

Commission Implementing Regulation (EU) No 543/2011 of 7 June 2011 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 in respect of the fruit and vegetables and processed fruit and vegetables sectors

TITLE III

PRODUCER ORGANISATIONS

CHAPTER I

Requirements and recognition

Section 4

Producer groups

Article 36

Submission of recognition plans

- 1 A legal entity or clearly defined part of a legal entity shall submit the recognition plan referred to in Article 125e(1) of Regulation (EC) No 1234/2007 to the competent authority of the Member State in which the entity has its head office.
- 2 Member States shall lay down:
 - a the minimum criteria which the legal entity or clearly defined part of a legal entity shall meet to be able to submit a recognition plan;
 - b the rules for the drafting, content and implementation of recognition plans;
 - c the period during which a former member of a producer organisation shall be prohibited from joining a producer group after leaving the producer organisation in respect of the products for which the producer organisation was recognised; and
 - d the administrative procedures for the approval, monitoring and fulfilling of recognition plans.

Article 37

Content of recognition plans

A draft recognition plan shall cover at least the following:

- (a) a description of the initial situation, in particular as regards the number of producer members, giving full details of members, production, including the value of marketed production, marketing and infrastructure that is at the producer group's disposal, including infrastructure owned by individual members of the producer group;
- (b) the proposed date for starting implementation of the plan and its duration, which shall not exceed five years; and

- (c) activities and investments to be implemented in order to achieve recognition.

Article 38

Approval of recognition plans

1 The competent authority of the Member State shall decide on a draft recognition plan within three months of the receipt of the plan accompanied by all supporting documents. Member States may provide for a shorter deadline.

2 Member States may adopt additional rules concerning the eligibility of operations and expenditure under recognition plans, including rules on the eligibility of investments, for the purpose of achieving compliance by producer groups with the recognition criteria for producer organisations referred to in Article 125b(1) of Regulation (EC) No 1234/2007.

3 Following the conformity checks referred to in Article 111, the competent authority of the Member State shall, as appropriate:

- a accept the plan and grant preliminary recognition;
- b request changes to the plan;
- c reject the plan.

Acceptance may be granted, where necessary, only if the changes requested under point (b) have been incorporated in the plan.

The competent authority of the Member State shall notify the legal entity or clearly defined part of a legal entity of its decision.

Article 39

Implementation of recognition plans

1 The recognition plan shall be implemented in annual segments starting on 1 January. Member States may allow producer groups to break down these annual segments into semestrial segments.

For the first year of implementation in accordance with the proposed date referred to in Article 37(b), the recognition plan shall begin:

- a on 1 January following the date of its acceptance by the competent authority of the Member State; or
- b on the first calendar day following the date of its acceptance.

The first year of implementation of the recognition plan shall in any event end on 31 December of the same year.

2 Member States shall set the conditions under which producer groups may request changes to plans during their implementation. Those requests shall be accompanied by all the necessary supporting documents.

Member States shall determine the conditions under which recognition plans may be amended during an annual or semestrial segment without prior approval by the competent authority of the Member State. Those changes shall only be eligible for aid if they are communicated by the producer group to the competent authority of the Member State without delay.

3 The competent authority of the Member State shall decide on changes to plans within three months of receipt of the request for change, after considering the evidence supplied. Where no decision is taken on a request for change within that period, the request shall be deemed to have been rejected. Member States may provide for a shorter deadline.

Article 40

Applications for recognition as a producer organisation

1 Producer groups implementing a recognition plan may, at any time, submit an application for recognition under Article 125b of Regulation (EC) No 1234/2007. Such applications shall in any event be submitted before the end of the transitional period referred to in Article 125e(1) of Regulation (EC) No 1234/2007.

2 From the date on which such an application is lodged, the group in question may submit a draft operational programme under Article 63.

Article 41

Producer groups' main activities

1 The main activity of a producer group shall relate to the concentration of supply and the placing on the market of the products of its members for which it is preliminary recognised.

2 A producer group may sell products from producers which are not a member of a producer group, where it is recognised for those products and provided that the economic value of that activity is below the value of the marketed production of the producer group's own members and of members of other producer groups.

Article 42

Value of marketed production

1 Article 50(1) to (4) and (7) and the first sentence of paragraph 6 of that Article shall apply *mutatis mutandis* to producer groups.

2 Where a reduction of the value of marketed production of at least 35 % has occurred due to reasons, duly justified to the Member State, falling outside the responsibility and control of the producer group, the total value of marketed production shall be deemed to represent 65 % of the total value declared in the previous application or applications for aid covering the most recent annual segment, as verified by the Member State, and in the absence thereof, of the value declared initially in the approved recognition plan.

3 The value of marketed production shall be as calculated under the legislation applicable as regards the period for which the aid is claimed.

Article 43

Financing of recognition plans

1 The rates of aid referred to in Article 103a(3) of Regulation (EC) No 1234/2007 shall be reduced by half in relation to marketed production which exceeds EUR 1 000 000.

2 The aid referred to in Article 103a(1)(a) of Regulation (EC) No 1234/2007 shall be subject to an annual ceiling for each producer group of EUR 100 000.

3 The aid referred to in Article 103a(1) of Regulation (EC) No 1234/2007 shall be paid:

- a in annual or semestrial instalments at the end of each annual or semestrial period for the implementation of the recognition plan; or
- b in instalments covering part of an annual period if the plan starts during the annual period or if recognition occurs under Article 125b of Regulation (EC) No 1234/2007 before the end of an annual period. In that case, the ceiling referred to in paragraph 2 of this Article shall be reduced proportionately.

In order to calculate the instalments, the Member States may use as a basis the marketed production corresponding to a period other than that in respect of which the instalment is paid, where checks so require. The difference between the periods shall be less than the actual period concerned.

4 The exchange rate applicable to the amounts referred to in paragraphs 1 and 2 shall be the rate most recently published by the European Central Bank prior to the first day of the period for which the aid in question is granted.

Article 44

Aid for investments required for recognition

Investments linked to the implementation of recognition plans referred to in Article 37(c) of this Regulation for which aid is provided for under Article 103a(1)(b) of Regulation (EC) No 1234/2007 shall be financed pro rata to their use for the products of the members of a producer group for which preliminary recognition is granted.

Investments likely to distort competition in respect of the other economic activities of the producer group shall be excluded from Union aid.

Article 45

Application for aid

1 A producer group shall submit a single application for the aid referred to in Article 103a(1)(a) and (b) of Regulation (EC) No 1234/2007 within three months of the end of each annual or semestrial period as referred to in Article 43(3) of this Regulation. The application shall include a declaration of the value of marketed production for the period for which the aid is claimed.

2 Applications for aid covering semestrial periods may be submitted only if the recognition plan is broken into semestrial periods as referred to in Article 39(1). All applications for aid shall be accompanied by a written declaration from the producer group to the effect that the latter:

- a complies and will comply with Regulation (EC) No 1234/2007 and with this Regulation; and
- b has not benefited, is not benefiting and will not benefit either directly or indirectly from duplicate Union or national financing for actions implemented under its recognition plan for which Union financing is granted pursuant to this Regulation.

3 Member States shall fix the deadline for paying the aid which in any case shall not be later than six months after the receipt of the application.

Article 46

Eligibility

Member States shall evaluate the eligibility of producer groups for the aid under this Regulation in order to establish that the aid is duly justified, taking into account the conditions and the date on which any earlier public aid was granted to the producer organisations or groups from which the members of the producer group in question originate and to any movements of members between producer organisations and producer groups.

Article 47

Union contribution

1 The Union contribution towards aid as referred to in Article 103a(1)(a) of Regulation (EC) No 1234/2007 shall amount to:

- a 75 % in the regions eligible under the Convergence Objective; and
- b 50 % in other regions.

The remainder of the aid shall be paid as a flat-rate payment by the Member State. The aid application shall not be required to include evidence as to the use of the aid.

2 The Union contribution towards aid as referred to in Article 103a(1)(b) of Regulation (EC) No 1234/2007, expressed in terms of a capital grant or capital-grant equivalent, shall not exceed, as a percentage of eligible investment costs:

- a 50 % in the regions eligible under the Convergence Objective; and
- b 30 % in other regions.

The Member States concerned shall undertake to contribute at least 5 % of eligible investment costs.

Beneficiaries of aid towards eligible investment costs shall pay at least:

- a 25 % in the regions eligible under the Convergence Objective; and
- b 45 % in other regions.

Article 48

Mergers

1 Aid as provided for in Article 103a(1) of Regulation (EC) No 1234/2007 may be given, or may continue to be given, to producer groups which have been granted preliminary recognition and which result from the merger between two or more producer group granted preliminary recognition.

2 For the purposes of calculating the aid payable pursuant to paragraph 1, the producer group resulting from the merger shall replace the merging groups.

3 Where two or more producer groups merge, the new entity shall assume the rights and obligations of the producer group which has been granted preliminary recognition the earliest.

4 Where a producer group which has been granted preliminary recognition merges with a recognised producer organisation, the resulting entity shall no longer be eligible for preliminary recognition as a producer group, nor for the aid referred to in Article 103a(1) of Regulation (EC) No 1234/2007. The resulting entity shall continue to be treated as the recognised producer organisation, provided that it respects the applicable requirements. If necessary, the producer organisation shall request a change to its operational programme, and to this end Article 29 shall apply *mutatis mutandis*.

However, actions carried out by producer groups before such a merger shall continue to be eligible under the conditions set out in the recognition plan.

Article 49

Consequences of recognition

1 Aid as provided for in Article 103a(1) of Regulation (EC) No 1234/2007 shall cease once recognition is granted.

2 Where an operational programme is submitted pursuant to this Regulation, the Member State concerned shall ensure that there is no duplicated financing of the measures set out in the recognition plan.

3 Investments qualifying for the aid or the costs referred to in Article 103a(1)(b) of Regulation (EC) No 1234/2007 may be carried over to operational programmes provided they are in line with the requirements of this Regulation.

4 Member States shall fix the period, starting after implementation of the recognition plan, within which the producer group shall be required to be recognised as a producer organisation. The period shall not exceed four months.