

FEDERAL LAW GAZETTE

FOR THE REPUBLIC OF AUSTRIA

2015**Issued on 6 November****Part I**

130th Federal Law: EU Quality Regulations Implementation Act – EU-QuaDG, amendment to the Austrian Health and Food Safety Act and the Trademark Protection Act 1970 as well as repeal of the Beef Labelling Act
(NO: LEGISLATION PERIOD XXV BILL 777 paragraph 811 p. 96. FEDERAL COUNCIL: 9454 paragraph 9460 p. 846.)

130th Federal Act enacting a Federal Act for the implementation of Union Law on organic production, protected indications of origin and traditional specialities (EU Quality Regulations Implementation Act – EU-QuaDG), amending the Austrian Health and Food Safety Act and the Trademark Protection Act 1970 and repealing the Beef Labelling Act

The National Council has resolved:

Article 1

Federal Act enacting a Federal Act for the implementation of Union Law on organic production, protected indications of origin and traditional specialities (EU Quality Regulations Implementation Act – EU-QuaDG)

Scope

SECTION 1.(1) This Federal Act serves to implement the following legal acts of the European Union and their amendment and implementation regulations:

1. Regulation (EC) No. 834/2007 on organic production and labelling of organic products and repealing Regulation (EEC) No. 2092/91 Official Journal No. L 189 of 20.7.2007 p. 1,
2. Regulation (EC) No. 110/2008 on the definition, description, presentation, labelling and the protection of geographical indications of spirit drinks and repealing Regulation (EEC) No. 1576/89 Official Journal No. L 39 of 13.2.2008 p. 13, insofar as it relates to geographical indications and the official controls thereof,
3. Title III of Regulation (EC) No. 1151/2012 on quality schemes for agricultural products and foodstuffs, Official Journal No. L 343 of 14.12.2012 p. 1, and Title II of this Regulation, insofar as it relates to official controls.

(2) This Federal Act shall also apply to mass catering operations pursuant to Art. 2 aa of Regulation (EC) No. 834/2007 and the products originating therefrom and cosmetic products, insofar as these products are marketed with reference to organic production. Further regulations shall be issued by decree (section 9 paragraphs 2 and 3).

Definitions

SECTION 2.(1) In the meaning of this Federal Act

1. “food” means: Food pursuant to Art. 2 of Regulation (EC) No. 178/2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety, Official Journal No. L 31 of 1.2.2002, p. 1;
2. “cosmetic product”: cosmetic product pursuant to Art. 2 paragraph 1 a of Regulation (EC) No. 1223/2009 on cosmetic products, Official Journal No. L 342 of 22.12.2009 p. 59;

3. “agency”: Österreichische Agentur für Gesundheit und Ernährungssicherheit GmbH (Austrian Agency for Health and Food Safety) pursuant to section 7 of the Health and Food Safety Act - GESG, Federal Gazette I No 63/2002;
4. “control body”: Control body pursuant to Art. 2, point 5 of Regulation (EC) No. 882/2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules, Official Journal No. L 165 of 30.4.2004 p. 1, corrected by Official Journal No. L 191 of 28.5.2004 p. 1,
5. “operator”: operator pursuant to section 3, point 11 of the Food Safety and Consumer Protection Act (LMSVG), Federal Gazette I no 13/2006, or Art. 2 d of Regulation (EC) No. 834/2007;
6. “group”: Group pursuant to Art. 3, point 2 of Regulation (EC) No. 1151/2012.

(2) The definitions listed in the directly applicable legal acts of the European Union relating to the scope of this Act shall also apply.

Control system

SECTION 3.(1) The state governor is the competent authority for the official controls pursuant to Art. 4 paragraph 1 Regulation (EC) No. 882/2004.

(2) The control to verify compliance with

1. Product specification pursuant to Art. 36, point 3 a of Regulation (EC) No. 1151/2012,
2. technical file pursuant to Art. 22 of Regulation (EC) No. 110/2008,
3. requirements of Regulation (EC) No. 834/2007

and the provisions of this Federal Act in relation thereto, as well as the decrees issued on the basis thereof (section 9) must be implemented by control bodies which have been approved pursuant to section 4.

(3) The control bodies are subject to supervision by the state governor and are bound by his instructions and directions. The control body shall without being asked present the state governor with the decision currently issued by the accreditation body and the current assessment reports with regard to the regular on-site evaluation, the monitoring and long-term re-assessment of its tasks by the accreditation body, pursuant to the Federal Act on the accreditation of conformity assessment bodies (Accreditation Act 2012 – AkkG 2012), Federal Law Gazette I No. 28/2012. The state governor shall issue the necessary instructions and directions to ensure that control tasks are carried out pursuant to provisions.

(4) The state governor shall organise audits of the control bodies’ tasks pursuant to Art. 5 paragraph 3 Regulation (EC) No. 882/2004. A report must be prepared for each audit. Experts from other authorities can accompany the supervisory bodies of the state governor during audits.

(5) Feed, fertilisers, pesticides, seeds and seed stock as well as wine, which are described “organic” or contain a reference to their suitability for organic production pursuant to Regulation (EC) No. 834/2007 or are acquired in the course of trade or contracted to third parties, shall comply with the general statutory requirements. The assessment of marketability is the responsibility of the competent federal authorities pursuant to the relevant federal laws.

Approval of control bodies

SECTION 4. (1) The control body must be approved by the state governor after written application by the control body to the state governor, insofar as the following requirements are met and compliance is not related to the performance of administrative procedures:

1. for control tasks of Regulation (EC) No. 834/2007:
 - a) compliance with requirements pursuant to Title V and in particular with Art. 27 of Regulation (EC) No. 834/2007 and
 - b) the accreditation as a certification body for products pursuant to the Accreditation Act 2012 or for a control body with its head office in another EU Member State or signatory to the Agreement on the European Economic Area (EEA Member State) or an equivalent accreditation in the Swiss Confederation,
2. for control tasks of Regulation (EC) No. 110/2008 and (EU) No. 1151/2012:
 - a) compliance with the conditions pursuant to Art. 5 paragraph 2 Regulation (EC) No. 882/2004 and the minimum requirements and procedures for the control and
 - b) the accreditation as a certification body for products pursuant to the Accreditation Act 2012 or for a control body with its head office in another EU Member State or signatory to the Agreement on the European Economic Area (EEA Member State) or an equivalent accreditation in the Swiss Confederation.

The approval is issued for the entire federal territory.

(2) In the case of protected designations of origin and protected geographical indications pursuant to Regulation (EU) No. 1151/2012, a declaration of intent by the group with regard to cooperation with the group

shall be submitted along with the application. Insofar as the applicant group mentioned in the specification or the legal successor thereof meets the requirements mentioned in section 15, this group shall only be deemed a group in terms of this paragraph. More than one control body may only be approved if the control bodies proceed in accordance with a uniform control program.

(3) In the case of a control body with its head office in another EU Member State or signatory to the Agreement on the European Economic Area (EEA Member State) or an equivalent accreditation in the Swiss Confederation, the control body must be appointed as an authorised recipient pursuant to section 9 of the Service of Documents Act, Federal Law Gazette I No. 200/1982. In the case of paragraph 1, point 1, the approval as a control body for organic production must be documented in the country in which the head office is located.

(4) A control body which is not accredited as a certification body for products pursuant to the Accreditation Act 2012 can be provisionally approved in derogation of paragraph 1 or subject to conditions or requirements, insofar as the accreditation application has already been submitted.

(5) The approval can be restricted to aspects of the scope in the field of organic production pursuant to Art. 1 of Regulation (EC) No. 834/2007.

(6) In relation to Regulation (EU) No. 1151/2012, the state governor of the federal state in which the group which has submitted a registration application has its head office is the competent authority.

(7) The approval pursuant to paragraph 1 shall be withdrawn or restricted by the state governor in the following cases:

1. if the minimum requirements for the control are not satisfied or in the case of failure to satisfy a requirement with regard to organic production pursuant to Art. 27 paragraph 9 d of Regulation (EC) No. 834/2007,
2. in the case of non-compliance with an instruction or directive,
3. if the requirements for the approval are no longer met or only met to a limited extent or were not originally met or
4. in the case of non-submission of assessment reports pursuant to section 3 paragraph 3, notwithstanding such submission being requested by the state governor.

(8) The control body shall notify the state governor of any material change in the key circumstances of the approval, in particular changes to the accreditation, without undue delay. These notifications are exempt from fees in terms of the Fees Act 1957, Federal Law Gazette No. 267/1957.

(9) The state governor shall inform the Federal Ministry of Health of the decisions pursuant to paragraphs 1 and 7. The Federal Ministry of Health discloses the names of the control bodies on its home page.

Coordination of official controls

SECTION 5.(1) The control shall be performed in compliance with Regulation (EC) No. 882/2004, in consideration of the specific control regulations as well as the acknowledged standards of science and technology.

(2) A control committee shall be established at the Federal Ministry of Health for the purpose of coordinating the authorities and control bodies, the tasks thereof being:

1. the elaboration and approval of guidelines and manuals,
2. the elaboration and approval of control plans as part of the integrated long-term control plan, pursuant to section 30 LMSVG [Food Safety and Consumer Protection Act] for the performance of the official control,
3. the coordination of authorities with regard to the approval of control bodies,
4. the clarification of design matters in relation to the control and
5. the exchange of information in relation to the implementation of the current controls, as well as
6. the elaboration and approval of lists of measures in relation to regulations pursuant to section 1, as well as in the case that a clear or gross breach of regulations relating to food, animal welfare, feed, wine, pesticides, fertilisers or seed is suspected.

Guidelines, manuals, control plans and lists of measures shall be published by the Federal Ministry of Health on its home page, insofar as this does not conflict with the intended purpose of the control.

(3) The control committee shall comprise

1. one representative each from
 - a) the Federal Ministry of Health,
 - b) Accreditation Austria, national accreditation body pursuant to the Accreditation Act 2012,
 - c) the agency as the office of the control committee,
 - d) the control bodies and

2. a representative of each state as nominated by the state governor.

(4) With regard to the field of organic production, the control committee shall also comprise of one representative from each of the following:

1. the Federal Ministry of Agriculture, Forestry, Environment and Water Management,
2. the Federal Office for Food Safety,
3. the Federal Wine Control Authority,
4. the bodies pursuant to 47 paragraph 3 LMSVG,
5. the community of Austrian organic control bodies.

(5) A substitute shall be appointed for each member mentioned under paragraphs 3 and 4. Failure to nominate shall not prevent the constitution of the control committee.

(6) The Federal Minister of Health appoints the chairperson from the Federal Ministry of Health.

(7) All members including the chairperson and if necessary the deputy thereof shall have voting rights. A substitute has such voting rights only in the event that the member for whom the substitute is authorised to represent is incapacitated.

(8) The control committee can call on experts on an ad hoc basis to address individual key aspects of the field.

(9) The control committee shall adopt Rules of Procedure which require the approval of the Federal Ministry of Health.

(10) The office of the control committee established in the agency serves to support the chairperson and performs the following duties:

1. preparation, organisation and documentation of the meetings of the control committee,
2. support with coordinating the authorities and control bodies,
3. development of the control plans, guidelines and manuals,
4. reporting and applications according to EU regulations,
5. attendance at meetings of expert groups.

Implementation of the official controls

SECTION 6.(1) The Federal Ministry of Health shall adopt an annual national control plan based on risk assessments and statistical data, for the official control of companies and products within the scope of the long-term integrated control plan, pursuant to section 30 LMSVG with consideration being given to practical and effective control. The basic principles thereof shall be published.

(2) The state governor and the control bodies shall bear responsibility for compliance with the control plan pursuant to paragraph 1. An action report for the past year shall be communicated to the state governor by the control bodies by 1 March of the following year and to the office in the agency by the state governor by 31 March of the following year.

(3) The state governor shall make particular use of qualified bodies as supervisory bodies (hereinafter: supervisory bodies) to fulfil his duties.

(4) Supervisory bodies and the control bodies staff are authorised to conduct any investigations necessary for official control and in particular

1. to enter the relevant premises, buildings and means of transport,
2. to gather the necessary information and to question persons,
3. to inspect business documents on hardcopy and data media and if necessary to prepare copies or printouts or to have such copies and printouts produced electronically,
4. to take samples pursuant to the provisions relevant to the taking of samples against acknowledgement of receipt without reimbursement and
5. to obtain assistance in performing the investigations and controls.

(5) The performance of a control may be enforced if acceptance thereof is refused. In this case, the bodies of the public safety authority shall provide assistance to the supervisory bodies and the staff of the control bodies with regard to their request to ensure that the control powers are exercised within the scope of their statutory area of responsibility.

(6) The control must be performed during business or operating hours, except in the case of imminent danger.

(7) Disruption to business operations and commotion of any kind should be avoided if at all possible and the relevant hygiene regulations must be observed.

(8) In the event of non-compliance, the state governor shall take the measures necessary according to the nature of the non-compliance, pursuant to Art. 54 of Regulation (EC) No. 882/2004.

(9) Experts from the European Commission and the Federal Ministry of Health and official bodies of a competent authority of another Member State may on the basis of Art. 36 of Regulation (EC) No. 882/2004 accompany the supervisory bodies and the staff of the control bodies in performing actions within the scope of this Federal Act. Experts from the European Commission are authorised to conduct any investigations necessary for official control and in particular

1. to enter the relevant premises, buildings and means of transport,
2. to gather the necessary information and to question persons.

Bodies of the office of the control committee in the agency can also support the supervisory bodies and the control bodies' staff.

Powers and obligations of the control bodies

SECTION 7.(1) To perform their control tasks, control bodies shall exchange relevant information regarding the results of their controls at the request of another control body or insofar as is necessary to perform the control, in particular to guarantee traceability.

(2) Irregularities and infringements pursuant to section 5 paragraph 2, point 6, found by the control body shall be reported to the state governor without undue delay. If necessary, the state governor must inform the competent authority responsible for compliance with the general statutory requirements, as well as the office of the control committee in the agency without undue delay.

(3) Control bodies must accept audits by the state governor.

(4) In the case that the operator changes, control bodies are bound by the measures or conditions imposed by the previously engaged control bodies, unless otherwise laid out following consultation with the state governor.

Obligations of the operator

SECTION 8.(1) Operators pursuant to Art. 28 of Regulation (EG) No. 834/2007 and operators who manufacture protected registered products pursuant to regulations (EC) No. 110/2008 or (EC) No. 1151/2012 are obliged to subject their work to inspection before marketing pursuant to section 3 paragraph 2, whereby the state governor must be notified thereof. This notification can be made by the control body.

(2) Operators and groups which assist in controlling compliance with the specifications within the scope of the self-control system, are obliged

1. to accept controls according to this Federal Act,
2. to support the control body staff and the supervisory bodies in performing control tasks and in fulfilling their duties in the best possible way and if necessary to supply persons who are familiar with the company,
3. to allow inspection of documents relevant to control and for the purposes of traceability, in particular company records, delivery schedules and invoices on hardcopy and data media, or if this is not possible to submit these documents within a reasonable period and to prepare copies or printouts free of charge at the request of the control body staff or supervisory bodies or to provide these documents electronically and
4. to provide the control body staff or the supervisory bodies on request with the necessary information, in particular with regard to the production, preparation, marketing, storage, import, origin and customers of products, as well as with regard to all units of the company including means of transport that are used to produce, prepare and market products or in the case that it is not possible to do so immediately, to submit such information within a deadline to be set by the control body or the supervisory bodies.

(3) The directions of the control bodies' staff or the supervisory bodies must be followed – if necessary within a deadline to be defined.

(4) In the case that the control bodies change, operators and groups are bound by the measures or conditions imposed by the previously engaged control body, unless otherwise agreed in consultation with the state governor.

(5) Each group which has submitted a registration application pursuant to Regulation (EC) No. 1151/2012 shall nominate a control body to the state governor. A change of control body must be communicated without undue delay. These notifications are exempt from fees in terms of the Fees Act 1957. An operator or group which assists in controlling compliance with the specifications within the scope of the self-control system, may only be controlled by a control body.

(6) If an operator recognises or has reason to assume that a product that he has marketed may not comply with this Federal Act or one of the EU Regulations mentioned in section 1, he shall notify the control body without undue delay.

(7) The operators must cooperate with the control bodies or the state governor in the case of measures that are taken to prevent or reduce the risks for a product which they supply or have supplied.

Power to issue decrees

SECTION 9.(1) In order to guarantee the objectives and principles mentioned in Regulations (EC) No. 178/2002 and No. 882/2004 and to implement the provisions mentioned in section 1, the Federal Ministry of Health – insofar as it relates to Regulation (EC) No. 834/2007 and Title II of Regulation (EC) No. 1151/2012 in consultation with the Federal Minister for Agriculture, Forestry, Environment and Water Management – can issue decrees having regard to acknowledged standards of science and technology and further provisions for the performance of official control and following consultation with the control committee, in particular with regard to

1. the procedure of the supervisory bodies and the control body staff,
2. the exchange of information and reporting obligations,
3. the qualification of the supervisory bodies and the control bodies' staff,
4. precautions and requirements within the scope of the control system,
5. electronic data exchange within the scope of the long-term integrated control plan pursuant to section 30 LMSVG and Art. 36 of Regulation (EC) No. 834/2007 in conjunction with Art. 93 of Regulation (EC) No. 889/2008,
6. powers and obligations of the control bodies
7. further obligations of the operators and
8. further obligations of the

groups.

(2) The Federal Minister of Health can issue more detailed provisions to protect the consumer against misleading practices with the agreement of the Federal Minister of Science, Research and Economy, with regard to mass catering operations, products manufactured there and specific preparation stages, having regard to the acknowledged standards of science and technology and following consultation with the control committee and the Advisory Board for organic production (Section 13).

(3) The Federal Minister of Health can issue more detailed provisions to protect the consumer against misleading practices with the agreement of the Federal Minister of Science, Research and Economy, with regard to cosmetic products and national production regulations pursuant to Art. 42 of Regulation (EC) No. 834/2007, having regard to the acknowledged standards of science and technology and following consultation with the control committee and the Advisory Board for organic production.

(4) The Federal Minister of Health can declare guidelines of the control committee or the Advisory Board for organic production or sections of the Austrian Food Code (section 76 LMSVG), chapter A 8 “Agricultural products from organic farming and derivatives thereof”, binding by decree.

(5) The Federal Minister of Health can issue by decree further regulations for implementation of the registration procedure and the production, designation, presentation and labelling of traditional specialities guaranteed and spirits (geographical indications).

Exchange of information, external communication

SECTION 10.(1) The state governor, the control bodies and Accreditation Austria shall exchange information needed for the execution of this Federal Act. If a company with its head office abroad is affected, the Federal Minister of Health must be in any event be informed.

(2) The Federal Minister of Health must forward

1. Applications pursuant to
 - a) Art. 16 paragraph 3 b
 - b) Art. 16 paragraph 4 and
 - c) Art. 21 paragraph 2
 of Regulation (EC) No. 834/2007,
2. applications pursuant to Art. 17 of Regulation (EC) No. 110/2008 and
3. applications and objections in the case of traditional specialities guaranteed pursuant to Regulation (EC) No. 1151/2012

to the European Commission,

4. to prepare the following notifications via the (Organic Farming Information System) electronic data exchange system for documents:
 - a) notifications pursuant to Art. 35 b of Regulation (EC) No. 834/2007 in conjunction with Regulation (EC) No. 889/2008 and

b) summary report pursuant to Art. 55 of Regulation (EC) no. 889/2008 by 31 March of the following year.

(3) Statistics Austria shall transmit the statistical information to the European Commission, pursuant to Art. 36 Regulation (EC) No. 834/2007 in conjunction with Art. 93 Regulation (EC) No. 889/2008, via the electronic data exchange system for documents, eDAMIS (electronic Dataflow Administration and Management Information System), by 1 July of each year. The agency shall transmit this information electronically to Statistics Austria by no later than 31 May and in the format required for transmission.

Fees

SECTION 11.(1) Regarding application procedures pursuant to this Federal Act, the Federal Minister of Health in consultation with the Federal Minister of Finance shall set the cost-covering fees and disbursements by decree.

(2) Regarding the actions of the state governor in relation to implementation, a fee shall be charged based on a tariff (section 57 AVG [General Administrative Procedure Act], which the Federal Minister of Health shall set in consultation with the Federal Minister of Finance to cover costs. Provisions regarding the collection of the fee, in particular the timing of the payment, may be included in this tariff.

(3) The fees and disbursements pursuant to paragraph 2 shall be collected by the state governor. They shall be earmarked to finance the activities of the bodies.

(4) Fees and administrative charges pursuant to paragraph 1 and 2 are adjusted annually at the beginning of each calendar year to the level resulting from the change in the consumer price index for 2015 or the equivalent index in the period from June of the previous year to June of the calendar year preceding the valorisation, if the index increase is more than 2%. The valorisation is carried out to 80% of the underlying consumer price index. There shall be no accumulation of the index increase, insofar as this lies below 2% in one or more years. The changing amounts shall be rounded to the nearest 10 cents by the Federal Ministry of Health and published on the home page of the Federal Ministry of Health. The published amounts form the basis for the next valorisation.

Exchange of information with the AMA [Agrarmarkt Austria]

SECTION 12.(1) Regarding the administration of subsidies pursuant to § 3 paragraph 2, point 3 AMA-Gesetzes [AMA Act] 1992, Federal Law Gazette No. 376/1992, “Agrarmarkt Austria” (AMA) shall be notified by the state governor of certain kinds of non-compliance with Regulation (EG) No. 834/2007 which have been reported to the Federal Ministry of Health as non-compliances with subsidy criteria which are subject to penalties.

(2) The AMA shall inform the state governor of non-compliances with Regulation (EG) No. 834/2007 which have been found within the framework of the administration of subsidies pursuant to section 3 paragraph 2 point 3 AMA Act 1992. The state governor shall forward the information to the relevant control body.

Advisory Board for organic production

SECTION 13.(1) An Advisory Board for organic production (hereinafter: Advisory Board) shall be established at the Federal Ministry of Health.

(2) One representative, who shall become a member of the Advisory Board, shall be assigned from the following bodies:

1. the Federal Ministry of Health,
2. the Federal Ministry of Agriculture, Forestry, Environment and Water Management,
3. the Federal Ministry of Science, Research and the Economy,
4. the Federal Ministry of Labour, Social Affairs and Consumer Protection,
5. the agency,
6. the Federal Office for Food Safety,
7. the Federal Wine Control Authority,
8. Accreditation Austria, national accreditation body pursuant to the Accreditation Act 2012,
9. States,
10. the community of Austrian organic control bodies,
11. the Austrian Chamber of Agriculture,
12. the Austrian Economic Chamber,
13. the Austrian Chamber of Labour,
14. the Austrian Consumer Association,
15. Bio Austria – association for the promotion of organic farming.

(3) The representatives are proposed to the Federal Ministry of Health by the bodies mentioned in paragraph 2 and appointed by the Federal Ministry of Health for a term of 5 years. The provincial representative is nominated on behalf of the states by the Liaison Office of the Austrian Federal Provinces. A substitute shall be nominated for each member of the Advisory Board in the event that a member is incapacitated. Failure to nominate shall not prevent the constitution of the Advisory Board. Apart from the members listed in paragraph 2, the Federal Minister of Health must nominate the required number of representatives from the relevant sciences as members.

(4) The Federal Minister of Health appoints a chairperson as well as a deputy from the group of representatives listed in paragraphs 2 and 3. The office of the control committee established in the agency serves to support the chairperson. The Advisory Board shall adopt Rules of Procedure which require the approval of the Federal Ministry of Health. If necessary, experts who are not members of the Advisory Board can be called upon for advice.

(5) Expert committees shall be established to address certain specialist fields, but at least for plant production, livestock production, preparation and control. Each expert committee shall consist of no more than seven members. They are nominated by the Advisory Board from the group of recognised experts in the field under consideration.

(6) Resolutions are passed by a two-thirds majority. All members including the chairperson and the deputy thereof shall have voting rights. Deputies shall only have voting rights if the member they are standing in for is incapacitated.

(7) The work done in the Advisory Board and the expert committees is unpaid. Travel expenses are not reimbursed.

(8) Hearings of the Advisory Board may also be conducted by circular resolution.

(9) The duties of the Advisory Board include:

1. advising the Federal Minister of Health,
2. issuing opinions on draft regulations pursuant to section 9,
3. developing proposed guidelines,
4. issuing opinions on applications pursuant to Regulation (EC) No. 834/2007,
5. replying to questions from the Federal Ministry of Health and forming recommendations which result from the execution of this Federal Act.

Implementing the administrative process

SECTION 14.(1) The following applications regarding traditional specialities guaranteed pursuant to Regulation (EC) No. 1151/2012 shall be submitted to the Federal Ministry of Health and checked by the Federal Ministry of Health:

1. registration of a name pursuant to Art. 49,
2. amendment to a product specification pursuant to Art. 53,
3. cancellation of a registered designation pursuant to Art. 54 paragraph 1.

(2) The following applications pursuant to Regulation (EC) No. 110/2008 shall be submitted to the Federal Ministry of Health and checked by the Federal Ministry of Health:

1. registration of a geographical indication pursuant to Art. 17,
2. alteration of the technical file pursuant to Art. 21

(3) The Federal Ministry of Health can obtain opinions, in particular from other Federal Ministries, regional authorities, public corporations, statutory representation bodies, associations, organisations and institutions.

Responsible Producer group for protected designations of origin

SECTION 15. A responsible producer group which meets the following requirements should be established for each protected designation of origin or protected geographical indication pursuant to Regulation (EU) No. 1152/2012:

1. membership of a responsible producer group is open to all producers or processors of the protected products,
2. the producers or processors of the protected product hold at least half of the total votes,
3. decisions are made according to the majority principle and all members who are producers or processors of the protected product can participate in the decision making.

Advisory Board on protected designations of origin

SECTION 16.(1) The Federal Ministry of Agriculture, Forestry, Environment and Water Management shall establish an Advisory Board with regard to protected designations of origin and protected geographical

indications. Representatives of the following bodies are members of the Advisory Board, whereby experts from other bodies, in particular statutory representative bodies, can be called upon if necessary:

1. the Federal Ministry of Agriculture, Forestry, Environment and Water Management,
2. the Federal Ministry of Health,
3. the Federal Ministry of Science, Research and the Economy and
4. the Austrian Patent Office.

(2) The Advisory Board has the following duties in particular:

1. exchange of information,
2. advice regarding design matters,
3. elaboration of opinions on EU legislation.

Rules of Procedure

SECTION 17. Decisions which conflict with the provisions of this Federal Act or of Regulation (EC) No. 834/2007 are affected by an error expressly sanctioned with nullity pursuant to section 68 paragraph 4, point 4 AVG.

Administrative penalties

SECTION 18.(1) An administrative offence is committed and must be penalised by the district administrative authorities

1. by a fine of up to €50,000 and of up to €100,000 in the case of a repeat offence, or a custodial sentence of up to six months in the event that the fine cannot be collected, for whomever intentionally fails to comply with the requirements of
 - a) Art. 23 to 26 of Regulation (EC) No. 834/2007 with regard to the use of designations or binding indications referring to labelling, advertising material or commercial documents or
 - b) Art. 12 paragraph 1 and 3, Art. 13 paragraph 1, Art. 23 paragraph 1, Art. 24 paragraph 1 and Art. 44 paragraph 1 a) and b) of Regulation (EU) No. 1151/2012 or
 - c) Art. 16 of Regulation (EC) No. 110/2008
 and
2. by a fine of up to €10,000 and of up to €20,000 in the case of a repeat offence, or a custodial sentence of up to two weeks in the event that the fine cannot be collected, for whomever
 - a) negligently commits an act mentioned in point 1 or
 - b) fails to comply with the provisions of a decree pursuant to section 9 or
 - c) the remaining provisions of Regulation (EC) No. 834/2007 or the implementation decrees issued in accordance therewith;
3. by a fine of up to €8,000 and of up to €16,000 in the case of a repeat offence, or a custodial sentence of up to four weeks in the event that the fine cannot be collected, for whomever
 - a) fails to comply with an obligation pursuant to section 3 paragraph 2 or § 6 paragraph 2, section 7, section 10 paragraph 1 or section 12 paragraph 1 as a control body or
 - b) fails to comply with an obligation pursuant to section 8 as an operator or
 - c) with the remaining provisions of this Federal Act.

(2) In the event of non-compliance pursuant to paragraph 1 point 1, which is committed in knowledge of the illegality of the act, a fine of at least €700 or of up to €4,000 in the case of a repeat offence shall be imposed, insofar as the consequences of the offence are not negligible.

(3) The attempt to commit such an offence may also be prosecuted.

(4) The statute of limitations is two years.

(5) The state governor shall be informed of the outcome of the criminal proceedings conducted on the basis of this Federal Act. The state governor shall inform the competent control body which has reported the non-compliance.

Entry into force and ineffectiveness

SECTION 19.(1) This Federal Act enters into force on 1 January 2016 with the exception of section 11 paragraph 4.

(2) Section 11 paragraph 4 shall enter into force two years after the entry into force of a decree pursuant to section 11 paragraph 1 or 2.

(3) The LMG [Food Act] 1975 and section 24 paragraph 1 point 1, section 45, section 90 paragraph 4 point 4 and section 103 LMSVG shall become ineffective with the end of 31 December 2015.

Transitional and implementing provisions

SECTION 20.(1) Approved control bodies pursuant to section 10 paragraph 4 LMG 1975, shall be deemed approved pursuant to section 4 paragraph 1. Control bodies which have submitted an application pursuant to section 45 paragraph 4 LMSVG prior to publication of this Federal Act or are approved for a limited or indefinite period and control compliance with the product specification pursuant to Regulation (EC) No. 1151/2012, shall submit an application pursuant to section 2 paragraph 1 within six months of the entry into force of this Federal Act. This application shall be deemed provisionally approved pursuant to this Federal Act until a decision has been taken regarding the application.

(2) The decree which was issued on the basis of section 62 LMSVG shall also be deemed issued on the basis of section 11 paragraphs 1 and 2 within the scope of this Federal Act.

(3) Pending proceedings at the time of the entry into force (section 18) shall be concluded by the state governor pursuant to the provisions applicable at this time.

(4) Chapter A 8 of the Austrian Food Code, Fourth Edition, “Agricultural products from organic farming and derivatives thereof” shall take effect as an objective expert opinion until the issuing of guidelines governing the relevant matter on the basis of this Federal Act or until the repeal thereof in part or in full.

(5) Members and their deputies, the sitting chairperson-in-office and experts appointed by the “Bio” Codex sub-committee of the Codex Commission pursuant to section 77 LMSVG, shall remain in office until the nomination of members and the deputies thereof pursuant to section 13 paragraph 3, of the chairperson and deputy thereof pursuant to section 13 paragraph 4 and the experts pursuant to section 13 paragraph 5.

(6) In the event that control bodies are approved on the basis of the Food Act 1975 – LMG 1975, Federal Law Gazette No. 86, decisions identical with regard to content issued after the initial approval shall become ineffective from the entry into force of a decision pursuant to section 4 paragraph 7, in the event of the withdrawal or restriction of the approval.

(7) The state governor of the federal state in which the group that has submitted a registration application is resident is responsible for the monitoring of control bodies and measures in relation to the field of protected designations of origin and protected geographical indications.

(8) Decrees may be issued on the basis of this Federal Act from the day following publication of this Federal Act, although they may not enter into force before 1.1.2016.

References to legal provisions

SECTION 21. Insofar as reference is made to other legal provisions in this Federal Act, these shall be applied as amended.

Execution

SECTION 22. This Federal Act shall be executed by

1. the Federal Minister of Health in consultation with the Federal Minister of the Interior with regard to section 6 paragraph 5,
 2. the Federal Minister of Health in consultation with the Federal Minister of Science, Research and Economy with regard to section 9 paragraph 2,
 3. the Federal Minister of Health in consultation with the Federal Minister of Finance with regard to section 11 paragraphs 1 and 2,
 4. the Federal Minister of Agriculture, Forestry, Environment and Water Management with regard to section 3 paragraph 5, section 12, section 15 and section 16,
 5. the Federal Minister of Health in consultation with the Federal Minister of Agriculture, Forestry, Environment and Water Management with regard to section 9 paragraph 1,
- and the Federal Minister of Health with regard to the remaining provisions.

Article 2

Amendment to the Health and Food Safety Act – GESG

The Health and Food Safety Act – GESG, Federal Law Gazette I No. 63/2002, last amended by Federal Law Gazette I No. 189/2013, is amended as follows:

1. Point 22 in 8 paragraph 2 is deleted and point 6a inserted after point 6:

“6a. Obligation to co-operate within the framework of and investigations and assessments pursuant to the EU Quality Regulations Implementation Act – EU-QuaDG, Federal Law Gazette I No. 130/2015.”

2. *The following paragraph 27 is added to section 19:*

“(27) section 8 paragraph 2 point 6a of the Federal Act as amended in Federal Law Gazette I No. 130/2015 enters into force on 1 January 2016.

Article 3

Amendment to the Trademark Protection Act 1970

The Trademark Protection Act 1970, Federal Law Gazette No. 260/1970, last amended by Federal Act, Federal Law Gazette I No. 126/2013, is amended as follows:

1. *Section 68c paragraph 2 is amended as follows, the previous paragraph 2 being designated paragraph 3:*

“(2) Applications to amend the product specification can only be submitted by the applicant group named in the specification or the legal successors thereof, insofar as it meets the requirements pursuant to section 15 of the EU Quality Regulations Implementation Act – EU-QuaDG, Federal Law Gazette I No. 130/2015.” Applications can otherwise be submitted by other groups in terms of Art. 3 paragraph 2 of Regulation (EC) No. 1151/2012.”

2. *Section 68d reads:*

“**Section 68d.** In proceedings pursuant to this section, the Patent Office may obtain opinions, in particular from Federal Ministries, regional authorities as well as business associations, organisations and institutions.”

3. *The following paragraph 7 is added to section 81a:*

“(7) Sections 68d and 68c of the Federal Act as amended in Federal Law Gazette I No. 130/2015 enter into force on 1 January 2016.”

Article 4

Repeal of the Beef Labelling Act

The Federal Act on a voluntary labelling system for beef (Beef Labelling Act), Federal Law Gazette I No. 80/1998, last amended by Federal Law Gazette I No. 95/2002 is repealed.

Fischer

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