

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 II

#### *Operational funds and operational programmes*

#### *Section 1*

#### ***Value of marketed production***

#### *Article 50*

#### **Basis for calculation**

1 The value of marketed production for a producer organisation shall be calculated on the basis of the production of the producer organisation itself and its producer members, and shall only include the production of those fruits and vegetables for which the producer organisation is recognised. The value of marketed production may include fruit and vegetables that are not required to conform to the marketing standards, where those standards do not apply pursuant to Article 4.

2 The value of marketed production shall include the production of members who leave or join the producer organisation. The Member States shall determine the conditions to avoid duplicate counting.

3 The value of the marketed production shall not include the value of processed fruit and vegetables or any other product that is not a product of the fruit and vegetables sector.

However, the value of the marketed production of fruit and vegetables intended for processing, which have been transformed into one of the processed fruit and vegetable products listed in Part X of Annex I to Regulation (EC) No 1234/2007 or any other processed product referred to in this Article and described further in Annex VI to this Regulation, by either a producer organisation, an association of producer organisations or their producer members or subsidiaries as referred to in paragraph 9 of this Article, either by themselves or through outsourcing, shall be calculated as a flat rate in percentage applied to the invoiced value of those processed products. That flat rate shall be:

- a 53 % for fruit juices;
- b 73 % for concentrated juices;
- c 77 % for tomato concentrate;
- d 62 % for frozen fruit and vegetables;
- e 48 % for canned fruit and vegetables;

- f 70 % for canned mushrooms of the genus *Agaricus*;
- g 81 % for fruits provisionally preserved in brine;
- h 81 % for dried fruits;
- i 27 % for other processed fruit and vegetables;
- j 12 % for processed aromatic herbs;
- k 41 % for paprika powder.

4 Member States may allow producer organisations to include the value of the by-products in the value of marketed production.

5 The value of marketed production shall include the value of market withdrawals disposed of as provided for in Article 103d(4) of Regulation (EC) No 1234/2007, estimated at the average price of those products marketed by the producer organisation in the previous reference period.

6 Only the production of the producer organisation and/or its producer members which is marketed by that producer organisation shall be counted in the value of marketed production. The production of the producer members of the producer organisation marketed by another producer organisation designated by their own organisation, pursuant to Article 125a(2)(b) and (c) of Regulation (EC) No 1234/2007 shall be counted in the value of marketed production of the second producer organisation.

7 The marketed production of fruit and vegetables shall be invoiced at the 'ex-producer organisation' stage where applicable, as product listed in Part IX of Annex I to Regulation (EC) No 1234/2007 which is prepared and packaged, excluding:

- a VAT;
- b internal transport costs, where the distance between the centralised collection or packing points of the producer organisation and the point of distribution of the producer organisation is significant. Member States shall provide for reductions to be applied to the invoiced value for products invoiced at different stages of delivery or transport and shall duly justify in their national strategy what distance shall be considered as significant.

8 The value of marketed production may also be calculated at the 'ex-association of producer organisation' stage and on the same basis as set out in paragraph 7.

9 The value of marketed production may also be calculated at the 'ex-subsidiary' stage, on the same basis as set out in paragraph 7, provided that at least 90 % of the capital of the subsidiary is owned:

- a by one or more producer organisations or associations of producer organisations; and/or
- b subject to Member State approval, by producer members of the producer organisations or associations of producer organisations, if doing so contributes to the objectives listed in point (c) of the first paragraph of Article 122 and Article 125b(1)(a) of Regulation (EC) No 1234/2007.

10 In case of outsourcing, the value of marketed production shall be calculated at the 'ex-producer organisation' stage and shall include the added economic value of the activity that has been outsourced by the producer organisation to its members, third parties or to another subsidiary than the one referred to in paragraph 9.

11 Where a reduction in production occurs due to a climatic event or animal or plant diseases or pest infestations, any insurance indemnification received in respect of harvest insurance measures covered by Section 6 of Chapter III, or equivalent measures managed by the producer organisation, due to those causes may be included in the value of marketed production.

## Article 51

### Reference period

1 The annual ceiling on aid referred to in Article 103d(2) of Regulation (EC) No 1234/2007 shall be calculated each year on the basis of the value of marketed production during a 12-month reference period to be determined by the Member States.

2 The reference period shall be fixed by the Member States for each producer organisation as:

- a a 12-month period, starting no earlier than 1 January three years preceding the year for which the aid is requested and ending no later than 31 December of the year preceding the year for which the aid is requested; or
- b the average value of three consecutive 12-month periods starting no earlier than 1 January five years preceding the year for which the aid is requested and ending no later than 31 December of the year preceding the year for which the aid is requested.

3 The 12-month period shall be the accounting period of the producer organisation concerned.

The methodology for fixing the reference period shall not vary during an operational programme except in duly justified situations.

4 Where a reduction of at least 35 % in the value of a product has occurred due to reasons falling outside the responsibility and control of the producer organisation, the value of marketed production of that product shall be deemed to represent 65 % of its value in the previous reference period.

The producer organisation shall justify the reasons referred to in the first subparagraph to the competent authority of the Member State concerned.

5 Where recently recognised producer organisations have insufficient historical data on marketed production for the purpose of the application of paragraph 2, the value of marketed production may be considered to be the value of marketable production provided by the producer organisation for the purposes of recognition.

The first subparagraph shall apply *mutatis mutandis* to new members of a producer organisation who join a producer organisation for the first time.

6 Member States shall take the measures necessary to gather information on the value of marketed production of producer organisations which have not submitted operational programmes.

7 By way of derogation from paragraphs 1 and 6, the value of marketed production for the reference period shall be as calculated under the legislation applicable in that reference period.

However, for operational programmes approved by 20 January 2010, the value of the marketed production for the years until 2007 shall be calculated on the basis of the legislation applicable in the reference period, whereas the value of the marketed production for the years from 2008 shall be calculated on the basis of the legislation applicable in 2008.

For operational programmes approved after 20 January 2010, the value of the marketed production for the years from 2008 shall be calculated on the basis of the legislation applicable at the time the operational programme has been approved.

## *Section 2*

### **Operational Funds**

#### *Article 52*

#### **Management**

Member States shall ensure that operational funds are managed in such a way that it is possible for external auditors to annually identify, check and certify their expenditure and revenue.

#### *Article 53*

#### **Financing of operational funds**

1 The financial contributions to the operational fund referred to in Article 103b(1) of Regulation (EC) No 1234/2007 shall be determined by the producer organisation.

2 All producers shall have the opportunity to benefit from the operational fund, and all producers shall have the opportunity to participate democratically in decisions concerning the use of the operational fund of the producer organisation and of the financial contributions to the operational fund.

#### *Article 54*

#### **Notification of estimated amount**

1 Producer organisations shall notify their Member State of the estimated amounts of Union contribution, and the contribution of its members and of the producer organisation itself to the operational funds for the following year by 15 September at the latest, together with the operational programmes or requests for approval of their amendments.

Member States may set a later date than 15 September.

2 Calculation of the estimated amount of operational funds shall be based on the operational programmes and the value of marketed production. The calculation shall be split between expenditure for crisis prevention and management measures and other measures.

### *Section 3*

#### **Operational Programmes**

##### *Article 55*

#### **National strategy**

1 The overall structure and content of the national strategy referred to in Article 103f(2) of Regulation (EC) No 1234/2007 shall be established in accordance with the guidelines set out in Annex VII. 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 Sections I and Ia of Chapter II of Title II of Part II of Regulation (EC) No 1234/2007 and this Title.

2 The national strategy, including the integration of the national framework referred to in Article 103f(1) of Regulation (EC) No 1234/2007, 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 103f(1) of Regulation (EC) No 1234/2007.

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 56*

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

1 In addition to the submission of the proposed framework referred to in the second subparagraph of Article 103f(1) of Regulation (EC) No 1234/2007, Member States shall also notify the Commission of any amendments to the national framework which shall be subject to the procedure set out in that subparagraph. The Commission shall make a national framework available to other Member States by the means it considers appropriate.

2 The national framework shall indicate in a separate section the general requirements on complementarity, consistency and conformity that environmental actions selected under an operational programme shall fulfil, as referred to in the second sentence of the first subparagraph

of Article 103f(1) of Regulation (EC) 1234/2007. The Commission shall provide the Member States with a model of that section.

The national framework shall also set out a non-exhaustive list of environmental actions and the conditions thereof applicable in the Member State for the purposes of Article 103c(3) of Regulation (EC) No 1234/2007. For each environmental action, the national framework shall indicate:

- a the justification of the action, on the basis of its environmental impact; and
- b the specific commitment or commitments entailed.

3 Environmental actions which are similar to agri-environmental commitments supported under a rural development programme shall have the same duration as those commitments. They shall be continued in a subsequent operational programme, where the duration of similar agri-environmental commitments would exceed the duration of the initial operational programme. However, Member States may authorise shorter durations for environmental actions or even their discontinuance in duly justified cases, and in particular based upon the results of the mid-term evaluation referred to in Article 126(3) of this Regulation.

The national framework shall indicate the duration of the actions referred to in subparagraph 1 and, where appropriate, the obligation to continue the action in a subsequent operational programme.

#### *Article 57*

### **Complementary Member State rules**

Member States may adopt rules complementing Regulation (EC) No 1234/2007 and this Regulation concerning the eligibility of measures, actions or expenditure under operational programmes.

#### *Article 58*

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

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

2 Where in accordance with Article 5(6) of Regulation (EC) No 1698/2005 support has exceptionally been granted 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 55 of this Regulation indicates the criteria and administrative rules which they will apply in the rural development programmes.

3 Where relevant, and without prejudice to the provisions of Articles 103a(3), 103d(1) and (3) and 103e of Regulation (EC) No 1234/2007 and Article 47 of this Regulation, the level of support for measures covered by this Regulation shall not exceed that applicable for the measures under the rural development programme.

4 Support for environmental actions, other than acquisition of fixed assets, shall be limited to the maximum amounts laid down in the Annex I to Regulation (EC) No 1698/2005 for agri-environment payments. Those amounts may be increased in exceptional cases taking account of specific circumstances to be justified in the national strategy as referred to in Article 55 of this Regulation and in the operational programmes of the producer organisations. The amounts for environmental actions may also be increased in order to support operations related to the priorities identified in Article 16a of Regulation (EC) No 1698/2005.

5 Paragraph 4 shall not apply to environmental actions which do not relate directly or indirectly to a particular parcel.

#### *Article 59*

### **Contents of operational programmes**

Operational programmes shall include the following:

- (a) a description of the initial situation, based, where relevant, on the common baseline indicators listed in Annex VIII;
- (b) the objectives of the programme, taking into consideration 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 the different measures proposed:
  - (i) complement and are consistent with other measures, including measures financed or eligible for support by other Union 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 Union 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.

## Article 60

### Eligibility of actions under operational programmes

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

2 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 IX;
- 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 Commission Regulation (EC) No 1974/2006<sup>(2)</sup>.

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

3 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 producer members of another producer organisation or association of producer organisations. Article 50 shall apply *mutatis mutandis* to the calculation of the value.

4 The following rules shall apply to environmental actions:

- a 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;
- b commitments to limit the use of fertilisers, plant protection products or other inputs shall be accepted only if such limitations can be assessed in a way that provides reasonable assurance about compliance with those commitments;
- c actions related to the environmental management of packaging shall be properly justified and go beyond the requirements set out by the Member State in accordance with Directive 94/62/EC of the European Parliament and of the Council<sup>(3)</sup>.

Member States shall, in the national strategies referred to in Article 55 of this Regulation, set out a maximum percentage of the annual expenditure under an operational programme that may be spent on actions related to the environmental management of packaging. That percentage shall not be higher than 20 %, except in order to take account of specific national/regional circumstances to be justified in the national strategy.

5 Investments, including those under leasing contracts, the repayment period of which 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.

6 Investments or actions may be implemented on individual holdings and/or premises of producer members of the producer organisation, or association of producer organisations including where the actions are outsourced to members of the producer organisation or association of producer organisations, provided that they contribute to the objectives of the operational programme. If the producer member leaves the producer organisation, Member States shall ensure that the investment or its residual value is recovered. However, in duly justified circumstances, Member States may provide that the producer organisation shall not be required to recover the investment or its residual value.

7 Investments and actions related to the transformation of fruit and vegetables into processed fruit and vegetables may be eligible for support where such investments and actions pursue the objectives referred to in Article 103c(1) of Regulation (EC) No 1234/2007, including those referred to in point (c) of the first paragraph of Article 122 of that Regulation, and provided that they are identified in the national strategy referred to in Article 103f(2) of Regulation (EC) No 1234/2007.

#### *Article 61*

### **Documents to be submitted**

Operational programmes shall in particular be accompanied by:

- (a) evidence of the setting-up of an operational fund;
- (b) a written undertaking from the producer organisation to comply with Regulation (EC) No 1234/2007 and this Regulation; and
- (c) a written undertaking from the producer organisation that it has not received and will not receive, directly or indirectly, any other Union or national funding in respect of actions qualifying for aid under this Regulation.

#### *Article 62*

### **Operational programmes of associations of producer organisations**

1 A Member State may authorise an association of producer organisations to present an entire or a partial operational programme, which shall consist of actions identified, but not implemented by two or more member producer organisations in their operational programmes.

2 The operational programmes of the associations of producer organisations shall be considered together with the operational programmes of the member producer organisations, including as regards the fulfilment of the objectives and limits established in Article 103c of Regulation (EC) 1234/2007.

3 Member States shall ensure that:

- a the actions are fully financed from contributions of members of associations of producer organisations which are producer organisations, paid out of the operational funds of those producer organisations. However, the actions may be financed in a proportional amount to the contribution of member producer organisations, by producer members of associations of producer organisations which are not producer organisations pursuant to Article 34;

- b the actions and the corresponding financial participation are listed in the operational programme of each participating producer organisation;
- c there is no risk of duplicate aid.

4 Articles 58, 59 and 60, Article 61(b) and (c) and Articles 63 to 67 shall apply *mutatis mutandis* to operational programmes of associations of producer organisations. However, a balance between the activities referred to in Article 59(b) shall not be required in respect of partial operational programmes of associations of producer organisations.

#### Article 63

##### Time limit for submission

1 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 of the year preceding that in which they are to be implemented, at the latest. However, the Member States may postpone that date.

2 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 paragraph 1 for approval. Approval of the operational programme shall be subject to obtainment of recognition no later than on the final date laid down in Article 64(2).

#### Article 64

##### Decision

- 1 The competent authority of the Member State shall, as appropriate:
- a approve amounts of operational funds and operational programmes which meet the requirements of Regulation (EC) No 1234/2007 and those of this Chapter;
  - b approve the operational programmes, on condition that certain amendments are accepted by the producer organisation; or
  - c reject the operational programmes or parts thereof.

2 The competent authority of the Member State shall take decisions on operational programmes and operational funds by 15 December of the year in which they are submitted.

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

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

### *Article 65*

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

1 Producer organisations may request amendments to operational programmes, including their duration, by 15 September at the latest, to be applied as 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 of the Member State shall take decisions on requests for amendments to operational programmes by 15 December of the year of the request.

However, for duly justified reasons, the competent authority of the Member State may take a decision on amendments to operational programmes by 20 January following the year of the request. The approval decision may stipulate that expenditure is eligible from 1 January following the year of the request.

### *Article 66*

#### **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 The competent authority of the Member States shall take decisions on amendments to operational programmes requested under paragraph 1 by 20 January of the year following the year for which amendments have been requested.

3 Producer organisations may be authorised by the competent authority of the Member State, during the year to:

- a implement their operational programmes in part only;
- b change the contents of the operational programme;
- 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 that 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 29(1);
- d add national financial assistance to the operational fund in case of application of Article 93.

4 Member States shall determine the conditions under which operational programmes may be amended during the year without prior approval by the competent authority of the Member State. Those amendments are only eligible for aid if they are notified by the producer organisation to the competent authority without delay.

### *Article 67*

#### **Format of operational programmes**

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 64(2) or the second subparagraph of Article 65(3) apply, the implementation of operational programmes approved in accordance with those provisions shall start not later than 31 January following their approval.

### *Section 4*

#### *Aid*

### *Article 68*

#### **Approved amount of aid**

1 Member States shall notify producer organisations and associations of producer organisations of the approved amount of aid, as required by Article 103g(3) of Regulation (EC) No 1234/2007, by 15 December of the year preceding the year for which aid is requested.

2 Where the third subparagraph of Article 64(2) or the second subparagraph of Article 65(3) apply, Member States shall give notification of the approved amount of aid by 20 January of the year for which aid is requested.

### *Article 69*

#### **Aid applications**

1 Producer organisations shall submit an application for aid or the balance thereof to the competent authority of the Member State for each operational programme for which aid is requested by 15 February of the year following the year for which the aid is requested.

2 The aid applications shall be accompanied by supporting documents showing:

- a the aid requested;
- b the value of marketed production;
- c the financial contributions levied on its members and those of the producer organisation itself;
- d the expenditure incurred in respect of the operational programme;
- e the expenditure concerning crisis prevention and management broken down by actions;

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*Status: This is the original version (as it was originally adopted).*

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- f the proportion of the operational fund spent on crisis prevention and management broken down by actions;
  - g compliance with Article 103c(2), with the first subparagraph of Article 103c(3) and with Article 103d of Regulation (EC) No 1234/2007;
  - h a written undertaking that it has not received any duplicate Union or national funding in respect of measures and/or operations qualifying for aid under this Regulation; and
  - i in the case of an application for payment based on a standard flat rate as referred to in Article 60(2), proof of the implementation of the action concerned.
- 3 The aid applications may cover expenditure programmed but not incurred if the following elements are proved:
- a the operations concerned could not be carried out by 31 December of the year of implementation of the operational programme, for reasons beyond the control of the producer organisation concerned;
  - b those operations can be carried out by 30 April of the year following the year for which the aid is requested; and
  - c an equivalent contribution from the producer organisation remains in the operational fund.

The aid shall be paid and the security lodged in accordance with Article 71(3) shall be released only on condition that proof of implementation of the programmed expenditure referred to in point (b) of the first subparagraph is provided by 30 April of the year following that for which the expenditure in question was programmed, and on the basis of the entitlement to the aid actually established.

4 Where applications are submitted after the date provided for in paragraph 1, the aid shall be reduced by 1 % for each day late.

In exceptional and duly justified cases, the competent authority of the Member State may accept applications after the date provided for in paragraph 1, if the necessary checks have been carried out and the time limit for payment provided for in Article 70 is complied with.

5 Associations of producer organisations may submit an application for aid as referred to in paragraph 1 in the name and on behalf of their members, where those members are producer organisations and provided that the supporting documents requested under paragraph 2 are submitted for each member. The producer organisations shall be the final beneficiaries of the aid.

#### *Article 70*

#### **Payment of the aid**

Member States shall pay the aid by 15 October of the year following the year of implementation of the programme.

#### *Article 71*

#### **Advance payments**

1 Member States may permit producer organisations to apply for the advance payment of the part of the aid corresponding to the foreseeable expenditure resulting from the operational

programme during the three- or four-month period starting in the month in which the application for an advance payment is submitted.

2 Applications for advance payments shall be submitted as decided by the Member State, either on three-monthly basis in January, April, July and October or on a four-monthly basis in January, May and September.

Total advance payments made for a given year may not exceed 80 % of the initially approved amount of aid for the operational programme.

3 Advances shall be paid subject to the lodging of a security equivalent to 110 % thereof in accordance with Commission Regulation (EEC) No 2220/85<sup>(4)</sup>.

Conditions shall be provided for by the Member States to ensure that financial contributions to the operational fund have been levied in accordance with Article 52 and Article 53 of this Regulation and previous advance payments and the corresponding producer organisation contribution have actually been spent.

4 Applications for the release of securities may be submitted during the current programme year and shall be accompanied by supporting documents, such as invoices and documents proving that payment has been made.

Securities shall be released in respect of up to 80 % of advances paid.

5 The primary requirement within the meaning of Article 20(2) of Regulation (EEC) No 2220/85 shall cover the performance of the operations set out in the operational programmes subject to the undertakings provided for in Article 61(b) and (c) of this Regulation.

In the event of failure to comply with the primary requirement or of serious failure to meet the obligations provided for in Article 61(b) and (c) the security shall be forfeited, without prejudice to other sanctions and penalties to be applied in accordance with Section 3 of Chapter V.

In the event of failure to comply with other requirements, the security shall be forfeited in proportion to the gravity of the irregularity that has been established.

6 Member States may set a minimum amount and the deadlines for advance payments.

#### *Article 72*

#### **Partial payments**

Member States may permit producer organisations to apply for the payment of the part of the aid corresponding to the amounts already spent under the operational programme.

Applications may be submitted at any time, but no more than three times in any given year. They shall be accompanied by supporting documents, such as invoices and documents proving that payment has been made.

Payments in respect of applications for parts of the aid may not exceed 80 % of the part of the aid corresponding to the amounts already spent under the operational programme for the period concerned. Member States may set a minimum amount for partial payments and deadlines for applications.

- (1) OJ L 277, 21.10.2005, p. 1.
- (2) OJ L 368, 23.12.2006, p. 15.
- (3) OJ L 365, 31.12.1994, p. 10.
- (4) OJ L 205, 3.8.1985, p. 5.