

# ORDINANCE 35 OF 2003

## AN ORDINANCE TO PROVIDE FOR THE ORGANIC PRODUCTION OF AGRICULTURAL PRODUCTS AND APPROPRIATE INDICATIONS ON THE PRODUCTS AND FOODSTUFFS

**P. PEARSON**  
**ADMINISTRATOR**

*29th September 2003.*

**BE** it enacted by the Administrator of the Sovereign Base Areas of Akrotiri and Dhekelia as follows:-

### **PART 1** **PRELIMINARY**

**1.** This Ordinance may be cited as the Organic Production Ordinance 2003. Short Title.

**2.** In this Ordinance, unless the context otherwise requires:- Interpretation.

“agricultural product” includes any agricultural plant or livestock product;

“animal feeding stuff” means:-

- (a) any product of animal or vegetable origin in its natural state (whether fresh or preserved);
- (b) any product derived from the industrial treatment of any product referred to in paragraph (a) above; or
- (c) any organic or inorganic substance, used singly or in a mixture,

whether or not containing any additive, intended for oral animal feeding;

“animal feeding stuff additive” means any specified substance or preparation containing any substance, which, when incorporated into an animal feeding stuff is intended to:-

- (a) improve the quality of animal feeding stuffs or animal products;

- (b) improve livestock production;
- (c) satisfy specific animal nutritional requirements;
- (d) prevent or reduce the harm caused by animal waste;
- (e) improve the environment of the animal;

“authorised officer” means an officer of the Authorised Service appointed by the Chief Officer under section 17;

“Authorised Service” means the Service appointed by the Chief Officer under section 11;

“certain products used in animal feeding” means those nutritional products prescribed in regulations made under the Animal Feeding Stuffs and Animal Feeding Stuff Additives Ordinance 2003;

“complementary animal feeding stuff” means any mixture of animal feeding stuffs which has a high content of certain substances and which, by reason of its composition, is sufficient for a daily ration only if it is used in combination with other animal feeding stuffs;

“complete animal feeding stuff” means any compound animal feeding stuff, which, by reason of its composition, is sufficient to ensure a daily ration;

“compound animal feeding stuff” means any mixture of animal feeding stuffs in the form of a complete animal feeding stuff or a complementary animal feeding stuff;

“Control and Certification Organisation of Organic Products of Plant or Animal Origin” (hereinafter referred to as a “Control and Certification Organisation”) means any competent public authority or any licensed public utility corporation or private body responsible for exercising the powers conferred upon and performing the duties imposed upon such organisations by this Ordinance;

“conventional animal feeding stuffs and starting materials of animal feeding stuffs” means animal feeding stuff and starting materials other than:-

- (a) organically produced animal feeding stuffs and starting materials of animal feeding stuffs; and
- (b) in-conversion animal feeding stuffs and starting materials of animal feeding stuffs;

“Council” means the Council of Organic Products appointed by the Minister under section 5 of the corresponding Republican law;

“the Council Regulation” means Council Regulation (EEC) No. 2092/91 on organic production of agricultural products and indications referring thereto on agricultural products and foodstuffs, as supplemented by Council Regulation (EC) No. 1804/1999;

“genetically modified organism” (hereinafter referred to as “GMO”) has the meaning assigned to it in Schedule 1;

“GMO derivative” means any substance which is either produced from or produced by GMOs, but does not contain them;

“homeopathic veterinary medicinal product” means any veterinary medicinal product prepared from products, substances

or compositions called homeopathic stocks, in accordance with a homeopathic manufacturing procedure described by the European Pharmacopoeia or, in the absence thereof, by the pharmacopoeias currently used officially in the member States, which may also contain a number of principles;

“in-conversion animal feeding stuffs and starting materials of animal feeding stuffs” means those feeding stuffs and starting materials which comply with the rules of production in section 5, except for the conversion period where those rules apply for at least one year before the harvest;

“ingredient” means any substance, including any additive, used in the preparation of any of the products specified in section 3(1)(b), that are still present, albeit in modified form, in the final product;

“labelling” means any words, particulars, trade marks, brand names, pictorial matter or symbols on any packaging, document, notice, label, board or collar accompanying or referring to a product specified in section 3(1);

“livestock product” means the product of any domestic or domesticated terrestrial animal (including insects) or of any aquatic species farmed in fresh, salt or brackish waters;

“marketing” means possessing for sale, displaying for sale, offering for sale, selling, delivering or placing on the market in any other way;

“member State” means a member State of the European Union;

“Minister” means the Minister of Agriculture, Natural Resources and Environment of the Republic;

“operator” means any person who produces, prepares or imports from a third country, with a view to the subsequent marketing thereof, any of the products specified in section 3(1), or who markets any such product;

“organically produced animal feeding stuffs and starting materials of animal feeding stuffs” means those feeding stuffs and starting materials produced in accordance with the rules of production in section 5;

“organically produced product” includes any unprocessed and processed agricultural product which has been organically produced;

“plant product” means:-

- (a) any fresh, unprocessed agricultural product of plant origin; or
- (b) any human foodstuff predominantly comprised of one or more ingredients of plant origin;

“preparation” means the operations:-

- (a) of preserving or processing agricultural products (including the slaughtering and cutting of livestock products); and
- (b) of packaging or alterations made to the labelling concerning the presentation of the organic production method of fresh, preserved or processed agricultural products;

“production” means the operations involved in producing agricultural products in the state in which they are normally produced on the farm;

“the Register” means the Register of Operators established and maintained by the Authorised Service pursuant to section 11 and “registered” shall be construed accordingly;

“the Regulations” means regulations made under this Ordinance;

“starting material of animal feeding stuff” means:-

- (a) any product of animal or vegetable origin in its natural state, fresh or preserved;
- (b) any product derived from the industrial processing thereof; or
- (c) any organic or inorganic substance, used singly or in a mixture,

intended for the manufacture of any compound animal feeding stuff or as a diluent of any premixture;

“third country” means a country which is not a member State;

“use of GMOs and GMO derivatives” means the use thereof as foodstuffs, food ingredients, (including additives and flavourings), processing aids (including extraction solvents), animal feeding stuffs, compound animal feeding stuffs, starting materials of animal feeding stuffs, animal feeding stuff additives, processing aids for animal feeding stuffs, certain products used in animal nutrition, plant protection products, veterinary medicinal products, fertilisers, soil conditioners, seeds, vegetative reproductive material and livestock;

“veterinary medicinal product” means any medicinal product intended for treating or preventing disease in animals or any medicinal product intended to be administered to animals with a view to making a medical diagnosis or to restoring, correcting or modifying physiological functions in animals;

Application.

**3.** – (1) Subject to subsection (2) below, this Ordinance shall apply to the following products where such products bear, or are intended to bear, indications referring to organic production methods:-

- (a) unprocessed agricultural crop products and livestock and livestock products to the extent that detailed rules of production and specific inspection rules are prescribed in relation thereto;
- (b) processed agricultural crop and livestock products intended for human consumption prepared essentially from one or more ingredients of plant or animal origin;
- (c) animal feeding stuffs, compound animal feeding stuffs and starting materials of animal feeding stuffs not covered by paragraph (a) above.

(2) Where detailed rules of production and specific inspection rules are not prescribed for certain species of animals, the rules concerning labelling and the rules concerning control and certification shall apply for these species and the products therefrom.

(3) For the purposes of this Ordinance, a product shall be regarded as bearing indications referring to organic production methods where, in the labelling, advertising material or commercial documents, such a product, its ingredients or feed materials are described by the indication in use in the country in which the product was produced, suggesting to the purchaser that the product, its ingredients or feed materials, as the case may be, have been obtained:-

- (a) in the case of any product of a member State, in accordance with Article 6 of the Council Regulation;
- (b) in the case of a product of the Republic, in accordance with the relevant provisions of the corresponding Republican Law; or
- (c) in the case of a product of the Areas, in accordance with section 5 of this Ordinance,

and, in particular, the use of the following terms or their usual derivatives (such as bio or eco) or diminutives, alone or combined, unless such terms are not applied to agricultural products in foodstuffs or feedingstuffs in the country concerned or clearly have no connection with the method of production:-

- in Spain: ecologico
- in Denmark: ekologisk
- in Germany: ökologisch
- in Greece and Cyprus: οικόφιλο
- in the United Kingdom and the Areas: organic
- in France: biologique
- in Italy: biologico
- in Holland: biologisch
- in Portugal: biológico
- in Finland: luonnonmukainen
- in Sweden: ekologisk.

(4) For the purposes of this Ordinance, the products of hunting and fishing of wild animals shall not be considered as organic production.

(5) This Ordinance shall apply without prejudice to the provisions of any other legislation concerning the production, preparation, marketing, labelling or inspection of the products specified in section 3(1).

## **PART 2 OPERATORS OBLIGATIONS**

**4.** - (1) Every operator shall:-

- (a) notify his activities to the Authorised Service, which notification, must contain the information specified in Schedule 2;
- (b) supply the Authorised Service with any supplementary information which it deems necessary for the effective supervision of the operator's undertaking;
- (c) submit his undertaking to the control and certification system.

Operators' obligations - General.

Schedule 2.

**5. - (1)** Every operator shall be entitled to a period of conversion from conventional production methods to organic production methods, the duration of which shall be specified by the Control and Certification Organic Organisation to which his undertaking is subject, in accordance with the Regulations.

(2) Every operator who produces any of the products specified in section 3(1) shall ensure that the organic production methods used by him satisfy the provisions of subsections (3) to (6) below.

(3) The organic production methods used by the operator must not contravene any of the following principles:-

- (a) the conservation of and maintenance of balance between local ecosystems;
- (b) the reduction of pollution and the avoidance of destruction of the environment and natural resources;
- (c) the reduction in the use of non-renewable natural resources;
- (d) the implementation of socially and ecologically acceptable agricultural production methods.

(4) Subject to subsection (5) below, the fertility and biological activity of the soil must be maintained or increased, where appropriate, by:-

- (a) cultivation of legumes, green manures or deep-rooting plants in an appropriate multi-annual rotation programme;
- (b) incorporation in the soil of organic material, composted or not, from holdings producing according to the provisions of this Ordinance and the Regulations.

(5) Notwithstanding subsection (4) above, other organic or mineral fertilisers may be applied where their use for such purposes has been approved by the Control and Certification Organisation in accordance with the Regulations.

(6) Pests, diseases and weeds must be controlled by a combination of the following measures:-

- (a) choice of appropriate species and varieties;
- (b) an appropriate rotation programme;
- (c) mechanical cultivation procedures;
- (d) protection of natural enemies of pests through provisions favourable to them such as hedges, nesting sites and release of predators;
- (e) flame weeding,

and, in exceptional cases, the use of prescribed products, where the Control and Certification Organisation has approved such usage for this purpose.

**6.** Only operators who submit their undertakings to the control and certification system may use the term “organic” or any of the other terms specified in section 3(3), or their derivatives, in relation to products intended to be marketed as organically produced products.

7. Every operator shall ensure that the packaging materials for organically produced products:- Packaging of organic products.

- (a) comply with the provisions of the Food (Sale and Control) Ordinance 2000 and the Regulations made thereunder;
- (b) are suitable for the packaging of food;
- (c) are unused;
- (d) are durable in transit;
- (e) are environmentally friendly;
- (f) do not adversely affect the organoleptic properties of the contents or allow the contents to be affected by substances which are dangerous to consumer health.

8. - (1) Every operator shall ensure that organically produced products produced, processed or imported by him are labelled in accordance with this section and the Regulations. Labelling of organic products.

(2) The following information shall be specified on the labelling:-

- (a) the name and the code number of the Control and Certification Organisation to which the operator's undertaking is subject;
- (b) the logo, where one has been approved for this purpose by the Authorised Service;
- (c) the catalogue of ingredients of agricultural and non-agricultural origin in processed agricultural products and the manner of packaging used; and
- (d) the organically produced products which are in a transitional stage.

9. Every operator shall keep records of his undertaking, including:- Record keeping.

- (a) production records, consisting of a description of the organic production methods used and the types, quantities, origin and manner of use of the ingredients used;
- (b) sales records, consisting of the types, quantities and destinations of the agricultural products produced; and
- (c) stock records, consisting of the types and quantities of ingredients and agricultural products held.

10. - (1) Any operator may market products imported from any member State as organically produced products where they bear a mark indicating that they have been subject to the control and certification system in that member State, in accordance with the Council Regulation. Marketing of imported organic products.

(2) Any operator may market products imported from third countries as organically produced products where the conditions prescribed in the Regulations relating thereto are satisfied.

### PART 3 AUTHORISED SERVICE, CONTROL AND CERTIFICATION ORGANISATIONS AND AUTHORISED OFFICERS

11. - (1) The Chief Officer shall appoint a competent authority (referred to in this Ordinance as "the Authorised Service") for the purposes of subsection (2) below. Appointment and duties of Authorised Service.



(2) The Authorised Service shall:-

- (a) ensure that a system for the control and certification of organically produced products is established and shall monitor its operation;
- (b) specify the rules of operation of the Control and Certification Organisations;
- (c) evaluate applications for licences to operate Control and Certification Organisations, taking into account the recommendations of the Council, and, in appropriate cases, issue such licences, with or without conditions;
- (d) establish and maintain a Register, comprising an up-to-date list of the names and addresses of operators subject to the control and certification system and ensure that the Register is made available to interested parties;
- (e) control the marketing of organically produced products imported from member States and third countries;
- (f) investigate alleged contraventions of the provisions of this Ordinance and the Regulations and take appropriate measures;
- (g) impose administrative sanctions in accordance with section 18(3);
- (h) represent the interests of the Sovereign Base Areas in international and European Organisations responsible for matters concerning organic production.

**12.** – (1) A system for the control and certification of organically produced products shall be established and administered by the Control and Certification Organisations to which all operators shall be subject (referred to in this Ordinance as “the control and certification system”).

(2) The control and certification system shall comprise at least the application of the minimum inspection requirements and precautionary measures prescribed in the Regulations.

(3) The control and certification system shall be administered during all stages of production, preparation and marketing of organically produced products.

(4) The Authorised Service shall:-

- (a) ensure that the Control and Certification Organisations administer the control and certification system objectively;
- (b) verify the effectiveness of the Control and Certification Organisations;
- (c) take account of any infringements found and sanctions imposed by the Control and Certifying Organisations;
- (d) revoke the licence of any Control and Certification Organisation where such organisation:-
  - (i) fails to satisfy any of the requirements referred to in paragraphs (a) and (b);



- (ii) no longer fulfils the criteria on the basis of which the organisation was licensed; or
- (iii) fails to satisfy any of the requirements imposed upon such organisations by or under this Ordinance.

**13.** - (1) No person shall use the indication that products specified in section 3(1) are subject to the control and certification system, either on the labelling or in the advertisement of such products, unless the products:-

Entitlement to refer to control and certification system.

- (a) satisfy the requirements of this Ordinance and the Regulations concerning the labelling and advertising of such products and the rules of production;
- (b) have been subject to the minimum inspection requirements and precautionary measures under the control and certification system throughout the production and preparation stages;
- (c) have been produced or prepared by an operator whose undertaking is subject to the control and certification system and has been awarded the right to use the indication;
- (d) are packed and transported to the point of retail sale in closed packaging;
- (e) show on their labelling the name and code number of the Control and Certification Organisation and the name and address of the operator.

(2) No claim may be made on the labelling or in any advertising material that suggests to the purchaser that the indication referred to in subsection (1) above constitutes a guarantee that the products are of superior organoleptic, nutritional, or salubrious quality.

**14.** - (1) Any public utility corporation or private body wishing to obtain a licence to operate a Control and Certification Organisation must submit an application to the Authorised Service in the form specified in Part 1 of Schedule 3 (referred to as "Form A"), together with documents containing the following information:-

Licensing of Control and Certification Organisations.

Schedule 3, Part 1, Form A

- (a) the name of the organisation and the address of its headquarters in Cyprus;
- (b) the standard control and certification procedure to be followed, including a detailed description of the inspection requirements and precautionary measures to be applied;
- (c) a detailed account of any previous activities which demonstrate the organisation's suitability to carry out the activities of a Control and Certification Organisation, including, in particular, its reliability, objectivity and independence;
- (d) a curriculum vitae of the auditors and those members of the organisation who will evaluate applications from operators for certification of their products;
- (e) a description of its laboratory structure or details of the laboratories which it intends to use;
- (f) its articles of association and modus operandi;
- (g) the form of the questionnaire which operators will be required to complete and the form of the contracts which

they will be required to sign;

- (h) the label and the logo to be displayed on the packaging of the organically produced products after certification;
- (i) the sanctions which the organisation intends to impose where irregularities are found;
- (j) proof of its compliance with the requirements of the European Union Standard EN 45011.

(2) Any Control and Certification Organisation wishing to renew its licence shall submit an application to the Authorised Service in the form specified in Part 2 of Schedule 3 (referred to as "Form B").

Schedule 3, Part 2,  
Form B.

(3) Prior to deciding whether to issue any licence to operate a Control and Certification Organisation, the Authorised Service shall take into account the views and any recommendations of the Council.

(4) A licence to operate a Control and Certification Organisation shall be issued in the form specified in Part 3 of Schedule 3 (referred to as "Form C"), upon payment of the prescribed fee.

Schedule 3, Part 3,  
Form C.

(5) Unless revoked pursuant to section 18(3)(c), a licence to operate a Control and Certification Organisation shall remain valid for a period of twelve months from the date of issue.

(6) The Authorised Service shall allocate a code number to every Control and Certification Organisation to which it issues a licence, which code number shall be published together with a notification indicating that a licence has been issued to that organisation.

(7) Where the Authorised Service rejects any application for a licence or renewal of a licence to operate a Control and Certification Organisation it shall notify the organisation accordingly and the organisation may appeal against that decision to the Chief Officer within thirty days of receiving notification of it.

Duties of Control  
and Certification  
Organisations.

**15.** – (1) Every Control and Certification Organisation shall provide the Authorised Service:-

- (a) for inspection purposes, with access to its offices and facilities, together with any information and assistance deemed necessary by the Authorised Service for the fulfilment of its obligations under this Ordinance;
- (b) by the 31 August of each year, with a list of the names and addresses of operators subject to their control on the 31 December of the previous year.

(2) The Control and Certification Organisations shall:-

- (a) where an irregularity is found regarding sections 5, 8 or 13, ensure that:-
  - (i) the indications referring to the organic production method is removed from the entire lot or production run affected by the irregularity concerned; and
  - (ii) the indications that the products are subject to the control and certification system are removed from the entire lot or production run affected by the irregularity concerned;
- (b) where a manifest infringement or an infringement with prolonged effects is found regarding section 5, 8 or 13:-

- (i) prohibit the operator from marketing products bearing indications referring to the organic production method, for a period of time to be agreed with the Authorised Service; and
- (ii) withdraw from the operator concerned the right to use the indication that the products are subject to the control and certification system, for a period of time to be agreed with the Authorised Service.

**16.** The Authorised Service and the Control and Certification Organisations shall not disclose any information or data they obtain in the course of their activities to persons other than the persons responsible for the undertakings concerned and the relevant public authorities.

Disclosure of information.

**17. – (1)** The Chief Officer may appoint as authorised officers such number of persons appearing to him to be suitably qualified as he may consider necessary to enable the Authorised Service to carry out its duties under the Ordinance.

Appointment and powers of Authorised Officers.

(2) Any authorised officer, on production (if so required) of his authorisation, may enter, at any reasonable time, the premises of any undertaking in which he has reason to believe products are being produced, prepared, stored or marketed as organically produced products, for the purposes of ascertaining whether there is or has been any contravention of, or failure to comply with, any provision of this Ordinance or the Regulations.

(3) Any authorised officer who enters any premises by virtue of subsection (2) above may:-

- (a) examine the products therein, take samples for analysis upon payment of a reasonable price and examine any other article which he has reason to believe is used or may be used in connection with the production, preparation, storage or marketing of such products, as the case may be;
- (b) examine and take copies of or extracts from any records (in whatever form they are kept) relating to the undertaking and, where any such records are kept by means of a computer, may require any person having charge of or who is otherwise concerned with the operation of the computer to afford him such assistance as he may reasonably require;
- (c) seize and detain, for as long as is necessary, any product, other article or record which he has reason to believe may be required as evidence in any proceedings under this Ordinance and order that the said product, article or record be kept in a specified place and where any record is kept by means of a computer may require the record to be produced in a form in which it may be taken away.

(4) The operator may appeal in writing to the Chief Officer against any decision by any authorised officer to seize and detain any product, other article or record pursuant to subsection (3)(c) above.

(5) Within thirty days of receiving any appeal pursuant to subsection (4) above, the Chief Officer shall consider it and shall notify the appellants of his decision.

(6) The operator shall provide the authorised officer with such information and assistance as he may reasonably require in the exercise of his powers pursuant to this section.

(7) It is an offence for any person intentionally to obstruct an authorised officer during the exercise of any of the powers conferred upon him or the execution of any of the duties imposed upon him by or under this Ordinance and any person found guilty of such an offence shall be liable:-

- (a) in the case of a first offence, to a fine not exceeding one thousand pounds; or
- (b) in the case of a second or subsequent offence, to a fine not exceeding five thousand pounds or to imprisonment not exceeding six months or to both such penalties.

Investigation of alleged contraventions and imposition of administrative sanctions.

**18.**—(1) Following submission of a complaint or of its own volition, the Authorised Service shall investigate any alleged contravention of the provisions of this Ordinance or the Regulations.

(2) Any investigation carried out pursuant to subsection (1) above shall include consideration of any evidence submitted orally or in writing by the alleged contravener or his representative.

(3) Where, following the completion of any investigation carried out pursuant to subsection (1) above, the Authorised Service is satisfied that a person has contravened any provision of this Ordinance, it may impose one or more of the following administrative sanctions:-

- (a) order the person, within a fixed period of time, to stop contravening the provision and avoid any further repetition of it;
- (b) impose upon the person a fine of up to one thousand pounds, taking into account the nature, gravity and duration of the contravention; or
- (c) in the case of a contravention by a Control and Certification Organisation, revoke its operation licence.

(4) The imposition by the Authorised Service of any administrative sanction upon any person pursuant to subsection (3) above shall be accompanied by a reasoned decision.

(5) Any decision by the Authorised Service to impose an administrative sanction shall be liable to an appeal before the Chief Officer, which appeal must be lodged within thirty days of receipt of the decision.

#### **PART 4 GENERAL**

Offences and penalties.

**19.** - (1) Any person who contravenes or fails to comply with any provision of this Ordinance or the Regulations, shall be guilty of an offence and shall be liable on conviction:-

- (a) in the case of a first offence, to a fine not exceeding one thousand pounds; or
- (b) in the case of a second or subsequent offence, to a fine not exceeding five thousand pounds or to imprisonment not exceeding six months or to both such penalties.

(2) The Authorised Service shall publish in the daily press the particulars of any person who has been convicted under subsection (1) above.

Delegation of Chief Officer's functions.

**20.** For the purposes of this Ordinance, the Chief Officer:-

- (a) may delegate any of the duties imposed upon him or any of the

powers conferred upon him by or under this Ordinance, for all or any purpose specified by him, to any person or authority;

- (b) may make such orders (to be published in the Gazette) and give such directions as he may consider necessary or desirable to achieve the purposes of this Ordinance.”

**21.** – (1) The Administrator may make Regulations for the better application of the provisions of this Ordinance. Regulations.

(2) Without prejudice to the generality of subsection (1) above, the Administrator may regulate any of the following matters:-

- (a) the charging of fees for the issue and the renewal of licences to operate Control and Certification Organisations;
- (b) the advertising, labelling and packaging of organically produced products;
- (c) the rules of production;
- (d) the use of products and preparations for the nourishment of plants, as soil conditioners or for the removal or destruction of pests, diseases and weeds;
- (e) the procedures to be followed by Control and Certification Organisations;
- (f) the conditions to be satisfied and the procedure to be followed in relation to organically produced products imported from third countries;
- (g) the granting of exemptions, with or without conditions, in relation to veterinary medical products;
- (h) the use of GMO and GMO derivatives, having regard to technical progress and on the basis of scientific data.

**22.** The Chief Officer may issue Orders:- Orders.

- (a) in relation to any of the technical issues referred to in the Schedules to the Regulations; and
- (b) for the further regulation of specific technical issues referred to in the Regulations.

**23.** This Ordinance shall come into force on a date to be specified by the Administrator by notice published in the Gazette. Coming into force of this Ordinance.

## SCHEDULE 1

(Section 2)

### Meaning of the term “Genetically Modified Organism”

**1.** – (1) In this Ordinance the term “genetically modified organism” means any organism the genetic material of which has been altered in a way that does not occur naturally by mating or natural recombination and includes genetic modification which occurs through the use of the following techniques:-

- (a) recombinant nucleic acid techniques involving the formation of new genetic material by the insertion of nucleic acid molecules produced by whatever means outside an organism, into any virus, bacterial plasmid or other vector system and their incorporation into a host organism in which they do not naturally occur but in which they are capable of continued propagation;

- (b) techniques involving the direct introduction into an organism of heritable material prepared outside the organism including micro-injection, macro-injection and micro-encapsulation;
- (c) cell fusion (including protoplast fusion) or hybridisation techniques where live cells with new combinations of heritable genetic material are formed through the fusion of two or more cells by means of methods that do not occur naturally.

(2) For the purposes of sub-paragraph (1) above, the following techniques are not considered to result in genetic modification (on condition that they do not involve the use of recombinant nucleic acid molecules or genetically modified organisms made by techniques or methods other than those excluded by sub-paragraph (3) below):-

- (a) in vitro fertilisation;
- (b) natural processes such as:-
  - (i) conjugation,
  - (ii) transduction,
  - (iii) transformation;
- (c) polyploidy induction.

(3) The techniques and methods of genetic modification yielding organisms excluded for the purposes of sub-paragraph (2) above (on condition that they do not involve the use of recombinant nucleic acid molecules or genetically produced organisms other than those produced by one or more of the techniques or methods listed below) are:-

- (a) mutagenesis;
- (b) cell fusion (including protoplast fusion) of plant cells of organisms which can exchange genetic material through traditional breeding methods.

## **SCHEDULE 2**

(Section 4(1)(a))

### **INFORMATION TO BE NOTIFIED BY OPERATORS TO THE AUTHORISED SERVICE**

1. Name and address of the operator.
2. Location of premises and, where appropriate, plots of land (as identified in the Lands Office) where operations are carried out.
3. Nature of the operations and products.
4. Undertaking by the operator to carry out the operations in accordance with sections 5, 8 and 13.
5. In the case of an agricultural holding, the date on which the producer stopped using products, the use of which is not compatible with section 5 on the plots concerned.
6. The name of the licensed Control and Certification Organisation to which the operator has entrusted his undertaking.

**SCHEDULE 3**

(Section 14)

**PART 1**

**FORM A**

**MINISTRY OF AGRICULTURE, NATURAL RESOURCES AND ENVIRONMENT**

**Application for a licence to operate a Control and Certification Organisation under section 14(1) of The Organic Production Ordinance 2003**

Name and address of organisation:.....  
.....

Registration number under the Companies Ordinance (Chapter 113) or the General Ordinary Partnerships and Limited Partnerships and Trade Names Ordinance (Chapter 116) or, in the case of an organisation registered in a member State, the registration number under the relevant legislation of that member State:.....  
.....

I apply for licence to operate a Control and Certification Organisation in respect of the following categories of operators:-

Production/Preparation/Importation/Marketing of Organically Produced Products.  
[delete as appropriate]

I attach the documents required by section 14(1) of The Organic Production Ordinance 2003.

I confirm that I am aware of the provisions of the Organic Production Ordinance 2003 and the Regulations made thereunder and shall comply with them.

I declare that the above information is correct and the attached documents are authentic and valid.

Date .....Signature.....

Full Name .....

**PART 2**

**FORM B**

**MINISTRY OF AGRICULTURE, NATURAL RESOURCES AND ENVIRONMENT**

**Application for the renewal of a licence to operate a Control and Certification Organisation under section 14(2) of The Organic Production Ordinance 2003**

Name and address of organisation:.....  
.....  
.....

Full Name of the Managing Director/Chief Executive of organisation:  
.....

Number.....and date of issue.....  
of existing licence.



I apply for the renewal of my licence to operate a Control and Certification Organisation in respect of the following categories of operators:

Production/Preparation/Importation/Marketing of Organically Produced Products.

[delete as appropriate]

I confirm that I am aware of the provisions of the Organic Production Ordinance 2003 and the Regulations made thereunder and shall comply with them.

I declare that the above information is correct.

Date:..... Signature.....

Full Name.....

**PART 3**

**FORM C**

**MINISTRY OF AGRICULTURE, NATURAL RESOURCES AND ENVIRONMENT**

**Licence to operate a Control and Certification Organisation under section 14(4) of The Organic Production Ordinance 2003**

1. This licence is issued to [name, address, telephone number and fax number of organisation], subject to the following conditions:

(a) categories of operators in relation to which the organisation is licensed:

Production/Preparation/Importation/Marketing of Organically Produced Products;

[delete as appropriate]

(b) the provisions of the Organic Production Ordinance 2003 and the Regulations must be complied with.

2. This Licence shall expire on .....

(twelve months after the date of issue)

3. Number ..... and date of issue of Licence.....

Signature.....

Full Name .....

Position.....

(For the Authorised Service)

*29th September 2003*

(128/193)

P. D. Draycott

Chief Officer.

## Marginal Notes

(To be inserted alongside the first line of each numbered section, except where otherwise indicated)

Section 1.	Short Title
Section 2.	Interpretation
Definition of “Genetically Modified Organism” (first line).	
Schedule 1	
Section 3.	Application
Section 4.	Operators’ obligations - General
Section 4(1)(a).	Schedule 2
Section 5.	Conversion periods and rules of production
Section 6.	Use of the term “organic”
Section 7.	Packaging of organic products
Section 8.	Labelling of organic products
Section 9.	Record keeping
Section 10.	Marketing of imported organic products
Section 11.	Appointment and duties of Authorised Service
Section 12.	Control and Certification System
Section 13.	Entitlement to refer to control and certification system
Section 14.	Licensing of Control and Certification Organisations
Section 14(1).	Schedule 3, Part 1, Form A
Section 14(2).	Schedule 3, Part 2, Form B
Section 14(4).	Schedule 3, Part 3, Form C
Section 15.	Duties of Control and Certification Organisations
Section 16.	Disclosure of information
Section 17.	Appointment and powers of Authorised Officers
Section 18.	Investigation of alleged contraventions and imposition of administrative sanctions
Section 19.	Offences and penalties
Section 20.	Delegation of Chief Officer’s functions
Section 21.	Regulations
Section 22.	Orders
Section 23.	Coming into force of this Ordinance

## (Footnotes)

<sup>1</sup> JMc: Does not make sense for me to clarify with translator

<sup>2</sup> AGLA: The inter-relationship between sections 20 and 21 is not clear. In particular, it is not clear upon what basis an administrative sanction will be imposed under section 21 and whether or not this may be imposed in lieu of or in addition to the bringing of a prosecution under section 20. At first I thought that they intended that criminal proceedings only be brought in relation to specific contraventions and that was why they referred to specific sections of the Ordinance only but that theory does not hold when you look at section 21, which appears to catch all contraventions, so at best it would appear that certain breaches may lead to prosecution or the imposition of an administrative sanctions or both. Not good! I propose that we make clear that any breach of any provision may be subject to criminal proceedings or an administrative sanction, at the discretion of

















