Catalogue of Infringements Republic of Ireland

Version 9

A catalogue of non-compliances, infringements and irregularities applying to the Organic Sector in Ireland, based on the provisions of the various EU regulations as well as national legislation.

Organic Unit, Department of Agriculture, Food and the Marine, Johnstown Castle Estate, Wexford, Ireland – **January 2022**

Updated: 20/01/2022

Introduction

This document is produced in accordance with Article 41, 42 and 43 of Regulation 848/2018[1] and Regulation 279/2021[2].

Its purpose is to set out a comprehensive list of non-compliances, infringements and irregularities applying to the Organic Sector in Ireland, based on the provisions of the various EU regulations as well as national legislation.

Regulatory background

Article 41(4) of Regulation 848/2018 provides as follows:

"*Competent authorities shall provide a common catalogue of measures for cases of suspected non-compliance and established non-compliance to be applied in their territory, including by control authorities and control bodies*".

Article 14 of Commission Implementing Regulation (EU) 279/2021 states:

"The requirement related to the national catalogue of measures may imply the changing of already existing national catalogues of measures that have been developed in Member States until now in compliance with Regulations (EC) No 834/2007 and (EC) No 889/2008. Hence, a transitional period of maximum 1 year from 1 January 2022 should be provided for all Member States in respect of those existing national catalogues of measures in order to permit them to carry out the necessary improvements or the replacement of their national catalogues of measures to comply with the new requirements".

[1] https://eur-lex.europa.eu/eli/reg/2018/848/2018-06-14
[2] https://eur-lex.europa.eu/eli/reg_impl/2021/279/oj

Response of the Irish Competent Authority, the Department of Agriculture, Food and the Marine (DAFM)

The Irish Authorities hereby communicate to all control bodies a document outlining examples of types of non-compliance together with sanctions which should be imposed, at a minimum, and a catalogue listing infringements and irregularities affecting the organic status of products and corresponding measures to be applied by control bodies in cases of infringements or irregularities by operators under their control who are involved in organic production. **In exceptional circumstances where the organic integrity of a product is directly compromised and after due consideration of mitigating circumstances, and with agreement of the Competent Authority, the sanction may be reduced**. Similarly, the measures to be applied by the Organic Control Body (OCB) may be elevated to a higher sanction in proportion to the extent to which the provision has been violated, the particular type and circumstances of the irregularity and mindful of any pattern of reoccurrence. If the organic integrity of the product is not directly compromised, then re-categorisation by the OCB is permitted. **A composite list of all cases where sanctions are reduced must be maintained and available to the Department, as the Competent Authority, on request.**

This document has been drawn up in consultation with The Organic Forum, representing all Control Bodies operating within the Irish jurisdiction. This document is not exhaustive and will be subject to on-going amendment. Other infringements and irregularities which also affect the organic status of products but are not listed must also be duly considered by the Control Body.

Note on the Suspension of Operators

Regulation 848/2018[3]outlines, the additional rules on actions in case of non-compliance (Art. 41), additional rules on measures on the event of non-compliance (Art. 42) and additional rules on the exchange of information (Art. 43). The methodology for conducting an official investigation into the operator are outlined in Commission Implementing Regulation (EU) 2021/279, Art 2[4].

In Ireland either type of breach (severe infringement or an infringement with prolonged effect) is referred to as a 'manifest infringement'. The period during which an operator is prohibited from marketing organic products should be considered on a case-by-case basis. However, to ensure that Irish Control Bodies adopt a broadly consistent approach, the following framework should be applied

The notion of "appropriate action" in the ISO 17065 Standard

Appropriate action can include:

i. Continuation of the certification under conditions specified by the certification body (i.e., increased surveillance)
ii. Reduction in scope of certification to remove non-conformity product variants
iii. Suspension of the certification pending remedial action by the client
iv. Withdrawal of the certification

The Framework

- **Two years** will generally be seen as the appropriate period of prohibition for a severe infringement or an infringement with prolonged effect. This prohibits the licensee to trade in any organic product for a period of two years. This should be regarded as the baseline against which other prohibitions are considered. A two-year period will in most cases allow sufficient time for operators to review their systems and implement compliant procedures. It should also offer organic consumers reassurance about the integrity of the organic sector.

[3] https://eur-lex.europa.eu/eli/reg/2018/848/2018-06-14
[4] https://eur-lex.europa.eu/eli/reg_impl/2021/279/oj

The Tables in the Annexes provides more detail on:

- The classifications of different types of non-compliance.
- The types of actions that fall under each classification.
- The action that Control Bodies are expected to take in respect of each type of classification.
- The timescale for taking action; and
- any follow-up action that might be necessary.

- The following are examples of severe infringements or infringements with a prolonged effect:

  - Fraudulent activity e.g., passing non-organic products off as organic.
  - Incomplete records as a result of the omission of information.
  - Two or more examples of behaviour that have a direct impact on the health and welfare of an operator's organic livestock assessed over a 12-month rolling period (depending on the severity of the case, one successful prosecution on these grounds could be sufficient to constitute a severe infringement or an infringement with prolonged effect); and
  - Failure, within a reasonable period, to correct three or more identified critical non-compliances.

- In determining the length of any prohibition, Control Bodies should consider both the circumstances of the breach and the circumstances of the operator. The following are examples of what are considered to be 'aggravating factors' and, if present alongside the severe infringement or infringement with prolonged effect, are likely to increase the prohibition period; this is not an exclusive list:

  - Evidence that animals under the case/control of the operator have been subjected to avoidable physical harm/mutilation/malnutrition that is inconsistent with the standard of care that is expected from an operator.
  - The operator being obstructive towards any investigations undertaken by the Organic Control Bodies and/ or the Competent Authority following their findings.
  - Actions that have resulted in a public health issue.
  - Contamination of product due to inadequate measures to ensure separation of organic and non-organic products.
  - Operator is unable to demonstrate the organic status of an ingredient used in a product.

In such cases, it may be considered appropriate to extend the agreed prohibition period to more than two years. This will be dependent on the individual circumstances of the matter.

DAFM and the Control Body should consider the individual case and agree a suitable period of prohibition. In exceptional circumstances after due consideration of mitigating circumstances, and with agreement of the Competent Authority, the sanction may be reduced.

- The Control Body should assess the circumstances surrounding the case and inform DAFM, suggesting a suitable period of prohibition. DAFM will then consider the case and confirm (with reasons) within 10 working days whether or not the suggested period of prohibition is considered to be appropriate. DAFM will ensure that all Control Bodies adopt a similar approach by checking as part of its annual assessments of the Control Bodies. Any non-compliances relating to the Control Body's additional private standards are not relevant under Article 42 Council Regulation (EC) 848/2018.

End of the prohibition period:

- Once the prohibition period ends, the operator can market products as organic provided they have a current organic licence, are registered with the Competent Authority and, where necessary, have complied with any requirements.

Residue Analysis Action Form

Any positive laboratory analysis result must be investigated by the OCB in order to determine the possible source of contamination and the appropriate follow-up action taken as outlined below.

The irregularity must be investigated in accordance with Regulation 848/2018 (Art. 28, 29)[5] and Commission Implementing Regulation (EU) 2021/279 (Art. 2)[6], all instances of irregularities are notified to the Commission via the Organic Farming Information System (OFIS).

% of MRL	DAFM Notification Required	Status of contaminated produce	OCB Action Required	DAFM Action
Below MRL	Notify DAFM immediately, completing the DAFM form to Report a Positive Residue Test and carry out an official investigation.	Temporarily hold affected organic batch for sale or distribution as organic for duration of investigation.	Investigate to identify possible source of contamination and make decision of action relation to product based on outcome of investigation.	Where appropriate, DAFM will liaise with OCB.
Residues detected greater than MRL	Notify DAFM immediately, completing the DAFM form to Report a Positive Residue Test and carry out an official investigation.	Immediately withdraw organic status of the product/ lot/ batch and prohibit its sale/ distribution as organic. Instruct operator to quarantine product, notify customers of issue. Instruction from DAFM may require product recall and disposal.	Investigate to try to identify source of contamination. Based on outcome of investigation produce a report on same with findings and recommendations which may include suspension of operator and forward to DAFM	DAFM will consult with relevant CA: DAFM/FSAI/SFPA with regard to the level of residue and the public health implications of consuming the product. DAFM will consider the case and confirm appropriate corrective action (with reasons) within 5 working days of receipt of the OCB report on contamination.

NB: In instances, where there is no MRL for the residue detected, the OCB should immediately contact DAFM for guidance.

[5] https://eur-lex.europa.eu/eli/reg/2018/848/2018-06-14
[6] https://eur-lex.europa.eu/eli/reg_impl/2021/279/oj

Questions to be answered as part of the official investigation into an irregularity, and which are required on OFIS:

The investigation conducted by the OCB should aim to find the origin of the irregularity and the results of the investigations should determine the status of the product.

(a) What type of investigation took place: physical, documentary checks?

(b) Outline all the operators involved in the supply chain and their respective Control Bodies.

(c) Traceability of the product should be provided; please provide COI details were applicable.

(d) The name, batch number, quantity, ownership, and physical location of the organic or in-conversion products concerned.

(e) Details on samples:

  i. At which stage of production, preparation, or distribution and where exactly the presence of non-authorised products or substances has been detected, in particular for plant production, whether the sample was taken pre-harvest or post-harvest.

  ii. Please provide analysis report.

(f) If sampling was not possible – no product in stock or the product has been be sold, outline the amount of product in store.

(g) The quantity of product placed on the market/ on hold/ withdrawn from the market.

(h) Whether the products concerned are still placed on the market as organic or in-conversion products or used in organic production.

(i) Whether the product has been downgraded to conventional or destroyed.

(j) The type, name, quantity and other relevant information of the present non-authorised products or substances.

(k) Whether other operators in the supply chain are affected, please provide details.

(l) The results of previous official investigations on the products and operators concerned -

  i. Was there any severe infringement or prolonged infringement?

  ii. Was the operator's certificate suspended/withdrawn & for how long?

(m) the integrity of organic and in-conversion products.

(n) the source and the cause of the presence of non-authorised products or substances.

ANNEXES

Annex I	**Levels of non-compliance, definitions, and examples**
Annex II	**Catalogue of Infringements**
Annex III	**Actions, Sanctions & Timescales;** **Appeals Procedure;** **Precautionary measures to avoid the presence of non-authorised products & substances (Reg. 848.28)**

Annex I

Levels of non-compliance, definitions, and examples

LEVEL 1 – MINOR NON-COMPLIANCE	LEVEL 2 – INTERMEDIATE NON-COMPLIANCE	LEVEL 3 – CRITICAL NON-COMPLIANCE	LEVEL 4 – MANIFEST INFRINCEMENT
Does not directly compromise the integrity of the product but needs correcting, and taking into account the requirements under Reg. 2021/279, Art. 1	**May compromise the integrity of the product if not corrected, or may result from not correcting a previous minor non-compliance.** And where there is a suspicion that the cause of the presence of the non-authorised products or substances lies under the control of the operator, the operator shall examine any possible cause for the presence of non-authorised products or substances. (Reg. 2021/279, Art 1(1b)). The operator must inform the OCB and provide information and documentation about the supplier, traceability, lab results, sampling details and	**The integrity of the operation, product/batch or lot has been directly compromised or lost but can be recovered.** **For example:** • By accidental use/substitution/ contamination by prohibited materials • Non-compliant labelling Excessive number of Non-compliances • Contamination with GMOs The operator must inform the OCB and provide information and documentation about the supplier, traceability, lab results, sampling details and other relevant documentation. (Reg. 2021/279, Art 1) and the OCB conducts and official	**A serious and chronic failure of the system where the integrity of the organic production has been lost.** **Examples:** • Deliberate fraudulent activities such as substitution of non-organic ingredients, selling non-organic (n.o.) as organic • Contamination by prohibited materials through systems failure • The repeated failure to correct previously identified non-compliances • Livestock health & welfare seriously compromised • Deliberate use of GMOs The operator must inform the OCB and provide information and documentation about the supplier, traceability, lab

	other relevant documentation. (Reg. 2021/279, Art 1(2))	investigation (Reg. 2021/279, Art. 2).	results, sampling details and other relevant documentation. (Reg. 2021/279, Art 1 and the OCB conducts and official investigation (Reg. 2021/279, Art. 2).
Example of non-compliance: **Presence of pesticides-plant protection products other than those listed in the Regulation**			
	<u>Intermediate, if there is evidence that the organic operator:</u> ➢ Has in plan adequate pest management procedures (i.e., mechanical & physical methods). ➢ Uses pesticides /plant protection products/substances only when the above methods were not sufficient and only if they are listed in the Annex. ➢ The use of unauthorized pesticides /plant protection products/substances	<u>Major, if there is evidence that:</u> ➢ The self-control system is defective (no pest management procedures). ➢ The organic operator does not document under what circumstance uses pesticides /plant protection products/substances. ➢ The organic operator sourced the unauthorized pesticides /plant protection products/substances from an un-reliable	<u>Manifest Infringement, if there is evidence that the organic operators:</u> ➢ use unauthorized pesticides /plant protection products/substances intentionally.

	was just one incident due to non-compliance with self-control procedures. ➢ The product affected did not reach the market.	supplier (unconsciously).	

Annex II
CATALOGUE OF INFRINGEMENTS

Infringement Number	Compliance Category	Specific Non-Compliance Issue	Regulatory Reference[7]	Level 1	Level 2		Level 3		Level 4	
				Minor Non-Compliance	Intermediate Non-Compliance	Sanction	Critical Non-Compliance	Sanction	Manifest Infringement	Sanction
ORGANIC PLANT & LIVESTOCK PRODUCTION										
	Separation of Organic and Non-Organic Livestock	Grazing of organic and non-organic animals of same species on organic farm	848.II.II.1.3.4.4.5				✓			
		Simultaneous grazing of organic and non-organic animals (different species) on same parcels in the absence of grazing agreements	848.II.II.1.4.2				✓			
		Simultaneous grazing of organic and non-organic animals (different species) on same parcel in the contravention of grazing agreements.	848.II.II.1.4.2		✓					
		Simultaneous housing of organic and non-organic animals	848.III.9 848.II.II.1.3.4.4.5				✓			
	The Grazing of Non-organic Grassland	Non-organic animals exceeding grazing limit of 120 days	848.II.II.1.4.2				✓			
		Organic animals grazing non-organic land	848.II.II.1.4.2				✓			
	Origin of Livestock	Purchase of non-organic breeding stock which did not comply with nulliparous rule (exception rare breeds) – did not apply for and/or receive derogation	848.II.II.1.3				✓			
		Non-organic stock of incorrect gender bought in	848.II.II.1.3		✓					

[7] **Format of Regulation Notation:** Reg x.Annex x.Part x.Subpoint x, e.g., 848.II.II.1.3, or Reg. Article x, e.g. 848.26; Δ = Amended by

Infringement Number	Compliance Category	Specific Non-Compliance Issue	Regulatory Reference[7]	Level 1	Level 2		Level 3		Level 4	
				Minor Non-Compliance	Intermediate Non-Compliance	Sanction	Critical Non-Compliance	Sanction	Manifest Infringement	Sanction
		Purchase of nulliparous breeding stock in excess of 10% rule without derogation.	848.II.II.1.3				✓			
		Purchase of non-organic animals without derogation (40% rule) or in excess of derogation (40%)- derogation not obtained from OCB/DAFM	848.II.II.1.3				✓			
		Purchase of 3-day old chicks without obtaining derogation in advance of purchase	848.II.II.1.3		✓					
		Purchase of non-organic point of lay pullets	848.II.II.1.3				✓			
		Failure to consult database for purchase of non-organic stock (proposed for 2022, to be reviewed 2023)	848. 26 848.II.II.1.3.4.4		✓					
	General Welfare & Management Issues	Animals (Bovines) not tagged/both tags missing in excess of DAFM timelines	Cross compliance requirement				✓			
		Tagging of Stock (Bovines) not compliant, e.g., one tag missing	Cross compliance requirement	✓						
		Derogation not sought for animal mutilations	848.II.II.1.7.8		✓					
		Mutilations not carried out in accordance with the legislation (i.e., anaesthetic/analgesia not used)	848.II.II.1.7.9				✓			
		Animal Welfare Issue	848.II.II.1.7				✓			
		Withdrawal periods non-compliant	848.II.II.1.5.2				✓			
	Animal Housing	Animal bedding not provided	848.II.II.1.9				✓			

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				Minor Non-Compliance	Intermediate Non-Compliance	Sanction	Critical Non-Compliance	Sanction	Manifest Infringement	Sanction
	Issues	Non-compliant animal bedding materials used	848.II.II.1.9		✓					
		Animals housed on slats with no access to bedded area	848.II.II.1.9				✓			
		Bedding over slats - no solid bedded area	848.II.II.1.9				✓			
		Inadequate animal bedding provided (i.e. comfortable, clean, dry rest area not evident; loose litter not evident over mats in cubicles):	848.II.II.1.9		✓					
		Housing non-compliant – less than 50% solid bedded area provided	464/2020.4		✓					
		Animal housing - inadequate space for number of animals housed; inadequate perching space; pop-holes.	848.II.II.1.6 464/2020.1 464/2020.3 464/2020.4 464/2020.5				✓			
	Feed Issues	Feeding of non-organic feed to herbivores	848.II.II.1.9				✓			
		Feeding non-organic feed to non-herbivores in excess of 5%	848.II.II.1.9.3 848.II.II.1.9.4				✓			
		Feeding non-organic feed containing GM	848.11						✓	
		First year in-conversion fodder utilised in excess of 20% of overall fodder requirements –from the organic farm	848.II.II.1.4.3				✓			
		Feeding in-conversion feed in excess of allowances stipulated in regulations	848.II.II.1.4.3				✓			

Infringement Number	Compliance Category	Specific Non-Compliance Issue	Regulatory Reference[7]	Level 1	Level 2		Level 3		Level 4	
				Minor Non-Compliance	Intermediate Non-Compliance	Sanction	Critical Non-Compliance	Sanction	Manifest Infringement	Sanction
	Animal Health & Welfare Issues	Animals do not have access to open air areas when conditions allow or have access to roughage (except pigs, poultry, and bees)	848.II.II.1.4.1e				✓			
		Use of veterinary inputs without adequate justification	848.II.II.1.5.2		✓					
		Use of substances having hormonal or thryostatic action and beta agonists in farm animals without veterinary authorisation on a case-by-case basis.	848.II.II.1.5				✓			
		Evidence of inadequate provision of feed, water and other necessary substances which compromises animal health/welfare	848.6				✓			
		Specific nutritional requirements set out in the legislation of the animal have not been met	848.II.II.1.4 848.II.II.1.9.1.1 848.II.II.1.9.2.1 848.II.II.1.9.3.1 848.II.II.1.9.4.2 848.II.II.1.9.5.1 848.II.II.1.9.6.2				✓			
		Specific animal welfare requirements set out in the legislation have not been met	848.II.II.1.7 848.II.II.1.9.4.3 848.II.II.1.9.6.5				✓			
		Specific housing and husbandry requirements set out in the legislation of the animal have not been met	848.II.II.1.6 848.II.II.1.9.1.2 848.II.II.1.9.2.2 848.II.II.1.9.3.2 848.II.II.1.9.4.4 848.II.II.1.9.5.2 848.II.II.1.9.6.5				✓			

Infringement Number	Compliance Category	Specific Non-Compliance Issue	Regulatory Reference[7]	Level 1	Level 2		Level 3		Level 4	
				Minor Non-Compliance	Intermediate Non-Compliance	Sanction	Critical Non-Compliance	Sanction	Manifest Infringement	Sanction
		Specific health care requirements of the animals set out in the legislation have not been met	848.II.II.1.5 848.II.II.1.9.6.3				✓			
	Land and Pollution Related Issues	Crop rotation without mandatory legumes not in compliance	848.II.II.1.9		✓					
		Poaching of soil	848.II.II.1.7 848.II.II.1.9		✓					
		Exceeding annual limit relating to 170 kgs/ON/ha/pa	848.II.I.1.9 848.II.II.1.6				✓			
		Manure storage/effluent storage and management non-compliant	848.II.I.1.9 848.II.II.1.6				✓			
		Storing manure on land during closed period	848.II.II.1.9				✓			
		Parallel Production in Crop Production	848.9				✓			
	Livestock Paperwork Issues	Inaccurate stock figures - stock reconciliation not possible	848.39				✓			
		Flock/Herd register/ CMMS not up to date in accordance with statutory regulations.	848.II.II.1.3 Δ 2021/1691.34.8				✓			
		Veterinary Health Plan not up to date	848.II.II.1.5 Δ 2021/1691.34.8	✓						
		No Veterinary Health Plan	848.II.II.1.5 Δ 2021/1691.34.8		✓					

Infringement Number	Compliance Category	Specific Non-Compliance Issue	Regulatory Reference[7]	Level 1	Level 2		Level 3		Level 4	
				Minor Non-Compliance	Intermediate Non-Compliance	Sanction	Critical Non-Compliance	Sanction	Manifest Infringement	Sanction
		Documentation not submitted by specified deadline	848.39		✓					
	General Paperwork Issues	No Records kept	848.39 848.II.I.1.12						✓	
		Inadequate record-keeping	848.39 848.II.I.1.12 Δ 2021/1691				✓			
		Extension/reduction of licensed land areas not notified to OCB	848.39		✓					
		Organic enterprise changes not notified to OCB, e.g. approval not sought for new enterprise and/or product	848. 39		✓					
		Discrepancy in mass balance audit; mass balance audit not achievable	848.39 848.II.I.1.12		✓					
	Seed Paperwork Issues	Derogation not sought for use of untreated non-organic seed or propagation material (100% n.o.)	848.II.I.1.8 Δ 2020/1794. 12.2b		✓					
		Derogation not sought for permission to use seed mixture containing a % n.o. seed	848.II.I.1.8 Δ 2020/1794. 12.2b		✓					
		Used of dressed/treated seeds	848.II.I.1.8 Δ 2020/1794. 12.2b				✓			

Infringement Number	Compliance Category	Specific Non-Compliance Issue	Regulatory Reference[7]	Level 1	Level 2		Level 3		Level 4	
				Minor Non-Compliance	Intermediate Non-Compliance	Sanction	Critical Non-Compliance	Sanction	Manifest Infringement	Sanction
		Failure to consult database for purchase on non-organic seed (proposed for 2022, to be reviewed 2023)	848.26		✓					
		Marketing of organic or in-conversion plant reproductive material (heterogenous) without prior notification to competent authority	848.13		✓					
		Marketing of organic or non-organic plant reproductive material that is not in compliance with the regulation	2021/1189.3				✓			
	Prohibited Inputs & Contamination Risks	Spraying prohibited herbicide/pesticide	848.II.I.1.10 Δ 2021/1691.I.1b				✓			
		Failure to report a known spray-drift issue	848.39				✓			
		Use of prohibited chemical(s), inputs	848.II.I.1.10 Δ 2021/1691.I.1b				✓			
		Exceeding limit for copper usage Where copper product approved for use in Ireland as a fungicide	848.II.I.1.10 848.24 Δ 2021/1691.I.1b				✓			
		Cleanliness of equipment not in compliance	848.II.I.1.11 Δ 2021/1691.I.1c		✓					
		Cleaning procedures not adequately recorded (use, date, name, active substance and location of use)	848.34(8) 2021/1691.I.4(c)		✓					
		Use of compost for propagation purposes which contains inputs other than those indicated in Regulations.	848.II.I.1.9 Δ 2021/1691.I.1a				✓			

Infringement Number	Compliance Category	Specific Non-Compliance Issue	Regulatory Reference[7]	Level 1	Level 2		Level 3		Level 4	
				Minor Non-Compliance	Intermediate Non-Compliance	Sanction	Critical Non-Compliance	Sanction	Manifest Infringement	Sanction
	General Issues	Storage of prohibited input on an organic holding	848. 24				✓			
		Inadequate Precautionary Measures in respect of contamination (Equipment, utensils, housing, pens etc.)	848.II.I.1.6	✓						
		Export of organic manure/poultry litter/slurry to non-organic farms	848.II.I.1.9				✓			
		Persistent failure to correct previous issues of critical non-compliance	848.41 848.42 848.43 2017/625.138 279/ 2021.I						✓	
ORGANIC PROCESSING & PROCESSED PRODUCTS										
	Product or Labelling Issues	Point of sale labelling	848.30 848.32 848.33				✓			
		Display signage non-compliant:	848.30		✓					
		Use of unapproved non-organic ingredient in an organic product	848.30				✓			
		Sale of non-organic produce as 'organic'	848.30						✓	
		Use of unapproved processing aid or additive	848.24				✓			
		Use of non-rinse sanitiser without subsequent rinsing	848.II.IV.1.5		✓					
		Use of unapproved off-site processing unit	848.34				✓			

Infringement Number	Compliance Category	Specific Non-Compliance Issue	Regulatory Reference[7]	Level 1	Level 2		Level 3		Level 4	
				Minor Non-Compliance	Intermediate Non-Compliance	Sanction	Critical Non-Compliance	Sanction	Manifest Infringement	Sanction
		Use of non-food grade packaging on organic food products	848.2				✓			
		Segregation between organic/in-conversion/. non-organic products not evident/not compliant	848.II.IV.1.5				✓			
		Agreed bleed runs/purges not carried out between organic/in-conversion/ non-organic production runs	848.II.IV.1.5				✓			
		Organic products in storage not identifiable	848.II.IV.1.5				✓			
		Clean-down prior to organic production run not evident/non-compliant	848.II.IV.1.5				✓			
		Use of unlicensed wholesaler or unlicensed storage facility	848.34				✓			
		Pest Infestation in food store not addressed	848.II.IV.1.5				✓			
		Insufficient action taken on complaints	848.27		✓					
		Feed production not in compliance with regulation (processor)	848.17 848.III.V				✓			
		Feed labelling not in compliance with the legislation (processor)	848.17 848.III.V				✓			
		Collection, packaging and storage of products not in compliance with the regulation	848.27 848.III.V				✓			

Infringement Number	Compliance Category	Specific Non-Compliance Issue	Regulatory Reference[7]	Level 1	Level 2		Level 3		Level 4	
				Minor Non-Compliance	Intermediate Non-Compliance	Sanction	Critical Non-Compliance	Sanction	Manifest Infringement	Sanction
		Failure to keep records of feed, formulations	848.II.V Δ 2021/1691.I.5(c)				✓			
		Records not kept of location and quantity of wild plants collected	848.II.I. 2.2 Δ 2021/1691.I.1(e)				✓			
	Residue and Analysis Issues	Failure to notify OCB of positive residue test result taken as part of licensee's own analysis procedures	848.27				✓			
		DNA analysis reveals DNA other than DNA of specific product, e.g., pork DNA in beef burger produced by organic licensee	848.7				✓			
		Product has been irradiated (as evidenced by irradiation test) – in product produced by licensee	848.5(i)				✓			
	Product Paperwork	Documentation not submitted by specified deadline	2017/625.15		✓					
		Failure to notify CB immediately of any irregularity/infringement or suspicion that may impact on the organic status of a product	848.27				✓			
		Inadequate record-keeping	848.39 as amended, delegated reg. of July 2021				✓			
		Proof of GM-free status of non-organic permitted ingredients not verifiable	848. 5f 848.III.11				✓			
		Flavourings in use not compliant with regulatory requirements	848.24 848.16				✓			

Infringement Number	Compliance Category	Specific Non-Compliance Issue	Regulatory Reference[7]	Level 1	Level 2		Level 3		Level 4	
				Minor Non-Compliance	Intermediate Non-Compliance	Sanction	Critical Non-Compliance	Sanction	Manifest Infringement	Sanction
		Pre-approval not sought for production of new products	848.39				✓			
		Processing records - quantities of ingredients etc not adequate to production	848.39 as amended, delegated reg. of July 2021 848.II.I. 1.12				✓			
		Purchase invoices not stating organic status of ingredient being brought in	848.39 as amended, delegated reg. of July 2021		✓					
		Sales invoice/docket not stating organic status of product	848.39 as amended, delegated reg. of July 2021 848.II.I.1.12	✓						
		Insufficient/inadequate records to complete mass balance	848 Article 39 as amended, delegated reg. of July 2021 848.II.I.1.12 2021/279.9				✓			
		Input/Output does not balance – over usage	848.38(8)				✓			
		Traceability not achievable due to inadequate record-keeping	848.38(8)				✓			
		Pest control records inadequate/non-compliant	848.39 as amended, delegated reg. of July 2021 848.II.I.1.12		✓					

Infringement Number	Compliance Category	Specific Non-Compliance Issue	Regulatory Reference[7]	Level 1	Level 2		Level 3		Level 4	
				Minor Non-Compliance	Intermediate Non-Compliance	Sanction	Critical Non-Compliance	Sanction	Manifest Infringement	Sanction
		Poor hygiene standards in evidence in production unit	848.II.IV (Process food production rules)				✓			
		Requirements for Third country imports Certificate of Inspection not met	To be published				✓			
		Import of organic and in-conversion products from 3rd Countries not in compliance with the regulation	848.45				✓			
		Specifications for ingredients not available	848.II.V.1.1 848II.IV.1.3				✓			
		Incoming organic goods not checked on arrival/inadequate verification of goods received	848.III.5				✓			
		Delivery dockets for bulk products non-compliant as regards the required organic certification ID	848.39 as amended, delegated reg. of July 2021 848.II.I.1.12				✓			
		Persistent failure to correct previous issues of critical non-compliance	848.41 848.42 848.43 2017/ 625.138 (Actions in the event of established non-compliance) 279/ 2021.I						✓	
		No Organic product recall system	848.27 848.41				✓			

Infringement Number	Compliance Category	Specific Non-Compliance Issue	Regulatory Reference[7]	Level 1	Level 2		Level 3		Level 4	
				Minor Non-Compliance	Intermediate Non-Compliance	Sanction	Critical Non-Compliance	Sanction	Manifest Infringement	Sanction
		Organic Product recall conducted without notifying OCB	848.27 848.41				✓			
ORGANIC AQUACULTURE & AQUACULTURE PRODUCTS										
	General Issues	Disease prevention/veterinary treatments non-compliant	848.II.III.3.1.4				✓			
		Withdrawal periods non-compliant	848.II.III.3.1.4				✓			
		Transport of live fish not in compliance with regulations	848.II.III.1.7				✓			
		Sustainability Management Plans not updated	848.II.III.1.5		✓					
		Inadequate record-keeping	848.39 848.II.I.1.12				✓			
		Measures taken against predators not recorded in Sustainable Management Plan	848.II.III.3.2.2		✓					
		Origin of aquatic animals not in compliance with regulations	848.II.III.3.1.2 and Δ 2020/1693						✓	
		Slaughtering techniques and/ or handling prior to slaughter non-compliant.	848.II.III.3.1.6				✓			
		On land rearing system non-compliant	848.II.III.3.1.5				✓			
		Use of hormone or hormone derivatives	848.II.III.3.1.2				✓			
		Feed not in compliance with Regulations	848.II.II.3.1.3 848.II.III.3.1.2 Δ 2020/427.I.1.3a				✓			
		Antibiotic Residues following analysis where use of antibiotic was not prescribed by vet	848.II.I.1.7	848.II.II. 1.5.2			✓			

Infringement Number	Compliance Category	Specific Non-Compliance Issue	Regulatory Reference[7]	Level 1	Level 2		Level 3		Level 4	
				Minor Non-Compliance	Intermediate Non-Compliance	Sanction	Critical Non-Compliance	Sanction	Manifest Infringement	Sanction
		Persistent failure to correct previous issues of critical non-compliance	848.41 848.42 848.43 2017/ 625.138 (Actions in the event of established non-compliance) 279/2021.I						✓	
		Failure to consult database for purchase on non-organic aquaculture juveniles (proposed for 2022, to be reviewed 2023)	848.26		✓					
		Aquaculture production - Failure to keep records (origin of animals, feeding regimes and disease prevention measures)	848.II.III Δ 2021/1691.I.III				✓			
		Inadequate separation of organic and non-organic production units	848.II.I.2.1						✓	
		Use of veterinary medicines not declared to Control Bodies.	848.II.III.3.1.4				✓			
	Mollusc Production	Simultaneous production not in compliance with Regulations	848.9				✓			
		Production area not delineated as required	848.II.III.3.2.2				✓			
		Seed not sourced in compliance with Regulations	848.II.I.1.8				✓			

Infringement Number	Compliance Category	Specific Non-Compliance Issue	Regulatory Reference[7]	Level 1	Level 2		Level 3		Level 4	
				Minor Non-Compliance	Intermediate Non-Compliance	Sanction	Critical Non-Compliance	Sanction	Manifest Infringement	Sanction
	Finfish Production	Maximum stocking densities exceeded	848.15 848.3 848.4				✓			
		Full description of production site not available	848.39		✓					
	Seaweed Production	Cleaning and drying of seaweed not compliant	848.II.III.2				✓			
		Bio-fouling organisms removed by means other than physical	848.II.III.3.1.4				✓			

Annex III

Actions, Sanctions and Timescales

NB Examples within the relevant definition's sections are not exhaustive and will be subject to on-going additions/amendments

Level	Description	Definition	Action / Sanctions	Time Scale	Follow-up
0	**Compliance**	Fully compliant. No issues raised.	None	N/A	None
0	**Comment or Observation**	The means of notifying general information regarding the standards. Example – references to: • Practices that could be improved e.g., to best practise. • Interpretation of the standards laid down in the organic Regulations. • Forthcoming changes to the standards.	None	N/A	Must be checked at subsequent inspection.
1	**MINOR non-compliance**	Does not directly compromise the integrity of the product but needs correcting	Renewal of certification is conditional on: • Corrective action to be agreed in writing by the CB and operator. • Operator to commit to undertake corrective action within an agreed timetable. • Evidence of compliance to be supplied by operator and verified by CB. • Only where evidence of compliance cannot be supplied, a statement of intent may be accepted (e.g., where a long-term capital investment is required).	Licensee to respond within time period set by the CB, not exceeding 30 days from the date of notification. Corrective actions to be implemented within a reasonable period agreed by the CB taking account of the type of non-compliance	Must be checked at subsequent inspection

				(e.g., whether just a minor technical matter (such as record keeping) or potentially having wider repercussions (e.g., on livestock welfare) if not corrected.	
2	**INTERMEDIATE non-compliance**	May compromise the integrity of the product if not corrected or may result from not correcting a previous minor non-compliance.	Certification is conditional on: • Notification to DAFM • Corrective action to be agreed in writing by the CB and operator. • Operator to commit to undertake corrective action within an agreed timetable. • Evidence of compliance to be supplied by operator and verified by the CB. • Only where evidence of compliance cannot be supplied a statement of intent may be accepted (e.g., where a long-term capital investment is required).	Licensee to respond within time period set by the CB, not exceeding 30 days from the date of notification. Corrective actions to be implemented within a reasonable period agreed by the CB taking account of the type of non-compliance.	An additional inspection may be required, at the discretion of the CB. Corrective actions to be verified at subsequent inspection.
3	**Irregularity or critical non-compliance**	The integrity of the operation, product/batch or lot has been directly compromised or lost but can be recovered – Examples: • By accidental use/substitution/ contamination with prohibited materials. • Non-compliant labelling. • Excessive number of non-compliances.	The regulatory requirement here is to ensure that product affected (production run or entire lot) is not marketed as organic (having due regard to principle of proportionality). The EU regulations also require immediate notification to other OCBs, Competent Authority and relevant Member States, as well as EU Commission if appropriate. (EU Reg 848.42 & 43) • Immediate notification to DAFM • Immediate verbal suspension/ decertification of the field, product,	Decertification of land, product, batch, lot as appropriate with immediate effect.	Before the suspension can be lifted: • The operator provides evidence that the critical non-compliance has been corrected. • Additional inspection at the discretion of the CB to check for full compliance (e.g.,

			batch or lot by the CB, and an aim to inform the Operator in writing within three working days but no later than seven working days. • Referred to CB Certification Committee for confirmation/decisions. • Notify DAFM & CBs if product recall is needed. • DAFM to notify other Member States and EU Commission as required.		only where the suspension was found to be justified). • Corrective action and status of decertified land, product, batch, lot to be checked at subsequent inspection.
4	**MANIFEST INFRINGEMENT Severe infringements and infringements with prolonged effect**	A serious and chronic failure of the system where the integrity of the organic production has been lost. Examples: • Deliberate fraudulent activities such as substitution of non-organic ingredients, marketing non-organic produce as organic. • Contamination by prohibited materials through systems failure. • The repeated failure to correct previously identified non-compliances.	The regulatory requirement here is to ensure that product affected (production run or entire lot) is not marketed as organic (having due regard to principle of proportionality). The EU regulations also require immediate notification to other OCBs, Competent Authority and relevant Member States, as well as EU Commission if appropriate. (EU Reg 848/2018 and Implementing Reg. 2021/279) • Immediate notification to DAFM • Immediate verbal suspension/ decertification. • Referred to emergency meeting of the CB's Certification Committee for confirmation/decisions. The Certification Committee meeting may be teleconference or email. • Decertification confirmed in writing by CB, within the aim of three working days, but no more than seven working days. • DAFM informed of decision & CBs if product recall is needed. • FSAI to be notified by DAFM as appropriate.	To be agreed between DAFM and the OCB.	The Control Body and DAFM to agree on a period during which the operator may not market organic products. **The operator may not apply for an organic licence from another approved OCB during the period of prohibition.**

			• Period of licence withdrawal to be agreed with DAFM • DAFM to notify other Member States and Commission as required.		

Appeals Procedure

An Appeals Procedure common to the approved OCBs in Ireland has been agreed.

The details of the Appeals Procedure are as follows:

a) All OCB Certification Panel decisions will be communicated to the appropriate operator in writing. Such decisions can include notification of decisions taken regarding minor, major or critical Non-compliances and the associated measures imposed.

b) The operator/s can appeal any decision notified by the relevant OCB under the common system for measures in cases of Non-compliance and subsequent Appeals Procedure.

Outlined below are the components of the Common Appeals Procedure - the steps outlined below must be adhered to sequentially by the operator/s concerned:

i) In the first instance, the operator may appeal the decision, in writing, to the Certification Panel (CP) within 14 days of the date of notification of the specific decision. This letter should be addressed to the office of the OCB. On receipt of same, administration personnel will forward the new information to the Inspector involved in the inspection which identified the specific non-compliance. The Inspector will review the additional information and will submit an opinion in respect of same to the OCB within 10 days. All information will then be considered at the next scheduled CP meeting and the operator will be notified of the CP decision within 14 days of the date of the specific Certification Panel Meeting.

ii) Should the operator be dissatisfied with the decision under i) above, the operator may then appeal to the Board of Management of the appropriate OCB within 14 days of the date of notification of the specific decision. The operator must furnish a detailed written explanation regarding the reasons for their dissatisfaction with the outcome of i) above. Administration personnel will forward the details of the written appeal to the Board of Management within 10 days of receipt of same.

iii) The Board of Management will consider the details of the appeal. The Board of Management reserves the right to obtain further clarification on any aspect of the case under review from all available sources including the Inspectorate, the CP, administration personnel and the Competent Authority. The Board of Management will advise Administration personnel of the outcome of their deliberations within 14 days. Administration personnel will notify the operator concerned of the decision of the Board of Management within 10 days of receipt of same.

iv) If an operator in the Republic of Ireland is dissatisfied with the relevant OCB Board decision, he/she can then appeal, in writing, to the Organic Unit of the Department of Agriculture, Food & the Marine, Johnstown Castle Estate, Co Wexford. The appeal will be considered and a decision will be conveyed to the Operator concerned by the Organic Unit within 21 days of receipt of same.

Sanctions imposed on an operator by an OCB will remain in force during the entire period of any subsequent appeal until the outcome of such appeal (i.e. if, for example, the OCB suspends or withdraws an operator's certificate, such suspension/withdrawal shall remain in force during the entire period of any subsequent appeal until the outcome of the appeal).

In circumstances where an OCB has withdrawn a certificate from an operator, the operator concerned cannot apply for certification from another OCB during the period of the withdrawal.

Precautionary measures to avoid the presence of non-authorised products & substances (Reg. 848.28)

1. In order to avoid contamination with products or substances that are not authorised in accordance with the first subparagraph of Article 9(3) for use in organic production, operators shall take the following precautionary measures at every stage of production, preparation and distribution:

(a) put in place and maintain measures that are proportionate and appropriate to identify the risks of contamination of organic production and products with non-authorised products or substances, including systematic identification of critical procedural steps;

(b) put in place and maintain measures that are proportionate and appropriate to avoid risks of contamination of organic production and products with non-authorised products or substances;

(c) regularly review and adjust such measures; and

(d) comply with other relevant requirements of this Regulation that ensure the separation of organic, in-conversion and non-organic products.

2. Where an operator suspects, due to the presence of a product or substance that is not authorised pursuant to the first subparagraph of Article 9(3) for use in organic production in a product that is intended to be used or marketed as an organic or in-conversion product, that the latter product does not comply with this Regulation, the operator shall:

(a) identify and separate the product concerned;

(b) check whether the suspicion can be substantiated;

(c) not place the product concerned on the market as an organic or in-conversion product and not use it in organic production unless the suspicion can be eliminated;

(d) where the suspicion has been substantiated or where it cannot be eliminated, immediately inform the relevant competent authority, or, where appropriate, the relevant control authority or control body, and provide it with available elements, where appropriate;

(e) fully cooperate with the relevant competent authority, or, where appropriate, with the relevant control authority or control body, in identifying and verifying the reasons for the presence of non-authorised products or substances.