

Council Regulation (EC) No 1182/2007 of 26 September 2007 laying down specific rules as regards the fruit and vegetable sector, amending Directives 2001/112/EC and 2001/113/EC and Regulations (EEC) No 827/68, (EC) No 2200/96, (EC) No 2201/96, (EC) No 2826/2000, (EC) No 1782/2003 and (EC) No 318/2006 and repealing Regulation (EC) No 2202/96 (repealed)

### TITLE III

## PRODUCER ORGANISATIONS

### CHAPTER I

#### Requirements and recognition

##### *Article 3*

#### Requirements

1 For the purposes of this Regulation, a producer organisation shall be any legal entity or clearly defined part of a legal entity which complies with the following requirements:

- a it is formed on the initiative of farmers within the meaning of Article 2(a) of Regulation (EC) No 1782/2003, who are growers of one or more products listed in Article 1(2) of Regulation (EC) No 2200/96 and/or of such products intended solely for processing;
- b it has the objective of the use of environmentally sound cultivation practices, production techniques and waste management practices, in particular to protect the quality of water, soil and landscape, and preserve or encourage biodiversity;
- c it has one or more of the following objectives:
  - (i) ensuring that production is planned and adjusted to demand, particularly in terms of quality and quantity;
  - (ii) concentration of supply and the placing on the market of the products produced by its members;
  - (iii) optimising production costs and stabilising producer prices;
- d its articles of association provide for the specific requirements as laid down in paragraph 2; and
- e it has been recognised by the Member State concerned pursuant to Article 4.

2 The articles of association of a producer organisation shall require its producer members, in particular, to:

- a apply the rules adopted by the producer organisation relating to production reporting, production, marketing and protection of the environment;
- b belong to only one producer organisation in respect of a given holding's production of any given product referred to in paragraph 1(a);
- c market their entire production concerned through the producer organisation;
- d provide the information requested by the producer organisation for statistical purposes, in particular on growing areas, quantities cropped, yields and direct sales;

- e pay the financial contributions provided for in its articles of association for the establishment and replenishment of the operational fund provided for in Article 8.
- 3 Notwithstanding paragraph 2(c), where the producer organisation so authorises and where this is in compliance with the terms and conditions laid down by the producer organisation, the producer members may:
- a sell no more than a fixed percentage of their production and/or products directly on their holdings and/or outside their holdings to consumers for their personal needs, such percentages being fixed by Member States at not less than 10 %;
  - b market themselves or through another producer organisation designated by their own organisation, quantities of products which are marginal in relation to the volume of marketable production of their organisation;
  - c market themselves or through another producer organisation designated by their own organisation products which, because of their characteristics, are not normally covered by the commercial activities of the producer organisation concerned.
- 4 The articles of association of a producer organisation shall also provide for:
- a procedures for determining, adopting and amending the rules referred to in paragraph 2;
  - b the imposition on members of financial contributions needed to finance the producer organisation;
  - c rules enabling the producer members to scrutinise democratically their organisation and its decisions;
  - d penalties for infringement of obligations under the articles of association, particularly non-payment of financial contributions, or of the rules laid down by the producer organisation;
  - e rules on the admission of new members, particularly a minimum membership period;
  - f the accounting and budgetary rules necessary for the operation of the organisation.
- 5 Producer organisations shall be deemed to be acting in the name and on behalf of their members in economic matters.

#### *Article 4*

### **Recognition**

- 1 Member States shall recognise producer organisations within the meaning of Article 3(1) applying for such recognition, provided that:
- a they meet the requirements laid down in Article 3 and provide the relevant evidence thereof;
  - b they have a minimum number of members and cover a minimum volume or value of marketable production to be laid down by Member States, and provide the relevant evidence thereof;
  - c there is sufficient evidence that they can carry out their activities properly over time and in terms of effectiveness and concentration of supply, for which purpose Member States may decide which of the products or groups of products referred to in Article 3(1)(a) should be covered by the producer organisation;
  - d they effectively enable their members to obtain technical assistance in using environmentally-sound cultivation practices;
  - e they effectively provide their members, where necessary, with the technical means for collecting, storing, packaging and marketing their produce;
  - f they ensure proper commercial and accounting management of their activities; and

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- g they do not hold a dominant position in a given market unless this is necessary in pursuance of the goals of Article 33 of the Treaty.
- 2 Member States shall:
- a decide whether to grant recognition to a producer organisation within three months of the lodging of an application accompanied by all the relevant evidence;
  - b carry out checks at regular intervals to ascertain whether producer organisations comply with this Title, impose the penalties on such organisations in the event of non-compliance or irregularities concerning the provisions of this Regulation and decide, where necessary, to withdraw recognition;
  - c notify the Commission, once per year, of every decision to grant, refuse or withdraw recognition.

#### *Article 5*

### **Associations of producer organisations**

An association of producer organisations shall be formed on the initiative of recognised producer organisations and may carry out any of the activities of a producer organisation. To this end Member States may recognise, on request, an association of producer organisations where:

- (a) the Member State considers that the association is capable of effectively carrying out those activities; and
- (b) the association does not hold a dominant position in a given market unless this is necessary in pursuance of the goals of Article 33 of the Treaty.

Article 3(5) shall apply *mutatis mutandis* to actions of associations of producer organisations.

#### *Article 6*

### **Outsourcing**

Member States may permit a recognised producer organisation or a recognised association of producer organisations to outsource any of its activities, including to subsidiaries, provided that it provides sufficient evidence to the Member State that doing so is an appropriate way to achieve the objectives of the producer organisation or association of producer organisations concerned.

#### *Article 7*

### **Producer groups**

1 For the purposes of this Regulation, a producer group shall be any legal entity or clearly defined part of a legal entity which is formed on the initiative of farmers within the meaning of Article 2(a) of Regulation (EC) No 1782/2003, who are growers of one or more products listed in Article 1(2) of Regulation (EC) No 2200/96 and/or of such products intended solely for processing, with a view to being recognised as a producer organisation.

Producer groups in Member States which acceded to the European Union on 1 May 2004 or after that date, or in the outermost regions of the Community as referred to in Article 299(2) of the Treaty or in the smaller Aegean Islands as referred to in Article 1(2) of Council Regulation (EC) No 1405/2006<sup>(1)</sup> may be allowed a transitional period in which to meet the conditions for recognition laid down in Article 4.

In order to qualify, those producer groups shall present a phased recognition plan to the relevant Member State, acceptance of which shall signal the start of the transitional period referred to in the second subparagraph and shall constitute a preliminary recognition. The transitional period shall be no more than five years.

2 Before acceptance of the recognition plan, Member States shall inform the Commission of their intentions and the likely financial implications thereof.

3 During the transitional period, Member States may grant to the producer groups:

- a aid to encourage their formation and facilitate their administrative operation;
- b aid, provided either directly or through credit institutions, to cover part of the investments required to attain recognition and set out in the recognition plan referred to in the third subparagraph of paragraph 1.

4 The aid referred to in paragraph 3 shall be reimbursed by the Community in accordance with the rules adopted pursuant to Article 42(b)(ii).

5 The aid referred to in paragraph 3(a) shall be determined for each producer group on the basis of its marketed production and shall amount, for the first, second, third, fourth and fifth years, to:

- a 10 %, 10 %, 8 %, 6 % and 4 %, respectively, of the value of marketed production in the case of producer groups in Member States which acceded to the European Union on 1 May 2004 or after that date; and
- b 5 %, 5 %, 4 %, 3 % and 2 %, respectively, of the value of marketed production in the case of producer groups in the outermost regions of the Community as referred to in Article 299(2) of the Treaty or in the smaller Aegean Islands as referred to in Article 1(2) of Regulation (EC) No 1405/2006.

Those rates may be reduced in relation to the value of marketed production which exceeds a threshold. A ceiling may be applied to the aid payable in any given year to a producer group.

## CHAPTER II

### **Operational funds and operational programmes**

#### *Article 8*

#### **Operational funds**

1 Producer organisations may set up an operational fund. The fund shall be financed by:

- a financial contributions of members or of the producer organisation itself;
- b Community financial assistance which may be granted to producer organisations.

2 Operational funds shall be used only to finance operational programmes approved by Member States in accordance with Article 13.

## Article 9

### Operational programmes

1 Operational programmes shall have two or more of the objectives referred to in Article 3(1)(c) or of the following objectives:

- a planning of production;
- b improvement of product quality;
- c boosting the commercial value of products;
- d promotion of the products, whether in a fresh or processed form;
- e environmental measures and methods of production respecting the environment, including organic farming;
- f crisis prevention and management.

2 Crisis prevention and management shall be related to avoiding and dealing with crises on the fruit and vegetable markets and shall cover in this context:

- a market withdrawal;
- b green harvesting or non-harvesting of fruit and vegetables;
- c promotion and communication;
- d training measures;
- e harvest insurance;
- f support for the administrative costs of setting up mutual funds.

Crisis prevention and management measures, including any repayment of capital and interest as referred to in the third subparagraph, shall not comprise more than one-third of the expenditure under the operational programme.

In order to finance crisis prevention and management measures, producer organisations may take out loans on commercial terms. In this case, the repayment of the capital and interest on those loans may form part of the operational programme and so may be eligible for Community financial assistance under Article 10. Any specific action under crisis prevention and management shall be financed either by such loans or directly, but not both.

3 Member States shall provide that:

- a operational programmes shall include two or more environmental actions, or
- b at least 10 % of the expenditure under operational programmes shall cover environmental actions.

Environmental actions shall respect the requirements for agri-environment payments set out in the first subparagraph of Article 39(3) of Council Regulation (EC) No 1698/2005 of 20 September 2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD)<sup>(2)</sup>.

Where at least 80 % of the producer members of a producer organisation are subject to one or more identical agri-environment commitments under that provision then each one of those commitments shall count as an environmental action as referred to in point (a) of the first subparagraph.

Support for the environmental actions referred to in the first subparagraph shall cover additional costs and income foregone resulting from the action.

4 Paragraph 3 shall only apply in Bulgaria and Romania from 1 January 2011.

5 Investments which increase environmental pressure shall only be permitted in situations where effective safeguards to protect the environment from these pressures are in place.

### *Article 10*

#### **Community financial assistance**

1 The Community financial assistance shall be equal to the amount of the financial contributions referred to in Article 8(1)(a) as actually paid but limited to 50 % of the actual expenditure incurred.

2 The Community financial assistance shall be capped at 4,1 % of the value of the marketed production of each producer organisation.

However, that percentage may be increased to 4,6 % of the value of the marketed production provided that the amount in excess of 4,1 % of the value of the marketed production is used solely for crisis prevention and management measures.

3 At the request of a producer organisation, the percentage provided for in paragraph 1 shall be 60 % for an operational programme or part of an operational programme where it meets at least one of the following conditions:

- a it is submitted by several Community producer organisations operating in different Member States on transnational schemes;
- b it is submitted by one or more producer organisations engaged in schemes operated on an interbranch basis;
- c it covers solely specific support for the production of organic products covered by Council Regulation (EEC) No 2092/91 of 24 June 1991 on organic production of agricultural products and indications referring thereto on agricultural products and foodstuffs<sup>(3)</sup>;
- d it is submitted by a producer organisation in one of the Member States which acceded to the European Union on 1 May 2004 or after that date for measures running no later than the end of 2013;
- e it is the first to be submitted by a recognised producer organisation which has merged with another recognised producer organisation;
- f it is the first to be submitted by a recognised association of producer organisations;
- g it is submitted by producer organisations in Member States where producer organisations market less than 20 % of fruit and vegetables production;
- h it is submitted by a producer organisation in one of the outermost regions of the Community;
- i it covers solely specific support for actions to promote the consumption of fruit and vegetables targeted at children in educational establishments.

4 The percentage provided for in paragraph 1 shall be 100 % in the case of market withdrawals of fruit and vegetables, which shall not exceed 5 % of the volume of marketed production of each producer organisation and which are disposed of by way of:

- a free distribution to charitable organisations and foundations, approved to that effect by the Member States, for use in their activities to assist persons whose right to public assistance is recognised in national law, in particular because they lack the necessary means of subsistence;
- b free distribution to penal institutions, schools and public education institutions, and to children's holiday camps as well as to hospitals and old people's homes designated by

the Member States, which shall take all necessary steps to ensure that the quantities thus distributed are additional to the quantities normally bought in by such establishments.

### *Article 11*

#### **National financial assistance**

1 In regions of the Member States where the degree of organisation of producers is particularly low, Member States may be authorised by the Commission, on a duly substantiated request, to pay producer organisations national financial assistance equal to a maximum of 80 % of the financial contributions referred to in Article 8(1)(a). This assistance shall be additional to the operational fund.

In regions of Member States where producer organisations market less than 15 % of the value of fruit and vegetable production and whose fruit and vegetable production represents at least 15 % of their total agricultural output, the assistance referred to in the first subparagraph may be reimbursed by the Community at the request of the Member State concerned.

2 Articles 87, 88 and 89 of the Treaty shall not apply to the national financial assistance authorised pursuant to paragraph 1.

### *Article 12*

#### **National framework and national strategy for operational programmes**

1 Member States shall establish a national framework for drawing up the general conditions relating to the actions referred to in Article 9(3). This framework shall provide in particular that such actions shall meet the appropriate requirements of Regulation (EC) No 1698/2005 including those on complementarity, consistency and conformity, as set out in Article 5 of that Regulation.

Member States shall submit their proposed framework to the Commission, which may require modifications within three months if it finds that the proposal does not enable the attainment of the objectives set out in Article 174 of the Treaty and in the Sixth Community Environment Action Programme<sup>(4)</sup>. Investments on individual holdings supported by operational programmes shall also respect those objectives.

2 Member States shall establish a national strategy for sustainable operational programmes in the fruit and vegetable market. Such a strategy shall provide for the following elements:

- a an analysis of the situation in terms of strengths and weaknesses and the potential for development;
- b justification of the priorities chosen;
- c the objectives of operational programmes and instruments, as well as performance indicators;
- d assessment of operational programmes;
- e reporting obligations for producer organisations.

The national strategy shall also integrate the national framework referred to in paragraph 1.

3 Paragraphs 1 and 2 shall not apply to Member States which have no recognised producer organisations.

### *Article 13*

#### **Approval of operational programmes**

1 Draft operational programmes shall be submitted to the competent national authorities, which shall approve or reject them or request their modification in line with the provisions of this Chapter.

2 Producer organisations shall communicate to the Member State the estimated amount of the operational fund for each year and shall submit appropriate reasons therefor based on operational programme estimates, expenditure for the current year and possibly expenditure for previous years and, if necessary, on estimated production quantities for the next year.

3 The Member State shall notify the producer organisation or association of producer organisations of the estimated amount of Community financial assistance in line with the limits set out in Article 10.

4 Community financial assistance payments shall be made on the basis of expenditure incurred for the schemes covered by the operational programme. Advances may be made in respect of the same schemes subject to the provision of a guarantee or security.

5 The producer organisation shall notify the Member State of the final amount of expenditure for the previous year, accompanied by the necessary supporting documents, so that it may receive the balance of the Community financial assistance.

6 Operational programmes and their financing by producers and producer organisations on the one hand and by Community funds on the other shall have a minimum duration of three years and a maximum duration of five years.

## CHAPTER III

### **Extension of rules to producers of an economic area**

#### *Article 14*

#### **Extension of rules**

1 In cases where a producer organisation operating in a specific economic area is considered, in respect of a specific product, to be representative of production and producers in that area, the Member State concerned may, at the request of the producer organisation, make the following rules binding on producers established in that economic area who do not belong to the producer organisation:

- a the rules referred to in Article 3(2)(a);
- b the rules required to implement the measures referred to in Article 9(2)(c).

The first subparagraph shall apply on condition that those rules:

- a have been in force for at least one marketing year;
- b are included in the exhaustive list in Annex I;
- c are made binding for no more than three marketing years.



However, the condition referred to in point (a) of the second subparagraph shall not apply if the rules concerned are those listed in points 1, 3 and 5 of Annex I. In this case, the extension of rules may not apply for more than one marketing year.

2 For the purposes of this Chapter, ‘economic area’ means a geographical zone made up of adjoining or neighbouring production regions in which production and marketing conditions are homogeneous.

Member States shall notify a list of economic areas to the Commission.

Within one month of notification, the Commission shall approve the list or shall, after consultation with the Member State concerned, decide on the amendments which the latter is to make to it. The Commission shall make the approved list publicly available using the methods it considers appropriate.

3 A producer organisation shall be deemed representative within the meaning of paragraph 1 where its members account for at least 50 % of the producers in the economic area in which it operates and it covers at least 60 % of the volume of production of that area. Without prejudice to paragraph 5, in calculating these percentages account shall not be taken of producers or production of organic products covered by Regulation (EEC) No 2092/91.

4 The rules which are made binding on all producers in a specific economic area:

- a shall not cause any damage to other producers in the Member State concerned or in the Community;
- b shall not apply, unless they expressly cover them, to products delivered for processing under a contract signed before the beginning of the marketing year, with the exception of the rules on production reporting referred to in Article 3(2)(a);
- c shall not be incompatible with Community and national rules in force.

5 Rules may not be made binding on producers of organic products covered by Regulation (EEC) No 2092/91 unless such a measure has been agreed to by at least 50 % of such producers in the economic area in which the producer organisation operates and that organisation covers at least 60 % of such production of that area.

#### *Article 15*

#### **Notification**

Member States shall forthwith notify the Commission of the rules which they have made binding on all producers in a specific economic area pursuant to Article 14(1). The Commission shall make these rules publicly available using the methods it considers appropriate.

#### *Article 16*

#### **Repeal**

The Commission shall decide that a Member State shall repeal an extension of the rules decided on by that Member State pursuant to Article 14(1):

(a) where it finds that the extension in question to other producers excludes competition in a substantial part of the internal market or jeopardises free trade, or that the objectives of Article 33 of the Treaty are endangered;

- (b) where it finds that Article 81(1) of the Treaty applies to the rules extended to other producers. The Commission's decision with regard to those rules shall apply only from the date of such a finding;
- (c) where it finds after checks that this Chapter has not been complied with.

*Article 17*

**Financial contributions of non-member producers**

Where Article 14(1) is applied, the Member State concerned may decide, on scrutiny of evidence presented, that non-member producers shall be liable to the producer organisation for the part of the financial contributions paid by the producer members, insofar as these are used to cover:

- (a) administrative costs resulting from application of the rules referred to in Article 14(1);
- (b) the cost of research, market studies and sales promotion undertaken by the organisation or association and benefiting all producers in the area.

*Article 18*

**Extension of rules of associations of producer organisations**

For the purposes of this Chapter, any reference to producer organisations shall also be construed as a reference to recognised associations of producer organisations.

CHAPTER IV

**Report**

*Article 19*

**Report**

By 31 December 2013, the Commission shall present a report to the European Parliament and the Council on the implementation of this Title as regards producer organisations, operational funds and operational programmes.

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- (1) [OJ L 265, 26.9.2006, p. 1.](#)
- (2) [OJ L 277, 21.10.2005, p. 1.](#) Regulation as last amended by Regulation (EC) No 2012/2006 ([OJ L 384, 29.12.2006, p. 8.](#))
- (3) [OJ L 198, 22.7.1991, p. 1.](#) Regulation repealed by Regulation (EC) No 834/2007 ([OJ L 189, 20.7.2007, p. 1](#)) as from 1 January 2009.
- (4) Decision No 1600/2002/EC of the European Parliament and of the Council of 22 July 2002 laying down the Sixth Community Environment Action Programme ([OJ L 242, 10.9.2002, p. 1.](#))