

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rules of Council Regulations (EC) No 2200/96, (EC) No 2201/96 and (EC) No 1182/2007 in the fruit and vegetable sector (repealed)

## TITLE III

### **PRODUCER ORGANISATIONS**

#### CHAPTER II

#### **Operational funds and operational programmes**

##### Section 3

#### **Operational Programmes**

##### *Article 57*

#### **National strategy**

1 The overall structure and content of the national strategy referred to in Article 12(2) of Regulation (EC) No 1182/2007 shall, from 1 January 2009, be established in accordance with the guidelines set out in Annex VII. Prior to that date, Member States shall determine its overall structure and content. It may be comprised of regional elements.

The national strategy shall integrate all the decisions taken and provisions adopted by the Member State in application of Title III of Regulation (EC) No 1182/2007 and this Title.

2 The national strategy, including the integration of the national framework referred to in Article 12(1) of Regulation (EC) No 1182/2007, shall be established before draft operational programmes are submitted in any given year. The national framework shall be integrated after having been submitted to the Commission and if appropriate, after having been amended, in accordance with the second subparagraph of Article 12(1) of Regulation (EC) No 1182/2007.

3 An analysis of the initial situation shall form part of the process of drawing up the national strategy and be carried out under responsibility of the Member State. It shall identify and assess the needs to be met, the ranking of the needs in terms of priorities, the goals to be achieved through the operational programmes to meet those priority needs, the results expected and the quantified targets to be attained in relation to the initial situation, and lay down the most appropriate instruments and actions for attaining those objectives.

4 Member States shall also ensure monitoring and evaluation of the national strategy and its implementation through operational programmes.

The national strategy may be amended, in particular in the light of monitoring and evaluation. Such amendments shall be made before the submission of draft operational programmes in any given year.

5 Member States shall set out in the national strategy maximum percentages of the fund which may be spent on any individual measure and/or type of action and/or expenditure in order to ensure an appropriate balance between different measures.

#### *Article 58*

### **National framework for environmental actions**

1 In addition to the notification foreseen under Article 12(1) of Regulation (EC) No 1182/2007 Member States shall also notify the Commission of any amendments to the national framework which shall be subject to the procedure set out in the second subparagraph of Article 12(1) of Regulation (EC) No 1182/2007. The Commission shall make the framework available to other Member States by the means it considers appropriate.

2 The framework shall set out a non-exhaustive list of environmental actions and the conditions therefore applicable in the Member State for the purposes of Article 9(3) of Regulation (EC) No 1182/2007 and, for each environmental action selected, shall indicate:

- a the specific commitment or commitments entailed; and
- b the justification of the action based on its expected environmental impact in relation to environmental needs and priorities.

#### *Article 59*

### **Complementary Member State rules**

Member States may adopt rules complementing Regulation (EC) No 1182/2007 and this Regulation concerning the eligibility of measures, actions or expenditure under operational programmes.

#### *Article 60*

### **Relationship with rural development programmes**

1 No support under the Member State's rural development programme or programmes approved under Regulation (EC) No 1698/2005, shall be granted to actions which are covered by measures set out by this Regulation, subject to paragraph 2.

2 Where support under Regulation (EC) No 1698/2005 has exceptionally been granted in accordance with Article 5(6) of that Regulation, to measures which would be potentially eligible under this Regulation, Member States shall ensure that a beneficiary may receive support for a given action only under one scheme.

To that end, when Member States, include measures containing such exceptions in their rural development programmes, they shall ensure that the national strategy as referred to in Article 57 of this Regulation lays down the criteria and administrative rules which they will apply in the rural development programmes.

Where relevant, and without prejudice to provisions of Articles 10(1) and (3) and 11 of Regulation (EC) No 1182/2007, the level of support for measures covered by this Regulation shall not exceed that applicable for the measures under the rural development programme.

Support for environmental actions, other than acquisition of fixed assets, shall be limited to the maximum amounts laid down in the Annex to Regulation (EC) No 1698/2005 for agri-environment payments. These amounts may be increased in exceptional cases taking account of specific circumstances to be justified in the national strategy as referred to in Article 57 of this Regulation.

#### *Article 61*

### **Contents of operational programmes and eligible expenditure**

- 1 Operational programmes shall include the following:
  - a a description of the initial situation, based, where relevant, on the baseline indicators listed in Annex XIV;
  - b the objectives of the programme, bearing in mind the outlook for production and outlets, and an explanation of how the programme contributes to the national strategy and confirmation that it is consistent with the national strategy, including in its balance between activities. The description of the objectives shall refer to objectives defined in the national strategy and indicate measurable targets, so as to facilitate the monitoring of progress gradually made in implementing the programme;
  - c a detailed description of the measures, including those for crisis prevention and management, containing separate actions, to be taken and the means for attaining those objectives in each year of implementation of the programme. The description shall indicate the extent to which different measures proposed:
    - (i) complement and are consistent with other measures, including measures financed or eligible for support by other European Community funds, and in particular rural development support. In this respect, a specific reference shall also be made, if appropriate, to measures carried out under previous operational programmes;
    - (ii) do not entail any risk of double financing by European Community funds;
  - d the duration of the programme; and
  - e the financial aspects, namely:
    - (i) the method of calculation and the level of financial contributions;
    - (ii) the procedure for financing the operational fund;
    - (iii) information necessary to justify different levels of contribution; and
    - (iv) the budget and timetable for undertaking operations for each year of implementation of the programme.
- 2 Various environmental actions may be combined provided that they are complementary and compatible.

Where environmental actions are combined, the level of support shall take account of the specific income foregone and additional costs resulting from the combination.

- 3 Investments, including those under leasing contracts, whose repayment period exceeds the length of the operational programme may be carried over to a subsequent operational programme on duly justified economic grounds, and in particular in cases where the fiscal depreciation period is longer than five years.

Where investments are replaced, the residual value of the investments replaced shall be:

- a added to the operational fund of the producer organisation; or
- b subtracted from the cost of the replacement.

Investments or actions may be implemented on individual holdings of members of the producer organisation, provided that they contribute to the objectives of the operational programme. If the member leaves the producer organisation, Member States shall ensure that the investment or its residual value is recovered, unless the Member State provides otherwise.

4 Operational programmes shall not include actions or expenditure referred to in the list set out in Annex VIII.

5 Expenditure under operational programmes eligible for aid shall be restricted to the actual costs incurred. However, Member States may instead fix standard flat rates in advance and in a duly justified way in the following cases:

- a where such standard flat-rates are referred to in Annex VIII;
- b for additional per-kilometre external transport costs, compared to road haulage costs, incurred when using rail and/or ship transport as part of a measure to respect the environment; and
- c for additional costs and income foregone resulting from environmental actions, calculated in conformity with Article 53(2) of Regulation (EC) No 1974/2006.

Member States shall review such rates at least every five years.

6 In order for an action to be eligible, more than 50 % by value of the products concerned by it shall be those for which the producer organisation is recognised. To be counted in the 50 %, the products shall come from the producer organisation's members or members of another producer organisation. The appropriate rules in Article 52 shall apply to the calculation of the value.

#### *Article 62*

##### **Documents to be submitted**

Operational programmes shall be accompanied by, in particular:

- (a) evidence of the setting-up of an operational fund;
- (b) a written undertaking from the producer organisation to comply with Regulation (EC) No 1182/2007 and this Regulation; and
- (c) a written undertaking from the producer organisation that it has and will not receive, directly or indirectly, any other Community or national funding in respect of actions qualifying for aid under this Regulation.

#### *Article 63*

##### **Partial operational programmes**

1 Pursuant to Article 5 of Regulation (EC) No 1182/2007 a Member State may authorise an association of producer organisations to present a partial operational programme of its own, which shall consist of actions identified, but not implemented by two or more member producer organisations in their operational programmes.

2 The same rules shall apply to partial operational programmes as to other operational programmes and they shall be considered together with the operational programmes of the member producer organisations.

- 3 Member States shall ensure that:
- a the actions are fully financed from contributions of member producer organisations paid out of the operational funds of those organisations;
  - b the actions and the corresponding financial participation are listed in the operational programme of each participating producer organisation; and
  - c there is no risk of duplicate aid and that Article 60 is applied *mutatis mutandis*.

#### *Article 64*

##### **Time limit for submission**

Operational programmes shall be submitted for approval by the producer organisation to the competent authority in the Member State in which the producer organisation has its headquarters by 15 September at the latest of the year preceding that in which they are to be implemented. However, the Member States may postpone that date.

When a legal entity or clearly defined part of a legal entity, including a producer group, submits an application for recognition as a producer organisation it may at the same time submit the operational programme referred to in the first paragraph for approval. Approval of the programme shall be subject to obtainment of recognition no later than on the final date laid down in Article 65(2).

#### *Article 65*

##### **Decision**

- 1 The competent national authority shall, as appropriate:
- a approve amounts of funds and programmes which meet the requirements of Regulation (EC) No 1182/2007 and those of this Chapter;
  - b approve the programmes, on condition that certain amendments are accepted by the producer organisation; or
  - c reject the programmes or part of the programmes.

2 The competent national authority shall take decisions on programmes and funds by 15 December at the latest of the year in which they are submitted.

Member States shall notify the producer organisations of those decisions by 15 December at the latest.

However, for duly justified reasons, the competent national authority may take a decision on operational programmes and funds by 20 January at the latest following the date of the application. The approval decision may stipulate that expenditure is eligible from 1 January of the year following the application.

### *Article 66*

#### **Amendments to operational programmes for subsequent years**

1 Producer organisations may request amendments to operational programmes, including if necessary an extension of its duration up to a total duration of five years, by 15 September at the latest to be applied from 1 January of the following year.

However, Member States may postpone the date for submitting requests.

2 Requests for amendments shall be accompanied by supporting documents giving the reason, nature and implications of the changes.

3 The competent authority shall take decisions on requests for amendments to operational programmes by 15 December at the latest.

However, for duly justified reasons, Member States may take a decision on amendments to operational programmes not later than 20 January following the date of the application. The approval decision may stipulate that expenditure is eligible from 1 January of the year following the application.

### *Article 67*

#### **Amendments to operational programmes during the year**

1 Member States may authorise amendments to operational programmes during the year, under conditions to be determined by them.

2 Producer organisations may be authorised by the competent national authority, during the year to:

- a implement their operational programmes in part only;
- b change the contents of the operational programme, including if necessary the extension of its duration up to a total duration of five years;
- c increase the amount of the operational fund by a maximum of 25 %, and decrease it by a percentage to be fixed by Member States, of the amount initially approved provided the overall objectives of the operational programme are maintained. Member States may increase this percentage in case of mergers of producer organisations as referred to in Article 31(1).

3 Member States shall determine the conditions under which operational programmes may be amended during the year without prior approval by the competent national authority. These changes are only eligible for aid if they are communicated by the producer organisation to the competent authority without delay.

### *Article 68*

#### **Operational programmes' format**

1 Operational programmes shall be implemented in annual periods running from 1 January to 31 December.

2 Operational programmes approved on 15 December at the latest shall be implemented from 1 January of the following year.

The implementation of programmes approved after 15 December shall be postponed for one year.

By way of derogation from the first and second subparagraphs of this paragraph, where the third subparagraph of Article 65(2) or the second subparagraph of Article 66(3) apply, the implementation of operational programmes approved in accordance with those provisions shall start not later than 31 January following their approval.