

# Regulation EKO-keurmerk

This regulation is agreed upon by the board of directors of Stichting EKO-keurmerk at 16-11-2017 and is valid as of 01-01-2018.

*Unauthorised translation*



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## General

### **Article 1 Definitions**

For purposes of this regulation, the following definitions will apply:

*Organic Products:* A product that is certified by an officially recognized certification institute or organization and classified as organic in accordance with one of the following categories:

- Unprocessed product with a organic production method;
- Processed product with at least 95% of its contents produced using an organic production method.
- Animal nutritions or mixed nutritions from organic argiculture.  
The product is recognisable from labeling refering to organic origins and its certification organization or institute.

*Certification:* the execution of activities which Stichting EKO-Keurmerk (EKO) uses as a basis for determining a justified trust of being in compliance with the terms and conditions proving the organic origin by a natural or legal person.

*Supplier:* The natural or legal person that produces, prepares, stores, imports or trades organic products, as well as the natural or legal person that is held accountable for the continuation of compliance of product conditions.

*Licensee:* natural or legal person that is in the possession of a valid EKO-license and is certified and verified by a recongized certification institute or organization in accordance with EU-law on organic corporations.

*EKO:* Stichting EKO-keurmerk

*Entrepreneur:* The person that represents the corporation.

*Supervision:* The activities performed by EKO or on behalf of EKO to determine compliance with the terms and conditions as set in this regulation.

*Technical Commission (TC):* The Commission who acts in instruction by EKO (Stichting Eko-Keurmerk) to set and maintain the terms and conditions for the granting of licenses and determining sanctions.

### **Article 2 Terms and Conditions**

- 2.1. Licensees possess a valid license if they have been verified by a recognized verification institute or organization in conformity with EU-law for organic corporations.
- 2.2. The applicable terms and conditions for EKO-licensees are determined in the “Standard for EKO licensees and for the use of the EKO Quality Mark”, and the most recent version will be published on the website of EKO.
- 2.3. EKO licensees must be in the possession of a signed agreement of which the norms and rules of this regulation, the general terms and conditions and other relevant procedures are integrated.
- 2.4. Licensees must be in compliance with other determined obligations of EKO, including the financial obligations.

## Usage of the EKO-mark

### **Article 3 Intellectual Property Right (IP)**

3.1 EKO is the owner of the registered trademark EKO-mark as a word and figurative mark.

3.2 EKO provides EKO-licensees the right to use the EKO-mark in accordance with the licensing agreement concluded by both parties.

### **Article 4 Labelling of products**



The right of usage of the EKO-mark for the labeling of organic products is granted to Dutch licensees exclusively in case the products are certified by Skal in accordance with one of the following categories:

- Unprocessed products with an organic production method;

- Processed products with at least 95% of its contents produced using a organic production method;
- Animal nutritions and mixed nutritions from organic argiculture.

The right of usage of the EKO-mark for the labelling of organic products is granted to non-Dutch licensees exclusively in case the products are certified in compliance with European regulations on organic products by an accredited control and/or certification institute or organization.

### **Article 5 Labelling lay-out**

A right of usage of the EKO-mark for purposes of labelling organic products is granted exclusively if it is conform the following rules:

1. the ratio of width: height must be 10 : 11;
2. the presented lay-out and typografic execution of the mark as illustrated (black surface with white arches and letters);
3. the coloring must be black and white;
4. the minimal width is 5 mm;
5. elements of the EKO-mark cannot be incorporated in another trademarked word or figurative mark to create a new combination.

### **Article 6 Right of usage of EKO-mark**

- 6.1. If there is a clear relationship with certified products, the EKO-mark can be used on invoices and letters as well as commercial or promotional materials such as folders, pricelists and websites.
- 6.2. The EKO-mark cannot be permantely displayed on packaging intended to be re-used.
- 6.3. The EKO-mark cannot be used as primary markname or as promotion method that exceeds the attentionability of the existing trademark, brandname or trade name of the product. The EKO-mark can exclusively be presented and communicated as being a certification mark. Any usage of the mark that suggests the EKO-mark as being a trading mark is prohibited. Determinations regarding the proper or improper usage of the mark will be made by EKO.
- 6.4. References to the EKO-mark will be classified as usage of the EKO-mark, and is as such subject to the same terms and conditions.
- 6.5. The usage of the EKO-mark by legal persons will be governed by the rules as set in the "Guideline for the Usage of the EKO-Mark" (*de Handleiding 'Gebruik van het EKO-keurmerk'*), as part of the general terms and conditions.

## **Review**

### **Article 7 Review**

- 7.1. Review on the realisation of the development ambitions set by all licensees of EKO will take place on a yearly basis.

## **EKO licensing and certification**

### **Article 8 Baseline**

- 8.1. Activities related to certification can only be executed by qualified staff.
- 8.2. EKO can outsource activities related to testing and/or inspection after certification, or elements of inspections or testing to third parties. These activities can be outsourced exclusively to those third parties that meet the necessary requirements.

### **Article 9 EKO license**

- 9.1. An EKO-license is granted for a limited time only. A license can be extended for periods of two years. An extention of a license period will be granted on the basis of a declaration that EKO has judged the licensee on the terms and conditions during previous years.
- 9.2. In case of shortcomings or infringements a license can be revoked or suspended, which affects the validity of the license.
- 9.3. Termination of the licencing agreement between licensee and EKO affects the validity of the license and the certificate.
- 9.4. If a licensee is no longer certified in accordance with EU regulations, the right to use the EKO-mark as well as the validity of the license will be terminated.

### **Article 10 Publication**

10.1. A licensee shall make its possession of a valid EKO-License public by physical presentation at location and/or in physical or digital publications of the licensee.

### **Article 11 Illegal usage of license and EKO-mark**

11.1. EKO ensures and monitors that licensees or third parties do not make use of the license or EKO-mark that is in non-conformity with this regulation.

11.2. Behaviour that is non-conform will include in any case:

- Creation of the impression that a legal person is a licensee, while still in the application process;
- Creation of the impression that the license is granted for other products or processes than those that are certified;
- Creation of the impression that the license is still valid during a (temporary) suspension or revocation of a certification;
- The usage of certificationmarks like the EKO figurate trademark in a unjustified manner.

11.3. EKO reserves the right for actions to protect the mark from illegal usage of licensees or from illegal usage of the EKO-mark by third parties.

### **Article 12 Application of EKO-license**

12.1. EKO will provide information if requested, and publish available information for applicants and licensees at its website ([www.eko-keurmerk.nl](http://www.eko-keurmerk.nl)).

12.2. Upon signing of the application, the applicant is liable to payment of the registration fee.

12.3. EKO approves the applications. If a registration request is incomplete, EKO can determine to not process the application.

12.4. EKO will determine the validity of a completed license application within a month after registration and submission. This is conditional upon the accuracy and completeness of the required documentation from the applicant.

12.5. The decision regarding granting EKO-licenses will take place by a qualified employee of EKO.

12.6. After approval, the applicant will receive the license and accompanying licensing agreement. In case of a disapproval the applicant is entitled to a reasoned explanation of the disapproval.

12.7. A natural or legal person shall not create the impression of having obtained a license when this is not granted. This obligation also applies during the application process.

### **Article 13 Termination of applications**

13.1. If an application request is based upon incomplete information, EKO will provide the applicant with a possibility to supplement the required during a period of two months. Failure to supplement the required information will allow EKO to disregard the application. The applicant has in such case no right of restitution of the registration fee.

13.2. EKO has the right of termination the application in case the applicant does not take the required measures to meet the obligations required or if a licensee fails to cooperate with EKO to prove the compliance with the terms and conditions as required.

13.3. The applicant can revoke his application request in writing at all times. The applicant shall be liable to eventual costs made by EKO. At termination of the application request, the agreement shall also be terminated and the applicant will be removed from the EKO register.

13.4. The notice period for licensees constitutes one calendar month.

### **Article 14 Financial contributions**

The registered entrepreneur is liable for payment of the fixed financial contributions to EKO, which consists of the registration fee, yearly contribution, possible usage of EKO-mark on packaging and possible (re)inspection contributions. Financial contributions are fixed by the board of directors and made public.

## **Deviations**

### **Article 15 Measures in case of shortcomings or infringements**

15.1. Any situation in non-conformity with the terms and conditions will be labeled as a deviation. A deviation will be classified as being light, severe or extremely severe depending on the nature of the deviation.

15.2. In case of deviations, EKO will take measures in accordance with set policy.

15.3. A violation of terms and conditions is liable to sanctions and can be brought before the board of directors.

- 15.4. EKO will inform the licensee in writing about decisions taken regarding deviation and corresponding measures.
- 15.5. Costs made by EKO for sanctions or measures taken in case of a deviation in the form of additional inspections or other measures regarding supervision will be paid by the licensee. In case measures taken include additional research, these costs will be charged separately.
- 15.6. In case of a revocation or suspension of a certification or license, the entrepreneur must return the certificate or license to EKO immediately. All mentions of the EKO-mark or EKO-license must be removed.

### **Article 16 Suspension of Licenses**

- 16.1. EKO has the right of suspension of licenses in the following situations:
  - severe deviations or shortcomings determined during inspection;
  - the failure of taking required correcting measures within three months of written notification of the need of those measures due to the finding of light deviations;
  - Implemented policy changes by licensees that require additional research by EKO.
- 16.2. During a revocation period, the licensing agreement will continue to apply and be enforceable.
- 16.3. The licensee shall not make use of the EKO-mark during a revocation period. Neither shall the licensee create the impression that he is still entitled to the right of usage of the EKO-mark.
- 16.4. A revocation will remain active during a maximum period of 12 months. The licensee shall inform EKO in case measures have been taken to resolve deviations or shortcomings, which shall be verified by EKO by means of reinspection at the office of the licensee. In case the underlying cause of the revocation is not restored within a period of 12 months, the license will be revoked.

### **Article 17 Revocation of EKO-license**

- 17.1. EKO shall have a right of immediate revocation of a license in the following situations:
  - Extremely severe deviations or extremely severe shortcomings, determined during research, inspection of examination;
  - Failure to take required correcting measures during a period of suspension;
  - The actions taken by a licensee constitutes a severe breach of one or more of his obligations, including financial obligations;
  - The licensee has severely harmed the interests of EKO.
- 17.2. Other deviations than the before mentioned situations can result to a right of revocation in a period of three months. The licensee will be informed of a revocation in writing by EKO, which must clearly indicate the date of termination. EKO will provide reasons for revocations.
- 17.3. At the date of termination of the licensing agreement the licensee shall no longer make use of the license and the right of usage of the EKO-mark. Neither shall the licensee create the impression that he is still entitled to the right of usage of the EKO-mark or in possession of a valid license.
- 17.4. Termination of license agreements or revocation of licenses will not affect the financial obligations by licensees to EKO.
- 17.5. In case of termination of registration the licensing agreement the licensee shall be deregistered and losing its rights as licensee.
- 17.6. The licensee is obligated to continue to provide the required information to EKO for a period of 9 months after termination of certification agreement in order to settle any residual (contractual) obligations.
- 17.7. In case the situation arises that a revoked licensee registers a new application request, the decision process can be extended. In case of such an extension, no license shall be granted before the end of a period of 6 months after receiving the application request.

## **Complaints and Objections**

### **Article 18 Complaints of third parties**

- 18.1. EKO has an internal complaint procedure for complaints of third parties, that is invoked in case a complaint by a third party is received.
- 18.2. In case the complaint has been deemed well-founded, EKO can start consultation with the third party regarding measures to improve or amend the quality plan, or take sanctionary measures.

### **Article 19 Complaints regarding EKO**

- 19.1. Complaints regarding the internal functioning of EKO shall be handled with by an authorised employee of EKO who was not involved in the internal process that resulted to the complaint(s). Serious complaints shall be settled by the appointed Ombudsman.
- 19.2. Complaints need to be settled within a period of 6 weeks after registration of the received complaint.

### **Article 20 Objection against a decision**

- 20.1. Affected parties can object to EKO against a decision taken by EKO within a period of 6 weeks after signing. The objection will be handled by the Board of Directors of EKO.
- 20.2. Objections will not affect the status of the taken decision or measures of EKO before the judgement of the Board of Directors, unless legal requirements say otherwise.

### **Article 21 Liability**

- 21.1. EKO is liable to corporations or licensees for shortcomings in the execution of its tasks and activities, as far as these shortcomings are caused by negligence on behalf of EKO regarding its standards of care, professionalism, skill and/or expertise on which can be relied upon in the execution of its tasks.  
The liability of damage caused by shortcomings is limited to a maximum amount of three times the total financial contributions of the corporations in the year in which the claim of compensation is made.
- 21.2. Eventual claims need to be made within a year after damage has arisen.
- 21.3. Amendments to this regulation will come in effect only after approval of the Board of Directors of EKO.
- 21.4. All cases unforeseen by this regulation will be decided upon by the Board of Directors of EKO.

### **Article 22 Privacy, data and confidentiality**

- 22.1. EKO, its employees, its appointed third parties, as well as members of the Board of Directors and eventual Commissions will be under an obligation of confidentiality to all information that they obtain from a licensee or staff of licensees.
- 22.2. The licensee grants EKO access to all data that is relevant for the execution of the supervisory tasks of EKO. This includes all data of the relevant organic inspection organization.

### **Article 23 Final Provisions**

- 23.1. This regulation can be referred to as; "Stichting EKO-keurmerk - Reglement EKO-keurmerk" (*Stichting EKO-Keurmerk-Regulation EKO-Mark*)
- 23.2. Amendments to this regulation will come in effect only after approval of the Board of Directors of EKO.
- 23.3. The Board of Directors of EKO is authorized to withdraw this regulation and its programme at all times.
- 23.4. All cases unforeseen by this regulation will be decided upon by the Board of Directors of EKO.