

Commission Regulation (EC) No 1580/2007 of 21 December 2007 laying down implementing rules of Council Regulations (EC) No 2200/96, (EC) No 2201/96 and (EC) No 1182/2007 in the fruit and vegetable sector (repealed)

COMMISSION REGULATION (EC) No 1580/2007

of 21 December 2007

laying down implementing rules of Council Regulations (EC) No 2200/96, (EC) No 2201/96 and (EC) No 1182/2007 in the fruit and vegetable sector (repealed)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2200/96 of 28 October 1996 on the common organisation of the market in fruit and vegetables⁽¹⁾, and in particular Article 1(3) thereof,

Having regard to Council Regulation (EC) No 2201/96 of 28 October 1996 on the common organisation of the markets in processed fruit and vegetable products⁽²⁾, and in particular Article 1(3) thereof,

Having regard to Council Regulation (EC) No 1182/2007 of 26 September 2007 laying down specific rules as regards the fruit and vegetable sector amending Directives 2001/112/EC and 2001/113/EC and Regulations (EEC) No 827/68, (EC) No 2200/96, (EC) No 2201/96, (EC) No 2826/2000, (EC) No 1782/2003 and (EC) No 318/2006 and repealing Regulation (EC) No 2202/96⁽³⁾, and in particular Article 42 thereof,

Whereas:

- (1) Regulation (EC) No 1182/2007 has modified the previous regime for the fruit and vegetables sector as laid down in Regulation (EC) No 2200/96, Regulation (EC) No 2201/96 and Council Regulation (EC) No 2202/96 of 28 October 1996 introducing a Community aid scheme for producers of certain citrus fruits⁽⁴⁾.
- (2) The existing implementing rules covering the fruit and vegetables sector are contained in a large number of regulations, many of which have been amended many times. Those implementing rules need to be changed as a result of the modifications made to the fruit and vegetables regime by Regulation (EC) No 1182/2007, as well as in the light of experience. The scope of the changes makes it necessary, in the interests of clarity, to incorporate all the implementing rules in a new, separate Regulation.
- (3) The following Commission Regulations should therefore be repealed:
 - Regulation (EC) No 3223/94 of 21 December 1994 on detailed rules for the application of the import arrangements for fruit and vegetables⁽⁵⁾,
 - Regulation (EC) No 1555/96 of 30 July 1996 on rules of application for additional import duties on fruit and vegetables⁽⁶⁾,

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Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1580/2007 (repealed), Introductory Text. (See end of Document for details)

- Regulation (EC) No 961/1999 of 6 May 1999 laying down detailed implementing rules concerning the extension of rules issued by producer organisations in the fruit and vegetable sector⁽⁷⁾,
- Regulation (EC) No 544/2001 of 20 March 2001 laying down rules for the application of Council Regulation (EC) No 2200/96 as regards additional financial assistance to operational funds⁽⁸⁾,
- Regulation (EC) No 1148/2001 of 12 June 2001 on checks on conformity to the marketing standards applicable to fresh fruit and vegetables⁽⁹⁾,
- Regulation (EC) No 2590/2001 of 21 December 2001 approving operations to checks conformity to the marketing standards applicable to fresh fruit and vegetables carried out in Switzerland prior to import into the European Community⁽¹⁰⁾,
- Regulation (EC) No 1791/2002 of 9 October 2002 approving operations to check conformity with the marketing standards applicable to fresh fruit and vegetables carried out in Morocco prior to import into the European Community⁽¹¹⁾,
- Regulation (EC) No 2103/2002 of 28 November 2002 approving operations to check conformity to the marketing standards applicable to fresh fruit and vegetables carried out in South Africa prior to import into the European Community⁽¹²⁾,
- Regulation (EC) No 48/2003 of 10 January 2003 laying down the rules applicable to mixes of different types of fresh fruit and vegetables in the same sales package⁽¹³⁾,
- Regulation (EC) No 606/2003 of 2 April 2003 approving operations to check conformity with the marketing standards applicable to fresh fruit and vegetables carried out in Israel prior to import into the Community⁽¹⁴⁾,
- Regulation (EC) No 761/2003 of 30 April 2003 approving operations to check conformity to the marketing standards applicable to fresh fruit and vegetables carried out in India prior to import into the Community⁽¹⁵⁾,
- Regulation (EC) No 1432/2003 of 11 August 2003 laying down detailed rules for the application of Council Regulation (EC) No 2200/96 regarding the conditions for recognition of producer organisations and preliminary recognition of producer groups⁽¹⁶⁾,
- Regulation (EC) No 1433/2003 of 11 August 2003 laying down detailed rules for the application of Council Regulation (EC) No 2200/96 as regards operational funds, operational programmes and financial assistance⁽¹⁷⁾,
- Regulation (EC) No 1943/2003 of 3 November 2003 laying down rules for the application of Council Regulation (EC) No 2200/96 as regards aid to producer groups granted preliminary recognition⁽¹⁸⁾,
- Regulation (EC) No 103/2004 of 21 January 2004 laying down detailed rules for implementing Council Regulation (EC) No 2200/96 as regards intervention arrangements and market withdrawals in the fruit and vegetable sector⁽¹⁹⁾,

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- Regulation (EC) No 1557/2004 of 1 September 2004 approving operations to check conformity to the marketing standards applicable to certain fresh fruit carried out in New Zealand prior to import into the Community⁽²⁰⁾,
 - Regulation (EC) No 179/2006 of 1 February 2006 introducing a system of import licences for apples imported from third countries⁽²¹⁾,
 - Regulation (EC) No 430/2006 of 15 March 2006 approving operations to check conformity with the marketing standards applicable to fresh fruit and vegetables carried out in Senegal prior to import into the Community⁽²²⁾,
 - Regulation (EC) No 431/2006 of 15 March 2006 approving operations to check conformity to the marketing standards applicable to fresh fruit and vegetables carried out in Kenya prior to import into the Community⁽²³⁾,
 - Regulation (EC) No 1790/2006 of 5 December 2006 approving operations to check conformity to the marketing standards applicable to fresh fruit and vegetables carried out in Turkey prior to import into the Community⁽²⁴⁾.
- (4) Detailed rules for the implementation of Regulation (EC) No 1182/2007 should be adopted.
 - (5) Marketing years should be set for fruit and vegetable products. Since there are no longer any aid schemes in the sector which follow the harvesting cycle of the products concerned, all marketing years may be harmonised to fit the calendar year.
 - (6) Regulation (EC) No 1182/2007 authorises the Commission to provide for marketing standards for fruit and vegetable products and its Article 2(7) provides that the existing individual regulations providing for such standards should continue to apply until new standards are adopted.
 - (7) Exceptions and exemptions from the application of marketing standards should be provided in the case of certain operations which are either very marginal and/or specific, or take place at the start of the distribution chain, or in the case of products intended for processing.
 - (8) The information particulars required by marketing standards should be clearly displayed on the packaging/label.
 - (9) Packages containing different types of fresh fruit and vegetables are becoming more common on the market in response to demand from certain consumers. Fair trading requires that fresh fruit and vegetables sold in the same package are of uniform quality. For products for which Community standards have not been adopted this can be ensured by recourse to general provisions. Labelling requirements should be laid down for mixes of different types of fruit and vegetables in the same package. They should be less strict than those laid down by the marketing standards in order to take into account, in particular, the space available on the label.
 - (10) Each Member State should designate the inspection bodies responsible for carrying out checks on conformity at each stage of marketing. One of those bodies should be responsible for contacts and coordination between all other designated bodies.

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- (11) Since knowledge of traders and their main characteristics is an indispensable tool in Member States' analysis, it is essential to set up a database on traders of fresh fruit and vegetables in each Member State.
- (12) Conformity checks should be carried out by sampling and should concentrate on traders most likely to have goods which do not comply with the standards. Taking into account the characteristics of their national markets, Member States should lay down rules prioritising checks on particular categories of traders. To ensure transparency, these rules should be notified to the Commission.
- (13) Member States should ensure that exports of fresh fruits and vegetables to third countries conform to the marketing standards and should certify conformity, in accordance with the Geneva Protocol on standardisation of fresh fruit and vegetables and dry and dried fruit concluded within the United Nations Economical Commission for Europe and the OECD scheme for the application of international standards for fruit and vegetables.
- (14) Imports of fresh fruit and vegetables from third countries should conform to the marketing standards or to standards equivalent to them. Checks on conformity must therefore be carried out before these goods enter Community customs territory, except in the case of small lots which the inspection authorities/bodies consider to be low risk. In certain third countries which provide satisfactory guarantees of conformity, pre-export checks may be carried out by the inspection bodies of these third countries. Where this option is applied, the Member States should regularly verify the effectiveness/quality of the pre-export checks carried out by third country inspection bodies and inform the Commission of the results of these verifications.
- (15) Products intended for processing are not required to conform to marketing standards, so it should be ensured that they are not sold on the market for fresh products. Such products should be appropriately labelled and, in certain cases/when possible, accompanied by a processing certificate stating the end-use of the product which would allow checks to be made.
- (16) Fruit and vegetables checked for conformity with the marketing standards should be subject to the same type of check at all stages of marketing. The inspection guidelines recommended by the United Nations Economic Commission for Europe in line with the relevant OECD recommendations, should be applied to this end. Specific arrangements should however be laid down for checks at the retail sale stage.
- (17) Provision should be made for recognition of producer organisations for the products they request. Where the recognition is requested for products solely for processing, it should be ensured that they are indeed delivered for processing.
- (18) In order to help achieve the goals of the fruit and vegetables regime and to ensure that producer organisations carry out their work in a sustainable and effective way, there should be the utmost stability within producer organisations. Membership of a producer in the producer organisation should therefore be for a minimum period. It should be left up to the Member States to lay down the notice periods and the dates on which resignation from membership are to take effect.

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- (19) The main and essential activities of a producer organisation should relate to the concentration of supply and marketing. However, producer organisations should be allowed to engage in other activities, whether or not of a commercial nature. Cooperation between producer organisations should be encouraged by allowing the marketing of fruit and vegetables bought exclusively from another recognised producer organisation to be left out of the calculations both for the purposes of the main activity and for other activities. As regards the provision of technical means it is appropriate to widen the scope of how this may be done to include provision via members of a producer organisation.
- (20) Producer organisations may hold shares in subsidiaries which help to increase the added value of the production of their members. Rules should be fixed for calculating the value of such marketed production. The main activities of such subsidiaries should be the same as those of the producer organisation, after allowing for a transitional period for adaptation.
- (21) Detailed rules should be laid down on the recognition and functioning of the associations of producer organisations, transnational producer organisations and transnational associations of producer organisations provided for in Regulation (EC) No 1182/2007. For the sake of consistency, they should as far as possible reflect the rules laid down for producer organisations.
- (22) In order to facilitate the concentration of supply, the merger of existing producer organisations to form new ones should be encouraged by providing rules for the merger of operational programmes of the merged organisations.
- (23) While respecting the principles whereby a producer organisation must be formed on the own initiative of producers and scrutinised by the producers, it should be left up to the Member States to lay down the conditions whereby other natural or legal persons are accepted as members of a producer organisation and/or an association of producer organisations.
- (24) In order to ensure that producer organisations genuinely represent a minimum number of producers, Member States should take measures to ensure that a minority of members who may account for the bulk of production in the producer organisation do not unduly dominate its management and operation.
- (25) In order to take account of different production and marketing circumstances in the Community, the Member States should lay down certain conditions for the grant of preliminary recognition to producer groups which submit a recognition plan.
- (26) To promote the setting-up of stable producer organisations capable of making a lasting contribution to the attainment of the objectives of the fruit and vegetable regime, preliminary recognition should be granted only to producer groups which can demonstrate their ability to meet all the requirements for recognition within a specified time limit.
- (27) Information which the producer groups must provide in the recognition plan should be laid down. To enable producer groups to better meet the recognition conditions, there is

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a need to authorise changes to recognition plans. To that end, provision should be made enabling Member States to request from producer organisation to take corrective action in order to ensure that their plan is implemented.

- (28) The producer group may satisfy the conditions for recognition before the recognition plan is completed. Provision should be made to allow such groups to submit applications for recognition along with draft operational programmes. For the sake of consistency, the grant of such recognition to a producer group must signify the termination of its recognition plan, and the aid provided for should be discontinued. However, to take account of the multiannual financing of investments, investments qualifying for investment aid should be able to be carried over to operational programmes.
- (29) To facilitate the correct application of the system of aid to cover the costs of formation and administrative operation of producer groups, that aid should be granted at a flat-rate. That flat-rate aid should be subject to a ceiling in order to comply with budgetary constraints. Moreover, taking into account the differing financial needs of producer groups of different sizes, that ceiling should be adjusted in line with the value of marketable production of the producer groups.
- (30) For the sake of consistency and a smooth transition to the status of a recognised producer group, the same rules on main activities of producer organisations and their value of marketed production should apply to producer groups.
- (31) In the event of mergers, the possibility should be given for the aid to be granted to the producer groups resulting from the merger, in order to take into account the financial needs of the new producers groups and to ensure the correct application of the aid scheme.
- (32) To facilitate the use of the scheme of support to operational programmes, the marketed production of producer organisations should be clearly defined, including the specification of which products may be taken into account and the marketing stage at which the value of production is to be calculated. Additional methods of calculation of marketable production should also be made possible in case of yearly fluctuations or insufficient data. To prevent misuse of the scheme, producer organisations should not in general be permitted to change reference periods within the duration of a programme.
- (33) To ensure correct use of aid, rules should be laid down for the management of operational funds and members' financial contributions, allowing for as much flexibility as possible on condition that all producers may take advantage of the operational fund and may democratically participate in decisions on its use.
- (34) Provisions should be laid down establishing the scope and structure of the national strategy for sustainable operational programmes and the national framework for environmental actions. Its aim shall be to optimise the allocation of financial resources and to improve the quality of the strategy.
- (35) In the interests of sound management, procedures for the presentation and approval of operational programmes, including deadlines, should be laid down in order to allow appropriate evaluation of the information by the competent authorities, and measures and activities to be included in, or excluded from, the programmes. Since the

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programmes are managed on an annual basis, it should be provided that programmes not approved before a given date are postponed for a year.

- (36) There should be a procedure for annually amending operational programmes for the following year, so that they can be adjusted to take account of any new conditions which could not have been foreseen when they were initially presented. In addition, it should be possible for measures and amounts of the operational fund to be changed during each year of execution of a programme. All such changes should be subject to certain limits and conditions, to be defined by Member States and including obligatory notification of changes to the competent authorities, to ensure the approved programmes maintain their overall objectives.
- (37) For reasons of financial security and legal certainty, a list of operations and expenditure which may not be covered by operational programmes should be drawn up.
- (38) In the case of investments on individual holdings, so as to prevent the unjustified enrichment of a private party who has severed links with the organisation during the useful life of the investment, provisions should be laid down to allow the organisation to recover the residual value of the investment, whether such an investment is owned by a member or by the organisation.
- (39) To ensure correct application of the scheme, information to be included in the applications for aid as well as procedures for the payment of aid should be laid down. To prevent cash-flow difficulties, a system of advance payments accompanied by appropriate securities should be available to producer organisations. For similar reasons, an alternative system should be available for the reimbursement of expenditure already incurred.
- (40) Detailed provisions on the scope and application of crisis management and prevention measures should be laid down. As far as possible these rules should provide for flexibility and for rapid application in crises and therefore should allow decisions to be taken by Member States and producer organisations themselves. Nevertheless the rules should prevent abuses and provide for limits on the use of certain measures, including in financial terms. They should also ensure that phytosanitary and environmental requirements are duly respected.
- (41) As regards withdrawals from the market, detailed rules should be adopted taking into account the potential importance of that measure. In particular, rules should be drawn up concerning the system of increased support for fruit and vegetables withdrawn from the market which are distributed free of charge as humanitarian aid by charitable organisations and certain other establishments and institutions. In addition, maximum levels of support for market withdrawals should be fixed in order to ensure that they do not become a permanent alternative outlet for products compared to placing them on the market. In this context, for those products for which maximum levels of Community withdrawal compensation were set in Annex V to Regulation (EC) No 2200/96, it is appropriate to continue using such levels, subject to a certain degree of increase to reflect the fact that these withdrawals are now co-financed. For other products, where experience has not yet shown any risk of excessive withdrawals, it is appropriate to allow Member States to fix maximum levels of support. In all cases, however, for

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similar reasons, it is appropriate to set a quantitative limit of withdrawals per product per producer organisation.

- (42) Detailed rules should be adopted concerning the national financial assistance which Member States may grant in regions of the Community where the degree of organisation of producers is particularly low, including defining such low degree of organisations. Procedures for the approval of such national aid as well as for the approval and amount of Community reimbursement of the aid should be provided for, as well as for proportion of reimbursement which should reflect those currently applicable.
- (43) Detailed rules, in particular procedural provisions, should be adopted concerning the conditions under which the rules issued by producer organisations or associations of such organisations in the fruit and vegetables sector may be extended to all producers established in a specific economic area. Also, where produce is sold on the tree, it should be made clear which rules are to be extended to the producers and the buyers respectively.
- (44) Apple producers in the Community have recently found themselves in a difficult situation, due, among other things, to a significant increase in imports of apples from certain third countries of the Southern hemisphere. The monitoring of the import of apples should therefore be improved. The appropriate instrument for achieving that objective is a mechanism based on issuing import licences subject to the provision of a security to ensure that the operations for which an import licence has been applied for are actually performed. Commission Regulations (EC) No 1291/2000 laying down common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products⁽²⁵⁾ and (EEC) No 2220/85 laying down common detailed rules for the application of the system of securities for agricultural products⁽²⁶⁾ should apply.
- (45) Detailed rules should be adopted concerning the entry price system for fruit and vegetables. Since most of the perishable fruit and vegetables concerned are supplied on consignment, this creates special difficulties for determining their value. The possible methods for calculation of the entry price on the basis of which imported products are classified in the Common Customs Tariff should be set. In particular, standard import values should be established on the basis of the weighted average of the average prices for the products and special provision must be made for cases in which no prices are available for products of a given origin. There should be provision for the lodging of a security in certain circumstances to ensure that the system is correctly applied.
- (46) Detailed rules should be adopted concerning the import duty which can be imposed on certain products in addition to that provided for in the Common Customs Tariff. The additional duty may be imposed if import volumes of the products concerned exceed trigger levels determined for the product and the period of application. Goods en route to the Community are exempt from additional duty and, therefore, specific provisions for such goods should be adopted.
- (47) Provision should be made for appropriate monitoring and evaluation of ongoing programmes and schemes in order to assess their effectiveness and efficiency by both producer organisations and Member States.

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- (48) Measures/provisions should be laid down concerning the type, format and means of communications necessary to implement this Regulation. These should include communications from producers and producer organisations to the Member States and from the Member States to the Commission, as well as the consequences resulting from late or inaccurate communications.
- (49) Measures should be laid down for the checks necessary in order to ensure to proper application of this Regulation and Regulation (EC) No 1182/2007, and the appropriate sanctions applicable to irregularities found. Those measures should involve both specific checks and sanctions laid down at the Community level as well as additional national checks and sanctions. The checks and sanctions should be dissuasive, effective and proportionate. Rules should be provided for resolving cases of obvious error, *force majeure* and other exceptional circumstances to ensure fair treatment of producers. Rules for artificially created situations should be provided for in order to avoid any benefit being derived from such situations.
- (50) Provisions should be made for a smooth transition from the previous system to the new system set out in this Regulation and the implementation of the transitional provisions set out in Article 55 of Regulation (EC) No 1182/2007.
- (51) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Fruit and Vegetables,

HAS ADOPTED THIS REGULATION:

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- (1) OJ L 297, 21.11.1996, p. 1. Regulation as last amended by Commission Regulation (EC) No 6/2005 (OJ L 2, 5.1.2005, p. 3).
- (2) OJ L 297, 21.11.1996, p. 29. Regulation as last amended by the Act of Accession 2003.
- (3) OJ L 273, 17.10.2007, p. 1.
- (4) OJ L 297, 21.11.1996, p. 49. Regulation as last amended by the Act of Accession 2003.
- (5) OJ L 337, 24.12.1994, p. 66. Regulation as last amended by Regulation (EC) No 756/2007 (OJ L 172, 30.6.2007, p. 41).
- (6) OJ L 193, 3.8.1996, p. 1. Regulation as last amended by Regulation (EC) No 977/2007 (OJ L 217, 22.8.2007, p. 9).
- (7) OJ L 119, 7.5.1999, p. 23.
- (8) OJ L 81, 21.3.2001, p. 20.
- (9) OJ L 156, 13.6.2001, p. 9. Regulation as last amended by Regulation (EC) No 408/2003 (OJ L 62, 6.3.2003, p. 8).
- (10) OJ L 345, 29.12.2001, p. 20.
- (11) OJ L 272, 10.10.2002, p. 7.
- (12) OJ L 324, 29.11.2002, p. 11.
- (13) OJ L 7, 11.1.2003, p. 65.
- (14) OJ L 86, 3.4.2003, p. 15.
- (15) OJ L 109, 1.5.2003, p. 7.
- (16) OJ L 203, 12.8.2003, p. 18.
- (17) OJ L 203, 12.8.2003, p. 25. Regulation as last amended by Regulation (EC) No 576/2006 (OJ L 100, 8.4.2006, p. 4).
- (18) OJ L 286, 4.11.2003, p. 5. Regulation as last amended by Regulation (EC) No 222/2005 (OJ L 39, 11.2.2005, p. 17).
- (19) OJ L 16, 23.1.2004, p. 3.
- (20) OJ L 283, 2.9.2004, p. 3.
- (21) OJ L 29, 2.2.2006, p. 26.
- (22) OJ L 79, 16.3.2006, p. 7.
- (23) OJ L 79, 16.3.2006, p. 9.
- (24) OJ L 339, 6.12.2006, p. 8.
- (25) OJ L 152, 24.6.2000, p. 1. Regulation as last amended by Regulation (EC) No 1913/2006 (OJ L 365, 21.12.2006, p. 52).
- (26) OJ L 205, 3.8.1985, p. 5. Regulation as last amended by Regulation (EC) No 1913/2006 (OJ L 365, 21.12.2006, p. 52).

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