

Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) (repealed)

PART II

INTERNAL MARKET

TITLE I

MARKET INTERVENTION

CHAPTER IV

Aid schemes

[^{F1}Section IVa

AIDS in the fruit and vegetables sector

Subsection I

Producer groups

Article 103a

Aid to producer groups

1 During the transitional period allowed pursuant to Article 125e, Member States may grant to producer groups in the fruit and vegetables sector which have been formed in view of being recognised as a producer organisation:

- a aid to encourage their formation and facilitate their administrative operation;
- b aid, provided either directly or through credit institutions, to cover part of the investments required to attain recognition and set out in the recognition plan referred to in the third subparagraph of Article 125e(1).

2 The aid referred to in paragraph 1 shall be reimbursed by the Community in accordance with rules to be adopted by the Commission on the financing of such measures, including the thresholds and ceilings and the degree of Community financing.

3 The aid referred to in paragraph 1(a) shall be determined for each producer group on the basis of its marketed production and shall amount, for the first, second, third, fourth and fifth years, to:

- a 10 %, 10 %, 8 %, 6 % and 4 % respectively of the value of marketed production in the Member States which acceded to the European Union on 1 May 2004 or thereafter; and

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- b 5 %, 5 %, 4 %, 3 % and 2 %, respectively of the value of marketed production in the outermost regions of the Community as referred to in Article 299(2) of the Treaty or in the smaller Aegean Islands as referred to in Article 1(2) of Regulation (EC) No 1405/2006 of 18 September 2006 laying down specific measures for agriculture in favour of the smaller Aegean Islands⁽¹⁾.

Those percentage rates may be reduced in relation to the value of marketed production which exceeds a threshold. A ceiling may be applied to the aid payable in any given year to a producer group.

Subsection II

Operational funds and operational programmes

Article 103b

Operational funds

- 1 Producer organisations in the fruit and vegetables sector may set up an operational fund. The fund shall be financed by:
- a financial contributions of members or of the producer organisation itself;
 - b Community financial assistance which may be granted to producer organisations.
- 2 Operational funds shall be used only to finance operational programmes approved by Member States in accordance with Article 103g.

Article 103c

Operational programmes

- 1 Operational programmes in the fruit and vegetables sector shall have two or more of the objectives referred to in Article 122(c) or of the following objectives:
- a planning of production;
 - b improvement of product quality;
 - c boosting products' commercial value;
 - d promotion of the products, whether in a fresh or processed form;
 - e environmental measures and methods of production respecting the environment, including organic farming;
 - f crisis prevention and management.
- 2 Crisis prevention and management shall be related to avoiding and dealing with crises on the fruit and vegetable markets and shall cover in this context:
- a market withdrawal;
 - b green harvesting or non-harvesting of fruit and vegetables;
 - c promotion and communication;
 - d training measures;
 - e harvest insurance;
 - f support for the administrative costs of setting up mutual funds.

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Crisis prevention and management measures, including any repayment of capital and interest as referred to in the third subparagraph, shall not comprise more than one-third of the expenditure under the operational programme.

In order to finance crisis prevention and management measures, producer organisations may take out loans on commercial terms. In this case, the repayment of the capital and interest on those loans may form part of the operational programme and so may be eligible for Community financial assistance under Article 103d. Any specific action under crisis prevention and management shall be financed either by such loans, or directly, but not both.

3 Member States shall provide that:

- a operational programmes include two or more environmental actions; or
- b at least 10 % of the expenditure under operational programmes covers environmental actions.

Environmental actions shall respect the requirements for agri-environment payments set out in the first subparagraph of Article 39(3) of Council Regulation (EC) No 1698/2005 of 20 September 2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD)⁽²⁾.

Where at least 80 % of the producer members of a producer organisation are subject to one or more identical agri-environment commitments under that provision then each one of those commitments shall count as an environmental action as referred to in point (a) of the first subparagraph.

Support for the environmental actions referred to in the first subparagraph shall cover additional costs and income foregone resulting from the action.

4 Paragraph 3 shall only apply in Bulgaria and Romania from 1 January 2011.

5 Investments which increase environmental pressure shall only be permitted in situations where effective safeguards to protect the environment from these pressures are in place.

Article 103d

Community financial assistance

1 The Community financial assistance shall be equal to the amount of the financial contributions referred to in Article 103b(1)(a) as actually paid but limited to 50 % of the actual expenditure incurred.

2 The Community financial assistance shall be capped at 4,1 % of the value of the marketed production of each producer organisation.

However, that percentage may be increased to 4,6 % of the value of the marketed production provided that the amount in excess of 4,1 % of the value of the marketed production is used solely for crisis prevention and management measures.

3 At the request of a producer organisation, the percentage provided for in paragraph 1 shall be 60 % for an operational programme or part of an operational programme where it meets at least one of the following conditions:

- a it is submitted by several Community producer organisations operating in different Member States on transnational schemes;
- b it is submitted by one or more producer organisations engaged in schemes operated on an interbranch basis;

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- c it covers solely specific support for the production of organic products covered until 31 December 2008, by Council Regulation (EEC) No 2092/91 of 24 June 1991 on organic production of agricultural products and indications referring thereto on agricultural products and foodstuffs⁽³⁾ and, from 1 January 2009, by Council Regulation (EC) No 834/2007 of 28 June 2007 on organic production and labelling of organic products⁽⁴⁾;
 - d it is submitted by a producer organisation in one of the Member States which acceded to the European Union on 1 May 2004 or thereafter for measures running no later than the end of 2013;
 - e it is the first to be submitted by a recognised producer organisation which has merged with another recognised producer organisation;
 - f it is the first to be submitted by a recognised association of producer organisations;
 - g it is submitted by producer organisations in Member States where producer organisations market less than 20 % of fruit and vegetables production;
 - h it is submitted by a producer organisation in one of the outermost regions of the Community;
 - i it covers solely specific support for actions to promote the consumption of fruit and vegetables targeted at children in educational establishments.
- 4 The percentage provided for in paragraph 1 shall be 100 % in the case of market withdrawals of fruit and vegetables which shall not exceed 5 % of the volume of marketed production of each producer organisation and which are disposed of by way of:
- a free distribution to charitable organisations and foundations, approved to that effect by the Member States, for use in their activities to assist persons whose right to public assistance is recognised in national law, in particular because they lack the necessary means of subsistence;
 - b free distribution to penal institutions, schools and public education institutions and to children's holiday camps as well as to hospitals and old people's homes designated by the Member States, which shall take all necessary steps to ensure that the quantities thus distributed are additional to the quantities normally bought in by such establishments.

Article 103e

National financial assistance

1 In regions of the Member States where the degree of organisation of producers in the fruit and vegetables sector is particularly low, Member States may be authorised by the Commission, on a duly substantiated request, to pay producer organisations national financial assistance equal to a maximum of 80 % of the financial contributions referred to in Article 103b(1)(a). This assistance shall be additional to the operational fund. In regions of Member States where producer organisations market less than 15 % of the value of fruit and vegetable production and whose fruit and vegetable production represents at least 15 % of their total agricultural output, the assistance referred to in the first subparagraph may be reimbursed by the Community at the request of the Member State concerned.

2 By way of derogation from Article 180 of this Regulation, Articles 87, 88 and 89 of the Treaty shall not apply to the national financial assistance authorised pursuant to paragraph 1.

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Article 103f

National framework and national strategy for operational programmes

1 Member States shall establish a national framework for drawing up the general conditions relating to the actions referred to in Article 103c(3). This framework shall provide in particular that such actions shall meet the appropriate requirements of Regulation (EC) No 1698/2005 including those in its Article 5 on complementarity, consistency and conformity.

Member States shall submit their proposed framework to the Commission which may require modifications within three months if it finds that the proposal does not enable the attainment of the objectives set out in Article 174 of the Treaty and in the sixth Community environment action programme⁽⁵⁾. Investments on individual holdings supported by operational programmes shall also respect those objectives.

2 Member States shall establish a national strategy for sustainable operational programmes in the fruit and vegetable market. Such a strategy shall provide for the following elements:

- a an analysis of the situation in terms of strengths and weaknesses and the potential for development;
- b justification of the priorities chosen;
- c the objectives of operational programmes and instruments, performance indicators;
- d assessment of operational programmes;
- e reporting obligations for producer organisations.

The national strategy shall also integrate the national framework referred to in paragraph 1.

3 Paragraphs 1 and 2 shall not apply to Member States which have no recognised producer organisations.

Article 103g

Approval of operational programmes

1 Draft operational programmes shall be submitted to the competent national authorities, who shall approve or reject them or request their modification in line with the provisions of this subsection.

2 Producer organisations shall communicate to the Member State the estimated amount of the operational fund for each year and shall submit appropriate reasons therefore based on operational programme estimates, expenditure for the current year and possibly expenditure for previous years and, if necessary, on estimated production quantities for the next year.

3 The Member State shall notify the producer organisation or association of producer organisations of the estimated amount of Community financial assistance in line with the limits set out in Article 103d.

4 Community financial assistance payments shall be made on the basis of expenditure incurred for the schemes covered by the operational programme. Advances may be made in respect of the same schemes subject to the provision of a guarantee or security.

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5 The producer organisation shall notify the Member State of the final amount of expenditure for the previous year, accompanied by the necessary supporting documents, so that it may receive the balance of the Community financial assistance.

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

Article 103h

Implementing rules

The Commission shall establish the detailed rules for the application of this section, in particular:

- (a) rules on financing of the measures referred to in Article 103a, including the thresholds and ceilings for aid and the degree of Community co-financing of the aid;
- (b) the proportion of and rules on the reimbursement of the measures referred to in Article 103e(1);
- (c) rules on investments on individual holdings;
- (d) the dates for the communications and notifications referred to in Article 103g;
- (e) provision for partial payments of the Community financial assistance referred to in Article 103g.]

Textual Amendments

- F1** Inserted by [Council Regulation \(EC\) No 361/2008 of 14 April 2008 amending Regulation \(EC\) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products \(Single CMO Regulation\)](#).

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- (1) [^{F1}OJ L 265, 26.9.2006, p. 1.
- (2) OJ L 277, 21.10.2005, p. 1. Regulation as last amended by Regulation (EC) No 146/2008 (OJ L 46, 21.2.2008, p. 1).
- (3) OJ L 198, 22.7.1991, p. 1. Regulation as last amended by Commission Regulation (EC) No 123/2008 (OJ L 38, 13.2.2008, p. 3).
- (4) OJ L 189, 20.7.2007, p. 1.
- (5) Decision No 1600/2002/EC of the European Parliament and of the Council of 22 July 2002 laying down the Sixth Community Environment Action Programme (OJ L 242, 10.9.2002, p. 1).]

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