

Commission Delegated Regulation (EU) 2017/891 of 13 March 2017 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council with regard to the fruit and vegetables and processed fruit and vegetables sectors and supplementing Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to penalties to be applied in those sectors and amending Commission Implementing Regulation (EU) No 543/2011

TITLE II

PRODUCER ORGANISATIONS

CHAPTER I

Requirements and recognition

Section 1

Definitions

Article 2

Definitions

For the purposes of this Title the following definitions shall apply:

- (a) ‘producer’ means a farmer within the meaning of [^{F1}Article 4(1)(a) of Regulation (EU) No 1307/2013 of the European Parliament and of the Council][^{F1}Article 2(1)(a) of Regulation (EU) No 1306/2013] producing fruit and vegetables as referred to in Article 1(2)(i) of Regulation (EU) No 1308/2013 and such products intended solely for processing;
- (b) ‘producer member’ means a producer or legal entity constituted by producers that is a member of a producer organisation or association of producer organisations;
- (c) ‘subsidiary’ means a company in which one or more producer organisations or associations of producer organisations have taken shares or constituted capital and which contributes to the objectives of those organisations or associations;
- (d) ^{F2} ...
- (e) ^{F3} ...
- (f) ‘measure’ means one of the following:
 - (i) actions aimed at the planning of production, including investments in physical assets;
 - (ii) actions aimed at improving or maintaining product quality, whether in a fresh or processed form, including investments in physical assets;

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- (iii) actions aimed at boosting the commercial value of products and improving marketing, including investments in physical assets, as well as promotion of the products, whether in a fresh or processed form, and communication activities other than promotion and communication activities falling under point (vi);
 - (iv) research and experimental production actions, including investments in physical assets;
 - (v) training and exchange of best practices actions, other than training falling under point (vi), and actions aimed at promoting access to advisory services and technical assistance;
 - (vi) any of the crisis prevention and management actions listed in the first subparagraph of Article 33(3) of Regulation (EU) No 1308/2013;
 - (vii) environmental actions as referred to in Article 33(5) of Regulation (EU) No 1308/2013, including investments in physical assets;
 - (viii) other actions, including investments in physical assets, other than those falling under points (i) to (vii) which fulfil one or more of the objectives referred to or set out in Article 33(1) of Regulation (EU) No 1308/2013;
- (g) ‘action’ means a specific activity or instrument aimed at contributing to one or more of the objectives referred to or set out in Article 33(1) of Regulation (EU) No 1308/2013;
 - (h) ‘investment in physical assets’ means the acquisition of tangible assets aimed at contributing to one or more of the objectives referred to or set out in Article 33(1) of Regulation (EU) No 1308/2013;
 - (i) ‘by-product’ means a product which results from preparation of a fruit or vegetable product which has a positive economic value but is not the main intended product;
 - (j) ‘preparation’ means preparatory activities such as cleaning, cutting, peeling, trimming and drying of fruit and vegetables, without transforming them into processed fruit and vegetables;
 - (k) ‘interbranch basis’ as referred to in Article 34(3)(b) of Regulation (EU) No 1308/2013 means activities pursuing one or more of the objectives listed in Article 157(1)(c) of that Regulation approved by the [^{F4}appropriate authority] and managed jointly by a producer organisation or an association of producer organisations and at least one other actor in the food processing or distribution chain;
 - (l) ‘baseline indicator’ means any indicator reflecting a state or trend existing at the start of a programming period which may provide information useful:
 - (i) in the analysis of the initial situation, in order to establish a ^{F5}... strategy for sustainable operational programmes [^{F6}as referred to in Article 36(2) of Regulation (EU) No 1308/2013] or an operational programme;
 - (ii) as a reference against which the results and impact of a [^{F7}strategy as referred to in Article 36(2) of Regulation (EU) No 1308/2013] or an operational programme may be assessed; or
 - (iii) in interpreting the results and impact of a [^{F8}strategy as referred to in Article 36(2) of Regulation (EU) No 1308/2013] or an operational programme;

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- (m) ‘specific costs’ means the additional costs, calculated as the difference between the conventional costs and the costs actually incurred, and income foregone resulting from an action, excluding additional income and costs savings;
- (n) [^{F9}‘constituent nation’ means England, Wales, Scotland or Northern Ireland, as the case may be;
- (o) ‘public funds’ means moneys provided by Parliament, Senedd Cymru, the Scottish Parliament, the Northern Ireland Assembly or a body exercising public functions within the United Kingdom. References to ‘public funding’ are to be construed accordingly;
- (p) ‘relevant authority’ means:
- (i) in relation to England, the Secretary of State;
 - (ii) in relation to Wales, the Welsh Ministers;
 - (iii) in relation to Scotland, the Scottish Ministers;
 - (iv) in relation to Northern Ireland, the Department of Agriculture, Environment and Rural Affairs;
- (q) ‘third country’ means any country or territory other than:
- (i) the United Kingdom;
 - (ii) the Bailiwick of Jersey;
 - (iii) the Bailiwick of Guernsey;
 - (iv) the Isle of Man;
- (r) ‘existing non-UK member’ means an ex-transnational producer organisation member:
- (i) who was, immediately before IP completion day, a producer member of a transnational producer organisation within the meaning of Articles 2(b) and 2(d) (as they had effect immediately before IP completion day); and
 - (ii) at least one of whose holdings is situated in a European Union Member State;
- (s) ‘ex-transnational producer organisation’ means a producer organisation that was, immediately before IP completion day, recognised in the United Kingdom as a transnational producer organisation within the meaning of Article 2(d) (as it had effect immediately before IP completion day).]

Textual Amendments

- F1** Words in Art. 2(a) substituted (E.) (1.1.2024) by [The Agriculture \(Delinked Payments and Consequential Provisions\) \(England\) Regulations 2023 \(S.I. 2023/1430\)](#), reg. 1(2)(a), **Sch. 4 para. 9(2)**
- F2** Art. 2(d) omitted (31.12.2020) by virtue of The Common Organisation of the Markets in [Agricultural Products \(Producer Organisations and Wine\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1446\)](#), regs. 1(3), **5(2)(a)**, 7(a)
- F3** Art. 2(e) omitted (31.12.2020) by virtue of The Common Organisation of the Markets in [Agricultural Products \(Producer Organisations and Wine\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1446\)](#), regs. 1(3), **5(2)(a)**, 7(a)

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- F4** Words in Art. 2(k) substituted (25.6.2021) by The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(2)(a)**, 7(a)
- F5** Word in Art. 2(l)(i) omitted (25.6.2021) by virtue of The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(2)(b)(i)(aa)**, 7(a)
- F6** Words in Art. 2(l)(i) inserted (25.6.2021) by The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(2)(b)(i)(bb)**, 7(a)
- F7** Words in Art. 2(l)(ii) substituted (25.6.2021) by The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(2)(b)(ii)**, 7(a)
- F8** Words in Art. 2(l)(iii) substituted (25.6.2021) by The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(2)(b)(ii)**, 7(a)
- F9** Arts. 2(n)-(s) inserted (25.6.2021) by The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(2)(c)**, 7

F¹⁰ Article 2A

Definition of appropriate authority

1. For the purposes of this Regulation, ‘appropriate authority’ means:
 - a in relation to England, the Secretary of State;
 - b in relation to Wales, the Welsh Ministers;
 - c in relation to Scotland, the Scottish Ministers;
 - d in relation to Northern Ireland, the Department of Agriculture, Environment and Rural Affairs.
2. But the appropriate authority is the Secretary of State:
 - a in relation to Scotland, at any time that the Secretary of State and the Scottish Ministers so agree;
 - b in relation to Northern Ireland, at any time that the Secretary of State and the Department of Agriculture, Environment and Rural Affairs so agree.
3. The relevant authorities for Scotland and Northern Ireland must each ensure that a statement identifying the appropriate authority for their constituent nation is published on a website maintained by them on or on their behalf.]

Textual Amendments

- F10** Art. 2A inserted (25.6.2021) by The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(3)**, 7(a)

Section 2

Recognition criteria and other requirements

Article 3

Legal status of producer organisations

^{F11} ... ^{F11} ... [^{F12}Nothing in this Regulation prevents the Secretary of State from adopting] complementary rules on recognition of producer [^{F13}organisations, including rules concerning] legal entities which may apply for recognition as producer organisations.

Textual Amendments

- F11** Words in Art. 3 omitted (31.12.2020) by virtue of [The Common Organisation of the Markets in Agricultural Products \(Producer Organisations and Wine\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1446\)](#), regs. 1(3), **5(3)(a)**
- F12** Words in Art. 3 substituted (31.12.2020) by [The Common Organisation of the Markets in Agricultural Products \(Producer Organisations and Wine\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1446\)](#), regs. 1(3), **5(3)(b)(i)**
- F13** Words in Art. 3 substituted (31.12.2020) by [The Common Organisation of the Markets in Agricultural Products \(Producer Organisations and Wine\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1446\)](#), regs. 1(3), **5(3)(b)(ii)**

Article 4

Product coverage

1 [^{F14}The Secretary of State] shall recognise producer organisations in respect of the product or the group of products specified in the application for recognition.

2 [^{F15}The Secretary of State] shall recognise producer organisations in respect of the product or the group of products solely intended for processing where the producer organisations are able to ensure that such products are delivered for processing, whether through a system of supply contracts or otherwise.

Textual Amendments

- F14** Words in Art. 4(1) substituted (31.12.2020) by [The Common Organisation of the Markets in Agricultural Products \(Producer Organisations and Wine\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1446\)](#), regs. 1(3), **5(4)**
- F15** Words in Art. 4(2) substituted (31.12.2020) by [The Common Organisation of the Markets in Agricultural Products \(Producer Organisations and Wine\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1446\)](#), regs. 1(3), **5(4)**

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Article 5

Minimum number of members

For the purposes of Article 154(1)(b) of Regulation (EU) No 1308/2013, [^{F16}producer organisations must have at least five producer members, all of whom are separate legal entities.]

F17

Textual Amendments

- F16** Words in Art. 5 substituted (31.12.2020) by The Common Organisation of the Markets in Agricultural Products (Producer Organisations and Wine) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1446), regs. 1(3), **5(5)(a)**
- F17** Words in Art. 5 omitted (31.12.2020) by virtue of The Common Organisation of the Markets in Agricultural Products (Producer Organisations and Wine) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1446), regs. 1(3), **5(5)(b)**

Article 6

Minimum length of membership

- 1 The minimum membership period of a producer shall not be less than one year.
- 2 Resignation from membership shall be notified to the producer organisation in writing. [^{F18}Subject to paragraph 3, resignation from membership will take effect:
- a if notice of resignation is received by the producer organisation on or before 30 September of a given calendar year (or such earlier date as may be set in the producer organisation's membership agreement in accordance with paragraph 3), on 1 January of the following year;
 - b if notice of resignation is received by the producer organisation after 30 September of a given calendar year (or such earlier date as may be set in the producer organisation's membership agreement in accordance with paragraph 3), on 1 January of the year after the following year.]

[^{F19}3. The membership agreement of a producer organisation may require notice of resignation to be given before 30 September (but no earlier than 30 June) of the year before that in which resignation is intended to take effect.]

Textual Amendments

- F18** Words in Art. 6(2) substituted (31.12.2020) by The Common Organisation of the Markets in Agricultural Products (Producer Organisations and Wine) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1446), regs. 1(3), **5(6)(a)**
- F19** Art. 6(3) inserted (31.12.2020) by The Common Organisation of the Markets in Agricultural Products (Producer Organisations and Wine) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1446), regs. 1(3), **5(6)(b)**

Article 7

Structures and activities of producer organisations

[^{F20}The Secretary of State] shall verify that producer organisations have at their disposal the staff, infrastructure and equipment necessary to fulfil the requirements laid down in Articles 152, 154 and 160 of Regulation (EU) No 1308/2013 and to ensure their essential functioning, in particular as regards:

- (a) the knowledge of their members' production;
- (b) the technical means for collecting, sorting, storing and packaging the production of their members;
- (c) marketing the production of their members;
- (d) commercial and budgetary management; and
- (e) centralised cost-based accounting and a system of invoicing according to [^{F21}applicable] law.

Textual Amendments

- F20** Words in Art. 7 substituted (31.12.2020) by The Common Organisation of the Markets in Agricultural Products (Producer Organisations and Wine) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1446), regs. 1(3), **5(7)(a)**
- F21** Word in Art. 7(e) substituted (31.12.2020) by The Common Organisation of the Markets in Agricultural Products (Producer Organisations and Wine) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1446), regs. 1(3), **5(7)(b)**

Article 8

Value or volume of marketable production

1 For the purposes of Article 154(1)(b) of Regulation (EU) No 1308/2013, the value or volume of marketable production shall be calculated on the same basis as the value of marketed production set out in Articles 22 and 23 of this Regulation.

2 In circumstances when the historical data on marketed production of a member for the application of paragraph 1 is not sufficient, the value of the marketable production shall be equal to the actual value of marketed production during a period of 12 consecutive months. Those 12 months shall fall within the three years preceding the year in which the application for recognition is submitted.

[^{F22}Article 9

Minimum value of marketed production

For the purposes of Article 154(1)(b) of Regulation (EU) No 1308/2013, the minimum value of marketed production is:

- (a) [euro]250,000 for producer organisations recognised for mushrooms or nuts;

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(b) [euro]1 million for producer organisations recognised in respect of any other product or group of products.]

Textual Amendments

F22 Art. 9 substituted (31.12.2020) by [The Common Organisation of the Markets in Agricultural Products \(Producer Organisations and Wine\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1446\)](#), regs. 1(3), **5(8)**

Article 10

Provision of technical means

For the purposes of Article 154(1)(c) of Regulation (EU) No 1308/2013 and Article 7(b) of this Regulation, a producer organisation which is recognised for a product for which the provision of technical means is necessary, shall be considered to fulfil its obligation in that regard, where it provides an adequate level of technical means itself or through its members, or through subsidiaries, or through an association of producer organisations of which it is a member or by outsourcing.

Article 11

Producer organisations' main activities

1 The main activity of a producer organisation shall relate to the concentration of supply and the placing on the market of the products of its members for which it is recognised.

The placing on the market referred to in the first subparagraph shall be carried out by the producer organisation, or under the control of the producer organisation in the case of outsourcing as set out in Article 13. Placing on the market shall include among others the decision on the product to be sold, the way of selling and unless the sale is by means of auction, the negotiation of its quantity and price.

Producer organisations shall keep records, including accounting documents, for at least five years, which demonstrate that the producer organisation concentrated supply and placed on the market members' products for which it is recognised.

2 A producer organisation may sell products from producers that are not a member of a producer organisation or of an association of producer organisations, where it is recognised in respect of those products and provided that the economic value of that activity is below the value of its marketed production calculated in accordance with Article 22.

3 The marketing of fruit and vegetables that are bought directly from another producer organisation and of products for which the producer organisation is not recognised shall not be considered as forming part of the producer organisation's activities.

4 Where Article 22(8) applies, paragraph 2 of this Article shall apply *mutatis mutandis* to the subsidiaries concerned.

^{F23}Article 12

Marketing of the production outside the producer organisation

1 Where the producer organisation so authorises in its statutes and where this is in compliance with the terms and conditions laid down by the [^{F24}Secretary of State] and the producer organisation, the producer members may:

- a sell products directly or outside their holdings to consumers for their personal needs;
- b market by themselves or through another producer organisation designated by their own producer organisation, quantities of products which, in terms of volume or value, are marginal compared to the volume or value of marketable production of their organisation of the products concerned;
- c market by themselves or through another producer organisation designated by their own producer organisation, products which because of their characteristics or because of the limited production in volume or in value of the producer members, are normally not covered by the commercial activities of the producer organisation.

2 The percentage of the production that the producer members market outside the producer organisation, as referred to in paragraph 1 shall not exceed 25 % in volume or in value of the marketable production of each producer member.

However, [^{F25}nothing in this Regulation prevents the Secretary of State from setting] a lower percentage of the production that the producer members may market outside the producer organisation than the one set out in the first subparagraph. [^{F26}Nothing in this Regulation prevents the Secretary of State from increasing] that percentage up to 40 % in case of products covered by Council Regulation (EC) No 834/2007⁽¹⁾ or where producer members market their production through another producer organisation designated by their own producer organisation.]

Textual Amendments

- F23** Substituted by [Commission Delegated Regulation \(EU\) 2018/1145 of 7 June 2018 amending Delegated Regulation \(EU\) 2017/891 as regards producer organisations in the fruit and vegetables sector.](#)
- F24** Words in Art. 12(1) substituted (31.12.2020) by [The Common Organisation of the Markets in Agricultural Products \(Producer Organisations and Wine\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1446\), regs. 1\(3\), 5\(9\)\(a\)](#)
- F25** Words in Art. 12(2) substituted (31.12.2020) by [The Common Organisation of the Markets in Agricultural Products \(Producer Organisations and Wine\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1446\), regs. 1\(3\), 5\(9\)\(b\)\(i\)](#)
- F26** Words in Art. 12(2) substituted (31.12.2020) by [The Common Organisation of the Markets in Agricultural Products \(Producer Organisations and Wine\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1446\), regs. 1\(3\), 5\(9\)\(b\)\(ii\)](#)

Article 13

Outsourcing

1 The activities that [^{F27}the Secretary of State] may permit to be outsourced in accordance with Article 155 of Regulation (EU) No 1308/2013 shall relate to the objectives

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as set out in Article 152(1)(c) of that Regulation and may include, among others, collecting, storing, packaging and marketing the product of the members of the producer organisation.

2 A producer organisation outsourcing an activity shall enter into a written commercial arrangement by way of a contract, agreement or protocol with another entity, including one or several of its members or a subsidiary, for the purpose of carrying out of the activity concerned. The producer organisation shall remain responsible for ensuring the carrying out of the outsourced activity and overall management control and supervision of the commercial arrangement for the carrying out of the activity.

However, the activity shall be considered as carried out by the producer organisation if it is carried out by an association of producer organisations or a cooperative whose members are themselves cooperatives where the producer organisation is a member thereof or by a subsidiary complying with the 90 % requirement referred to in Article 22(8).

3 The overall management control and supervision referred to in the first subparagraph of paragraph 2 shall be effective and require that the outsourcing contract, agreement or protocol:

- a enables the producer organisation to issue binding instructions and includes provisions enabling the producer organisation to terminate the contract, agreement or protocol if the service provider does not meet the terms and conditions of the outsourcing contract;
- b lays down detailed terms and conditions, including regular reporting obligations and deadlines which enable the producer organisation to exercise effective control over the outsourced activities.

Outsourcing contracts, agreements or protocols as well as the reports referred to in point (b) of the first subparagraph shall be kept by the producer organisation for at least 5 years for the purpose of *ex-post* checks and be accessible to all members on request.

Textual Amendments

F27 Words in [Art. 13\(1\)](#) substituted (31.12.2020) by [The Common Organisation of the Markets in Agricultural Products \(Producer Organisations and Wine\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1446\)](#), regs. 1(3), **5(10)**

^{F28} Article 14

Ex-transnational producer organisations

1 An ex-transnational producer organisation retains recognition as a producer organisation pursuant to Article 152 of Regulation (EU) No 1308/2013 provided that it fulfils the criteria and requirements for recognition set out in Regulation (EU) No 1308/2013, this Regulation and Regulation (EU) 2017/892.

2 Any person that:

- a immediately before IP completion day, was a member of a transnational producer organisation which is an ex-transnational producer organisation; and
- b is not a producer within the meaning of Article 2(a),

is a non-producer member of the ex-transnational producer organisation within the meaning of Article 16, whether or not such person was a producer member of such organisation before IP completion day.

[^{F29}3 By way of derogation from paragraph 2, an existing non-UK member of an extranational producer organisation continues to be a producer member of such organisation until the end of the implementation of an ongoing operational programme that was being implemented by that organisation before IP completion day.]]

Textual Amendments

- F28** Art. 14 substituted (31.12.2020) by [The Common Organisation of the Markets in Agricultural Products \(Producer Organisations and Wine\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1446\)](#), regs. 1(3), **5(11)**
- F29** Art. 14(3) inserted (25.6.2021) by [The Common Organisation of the Markets in Agricultural Products \(Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine\) \(Amendment etc.\) Regulations 2021 \(S.I. 2021/756\)](#), regs. 1(2), **4(4)**

[^{F30}Article 14A

Head office of a producer organisation

1. The head office of a producer organisation must be located in the constituent nation in which the organisation achieves the majority of the value of marketed production calculated in accordance with Articles 22 and 23.

But the head office may be established in the constituent nation where the majority of producer members are located, if both the appropriate authority for that constituent nation and the appropriate authority for the constituent nation referred to in the first subparagraph consent.

2. Notwithstanding paragraph 1, the head office:

- a) may not move to another constituent nation until the end of the implementation of an ongoing operational programme; and
- b) may be maintained in a particular constituent nation for as long as the appropriate authority for that constituent nation and the appropriate authorities referred to in paragraph 1 consent.

3. The appropriate authority for the constituent nation in which the head office of the producer organisation is located:

- a may:
 - i subject to paragraph 4, approve the producer organisation's operational programme;
 - ii grant financial assistance in accordance with Articles 32(1)(b) and 34 of Regulation (EU) No 1308/2013;
- b must:
 - i organise checks on the producer organisation and apply any administrative penalties in accordance with Article 34A of Regulation (EU) 2017/892; and
 - ii provide, on the request of the appropriate authority for a constituent nation in which members are located, all relevant documentation.

4. Notwithstanding paragraph 3(a)(i), where the producer organisation is implementing an operational programme at the time of applying for a new operational programme, the appropriate authority that may approve the new programme is the appropriate authority for the constituent nation in which the producer organisation will have its head office at the time that

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the new programme will be implemented, to be determined in accordance with paragraphs 1 and 2 on the basis of the new operational programme.]

Textual Amendments

F30 Art. 14A inserted (25.6.2021) by [The Common Organisation of the Markets in Agricultural Products \(Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine\) \(Amendment etc.\) Regulations 2021 \(S.I. 2021/756\)](#), regs. 1(2), **4(5)**, 7(a)

Article 15

Mergers of producer organisations

1 Where producer organisations merge, the producer organisation resulting from the merger shall assume the rights and obligations of the individual producer organisations that merged. The [^{F31}Secretary of State] shall ensure that the new producer organisation complies with all recognition criteria and shall assign to it a new number for the purposes of the unique identification system as referred to in Article 22 of Implementing Regulation (EU) 2017/892.

The producer organisation resulting from the merger may either operate the programmes in parallel and separately until 1 January of the year following the merger, or merge the operational programmes from the moment of the merger.

Article 34 of this Regulation shall apply to operational programmes that are merged.

2 By way of derogation from the second subparagraph of paragraph 1, [^{F32}the appropriate authority or authorities (as the case may be)] may authorise on the basis of a duly substantiated request, operational programmes to continue to be implemented in parallel until they reach their natural conclusion.

Textual Amendments

F31 Words in Art. 15(1) substituted (31.12.2020) by [The Common Organisation of the Markets in Agricultural Products \(Producer Organisations and Wine\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1446\)](#), regs. 1(3), **5(12)**

F32 Words in Art. 15(2) substituted (25.6.2021) by [The Common Organisation of the Markets in Agricultural Products \(Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine\) \(Amendment etc.\) Regulations 2021 \(S.I. 2021/756\)](#), regs. 1(2), **4(6)**, 7(a)

Article 16

Non-producer members

1 [^{F33}Any] natural or legal person who is not a producer may be accepted as a member of a producer organisation [^{F34}if and for so long as there is no conflict of interest between that person and the producer organisation].

^{F35}2

3 The natural or legal persons referred to in paragraph 1 shall not:

- a be taken into account for the recognition criteria;

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b benefit directly from the measures financed [^{F36}from public funds].

[^{F37}Restrictions on the right of a natural or legal person to vote on decisions relating to operational funds are set out in Annex VIII to this Regulation.]

[^{F38}4. By way of derogation from paragraph 3(b), an existing non-UK member of an ex-transnational producer organisation may continue to benefit directly from measures financed from public funds, where:

- a those measures are contained in an [^{F39}ongoing] operational programme that was [^{F40}being] implemented by that organisation before IP completion day; and
- b that member was entitled to benefit from those measures immediately before IP completion day.]

Textual Amendments

- F33** Word in Art. 16(1) substituted (31.12.2020) by The Common Organisation of the Markets in Agricultural Products (Producer Organisations and Wine) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1446), regs. 1(3), **5(13)(a)(i)**
- F34** Words in Art. 16(1) inserted (31.12.2020) by The Common Organisation of the Markets in Agricultural Products (Producer Organisations and Wine) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1446), regs. 1(3), **5(13)(a)(ii)**
- F35** Art. 16(2) omitted (31.12.2020) by virtue of The Common Organisation of the Markets in Agricultural Products (Producer Organisations and Wine) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1446), regs. 1(3), **5(13)(b)**
- F36** Words in Art. 16(3)(b) substituted (31.12.2020) by The Common Organisation of the Markets in Agricultural Products (Producer Organisations and Wine) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1446), regs. 1(3), **5(13)(c)(i)**
- F37** Words in Art. 16(3) substituted (31.12.2020) by The Common Organisation of the Markets in Agricultural Products (Producer Organisations and Wine) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1446), regs. 1(3), **5(13)(c)(ii)**
- F38** Art. 16(4) inserted (31.12.2020) by The Common Organisation of the Markets in Agricultural Products (Producer Organisations and Wine) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1446), regs. 1(3), **5(13)(d)**
- F39** Word in Art. 16(4)(a) inserted (25.6.2021) by The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(7)(a)**
- F40** Word in Art. 16(4)(a) inserted (25.6.2021) by The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(7)(b)**

Article 17

Democratic accountability of producer organisations

1 Where a producer organisation has a legal structure requiring democratic accountability under the applicable ^{F41}... legislation, it shall be considered to fulfill this requirement for the purposes of this Regulation unless the [^{F42}Secretary of State] decides otherwise.

[^{F43}2 The maximum percentage of voting rights and shares or capital which any natural or legal person may hold in any producer organisation that does not fall within paragraph 1 is set out in Annex VIII to this Regulation.]

Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2017/891, TITLE II. (See end of Document for details)

3 [F44The Secretary of State] shall carry out checks, based on a risk analysis, on voting rights and shareholdings. Where the members of the producer organisation are legal persons themselves, these checks shall include the identities of the natural or legal persons that hold shares or capital of the members.

F45 4

Textual Amendments

- F41** Word in Art. 17(1) omitted (31.12.2020) by virtue of The Common Organisation of the Markets in Agricultural Products (Producer Organisations and Wine) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1446), regs. 1(3), **5(14)(a)(i)**
- F42** Words in Art. 17(1) substituted (31.12.2020) by The Common Organisation of the Markets in Agricultural Products (Producer Organisations and Wine) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1446), regs. 1(3), **5(14)(a)(ii)**
- F43** Art. 17(2) substituted (31.12.2020) by The Common Organisation of the Markets in Agricultural Products (Producer Organisations and Wine) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1446), regs. 1(3), **5(14)(b)**
- F44** Words in Art. 17(3) substituted (31.12.2020) by The Common Organisation of the Markets in Agricultural Products (Producer Organisations and Wine) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1446), regs. 1(3), **5(14)(c)**
- F45** Art. 17(4) omitted (31.12.2020) by virtue of The Common Organisation of the Markets in Agricultural Products (Producer Organisations and Wine) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1446), regs. 1(3), **5(14)(d)**

Section 3

Associations of producer organisations

Article 18

Rules on producer organisations applicable to associations of producer organisations

Articles 3, 6, 11(3), 13, 15 and 17 [F46(save as provided otherwise in this Article and Annex VIII)] shall apply *mutatis mutandis* to associations of producer organisations. Where the association of producer organisations sells the products of its member producer organisations, Article 11(2) shall apply *mutatis mutandis*. [F47Restrictions on voting rights in associations of producer organisations are set out in Annex VIII to this Regulation.]

Textual Amendments

- F46** Words in Art. 18 inserted (31.12.2020) by The Common Organisation of the Markets in Agricultural Products (Producer Organisations and Wine) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1446), regs. 1(3), **5(15)(a)**
- F47** Words in Art. 18 inserted (31.12.2020) by The Common Organisation of the Markets in Agricultural Products (Producer Organisations and Wine) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1446), regs. 1(3), **5(15)(b)**

Article 19

Recognition of associations of producer organisations

1 ^[F48]The Secretary of State] may recognise associations of producer organisations under Article 156 of Regulation (EU) No 1308/2013 in respect of the activity or activities concerning the product or the group of products specified in the application for recognition where the association of producer organisations is capable of carrying out effectively those activities.

2 An association of producer organisations recognised under Article 156 of Regulation (EU) No 1308/2013 may carry out any of the activities or functions of a producer organisation, even when the marketing of the products concerned continues to be carried out by its members.

3 For a given product or group of products and activity, a producer organisation shall be a member only of one association of producer organisations that implements an operational programme.

4 ^[F49]Nothing in this Regulation prevents the Secretary of State from adopting] complementary rules on recognition of associations of producer organisations.

Textual Amendments

- F48** Words in Art. 19(1) substituted (31.12.2020) by [The Common Organisation of the Markets in Agricultural Products \(Producer Organisations and Wine\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1446\)](#), regs. 1(3), **5(16)(a)**
- F49** Words in Art. 19(4) substituted (31.12.2020) by [The Common Organisation of the Markets in Agricultural Products \(Producer Organisations and Wine\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1446\)](#), regs. 1(3), **5(16)(b)**

Article 20

Members of associations of producer organisations who are not producer organisations

1 ^[F50]Natural] or legal persons other than a recognised producer organisation may be a member of an association of producer organisations ^[F51]if and for so long as there is no conflict of interest between those persons and the association of producer organisations].

2 Members of a recognised association of producer organisations who are not recognised producer organisations shall not:

- a be taken into account for the recognition criteria;
- b benefit directly from the measures financed ^[F52]from public funds].

^[F53]Restrictions on those members' right to vote on decisions relating to operational programmes are set out in Annex VIII to this Regulation.]

Textual Amendments

- F50** Word in Art. 20(1) substituted (31.12.2020) by [The Common Organisation of the Markets in Agricultural Products \(Producer Organisations and Wine\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1446\)](#), regs. 1(3), **5(17)(a)(i)**

Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2017/891, TITLE II. (See end of Document for details)

- F51** Words in Art. 20(1) inserted (31.12.2020) by The Common Organisation of the Markets in Agricultural Products (Producer Organisations and Wine) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1446), regs. 1(3), **5(17)(a)(ii)**
- F52** Words in Art. 20(2)(b) substituted (31.12.2020) by The Common Organisation of the Markets in Agricultural Products (Producer Organisations and Wine) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1446), regs. 1(3), **5(17)(b)(i)**
- F53** Words in Art. 20(2) substituted (31.12.2020) by The Common Organisation of the Markets in Agricultural Products (Producer Organisations and Wine) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1446), regs. 1(3), **5(17)(b)(ii)**

^{F54} *Article 21*

Transnational association of producer organisations

Textual Amendments

- F54** Art. 21 omitted (31.12.2020) by virtue of The Common Organisation of the Markets in Agricultural Products (Producer Organisations and Wine) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1446), regs. 1(3), **5(18)**

^{F55} *Article 21A*

Head office of an association of producer organisations

1. The head office of an association of producer organisations must be located in the constituent nation in which the member producer organisations achieve the majority of the value of marketed production calculated in accordance with Articles 22 and 23.

But the head office may be established in the constituent nation where the majority of member producer organisations are located, if both the appropriate authority for that constituent nation and the appropriate authority for the constituent nation referred to in the first subparagraph consent.

2. Notwithstanding paragraph 1, the head office:
- a may not move to another constituent nation until the end of the implementation of an ongoing operational programme; and
 - b may be maintained in a particular constituent nation for as long as the appropriate authority for that constituent nation and the appropriate authorities referred to in paragraph 1 consent.
3. The appropriate authority for the constituent nation in which the head office of the association of producer organisations is located:
- a may:
 - i subject to paragraph 4, approve the association's operational programme;
 - ii grant financial assistance in accordance with Articles 32(1)(b) and 34 of Regulation (EU) No 1308/2013;
 - b must:

Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2017/891, TITLE II. (See end of Document for details)

- i organise checks on the association of producer organisations and apply any administrative penalties in accordance with Article 34B of Regulation (EU) 2017/892; and
- ii provide, on the request of the appropriate authority for a constituent nation in which members are located, all relevant documentation.

4. Notwithstanding paragraph 3(a)(i), where the association of producer organisations is implementing an operational programme at the time of applying for a new operational programme, the appropriate authority that may approve the new programme is the appropriate authority for the constituent nation in which the association will have its head office at the time that the new programme will be implemented, to be determined in accordance with paragraphs 1 and 2 on the basis of the new operational programme.]

Textual Amendments

F55 Art. 21A inserted (25.6.2021) by [The Common Organisation of the Markets in Agricultural Products \(Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine\) \(Amendment etc.\) Regulations 2021 \(S.I. 2021/756\)](#), regs. 1(2), **4(8)**, 7(a)

CHAPTER II

Operational funds and operational programmes

Section 1

Value of marketed production

Article 22

Basis for calculation

1 [F56]Except to the extent that this Article and Article 23 provide otherwise, the] value of marketed production for a producer organisation shall be calculated on the basis of the production of the producer organisation itself and its producer members, and shall only include the production of those fruit and vegetables for which the producer organisation is recognised. The value of marketed production may include fruit and vegetables that are not required to conform to the marketing standards, where those standards do not apply.

[F57]Except to the extent that this Article and Article 23 provide otherwise, the] value of marketed production for an association of producer organisations shall be calculated on the basis of the production marketed by the association of producer organisations itself and by its member producer organisations, and shall only include the production of those fruit and vegetables for which the association of producer organisations is recognised. In making this calculation duplicate counting shall be avoided.

2 The value of the marketed production shall not include the value of processed fruit and vegetables or any other product that is not a product of the fruit and vegetables sector.

However, the value of the marketed production of fruit and vegetables intended for processing, which have been transformed into one of the processed fruit and vegetable

Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2017/891, TITLE II. (See end of Document for details)

products listed in Part X of Annex I to Regulation (EU) No 1308/2013 or any other processed product referred to in this Article and described further in Annex I to this Regulation, by either a producer organisation, an association of producer organisations or their producer members or subsidiaries complying with the 90 % requirement referred to in paragraph 8 of this Article, either by themselves or through outsourcing, shall be calculated as a flat rate in percentage applied to the invoiced value of those processed products. That flat rate shall be:

- a 53 % for fruit juices;
- b 73 % for concentrated juices;
- c 77 % for tomato concentrate;
- d 62 % for frozen fruit and vegetables;
- e 48 % for canned fruit and vegetables;
- f 70 % for canned mushrooms of the genus *Agaricus*;
- g 81 % for fruits provisionally preserved in brine;
- h 81 % for dried fruits;
- i 27 % for processed fruit and vegetables other than those referred to in points (a) to (h);
- j 12 % for processed aromatic herbs;
- k 41 % for paprika powder.

3 ^[F58]The Secretary of State] may allow producer organisations to include the value of the by-products in the value of marketed production.

^{F59}4

5 ^[F60]Except to the extent that this Article and Article 23 provide otherwise, only] the production of the producer organisation and its producer members which is marketed by that producer organisation shall be counted in the value of marketed production. The production of the producer members of the producer organisation marketed by another producer organisation designated by their own organisation shall be counted in the value of marketed production of the second producer organisation. Duplicate counting shall be avoided.

6 Except where paragraph 8 applies, the marketed production of fruit and vegetables shall be invoiced at the ‘ex-producer organisation’ stage as a product listed in Part IX of Annex I to Regulation (EU) No 1308/2013 that is prepared and packaged, excluding:

- a VAT;
- b costs of transport internal to the producer organisation, for the distance between the centralised collection or packing points of the producer organisation and the point of distribution of the producer organisation which exceeds 300 km.

7 The value of marketed production may also be calculated at the ‘ex-association of producer organisation’ stage and on the same basis as set out in paragraph 6.

8 The value of marketed production may also be calculated at the ‘ex-subsidiary’ stage, on the same basis as set out in paragraph 6, provided that at least 90 % of the shares or capital of the subsidiary is owned:

- a by one or more producer organisations or associations of producer organisations; or
- b subject to ^[F61]approval by the Secretary of State], by producer members of the producer organisations or associations of producer organisations, if doing so contributes to the objectives listed in Article 152(1)(c) of Regulation (EU) No 1308/2013.

9 In case of outsourcing, the value of marketed production shall be calculated at the ‘ex-producer organisation’ stage and shall include the added economic value of the activity that

Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2017/891, TITLE II. (See end of Document for details)

has been outsourced by the producer organisation to its members, third parties or to another subsidiary than the one referred to in paragraph 8.

[^{F23}10 Where a reduction in production occurs due to a natural disaster, climatic event, animal or plant diseases or pest infestations, any insurance indemnification received in respect of harvest insurance actions covered by Section 7 of Chapter III, or equivalent actions managed by the producer organisation or its producer members, due to those causes may be included in the value of marketed production.]

Textual Amendments

- F23** Substituted by Commission Delegated Regulation (EU) 2018/1145 of 7 June 2018 amending Delegated Regulation (EU) 2017/891 as regards producer organisations in the fruit and vegetables sector.
- F56** Words in Art. 22(1) substituted (31.12.2020) by The Common Organisation of the Markets in Agricultural Products (Producer Organisations and Wine) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1446), regs. 1(3), **5(19)(a)(i)**
- F57** Words in Art. 22(1) substituted (31.12.2020) by The Common Organisation of the Markets in Agricultural Products (Producer Organisations and Wine) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1446), regs. 1(3), **5(19)(a)(ii)**
- F58** Words in Art. 22(3) substituted (31.12.2020) by The Common Organisation of the Markets in Agricultural Products (Producer Organisations and Wine) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1446), regs. 1(3), **5(19)(b)**
- F59** Art. 22(4) omitted (31.12.2020) by virtue of The Common Organisation of the Markets in Agricultural Products (Producer Organisations and Wine) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1446), regs. 1(3), **5(19)(c)**
- F60** Words in Art. 22(5) substituted (31.12.2020) by The Common Organisation of the Markets in Agricultural Products (Producer Organisations and Wine) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1446), regs. 1(3), **5(19)(d)**
- F61** Words in Art. 22(8)(b) substituted (31.12.2020) by The Common Organisation of the Markets in Agricultural Products (Producer Organisations and Wine) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1446), regs. 1(3), **5(19)(e)**

Article 23

Reference period and ceiling on ^{F62}... financial assistance

1 [^{F63}The appropriate authority] shall determine for each producer organisation a 12-month reference period, starting no earlier than 1 January of the year that is three years prior to the year for which the aid is requested and ending no later than 31 December of the year preceding the year for which the aid is requested.

The 12-month reference period shall be the accounting period of the producer organisation concerned.

The methodology for fixing the reference period shall not vary during an operational programme except in duly justified situations.

2 [^{F64}Except where paragraph 2A applies, the] ceiling on ^{F65}... financial assistance referred to in Article 34(2) of Regulation (EU) No 1308/2013 shall be calculated each year on the basis of the value of the marketed production during the reference period of the producers who are members of the producer organisation or association of producer organisations on 1 January of the year for which the aid is requested.

Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2017/891, TITLE II. (See end of Document for details)

[^{F66}2A. For ex-transnational producer organisations, the ceiling on financial assistance referred to in Article 34(2) of Regulation (EU) No 1308/2013 is to be calculated, and compliance with Article 154(1)(b) of Regulation (EU) No 1308/2013 is to be assessed, on the basis of the value of the marketed production during the reference period of producers who are producer members of the organisation on 1 January of the year for which aid is requested, calculated in accordance with Article 22.]

^{F67}3

[^{F68}4 Where a reduction of at least 35 % in the value of a product has occurred due to reasons falling outside the responsibility and control of the producer organisation, the value of marketed production of that product shall be deemed to represent 65 % of its value in the previous reference period. The producer organisation shall prove to the [^{F69}appropriate authority] that those reasons were falling outside its responsibility and control.

Where a reduction of at least 35 % in the value of a product has occurred due to plant diseases or pest infestations falling outside the responsibility and control of the producer organisation, the value of marketed production of that product shall be deemed to represent 85 % of its value in the previous reference period. The producer organisation shall prove to the [^{F70}appropriate authority and the Secretary of State (when the Secretary of State is not the appropriate authority)] that it has taken the necessary preventive measures against the plant disease or pest infestation concerned.

This paragraph shall also apply for the purpose of determining compliance with the minimum value of marketed production as provided for in Article 9.]

5 Where historical data on marketed production for newly recognised producer organisations is insufficient for the purpose of the application of paragraph 1, the value of marketed production shall be the value of marketable production provided by the producer organisation for the purposes of recognition.

Textual Amendments

- F62** Word in Art. 23 heading omitted (25.6.2021) by virtue of The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(9)(a)**, 7(a)
- F63** Words in Art. 23(1) substituted (25.6.2021) by The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(9)(b)**, 7(a)
- F64** Words in Art. 23(2) substituted (31.12.2020) by The Common Organisation of the Markets in Agricultural Products (Producer Organisations and Wine) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1446), regs. 1(3), **5(20)(a)**
- F65** Word in Art. 23(2) omitted (25.6.2021) by virtue of The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(9)(c)**, 7(a)
- F66** Art. 23(2A) inserted (31.12.2020) by The Common Organisation of the Markets in Agricultural Products (Producer Organisations and Wine) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1446), regs. 1(3), **5(20)(b)**
- F67** Art. 23(3) omitted (25.6.2021) by virtue of The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(9)(d)**, 7(a)
- F68** Substituted by Commission Delegated Regulation (EU) 2020/743 of 30 March 2020 amending Delegated Regulation (EU) 2017/891 as regards the calculation of the value of marketed production of producer organisations in the fruit and vegetables sector.

Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2017/891, TITLE II. (See end of Document for details)

- F69** Words in Art. 23(4) substituted (25.6.2021) by The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(9)(e)(i)**, 7(a)
- F70** Words in Art. 23(4) substituted (25.6.2021) by The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(9)(e)(ii)**, 7(a)

Article 24

Accounting

[^{F71}The appropriate authority for the constituent nation in which a producer organisation has its head office must ensure that the producer organisation complies] with the [^{F72}standards of cost-based accounting applicable in the constituent nation concerned] that allow independent auditors to promptly identify, check and certify their expenditure and revenue.

Textual Amendments

- F71** Words in Art. 24 substituted (25.6.2021) by The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(10)(a)**, 7(a)
- F72** Words in Art. 24 substituted (25.6.2021) by The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(10)(b)**, 7(a)

Section 2

Operational funds

Article 25

Financing of operational funds

1 The financial contributions to the operational fund referred to in Article 32(1)(a) of Regulation (EU) No 1308/2013 shall be determined by the producer organisation or association of producer organisations.

2 All producer members or member organisations shall have the opportunity to benefit from the operational fund and to participate democratically in decisions concerning the use of the operational fund of the producer organisation or association of producer organisations and of the financial contributions to the operational fund.

3 The statutes of a producer organisation or rules of association of an association of producer organisations shall require its producer members or member organisations to pay the financial contributions in accordance with its statutes or rules of association for the establishment and replenishment of the operational fund provided for in Article 32 of Regulation (EU) No 1308/2013.

Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2017/891, TITLE II. (See end of Document for details)

Article 26

Notification of estimated amount

1 Producer organisations and associations of producer organisations shall notify the [^{F73}appropriate authority for the constituent nation in which their head office is located] of the estimated amounts of ^{F74}... financial assistance [^{F75}referred to in Articles 32(1)(b) and 34 of Regulation (EU) No 1308/2013] and of the contribution, of its members and of the producer organisation or association itself, to the operational funds for the following year, by 15 September at the latest, together with the operational programmes or any request for approval of amendments to an existing operational programme.

However, [^{F76}nothing in this Regulation prevents the appropriate authority from setting] a later date than 15 September.

2 The calculation of the estimated amount of operational funds shall be based on the operational programmes and the value of marketed production. The calculation shall be split between expenditure for crisis prevention and management measures and other measures.

Textual Amendments

- F73** Words in Art. 26(1) substituted (25.6.2021) by The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(11)(a)(i)**, 7(a)
- F74** Word in Art. 26(1) omitted (25.6.2021) by virtue of The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(11)(a)(ii)**, 7(a)
- F75** Words in Art. 26(1) inserted (25.6.2021) by The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(11)(a)(iii)**, 7(a)
- F76** Words in Art. 26(1) substituted (25.6.2021) by The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(11)(b)**, 7(a)

Section 3

Operational programmes

Article 27

[^{F77}Strategy]

1 The ^{F78}... strategy referred to in Article 36(2) of Regulation (EU) No 1308/2013, including the ^{F78}... framework referred to in Article 36(1) of that Regulation shall be established prior to the annual submission of the draft operational programmes. The ^{F78}... framework shall be integrated into the ^{F78}... strategy ^{F79}...

The ^{F78}... strategy may be subdivided into regional elements.

Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2017/891, TITLE II. (See end of Document for details)

[^{F80}2 In addition to the elements referred to in Article 36(2) of Regulation (EU) No 1308/2013, the strategy must integrate all the decisions taken and provisions adopted for the purposes of Articles 152 to 163 of that Regulation that apply in the constituent nation concerned.]

3 [^{F81}The relevant authority must carry out an analysis of the initial situation as part of the process of drawing up the strategy.]

[^{F82}This analysis] shall identify and assess the priority needs, the objectives, the results expected and the quantified targets against the initial situation.

[^{F82}This analysis] shall also lay down the instruments and actions to attain those objectives.

4 [^{F83}The relevant authority] shall monitor and evaluate the ^{F84}... strategy and its implementation through operational programmes.

The ^{F84}... strategy may be amended prior to the annual submission of the draft operational programmes.

5 [^{F85}The relevant authority] shall set out in the ^{F86}... strategy the maximum percentages of the operational fund which may be spent on any individual measure or type of action in order to ensure a balance between different measures.

Textual Amendments

- F77** Art. 27 heading substituted (25.6.2021) by The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(12)(a)**, 7(a)
- F78** Words in Art. 27(1) omitted (25.6.2021) by virtue of The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(12)(b)(i)**, 7(a)
- F79** Words in Art. 27(1) omitted (25.6.2021) by virtue of The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(12)(b)(ii)**, 7(a)
- F80** Art. 27(2) substituted (25.6.2021) by The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(12)(c)**, 7(a)
- F81** Words in Art. 27(3) substituted (25.6.2021) by The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(12)(d)(i)**, 7(a)
- F82** Words in Art. 27(3) substituted (25.6.2021) by The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(12)(d)(ii)**, 7(a)
- F83** Words in Art. 27(4) substituted (25.6.2021) by The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(12)(e)(i)**, 7(a)
- F84** Words in Art. 27(4) omitted (25.6.2021) by virtue of The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(12)(e)(ii)**, 7(a)
- F85** Words in Art. 27(5) substituted (25.6.2021) by The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(12)(f)(i)**, 7(a)

Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2017/891, TITLE II. (See end of Document for details)

F86 Word in Art. 27(5) omitted (25.6.2021) by virtue of The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(12)(f)(ii)**, 7(a)

^{F87}Article 28

National framework for environmental actions

Textual Amendments

F87 Art. 28 omitted (25.6.2021) by virtue of The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(13)**, 7(a)

Article 29

Complementary ^{F88}... rules

[^{F89}Nothing in this Regulation prevents the appropriate authority from adopting] rules complementing Regulation (EU) No 1308/2013, this Regulation and Implementing Regulation (EU) 2017/892 concerning the eligibility of measures, actions or expenditure under operational programmes.

Textual Amendments

- F88** Words in Art. 29 heading omitted (25.6.2021) by virtue of The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(14)(a)**, 7(a)
- F89** Words in Art. 29 substituted (25.6.2021) by The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(14)(b)**, 7(a)

Article 30

Relationship with rural development, State aid and promotion programmes

1 Where support under the [^{F90}relevant authority's] rural development [programme or programmes has been granted to operations which are identical to actions that would be potentially eligible under Regulation (EU) No 1308/2013, [^{F91}the appropriate authority for the constituent nation concerned] shall ensure that a beneficiary may receive support for a given action only under one scheme.

Where [^{F92}the relevant authority] includes such operations in its rural development programme or programmes, it shall ensure that the [^{F93}strategy referred to in Article 36(2) of Regulation (EU) No 1308/2013] indicates the safeguards, provisions and checks put in place to avoid double funding of the same action or operation.

Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2017/891, TITLE II. (See end of Document for details)

[^{F23}2 Producer organisations or associations of producer organisations which have been granted the support provided in Article 27 of Regulation (EU) No 1305/2013 or Article 19 of Commission Regulation (EU) No 702/2014⁽²⁾ may implement an operational programme in the same period provided that the [^{F94}appropriate authority] ensures that the beneficiaries receive support for any given action only under one scheme.]

3 Where applicable, and without prejudice to Article 34(1) and (3) and Article 35 of Regulation (EU) No 1308/2013, the level of support for measures covered by that Regulation shall not exceed the level applicable for the measures under the rural development programme.

4 Support for environmental actions that are identical to agri-environment-climate or organic farming commitments as referred to in Articles 28 and 29 of Regulation (EU) No 1305/2013 respectively, shall be limited to the maximum amounts laid down in Annex II to that Regulation for agri-environment-climate payments or for organic farming payments. Those amounts may be increased in duly substantiated cases taking account of specific circumstances to be justified in the [^{F95}strategy referred to in Article 36(2) of Regulation (EU) No 1308/2013] and in the operational programmes of the producer organisations.

5 Paragraph 4 shall not apply to environmental actions which do not relate directly or indirectly to a particular parcel.

6 Where producer organisations, associations of producer organisations or interbranch organisations benefit from promotion programmes approved under Regulation (EU) No 1144/2014 of the European Parliament and of the Council⁽³⁾, [^{F96}the appropriate authorities] shall ensure that a beneficiary may receive support for a given action only under one scheme.

Textual Amendments

- F23** Substituted by Commission Delegated Regulation (EU) 2018/1145 of 7 June 2018 amending Delegated Regulation (EU) 2017/891 as regards producer organisations in the fruit and vegetables sector.
- F90** Words in Art. 30(1) substituted (25.6.2021) by The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(15)(a)(i)(aa)**, 7(a)
- F91** Words in Art. 30(1) substituted (25.6.2021) by The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(15)(a)(i)(bb)**, 7(a)
- F92** Words in Art. 30(1) substituted (25.6.2021) by The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(15)(a)(ii)(aa)**, 7(a)
- F93** Words in Art. 30(1) substituted (25.6.2021) by The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(15)(a)(ii)(bb)**, 7(a)
- F94** Words in Art. 30(2) substituted (25.6.2021) by The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(15)(b)**, 7(a)
- F95** Words in Art. 30(4) substituted (25.6.2021) by The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(15)(c)**, 7(a)
- F96** Words in Art. 30(6) substituted (25.6.2021) by The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(15)(d)**, 7(a)

Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2017/891, TITLE II. (See end of Document for details)

Article 31

Eligibility of actions under operational programmes

1 Operational programmes shall not include actions or expenditure listed in Annex II. A non-exhaustive list of eligible actions is set out in Annex III.

2 Expenditure under operational programmes eligible for aid shall be restricted to the actual costs incurred. ^{F97}...

^{F98}3

4 In order for an action to be eligible, products for which the producer organisation is recognised shall account for more than 50 % of the value of the products covered by that action. In addition, the products concerned shall come from the producer organisation's members or producer members of another producer organisation or association of producer organisations. Articles 22 and 23 shall apply *mutatis mutandis* to the calculation of the value.

5 Investments in physical assets shall entail the following commitments:

- a without prejudice to paragraph 4, the physical assets acquired shall be used in accordance with their intended use, as described in the approved operational programme concerned;
- b without prejudice to the third and fourth subparagraphs of paragraph 6, the physical assets acquired shall remain both in the property and possession of the beneficiary until either the end of the fiscal depreciation period of the physical asset or for 10 years, whichever period is shorter. The beneficiary shall also ensure the maintenance of the physical asset during that period. However, where the investment is made on ground rented under particular ^{F99}property rules as they apply in the relevant constituent nation], the requirement of being in the property of the beneficiary may not apply provided that the investments have been in the possession of the beneficiary at least for the period required in the first sentence of this point;
- c where the producer organisation is the owner and the member of the producer organisation is the holder of the physical asset to which the investment relates, the producer organisation shall have access rights to that asset for the duration of the fiscal depreciation period.

However, for the purposes of point (b) of the first subparagraph, [^{F100}the appropriate authority] may provide that a period different to that of the fiscal depreciation period shall apply. Such period shall be indicated and duly justified in [^{F101}the strategy referred to in Article 36(2) of Regulation (EU) No 1308/2013] and cover at least the period referred to in Article 71(1) of Regulation (EU) No 1303/2013 of the European Parliament and of the Council⁽⁴⁾.

6 [^{F23}Investments, including those under leasing contracts, may be financed through the operational fund in one amount or in instalments that were approved in the operational programme.][^{F102}The appropriate authority] may approve amendments to the operational programme providing for a new distribution of the instalments in duly justified cases.

If the fiscal depreciation period of an investment exceeds the length of the operational programme, it may be carried over to a subsequent operational programme.

Where investments are replaced, the residual value of the investments replaced shall be:

- a added to the operational fund of the producer organisation; or

- b subtracted from the cost of the replacement.

If the investment is sold before the end of the period referred to in paragraph 5 but it is not replaced, [^{F103}any European Union] aid paid to finance the investment shall be recovered and reimbursed to the European Agricultural Guarantee Fund (EAGF) [^{F104}and any aid paid to finance the investment from public funds shall be recovered by or on behalf of the relevant authority or authorities that provided the aid, in both cases] in proportion to the number of full years that remain until the end of the depreciation period referred to in point (b) of the first subparagraph of paragraph 5.

[^{F105}The obligations to recover any aid paid from public funds under the fourth subparagraph do not apply to investments that are financed under an operational programme implemented by an ex-transnational producer organisation, provided that:

- a the investment was financed under an operational programme that was being implemented by the ex-transnational producer organisation immediately before IP completion day; and
- b the investment was carried over to a subsequent operational programme because the fiscal depreciation period of the investment exceeded the length of the operational programme being implemented immediately before IP completion day.]

7 Actions, including investments, may be implemented on individual holdings or premises of producer members of the producer organisation, association of producer organisations or their subsidiaries complying with the 90 % requirement as referred to in Article 22(8), including where the actions are outsourced to members of the producer organisation or association of producer organisations, provided that they contribute to the objectives of the operational programme.

If the ^{F106}... member leaves the producer organisation, [^{F107}the appropriate authority] shall ensure that the investment or its residual value is recovered by the producer organisation and in the latter case, added to the operational fund.

However, in duly justified circumstances, [^{F107}the appropriate authority] may provide that the producer organisation shall not be required to recover the investment or its residual value.

8 Actions, including investments, related to the transformation of fruit and vegetables into processed fruit and vegetables may be eligible for support where such actions and investments pursue the objectives set out in Article 33(1) of Regulation (EU) No 1308/2013, including those referred to in Article 160 of that Regulation, and provided that they are identified in the ^{F108}... strategy referred to in Article 36 of Regulation (EU) No 1308/2013.

9 Investments in intangible assets may be eligible for support where such investments pursue the objectives set out in Article 33(1) of Regulation (EU) No 1308/2013, including those referred to in Article 160 of that Regulation, and provided that they are identified in the ^{F109}... strategy referred to in Article 36 of Regulation (EU) No 1308/2013.

Textual Amendments

- F23** Substituted by [Commission Delegated Regulation \(EU\) 2018/1145 of 7 June 2018 amending Delegated Regulation \(EU\) 2017/891 as regards producer organisations in the fruit and vegetables sector.](#)
- F97** Words in Art. 31(2) omitted (25.6.2021) by virtue of [The Common Organisation of the Markets in Agricultural Products \(Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine\) \(Amendment etc.\) Regulations 2021 \(S.I. 2021/756\)](#), regs. 1(2), **4(16)(a)**, 7(a)

Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2017/891, TITLE II. (See end of Document for details)

- F98** Art. 31(3) omitted (25.6.2021) by virtue of The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(16)(b)**, 7(a)
- F99** Words in Art. 31(5) substituted (25.6.2021) by The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(16)(c)(i)**, 7(a)
- F100** Words in Art. 31(5) substituted (25.6.2021) by The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(16)(c)(ii)(aa)**, 7(a)
- F101** Words in Art. 31(5) substituted (25.6.2021) by The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(16)(c)(ii)(bb)**, 7(a)
- F102** Words in Art. 31(6) substituted (25.6.2021) by The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(16)(d)(i)**
- F103** Words in Art. 31(6) substituted (25.6.2021) by The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(16)(d)(ii)(aa)**, 7(a)
- F104** Words in Art. 31(6) inserted (25.6.2021) by The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(16)(d)(ii)(bb)**, 7(a)
- F105** Words in Art. 31(6) substituted (25.6.2021) by The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(16)(d)(iii)**
- F106** Word in Art. 31(7) omitted (31.12.2020) by virtue of The Common Organisation of the Markets in Agricultural Products (Producer Organisations and Wine) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1446), regs. 1(3), **5(21)(b)**
- F107** Words in Art. 31(7) substituted (25.6.2021) by The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(16)(e)**, 7(a)
- F108** Word in Art. 31(8) omitted (25.6.2021) by virtue of The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(16)(f)**, 7(a)
- F109** Word in Art. 31(9) omitted (25.6.2021) by virtue of The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(16)(f)**, 7(a)

Article 32

Operational programmes of associations of producer organisations

1 [F110Associations of producer organisations may make provision in their members' agreements and statutes for producer members] which are not producer organisations, but which are members of such associations pursuant to Article 20, [F111to] finance the measures implemented by the association of producer organisations in proportion to the contribution of member producer organisations.

2 Articles 30, 31, 33 and 34 of this Regulation and Articles 4 to 7 of Implementing Regulation (EU) 2017/892 shall apply *mutatis mutandis* to operational programmes of associations of producer organisations. However, a balance between the activities referred to in Article 4(1)(b) of Implementing Regulation (EU) 2017/892 shall not be required in respect of partial operational programmes of associations of producer organisations.

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3 The ceiling for the crisis management and prevention expenditure, referred to in the fourth subparagraph of Article 33(3) of Regulation (EU) No 1308/2013, under the operational programmes of associations of producer organisations shall be calculated at the level of each member producer organisation.

Textual Amendments

- F110** Words in Art. 32(1) substituted (25.6.2021) by [The Common Organisation of the Markets in Agricultural Products \(Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine\) \(Amendment etc.\) Regulations 2021 \(S.I. 2021/756\)](#), regs. 1(2), **4(17)(a)**, 7(a)
- F111** Word in Art. 32(1) inserted (25.6.2021) by [The Common Organisation of the Markets in Agricultural Products \(Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine\) \(Amendment etc.\) Regulations 2021 \(S.I. 2021/756\)](#), regs. 1(2), **4(17)(b)**, 7(a)

Article 33

Decision

- 1 [^{F112}The appropriate authority] shall:
- approve amounts of operational funds and operational programmes which meet the requirements of Regulation (EU) No 1308/2013 and those of this Chapter;
 - approve the operational programmes, on condition that certain amendments are accepted by the producer organisation; or
 - reject the operational programmes or parts thereof.

2 [^{F113}The appropriate authority] shall take decisions on operational programmes and operational funds by 15 December of the year in which they are submitted.

[^{F113}The appropriate authority] shall notify the producer organisations of those decisions by 15 December.

However, for duly justified reasons, such decisions may be taken after that date, but no later than 20 January following the date of submission. The approval decision may provide that expenditure is eligible from 1 January of the year following the submission.

Textual Amendments

- F112** Words in Art. 33(1) substituted (25.6.2021) by [The Common Organisation of the Markets in Agricultural Products \(Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine\) \(Amendment etc.\) Regulations 2021 \(S.I. 2021/756\)](#), regs. 1(2), **4(18)(a)**, 7(a)
- F113** Words in Art. 33(2) substituted (25.6.2021) by [The Common Organisation of the Markets in Agricultural Products \(Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine\) \(Amendment etc.\) Regulations 2021 \(S.I. 2021/756\)](#), regs. 1(2), **4(18)(b)**, 7(a)

Article 34

Amendments to operational programmes

1 Producer organisations may request amendments to operational programmes, including their duration, for subsequent years. [^{F114}The appropriate authority] shall set deadlines

Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2017/891, TITLE II. (See end of Document for details)

for the submission and approval of such requests so that the approved amendments apply as from 1 January of the following year.

For duly justified reasons, such requests may be approved after the deadlines set by [F115the appropriate authority], but no later than 20 January following the year of the request. The approval decision may provide that expenditure is eligible from 1 January following the year of the request.

2 [F116The appropriate authority] may authorise amendments to operational programmes during the year, under conditions to be determined by [F117the appropriate authority]. The decisions on those amendments shall be taken by 20 January of the year following the year on which amendments are requested.

Producer organisations may be authorised by [F118the appropriate authority], during the year to:

- a implement their operational programmes in part only;
- b change the content of the operational programmes;
- c increase the amount of the operational fund by a maximum of 25 %, and decrease it by a [F119maximum of 25%], of the amount initially approved, provided that the overall objectives of the operational programme are maintained;
- d add [F120additional] financial assistance to the operational fund in case of application of Article 53.

[F121The appropriate authority] shall determine the conditions under which operational programmes may be amended during the year without prior approval by [F122that appropriate] authority [F123...]. Those amendments shall only be eligible for aid if they are notified by the producer organisation to [F122that appropriate] authority without delay.

[F124The appropriate authority] may modify the percentages referred to in point (c) of the second subparagraph in case of mergers of producer organisations as referred to in Article 15(1).

3 Requests for amendments shall be accompanied by supporting documents giving the reason, nature and implications of the changes.

Textual Amendments

- F114** Words in Art. 34(1) substituted (25.6.2021) by The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(19)(a)(i)**, 7(a)
- F115** Words in Art. 34(1) substituted (25.6.2021) by The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(19)(a)(ii)**, 7(a)
- F116** Words in Art. 34(2) substituted (25.6.2021) by The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(19)(b)(i)(aa)**, 7(a)
- F117** Words in Art. 34(2) substituted (25.6.2021) by The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(19)(b)(i)(bb)**, 7(a)
- F118** Words in Art. 34(2) substituted (25.6.2021) by The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(19)(b)(ii)(aa)**, 7(a)

Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2017/891, TITLE II. (See end of Document for details)

- F119** Words in Art. 34(2) substituted (25.6.2021) by The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(19)(b)(ii)(bb)**, 7(a)
- F120** Word in Art. 34(2) substituted (25.6.2021) by The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(19)(b)(ii)(cc)**, 7(a)
- F121** Words in Art. 34(2) substituted (25.6.2021) by The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(19)(b)(iii)(aa)**, 7(a)
- F122** Words in Art. 34(2) substituted (25.6.2021) by The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(19)(b)(iii)(bb)**, 7(a)
- F123** Words in Art. 34(2) omitted (25.6.2021) by virtue of The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(19)(b)(iii)(cc)**, 7(a)
- F124** Words in Art. 34(2) substituted (25.6.2021) by The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(19)(b)(iv)**, 7(a)

Section 4

Aid

Article 35

Advance payments

1 ^[F125]A producer organisation may apply to the appropriate authority for the constituent nation in which the producer organisation has its head office] for an advance payment of a part of the aid. That advance payment shall correspond to the forecast expenditure resulting from the operational programme during the ^[F126]quarter] starting in the month in which the application for an advance payment is submitted.

^[F127]A producer organisation applying for an advance payment must demonstrate to the satisfaction of the appropriate authority, and the appropriate authority must verify, that:

- a financial contributions to the producer organisation's operational fund have been levied and paid in accordance with Articles 24 and 25;
- b the corresponding producer organisation contribution has actually been spent; and
- c any previous advance payments received by the producer organisation have actually been spent.]

2 Applications for the release of securities may be submitted during the current programme year and shall be accompanied by supporting documents, such as invoices and documents proving that payment has been made.

Securities shall be released in respect of up to 80 % of advances paid.

3 In the event of failure to comply with the operational programmes or of serious failure to meet the obligations provided for in Article 5(b) and (c) of Implementing Regulation (EU) 2017/892 the security shall be forfeited, without prejudice to other administrative penalties to be applied in accordance with Section 3 of Chapter V of this Title.

Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2017/891, TITLE II. (See end of Document for details)

In the event of failure to comply with other requirements, the security shall be forfeited in proportion to the gravity of the irregularity that has been established.

[^{F128}4. In this Article ‘quarter’ means a period of three months ending with the last day of March, June, September or December.]

Textual Amendments

- F125** Words in Art. 35(1) substituted (25.6.2021) by The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(20)(a)(i)(aa)**, 7(a)
- F126** Word in Art. 35(1) substituted (25.6.2021) by The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(20)(a)(i)(bb)**, 7(a)
- F127** Words in Art. 35(1) substituted (25.6.2021) by The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(20)(a)(ii)**, 7(a)
- F128** Art. 35(4) inserted (25.6.2021) by The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(20)(b)**, 7(a)

Article 36

Cessation of an operational programme and discontinuity of recognition

1 If a producer organisation or association of producer organisations ceases to implement its operational programme before the end of its scheduled duration, no further payments shall be made to that organisation or association for actions implemented after the date of cessation.

2 Aid received for eligible actions carried out before the cessation of the operational programme shall not be recovered, provided that:

- a the producer organisation or association of producer organisations complied with the recognition criteria and the objectives of the actions laid down in the operational programme have been fulfilled at the moment of cessation; and
- b the investments financed with support from the operational fund are maintained in the possession of and used by the producer organisation, association of producer organisations or its subsidiaries complying with the 90 % requirement referred to in Article 22(8) or its members at least until the end of their depreciation period as referred to in Article 31(5). Otherwise, the [^{F129}European Union] financial assistance paid to finance those investments shall be recovered and reimbursed to the EAGF [^{F130}and any aid paid to finance those investments from public funds shall be recovered by or on behalf of the relevant authority or authorities that provided the aid].

3 [^{F131}European Union] financial assistance for multiannual commitments, such as environmental actions, where their long term objectives and expected benefits cannot be realised because of the interruption of the measure shall be recovered and reimbursed to the EAGF.

[^{F132}Any aid paid from public funds for multiannual commitments, such as environmental actions, where their long term objectives and expected benefits cannot be realised because of the interruption of the measure shall be recovered by or on behalf of the relevant authority or authorities that provided the aid.]

No...

TITLE II CHAPTER III Section 1

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Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2017/891, TITLE II. (See end of Document for details)

4 This Article shall apply *mutatis mutandis* in case of voluntary discontinuity of recognition, withdrawal of recognition or dissolution of the producer organisation or association of producer organisations.

5 Unduly paid aid shall be recovered in accordance with Article 67.

^{F133}6.

Textual Amendments

- F129** Words in Art. 36(2)(b) substituted (25.6.2021) by The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(21)(a)(i)**, 7(a)
- F130** Words in Art. 36(2)(b) inserted (25.6.2021) by The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(21)(a)(ii)**, 7(a)
- F131** Words in Art. 36(3) substituted (25.6.2021) by The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(21)(b)(i)**, 7(a)
- F132** Words in Art. 36(3) inserted (25.6.2021) by The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(21)(b)(ii)**, 7(a)
- F133** Art. 36(6) omitted (25.6.2021) by virtue of The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(21)(c)**

CHAPTER III

Crisis prevention and management measures

Section 1

General provisions

^{F134}Article 37

Selection of crisis prevention and management measures

Textual Amendments

- F134** Art. 37 omitted (25.6.2021) by virtue of The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(22)**, 7(a)

Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2017/891, TITLE II. (See end of Document for details)

Article 38

Loans to finance crisis prevention and management measures

Loans taken out to finance crisis prevention and management measures pursuant to the fifth subparagraph of Article 33(3) of Regulation (EU) No 1308/2013 may, on duly justified economic grounds, be carried over to a subsequent operational programme, if their repayment period exceeds the length of the operational programme.

^{F135}Section 2

Investments making the management of the volumes placed on the market more efficient

Article 39

Investments related to the management of volumes

.....

Textual Amendments

F135 Title 2 Ch. 3 s. 2 omitted (25.6.2021) by virtue of [The Common Organisation of the Markets in Agricultural Products \(Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine\) \(Amendment etc.\) Regulations 2021 \(S.I. 2021/756\)](#), regs. 1(2), **4(23)**, 7(a)

^{F23}Section 3

Support related to mutual funds

Article 40

Support related to mutual funds

1 ^{F136}A producer organisation may apply for support for the administrative cost of setting up mutual funds and the replenishment of mutual funds, as referred to in point (d) of the first subparagraph of Article 33(3) of [Regulation \(EU\) No 1308/2013](#).]

2 The support for the administrative cost of setting up mutual funds ^{F137}... shall comprise both the ^{F138}... financial assistance [^{F139}referred to in Articles 32(1)(b) and 34 of [Regulation \(EU\) No 1308/2013](#)] and the contribution from the producer organisation. The total amount of that support shall not exceed 5 %, 4 % or 2 % of the contribution of the producer organisation to the mutual fund in the first, second and third year of its operation, respectively.

3 A producer organisation may receive the support for the administrative cost of setting up mutual funds ^{F140}..., only once and only within the three first years of the operation of the mutual fund. Where a producer organisation only asks for that support in the second or the third year of operation of the mutual funds, the support shall be 4 % or 2 % of the contribution

No...

TITLE II CHAPTER III Section 4

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of the producer organisation to the mutual fund in the second and third year of its operation, respectively.

4 [F141 Nothing in this Regulation prevents the appropriate authority from fixing] ceilings for the amounts that may be received by a producer organisation as a support related to mutual funds.]

Textual Amendments

- F136** Art. 40(1) substituted (25.6.2021) by The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(24)(a)**, 7(a)
- F137** Words in Art. 40(2) omitted (25.6.2021) by virtue of The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(24)(b)(i)**, 7(a)
- F138** Word in Art. 40(2) omitted (25.6.2021) by virtue of The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(24)(b)(ii)**, 7(a)
- F139** Words in Art. 40(2) inserted (25.6.2021) by The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(24)(b)(iii)**, 7(a)
- F140** Words in Art. 40(3) omitted (25.6.2021) by virtue of The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(24)(c)**, 7(a)
- F141** Words in Art. 40(4) substituted (25.6.2021) by The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(24)(d)**, 7(a)

F142 *Section 4*

Replanting of orchards following mandatory grubbing-up

Article 41

Replanting of orchards

Textual Amendments

- F142** Title 2 Ch. 3 ss. 4-6 omitted (25.6.2021) by virtue of The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(25)**, 7(a)

Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2017/891, TITLE II. (See end of Document for details)

^{F142}Section 5

Market withdrawals

Article 42

Scope

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Article 43

Three-year average for market withdrawals for free distribution

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Article 44

Prior notification of withdrawal operations

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Article 45

Support

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Article 46

Destinations for withdrawn products

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Article 47

Conditions for the recipients of withdrawn products

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Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2017/891, TITLE II. (See end of Document for details)

^{F142}Section 6

Green harvesting and non-harvesting

Article 48

Conditions for the application of green harvesting and non-harvesting

.....

Article 49

Obligations of the Member States

.....

Section 7

Harvest insurance

Article 50

Objective of harvest insurance actions

Actions relating to harvest insurance as referred to in point (h) of the first subparagraph of Article 33(3) of Regulation (EU) No 1308/2013 shall contribute to safeguarding producers' incomes and to covering market losses incurred by the producer organisation or its members where they are affected by natural disasters, climatic events and, where applicable, diseases or pest infestations.

Article 51

Implementation of harvest insurance actions

[^{F143}1 Harvest insurance actions must be managed by the producer organisation. Harvest insurance actions do not have to cover all of the members of the producer organisation, and can be targeted at specific producer members.

Harvest insurance actions are not permitted to cover contracts of insurance that are not effected and carried out as principal by an authorised person in accordance with the Financial Services and Markets Act 2000.]

2 [^{F144}The appropriate authority for the constituent nation in which the producer organisation has its head office] may grant additional ^{F145}... financing to support harvest insurance actions which are benefiting from the operational fund. However, total public support for harvest insurance shall not exceed:

- a 80 % of the cost of the insurance premiums paid for by producers for insurance against losses as a result of adverse climatic events which can be assimilated to natural disasters;
- b 50 % of the cost of the insurance premiums paid for by producers for insurance against:

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- (i) losses referred to in point (a) and against other losses caused by adverse climatic events; and
- (ii) losses caused by animal or plant diseases or pest infestations.

The limit set out in point (b) of the first subparagraph shall apply even in cases where the operational fund is otherwise eligible for 60 % ^{F146} ... financial assistance pursuant to Article 34(3) of Regulation (EU) No 1308/2013.

3 Harvest insurance actions shall not cover insurance payments which compensate producers for more than 100 % of the income loss suffered, taking into account any compensation the producers obtain from other support schemes related to the insured risk.

Textual Amendments

- F143** Art. 51(1) substituted (25.6.2021) by [The Common Organisation of the Markets in Agricultural Products \(Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine\) \(Amendment etc.\) Regulations 2021 \(S.I. 2021/756\)](#), regs. 1(2), **4(26)(a)**, 7(a)
- F144** Words in Art. 51(2) substituted (25.6.2021) by [The Common Organisation of the Markets in Agricultural Products \(Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine\) \(Amendment etc.\) Regulations 2021 \(S.I. 2021/756\)](#), regs. 1(2), **4(26)(b)(i)(aa)**, 7(a)
- F145** Word in Art. 51(2) omitted (25.6.2021) by virtue of [The Common Organisation of the Markets in Agricultural Products \(Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine\) \(Amendment etc.\) Regulations 2021 \(S.I. 2021/756\)](#), regs. 1(2), **4(26)(b)(i)(bb)**, 7(a)
- F146** Word in Art. 51(2) omitted (25.6.2021) by virtue of [The Common Organisation of the Markets in Agricultural Products \(Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine\) \(Amendment etc.\) Regulations 2021 \(S.I. 2021/756\)](#), regs. 1(2), **4(26)(b)(ii)**, 7(a)

^{F147} *Section 8*

Support related to coaching

Article 51a

Implementation of coaching measures

Textual Amendments

- F147** Title 2 Ch. 3 s. 8 omitted (25.6.2021) by virtue of [The Common Organisation of the Markets in Agricultural Products \(Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine\) \(Amendment etc.\) Regulations 2021 \(S.I. 2021/756\)](#), regs. 1(2), **4(27)**, 7(a)

No...

TITLE II CHAPTER IV

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Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2017/891, TITLE II. (See end of Document for details)

CHAPTER IV

[^{F148}Additional] financial assistance[^{F23}Article 52Conditions for the application of [^{F149}additional] financial assistance

^{F150}1

^{F151}2

3 Only fruit and vegetables produced in the [^{F152}regions] referred to in paragraph 4 shall benefit from [^{F153}additional financial assistance referred to in Article 35 of Regulation (EU) No 1308/2013].

4 [^{F154}Regulations under Article 35(1) of Regulation (EU) No 1308/2013 must specify the regions to which the regulations apply.

The regions must be a distinct part of the territory of the constituent nation concerned and data must be available in order to calculate the degree of organisation of producers in the fruit and vegetables sector in those regions.

The appropriate authority must determine the regions where the degree of organisation of producers in the fruit and vegetables sector is particularly low on the basis of objective and non-discriminatory criteria, such as those regions’—

- a agronomic and economic characteristics;
- b agricultural and fruit and vegetable potential; and
- c institutional or administrative structure.]

The regions [^{F155}specified] by [^{F156}such regulations] shall not be amended at least for five years unless such amendment is objectively justified, in particular for reasons that are not related to the calculation of the degree of organisation of producers in the region or regions concerned.

^{F157}5

Textual Amendments

F23 Substituted by Commission Delegated Regulation (EU) 2018/1145 of 7 June 2018 amending Delegated Regulation (EU) 2017/891 as regards producer organisations in the fruit and vegetables sector.

F149 Word in Art. 52 heading substituted (25.6.2021) by The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), 4(29)(a), 7(a)

F150 Art. 52(1) omitted (25.6.2021) by virtue of The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), 4(29)(b), 7(a)

F151 Art. 52(2) omitted (25.6.2021) by virtue of The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), 4(29)(b), 7(a)

F152 Word in Art. 52(3) substituted (25.6.2021) by The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), 4(29)(c)(i), 7(a)

Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2017/891, TITLE II. (See end of Document for details)

- F153** Words in Art. 52(3) substituted (25.6.2021) by The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(29)(c)(ii)**, 7(a)
- F154** Words in Art. 52(4) substituted (25.6.2021) by The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(29)(d)(i)**, 7(a)
- F155** Word in Art. 52(4) substituted (25.6.2021) by The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(29)(d)(ii)(aa)**, 7(a)
- F156** Words in Art. 52(4) substituted (25.6.2021) by The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(29)(d)(ii)(bb)**, 7(a)
- F157** Art. 52(5) omitted (25.6.2021) by virtue of The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(29)(e)**, 7(a)

Article 53

Amendments to the operational programme

A producer organisation wishing to apply for [^{F158}additional] financial assistance shall, if necessary, amend its operational programme pursuant to Article 34.

Textual Amendments

- F158** Word in Art. 53 substituted (25.6.2021) by The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(30)**, 7(a)

Textual Amendments

- F148** Word in Ch. 4 heading substituted (25.6.2021) by The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(28)**, 7(a)

CHAPTER V

General provisions

Section 1

Notifications and reports

^{F159}Article 54

Publications concerning producer organisations and associations of producer organisations

Each appropriate authority must each ensure that the following information and documents are published on a website maintained by them or on their behalf, starting in 2022:

- (a) by 31 January each year:
 - (i) the total amount of the operational funds approved that year for operational programmes;
 - (ii) the total amount of financial assistance granted under Articles 32(1)(b) and 34 of Regulation (EU) No 1308/2013 for that year;
 - (iii) the allocations of the amounts referred to in points (i) and (ii) between:
 - (aa) crisis prevention and management measures;
 - (bb) other measures;
- (b) by 15 November each year, an annual report on producer organisations and associations of producer organisations, and operational funds and operational programmes in operation during the previous year. This annual report must contain the information set out in Annex V to this Regulation.

Where the appropriate authorities agree, the information and documents may instead be published in respect of the United Kingdom as a whole.]

Textual Amendments

F159 Art. 54 substituted (25.6.2021) by [The Common Organisation of the Markets in Agricultural Products \(Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine\) \(Amendment etc.\) Regulations 2021 \(S.I. 2021/756\)](#), regs. 1(2), **4(31)**, 7(a)

Article 55

Member States' notifications concerning producer prices of fruit and vegetables on the internal market

1 Member States shall notify the Commission, by 12.00 hours (Brussels time) each Wednesday of the weighted average recorded prices for fruit and vegetables listed in Annex VI during the previous week, where data are available.

Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2017/891, TITLE II. (See end of Document for details)

For fruit and vegetables covered by the general marketing standard set out in Part A of Annex I to Implementing Regulation (EU) No 543/2011, only prices of products meeting that standard shall be notified, whereas prices for products covered by a specific marketing standard set out in Part B of that Annex shall only concern products of class I.

Member States shall notify a single weighted average price corresponding to the types and varieties of products, sizes and presentations specified in Annex VI to this Regulation. Where recorded prices concern other types, varieties, sizes or presentations than those specified in that Annex, Member States shall notify the Commission of the types, varieties, sizes and presentations of the products to which prices correspond.

Notified prices shall be ex-packaging station, sorted, packaged and, where applicable, on pallets, expressed in euro per 100 kilograms net weight.

2 Member States shall identify representative markets in the production area of the fruit and vegetables concerned. Member States shall notify the Commission of the representative markets and their weight in the average with the first notification or when they modify them. Member States may notify other prices on a voluntary basis.

Section 2

Monitoring and evaluation of operational programmes and of ^{F160}... strategies

^{F23} Article 56

Indicators

1 The operational programmes and the [^{F161}strategies referred to in Article 36(2) of Regulation (EU) No 1308/2013] shall be subject to monitoring and evaluation aimed at assessing the progress made in achieving the objectives set in the operational programmes, as well as their efficiency and the effectiveness in relation to those objectives.

2 Progress, efficiency and effectiveness referred to in paragraph 1 shall be assessed throughout the implementation of the operational programme on the basis of indicators, set out in Section 4 of Annex II to Implementing Regulation (EU) 2017/892, relating to actions and measures implemented by recognised producer organisations [^{F162}and associations of producer organisations] during the operational programmes.]

Textual Amendments

- F23** Substituted by Commission Delegated Regulation (EU) 2018/1145 of 7 June 2018 amending Delegated Regulation (EU) 2017/891 as regards producer organisations in the fruit and vegetables sector.
- F161** Words in Art. 56(1) substituted (25.6.2021) by The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(33)**, 7(a)
- F162** Words in Art. 56(2) substituted (31.12.2020) by The Common Organisation of the Markets in Agricultural Products (Producer Organisations and Wine) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1446), regs. 1(3), **5(23)**

Article 57

Monitoring and evaluation procedures in relation to operational programmes

1 Producer organisations and associations of producer organisations shall establish a system to collect, record and maintain information for the compilation of the applicable indicators for the monitoring and evaluation of the operational programmes.

2 The monitoring exercise shall be carried out in such a way that its results:

- a verify the quality of programme implementation;
- b identify any need for adjustments or review of the operational programme;
- [^{F23}c provide information for reporting requirements.]

3 Evaluation shall take the form of a report [^{F163}to be sent by the producer organisation or association of producer organisations concerned to the appropriate authority] in the last but one year of the implementation of the operational programme ^{F164}...

[^{F23}The evaluation exercise shall examine the progress made in relation to the overall objectives of the programme, based on indicators set out in Section 4 of Annex II to Implementing Regulation (EU) 2017/892.]

Where applicable, the evaluation exercise shall include a qualitative assessment of the results and the impact of the environmental actions aimed at:

- a the prevention of soil erosion;
- b a reduction in the use or better management of plant protection products;
- c the protection of habitats and biodiversity; and
- d landscape conservation.

The results of the exercise shall be used to:

- a improve the quality of the operational programme;
- b identify any need for substantive change of the operational programme; and
- c draw lessons useful in improving future operational programmes.

[^{F23}The evaluation report shall be attached to the corresponding annual report referred to in [^{F165}Article 9(2)(j)] of the Implementing Regulation (EU) 2017/892.]

Textual Amendments

- F23** Substituted by Commission Delegated Regulation (EU) 2018/1145 of 7 June 2018 amending Delegated Regulation (EU) 2017/891 as regards producer organisations in the fruit and vegetables sector.
- F163** Words in Art. 57(3) inserted (25.6.2021) by The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(34)(a)(i)**, 7(a)
- F164** Words in Art. 57(3) omitted (25.6.2021) by virtue of The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(34)(a)(ii)**, 7(a)
- F165** Words in Art. 57(3) substituted (25.6.2021) by The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(34)(b)**, 7(a)

Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2017/891, TITLE II. (See end of Document for details)

Article 58

Monitoring and evaluation procedures in relation to the ^{F166}... strategy

1 ^{F167}Each appropriate authority] shall establish a system to collect, record and maintain information in electronic form adequate for the purpose of compiling the indicators referred to in Article 56. To this end, ^{F168}each appropriate authority] shall use the information transmitted by the producer organisations and associations of producer organisations in relation to the monitoring and the evaluation of their operational programmes. ^{F169}Where the appropriate authorities agree, the system may be a single system in respect of the United Kingdom as a whole.]

2 Monitoring shall be ongoing in order to assess the progress made towards achieving the objectives of the operational programmes. For this purpose, use shall be made of the information provided in the annual reports transmitted by the producer organisations and associations of producer organisations. The monitoring exercise shall be carried out in such a way that its results:

- a verify the quality of the implementation of the operational programmes;
- b identify any need for adjustments or review of the ^{F166}... strategy aimed at achieving the goals set for the strategy or at improving the management of the strategy implementation, including the financial management of the operational programmes.

3 Evaluation shall be aimed at assessing the progress made towards the overall objectives of the strategy. For this purpose, use shall be made of the results of the monitoring and evaluation of the operational programmes as indicated in the annual and last but one annual reports transmitted by the producer organisations. The results of the evaluation exercise shall be used to:

- a improve the quality of the strategy;
- b identify any need for substantive change of the strategy.

^{F170}
...

Textual Amendments

- F166** Word in Art. 58 omitted (25.6.2021) by virtue of The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(35)(a)**, 7(a)
- F167** Words in Art. 58(1) substituted (25.6.2021) by The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(35)(b)(i)**, 7(a)
- F168** Words in Art. 58(1) substituted (25.6.2021) by The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(35)(b)(ii)**, 7(a)
- F169** Words in Art. 58(1) inserted (25.6.2021) by The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(35)(b)(iii)**, 7(a)
- F170** Words in Art. 58(3) omitted (25.6.2021) by virtue of The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(35)(c)**, 7(a)

Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2017/891, TITLE II. (See end of Document for details)

Textual Amendments

F160 Word in Ch. 5 s. 2 heading omitted (25.6.2021) by virtue of [The Common Organisation of the Markets in Agricultural Products \(Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine\) \(Amendment etc.\) Regulations 2021 \(S.I. 2021/756\)](#), regs. 1(2), **4(32)**, 7(a)

Section 3

Administrative penalties

Article 59

Non-respect of recognition criteria

1 If ^{F171}the Secretary of State] has established that a producer organisation fails to respect one of the recognition criteria linked to the requirements of Articles 5 and 7, Article 11(1) and (2) and Article 17, ^{F172}the Secretary of State] shall send to the producer organisation in question no later than two months after the failure has been identified, by registered delivery, a warning letter stating the failure identified, the corrective measures required and the time periods within which these measures have to be taken, which shall not exceed four months. As from the moment a failure is established, ^{F173}the appropriate authority] shall suspend payments of aid until the corrective measures are taken to ^{F174}the Secretary of State's] satisfaction.

2 A failure to take the corrective measures referred to in paragraph 1 within the time period fixed by the ^{F175}Secretary of State] shall lead to the suspension of the recognition of the producer organisation. The ^{F175}Secretary of State] shall notify the producer organisation of the period of suspension, which shall start immediately after the expiry of the time period fixed for taking those corrective measures and shall not exceed 12 months from the date of the receipt of the warning letter by the producer organisation. This is without prejudice to the application of ^{F176}... legislation which may provide for the suspension of such an action following the commencement of connected legal proceedings.

During the suspension of the recognition, the producer organisation may continue its activity, but aid payments shall be withheld until the suspension of the recognition is lifted. The yearly aid amount shall be reduced by 2 % for each calendar month or part thereof during which recognition is suspended.

The suspension shall end on the day of the check which confirms that the recognition criteria in question have been fulfilled.

3 If the criteria are not fulfilled by the end of the period of suspension set by the ^{F177}Secretary of State], the ^{F178}Secretary of State] shall withdraw the recognition with effect from the date from which the conditions for recognition were not fulfilled, or, if it is not possible to identify that date, from the date when the failure was established. This is without prejudice to the application of ^{F179}... legislation which may provide for the suspension of recognition following the commencement of connected legal proceedings. Outstanding aid concerning the period during which the failure has been identified shall not be paid and unduly paid aid shall be recovered.

4 If ^{F180}the Secretary of State] has established that a producer organisation fails to respect any of the recognition criteria laid down in Article 154 of Regulation (EU) No 1308/2013 other than those mentioned in paragraph 1, ^{F181}the Secretary of State] shall send to the producer

Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2017/891, TITLE II. (See end of Document for details)

organisation in question, no later than two months after the failure has been established, by registered delivery, a warning letter stating the failure identified, the corrective measures required and the time periods within which these measures have to be taken, which shall not exceed four months.

5 A failure to take the corrective measures referred to in paragraph 4 within the time period fixed by the [F182 Secretary of State] shall lead to a suspension of payments and a reduction of the yearly aid amount by 1 % for each calendar month, or part thereof, following the expiry of that time period. This is without prejudice to the application of F183 ... legislation which may provide for the suspension of such an action following the commencement of connected legal proceedings.

6 [F184 The Secretary of State] shall withdraw recognition if the producer organisation does not prove compliance with the minimum volume or value of marketed production criteria as required by Article 154(1)(b) of Regulation (EU) No 1308/2013 by 15 October of the second year following the year in which those criteria were not complied with. Withdrawal shall take effect from the date from which the conditions for recognition were not fulfilled, or, if it is not possible to identify that date, from the date when the failure was established. Outstanding aid concerning the period during which the failure has been identified shall not be paid and unduly paid aid shall be recovered.

However, when a producer organisation delivers to the [F185 Secretary of State] proof that due to natural disasters, adverse climatic events, diseases or pest infestations, despite having undertaken the risk prevention measures it is not able to respect the recognition criteria laid down in Article 154(1)(b) of Regulation (EU) No 1308/2013 in respect of the minimum volume or value of marketable production laid down by [F186 the Secretary of State] , the [F185 Secretary of State] may, for the year in question, derogate from the minimum volume or value of marketable production for this producer organisation.

7 In cases where paragraphs 1, 2, 4 and 5 apply, [F187 the appropriate authorities] may make payments after the deadline set out in Article 10 of Implementing Regulation (EU) 2017/892. However, these payments shall not be made later than 15 October of the second year following the year of implementation of the programme.

8 Paragraphs 1 to 5 shall apply *mutatis mutandis* in cases of failure by a producer organisation to provide the [F188 appropriate authority] with the information required under Article 21 of Implementing Regulation (EU) 2017/892.

Textual Amendments

- F171** Words in Art. 59(1) substituted (31.12.2020) by The Common Organisation of the Markets in Agricultural Products (Producer Organisations and Wine) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1446), regs. 1(3), **5(24)(a)(i)(aa)**
- F172** Words in Art. 59(1) substituted (31.12.2020) by The Common Organisation of the Markets in Agricultural Products (Producer Organisations and Wine) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1446), regs. 1(3), **5(24)(a)(i)(bb)**
- F173** Words in Art. 59(1) substituted (25.6.2021) by The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(36)(a)**, 7(a)
- F174** Words in Art. 59(1) substituted (31.12.2020) by The Common Organisation of the Markets in Agricultural Products (Producer Organisations and Wine) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1446), regs. 1(3), **5(24)(a)(ii)**

No...

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Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2017/891, TITLE II. (See end of Document for details)

- F175** Words in Art. 59(2) substituted (31.12.2020) by The Common Organisation of the Markets in Agricultural Products (Producer Organisations and Wine) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1446), regs. 1(3), **5(24)(b)(i)**
- F176** Words in Art. 59(2) omitted (31.12.2020) by virtue of The Common Organisation of the Markets in Agricultural Products (Producer Organisations and Wine) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1446), regs. 1(3), **5(24)(b)(ii)**
- F177** Words in Art. 59(3) substituted (31.12.2020) by The Common Organisation of the Markets in Agricultural Products (Producer Organisations and Wine) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1446), regs. 1(3), **5(24)(c)(i)(aa)**
- F178** Words in Art. 59(3) substituted (31.12.2020) by The Common Organisation of the Markets in Agricultural Products (Producer Organisations and Wine) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1446), regs. 1(3), **5(24)(c)(i)(bb)**
- F179** Words in Art. 59(3) omitted (31.12.2020) by virtue of The Common Organisation of the Markets in Agricultural Products (Producer Organisations and Wine) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1446), regs. 1(3), **5(24)(c)(ii)**
- F180** Words in Art. 59(4) substituted (31.12.2020) by The Common Organisation of the Markets in Agricultural Products (Producer Organisations and Wine) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1446), regs. 1(3), **5(24)(d)(i)**
- F181** Words in Art. 59(4) substituted (31.12.2020) by The Common Organisation of the Markets in Agricultural Products (Producer Organisations and Wine) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1446), regs. 1(3), **5(24)(d)(ii)**
- F182** Words in Art. 59(5) substituted (31.12.2020) by The Common Organisation of the Markets in Agricultural Products (Producer Organisations and Wine) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1446), regs. 1(3), **5(24)(e)(i)**
- F183** Words in Art. 59(5) omitted (31.12.2020) by virtue of The Common Organisation of the Markets in Agricultural Products (Producer Organisations and Wine) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1446), regs. 1(3), **5(24)(e)(ii)**
- F184** Words in Art. 59(6) substituted (31.12.2020) by The Common Organisation of the Markets in Agricultural Products (Producer Organisations and Wine) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1446), regs. 1(3), **5(24)(f)(i)**
- F185** Words in Art. 59(6) substituted (31.12.2020) by The Common Organisation of the Markets in Agricultural Products (Producer Organisations and Wine) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1446), regs. 1(3), **5(24)(f)(ii)(aa)**
- F186** Words in Art. 59(6) substituted (31.12.2020) by The Common Organisation of the Markets in Agricultural Products (Producer Organisations and Wine) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1446), regs. 1(3), **5(24)(f)(ii)(bb)**
- F187** Words in Art. 59(7) substituted (25.6.2021) by The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(36)(b)**, 7(a)
- F188** Words in Art. 59(8) substituted (25.6.2021) by The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(36)(c)**, 7(a)

Article 60

Fraud

1 [F189The appropriate authority] shall suspend payments to and [F190the Secretary of State shall suspend] the recognition of a producer organisation or an association of producer organisations, which are under investigation by a [F191public authority within the United Kingdom] in connection with a charge of fraud in respect of aid covered by Regulation (EU) No 1308/2013, until the charge has been determined.

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2 Where a producer organisation or an association of producer organisations has committed fraud in respect of aid covered by Regulation (EU) No 1308/2013, [^{F192}the responsible authority] shall, without prejudice to any other penalties applicable [^{F193}in law] :

- a withdraw the recognition of that organisation or association;
- b exclude the actions concerned from support under the operational programme concerned and recover any aid already paid with respect to those actions; and
- c exclude that organisation or association from recognition during the following year.

[^{F194}In this paragraph, the ‘responsible authority’ is the appropriate authority for the constituent nation in which the producer organisation has its head office in respect of actions under point (b), and the Secretary of State in respect of actions under points (a) and (c).]

Textual Amendments

- F189** Words in Art. 60(1) substituted (25.6.2021) by The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(37)(a)(i)**, 7(a)
- F190** Words in Art. 60(1) inserted (31.12.2020) by The Common Organisation of the Markets in Agricultural Products (Producer Organisations and Wine) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1446), regs. 1(3), **5(25)(a)**
- F191** Words in Art. 60(1) substituted (25.6.2021) by The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(37)(a)(ii)**, 7(a)
- F192** Words in Art. 60(2) substituted (25.6.2021) by The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(37)(b)(i)(aa)**, 7(a)
- F193** Words in Art. 60(2) substituted (25.6.2021) by The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(37)(b)(i)(bb)**, 7(a)
- F194** Words in Art. 60(2) inserted (25.6.2021) by The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), **4(37)(b)(ii)**, 7

Article 61

Penalty for ineligible amounts

- 1 Payments shall be calculated on the basis of eligible actions.
- 2 The [^{F195}appropriate authority] shall examine the aid application, and establish the amounts that are eligible for support. It shall establish the amount that:
 - a would be payable to the beneficiary based solely on the application;
 - b is payable to the beneficiary after an examination of the eligibility of the application.
- 3 If the amount established pursuant to paragraph 2(a) exceeds the amount established pursuant to paragraph 2(b) by more than 3 %, a penalty shall be applied. The amount of the penalty shall be the difference between the amounts calculated pursuant to paragraph 2(a) and (b). However, no penalty shall be applied if the producer organisation is able to demonstrate that it is not responsible for the inclusion of the ineligible amount.

No...

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Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2017/891, TITLE II. (See end of Document for details)

4 Paragraphs 2 and 3 shall apply *mutatis mutandis* to ineligible expenditure identified during on-the-spot or subsequent checks.

5 If the value of marketed production is declared and checked before the application for aid, the declared and approved values shall be used when establishing the amounts pursuant to paragraph 2(a) and (b), respectively.

6 Where at the end of the operational programme, the conditions referred to in Article 33(5)(b) of Regulation (EU) No 1308/2013 have not been complied with, the total amount of support for the last year of the operational programme shall be reduced in proportion to the amount of expenditure not incurred on environmental actions.

Textual Amendments

F195 Words in Art. 61(2) substituted (25.6.2021) by [The Common Organisation of the Markets in Agricultural Products \(Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine\) \(Amendment etc.\) Regulations 2021 \(S.I. 2021/756\)](#), regs. 1(2), **4(38)**, 7(a)

F196 Article 62

Administrative penalties following first-level checks on withdrawal operations

Textual Amendments

F196 Arts. 62-65 omitted (25.6.2021) by virtue of [The Common Organisation of the Markets in Agricultural Products \(Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine\) \(Amendment etc.\) Regulations 2021 \(S.I. 2021/756\)](#), regs. 1(2), **4(39)**, 7(a)

F196 Article 63

Administrative penalty applicable to producer organisations regarding withdrawal operations

Textual Amendments

F196 Arts. 62-65 omitted (25.6.2021) by virtue of [The Common Organisation of the Markets in Agricultural Products \(Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine\) \(Amendment etc.\) Regulations 2021 \(S.I. 2021/756\)](#), regs. 1(2), **4(39)**, 7(a)

F196 Article 64

Administrative penalties applicable to recipients of products withdrawn from the market

Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2017/891, TITLE II. (See end of Document for details)

Textual Amendments

F196 Arts. 62-65 omitted (25.6.2021) by virtue of [The Common Organisation of the Markets in Agricultural Products \(Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine\) \(Amendment etc.\) Regulations 2021 \(S.I. 2021/756\)](#), regs. 1(2), **4(39)**, 7(a)

F196 Article 65

Administrative penalties in relation to green harvesting and non-harvesting

Textual Amendments

F196 Arts. 62-65 omitted (25.6.2021) by virtue of [The Common Organisation of the Markets in Agricultural Products \(Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine\) \(Amendment etc.\) Regulations 2021 \(S.I. 2021/756\)](#), regs. 1(2), **4(39)**, 7(a)

Article 66

Preventing an on-the-spot check

A request for recognition, approval of an operational programme or an aid application shall be rejected for the item or the part of expenditure concerned, if a producer organisation, including its members or relevant representatives, prevents an on-the-spot check from being carried out.

Article 67

Payment of recovered aid and penalties

1 Producer organisations and associations of producer organisations or other operators concerned shall reimburse unduly paid aid with interest and pay the penalties provided for in this Section.

The interest shall be calculated:

- a on the basis of the period elapsing between receipt of undue payment and its reimbursement by the beneficiary;
- [^{F197}b at the following rates—
 - i if the undue payment was made from European Union funds, at the rate applied by the European Central Bank to its main refinancing operations published in the ‘C’ series of the *Official Journal of the European Union* and in force on the date on which the undue payment is made, plus three percentage points;
 - ii if the undue payment was made from public funds, at the Bank of England base rate in force on the date on which the undue payment is made, plus three percentage points.]

[^{F198}1A. In paragraph 1, “Bank of England base rate” for any particular day means—

Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2017/891, TITLE II. (See end of Document for details)

- a except where point (b) applies, the rate as last announced at a meeting of the Monetary Policy Committee of the Bank of England held prior to that day as the official dealing rate, being the rate at which the Bank is willing to enter into transactions for providing short-term liquidity in the money markets; or
- b if an order under section 19 (reserve powers) of the Bank of England Act 1998 is in force, any equivalent rate determined by the Treasury under that section.]

[^{F199}2 Payments recovered, and interest and penalties imposed in relation to aid paid from European Union funds must be paid to the EAGF. Payments recovered, and interest and penalties imposed in relation to aid paid from public funds must be paid to the relevant authority that provided the aid.]

Textual Amendments

F197 Art. 67(1)(b) substituted (25.6.2021) by The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), 4(40)(a), 7(a)

F198 Art. 67(1A) inserted (25.6.2021) by The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), 4(40)(b), 7(a)

F199 Art. 67(2) substituted (25.6.2021) by The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), 4(40)(c), 7(a)

[^{F200} Article 67A

Apportionment of recovered aid, interest and penalties

1. Aid paid from public funds that is recovered under this Regulation, together with any interest payable thereon in accordance with this Regulation, must be apportioned between the relevant authorities in accordance with the proportion of that aid that was provided by each authority.
2. Penalties imposed under this Regulation in relation to aid paid from public funds must be paid to the relevant authority for the constituent nation in which the head office of the producer organisation was located during the period to which the penalty relates.]

Textual Amendments

F200 Art. 67A inserted (25.6.2021) by The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021 (S.I. 2021/756), regs. 1(2), 4(41), 7(a)

Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2017/891, TITLE II. (See end of Document for details)

CHAPTER VI

Extension of rules

^{F201} Article 68

Conditions for the extension of rules

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Textual Amendments

F201 Arts. 68-71 omitted (31.12.2020) by virtue of [The Common Organisation of the Markets in Agricultural Products \(Producer Organisations and Wine\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1446\)](#), regs. 1(3), **5(26)**

^{F201} Article 69

National rules

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Textual Amendments

F201 Arts. 68-71 omitted (31.12.2020) by virtue of [The Common Organisation of the Markets in Agricultural Products \(Producer Organisations and Wine\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1446\)](#), regs. 1(3), **5(26)**

^{F201} Article 70

Notification of extension of rules and economic areas

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Textual Amendments

F201 Arts. 68-71 omitted (31.12.2020) by virtue of [The Common Organisation of the Markets in Agricultural Products \(Producer Organisations and Wine\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1446\)](#), regs. 1(3), **5(26)**

^{F201} Article 71

Repeal of extension of rules

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No...

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Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2017/891, TITLE II. (See end of Document for details)

Textual Amendments

F201 Arts. 68-71 omitted (31.12.2020) by virtue of [The Common Organisation of the Markets in Agricultural Products \(Producer Organisations and Wine\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1446\)](#), regs. 1(3), **5(26)**

Article 72

Buyers of produce sold on the tree

1 In cases where producers not belonging to a producer organisation sell their produce on the tree, the buyer shall, for the purposes of compliance with the rules regarding production reporting and marketing, be considered as having produced that produce.

F202 2

Textual Amendments

F202 Art. 72(2) omitted (31.12.2020) by virtue of [The Common Organisation of the Markets in Agricultural Products \(Producer Organisations and Wine\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1446\)](#), regs. 1(3), **5(27)**

Changes to legislation: There are currently no known outstanding effects for the Commission
Delegated Regulation (EU) 2017/891, TITLE II. (See end of Document for details)

- (1) [^{F23}Council Regulation (EC) No 834/2007 of 28 June 2007 on organic production and labelling of organic products and repealing Regulation (EEC) No 2092/91 (OJ L 189, 20.7.2007, p. 1).]
- (2) [^{F23}Commission Regulation (EU) No 702/2014 of 25 June 2014 declaring certain categories of aid in the agricultural and forestry sectors and in rural areas compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union (OJ L 193, 1.7.2014, p. 1).]
- (3) Regulation (EU) No 1144/2014 of the European Parliament and of the Council of 22 October 2014 on information provision and promotion measures concerning agricultural products implemented in the internal market and in third countries and repealing Council Regulation (EC) No 3/2008 (OJ L 317, 4.11.2014, p. 56).
- (4) Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006 (OJ L 347, 20.12.2013, p. 320).

Textual Amendments

- F23** Substituted by [Commission Delegated Regulation \(EU\) 2018/1145 of 7 June 2018 amending Delegated Regulation \(EU\) 2017/891 as regards producer organisations in the fruit and vegetables sector.](#)

Changes to legislation:

There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2017/891, TITLE II.