

PRODUCER ORGANISATIONS ACT 2002

(ACT No. IX OF 2002)

Fruit And Vegetable Producer Organisations Regulations 2004

IN exercise of the powers conferred by articles 9 and 19 of the Producer Organisations Act, 2002, the Minister for Rural Affairs and the Environment has made the following regulations:-

Part I

Preliminary

1. (1) The title of these regulations is the Fruit and Vegetables Producer Organisations Regulations 2004. Short title and commencement

(2) These Regulations shall come into force on 15th February 2004.

2. (1) Unless the context otherwise requires, words and phrases used in these regulations shall have the same meaning as is assigned to them in article 2 of the Producer Organisations Act, 2002. Interpretation

(2) Where reference in these regulations is made to monetary amounts in Euros, these are to be converted to Maltese liri using the rate of exchange applicable at the time of such conversion.

Part II

Establishment and recognition of producer organisations

3. For the purposes of these regulations a producer organisation is any legal entity: Characteristics of producer organisations

(a) which is formed on the own initiative of growers of one or more of the following categories of the products listed in the First Schedule:

(i) Fruit and vegetables

(ii) Fruit

(iii) Vegetables

- (iv) Products intended for processing
- (v) Citrus fruits
- (vi) Nuts
- (vii) Mushrooms:

Provided that with regard to the category of products referred to in subregulation (a) (i) above, only individual recognition is possible;

(b) which has the following principal aims:

- (i) ensuring that production is planned and adjusted to demand, particularly in terms of quality and quantity;
- (ii) promoting concentration of supply and the placing on the market of its members' produce;
- (iii) reducing production costs and stabilising producer prices;
- (iv) promoting the use of cultivation practices, production techniques and environmentally sound waste-management practices in particular to protect the quality of water, soil and landscape and to preserve and, or encourage biodiversity.

(c) whose Rules of Association are in conformity with regulation 5.

4. The Director shall recognise as producer organisations for the purposes of these regulations, all producer groups applying for such recognition, on condition that:

Recognition of
producer
organisations

- (a) they meet the requirements laid down in regulation 3 and provide the relevant evidence, including proof that they have a minimum number of five members and cover a minimum value of marketable production of 100,000 Euros.
- (b) with regard to the categories of products referred to in subregulations 3 (a) (i) to (vi) above they indicate the specific products they will be producing.
- (c) there is sufficient evidence that they can carry out their activities efficiently;
- (d) they effectively enable their members to obtain technical assistance in using environmentally-sound cultivation practices;
- (e) they effectively provide their members with the technical means for storing, packaging and marketing their produce and ensure proper commercial and budgetary management of their

activities;

5. The Rules of Association of applicant groups shall provide for:

Rules of
Association

- (a) procedures for determining, adopting and amending the said rules of association;
- (b) the democratic scrutiny by members of the producer organisation and its decisions;
- (c) the payment by members of the financial contributions provided for in their Rules of Association for the establishment and replenishment of the operational fund provided for in regulation 11 (1) (a);
- (d) the provision by members of the information requested by the producer organisation for statistical purposes, in particular on growing areas, quantities cropped, yield and direct sales;
- (e) the imposition of penalties for infringement by members of the obligations arising from the Rules of Association or of other rules laid down by the producer organisation;
- (f) the admission of new members, particularly concerning a minimum membership period;
- (g) the accounting and budgetary rules necessary for the operation of the producer organisation.

6. (1) The minimum membership period of a producer shall be not less than two years:

Membership
requirements

Provided that where an operational programme pursuant to regulation 9 has been submitted, no member may disclaim his obligations under that programme during the period of its implementation, except where the producer organisation concerned gives its approval.

- (2) Resignation of membership shall be notified to the producer organisation and such resignation will become effective six months after notification.

7. The Director shall:

Powers of the
Director

- (a) within three months of the lodging of an application with all the supporting documents, decide whether to grant recognition to a producer organisation; and
- (b) cause to be carried out checks at regular intervals to ascertain that producer organisations comply with the terms and

conditions for recognition, impose in the event of non-compliance the applicable penalties and decide, where necessary, to withdraw recognition.

8. (1) New producer groups may request preliminary recognition in accordance with the provisions of Articles 15, 16, 17, 18 and 19 of Regulation (EC) 1432/2003 .

Preliminary recognition of new producer groups

(2) During the five years following the date of preliminary recognition, the Director may grant to the producer groups referred to in sub-regulation (1) aid to encourage their formation and facilitate their administration according to the provisions of Articles 3 and 4 of Regulation (EC) 1943/2003.

Part III

The operational programme

9. Producer organisations may submit operational programmes to the Director, who shall approve or reject them or request their modification in line with these regulations.

Submission of operational programmes

10. The operational programmes should comply with the requirements of Articles 8 to 17 of Regulation (EC) 1433/2003.

Content of operational programmes

Part IV

The operational fund

11. (1) The producer organisation shall set up an operational fund, which shall be maintained by:

The operational fund

(a) financial contributions paid by members based on the quantities or value of fruit and vegetables actually marketed;

(b) financial assistance allocated to the producer organisation by the Minister in terms of Article 15.5 of Regulation (EC) 2200/1996.

(2) Producer organisations shall submit an application for the financial assistance referred to in regulation 11 1 (b) according to the provisions of Regulation (EC) 1433/2003, and for assistance under other aid schemes on the basis of Regulation (EC) 1092/2001 and Regulation (EC) 1535/2003.

(3) Producer organisations and their members must keep up-to-date suitable documentation and should, in particular, specify the areas under tomatoes, peaches, pears, citrus and vegetable crops on the basis of Regulation (EC) 3508/92.

12. Operational funds shall conform to the provisions and

Conformity to

requirements of Articles 5, 6 and 7 of Regulation (EC) 1433/2003.

EC Regulation

13. Use of the operational fund to finance market withdrawals according to the provisions of Article 15.3 (a) and (b) of Regulation (EC) 2200/1996 shall be permissible only if an operational programme has been approved by the Director.

Conditions for use of operational fund

14. An association of producer organisations recognised by the Director may replace its members for the purpose of managing their operational fund and for establishing, implementing and submitting their operational programmes as referred to in regulations 9 and 10. In such cases, the association shall receive the financial assistance referred to in regulation 11 (1) (b).

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

Duration of operational programmes

16. Submission of an operational programme to the Director by a producer organisation or by an association of producer organisations shall imply a commitment by the producer organisations or association to submit to national checks, in particular as regards proper management of public resources.

Implications of submission of operational programme

Part V

Interbranch organisations and Agreements

17. For the purposes of these regulations, “recognised interbranch organisations”, hereinafter referred to as interbranch organisations, means legal entities which:

Characteristics of interbranch organisations

- (1) are made up of representatives of economic activities linked to the production of and, or trade in and, or processing of the products referred to in regulation 3 (a);
- (2) are established on the initiative of all or some of the organisations or associations which constitute them;
- (3) have been recognised by the Director in terms of regulation 18;
- (4) carry out several of the following measures taking account of the consumers’ interests:
 - (i) improving knowledge and the transparency of production and the market;
 - (ii) helping in the better co-ordination of the way fruit and

vegetables are placed on the market by means of research and market studies;

- (iii) drawing up standard forms of contract;
- (iv) exploiting more fully the potential of the fruit and vegetables produced;
- (v) providing the information and carrying out the research necessary to adjust production towards increased suitability to market requirements and consumers' tastes and expectations, in particular with regard to product quality and protection of the environment;
- (vi) seeking ways of restricting the use of plant health products and other inputs and ensuring produce quality and soil and water conservation;
- (vii) exploiting the potential of and protecting organic farming as well as designation of origin, quality labels and geographical indications;
- (viii) promoting integrated production or other environmentally sound production methods.

18. The Director may recognise as interbranch organisations within the meaning of these regulations all organisations established in Malta which make an appropriate application, on condition that:

Recognition of
interbranch
organisations

- (1) they carry out their activity in Malta;
- (2) they represent a significant share in the production of and, or trade in and, or processing of fruit and vegetables or products processed from fruit and vegetables in Malta;
- (3) they carry out several of the measures referred to in regulation 17;
- (4) they are not themselves engaged in the production or processing or marketing of fruit and vegetables or products processed from fruit and vegetables;
- (5) they present evidence that at least 75% of members in the participating producer organisations are in agreement with the setting up of the interbranch organisation

Provided that no more than one interbranch organisation for each product listed in the First Schedule shall be so recognised.

19. The Director shall decide whether to grant recognition to interbranch organisations in terms of article 11 (2) of the Producer Organisations Act, 2002.

Recognition of interbranch organisations

20. Recognition of an interbranch organisation shall constitute an authorisation to carry out the measures listed in regulation 17 (4).

Recognition constitutes authorisation.

21. (1) In cases where an interbranch organisation is considered to be representative of the production of and, or trade in and, or processing of a given product, the Director may, at the request of the organisation, make some of the agreements, decisions or concerted practices agreed on within that organisation binding for a limited period on other operators in Malta, whether individuals or groups, who do not belong to the organisation.

Extension of applicability.

(2) An interbranch organisation shall be deemed representative within the meaning of sub-regulation (1) where it accounts for at least two thirds of the production and, or trade in and, or processing of the product or products concerned.

22. The rules for which extension to other operators may be requested:

Extension to other operators.

(1) must concern one of the following aims:

- (a) production and market reporting;
- (b) drawing up of standard contracts;
- (c) rules on marketing;
- (d) rules on protecting the environment;
- (e) measures to promote and exploit the potential of products;
- (f) measures to promote organic farming as well as designations of origin, quality labels and geographical indications;

(2) must have been in force for at least one marketing year and may be made binding for no more than three marketing years;

(3) must not cause any harm to other operators in Malta.

23. In cases where rules for one or more products are extended and where one or more of the activities listed in regulation 22 (1) are pursued by a recognised interbranch organisation and are in the general economic interest of those persons whose activities relate to one or more of the products concerned, the Director may decide that individuals or groups that are not members of the organisation but which benefit from those activities shall pay the organisation all or

Payment of financial contributions.

part of the financial contributions paid by its members to the extent that such contributions are intended to cover costs directly incurred as a result of pursuing the activities in question.

Part VI

Intervention arrangements

24. Producer organisations and their associations may choose not to put up for sale any of the products listed in the first column of the Second Schedule contributed by their members, both in quantities and for periods which they consider appropriate.

Market
withdrawal

25. The destination of products withdrawn from the market under regulation 24 must be fixed by the producer organisation or association in such a way as not to disturb the normal disposal of the products in question and must respect the environment, particularly as regards water and landscape quality.

Destination of
withdrawn
products

26. Where regulation 24 is applied to any one of the products listed in the first column of the Second Schedule which meet the relevant standards, producer organisations and their associations shall pay their members the withdrawal compensation set out in the second column of the Second Schedule in accordance with the provisions of Article 23 (3) (4) and (5) of Regulation (EC) 2200/1966.

Payment of
withdrawal
compensation

27. In connection with the products listed in the first column of the Second Schedule, and in terms of article 13 of the Producer Organisations Act, 2002, producer organisations shall allow the benefits of regulation 26 to non-member producers, if they so request.

Extension of
benefits to non-
member
producers

Part VII

Recovery and Penalties

28. Aid unduly paid or aid applied for fraudulently or irregularly shall be recovered or withheld and penalties shall be applied to the beneficiary and, or applicant concerned according to the provisions of Article 24 of Regulation (EC) 1433/2003

Recovery

29. Any producer organisation or interbranch organisation which fails to comply with or contravenes any of the provisions of these regulations shall be liable to an administrative fine, which shall be imposed by the Director, of not less than one hundred liri and not more than one thousand liri for each offence, and to an additional fine of fifty liri for each day during which the said failure to comply or contravention persists.

Penalties

FIRST SCHEDULE

Products referred to in Regulation 3

CN Code	Description
0702 00 00	Tomatoes, fresh or chilled
0703	Onions, shallots, garlic, leeks and other alliaceous vegetables, fresh or chilled
0704	Cabbages, cauliflowers, kohl-rabi, kale and similar edible brassicas, fresh or chilled
0705	Lettuce (<i>Lactuca sativa</i>) and chicory (<i>Cichorium</i> sp.)
0706	Carrots, turnips, salad beetroot, salsify, celeriac, radishes, and similar edible roots, fresh or chilled
0707 00	Cucumbers and gherkins, fresh or chilled
0708	Leguminous vegetables, shelled or unshelled, fresh or chilled
ex 0709	Other vegetables, fresh or chilled, excluding vegetables of subheadings 0709 60 91, 0709 60 95, 0709 60 99, 0709 90 31, 0709 90 39 and 0709 90 60.
ex 0802	Other nuts , fresh or dried, whether or not shelled or peeled, excluding areca (or betel) and cola nuts falling within subheading 08029020
0803 00 11	Fresh plantains
ex 0803 00 90	Dried plantains
0804 20 10	Figs, fresh
0804 30 00	Pineapples
0804 40	Avocados
0804 50 00	Guavas mangoes and mangosteens
0805	Citrus fruit, fresh or dried
0806 10 10	Fresh table grapes
0807	Melons (including watermelons) and pawpaws (papaya) fresh
0808	Apples, pears and quinces, fresh
0809	Apricots, cherries, peaches (including nectarines), plums and sloes, fresh
0810	Other fruit, fresh
0813 50 31 0813 50 39	Mixtures exclusively or dried nuts of CN Nos. 0801 and 0802
1212 10 10	Carobs

SECOND SCHEDULE

Products referred to in Regulations 24 to 27

Item	Withdrawal Compensation (Euros/100 kg)
Aubergines	3.97
Cauliflowers	7.01
Lemons	13.00
Melons	4.00
Nectarines	13.04
Oranges	14.00
Peaches	10.99
Table Grapes	8.02
Tomatoes	4.83
Apples	8.81
Apricots	14.17
Pears	8.39
Satsumas	13.00
Clementines	13.00
Mandarins	13.00
Watermelons	4.00