

Commission Implementing Regulation (EU) 2017/892 of 13 March 2017 laying down rules for the application of 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

CHAPTER I

PRODUCER ORGANISATIONS

SECTION 1

Introductory provision

Article 1

Subject matter and scope

- 1 This Regulation lays down rules for the application of Regulation (EU) No 1308/2013 as regards the fruit and vegetables and processed fruit and vegetables sectors, with the exception of marketing standards.
- 2 Chapters I to V shall only apply to products of the fruit and vegetables sector as referred to in Article 1(2)(i) of Regulation (EU) No 1308/2013 and to such products intended solely for processing.

SECTION 2

Operational programmes

Article 2

National strategy for sustainable operational programmes

The structure and content of the national strategy referred to in Article 36(2) of Regulation (EU) No 1308/2013 shall be as set out in Annex I to this Regulation.

Article 3

National framework for environmental actions and the eligible investments

- 1 A separate section of the national framework referred to in Article 36(1) of Regulation (EU) No 1308/2013, shall indicate the requirements laid down in Article 28 of Regulation (EU) No 1305/2013 of the European Parliament and of the Council⁽¹⁾ to be fulfilled by the environmental actions selected under an operational programme.

Status: Point in time view as at 13/03/2017.

Changes to legislation: There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2017/892. (See end of Document for details)

The national framework shall set out a non-exhaustive list of environmental actions and the conditions thereof applicable in the Member State for the purposes of Article 33(5) of Regulation (EU) No 1308/2013.

The list referred to in the second subparagraph may include the following types of environmental actions:

- a actions that are identical to agri-environment-climate or organic farming commitments as referred to in Articles 28 and 29 of Regulation (EU) No 1305/2013, respectively, and which are provided for under the rural development programme of the Member State concerned;
- b investments beneficial for the environment;
- c other actions beneficial for the environment, including those which do not relate directly or indirectly to a particular parcel but that are linked to the fruit and vegetables sector, provided they contribute to soil protection, water or energy saving, improvement or maintenance of water quality, habitats or biodiversity protection, climate change mitigation and reduction or improved management of waste.

For each environmental action referred to in points (b) and (c) of the third subparagraph, the national framework shall indicate:

- a the justification of the action, on the basis of its environmental impact; and
- b the specific commitment(s) entailed.

The national framework shall include at least one action on the application of integrated pest management practices.

2 Environmental actions which are identical to agri-environmental-climate or organic farming commitments supported under a rural development programme shall have the same duration as those commitments. Where the duration of the action exceeds the duration of the initial operational programme, the action shall be continued in a subsequent operational programme.

Member States may authorise shorter durations for environmental actions or even their discontinuance in duly justified cases, and in particular taking into account the results of the evaluation in the last but one year of the implementation of the operational programme referred to in Article 57(3) of Delegated Regulation (EU) 2017/891.

3 Investments beneficial for environment made at the premises of producer organisations, associations of producer organisations or subsidiaries complying with the 90 % requirement referred to in Article 22(8) of Delegated Regulation (EU) 2017/891, or at the premises of their producer members shall be eligible for support if they:

- a could achieve a reduction in the current use of production inputs, emission of pollutants or waste from the production process; or
- b could achieve replacement of the use of fossil energy sources with renewable energy sources; or
- c could achieve a reduction in the environmental risks linked to the use of certain production inputs, including plant protection products or fertilisers; or
- d lead to improvement of the environment; or
- e are linked to non-productive investments needed to achieve the objectives of an agri-environmental-climate or organic farming commitment, in particular where those objectives relate to the protection of habitats and biodiversity.

Status: Point in time view as at 13/03/2017.

Changes to legislation: There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2017/892. (See end of Document for details)

4 Investments referred to in point (a) of paragraph 3 shall be eligible for support if they provide for a reduction of at least 15 %, calculated over the fiscal depreciation period of the investment compared to the pre-existing situation, of:

- a the use of production inputs that are non-renewable natural resources, such as water or fossil fuel, or possible source of environmental pollution, such as fertilisers, plant protection products or certain types of energy sources;
- b the emission of air, soil or water pollutants from the production process; or
- c the production of waste, including waste water, from the production process.

By way of derogation from the first subparagraph, Member States may accept investments that allow for a reduction of at least 7 %, calculated over the fiscal depreciation period of the investment compared to the pre-existing situation, provided that those investments allow for at least one additional environmental benefit.

The expected reduction and, where applicable, the expected additional environmental benefit, shall be demonstrated *ex ante* through project specifications or other technical documents to be presented by the producer organisation or association of producer organisations at the moment of the submission of the proposed operational programme or of the amendment of such a programme for approval, showing the results that could be obtained through the implementation of the investment, as attested by the technical documents or by an independent qualified body or expert agreed by the Member State.

Investments aimed to achieve a reduction in water use shall:

- a provide for a reduction of at least 5 % in water use in drip irrigation or similar systems compared to the consumption prior to the investment; and
- b not result in a net increase of the area under irrigation, unless the total water consumption for irrigation of the whole farm, including the increased area, does not exceed the average of water consumption of the previous 5 years prior to the investment.

5 Investments referred to in point (b) of paragraph 3 consisting of systems which generate energy shall be eligible for support if the amount of energy generated does not exceed the amount that can be used *ex ante* on a yearly basis for the actions related to fruit and vegetables by the producer organisation, association of producer organisations, subsidiary or the producer organisation's members that benefit from the investment.

6 Investments referred to in points (c) and (d) of paragraph 3 shall be eligible for support where they contribute to soil protection, water or energy saving, improvement or maintenance of water quality, habitats or biodiversity protection, climate change mitigation, and reduction or improved management of waste, although their contribution is not quantifiable.

The producer organisation or association of producer organisations shall provide evidence of the expected positive contribution to one or more environmental objectives at the moment of the submission for approval of the proposed operational programme or amendment of such a programme. The national competent authority may require that evidence to be provided in the form of project specifications attested by an independent qualified body or expert in the environmental fields concerned.

7 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 other than investments in physical assets are combined, the level of support shall take account of the specific income foregone and additional costs resulting from the combination;

Status: Point in time view as at 13/03/2017.

Changes to legislation: There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2017/892. (See end of Document for details)

- 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 assurance about compliance with those commitments;
- c investments beneficial for the environment referred to in paragraph 3 shall be fully eligible for support.

Article 4

Content of operational programmes

- 1 Operational programmes shall include the following:
 - a a description of the initial situation, based, where relevant, on the common baseline indicators listed in point 5 of Annex II;
 - b the objectives of the programme, taking into account the outlook for production and outlets, with an explanation of how the programme intends to contribute to and is consistent with the objectives of the national strategy, including the balance between activities. The description of the objectives shall indicate measurable targets, so as to facilitate the monitoring of progress gradually made in implementing the programme;
 - c the proposed measures, including the actions for crisis prevention and management;
 - d the duration of the programme; and
 - e the financial aspects, in particular:
 - (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 operations for each implementation year of the programme.
- 2 Operational programmes shall indicate:
 - a the extent to which the different measures complement and are consistent with other measures, including measures financed or eligible for support by other Union funds, and in particular under Regulation (EU) No 1305/2013 and promotion programmes approved under Regulation (EU) No 1144/2014 of the European Parliament and of the Council⁽²⁾. If applicable, specific reference shall also be made to measures carried out under previous operational programmes; and
 - b that they do not entail any risk of double financing by Union funds.

Article 5

Documents to be submitted with the operational programme

Operational programmes shall be accompanied by:

- (a) evidence of the creation of an operational fund;
- (b) a written commitment from the producer organisation to comply with Regulation (EU) No 1308/2013, Delegated Regulation (EU) 2017/891 and this Regulation; and
- (c) a written commitment from the producer organisation that it has not received and will not receive, directly or indirectly, any other Union or national funding in respect

Status: Point in time view as at 13/03/2017.

Changes to legislation: There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2017/892. (See end of Document for details)

of actions qualifying for aid under Regulation (EU) No 1308/2013 in the fruit and vegetables sector.

Article 6

Time limit for submission

1 An operational programmes shall be submitted for approval by a producer organisation to the competent authority of the Member State in which the producer organisation has its headquarters, by 15 September of the year preceding that in which the programme is to be implemented. However, Member States may set a date later than 15 September.

2 When a legal entity or clearly defined part of a legal entity, including a producer group formed pursuant to Article 125e of Regulation (EC) No 1234/2007 or a producer group referred to in Article 27 of Regulation (EU) No 1305/2013, submits an application for recognition as a producer organisation it may, at the same time, submit for approval the operational programme referred to in paragraph 1. Approval of the operational programme shall be subject to recognition being granted no later than on the final date laid down in Article 33(2) of Delegated Regulation (EU) 2017/891.

Article 7

Implementation periods of operational programmes

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

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

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

3 By way of derogation from paragraph 2, where the third subparagraph of Article 33(2) or the second subparagraph of Article 34(1) of Delegated Regulation (EU) 2017/891 applies, the implementation of operational programmes approved in accordance with those provisions shall start not later than 31 January following their approval.

SECTION 3

Aid

Article 8

Approved amount of aid

Member States shall notify producer organisations and associations of producer organisations of the approved amount of aid by 15 December of the year preceding the year for which aid is requested.

By way of derogation from the first paragraph, where the third subparagraph of Article 33(2) or the second subparagraph of Article 34(1) of Delegated Regulation (EU)

Status: Point in time view as at 13/03/2017.

Changes to legislation: There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2017/892. (See end of Document for details)

2017/891 applies, Member States shall notify those organisations and associations of the approved amount of aid by 20 January of the year for which aid is requested.

Article 9

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;
- f the proportion of the operational fund spent on crisis prevention and management broken down by actions;
- g compliance with Article 33(3), the first subparagraph of Article 33(5) and Article 34 of Regulation (EU) No 1308/2013;
- h a written commitment that it has not received any duplicate Union or national funding in respect of measures or operations qualifying for aid under Regulation (EU) No 1308/2013 in the fruit and vegetables sector;
- i in the case of an application for payment based on standard flat rates or scales of unit costs as referred to in Article 31(2) of Delegated Regulation (EU) 2017/891, proof of the implementation of the action concerned; and
- j the annual report referred to in Article 21.

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 11(2) shall be released only on condition that proof of implementation of the programmed expenditure referred to in point (b) of the first subparagraph of this paragraph is provided by 30 April of the year following that for which the expenditure in question was programmed, and on the basis that the entitlement to the aid is established.

4 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 10 is complied with. Where applications are submitted after the date provided for in paragraph 1, the aid shall be reduced by 1 % for each day the application is late.

Status: Point in time view as at 13/03/2017.

Changes to legislation: There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2017/892. (See end of Document for details)

5 Associations of producer organisations may submit an application for aid as referred to in paragraph 1 in the name and on behalf of only those members that are producer organisations recognised in the same Member State which recognised the association of producer organisations and provided that the supporting documents referred to in paragraph 2 are submitted for each member. The producer organisations shall be the final beneficiaries of the aid.

6 Producer organisations which are members of transnational associations of producer organisations shall apply for aid in the Member State where they are recognised regarding actions implemented on the territory of that Member State. The transnational association of producer organisations shall provide the Member State where it has its headquarters with a copy of the application.

7 Without prejudice to paragraph 6, transnational associations of producer organisations may submit an application for aid in the Member State where the association has its headquarters regarding actions implemented at the level of the association provided that there is no risk of double funding.

Article 10

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 11

Advance payments

1 Applications for advance payments may be submitted as decided by the Member State, either on a 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 shall not exceed 80 % of the initially approved amount of aid for the operational programme.

2 Advance payments shall be paid subject to the lodging of a security equivalent to 110 % thereof in accordance with Commission Delegated Regulation (EU) No 907/2014⁽³⁾.

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

Article 12

Partial payments

1 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.

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

3 Payments in respect of applications for parts of the aid shall not exceed 80 % of the part of the aid corresponding to the amounts already spent under the operational programme

Status: Point in time view as at 13/03/2017.

Changes to legislation: There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2017/892. (See end of Document for details)

for the period concerned. Member States may set a minimum amount for partial payments and deadlines for applications.

CHAPTER II

CRISIS PREVENTION AND MANAGEMENT MEASURES

Article 13

Training measures and exchanges of better practices

Member States shall adopt provisions on the conditions to be fulfilled by training measures and exchanges of better practices to be considered as crisis prevention and management measures.

Article 14

Promotion and communication measures

1 Member States shall adopt provisions on the conditions to be fulfilled by promotion and communication measures, whether those measures relate to crisis prevention or crisis management. Those provisions shall allow for the rapid application of the measures when required.

2 Actions under promotion and communication measures shall be additional to any ongoing promotion and communication actions not related to crisis prevention and management being applied by the producer organisation concerned in their operational programme.

Article 15

Marketing standards of products withdrawn

1 A product withdrawn from the market shall comply with the marketing standard for that product as referred to in Title II of Implementing Regulation (EU) No 543/2011, except for the provisions on the presentation and marking of products. Where products are withdrawn in bulk, the minimum requirements for class II shall be complied with.

However, miniature produce as defined in the relevant standard shall comply with the applicable marketing standard, including the provisions on the presentation and marking of products.

2 If a marketing standard is not laid down for a given product, the minimum requirements set out in Annex III shall be met. Member States may lay down additional rules supplementing those minimum requirements.

Article 16

Transport costs for free distribution

1 The costs of transport by land for the free distribution of all products withdrawn from the market shall be eligible under the operational programme on the basis of the scale of unit

Status: Point in time view as at 13/03/2017.

Changes to legislation: There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2017/892. (See end of Document for details)

costs set according to the distance between the point of withdrawal and the place of delivery as set out in Annex IV.

In the case of sea transport, Member States shall determine the distance between the point of withdrawal and the place of final delivery. The compensation may not exceed the cost of land transport over the shortest route between the place of loading and the point of final delivery where land transport is possible. A correcting coefficient of 0,6 shall be applied to the amounts as set out in Annex IV.

In case of combined transport, the applicable transport cost shall be the sum of the cost corresponding to the distance of transport by land plus 60 % of the cost's increase if the total distance of transport had been by land, as set out in Annex IV.

2 The transport costs shall be paid to the party which actually bears the financial cost of the transport operation in question.

Payment shall be subject to the presentation of supporting documents certifying in particular:

- a the names of the beneficiary organisations;
- b the quantity of the products concerned;
- c acceptance by the beneficiary organisations and the means of transport used; and
- d the distance between the place of withdrawal and the place of delivery.

Article 17

Sorting and packing costs for free distribution

1 The costs of sorting and packaging fruit and vegetables withdrawn from the market for free distribution shall be eligible under operational programmes. For products in packages of less than 25 kilograms net weight the flat-rate amounts set out in Annex V shall apply.

2 Packages of products for free distribution shall display the European emblem together with one or more of the statements set out in Annex VI.

3 The costs of sorting and packaging shall be paid to the producer organisations which have carried out those operations.

Payment shall be subject to the presentation of supporting documents certifying in particular:

- a the names of the beneficiary organisations;
- b the quantity of the products concerned; and
- c acceptance by the beneficiary organisations, specifying the presentation.

Status: Point in time view as at 13/03/2017.

Changes to legislation: There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2017/892. (See end of Document for details)

CHAPTER III

NATIONAL FINANCIAL ASSISTANCE

Article 18

Authorisation to pay national financial assistance

1 Member States shall submit a request to the Commission for authorisation to grant national financial assistance pursuant to Article 35(1) of Regulation (EU) No 1308/2013 for operational programmes to be implemented in any given calendar year by 31 January of that year.

The request shall be accompanied by evidence showing:

- a that the degree of organisation of producers in the region concerned is particularly low, in accordance with Article 52 of Delegated Regulation (EU) 2017/891;
- b that only products of the fruit and vegetables sector produced in that region benefit from the assistance; and
- c details of the producer organisations and the amount of assistance concerned and the proportion of financial contributions being made pursuant to Article 32(1) of Regulation (EU) No 1308/2013.

2 The Commission shall approve or refuse the request by way of a decision within three months. That period shall begin on the day following the day on which the Commission received a completed request from the Member State. If the Commission does not request additional information within the three-month period, the request shall be deemed to be complete.

Article 19

Application for and payment of the national financial assistance

1 Articles 9 and 10 shall apply *mutatis mutandis* to applications for and the payment of the national financial assistance.

2 Member States may adopt additional rules on the payment of the national financial assistance, including the possibility of advance and partial payments.

Article 20

Union reimbursement of the national financial assistance

1 Before 1 January of the second year following the year of implementation of the programme Member States may request Union reimbursement of the approved national financial assistance actually paid to producer organisations.

The request shall be accompanied by evidence showing that the conditions set out in Article 35(2) of Regulation (EU) No 1308/2013 have been fulfilled in three of the previous four years.

For the purpose of the calculation of the degree of organisation of producers in the fruit and vegetables sector, the value of fruit and vegetables production from producer groups

Status: Point in time view as at 13/03/2017.

Changes to legislation: There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2017/892. (See end of Document for details)

formed pursuant to Article 125e of Regulation (EC) No 1234/2007 shall also be taken into account.

The request for Union reimbursement of the national financial assistance shall also contain:

- a details of the producer organisations concerned;
- b the amount of assistance paid, limited for each producer organisation to the amount initially authorised; and
- c a description of the operational fund showing the total amount, the Union financial assistance, the national financial assistance and the contributions of the producer organisations and of the members.

2 The Commission shall approve or refuse the request.

The request shall be refused where the rules on the authorisation and reimbursement of national financial assistance have not been complied with or where the rules on producer organisations, the operational fund and operational programmes laid down in or pursuant to Regulation (EU) No 1308/2013 have not been respected.

3 Where Union reimbursement of the assistance has been approved, the eligible expenditure shall be declared to the Commission in accordance with the procedure set out in Article 11 of Commission Implementing Regulation (EU) No 908/2014⁽⁴⁾.

4 The proportion of Union reimbursement of national financial assistance shall not exceed 60 % of the national financial assistance granted to the producer organisation. The amount reimbursed shall not exceed 48 % of the Union financial assistance referred to in Article 32(1)(b) of Regulation (EU) No 1308/2013.

CHAPTER IV

INFORMATION, REPORTS AND CHECKS

SECTION 1

Information and reports

Article 21

Information and annual reports from producer groups, producer organisations and associations of producer organisations and annual reports from Member States

1 At the request of the competent authority of the Member State, producer groups formed pursuant to Article 125e of Regulation (EC) No 1234/2007, recognised producer organisations and associations of producer organisations shall provide any relevant information needed for the drawing up of the annual report referred to in Article 54(b) of Delegated Regulation (EU) 2017/891. Member States shall take the measures necessary to gather information on the number of members, the volume and the value of marketed production of producer organisations which have not submitted operational programmes. Producer organisations and producer groups referred to in Article 27 of Regulation (EU) No 1305/2013 shall be requested to provide the number of members, the volume and the value of the marketed production.

Status: Point in time view as at 13/03/2017.

Changes to legislation: There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2017/892. (See end of Document for details)

2 Producer organisations and associations of producer organisations shall submit annual reports on the implementation of their operational programmes with their applications for aid.

Those annual reports shall concern the following:

- a the operational programme implemented during the preceding year;
- b the main amendments to the operational programme; and
- c differences between estimated aid and aid applied for.

3 The annual report from producer organisations and associations of producer organisations shall indicate:

- a the achievements of the operational programme, based on the indicators set out in Annex II and, where applicable, additional indicators set out in the national strategy as follows:
 - (i) common baseline indicators and input (financial) indicators shall be used in each annual report;
 - (ii) result and output indicators shall be used in the last two years of the operational programme; and
- b a summary of the major problems encountered in managing the programme and the measures taken to ensure the quality and effectiveness of programme implementation.

Where applicable, the annual report shall specify what safeguards have been put in place, in accordance with the national strategy and in application of Article 33(6) of Regulation (EU) No 1308/2013, to protect the environment from possible increased pressures coming from investments supported under the operational programme.

4 The annual report from producer organisations and associations of producer organisations of the last but one year of an operational programme shall show to what extent the objectives pursued by the programmes have been achieved. This report shall also mention factors which contributed to the success or failure of the programme's implementation and the way those factors were taken into account in the ongoing programme or will be taken into account in the following operational programme.

The Member State shall include details of cases referred to in the first subparagraph in its annual report referred to in Article 54(b) of Delegated Regulation (EU) 2017/891.

SECTION 2

Checks

Article 22

Unique identification system

Member States shall ensure that a unique identification system applies to producer organisations, associations of producer organisations and producer groups formed pursuant to Article 125e of Regulation (EC) No 1234/2007 with regard to their aid applications. This identification system shall be compatible with the system for the identification of beneficiaries referred to in Article 73 of Regulation (EU) No 1306/2013.

Status: Point in time view as at 13/03/2017.

Changes to legislation: There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2017/892. (See end of Document for details)

Article 23

Submission procedures

Without prejudice to Articles 9, 24 and 25, Member States shall provide for procedures for the submission of aid applications, requests for recognition or approval of operational programmes, as well as payment claims.

Article 24

Granting of recognition

1 Prior to granting recognition to a producer organisation or association of producer organisations under Article 154(4)(a) or Article 156(1) of Regulation (EU) No 1308/2013, Member States shall carry out administrative and an on-the-spot checks on the producer organisation or association of producer organisations to verify compliance with the recognition criteria.

2 Member States shall carry out administrative and on-the-spot checks with regard to the recognition criteria which apply to all recognised producer organisations and associations of producer organisations at least once every five years even if the producer organisations or the associations of producer organisations do not implement an operational programme.

Article 25

Approval of operational programmes and their amendments

1 Prior to the approval of an operational programme under Article 33 of Delegated Regulation (EU) 2017/891, Member States shall verify, by all the appropriate means, including through on-the-spot checks, the operational programme submitted for approval and the request for amendment, where applicable. Those checks shall in particular concern:

- a the accuracy of the information referred to in Article 4(1)(a), (b) and (e), which shall be included in the draft operational programme;
- b compliance of the programme with Article 33 of Regulation (EU) No 1308/2013 as well as with the national strategy and the national framework;
- c the eligibility of the actions and the eligibility of the expenditure proposed; and
- d the consistency and technical quality of the programme, the soundness of the estimates and the aid plan, and the planning of its implementation.

2 The checks referred to in paragraph 1 shall verify whether:

- a targets are measurable and can be monitored and achieved through the proposed actions; and
- b the operations for which aid is requested are in compliance with the applicable national and Union laws in particular, State aid, rural development and promotion programmes, and obligatory standards established by national legislation or the national strategy.

Status: Point in time view as at 13/03/2017.

Changes to legislation: There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2017/892. (See end of Document for details)

Article 26

Administrative checks

1 The procedures relating to the administrative checks shall require the recording of operations undertaken, the results of the verification and the measures taken in respect of discrepancies.

2 Prior to granting the aid, Member States shall carry out administrative checks on all aid applications.

3 Administrative checks on aid applications shall include, where applicable, a verification of:

- a the annual report on the execution of the operational programme transmitted together with the aid application;
- b the value of marketed production, the contributions to the operational fund and the expenditure incurred;
- c the accurate correlation of expenditure claimed with products and services delivered;
- d the conformity of the actions undertaken with those included in the approved operational programme; and
- e the respect of financial or other limits and ceilings imposed.

4 Expenditure incurred under the operational programme shall be supported by proof of payment. Invoices used shall be established in the name of the producer organisation, association of producer organisations or the subsidiary complying with the 90 % requirement referred to in Article 22(8) of Delegated Regulation (EU) 2017/891 or, subject to Member State approval, in the name of one or more of its producer members. However, invoices in respect of the personnel costs referred to in point 2 of Annex III to Delegated Regulation (EU) 2017/891 shall be established in the name of the producer organisation, association of producer organisation, subsidiary complying with the 90 % requirement referred to in Article 22(8) of that Regulation or, subject to Member State approval, cooperatives which are a member of the producer organisation.

Article 27

On-the-spot checks on annual aid applications

1 Member States shall carry out on-the-spot checks at the premises of producer organisations, associations of producer organisations and their subsidiaries, where applicable, to ensure compliance with the conditions for recognition, for granting an aid or the balance thereof for the year concerned as referred to in Article 9(1), which shall supplement the administrative checks.

2 The on-the-spot checks shall relate to a sample representing at least 30 % of the total aid applied for each year. Each producer organisation or association of producer organisations implementing an operational programme shall be visited at least once every three years.

3 Member States shall determine the producer organisations to be checked on the basis of a risk analysis that shall take account of the following criteria:

- a the amount of aid;
- b the findings of the checks in previous years;

Status: Point in time view as at 13/03/2017.

Changes to legislation: There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2017/892. (See end of Document for details)

- c a random parameter; and
- d other parameters to be determined by Member States.

4 Advance notice of on-the-spot checks may be given, provided that the purpose of the check is not jeopardised.

5 The on-the-spot checks shall cover all the commitments and obligations of the producer organisation or association of producer organisations, its members or subsidiaries, where applicable, which can be checked at the time of the visit and which could not have been checked during the administrative checks. On-the-spot checks shall in particular concern:

- a the compliance with the recognition criteria for the year concerned;
- b the implementation of the actions and their consistency with the approved operational programme;
- c in relation to a relevant number of actions: the compliance of the expenditure with Union law and respect of the deadlines set out therein;
- d the use of the operational fund, including expenditure declared in claims for advance payments or partial payments, the value of marketed production, the contributions to the operational fund and the expenditure declared as supported by accounting or equivalent documents;
- e the full delivery of the products by the members, the delivery of the services and the genuineness of the expenditure claimed; and
- f second level checks as referred to in Article 30 for the expenses of market withdrawals, green harvesting and non-harvesting.

6 The value of marketed production shall be verified on the basis of the financial accounting system as audited and certified in accordance with national law.

To that end, the Member States may decide that the declaration of the value of marketed production shall be certified in the same way as the financial accounting data.

The check on the declaration of the value of marketed production may be carried out before the relevant aid application is transmitted but it shall be carried out at the latest before payment of the aid.

7 Except in exceptional circumstances, the on-the-spot checks shall include a visit to the place where the action is implemented or, if the action is intangible, to the action promoter. In particular, actions on individual holdings of members of producer organisations covered by the sample referred to in paragraph 2 shall be subject of at least one visit to verify their execution.

However, Member States may decide not to carry out such visits for small actions, or where they consider that there is a low risk that the conditions for receiving aid are not fulfilled, or that the operation has not been implemented. The respective decision and its justification shall be recorded. The risk analysis criteria set out in paragraph 3 shall apply *mutatis mutandis* to this paragraph.

8 Only checks meeting all the requirements of this Article may be counted towards the fulfilment of the checking rate set out in paragraph 2.

9 The results of the on-the-spot checks shall be assessed to establish whether any problems encountered are of a systemic nature, entailing a risk for other similar actions, beneficiaries or bodies. This assessment shall also identify the causes of such situations, any further examination which may be required and the recommended corrective and preventive action.

Status: Point in time view as at 13/03/2017.

Changes to legislation: There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2017/892. (See end of Document for details)

If the checks reveal significant irregularities in a region or part of a region or for a specific producer organisation or association of producer organisations, the Member State shall carry out additional checks during the year in the region or on the organisation or association concerned and shall increase the percentage of corresponding applications to be checked the following year.

Article 28

Reports of on-the-spot checks

1 A detailed report shall be made for each on-the-spot check indicating at least the following information:

- a the aid scheme and the application checked;
- b the names and functions of the persons present;
- c the actions, measures and documents checked, including the audit trail and supporting evidence verified; and
- d the results of the check.

2 A representative of the producer organisation or association of producer organisations shall be given the opportunity to sign the report to attest his/her presence at the check and to record his/her comments. Where irregularities are found, the beneficiary shall receive a copy of the report.

Article 29

First-level checks on withdrawal operations

1 Member States shall carry out first-level checks on withdrawal operations in each producer organisation, comprising of a document and identity check supported by a physical check, of the weight of the products withdrawn from the market and a check on compliance with Article 15, in accordance with the procedures laid down in Chapter II of Title II of Implementing Regulation (EU) No 543/2011. The check shall take place following receipt of the notification referred to in Article 44(1) of Delegated Regulation (EU) 2017/891, within the time limits set in accordance with paragraph 2 of that Article.

2 The first-level checks shall cover 100 % of the quantity of products withdrawn from the market. At the end of this check, the withdrawn products other than those for free distribution, shall be denatured or disposed of to the processing industry under the supervision of the competent authorities under the terms and conditions laid down by the Member State in accordance with Article 46 of Delegated Regulation (EU) 2017/891.

3 By way of derogation from paragraph 2, where the products are for free distribution, Member States may check a smaller percentage than that laid down in that paragraph, provided it is not less than 10 % of the quantities concerned during the marketing year of any given producer organisation. The check may take place at the premises of the producer organisation or at the sites of the recipients of the products. In the event that the checks reveal irregularities, Member States shall carry out additional checks.

Status: Point in time view as at 13/03/2017.

Changes to legislation: There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2017/892. (See end of Document for details)

Article 30

Second-level checks on withdrawal operations

- 1 Member States shall carry out second-level checks on withdrawal operations at the premises of the producer organisation and of the recipients of the products withdrawn based on a risk analysis. The risk analysis shall include the findings of previous first and second-level checks, and whether or not a producer organisation has some form of quality-assurance procedure. This risk analysis shall serve as the basis to establish the minimum frequency of second-level checks for each producer organisation.
- 2 The second-level checks referred to in paragraph 1 shall concern:
 - a the specific stock and accounting records to be kept by all producer organisations which carry out withdrawal operations during the marketing year concerned;
 - b the quantities marketed as declared in the aid applications, checking, in particular, the stock and accounting records, the invoices and, ensuring that the declarations tally with the accounting and tax data of the producer organisations concerned;
 - c the accounts, in particular the veracity of net receipts by the producer organisations as declared in their payment applications and the proportionality of any withdrawal costs; and
 - d the destination of withdrawn products as declared in the payment application and their denaturing.
- 3 Each check shall include a sample representing at least 5 % of the quantities withdrawn by the producer organisation during the marketing year.
- 4 The specific stock and accounting records referred to in point (a) of paragraph 2 shall show, for each product withdrawn, the quantities moved, expressed in tonnes, of:
 - a the production delivered by members of the producer organisation and by members of other producer organisations in accordance with Article 12(1)(b) and (c) of Delegated Regulation (EU) 2017/891;
 - b sales by the producer organisation, identifying products intended for the fresh market and products for processing; and
 - c products withdrawn from the market.
- 5 The checks on the destination of products withdrawn from the market shall include:
 - a a sample check on the stock records to be kept by recipients and on the financial accounts of the charitable organisations and institutions concerned where the second subparagraph of Article 46(2) of Delegated Regulation (EU) 2017/891 applies; and
 - b checks on compliance with the relevant environmental requirements.
- 6 If the second-level checks reveal irregularities, Member States shall carry out more detailed second-level checks for the year concerned and shall increase the frequency of second-level checks at the premises of producer organisations or associations of producer organisations during the following year.

Status: Point in time view as at 13/03/2017.

Changes to legislation: There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2017/892. (See end of Document for details)

Article 31

Green harvesting and non-harvesting

1 Before a green harvesting operation takes place, Member States shall verify by an on-the-spot check that the products concerned are not damaged and the area concerned has been well maintained. After green harvesting, Member States shall verify that the area concerned has been harvested in total and the harvested product has been denatured.

2 Before a non-harvesting operation takes place, Member States shall verify by an on-the-spot check that the area concerned has been well maintained, that no partial harvest has already taken place, that the product is well developed and would in general be sound, fair and of marketable quality.

Member States shall ensure that the production is denatured. If this is not possible, they shall ensure, by an on-the-spot visit or visits during the harvest season, that no harvest takes place.

3 Where the second subparagraph of Article 48(3) of Delegated Regulation (EU) 2017/891 applies:

- a the requirement provided for in the first subparagraph of paragraph 2 of this Article that no partial harvest has taken place, shall not apply; and
- b Member States shall ensure that the fruit and vegetable plants on which non-harvesting and green harvesting measures have been undertaken shall not be used for further production purposes in the same production season.

4 Article 30(1), (2), (3) and (6) shall apply *mutatis mutandis*.

Article 32

Transnational producer organisations

1 The Member State in which a transnational producer organisation has its head office shall have overall responsibility for the organisation of checks on that organisation in respect of the operational programme and operational fund and for the application of administrative penalties where such checks demonstrate that obligations have not been met.

2 The other Member States required to provide the administrative co-operation referred to in Article 14(3)(c) of Delegated Regulation (EU) 2017/891 shall carry out such administrative and on-the-spot checks as required by the Member State referred to in paragraph 1 of this Article, and report the results to it. They shall respect the deadlines set by the Member State referred to in paragraph 1.

3 The rules applicable in the Member State referred to in paragraph 1 shall apply in relation to the producer organisation and the operational programme and operational fund. However, in respect of environmental and phytosanitary questions and crisis prevention and management measures, the rules of the Member State where the respective actions take place shall apply.

Status: Point in time view as at 13/03/2017.

Changes to legislation: There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2017/892. (See end of Document for details)

Article 33

Transnational associations of producer organisations

1 The Member State in which a producer organisation which is a member of a transnational association has its head office shall have overall responsibility for the organisation of checks in respect of actions of the operational programme implemented on its territory and of the operational fund and for the application of administrative penalties where such checks demonstrate that obligations have not been met.

2 The Member State referred to in paragraph 1 shall closely co-operate with the Member State in which the transnational association of producer organisations has its head office and notify without delay the results of the checks carried out and possible administrative penalties applied.

3 The Member State in which the transnational association of producer organisations has its head office shall have overall responsibility for the organisation of checks in respect of actions of the operational programme implemented at the level of the transnational association and of the operational fund of the transnational association and for the application of administrative penalties where such checks demonstrate that obligations have not been met. It shall also ensure the coordination of checks and payments in respect of actions of the operational programmes implemented on the territory of the other Member States.

4 The actions of the operational programmes shall comply with the national rules of the Member State where they are actually carried out.

Article 34

Checks

Without prejudice to specific provisions of this Regulation or other Union legislation, Member States shall introduce checks and measures to ensure the proper application of Regulation (EU) No 1308/2013, Delegated Regulation (EU) 2017/891 and this Regulation. Those checks and measures shall be effective, proportionate and dissuasive so that they provide adequate protection for the financial interests of the Union.

In particular, Member States shall ensure that:

- (a) all eligibility criteria established by Union or national legislation or the national strategy or national framework can be checked;
- (b) the competent authorities of the Member State responsible for carrying out checks have a sufficient number of suitably qualified and experienced staff to carry out the checks effectively; and
- (c) provision is made for checks to avoid irregular duplicated financing of measures under Regulation (EU) No 1308/2013 in the fruit and vegetables sector and under other Union or national schemes.

Status: Point in time view as at 13/03/2017.

Changes to legislation: There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2017/892. (See end of Document for details)

Article 35

Obvious errors

In cases of obvious errors recognised by the competent authority of the Member State, as referred to in Article 59(6) of Regulation (EU) No 1306/2013, any notification, claim or request made to a Member State under Regulation (EU) No 1308/2013, Delegated Regulation (EU) 2017/891 or this Regulation and any aid application may be corrected and adjusted at any time after its submission.

CHAPTER V

EXTENSION OF RULES

Article 36

Financial contributions

Where a Member State decides, pursuant to Article 165 of Regulation (EU) No 1308/2013, that operators who do not belong to producer organisations, associations of producer organisations or interbranch organisations, but in respect of whom rules are made binding, shall pay a financial contribution, the Member State shall forward to the Commission the information needed to assess compliance with the conditions laid down in that Article. Such information shall include the basis on which the contribution is calculated, the unit amount thereof, the activities covered and their associated costs.

Article 37

Extensions beyond one year

1 Where it is decided to apply an extension of rules for a period exceeding one year, the Member States shall verify, in respect of each year, whether the conditions regarding representativeness laid down in Article 164(3) of Regulation (EU) No 1308/2013 have continued to be met throughout the period of application of the extension.

2 If Member States find that the conditions are no longer met, they shall repeal the extension with effect from the beginning of the following year.

3 Member States shall inform the Commission without delay of any repeal. The Commission shall make such information publicly available by the appropriate means.

Status: Point in time view as at 13/03/2017.

Changes to legislation: There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2017/892. (See end of Document for details)

CHAPTER VI

ENTRY PRICE SYSTEM AND IMPORT DUTIES

Article 38

Standard import values

1 For each product and for the periods of application set out in Part A of Annex VII to Delegated Regulation (EU) 2017/891, the Commission shall fix each working day and for each origin, a standard import value equal to the weighted average of the representative prices referred to in Article 74 of that Regulation, less a standard amount of EUR 5/100 kg and the *ad valorem* customs duties.

2 Where a standard import value is established for the products and for the periods of application set out in Part A of Annex VII to Delegated Regulation (EU) 2017/891, in accordance with Articles 74 and 75 of that Regulation and this Article, the unit price as referred to in Article 142 of Commission Implementing Regulation (EU) 2015/2447⁽⁵⁾ shall not apply. It shall be replaced by the standard import value referred to in paragraph 1.

3 Where no standard import value is in force for a product of a given origin, the weighted average of standard import values in force for that product shall apply.

4 During the periods of application set out in Part A of Annex VII to Delegated Regulation (EU) 2017/891, the standard import values shall remain applicable until they are changed. They shall cease to apply, however, where no average representative price has been notified to the Commission for two consecutive weeks.

Where, pursuant to the first subparagraph, no standard import value applies to a given product, the standard import value applicable to that product shall be equal to the last average standard import value.

5 By way of derogation from paragraph 1, where it has not been possible to calculate a standard import value, no standard import value shall be applicable from the first day of the periods of application set out in Part A of Annex VII to Delegated Regulation (EU) 2017/891.

6 The exchange rate applicable to the standard import value shall be the rate most recently published by the European Central Bank prior to the last day of the period for which prices are transmitted.

7 The standard import values expressed in euro shall be published by the Commission via TARIC⁽⁶⁾.

CHAPTER VII

ADDITIONAL IMPORT DUTIES

Article 39

Levying of additional import duty

1 An additional import duty as referred to in Article 182(1) of Regulation (EU) No 1308/2013 may be applied to the products and during the periods listed in Annex VII to

Status: Point in time view as at 13/03/2017.

Changes to legislation: There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2017/892. (See end of Document for details)

this Regulation. That additional import duty shall apply if the quantity of any of the products put into free circulation for any of the periods of application set out in that Annex exceeds the trigger volume for that product.

2 For each of the products listed in Annex VII and during the periods indicated in that Annex, Member States shall notify the Commission of details of the volumes put into free circulation using the method for the surveillance of preferential imports set out in Article 55 of Implementing Regulation (EU) 2015/2447.

3 The additional import duty shall be levied on quantities put into free circulation after the date of application of that duty, provided that:

- a their customs value determined in accordance with Article 74 of Delegated Regulation (EU) 2017/891 entails the application of the highest specific duties applicable to imports of the origin in question; and
- b the import takes place during the period of application of the additional import duty.

Article 40

Amount of additional import duty

The additional import duty applied in accordance with Article 39 shall be equivalent to one third of the customs duty specified in the Common Customs Tariff for the product in question.

However, for products benefiting from an import tariff preference as to *ad valorem* duty, the additional import duty shall be equivalent to one third of the specific customs duty for the product in question where Article 39(2) applies.

Article 41

Exemptions from additional import duty

1 The following goods are exempt from the additional import duty:

- a goods imported under a tariff quota;
- b goods that left the country of origin before the decision to apply the additional import duty, and which are being transported under cover of a transport document valid from the place of loading in the country of origin to the place of unloading in the Union that was drawn up before application of the additional import duty.

2 Interested parties shall provide evidence to the satisfaction of the customs authorities that the requirements of paragraph 1(b) have been met.

Customs authorities may deem that goods left the country of origin before the date of application of the additional import duty if one of the following documents is provided for:

- a sea transport, the bill of lading showing that loading took place before that date;
- b rail transport, the waybill accepted by the rail authorities of the country of origin before that date;
- c road transport, the road carriage contract (CMR) or another transit document issued in the country of origin before that date, if the conditions laid down in bilateral or multilateral arrangements concluded in the context of Union transit or common transit are observed;

Status: Point in time view as at 13/03/2017.

Changes to legislation: There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2017/892. (See end of Document for details)

d air transport, the air way bill showing that the airline accepted the goods before that date.

CHAPTER VIII

FINAL PROVISIONS

Article 42

Entry into force and application

This Regulation shall enter into force on the seventh day following that of 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, 13 March 2017.

For the Commission

The President

Jean-Claude JUNCKER

Status: Point in time view as at 13/03/2017.

Changes to legislation: There are currently no known outstanding effects for the
Commission Implementing Regulation (EU) 2017/892. (See end of Document for details)

- (1) Regulation (EU) No 1305/2013 of the European Parliament and of the Council of 17 December 2013 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) and repealing Council Regulation (EC) No 1698/2005 ([OJ L 347, 20.12.2013, p. 487](#)).
- (2) Regulation (EU) No 1144/2014 of the European Parliament and of the Council of 22 October 2014 on information provision and promotion measures concerning agricultural products implemented in the internal market and in third countries and repealing Council Regulation (EC) No 3/2008 ([OJ L 317, 4.11.2014, p. 56](#)).
- (3) Commission Delegated Regulation (EU) No 907/2014 of 11 March 2014 supplementing Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to paying agencies and other bodies, financial management, clearance of accounts, securities and use of euro ([OJ L 255, 28.8.2014, p. 18](#)).
- (4) Commission Implementing Regulation (EU) No 908/2014 of 6 August 2014 laying down rules for the application of Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to paying agencies and other bodies, financial management, clearance of accounts, rules on checks, securities and transparency ([OJ L 255, 28.8.2014, p. 59](#)).
- (5) Commission Implementing Regulation (EU) 2015/2447 of 24 November 2015 laying down detailed rules for implementing certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code ([OJ L 343, 29.12.2015, p. 558](#)).
- (6) http://ec.europa.eu/taxation_customs/customs/customs_duties/tariff_aspects/customs_tariff/index_en.htm

Status:

Point in time view as at 13/03/2017.

Changes to legislation:

There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2017/892.