

**COMMISSION REGULATION (EC) No 292/2008****of 1 April 2008****amending Regulation (EC) No 1580/2007 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**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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 <sup>(1)</sup>, and in particular Article 42(a), (b) and (j) thereof,

Whereas:

- (1) The first subparagraph of Article 80(2) of Commission Regulation (EC) No 1580/2007 <sup>(2)</sup> provides for a limit on market withdrawals as a proportion of the volume of marketed production of any given product in any given producer organisation. In the interests of promoting free distribution as a destination for such withdrawals, that limit should not include products sent for free distribution.
- (2) The third subparagraph of Article 80(2) provides for a 3 % margin of error in calculating the volume of marketed production. This terminology might be seen as misleading and in the interests of clarity the provision should instead refer to a 3 % margin of overrun.
- (3) Article 55(3) of Regulation (EC) No 1182/2007 provides that operational programmes approved before 31 December 2007 may be modified to meet the requirements of that Regulation. However, such modifications require the Member State concerned to adopt a national strategy under that Regulation, which may take some time in 2008.

(4) Market withdrawals under Council Regulation (EC) No 2200/96 <sup>(3)</sup> may not be carried out after 31 December 2007, following the modifications made to that Regulation by Regulation (EC) No 1182/2007.

(5) It is also desirable to allow for the rapid introduction in 2008 of the new crisis prevention and management measures where this is administratively practicable and for which appropriate checks may be carried out, namely those on promotion and communication and training.

(6) Therefore, in order to allow for a smooth transition between the regimes governed by Regulations (EC) No 2200/96 and (EC) No 1182/2007, for rapid implementation of those new crisis prevention and management measures, and to avoid any unnecessary interruption of market withdrawal measures, it is necessary to permit Member States to make expenditure on such measures carried out from 1 January 2008 eligible, even where an operation under a measure is carried out before the operational programme concerned has been amended to cover it. For similar reasons Member States should be permitted to allow amendments to measures in existing programmes under Article 55(3) of Regulation (EC) No 1182/2007 to cover expenditure carried out from 1 January 2008.

(7) In the interests of good management the operation should otherwise respect the requirements of Regulation (EC) No 1580/2007 and the national strategy and operational programme should be subsequently amended to cover that measure before an application is made for payment of the related aid.

(8) Regulation (EC) No 1580/2007 should therefore be amended accordingly.

(9) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for the Common Organisation of Agricultural Markets,

<sup>(1)</sup> OJ L 273, 17.10.2007, p. 1.

<sup>(2)</sup> OJ L 350, 31.12.2007, p. 1.

<sup>(3)</sup> OJ L 297, 21.11.1996, p. 1. Regulation as last amended by Regulation (EC) No 1234/2007 (OJ L 299, 16.11.2007, p. 1).

HAS ADOPTED THIS REGULATION:

*Article 1*

Regulation (EC) No 1580/2007 is amended as follows:

1. in Article 80(2), the first subparagraph is replaced by the following:

‘2. Market withdrawals shall not exceed 5 % as a proportion of the volume of the marketed production of any given product in any given producer organisation. However, amounts which are disposed in one of the ways referred to in Article 10(4)(a) and (b) of Regulation (EC) No 1182/2007 or any other way approved by Member States under Article 81(2) shall not be taken into account in that proportion.’;

2. in Article 80(2), the third subparagraph is replaced by the following:

‘The percentages referred to in the first subparagraph shall be annual averages over a three year period, with a 3 % annual margin of overrun.’;

3. in Article 152(2), the following subparagraphs are added:

‘Member States may provide that the expenditure on one or more of the crisis prevention and management measures on

market withdrawal, promotion and communication and training which are carried out in 2008 by a producer organisation shall be eligible even if the operational programme has not yet been amended to cover the measures concerned. In order for such expenditure to be eligible:

(a) the Member State shall ensure that its national strategy adopted in 2008 in accordance with this Regulation covers the measures concerned,

(b) in 2008 the operational programme shall be amended in accordance with this Regulation to cover the measures concerned before an application is made for payment of the related aid; and

(c) the measures and any checks on those measures shall comply with this Regulation.

Member States may provide that an amendment to a measure in an existing operational programme made under Article 55(3)(b) of Regulation (EC) No 1182/2007 covers the expenditure on operations which are carried out in 2008 even before that amendment is made, provided that the requirements of points (a), (b) and (c) of the fourth subparagraph are respected.’

*Article 2*

This Regulation shall enter into force on the third day following its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 1 April 2008.

*For the Commission*

Mariann FISCHER BOEL

*Member of the Commission*