



The Scottish Parliament
Pàrlamaid na h-Alba

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SPICe Briefing

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Organic Production Framework

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This briefing discusses the Organic Production Common Framework. The Organic Production Framework sets out how the UK Government and devolved governments propose to work together in policy areas covering organic production and certification. This includes the principles and overarching standards for organic production and certification; official controls, labelling and trade of organic produce and organic aquaculture. It also provides background information on the common frameworks programme.

Common
Framework

27 June 2022
SB 22-36

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Summary

This briefing provides detailed information on the Organic Production Framework. The Organic Production Framework sets out how the UK Government and devolved governments propose to work together in policy areas covering organic production and certification which includes the principles and overarching standards for organic production and certification; Official controls, labelling and trade of organic produce and organic aquaculture. The Rural Affairs, Islands, Natural Environment Committee will lead on scrutiny of this framework.

Background information on, for example, what common frameworks are and how they have been developed is provided in this paper.

The [SPICe common frameworks hub](#) collates all publicly available information on frameworks considered by committees of the Scottish Parliament.

In session five, the Finance and Constitution Committee [reported](#) on common frameworks and recommended that frameworks should include the following:

- their scope and the reasons for the framework approach (legislative or non-legislativeⁱ) and the extent of policy divergence provided for;
- decision making processes and the potential use of third parties;
- mechanisms for monitoring, reviewing and amending frameworks including an opportunity for Parliamentary scrutiny and agreement;
- the roles and responsibilities of each administration; and
- the detail of future governance structures, including arrangements for resolving disputes and information sharing

The [Scottish Government's response](#) highlighted that there may be a "range of forms" which frameworks could take.

More detail on the background to frameworks is available in a [SPICe briefing](#) and also in a [series of blogs](#) available on SPICe spotlight.

ⁱ This categorisation was dropped in the [2021 Frameworks analysis](#), which reported that all frameworks will now be non-statutory intergovernmental agreements, and that the previously-used categories of "legislative" and "non-legislative" frameworks have been renamed as "frameworks with associated primary legislation" and "frameworks with no associated primary legislation" respectively.

What are common frameworks?

A common framework is an agreed approach to a particular policy, including the implementation and governance of it. The aim of common frameworks is to manage divergence in order to achieve some degree of consistency in policy and practice across UK nations in areas formerly governed by EU law.

In its [October 2017 communique on common frameworks](#), the Joint Ministerial Committee (EU Negotiations) (JMC (EN)) stated that:

“ A framework will set out a common UK, or GB, approach and how it will be operated and governed. This may consist of common goals, minimum or maximum standards, harmonisation, limits on action, or mutual recognition, depending on the policy area and the objectives being pursued. Frameworks may be implemented by legislation, by executive action, by memorandums of understanding, or by other means depending on the context in which the framework is intended to operate.”

[Joint Ministerial Council \(EU Negotiations\), 16 October 2017](#), Common Frameworks: Definition and Principles

The [Scottish Government indicated in 2019](#) that common frameworks would set out:

- the area of EU law under consideration, the current arrangements and any elements from the policy that will not be considered. It will also record any relevant legal or technical definitions.
- a breakdown of the policy area into its component parts, explain where the common rules will and will not be required, and the rationale for that approach. It will also set out any areas of disagreement.
- how the framework will operate in practice: how decisions will be made; the planned roles and responsibilities for each administration, or third party; how implementation will be monitored, and if appropriate enforced; arrangements for reviewing and amending the framework; and dispute resolution arrangements.

However, the Food and Feed Safety and Hygiene Law framework outline considered by the session five Health and Sport Committee noted that:

“ the framework itself is high level and commits all signatories to early, robust engagement on policy changes within scope.”

[Framework Outline Agreement and Concordat](#), 30 November 2020

The framework outline went on to note that the framework:

“ is intended to facilitate multilateral policy development and set out proposed high level commitments for the four UK Administrations. It should be viewed as a tool that helps policy development, rather than a rigid template to be followed.”

As such, it is likely that there will be significant variation between frameworks in terms of whether they set policy or set out how decisions on policy within the scope of the framework will be taken.

There are, however, similarities between frameworks in terms of their overall structure, with the agreements setting out the roles and responsibilities for parties to the framework,

how the framework can be reviewed and amended, and how disputes are to be resolved.

Why are common frameworks needed?

During its membership of the European Union, the UK was required to comply with EU law. This means that, in many policy areas, a consistent approach was often adopted across all four nations of the UK, even where those policy areas were devolved.

On 31 December 2020, the transition period ended, and the United Kingdom left the EU single market and customs union. At this point, the requirement to comply with EU law also came to an end. As a result, the UK and devolved governments agreed that common frameworks would be needed to avoid significant policy divergence between the nations of the UK, where that would be undesirable.

The Protocol on Ireland/Northern Ireland was signed as part of the UK-EU Withdrawal Agreement and ratified in UK law by the EU Withdrawal (Agreement) Act (2020). The Protocol requires that Northern Ireland aligns with a limited set of EU laws relating to the Single Market for goods and the Customs Union. The [Northern Ireland Protocol Bill](#) was introduced to the UK Parliament on 13 June 2022. If passed, the Bill may affect the requirement for Northern Ireland to align with EU regulations of goods. In addition, policy positions (or framework governance arrangements) set out in this Common Framework briefing may also be affected.

The Joint Ministerial Committee (JMC) was a set of committees that comprised ministers from the UK and devolved governments. The JMC (EU Negotiations) sub-committee was created specifically as a forum to involve the devolved administrations in discussion about the UK's approach to EU Exit. Ministers responsible for Brexit preparations in the UK and devolved governments attended these meetings.

In October 2017, the JMC (EN) [agreed an underlying set of principles to guide work in creating common frameworks](#). These principles are set out below.

1. Common frameworks will be established where they are necessary in order to:
 - enable the functioning of the UK internal market, while acknowledging policy divergence;
 - ensure compliance with international obligations;
 - ensure the UK can negotiate, enter into and implement new trade agreements and international treaties;
 - enable the management of common resources;
 - administer and provide access to justice in cases with a cross-border element; and
 - safeguard the security of the UK.
2. Frameworks will respect the devolution settlements and the democratic accountability of the devolved legislatures, and will therefore:
 - be based on established conventions and practices, including that the competence of the devolved institutions will not normally be adjusted without their consent;
 - maintain, as a minimum, equivalent flexibility for tailoring policies to the specific needs of each territory, as is afforded by current EU rules; and
 - lead to a significant increase in decision-making powers for the devolved administrations.

What is the process for developing frameworks ?

Frameworks are inter-governmental agreements between the UK Government and the devolved administrations.

They are approved by Ministers on behalf of each government prior to being sent to all UK legislatures for scrutiny. [The UK Government Cabinet Office](#) is coordinating the work on developing common frameworks.

Common frameworks go through four phases of development before implementation at phase five. The stages are set out below. The parliament receives frameworks for scrutiny at phase four.

Common framework development

Phase one



Brings together the UK Government and devolved administrations to engage in initial discussions on how the common framework should proceed.

Phase two



Focussed on detailed policy development.

Phase three



Period of review, consultation and further policy development.

Phase four



Framework is agreed and implemented. Scottish Parliament committees are involved in scrutiny.

Phase five



Post-implementation arrangements.

How will the Scottish Parliament consider frameworks?

Frameworks which have reached phase four are available to be considered by the Scottish Parliament. Subject committees can consider frameworks which sit within their policy areas.

Each legislature in the UK can consider common frameworks. Issues raised by legislatures during this scrutiny are fed back to their respective government. Governments then consider any changes which should be made to frameworks in light of scrutiny by legislatures before implementing the framework. Changes in light of scrutiny are not, however, a requirement.

The Constitution, Europe, External Affairs and Culture Committee has an oversight role in relation to frameworks and will lead on cross-cutting issues around transparency, governance and ongoing scrutiny.

The Scottish Government has previously acknowledged the ongoing role of the Scottish Parliament in relation to frameworks:

“ Consideration will also need to be given to what role the Parliament might have in the ongoing monitoring and scrutiny of frameworks post-implementation.”

[Scottish Government response](#) to the session five Finance and Constitution Committee report on common frameworks, June 2019

The Scrutiny Challenge

The way in which common frameworks have been developed and will operate raises some significant scrutiny challenges for the Scottish Parliament.

- Common frameworks are intergovernmental agreements and the scope for parliamentary influence in their development is significantly limited with scrutiny taking place at phase four.
- The ongoing operation of frameworks will take place at an official level between government departments. It is therefore unclear how much information the Parliament may be able to access to scrutinise the effect of frameworks on policy-making.
- The Scottish Government and the UK Government have differing objectives in relation to frameworks. The UK Government is seeking “high levels of regulatory coherence”.
¹ The Scottish Government believes that they are about “allowing legitimate policy choices”.¹
- The interconnected nature of common frameworks and the UK Internal Market Act 2020 (see section on the [UK Internal Market Act](#)).
- The impact of common frameworks on the Scottish Government’s stated policy position of keeping pace with EU law.
- The fact that most frameworks have been operating on an interim basis since 1

January 2021 in spite of being unavailable for scrutiny by legislatures² .

The [legacy expert panel report](#) to the session five Finance and Constitution Committee noted these scrutiny challenges. The Committee had previously recommended that the Scottish Government should have to report on the operation of each common framework, noting interactions with cross-cutting issues such as keeping pace with EU law, on an annual basis.

Scrutiny at other legislatures

This section provides information on scrutiny of the framework at other legislatures.

The Welsh Senedd's Economy, Trade and Rural Affairs Committee [launched a consultation on a number of common frameworks within its remit, including the Organic Production Framework](#). The consultation concluded on 1 April 2022.

The House of Commons' Environment, Food and Rural Affairs Committee [invited written views on a number of frameworks within its remit, including the Organic Production Framework](#). The call for views closed on 8 April 2022.

The Northern Ireland Assembly's Committee for Agriculture, Environment and Rural Affairs [considered the framework and published a position paper](#) which identified a number of issues including:

- The need for Northern Irish organic producers to comply with EU Regulation 2018/848 not being referenced in the framework documents even though it is "[causing significant operational challenges for local producers, and will likely continue to do so in the months ahead](#)" and is placing "[NI producers at a competitive disadvantage, particularly when most NI organic products are exported into the GB market](#)".
- The framework documents mentioning the option of [UK DEFRA continuing to resource and administer an independent competent authority for NI in the long-term](#). The Committee expresses concern that such an arrangement may not adequately address the specific needs and interests of organic producers in Northern Ireland.
- Whether the UK Expert Group will "[have sufficient independence and autonomy from the Four Nations Working Group](#)" which determines its composition, terms of reference and scope and which may in turn threaten the objectivity of their advice.

The UK Internal Market Act 2020

The [UK Internal Market Act 2020](#) was introduced in the UK Parliament by the UK Government in preparation for the UK's exit from the EU. The Act establishes [two market access principles](#) to protect the flow of goods and services in the UK's internal market.

1. The principle of mutual recognition, which means that goods and services which can be sold lawfully in one nation of the UK can be sold in any other nation of the UK.
2. The principle of non-discrimination, which means authorities across the UK cannot discriminate against goods and service providers from another part of the UK.

The Act means that the market access principles apply even where divergence may have been agreed in a framework.

The introduction of the UK Internal Market Act had a significant impact on the common frameworks programme because of the tension between the market access principles contained in the Act and the political agreement reached that "common frameworks would be developed in respect of a range of factors, including "ensuring the functioning of the UK internal market, *while acknowledging policy divergence*".ⁱⁱⁱ

UK Government Ministers have the power to disapply the market access principles set out in the Act where the UK Government has agreed with one or more of the devolved governments that divergence is acceptable through the common frameworks process.

Although UK Ministers can disapply the market access principles in such circumstances, they are not legally obliged to do so.

On 2 December 2021, [Angus Robertson MSP, Cabinet Secretary for Constitution, External Affairs and Culture](#) wrote to the [Convener of the Constitution, Europe, External Affairs and Culture Committee](#) to give an update on the common frameworks programme.

The letter indicated that at a recent Ministerial quadrilateral, agreement had been reached between the UK Government and the Scottish Government and other devolved administrationsⁱⁱⁱ on an approach to "securing exemptions to the Act for policy divergence agreed through common frameworks".

ii [After Brexit: The UK Internal Market Act and Devolution](#), Scottish Government, 8 March 2021. Note that footnote 27 in this document provides an incorrect reference. The correct reference is [JMC \(EN\) Communique, 16 October 2019](#).

iii See [letter from the Counsel General and Minister for the Constitution to the Senedd's Legislation, Justice and Constitution Committee dated 25 November 2021](#).

“ The meeting agreed an approach to securing exemptions to the Act for policy divergence agreed through common frameworks, and endorsed the text of a statement that UK Ministers will shortly make to the House of Commons. This will give effect to firm commitments made to the UK Parliament during the passage of the Bill that “...divergence may occur where there is agreement under a common framework, and that such divergence could be excluded from the market access principles. Regulations to give effect to such an agreement can be made under Clauses 10 and 17. In those cases, the Secretary of State would be able to bring to the House a statutory instrument to exclude from the market access principles a specific agreed area of divergence. This would follow consensus being reached between the UK Government and all the relevant parties that this is appropriate in respect of any specific defined topic within a common framework.”

[Letter from the Cabinet Secretary for Constitution, External Affairs and Culture](#), 2 December 2021

The framework documents do not include any reference to the Act.

Process for considering UK Internal Market Act exclusions in common framework areas

The UK Government and devolved administrations have agreed a process for considering exclusions to the market access principles of the UK Internal Market Act 2020. The [process](#) was published on 10 December 2021.

The process requires that if a [party to the framework](#) wishes to seek an exclusion to the market access principles, it must set out the scope and rationale for this. The proposed exclusion is then considered by the appropriate framework forum, taking into account evidence including about the likely direct and indirect economic impact of the proposed exemption. If the exemption is agreed, it is for UK Ministers to introduce a draft instrument to the UK Parliament to give effect to the exclusion. The UK Parliament will then consider the draft instrument.

The process is set out in full below. ³

Proposal and consideration of exclusions

1. Sections 10 and 18 and Schedules 1 and 2 of the UK Internal Market Act contain provisions excluding the application of the United Kingdom market access principles in certain cases.
2. Whenever any party is proposing an amendment to those Schedules in areas covered by a Common Framework:
 - a. the exclusion seeking party should set out the scope and rationale for the proposed exclusion; and
 - b. consideration of the proposal, associated evidence and potential impact should be taken forward consistent with the established processes as set out in the relevant Common Framework, including an assessment of direct and indirect economic impacts.
3. It is recognised that all parties will have their own processes for considering policy proposals. Administrations should consult and seek agreement internally on their position before seeking to formally agree the position within the relevant Common Frameworks forum.

Agreement of an exclusion request

4. Where policy divergence has been agreed through a Common Framework this should be confirmed in the relevant Common Framework forum. This includes any agreement to create or amend an exclusion to the UKIM Act 2020's market access principles.
5. Evidence of the final position of each party regarding any exclusion and whether an agreement has been reached should be recorded in all cases. This could take the form of an exchange of letters between appropriate UK Government and Devolved Administration ministers and include confirmation of the mandated consent period for Devolved Administration ministers regarding changes to exclusions within the Act.
6. Parties remain able to engage the dispute resolution mechanism within the appropriate Common Framework if desired.

Finalising an exclusion

7. Under section 10 or section 18 of the UK Internal Market Act 2020 amendments to the schedules containing exclusions from the application of the market access principles require the approval of both Houses of the UK Parliament through the affirmative resolution procedure. Where agreement to such an exclusion is reached within a Common Framework, the Secretary of State for the UK Government department named in the Framework is responsible for ensuring that a draft statutory instrument is put before the UK Parliament.

Organic Production Framework

The Organic Production Framework ("the framework") has reached phase four and has, as such, been received by the Scottish Parliament for scrutiny. The Rural Affairs, Islands, Natural Environment Committee will lead on scrutiny of this framework.

The framework has also been received by other UK legislatures. This briefing is intended to facilitate scrutiny of the framework by the Scottish Parliament.

Policy Area

The Organic Production Framework sets out how the UK Government and devolved governments propose to work together in policy areas covering organic production and certification. This includes:

- the principles and overarching standards for organic production and certification;
- official controls, labelling and trade of organic produce;
- organic aquaculture.

Scope

The policy area in scope of the framework was [previously governed by EU law](#), which comprised EU regulations and directives. With the requirement to comply with EU law now at an end, most of this legislation was converted into domestic law as retained EU law.^{iv} [The framework documents list relevant pieces of retained EU law](#) within the scope of the framework.

Some [domestic law which provided operability amendments to retained EU law](#) is also listed as being within the scope of the framework. This includes:

- The Organic Products Regulations 2009 (and subsequent amendments) is the relevant domestic legislation that provides for the administration and enforcement of (EC) 834/2007, (EC) 889/2008 and (EC) 1235/2008.
- The Organic Products (Amendment) (EU Exit) Regulations 2019
- The Organic Production and Control (Amendment) (EU Exit) Regulations 2019
- The Organic Production (Control of Imports) (Amendment) (EU Exit) Regulations 2019
- The Agriculture (Legislative Functions) (EU Exit) (No 2) Regulations 2019
- The Organic Products (Production and Control) (Amendment) (EU Exit) Regulations 2020

^{iv} You can read more about why and how this happened in a [SPICe briefing that answers frequently asked questions](#) about the new constitutional arrangements.

- The Common Organisation of the Markets in Agricultural Products (Miscellaneous Amendments) (EU Exit) (No. 2) Regulations 2020
- The Organic Products Regulations (Northern Ireland) 2020 is the relevant domestic legislation that provides for the administration and enforcement of (EC) 834/2007, (EC) 889/2008 and (EC) 12/35/2008 for Northern Ireland
- The Official Controls (Animals, Feed and Food, Plant Health Fees etc.) Regulations 2019, which provide for implementation and enforcement of EU 2017/625, including as regards organic production and the labelling of organic products
- The Official Controls (Animals, Feed and Food, Plant Health etc) (Amendment) (EU Exit) Regulations 2020
- The Official Controls (Animals, Feed and Food, Plant Health etc.) (Amendment) (EU Exit) (No. 2) Regulations 2020
- The Common Organisation of the Markets in Agricultural Products (Miscellaneous Amendments) (EU Exit) Regulations 2020
- The Organic Production (Organic Indications) (Amendment) (EU Exit) Regulations 2019
- Organics (Equivalence and Control Bodies Listing) (Amendment) Regulations 2021

The framework also lists the Agriculture Act 2020 as within scope.

An initial review of the framework is expected to take place although it is unclear when. The framework documents explain that this review will consider the scope of the framework as well as its operation. This is discussed in more detail in the section on [review and amendment processes](#).

The policy area covered by the Organic Production Framework is closely related to those covered by:

- [The Agricultural Support Framework](#)
- [The Plant Health Framework](#)
- [Animal Health and Welfare Framework](#)

Devolution

The framework documents state that there is "[existing disagreement between Parties on whether certain matters are devolved or reserved in this area](#)", but that parties agree that this doesn't impact on the ability of the framework to operate. The framework document notes that it "[does not seek to make any statements regarding matters of constitution or law in this area or set any binding precedents in those areas](#)".

International Obligations

The framework documents state that there are no specific international obligations on organic production and processing other than equivalence agreements (in cases where

those are established via treaty).

The common frameworks [principles agreed at JMC \(EN\)](#) state that frameworks will be established where necessary to ensure the UK can negotiate, enter into and implement new trade agreements and international treaties, and ensure compliance with international obligations.

This means that, for example, trade agreements entered into by the UK may have an impact on where divergence is considered acceptable in a framework area. Trade is a reserved matter.

EU - UK Trade and Cooperation Agreement (TCA)

The policy area in scope of the framework intersects with the EU-UK [Trade and Cooperation Agreement \(2020\)](#) (TCA). As a result, these areas may be considered by the [TCA Specialised Committees or the Partnership Council](#). [The UK Government has stated its commitment](#) to facilitating the attendance of representatives from the devolved governments where topics concerning areas of devolved competence are discussed.

Northern Ireland

As a result of the Protocol on Ireland/Northern Ireland (the Protocol), specifically [Annex 2](#), Northern Ireland will remain aligned with the EU on organic production.^v

The framework documents affirm that the provisions in Article 18 of the Protocol on democratic consent will be respected and state that the governance structures and decision-making, dispute resolution and review processes set out in the framework are intended to help manage cases in which rules in Northern Ireland change in alignment with the EU, or where GB-only proposals are made. This includes the right of the Northern Ireland Executive Ministers (or any other party to the framework i.e. any of the UK, Scottish or Welsh governments) to trigger a review of the framework if they feel that concerns about GB-only proposals have not been sufficiently addressed.

The framework section on the Northern Ireland protocol [appears to include placeholder text](#), namely '**NIP text**', which has not been removed prior to publication.

The EU requires the establishment of an independent competent authority for the organisation of official controls in the field of organic production for Northern Ireland. The new Northern Ireland Competent authority (NICA) has been established within the UK Department for Environment, Food (DEFRA). The framework documents state that discussions about whether that authority will continue to be resourced and administrated by DEFRA or the Northern Ireland Department for Agriculture, Environment and Rural Affairs (NI) (DAERA).

The Northern Ireland Assembly Committee for Agriculture, Environment and Rural Affairs has [expressed concern](#) that such an arrangement may not adequately address the specific needs and interests of organic producers in Northern Ireland (see also section on [scrutiny at other legislatures](#)).

^v The Northern Ireland Protocol Bill was introduced to the UK Parliament on 13 June 2022. If passed, the Bill may affect the current requirement for regulatory alignment between Northern Ireland and the EU.

Definitions

The framework documents define some key terms:

- 'Organic Production' refers to an overall system of farm management and food production that combines best environmental practices, a high level of biodiversity, the preservation of natural resources, the application of high animal welfare standards and a production method in line with the preference of certain consumers for products produced using natural substances and processes.

Further, in EU Regulation 834/2007 Article 2 it states that: (a) 'organic production' means the use of the production method compliant with the rules established in this Regulation, at all stages of production, preparation and distribution; [...] (c) 'organic' means coming from or related to organic production;

Therefore 'Organic Food' refers to food created via the production methods defined in the relevant regulations, 'Organic Farming' refers to agriculture using those methods, etc.

- 'Control bodies' refers to organisations that assess and inspect organic operators. This certification allows the products to be sold as organic. There are standard criteria for assessing control bodies either domestically or abroad. UK control bodies have applied to the EU to be recognised as equivalent for EU standards and have been accepted. Which allows for products certified by them to continue to be legally regarded as organics in the EU.
- 'Competent Authority' refers to the central authority of a state competent for the organisation of official controls in the field of organic production. Before 1 January 2021 Defra was the Competent Authority for the UK as a whole. After 1 January 2021 Defra has continued to fulfil that role for England, Scotland, and Wales and a new Northern Ireland Competent Authority (NICA) was established.

Summary of proposed approach

The framework documents mention four [JMC \(EN\) common framework principles](#) as reasons for why a framework for organic production is needed. Those principles are:

- Enable the functioning of the UK internal market, while acknowledging policy divergence.
- Ensure compliance with international obligations.
- Ensure the UK can negotiate, enter into and implement new trade agreements and international treaties
- Enable the management of common resources

The framework documents further [include a statement of the general framework aims](#):

“ The framework aims to establish shared ways of working and to develop common policy approaches on organics across the UK where this is appropriate, within the scope of the framework and has been agreed by all parties. It recognises that businesses and consumers in all four nations (as well as international trading partners) can benefit from a consistent policy approach and set of legislation on organics.”

Stakeholder engagement

The framework documents state that existing UK-wide mechanisms for stakeholder engagement, such as the UK Organic Control Bodies Group will continue to meet regularly and that, in addition, each party is responsible for engaging with their own stakeholders. In contrast to most other framework documents, legislatures are explicitly mentioned as stakeholders. [The parties agree to:](#)

“ continue to inform their respective legislatures, where appropriate, of developments in organic policy making”

The framework documents do not specify which developments it would be appropriate to inform legislatures about. However, the [terms of reference for the Organics Four Nation Working Group](#) commit the parties to the following, if they want to initiate a change to organics policy:

- notify other Parties of their proposals and provide an assessment of any changes they wish to make;
- within 3 months of notification work to agree with all Parties an assessment of the impact of the proposed change on the UK market as a whole;
- before launching a public consultation or progressing in any other material way consulting the Group within three months.

Detailed overview of proposed framework: legislation

The framework documents state that no new legislation beyond operability amendments to retained EU law mentioned [in the scope section of this briefing](#) is required to implement the framework.

The framework documents include significant amounts of material on legislation, the non-legislative agreement, and JMC (EN) framework principles, which has been duplicated in full on [consecutive pages](#).

Detailed overview of proposed framework: non-

legislative arrangements

The framework documents comprise an overview document and a non-legislative agreement called a 'concordat'. This concordat sets out operational details of how governments plan to work together in the policy area. These include [decision-making](#), [monitoring and enforcement](#), [dispute avoidance and resolution](#), and [review and amendment mechanisms](#).

The Framework Outline Agreement that makes up the first part of the framework documents includes a statement according to which "[a non-legislative agreement or concordat will be used in order to provide for the implementation of the framework. This concordat will be drafted and discussed after the adoption of this framework outline agreement.](#)" However, a concordat makes up the second part of the framework documents. It would appear, therefore, that this section of the framework outline is out of date.

Organic Production Framework in practice

Roles and responsibilities: parties to the framework

This section sets out the roles and responsibilities of each party to the framework.

Officials are expected to work together day-to-day and provide advice to Ministers. They will meet via the [Organics Four Nations Working Group \(FNWG\)](#). Senior officials (ordinarily Deputy Directors) will engage on issues where strategic input is required, or where operational decisions need to be taken that don't meet the threshold for Ministerial input.

The framework documents state that senior officials will meet through the "[relevant cross government senior official level groups](#)", though it is unclear which such groups these are for this framework. One possible such group, the Senior Official Programme Board, is discussed in the [section on roles and responsibilities of existing or new bodies](#) but is not specific to the framework.

Ministers will engage with issues by receiving advice from their officials or if a dispute arises that requires Ministerial input as described in the [dispute resolution process](#). The parties also agree to share information such as scientific, technical and policy information including statistics, research, and representations from third parties through the FNWG.

The parties have agreed that Defra will act as the Competent Authority for England, Scotland, and Wales as it has done previously. This means that Defra will be responsible for organisation of official controls in the field of organic production in accordance with the provisions set out under retained EU legislation. This includes:

- Liaison with EU and Third Countries
- Oversight, monitoring and approval of Control Bodies who operate in England, Scotland, and Wales
- Advising on logo development and labelling requirements in collaboration with the Parties
- Data handling and monitoring
- Advising on Policy Development in collaboration with the Parties
- Representation at other forums/external stakeholder meetings
- Operational Delivery: derogations, imports, trading standards, irregularity investigations/residues
- Government business, query handling, communications, guidance and training, international reporting requirements

Roles and responsibilities: existing or new bodies

The **Organics Four Nation Working Group** (FNWG) is anticipated to be the main forum for official level discussion and decision-making. It will meet at least four times a year. The purpose of the Group is to establish and develop mechanisms for coordination, cooperation and collaboration within organic policy.

This includes:

- discussion of any concerns with the current GB regime (as established in retained EU law)
- any issues arising out of the application of EU law on organic production in NI
- bringing to the FNWG's attention any policy change proposed and solutions to any perceived issues.

Though the framework documents only mention concerns with the GB regime established in retained EU law, the scope section of the framework includes law of domestic origin, specifically the Agriculture Act 2020. It is therefore unclear whether the group will also discuss matters governed by law of domestic origin.

All Parties commit to cooperation and working constructively to reach joint decisions on the application of organics standards. The FNWG will further discuss and agree to commissioning of evidence on which to base decisions. This is anticipated to take place through:

- commissioning further evidence from the UK Expert Group on Organic Production (UK EGOP), or other relevant experts;
- commissioning further evidence from legal teams;
- seeking advice from external bodies;
- engagement with industry and other relevant stakeholders, in particular the Control Bodies via regular meetings.

Terms of reference for the group [are provided in Annex B of the framework documents](#).

The UK Expert Group on Organic Production is also established by the framework. The purpose of this group is to discuss technical and complex organic issues and provide expertise to future decision-making. It will be a non-statutory body that takes on the role of the EU Expert Group for Technical Advice on Organic Production). A number of features of the group, including its remit and membership have yet to be determined although the framework documents state that these will be decided by the FNWG. The Northern Ireland Assembly's Agriculture, Environment and Rural Affairs Committee [has voiced concerns](#) over whether this could threaten the objectivity of the Expert Group's advice.

The framework documents contain little information about the shape of engagement between senior officials other than as part of the dispute resolution process. However, it does make reference to "[discussion between the Deputy Directors of the divisions concerned with organic production in each of the Parties, followed by the DEFRA-DAs](#)

[Senior Officials Programme Board](#)". This board is described in more details below, but it is unclear whether the engagement below that level will also take place in a specific framework forum or on a more unstructured basis.

Senior Official Programme Board

The Senior Official Programme Board (SOPB) is made up of senior officials from each government and appears to be a feature of framework governance structures for most Environment, Food and Rural affairs (EFRA-related) common frameworks. The SOPB and IMG-EFRA sit above framework-specific governance structures for the following frameworks:

- Agricultural support
- Animal health and welfare
- Air Quality
- Plant varieties and seeds
- Integrated pollution prevention and control: developing and setting of Best Available Techniques (BAT)
- Fertilisers
- Plant health
- Organics
- Chemicals and pesticides
- Fisheries management and support
- Ozone Depleting Substances (ODS) and Fluorinated Greenhouse Gases (F-gases)

Some framework documents contain [virtually no information about the SOPB and its membership](#) whereas others [contain full terms of reference](#). Legislatures have asked questions about how the membership of the SOPB [differs from other framework forums](#), [its role in dispute resolution](#), and [its additional tasks](#).

The primary role of the SOPB appears to be to sift disputes before they are escalated for Ministerial attention. In response to a letter by the House of Lords Common Framework Scrutiny Committee, George Eustice, MP Secretary of State for Environment, Food and Rural Affairs, [further stated](#) that:

“ [the SOPB] can also play a role in helping to avoid the need for a dispute to be referred to ministers, for example if a resolution and consensus can be achieved at the SOPB.”

Decision-making

The framework documents list several types of decisions that can be made through

framework processes:

- Changes to organics regulations.
- Establishment and ongoing operation of the UK Organic Production Expert Group (UK EGOP) which will advise on regulation.
- Resolution of issues (as per section 13 below)
- Reviewing and amending the framework.

Framework documents include a diagram and section which is described as showing the dispute resolution process, but which appears to show the wider decision-making process.

If a government wants to introduce or change a policy, the Four Nations Working Group discusses whether it will cause divergence. If they determine that it will, but that the resulting divergence is acceptable, then the proposal is referred to Senior Officials for their agreement, who in turn make a recommendation to Ministers. Ministers will consider the proposal at the [EFRA Interministerial Group](#). If they agree with the recommendation, the policy will be implemented.

The framework documents state that the dispute resolution process will be triggered if the PCG cannot reach agreement. However, the PCG is an official-level forum associated with the Agricultural Support forum and hence this section appears to have been copied from the Agricultural Support framework documents and not updated. The Organic Production counterpart would likely be the FNWG, so it seems that the [dispute resolution process](#) is triggered if agreement on divergence cannot be reached within this group.

The framework documents state that different forums will consider whether a proposed policy change will be harmful or whether divergence would be acceptable, but does not elaborate on the basis on which such decisions will be taken. Decisions may be based on the [JMC principles on common frameworks](#), however, these principles are so broad that it makes it difficult to know what divergence would be judged as compatible/incompatible.

Monitoring and enforcement

The Organics Four Nation Working Group (FNWG) will be tasked with monitoring the operation of the framework, in particular:

- intergovernmental cooperation and collaboration as a result of the framework;
- whether parties are implementing and complying with the framework;
- whether divergence has taken place in contravention of the [JMC Common Framework principles](#), and
- whether divergence has taken place that impacts on organics policy covered by the framework.

The FNWG will meet at least quarterly and its monitoring will feed into the review and amendment process. If there is disagreement about the operation of the framework, the [dispute avoidance and resolution process](#) can be triggered.

Review and amendment

This monitoring is intended to feed into the review process. The framework documents distinguish between three kinds of reviews: initial, periodic, and exceptional. It is unclear who will conduct reviews but in other frameworks it is a process undertaken by one of the groups established by the framework.

Periodic reviews of the framework will take place every three years from an initial review, which will take place one year after the 'initiation' of the framework. It is not clear whether this means the date from which the framework documents were published, the date on which the framework began to operate on an interim basis (likely January 2021) or the date on which the framework is fully confirmed and implemented. [The framework documents state that:](#)

“ This initial review is also intended as an opportunity to update the framework to take into account areas currently under discussion outside the remits of the policy teams.”

Exceptional review can take place when significant issues arise, which must be ["time sensitive and fundamentally impact the operation and/or scope of the framework"](#).

The review and amendment mechanism relies on consensus at every stage, which means that [unless there is unanimous agreement between parties, no review or amendment decisions can be agreed](#). In such cases, the [dispute resolution process can be invoked](#). Amendments can only be agreed at the Ministerial level. If amendments are agreed, the parties sign a new non-legislative agreement.

Dispute resolution official level

This section considers the dispute resolution process set out within the framework. The parties agree to act in accordance with principles of good communication and cooperation as well as to resolve disagreements at the lowest appropriate level. Disagreements are only considered as 'disputes' if they are judged to be significant in the sense of having an impact on decisions taken by another parties.

At the official level, any disagreements are discussed by the Organics Four Nations Working Group (FNWG) in the first instance. If they are able to resolve the issue, it can be signed off by senior officials and obtain Ministerial clearance if required. If they cannot resolve the issue, they can escalate the issue to the Senior Officials Programme Board (SOPB). If the SOPB also cannot resolve the issue, they escalate the issue for Ministerial attention through the IMG EFRA, and further intergovernmental structures if required.

The framework documents state that [no third parties will be involved in dispute resolution](#), but also [that forums are expected to obtain expert opinions and advice to inform the handling of disagreement](#), so it might be that the lack of third-party involvement is merely in a decision-making capacity.

Dispute resolution Ministerial level

It is anticipated that recourse to resolution at Ministerial level will be as a last resort and

only sought where [dispute resolution at official level](#) has failed. Disputes which reach Ministerial level will be resolved through intergovernmental dispute resolution mechanisms. Relevant intergovernmental disputes may concern the "[interpretation of, or actions taken in relation to, matters governed by \[...\] common framework agreements](#)".

Intergovernmental dispute resolution mechanisms were considered as part of the [joint review on intergovernmental relations](#). The [conclusions of the joint review](#) were published on 13 January 2022 and set out a new approach to intergovernmental relations, which the UK Government and devolved governments have agreed to work to. [The framework documents commit the parties to adopting the outcomes of this review](#). The review created a new three-tiered system for intergovernmental discussions, doing away with the old Joint Ministerial Committee structure.

Dispute resolution Ministerial level

What will intergovernmental relations look like?

Proposed outline of new intergovernmental relations structure

Top tier:

The Council

This is made up of the Prime Minister and heads of devolved governments.

Middle tier:

Standing committees

The Interministerial Standing Committee (IMSC)

Ministers responsible for IGR consider issues that cut across different policy areas, and facilitate collaborative working between groups in the lowest tier.

The Finance Interministerial Standing Committee (F:ISC)

Will comprise Finance Ministers and consider finance and funding matters.

Additional interministerial committees

These committees might be formed temporarily to consider issues that would otherwise be in the remit of IMSC, but which require special consideration.

Lowest tier:

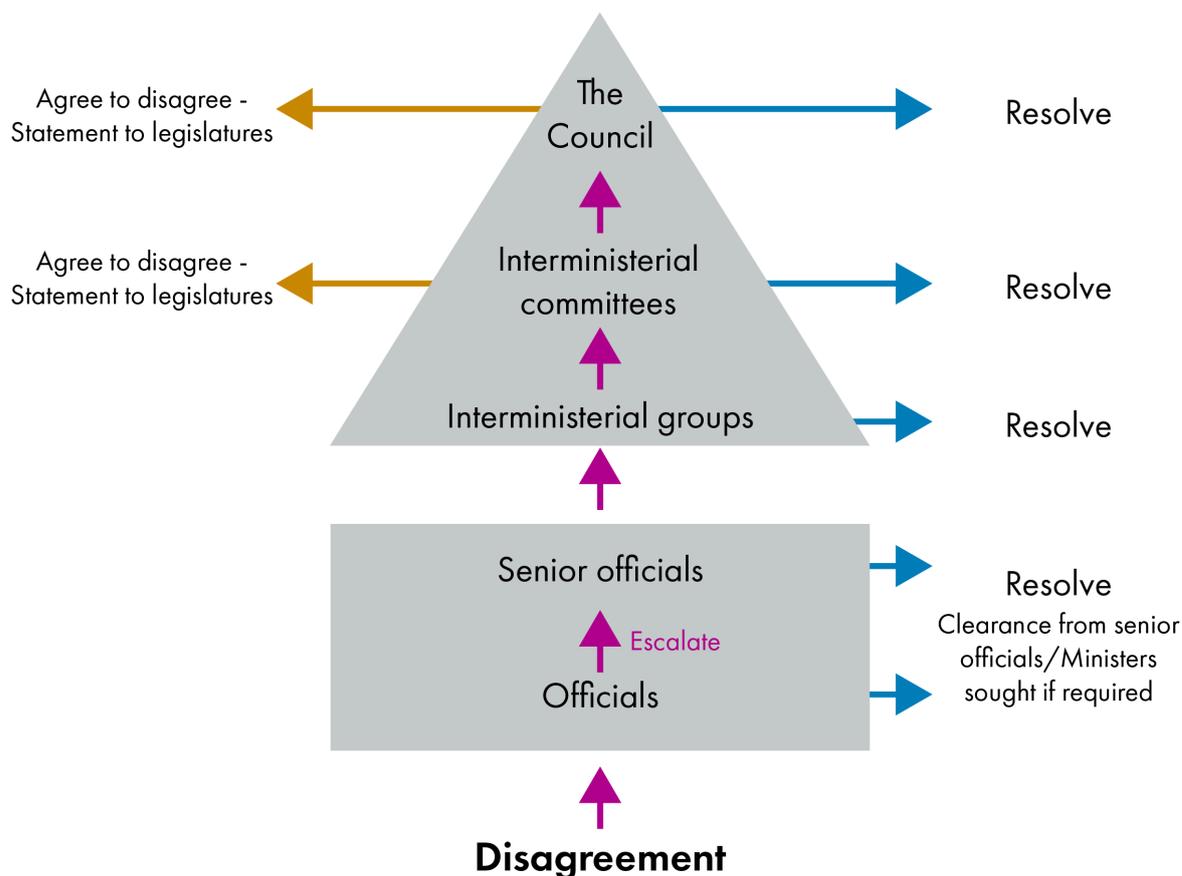
A number of interministerial groups (IMG) will be formed to discuss specific policy areas, such as on transport, Net Zero, and the Trade and Cooperation Agreement with the EU.

The lowest and middle tiers have [specific responsibilities for common frameworks](#). At the lowest tier, interministerial groups (IMGs) are responsible for particular policy areas, including common frameworks falling within them. At the middle-tier, the Interministerial Standing Committee (IMSC) is intended to provide oversight of the common frameworks programme.

The new IGR dispute resolution process follows on from the process at the official level. If a dispute cannot be resolved at the official level as set out in individual frameworks, it is escalated to the Ministerial level. The diagram below illustrates the general dispute resolution process for frameworks, including discussions between officials (square) and Ministers (triangle).^{vi}

vi [A slightly different dispute resolution process](#) applies for disputes of a financial nature, which involve the Finance Interministerial Standing Committee.

Dispute Resolution at official and Ministerial levels



At the lowest level, interministerial groups comprising portfolio Ministers attempt to resolve the disagreement. If their attempts are unsuccessful, the issue can be escalated to an interministerial committee. If the interministerial committee is unsuccessful in resolving the issue, it can either agree to disagree, in which case each government makes a statement to their legislature to or escalate the dispute further. If a dispute is escalated to the highest level, third-party advice or mediation should normally be sought and made available to the Council. If the Council fails to find agreement, it is again required to make a statement to their legislatures.

The new process includes more extensive reporting requirements about disputes. The IGR secretariat is required to report on the outcome of disputes at the final escalation stage, including on any third-party advice received. Each government is also required to lay this report before its legislature.

The Office for the Internal Market (OIM) can provide expert, independent advice to the UK Government and devolved governments. Its advice and reports may, however, be used by governments as evidence during a dispute on a common framework.

Rachel Merelie of the OIM explained the position whilst giving evidence to the [House of Lords Common Frameworks Scrutiny Committee in November 2021](#):

“ The OIM is not involved in dispute resolution. We are here to provide advice to government, using our economic and technical expertise...It is of course possible...that our reports are considered in some shape or form as evidence in support of that process, and we remain open to being used in that way.”

Implementation

The framework documents do not give a list of what is required in order to implement the framework or what the timeline for implementation is. However, two outstanding issues mentioned are the establishment of the [UK Expert Group on Organic Production](#) and longer-term decisions about what government will resource and administrate the [Northern Ireland Competent Authority \(NICA\)](#).

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