

REGULATIONS

COMMISSION DELEGATED REGULATION (EU) 2021/652

of 10 February 2021

amending Delegated Regulation (EU) 2017/891 as regards the activities and operational programmes of producer organisations in the fruit and vegetables sector

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 ⁽¹⁾, and in particular Article 37(a)(ii) and (vi), (b), (c)(i) and (ii) and (d), Article 173(1)(f), Article 223(2)(a) and Article 231(1) thereof,

Whereas:

- (1) Title II of Commission Delegated Regulation (EU) 2017/891 ⁽²⁾ lays down rules on the activities and operational programmes of producer organisations in the fruit and vegetables sector.
- (2) Member States may permit producer organisations to outsource certain activities. In some Member States, producer organisations are large companies, which are often holding multiple levels of subsidiaries. The provisions on outsourcing should therefore be reformulated to cover situations where the activities are outsourced to entities closely related to the producer.
- (3) In recent years, the production of mushrooms is not limited to the genus *Agaricus* variety anymore. Producer organisations specialised in the production of mushrooms produce other varieties of cultivated mushrooms such as *Pleurotus*, *Shiitaké* and *Agrocybe*, which reflect the market need and consumer expectations. Therefore, the scope of the provisions on the basis for calculation of the value of marketed production of mushrooms intended for processing should be extended in order to cover more cultivated mushroom varieties.
- (4) In accordance with the Commission legislative proposals for the future common agricultural policy (CAP), the fruit and vegetables aid scheme is to be integrated in the future CAP strategic plans of Member States. Pending the adoption of those proposals, Regulation (EU) 2020/2220 of the European Parliament and of the Council ⁽³⁾ lays down certain transitional provisions in respect of the years 2021 and 2022. In particular, to ensure a smooth integration of that aid scheme into the future CAP, existing operational programmes in the fruit and vegetables

⁽¹⁾ OJ L 347, 20.12.2013, p. 671.

⁽²⁾ 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 (OJ L 138, 25.5.2017, p. 4).

⁽³⁾ Regulation (EU) 2020/2220 of the European Parliament and of the Council of 23 December 2020 laying down certain transitional provisions for support from the European Agricultural Fund for Rural Development (EAFRD) and from the European Agricultural Guarantee Fund (EAGF) in the years 2021 and 2022 and amending Regulations (EU) No 1305/2013, (EU) No 1306/2013 and (EU) No 1307/2013 as regards resources and application in the years 2021 and 2022 and Regulation (EU) No 1308/2013 as regards resources and the distribution of such support in respect of the years 2021 and 2022 (OJ L 437, 28.12.2020, p. 1).

sector that have not reached their maximum duration of five years may only be extended until 31 December 2022. In addition, new operational programmes in the fruit and vegetables sector may only be approved for a maximum duration of three years. Since the operational programmes in question must comply with the national strategy, Member States should be allowed to extend their national strategy until 31 December 2025.

- (5) The insurance indemnification received in certain cases of a reduction in production may be included in the calculation of the value of marketed production. It is appropriate to clarify when it has to be included, namely in the calculation of the value of marketed production of the 12-month reference period in which it is actually paid.
- (6) Expenditure under operational programmes eligible for aid is to be restricted to the actual costs incurred. However, for the purpose of the clearance of expenditure of actions and measures under operational programmes, the use by Member States of flat rates, scales of unit costs or lump sums should be aligned with the rules on rural development programmes.
- (7) Chapter III of Title II of Delegated Regulation (EU) 2017/891 contains rules on crisis prevention and management measures, including, inter alia, market withdrawals. In its Special Report No 23/2019 'Farmers' income stabilisation: comprehensive set of tools, but low uptake of instruments and overcompensation need to be tackled' of 5 December 2019 ⁽⁴⁾, the European Court of Auditors raised concerns as regards some aspects of the fruit and vegetables withdrawal scheme, in particular for processed products made from withdrawn produce which could lead to an overcompensation. The European Court of Auditors recommends to set a maximum Union financial assistance for withdrawals for free distribution of processed fruit and vegetables with the view to avoiding any possible effect of overcompensation. For that reason, the provisions on support for market withdrawals for free distribution of processed fruit and vegetables should make clear that payments made to processors are to compensate only for processing costs and should exclude overcompensation.
- (8) Rules on support for market withdrawals relating to the application of the 5 % limit of the volume of marketed production should be clarified.
- (9) Taking into account that it is important to streamline, simplify and better coordinate existing instruments and complement them with new actions where necessary, the provisions on the implementation of harvest insurance actions should be aligned with the rules on rural development programmes.
- (10) With a view to increasing the attractiveness of the coaching measure as a crisis prevention and management measure, the eligibility conditions relating to the coaching recipient should be softened.
- (11) Producer organisations are obliged to evaluate the implementation of their operation programmes. As Article 24 of Commission Implementing Regulation (EU) 2017/892 ⁽⁵⁾ has been replaced, the reference to that Article should be deleted in the rules on the evaluation report in Delegated Regulation (EU) 2017/891.
- (12) Some transitional provisions are obsolete and should therefore be removed.
- (13) Pursuant to Article 55 of Delegated Regulation (EU) 2017/891, Member States must notify the Commission of the weighted average recorded producer prices of fruit and vegetables corresponding to the types and varieties of products, sizes and presentations as specified in Annex VI to that Regulation. In order to accurately reflect the market situation, details on the 'type/variety', 'presentation/size' and 'representative markets' relating to tomatoes and apples as specified in that Annex should be updated. Furthermore, in order to align as much as possible the price notification system provided for in Delegated Regulation (EU) 2017/891 with the provisions laid down in

⁽⁴⁾ ECA SR 23/2019 – Special Report on Farmers' income stabilisation: comprehensive set of tools, but low uptake of instruments and overcompensation need to be tackled – <https://www.eca.europa.eu/en/Pages/DocItem.aspx?did=52395>

⁽⁵⁾ Commission Implementing Regulation (EU) 2017/892 of 13 March 2017 laying down rules for the application of 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 (OJ L 138, 25.5.2017, p. 57).

Commission Implementing Regulation (EU) 2017/1185 ⁽⁶⁾, the list of the products for which Member States must notify the Commission weekly of their prices should be reduced from 32 to 16 products. That limited list of 16 products would be identical to the list of products set out in Annex IV to Delegated Regulation (EU) 2017/891. Finally, the United Kingdom should be removed from the list of 'representative markets'.

(14) Delegated Regulation (EU) 2017/891 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Amendments to Delegated Regulation (EU) 2017/891

Delegated Regulation (EU) 2017/891 is amended as follows:

(1) Article 13 is amended as follows:

(a) in paragraph 1, the following subparagraph is added:

'For the purposes of Article 155 of Regulation (EU) No 1308/2013, the term "subsidiary" includes any entity in a chain of subsidiaries. However, Member States may exclude the outsourcing of activities to an entity within a chain of subsidiaries.';

(b) paragraph 2 is replaced by the following:

'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 or an entity within a chain of subsidiaries, 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 or an entity within a chain of subsidiaries, complying with the 90 % requirement referred to in Article 22(8).';

(2) Article 22 is amended as follows:

(a) in paragraph 2, point (f) is replaced by the following:

'(f) 70 % for canned mushrooms of *Agaricus bisporus* and other cultivated mushrooms preserved in brine';

(b) paragraph 10 is replaced by the following:

'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 of the 12-month reference period in which it is actually paid.';

(3) in Article 27, the following paragraph 6 is added:

'6. Member States may decide to extend their national strategy until 31 December 2025. Member States shall notify the Commission of the extension decision.';

⁽⁶⁾ Commission Implementing Regulation (EU) 2017/1185 of 20 April 2017 laying down rules for the application of Regulations (EU) No 1307/2013 and (EU) No 1308/2013 of the European Parliament and of the Council as regards notifications to the Commission of information and documents and amending and repealing several Commission Regulations (OJ L 171, 4.7.2017, p. 113).

(4) in Article 31, paragraph 2 is replaced by the following:

‘2. Expenditure under operational programmes eligible for aid shall be restricted to the actual costs incurred.

However, Member States may fix standard flat rates, scales of unit costs or lump sums, except for expenditure linked to crisis prevention and management measures.

In addition, Member States may decide to use differentiated standard flat rates, scales of unit costs or lump sums to take into account regional or local specificities.’;

(5) Article 45 is amended as follows:

(a) in paragraph 1, the following subparagraph is added:

‘The sum of costs of transport, sorting and packaging of products withdrawn for free distribution of processed fruit and vegetables referred to in Articles 16 and 17 of Implementing Regulation (EU) 2017/892 and in Annexes IV and V to that Regulation, added to the maximum amount of support for market withdrawals referred to in this paragraph and in paragraph 2 of this Article, shall not exceed the average “ex-producer organisation” or “ex-processor” market price of the processed product concerned in the previous last three years.’;

(b) paragraph 2 is replaced by the following:

‘2. The share of market withdrawals of any given product of any given producer organisation undertaken in a given year shall be as follows:

(a) it shall not exceed 10 % of the average volume of marketed production by that producer organisation during the three previous years; and

(b) in total, the sum of the percentages over three consecutive years shall not exceed 15 when adding the share calculated in accordance with point (a) for the current year and the shares of the market withdrawals of the two previous years calculated on the basis of the respective volume of marketed production by that producer organisation during those two previous years.

If the information on the volume of marketed production of any or all of the previous years is not available, the volume of marketed production for which the producer organisation was recognised shall be used.

However, amounts of withdrawals which are disposed of in one of the ways referred to in Article 34(4) of Regulation (EU) No 1308/2013 or any other way approved by Member States under Article 46(2) of this Regulation shall not be taken into account in that proportion.’;

(6) in Article 51, paragraph 2 is replaced by the following:

‘2. Member States may grant additional national financing to support harvest insurance actions which are benefiting from the operational fund. However, total public support for harvest insurance shall not exceed 80 % of the cost of the insurance premiums paid for by producers for insurance against losses.’;

(7) in Article 51a, paragraph 3 is replaced by the following:

‘3. The coaching recipient shall be a recognised producer organisations, a producer group or the individual producers, non-members of a producer organisation or their associations.’;

(8) in Article 57(3), the first subparagraph is replaced by the following:

‘Evaluation shall take the form of a report in the last but one year of the implementation of the operational programme.’;

(9) in Article 80, paragraphs 2 and 3 are deleted;

(10) Annexes II, III and VI are amended in accordance with the Annex to this Regulation.

Article 2

Entry into force

This Regulation shall enter into force the seventh day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 10 February 2021.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX

Annexes II, III and VI to Delegated Regulation (EU) 2017/891 are amended as follows:

(1) in Annex II, point 19 is replaced by the following:

'19. Investments or similar types of actions not on the holdings and/or premises of the producer organisation, association of producer organisation, or their producer members or a subsidiary or an entity within a chain of subsidiaries in the situation referred to in Article 22(8).';

(2) Annex III is amended as follows:

(a) in point 1, the last paragraph is replaced by the following:

'For each category of eligible costs referred to in the first paragraph, in order to calculate additional costs compared with conventional ones, Member States may fix standard flat rates, scales of unit costs or lump sums.';

(b) point 3 is replaced by the following:

'3. Costs of meetings and training programmes where they are related to the operational programme, including daily allowances, transport and accommodation costs.';

(3) Annex VI is replaced by the following:

'ANNEX VI

Price notification referred to in Article 55(1)

Product	Type/variety	Presentation/size	Representative Markets
Tomatoes	Round	Size 47-102 mm, in bulk, in packages of 5 or 6 kg	Belgium Bulgaria Germany
	Truss	All kinds of trusses but only if the average size of the individual tomatoes is 47 mm or above 47 mm, in packages of 5 or 6 kg	Greece Spain France Italy Hungary Netherlands
	Special/Cherry	Loose or truss tomatoes, special tomatoes, if only the average size of the individual tomatoes is below 47 mm (40 mm in case of cherry tomatoes), in packages of around 250-500 g	Poland Portugal Romania
Apricots	All types and varieties	Size 45-50 mm Trays or packages of around 6-10 kg	Bulgaria Greece Spain France Italy Hungary
Nectarines	White flesh	Size A/B Trays or packages of around 6-10 kg	Greece Spain France Italy
	Yellow flesh	Size A/B Trays or packages of around 6-10 kg	

Peaches	White flesh	Size A/B Trays or packages of around 6-10 kg	Greece Spain France Italy Hungary Portugal
	Yellow flesh	Size A/B Trays or packages of around 6-10 kg	
Table grapes	All types and varieties with seeds	Trays or packages of 1 kg Trays or packages of 1 kg	Greece Spain France Italy Hungary Portugal
	All type and varieties seedless		
Pears	Blanquilla	Size 55/60, packages of around 5-10 kg	Belgium Greece Spain France Italy Hungary Netherlands Poland Portugal
	Conference	Size 60/65+, packages of around 5-10 kg	
	Williams	Size 65+/75+, packages of around 5-10 kg	
	Rocha		
	Abbé Fétel	Size 70/75, packages of around 5-10 kg	
	Kaiser		
Doyenné du Comice	Size 75/90, packages of around 5-10 kg		
Apples	Braeburn	Size 65/80, packages of around 5-20 kg	Belgium Czechia Germany Greece Spain France Italy Hungary Netherlands Austria Poland Portugal Romania
	Cox orange Elstar Gala Golden delicious		
	Jonagold (or Jonagored) Idared Fuji		
	Shampion		
	Granny smith Red delicious and other red varieties Boskoop		
Satsumas	All varieties	Sizes 1-X -3, packages of around 10-20 kg	Spain
Lemons	All varieties	Sizes 3-4, packages of around 10-20 kg	Greece Spain Italy
Clementines	All varieties	Sizes 1-X -3, packages of around 10-20 kg	Greece Spain Italy
Mandarins	All varieties	Sizes 1 – 2, packages of around 10-20 kg	Greece Spain Italy Portugal

Oranges	Salustiana Navelinas Navelate	Size 3-6, packages of around 10-20 kg	Greece Spain Italy Portugal
	Lanelate Valencia late		
	Tarocco		
	Navel		
Cauliflowers	All types and varieties	Size 16-20 cm	Germany Spain France Italy Poland
Eggplants (aubergines)	All types and varieties	Size 40+/70+	Spain Italy Romania
Water melons	All types and varieties	usual standards in the representative market	Greece Spain Italy Hungary Romania
Melons	All types and varieties	usual standards in the representative market	Greece Spain France Italy'