

L.N. 277 of 2016

**PRODUCER ORGANISATIONS ACT
(CAP. 447)**

**Producer Organisations (Certain Products) (Amendment)
Regulations, 2016**

IN exercise of the powers conferred by article 19 of the Producer Organisations Act, the Minister for Sustainable Development, the Environment and Climate Change has made the following regulations:

1. The title of these regulations is the Producer Organisations (Certain Products) (Amendment) Regulations, 2016 and they shall be read and construed as one with the Producer Organisations (Certain Products) Regulations, hereinafter referred to as "the principal regulations".

Citation.

S.L. 447.02

2. Sub-regulation (1) of regulation 2 of the the principal regulations shall be amended as follows:

Amends
regulation 2 of
the principal
regulations.

(a) the definition "the Director" shall be substituted by the following:

" "Director" means the Director of Agriculture and includes, to the extent of the authority given, any person or authority authorised by him to act in that behalf for the purposes of these regulations;"; and

(b) immediately after the new definition "Director" there shall be inserted the following new definition:

" "environmental pressure" means something that could affect the health or life of an animal, plant or ecological system in general including air, land and water;".

3. In sub-regulation (1) of regulation 3 of the principal regulations, for the words "legal entity" there shall be substituted the words "entity having a separate and distinct legal personality from that of its members".

Amends
regulation 3 of
the principal
regulations.

4. Regulation 4 of the principal regulations shall be amended as follows:

Amends
regulation 4 of
the principal
regulations.

(a) in regulation 4 the words "producer groups" shall be substituted by the word "entities"; and

(b) paragraphs (a), (b) and (c) shall be renumbered as paragraphs (b), (c) and (d) respectively; and immediately before paragraph (b) as renumbered there shall be added the following new paragraph (a):

"(a) they are a group of farmers registered as a cooperative or other recognised legal entity prior to applying for recognition as a producer organisation;"

Substitutes regulation 7 of the principal regulations.

5. Regulation 7 of the principal regulations shall be substituted by the following:

"Duties of the Director.

7. The Director shall:

(a) within three months from receiving an application for recognition as a producer organisation, decide whether to grant such recognition or not;

(b) where he deems necessary, issue guidelines with regards to the administrative procedures which are to be followed mandatorily by applicants applying for recognition as a producer organisation and issue forms which are necessary for the compilation of the application for recognition;

(c) carry out inspections at regular intervals to ascertain that producer organisations comply with the terms and conditions for recognition:

Provided that in the event of non-compliance, the Director may decide to withdraw recognition as a producer organisation."

Amends regulation 8 of the principal regulations.

6. Regulation 8 of the principal regulations shall be amended as follows:

(a) in paragraph (b) thereof the word "and" shall be deleted;

(b) in paragraph (c) thereof the words "regulation 3(2)(i) to (iv)." shall be substituted by the words "regulation 3(2)(i) to (iv); and"; and

(c) immediately after paragraph (c) thereof, there shall be added the following new paragraph (d);

"(d) duly filled in forms provided by the Director

in terms of regulation 7(b) and any other relevant documentation requested by the Director."

7. Part III of the principal regulations shall be renumbered as Part IV and the present regulation 9 shall be renumbered as regulation 10. Amends Part III of the principal regulations.

8. Part IV of the principal regulations shall be amended as follows: Amends Part IV of the principal regulations.

(a) Part IV of the principal regulations shall be renumbered as Part V;

(b) the words "Recovery and Penalties" in the title of Part V as renumbered shall be substituted by the words "Suspension and Withdrawal of Recognition as a Producer Organisation".

9. Immediately after regulation 8 of the principal regulations there shall be inserted the following new Part III and new regulation 9: Adds new Part III and new regulation 9 to the principal regulations.

"PART III

Maintaining and Monitoring Producer Organisations

"Duties of
Producer
Organisations.

9. Without prejudice to any other law or regulations, Producer Organisations shall:

(a) implement proposed actions stated in the operational programme;

(b) maintain and update their membership database;

(c) inform the Director of all meetings relative to their Rules of Association;

(d) collaborate with the Director or any officer authorised by him whenever inspections are carried out;

(e) provide the Director or any officer authorised by him with any data requested;

(f) submit by not later than the 31st December of any calendar year, an annual report relating to that calendar year which shall include:

(i) progress on the operational programmes implemented during that calendar year;

(ii) any changes to the operational programmes which were requested by the producer organisation and approved by the Director;

(iii) variances between estimated aid and aid applied for;

(iv) summary of problems encountered in managing the programme and any measures taken to ensure the quality and effectiveness of programme implementation;

(v) in cases where environmental pressures have been exerted, a list of the effective safeguards which are in place in order to protect the environment from these pressures."

Substitutes regulations 10 and 11 of the principal regulations.

10. Regulations 10 and 11 of the principal regulations shall be renumbered as regulations 11 and 12 respectively and substituted by the following:

"Suspension of recognition as a producer organisation

11. (1) If the Director establishes that a producer organisation in terms of these regulations has failed to respect any one of the recognition criteria established by regulation 4 and, or has otherwise breached any of the provisions of these regulations, he shall serve a notice in writing on such producer organisation in accordance with sub-regulation (2);

(2) A notice served upon a producer organisation in terms of sub-regulation (1) shall:

(a) indicate the failure or breach identified;

(b) require the producer organisation upon whom it is served to take the necessary corrective measures as the Director may determine in order to remedy, or to prevent the continuation or repetition of, any failure or breach to which the notice relates;

(c) state the period within which any such requirement is to be complied with:

Provided that such period shall not be longer than four months.

(3) Without prejudice to any other laws or regulations, a failure to take the necessary corrective measures indicated in the notice served in terms of sub-regulation (1) within the stipulated time period shall lead to the suspension of recognition as a producer organisation by the Director, which suspension shall take effect from the date when the producer organisation is served with the said notice.

(4) In case of suspension of recognition as a producer organisation in terms of sub-regulation (3), the Director shall notify the producer organisation of such suspension and of the period of suspension.

(5) The Director shall inform authorities managing public funds which he deems fit of the suspension of recognition as a producer organisation.

(6) The entity whose recognition as a producer organisation has been suspended in terms of this regulation may apply in writing to the Director for reconsideration of the suspension within two days from when it is notified with notice of such suspension.

(7) If by the end of the period of suspension the producer organisation takes the necessary corrective measures to remedy the failure and/or breach mentioned in sub-regulation (1), the Director shall lift the suspension.

(8) In case of lifting of the suspension, the Director shall inform the authorities mentioned in sub-regulation (5) of the said lifting of the suspension."

Withdrawal of
recognition as
a producer
organisation.

12. (1) Unless the producer organisation takes the necessary corrective measures indicated in the notice served on it by the Director in terms of regulation 11(1) by the end of the period of suspension, its recognition as a producer organisation shall be withdrawn by the Director:

Provided that the withdrawal of recognition shall take effect from the date on which the conditions for recognition were not fulfilled or, if it is not possible to identify that date, from the date when the failure to respect any one of the recognition criteria established by regulation 4, or by the date on which the breach of any of the provisions of these regulations was established.

(2) The Director shall inform authorities managing public funds which he deems fit in case of withdrawal of recognition as a producer organisation."

Adds new regulation 13 to the principal regulations.

11. Immediately after regulation 12 of the principal regulations, as renumbered and substituted, there shall be added the following new regulation:

"Right of appeal

Cap. 490.

13. (1) An appeal shall lie to the Administrative Review Tribunal as established by article 5(1) of the Administrative Justice Act from a decision of the Director to withdraw recognition as a producer organisation in terms of regulation 12.

(2) An appeal in terms of sub-regulation (1) may be filed by the entity whose recognition as a producer organisation has been withdrawn and shall be filed within twenty days from notification of the decision of withdrawal.

Cap. 12.

(3) Any party to an appeal to the Administrative Review Tribunal who feels aggrieved by a decision of the Administrative Review Tribunal, who feels dissatisfied with the decision of the Administrative Review Tribunal, may on a question of law appeal to the Court of Appeal as constituted in accordance with article 41(6) of the Code of Organization and Civil Procedure by means of an application filed in the registry of that court, within twenty days from the date of the Administrative Review Tribunal's decision."

