

Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007

PART II

INTERNAL MARKET

TITLE II

RULES CONCERNING MARKETING AND PRODUCER ORGANISATIONS

CHAPTER I

Rules concerning marketing

Section 1

Marketing standards

Subsection 1

Introductory provisions

Article 73

Scope

Without prejudice to any other provisions applicable to agricultural products, as well as to the provisions adopted in the veterinary, phytosanitary and food sectors to ensure that products comply with hygiene and health standards and to protect animal, plant and human health, this Section lays down the rules concerning marketing standards. Those rules shall be divided between obligatory rules and optional reserved terms for agricultural products.

Subsection 2

Marketing standards by sectors or products

Article 74

General principle

The products for which marketing standards by sectors or products have been laid down in accordance with this Section may be marketed in the Union only if they conform to those standards.

Article 75

Establishment and content

1 Marketing standards may apply to one or more of the following sectors and products:

- a olive oil and table olives;
- b fruit and vegetables;
- c processed fruit and vegetable products;
- d bananas;
- e live plants;
- f eggs;
- g poultrymeat;
- h spreadable fats intended for human consumption;
- i hops.

2 In order to take into account the expectations of consumers and to improve the economic conditions for the production and marketing as well as the quality of the agricultural products covered by paragraphs 1 and 4 of this Article, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 on marketing standards by sectors or products, at all stages of the marketing, as well as derogations and exemptions from such standards in order to adapt to constantly changing market conditions, to evolving consumer demands, to developments in relevant international standards and to avoid creating obstacles to product innovation.

3 Without prejudice to Article 26 of Regulation (EU) No 1169/2011 of the European Parliament and of the Council⁽¹⁾, the marketing standards referred to in paragraph 1 may cover one or more of the following, to be determined on a sectoral or product basis and based on the characteristics of each sector, the need to regulate the placing on the market and the conditions defined in paragraph 5 of this Article:

- a the technical definitions, designation and sales descriptions for sectors other than those set out in Article 78;
- b classification criteria such as grading into classes, weight, sizing, age and category;
- c the species, plant variety or animal race or the commercial type;
- d the presentation, labelling linked to obligatory marketing standards, packaging, rules to be applied in relation to packing centres, marking, year of harvesting and use of specific terms, without prejudice to Articles 92 to 123;
- e criteria such as appearance, consistency, conformation, product characteristics and the percentage of water content;

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- f specific substances used in production, or components or constituents, including their quantitative content, purity and identification;
- g the type of farming and production method including oenological practices and advanced systems of sustainable production;
- h coupage of must and wine including definitions thereof, blending and restrictions thereof;
- i the frequency of collection, delivery, preservation and handling, the conservation method and temperature, storage and transport;
- j the place of farming and/or origin, excluding poultrymeat and spreadable fats;
- k restrictions as regards the use of certain substances and practices;
- l specific use;
- m the conditions governing the disposal, the holding, circulation and use of products not in conformity with the marketing standards adopted pursuant to paragraph 1 or with the definitions, designations and sales descriptions as referred to in Article 78, as well as the disposal of by-products.

4 In addition to paragraph 1, marketing standards may apply to the wine sector. Points (f), (g), (h), (k) and (m) of paragraph 3 shall apply to that sector.

5 The marketing standards by sectors or products adopted pursuant to paragraph 1 of this Article shall be established without prejudice to Articles 84 to 88 and Annex IX and shall take into account:

- a the specific characteristics of the product concerned;
- b the need to ensure the conditions to facilitate the placing of the products on the market;
- c the interest of producers to communicate the product and farming characteristics, and the interest of consumers to receive adequate and transparent product information, including the place of farming to be determined on a case-by-case basis at the appropriate geographical level, after conducting an evaluation, in particular, of the costs and administrative burdens for operators and the benefits offered to producers and the end consumer;
- d the methods available for determining physical, chemical and organoleptic characteristics of the products;
- e the standard recommendations adopted by international bodies;
- f the need to preserve the natural and essential characteristics of products and to avoid causing a substantial change in the composition of the product concerned.

6 In order to take into account the expectations of consumers and the need to improve the quality and the economic conditions for the production and marketing of agricultural products, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 to modify the list of sectors in paragraph 1. Such delegated acts shall be strictly limited to demonstrated needs resulting from evolving consumer demand, technical progress or the need for product innovation, and shall be subject to a Commission report to the European Parliament and to the Council evaluating, in particular, the needs of the consumer, the costs and administrative burdens for operators, including the impact on the internal market and on international trade, and the benefits offered to producers and to the end consumer.

Article 76

Additional requirements for marketing of products in the fruit and vegetables sector

1 In addition, where relevant, to the applicable marketing standards referred to in Article 75, products of the fruit and vegetables sector which are intended to be sold fresh to the consumer may only be marketed if they are sound, fair and of marketable quality and if the country of origin is indicated.

2 The marketing standards referred to in paragraph 1, as well as any marketing standard applicable to the fruit and vegetables sector laid down in accordance with this subsection, shall apply at all marketing stages including import and export, and may cover quality, categorisation, weight, size, packing, packaging, storage, transport, presentation and marketing.

3 The holder of products of the fruit and vegetables sector covered by marketing standards shall not display such products, offer them for sale or deliver or market them in any manner within the Union other than in conformity with those standards and shall be responsible for ensuring such conformity.

4 In order to ensure the proper application of requirements set out in paragraph 1 of this Article and to take into account certain specific situations, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 concerning specific derogations to this Article which are necessary for its proper application.

Article 77

Certification for hops

1 In addition, where relevant, to the applicable marketing standards, products of the hops sector harvested or prepared within the Union shall be subject to a certification procedure under this Article.

2 Certificates may be issued only for products having the minimum quality characteristics appropriate to a specific stage of marketing. In the case of hop powder, hop powder with higher lupulin content, extract of hops and mixed hop products, the certificate may only be issued if the alpha acid content of these products is not lower than that of the hops from which they have been prepared.

3 The certificates shall at least indicate:

- a the place(s) of production of the hops;
- b the year(s) of harvesting; and
- c the variety or varieties.

4 Products of the hops sector may be marketed or exported only if covered by a certificate issued in accordance with this Article.

In the case of imported products of the hops sector, the attestation provided for in Article 190(2) shall be deemed to be equivalent to that certificate.

5 The Commission shall be empowered to adopt delegated acts in accordance with Article 227 laying down measures derogating from paragraph 4 of this Article:

- a in order to satisfy the trade requirements of certain third countries; or
- b for products intended for special uses.

The measures referred to in the first subparagraph shall:

- (i) not prejudice the normal marketing of products for which the certificate has been issued; and
- (ii) be accompanied by guarantees intended to avoid any confusion with those products.

Article 78

Definitions, designations and sales descriptions for certain sectors and products

1 In addition, where relevant, to the applicable marketing standards, the definitions, designations and sales descriptions provided for in Annex VII shall apply to the following sectors or products:

- a beef and veal;
- b wine;
- c milk and milk products intended for human consumption;
- d poultrymeat;
- e eggs;
- f spreadable fats intended for human consumption; and
- g olive oil and table olives.

2 The definitions, designations or sales descriptions provided for in Annex VII may be used in the Union only for the marketing of a product which conforms to the corresponding requirements laid down in that Annex.

3 The Commission shall be empowered to adopt delegated acts in accordance with Article 227 concerning the modifications, derogations or exemptions to the definitions and sales descriptions provided for in Annex VII. Those delegated acts shall be strictly limited to demonstrated needs resulting from evolving consumer demand, technical progress or the need for product innovation.

4 In order to ensure that operators and Member States have a clear and proper understanding of the definitions and sales descriptions provided for in Annex VII, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 concerning the rules on their specification and application.

5 In order to take into account the expectations of consumers and the evolution of the milk products market, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 to specify the milk products in respect of which the animal species from which the milk originates is to be stated, if it is not bovine, and to lay down the necessary rules.

Article 79

Tolerance

1 In order to take into account the specific characteristics of each product or sector, the different marketing stages, the technical conditions, any possible considerable practical difficulty, and also the accuracy and repeatability of the methods of analysis, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 on tolerance for one or more specific standards in excess of which the entire batch of products shall be considered not to respect that standard.

2 When adopting the acts referred to in paragraph 1, the Commission shall take into account the need not to alter the intrinsic characteristics of the product and to avoid lowering its quality.

Article 80

Oenological practices and methods of analyses

1 Only oenological practices authorised in accordance with Annex VIII and provided for in point (g) of Article 75(3) and in Article 83(2) and (3) shall be used in the production and conservation of the products listed in Part II of Annex VII in the Union.

The first subparagraph shall not apply to:

- a grape juice and concentrated grape juice; and
- b grape must and concentrated grape must intended for the preparation of grape juice.

Authorised oenological practices shall only be used for the purposes of ensuring proper vinification, proper preservation or proper refinement of the product.

Products listed in Part II of Annex VII shall be produced in the Union in accordance with the rules laid down in Annex VIII.

2 Products listed in Part II of Annex VII shall not be marketed in the Union if:

- a they have undergone unauthorised Union oenological practices;
- b they have undergone unauthorised national oenological practices; or
- c they do not comply with the rules laid down in Annex VIII.

The grapevine products which are unmarketable in accordance with the first subparagraph shall be destroyed. By way of derogation from this rule, Member States may authorise the use of certain of such products, the characteristics of which they shall determine, by distilleries or vinegar factories or for industrial purposes, provided that this authorisation does not become an incentive to produce grapevine products by means of unauthorised oenological practices.

3 When authorising oenological practices for wine as referred to in point (g) of Article 75(3), the Commission shall:

- a take into account the oenological practices and methods of analyses recommended and published by the OIV, as well as the results of experimental use of as-yet unauthorised oenological practices;
- b take into account the protection of human health;
- c take into account the possible risk of consumers being misled due to their well established perception of the product and their corresponding expectations, having regard to the availability and feasibility of informational means to exclude such risks;
- d allow the preservation of the natural and essential characteristics of the wine and not cause a substantial change in the composition of the product concerned;
- e ensure an acceptable minimum level of environmental care;
- f respect the general rules concerning oenological practices and the rules laid down in Annex VIII.

4 In order to ensure the correct treatment of unmarketable wine products, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 concerning rules on the national procedures referred to in the second subparagraph of paragraph

2 of this Article, and derogations therefrom concerning the withdrawal or destruction of wine products that do not comply with the requirements.

5 The Commission shall, where necessary, adopt implementing acts laying down the methods referred to in point (d) of Article 75(5) for products listed in Part II of Annex VII. Those methods shall be based on any relevant methods recommended and published by the OIV, unless they would be ineffective or inappropriate in view of the objective pursued by the Union. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

Pending the adoption of such implementing acts, the methods and rules to be used shall be those allowed by the Member State concerned.

Article 81

Wine grape varieties

1 Products listed in Part II of Annex VII and produced in the Union shall be made from wine grape varieties classifiable in accordance with paragraph 2 of this Article.

2 Subject to paragraph 3, Member States shall classify which wine grape varieties may be planted, replanted or grafted on their territories for the purpose of wine production.

Only wine grape varieties meeting the following conditions may be classified by Member States:

- a the variety concerned belongs to the species *Vitis vinifera* or comes from a cross between the species *Vitis vinifera* and other species of the genus *Vitis*;
- b the variety is not one of the following: Noah, Othello, Isabelle, Jacquez, Clinton and Herbemont.

Where a wine grape variety is deleted from the classification referred to in the first subparagraph, grubbing up of this variety shall take place within 15 years of its deletion.

3 Member States whose wine production does not exceed 50 000 hectolitres per wine year, calculated on the basis of the average production during the last five wine years, shall be exempt from the classification obligation provided for in the first subparagraph of paragraph 2.

However, also in those Member States, only wine grape varieties complying with the second subparagraph of paragraph 2 may be planted, replanted or grafted for the purpose of wine production.

4 By way of derogation from the first and third subparagraphs of paragraph 2 and the second subparagraph of paragraph 3, the planting, replanting or grafting of the following wine grape varieties shall be allowed by the Member States for scientific research and experimental purposes:

- a wine grape varieties which are not classified, in the case of the Member States other than those referred to in paragraph 3;
- b wine grape varieties which do not comply with the second subparagraph of paragraph 2, in the case of the Member States referred to in paragraph 3.

5 Areas planted with wine grape varieties for the purpose of wine production planted in breach of paragraphs 2, 3 and 4 shall be grubbed up.

However, there shall be no obligation to grub up such areas where the relevant production is intended exclusively for consumption by the wine-producer's household.

Article 82

Specific use of wine not conforming to the categories listed in Part II of Annex VII

Except for bottled wine in respect of which there is evidence that bottling was performed before 1 September 1971, wine produced from wine grape varieties listed in the classifications drawn up in accordance with the first subparagraph of Article 81(2) but not conforming to one of the categories laid down in Part II of Annex VII shall be used only for consumption by individual wine-producers' households, for the production of wine vinegar or for distillation.

Article 83

National rules for certain products and sectors

1 Notwithstanding Article 75(2), Member States may adopt or maintain national rules laying down different quality levels for spreadable fats. Such rules shall allow those quality levels to be assessed on the basis of criteria relating, in particular, to the raw materials used, the organoleptic characteristics of the products and their physical and microbiological stability.

Member States making use of the option provided for in the first subparagraph shall ensure that other Member States' products complying with the criteria laid down by those national rules may, in a non-discriminatory way, use terms which state that those criteria have been complied with.

2 Member States may limit or prohibit the use of certain oenological practices and provide for more stringent rules for wines authorised under Union law produced in their territory with a view to reinforcing the preservation of the essential characteristics of wines with a protected designation of origin or a protected geographical indication and of sparkling wines and liqueur wines.

3 Member States may allow the experimental use of unauthorised oenological practices.

4 In order to ensure the correct and transparent application of this Article, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 setting out the conditions for the application of paragraphs 1, 2 and 3 of this Article, as well as the conditions for the holding, circulation and use of the products obtained from the experimental practices referred to in paragraph 3 of this Article.

5 Member States may only adopt or maintain additional national provisions on products covered by a Union marketing standard if those provisions comply with Union law, in particular the principle of free movement of goods, and subject to Directive 98/34/EC of the European Parliament and of the Council⁽²⁾.

Subsection 3

Optional reserved terms

Article 84

General provision

A scheme for optional reserved terms by sector or by product shall be established in order to make it easier for producers of agricultural products that have value-adding characteristics or attributes to communicate those characteristics or attributes within the internal market, and in particular to support and complement the specific marketing standards.

This Subsection shall not apply to wine products referred to in Article 92(1).

Article 85

Existing optional reserved terms

1 The optional reserved terms covered by this scheme on 20 December 2013 are listed in Annex IX and the conditions of their use shall be laid down pursuant to point (a) of Article 86.

2 The optional reserved terms referred to in paragraph 1 of this Article shall remain in force, subject to any amendment, unless cancelled pursuant to Article 86.

Article 86

Reservation, amendment and cancellation of optional reserved terms

In order to take account of the expectations of consumers, developments in scientific and technical knowledge, the situation in the market and developments in marketing standards and in international standards, the Commission shall be empowered to adopt delegated acts in accordance with Article 227:

- (a) reserving an additional optional reserved term, laying down its conditions of use;
- (b) amending the conditions of use of an optional reserved term; or
- (c) cancelling an optional reserved term.

Article 87

Additional optional reserved terms

1 A term shall be eligible to be reserved as an additional optional reserved term only if it fulfils all of the following requirements:

- a the term relates to a characteristic of a product or to a farming or processing attribute and relates to a sector or product;
- b the use of the term enables clearer communication of the added value of the product by its specific characteristics or farming or processing attributes;

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- c when the product is placed on the market, the characteristic or attribute referred to in point (a) is identifiable by consumers in several Member States;
- d the conditions and use of the term are in conformity with Directive 2000/13/EC of the European Parliament and of the Council⁽³⁾ or Regulation (EU) No 1169/2011.

When introducing an additional optional reserved term, the Commission shall take account of any relevant international standard and of the existing reserved terms for the products or sectors involved.

2 In order to take the characteristics of certain sectors as well as consumer expectations into account, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 laying down further details on the requirements for the introduction of an additional reserved term, as referred to in paragraph 1 of this Article.

Article 88

Restrictions on use of optional reserved terms

1 An optional reserved term may only be used to describe products that conform to the applicable conditions of use.

2 Member States shall adopt appropriate measures to ensure that product labelling does not give rise to confusion with optional reserved terms.

3 In order to ensure that products described by means of optional reserved terms conform to the applicable conditions of use, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 laying down additional rules on the use of optional reserved terms.

Subsection 4

Marketing standards related to import and export

Article 89

General provisions

In order to take into account the specific characteristics of trade between the Union and certain third countries and the special character of certain agricultural products, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 concerning:

- (a) the conditions under which imported products are considered to have an equivalent level of conformity to the Union marketing standards and conditions allowing derogation from Article 74; and
- (b) the rules concerning the application of the marketing standards to products exported from the Union.

Article 90

Special provisions for the imports of wine

1 Save as otherwise provided for in international agreements concluded in accordance with the TFEU, the provisions concerning designation of origin and geographical indications and labelling of wine set out in Section 2 of this Chapter, and the definitions, designations and sales descriptions referred to in Article 78 of this Regulation shall apply to products imported into the Union and falling within CN codes 2009 61, 2009 69 and 2204.

2 Save as otherwise provided for in international agreements concluded in accordance with the TFEU, products referred to in paragraph 1 of this Article shall be produced in accordance with oenological practices authorised by the Union pursuant to this Regulation or, prior to the authorisation pursuant to Article 80(3), produced in accordance with oenological practices recommended and published by the OIV.

3 The import of the products referred to in paragraph 1 shall be subject to the presentation of:

- a a certificate evincing compliance with the provisions referred to in paragraphs 1 and 2, drawn up by a competent body, included on a list to be made public by the Commission, in the product's country of origin;
- b an analysis report drawn up by a body or department designated by the product's country of origin, if the product is intended for direct human consumption.

Subsection 5

Common provisions

Article 91

Implementing powers in accordance with the examination procedure

The Commission may adopt implementing acts:

- (a) establishing the list of milk and milk products referred to in the second paragraph of point 5 of Part III of Annex VII and spreadable fats referred to in point (a) of the sixth paragraph of Section I of Part VII of Annex VII, on the basis of indicative lists of products which Member States regard as corresponding, in their territory, to those provisions and which Member States shall send to the Commission;
- (b) laying down rules for the implementation of the marketing standards by sector or product;
- (c) laying down rules for determining whether products have undergone processes contrary to the authorised oenological practices;
- (d) laying down rules for the methods of analysis for determining the characteristics of products;
- (e) laying down rules for fixing the tolerance level;
- (f) laying down rules for the implementation of the measures referred to in Article 89;

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- (g) laying down rules for the identification or registration of the producer and/or the industrial facilities in which the product has been prepared or processed, for the certification procedures and for the commercial documents, accompanying documents and records to be kept.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

- (1) Regulation (EU) No 1169/2011 of the European Parliament and of the Council of 25 October 2011 on the provision of food information to consumers, amending Regulations (EC) No 1924/2006 and (EC) No 1925/2006 of the European Parliament and of the Council, and repealing Commission Directive 87/250/EEC, Council Directive 90/496/EEC, Commission Directive 1999/10/EC, Directive 2000/13/EC of the European Parliament and of the Council, Commission Directives 2002/67/EC and 2008/5/EC and Commission Regulation (EC) No 608/2004 ([OJ L 304, 22.11.2011, p. 18](#)).
- (2) Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations and of rules on Information Society services ([OJ L 204, 21.7.1998, p. 37](#)).
- (3) Directive 2000/13/EC of the European Parliament and of the Council of 20 March 2000 on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs ([OJ L 109, 6.5.2000, p. 29](#)).