

Commission Delegated Regulation (EU) 2017/891 of 13 March 2017 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council with regard to the fruit and vegetables and processed fruit and vegetables sectors and supplementing Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to penalties to be applied in those sectors and amending Commission Implementing Regulation (EU) No 543/2011

TITLE II

PRODUCER ORGANISATIONS

CHAPTER I

Requirements and recognition

Section 2

Recognition criteria and other requirements

Article 3

Legal status of producer organisations

^{F1}... ^{F1}... [^{F2}Nothing in this Regulation prevents the Secretary of State from adopting] complementary rules on recognition of producer [^{F3}organisations, including rules concerning] legal entities which may apply for recognition as producer organisations.

Textual Amendments

- F1** Words in Art. 3 omitted (31.12.2020) by virtue of [The Common Organisation of the Markets in Agricultural Products \(Producer Organisations and Wine\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1446\)](#), regs. 1(3), **5(3)(a)**
- F2** Words in Art. 3 substituted (31.12.2020) by [The Common Organisation of the Markets in Agricultural Products \(Producer Organisations and Wine\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1446\)](#), regs. 1(3), **5(3)(b)(i)**
- F3** Words in Art. 3 substituted (31.12.2020) by [The Common Organisation of the Markets in Agricultural Products \(Producer Organisations and Wine\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1446\)](#), regs. 1(3), **5(3)(b)(ii)**

Article 4

Product coverage

1 [^{F4}The Secretary of State] shall recognise producer organisations in respect of the product or the group of products specified in the application for recognition.

Status: Point in time view as at 31/12/2020.

Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2017/891, Section 2. (See end of Document for details)

2 [F5 The Secretary of State] shall recognise producer organisations in respect of the product or the group of products solely intended for processing where the producer organisations are able to ensure that such products are delivered for processing, whether through a system of supply contracts or otherwise.

Textual Amendments

- F4** Words in Art. 4(1) substituted (31.12.2020) by [The Common Organisation of the Markets in Agricultural Products \(Producer Organisations and Wine\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1446\)](#), regs. 1(3), **5(4)**
- F5** Words in Art. 4(2) substituted (31.12.2020) by [The Common Organisation of the Markets in Agricultural Products \(Producer Organisations and Wine\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1446\)](#), regs. 1(3), **5(4)**

Article 5

Minimum number of members

For the purposes of Article 154(1)(b) of Regulation (EU) No 1308/2013, [F6 producer organisations must have at least five producer members, all of whom are separate legal entities.]

F7 . . .

Textual Amendments

- F6** Words in Art. 5 substituted (31.12.2020) by [The Common Organisation of the Markets in Agricultural Products \(Producer Organisations and Wine\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1446\)](#), regs. 1(3), **5(5)(a)**
- F7** Words in Art. 5 omitted (31.12.2020) by virtue of [The Common Organisation of the Markets in Agricultural Products \(Producer Organisations and Wine\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1446\)](#), regs. 1(3), **5(5)(b)**

Article 6

Minimum length of membership

1 The minimum membership period of a producer shall not be less than one year.

2 Resignation from membership shall be notified to the producer organisation in writing. [F8 Subject to paragraph 3, resignation from membership will take effect:

- a if notice of resignation is received by the producer organisation on or before 30 September of a given calendar year (or such earlier date as may be set in the producer organisation's membership agreement in accordance with paragraph 3), on 1 January of the following year;
- b if notice of resignation is received by the producer organisation after 30 September of a given calendar year (or such earlier date as may be set in the producer organisation's membership agreement in accordance with paragraph 3), on 1 January of the year after the following year.]

Status: Point in time view as at 31/12/2020.

Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2017/891, Section 2. (See end of Document for details)

[^{F9}3. The membership agreement of a producer organisation may require notice of resignation to be given before 30 September (but no earlier than 30 June) of the year before that in which resignation is intended to take effect.]

Textual Amendments

- F8** Words in Art. 6(2) substituted (31.12.2020) by The Common Organisation of the Markets in Agricultural Products (Producer Organisations and Wine) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1446), regs. 1(3), **5(6)(a)**
- F9** Art. 6(3) inserted (31.12.2020) by The Common Organisation of the Markets in Agricultural Products (Producer Organisations and Wine) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1446), regs. 1(3), **5(6)(b)**

Article 7

Structures and activities of producer organisations

[^{F10}The Secretary of State] shall verify that producer organisations have at their disposal the staff, infrastructure and equipment necessary to fulfil the requirements laid down in Articles 152, 154 and 160 of Regulation (EU) No 1308/2013 and to ensure their essential functioning, in particular as regards:

- (a) the knowledge of their members' production;
- (b) the technical means for collecting, sorting, storing and packaging the production of their members;
- (c) marketing the production of their members;
- (d) commercial and budgetary management; and
- (e) centralised cost-based accounting and a system of invoicing according to [^{F11}applicable] law.

Textual Amendments

- F10** Words in Art. 7 substituted (31.12.2020) by The Common Organisation of the Markets in Agricultural Products (Producer Organisations and Wine) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1446), regs. 1(3), **5(7)(a)**
- F11** Word in Art. 7(e) substituted (31.12.2020) by The Common Organisation of the Markets in Agricultural Products (Producer Organisations and Wine) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1446), regs. 1(3), **5(7)(b)**

Article 8

Value or volume of marketable production

1 For the purposes of Article 154(1)(b) of Regulation (EU) No 1308/2013, the value or volume of marketable production shall be calculated on the same basis as the value of marketed production set out in Articles 22 and 23 of this Regulation.

Status: Point in time view as at 31/12/2020.

Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2017/891, Section 2. (See end of Document for details)

2 In circumstances when the historical data on marketed production of a member for the application of paragraph 1 is not sufficient, the value of the marketable production shall be equal to the actual value of marketed production during a period of 12 consecutive months. Those 12 months shall fall within the three years preceding the year in which the application for recognition is submitted.

[^{F12}Article 9

Minimum value of marketed production

For the purposes of Article 154(1)(b) of Regulation (EU) No 1308/2013, the minimum value of marketed production is:

- (a) [euro]250,000 for producer organisations recognised for mushrooms or nuts;
- (b) [euro]1 million for producer organisations recognised in respect of any other product or group of products.]

Textual Amendments

F12 Art. 9 substituted (31.12.2020) by [The Common Organisation of the Markets in Agricultural Products \(Producer Organisations and Wine\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1446\)](#), regs. 1(3), **5(8)**

Article 10

Provision of technical means

For the purposes of Article 154(1)(c) of Regulation (EU) No 1308/2013 and Article 7(b) of this Regulation, a producer organisation which is recognised for a product for which the provision of technical means is necessary, shall be considered to fulfil its obligation in that regard, where it provides an adequate level of technical means itself or through its members, or through subsidiaries, or through an association of producer organisations of which it is a member or by outsourcing.

Article 11

Producer organisations' main activities

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

The placing on the market referred to in the first subparagraph shall be carried out by the producer organisation, or under the control of the producer organisation in the case of outsourcing as set out in Article 13. Placing on the market shall include among others the decision on the product to be sold, the way of selling and unless the sale is by means of auction, the negotiation of its quantity and price.

Producer organisations shall keep records, including accounting documents, for at least five years, which demonstrate that the producer organisation concentrated supply and placed on the market members' products for which it is recognised.

Status: Point in time view as at 31/12/2020.

Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2017/891, Section 2. (See end of Document for details)

2 A producer organisation may sell products from producers that are not a member of a producer organisation or of an association of producer organisations, where it is recognised in respect of those products and provided that the economic value of that activity is below the value of its marketed production calculated in accordance with Article 22.

3 The marketing of fruit and vegetables that are bought directly from another producer organisation and of products for which the producer organisation is not recognised shall not be considered as forming part of the producer organisation's activities.

4 Where Article 22(8) applies, paragraph 2 of this Article shall apply *mutatis mutandis* to the subsidiaries concerned.

^{F13} Article 12

Marketing of the production outside the producer organisation

1 Where the producer organisation so authorises in its statutes and where this is in compliance with the terms and conditions laid down by the [^{F14}Secretary of State] and the producer organisation, the producer members may:

- a sell products directly or outside their holdings to consumers for their personal needs;
- b market by themselves or through another producer organisation designated by their own producer organisation, quantities of products which, in terms of volume or value, are marginal compared to the volume or value of marketable production of their organisation of the products concerned;
- c market by themselves or through another producer organisation designated by their own producer organisation, products which because of their characteristics or because of the limited production in volume or in value of the producer members, are normally not covered by the commercial activities of the producer organisation.

2 The percentage of the production that the producer members market outside the producer organisation, as referred to in paragraph 1 shall not exceed 25 % in volume or in value of the marketable production of each producer member.

However, [^{F15}nothing in this Regulation prevents the Secretary of State from setting] a lower percentage of the production that the producer members may market outside the producer organisation than the one set out in the first subparagraph. [^{F16}Nothing in this Regulation prevents the Secretary of State from increasing] that percentage up to 40 % in case of products covered by Council Regulation (EC) No 834/2007⁽¹⁾ or where producer members market their production through another producer organisation designated by their own producer organisation.]

Textual Amendments

- F13** Substituted by [Commission Delegated Regulation \(EU\) 2018/1145 of 7 June 2018 amending Delegated Regulation \(EU\) 2017/891 as regards producer organisations in the fruit and vegetables sector.](#)
- F14** Words in [Art. 12\(1\)](#) substituted (31.12.2020) by [The Common Organisation of the Markets in Agricultural Products \(Producer Organisations and Wine\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1446\)](#), regs. 1(3), **5(9)(a)**
- F15** Words in [Art. 12\(2\)](#) substituted (31.12.2020) by [The Common Organisation of the Markets in Agricultural Products \(Producer Organisations and Wine\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1446\)](#), regs. 1(3), **5(9)(b)(i)**

Status: Point in time view as at 31/12/2020.

Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2017/891, Section 2. (See end of Document for details)

F16 Words in Art. 12(2) substituted (31.12.2020) by The Common Organisation of the Markets in Agricultural Products (Producer Organisations and Wine) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1446), regs. 1(3), **5(9)(b)(ii)**

Article 13

Outsourcing

1 The activities that [^{F17}the Secretary of State] may permit to be outsourced in accordance with Article 155 of Regulation (EU) No 1308/2013 shall relate to the objectives as set out in Article 152(1)(c) of that Regulation and may include, among others, collecting, storing, packaging and marketing the product of the members of the producer organisation.

2 A producer organisation outsourcing an activity shall enter into a written commercial arrangement by way of a contract, agreement or protocol with another entity, including one or several of its members or a subsidiary, for the purpose of carrying out of the activity concerned. The producer organisation shall remain responsible for ensuring the carrying out of the outsourced activity and overall management control and supervision of the commercial arrangement for the carrying out of the activity.

However, the activity shall be considered as carried out by the producer organisation if it is carried out by an association of producer organisations or a cooperative whose members are themselves cooperatives where the producer organisation is a member thereof or by a subsidiary complying with the 90 % requirement referred to in Article 22(8).

3 The overall management control and supervision referred to in the first subparagraph of paragraph 2 shall be effective and require that the outsourcing contract, agreement or protocol:

- a enables the producer organisation to issue binding instructions and includes provisions enabling the producer organisation to terminate the contract, agreement or protocol if the service provider does not meet the terms and conditions of the outsourcing contract;
- b lays down detailed terms and conditions, including regular reporting obligations and deadlines which enable the producer organisation to exercise effective control over the outsourced activities.

Outsourcing contracts, agreements or protocols as well as the reports referred to in point (b) of the first subparagraph shall be kept by the producer organisation for at least 5 years for the purpose of *ex-post* checks and be accessible to all members on request.

Textual Amendments

F17 Words in Art. 13(1) substituted (31.12.2020) by The Common Organisation of the Markets in Agricultural Products (Producer Organisations and Wine) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1446), regs. 1(3), **5(10)**

^{F18} Article 14

Ex-transnational producer organisations

1 An ex-transnational producer organisation retains recognition as a producer organisation pursuant to Article 152 of Regulation (EU) No 1308/2013 provided that it fulfils

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Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2017/891, Section 2. (See end of Document for details)

the criteria and requirements for recognition set out in Regulation (EU) No 1308/2013, this Regulation and Regulation (EU) 2017/892.

- 2 Any person that:
- a immediately before IP completion day, was a member of a transnational producer organisation which is an ex-transnational producer organisation; and
 - b is not a producer within the meaning of Article 2(a),

is a non-producer member of the ex-transnational producer organisation within the meaning of Article 16, whether or not such person was a producer member of such organisation before IP completion day.]

Textual Amendments

- F18** Art. 14 substituted (31.12.2020) by [The Common Organisation of the Markets in Agricultural Products \(Producer Organisations and Wine\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1446\)](#), regs. 1(3), **5(11)**

[^{F19}Article 14A

Head office of a producer organisation

1. The head office of a producer organisation must be located in the constituent nation in which the organisation achieves the majority of the value of marketed production calculated in accordance with Articles 22 and 23.

But the head office may be established in the constituent nation where the majority of producer members are located, if both the appropriate authority for that constituent nation and the appropriate authority for the constituent nation referred to in the first subparagraph consent.

2. Notwithstanding paragraph 1, the head office:
- a) may not move to another constituent nation until the end of the implementation of an ongoing operational programme; and
 - b) may be maintained in a particular constituent nation for as long as the appropriate authority for that constituent nation and the appropriate authorities referred to in paragraph 1 consent.

3. The appropriate authority for the constituent nation in which the head office of the producer organisation is located:

- a) may:
 - i subject to paragraph 4, approve the producer organisation's operational programme;
 - ii grant financial assistance in accordance with Articles 32(1)(b) and 34 of Regulation (EU) No 1308/2013;
- b) must:
 - i organise checks on the producer organisation and apply any administrative penalties in accordance with Article 34A of Regulation (EU) 2017/892; and
 - ii provide, on the request of the appropriate authority for a constituent nation in which members are located, all relevant documentation.

4. Notwithstanding paragraph 3(a)(i), where the producer organisation is implementing an operational programme at the time of applying for a new operational programme, the

Status: Point in time view as at 31/12/2020.

Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2017/891, Section 2. (See end of Document for details)

appropriate authority that may approve the new programme is the appropriate authority for the constituent nation in which the producer organisation will have its head office at the time that the new programme will be implemented, to be determined in accordance with paragraphs 1 and 2 on the basis of the new operational programme.]

Textual Amendments

F19 Art. 14A inserted (31.12.2020 immediately before IP completion day) by [The Agriculture \(Payments\) \(Amendment, etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1445\)](#), regs. 1(2)(b), **21(4)**

Article 15

Mergers of producer organisations

1 Where producer organisations merge, the producer organisation resulting from the merger shall assume the rights and obligations of the individual producer organisations that merged. The [^{F20}Secretary of State] shall ensure that the new producer organisation complies with all recognition criteria and shall assign to it a new number for the purposes of the unique identification system as referred to in Article 22 of Implementing Regulation (EU) 2017/892.

The producer organisation resulting from the merger may either operate the programmes in parallel and separately until 1 January of the year following the merger, or merge the operational programmes from the moment of the merger.

Article 34 of this Regulation shall apply to operational programmes that are merged.

2 By way of derogation from the second subparagraph of paragraph 1, [^{F21}the appropriate authority or authorities (as the case may be)] may authorise on the basis of a duly substantiated request, operational programmes to continue to be implemented in parallel until they reach their natural conclusion.

Textual Amendments

F20 Words in Art. 15(1) substituted (31.12.2020) by [The Common Organisation of the Markets in Agricultural Products \(Producer Organisations and Wine\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1446\)](#), regs. 1(3), **5(12)**

F21 Words in Art. 15(2) substituted (31.12.2020 immediately before IP completion day) by [The Agriculture \(Payments\) \(Amendment, etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1445\)](#), regs. 1(2)(b), **21(5)**

Article 16

Non-producer members

1 [^{F22}Any] natural or legal person who is not a producer may be accepted as a member of a producer organisation [^{F23}if and for so long as there is no conflict of interest between that person and the producer organisation].

^{F24}2

3 The natural or legal persons referred to in paragraph 1 shall not:
a be taken into account for the recognition criteria;

Status: Point in time view as at 31/12/2020.

Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2017/891, Section 2. (See end of Document for details)

b benefit directly from the measures financed [^{F25}from public funds].

[^{F26}Restrictions on the right of a natural or legal person to vote on decisions relating to operational funds are set out in Annex VIII to this Regulation.]

[^{F27}4. By way of derogation from paragraph 3(b), an existing non-UK member of an ex-transnational producer organisation may continue to benefit directly from measures financed from public funds, where:

- a those measures are contained in an operational programme that was implemented by that organisation before IP completion day; and
- b that member was entitled to benefit from those measures immediately before IP completion day.]

Textual Amendments

- F22** Word in Art. 16(1) substituted (31.12.2020) by The Common Organisation of the Markets in Agricultural Products (Producer Organisations and Wine) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1446), regs. 1(3), **5(13)(a)(i)**
- F23** Words in Art. 16(1) inserted (31.12.2020) by The Common Organisation of the Markets in Agricultural Products (Producer Organisations and Wine) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1446), regs. 1(3), **5(13)(a)(ii)**
- F24** Art. 16(2) omitted (31.12.2020) by virtue of The Common Organisation of the Markets in Agricultural Products (Producer Organisations and Wine) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1446), regs. 1(3), **5(13)(b)**
- F25** Words in Art. 16(3)(b) substituted (31.12.2020) by The Common Organisation of the Markets in Agricultural Products (Producer Organisations and Wine) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1446), regs. 1(3), **5(13)(c)(i)**
- F26** Words in Art. 16(3) substituted (31.12.2020) by The Common Organisation of the Markets in Agricultural Products (Producer Organisations and Wine) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1446), regs. 1(3), **5(13)(c)(ii)**
- F27** Art. 16(4) inserted (31.12.2020) by The Common Organisation of the Markets in Agricultural Products (Producer Organisations and Wine) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1446), regs. 1(3), **5(13)(d)**

Article 17

Democratic accountability of producer organisations

1 Where a producer organisation has a legal structure requiring democratic accountability under the applicable ^{F28}... legislation, it shall be considered to fulfill this requirement for the purposes of this Regulation unless the [^{F29}Secretary of State] decides otherwise.

[^{F30}2 The maximum percentage of voting rights and shares or capital which any natural or legal person may hold in any producer organisation that does not fall within paragraph 1 is set out in Annex VIII to this Regulation.]

3 [^{F31}The Secretary of State] shall carry out checks, based on a risk analysis, on voting rights and shareholdings. Where the members of the producer organisation are legal persons themselves, these checks shall include the identities of the natural or legal persons that hold shares or capital of the members.

^{F32}4

Status: Point in time view as at 31/12/2020.

Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2017/891, Section 2. (See end of Document for details)

Textual Amendments

- F28** Word in Art. 17(1) omitted (31.12.2020) by virtue of [The Common Organisation of the Markets in Agricultural Products \(Producer Organisations and Wine\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1446\)](#), regs. 1(3), **5(14)(a)(i)**
- F29** Words in Art. 17(1) substituted (31.12.2020) by [The Common Organisation of the Markets in Agricultural Products \(Producer Organisations and Wine\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1446\)](#), regs. 1(3), **5(14)(a)(ii)**
- F30** Art. 17(2) substituted (31.12.2020) by [The Common Organisation of the Markets in Agricultural Products \(Producer Organisations and Wine\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1446\)](#), regs. 1(3), **5(14)(b)**
- F31** Words in Art. 17(3) substituted (31.12.2020) by [The Common Organisation of the Markets in Agricultural Products \(Producer Organisations and Wine\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1446\)](#), regs. 1(3), **5(14)(c)**
- F32** Art. 17(4) omitted (31.12.2020) by virtue of [The Common Organisation of the Markets in Agricultural Products \(Producer Organisations and Wine\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1446\)](#), regs. 1(3), **5(14)(d)**

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Changes to legislation: *There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2017/891, Section 2. (See end of Document for details)*

- (1) [^{F13}Council Regulation (EC) No 834/2007 of 28 June 2007 on organic production and labelling of organic products and repealing Regulation (EEC) No 2092/91 (OJ L 189, 20.7.2007, p. 1).]

.....
Textual Amendments

- F13** Substituted by [Commission Delegated Regulation \(EU\) 2018/1145 of 7 June 2018 amending Delegated Regulation \(EU\) 2017/891 as regards producer organisations in the fruit and vegetables sector.](#)

Status:

Point in time view as at 31/12/2020.

Changes to legislation:

There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2017/891, Section 2.