We consider that the current legislation, that was recently strengthened to increase the emphasis on ‘risk based’ assessment frequency, is sufficient to ensure integrity and protect the interests of consumers. Under current arrangements Organic Control Bodies must be aware of, take account of risk and inspect non-organic activities that businesses and individuals are associated with.
- 14 We are concerned that the proposal will:
 - a. inhibit farms from converting or dissuade existing mixed holdings from retaining their organic certification,
 - b. inhibit research farms from undertaking work on organic production
 - c. inhibit those involved in highly specialised aspects of production e.g. pullets and seed, from registering or taking on organic land because of the need to maintain separate holdings.

- d. not increase the integrity of organic certification. Separation of farms into organic non-organic holdings on paper may appear attractive as a way of preventing deliberate or inadvertent misidentification of organic and non-organic products, however, the proposal fails to understand real world business structures and will prevent Organic Control Bodies from gaining insight into the extent to which companies or individuals are involved in non-organic production or trading in non-organic products, which is where the real risk of fraud lies.

Seed and plant reproductive material

- 15 The proposal foresees that there can be a rapid end to the use of non-organic seed – potentially by the end of 2021. We support all measures to increase the supply and availability of organic seed, but our analysis is that the proposal and the exultations in the Action Plan (which do not even rank as ‘actions’) are insufficient to support the development of supply.
- 16 Our experience in working with Defra and the seed industry to run the UK organic seed database and seed working groups is that there is already good knowledge available as to how to strengthen the derogation regime to improve and underpin the availability of organic seed for all major crops. This would involve restricting the grounds on which derogations can be given and the use of national lists of species or varieties for which seed supply is known to be adequate.

Breeding animals.

- 17 Organic livestock production has been regulated through common rules at EU level only since 2000. The proposal fails to take account of the fact that this represents little opportunity to develop dedicated breeds or strains for organic production and to ensure that there is sufficient genetic diversity to support breeding programmes for organic livestock.
- 18 For poultry the situation is even more acute and complicated by the fact that detailed rules for pullet production and parent flocks are still being or have yet to be developed.
- 19 We feel that this provision could have a strong impact in Wales where organic livestock production is important.
- 20 Our recommendation is to retain the current rules and to develop clearer provision for organic poultry and parent flocks

Animal Welfare

- 21 The Commission has chosen to address the subject of animal welfare solely through removing exceptional rules which currently allow limited use of tethering and some use of ‘mutilations’ such as preventing the growth of or removal of horns in cattle and tail docking of sheep. While we agree that these are important and legitimate areas for consideration we feel that this is very superficial and narrow focus for addressing this important subject.
- 22 The approach adopted by the Commission appears to be illogical and inconsistent as it would prohibit practices which are currently carried out by farmers for reasons of safety and welfare e.g. removal of horns (including disbudding) from cattle and tail docking of sheep, while allowing the continued castration of pigs which is done mainly for reasons of product quality which have already largely been addressed by all pig producers in the UK where any castration of pigs is not widely practiced.
- 23 We consider that transition from the use of practices such as dehorning is challenging as it requires significant adaptation of resources (housing, handling and feeding facilities) and management practice. There appears to have been little consideration of practical implications e.g. running a mixed herd of horned and non-horned cattle. A proper impact assessment, clear transitional rules and strong supporting measures through the Action Plan and CAP would be required to underpin the proposals.

Decertification threshold for non-permitted substances

- 24 Organic food production is based on a process which minimised the use of external inputs and heavily restricts the use of plant protection products. Organic certification checks the integrity of this process and verifies that the system of farming meets the expectation of consumers in that it is free from the deliberate use and adequately guards against contamination by prohibited substances.
- 25 Under the current legislation any evidence, which could include, but is not limited to pesticide residue detection, that a product might not have been produced in compliance with the organic production rules must be investigated by the producer and their Organic Control Body to determine whether the product can be placed on the market as organic.
- 26 The Commission now proposes to replace the current 'process' based approach with a 'product based' approach based on pesticide residue thresholds and requiring decertification of product exceeding the threshold regardless of the source or cause of contamination.
- 27 The approach advocated by the Commission appears to go against the 'polluter pays principle' by making organic farmers wholly liable for pollution or contamination by products which they have not used.
- 28 The decertification threshold is not detailed in the proposal, but it is suggested that the levels contained in the 'Baby Food Directive' should be applied.
- 29 The Commission states that Member States will be able to set aside RDP money to compensate farmer who suffer contamination through no fault of their own, though there is no requirement to do this.
- 30 We support all measures designed to eliminate pesticide contamination of organic products, but we consider this proposal to be ill conceived. It is not clear from the impact assessment carried out by the Commission that such contamination is a major problem in products originating in Europe or that the current approach used by Organic Control Bodies is inadequate to meet the expectations of consumers in Wales. Furthermore, it is not clear what thresholds will be applied (to be decided through 'delegated acts'), what sampling methodologies should be applied, how concentration factors (e.g. when products are dried) should be accounted for and how liability and responsibility for contamination and subsequent financial loss can be established.
- 31 We recommend that the proposal should be withdrawn.

Delegated acts

- 32 Many of the detailed production rules and lists of permitted substances and materials are missing form the proposal. This is because the Commission has determined that these are areas of the legislation that might need to be changed from time to time. The Commission states that under the Treaty of Lisbon it is appropriate that these elements will be decided by the Commission through 'delegated acts'.
- 33 This situation makes an evaluation of the proposal as a whole difficult.
- 34 Our evaluation is that the use of 'delegated acts' should be limited to as few areas of the proposal as possible. This is because the current lack of detail and perception of nothing being fixed adds to a feeling of uncertainty amongst farmers and food businesses as to what is required to achieve organic certification.
- 35 The organic market in the UK has recently been through difficult times and those businesses in Wales that have retained organic status or that are considering conversion need an environment in which they can plan with confidence.
- 36 We recommend that the Commission should be challenged to show that there is a clear treaty and legal basis for all areas that are currently foreseen as being determined through 'delegated acts'

Ends