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

COMMISSION DELEGATED REGULATION (EU) 2018/1145

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amending Delegated Regulation (EU) 2017/891 as regards producer organisations in the fruit and vegetables sector

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007[(1)], and in particular Article 37 thereof,

Whereas:

(1) Commission Delegated Regulation (EU) 2017/891[(2)] supplements Regulation (EU) No 1308/2013 with regard to the fruit and vegetables and processed fruit and vegetables sectors. Regulation (EU) 2017/2393 of the European Parliament and of the Council[(3)] has amended Regulation (EU) No 1308/2013 in particular as regards the aid to the producer organisations in the fruit and vegetables sector. Therefore, Delegated Regulation (EU) 2017/891 should reflect the amendments to the relevant provisions of Regulation (EU) No 1308/2013.

(2) Provisions on national financial assistance in the fruit and vegetables sector should be updated.

(3) Provisions concerning the cases in which producer members of a producer organisation should be allowed to sell a certain percentage of their products outside the producer organisation where the producer organisation so authorises in its statutes and where this is in compliance with the terms and conditions of the Member State need to be clarified. The threshold of the sales outside the producer organisation needs to be clarified.

(4) New measures on coaching between producer organisations and on replenishment of mutual funds in operational programmes should be eligible for Union financial assistance.

(5) Member States may continue to provide national financial assistance from national budget to producer organisations in regions of the Union where the organisation degree is particularly low. Consequently, conditions under which national financial assistance may be granted in the fruit and vegetables sector as well as the method of calculation of the degree of organisation referred to in Article 34(3) of Regulation (EU) No 1308/2013 should be laid down to avoid distortions of the internal market in the Union.

Changes to legislation: *There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2018/1145. (See end of Document for details)*

(6) Provisions concerning eligibility of certain investments for Union financial assistance need to be clarified.

(7) Eligible and non-eligible actions related to promotion and communication, including actions and activities aimed at diversification and consolidation on the fruit and vegetable markets, whether for prevention of a crisis or during a crisis period, need to be clarified as regards the eligibility of actions and activities for Union financial assistance.

(8) Provisions relating to the annual reports on producer organisations, associations of producers organisations, including transnational associations of producer organisations, and producer groups, and on operational funds, operational programmes and recognition plans should be simplified. They need to enable the Commission to adequately monitor the sector.

(9) Delegated Regulation (EU) 2017/891 should therefore be amended accordingly.

(10) Transitional provisions should be laid down to ensure a smooth transition from the existing requirements, measures and actions laid down in Delegated Regulation (EU) 2017/891 to the new ones provided for in this Regulation.

(11) This Regulation should apply from the same date as Regulation (EU) 2017/2393. However, the provisions concerning national financial assistance, indicators and monitoring should apply from 1 January 2019 to allow Member States and economic operators time to adapt to the new rules,

(12) The conditions for the application of the new measures and actions eligible for Union financial assistance set out in Regulation (EU) No 1308/2013 should apply from the date of application of the amendments to that Regulation introduced by Regulation (EU) 2017/2393 to ensure market stability for producer organisations and their members, in particular given that those measures concern mainly crisis management and prevention and to enable them to fully benefit from the new measures. To safeguard legitimate expectations, producer organisations may choose to continue the ongoing operational programmes under the rules applicable at the time of the approval of the programmes or to modify their operational programmes to benefit from the new measures and actions eligible for Union financial assistance, as set out in Regulation (EU) No 1308/2013,

HAS ADOPTED THIS REGULATION:

Article 1

Amendments to Delegated Regulation (EU) 2017/891

Delegated Regulation (EU) 2017/891 is amended as follows:

(1) Article 2(e) is replaced as follows:

(e) "transnational association of producer organisations" means any association of producer organisations in which at least one of the associated organisations or associations is located in a Member State other than where the association has its head office;;

***Changes to legislation:** There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2018/1145. (See end of Document for details)*

(2) Article 12 is replaced as follows:

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 Member 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, Member States may set 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. Member States may increase that percentage up to 40 % in case of products covered by Council Regulation (EC) No 834/2007[(4)] or where producer members market their production through another producer organisation designated by their own producer organisation.;

(3) in Article 22, paragraph 10 is replaced as follows:

10. Where a reduction in production occurs due to a natural disaster, climatic event, animal or plant diseases or pest infestations, any insurance indemnification received in respect of harvest insurance actions covered by Section 7 of Chapter III, or equivalent actions managed by the producer organisation or its producer members, due to those causes may be included in the value of marketed production.;

(4) in Article 30, paragraph 2 is replaced by the following:

2. Producer organisations or associations of producer organisations which have been granted the support provided in Article 27 of Regulation (EU) No 1305/2013 or Article 19 of Commission Regulation (EU) No 702/2014[(5)] may implement an operational programme in the same period provided that the Member State concerned ensures that the beneficiaries receive support for any given action only under one scheme.;

(5) in the first subparagraph of Article 31(6), the first sentence is replaced by the following:

Changes to legislation: *There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2018/1145. (See end of Document for details)*

Investments, including those under leasing contracts, may be financed through the operational fund in one amount or in instalments that were approved in the operational programme.;

(6) in Chapter III of Title II, Section 3 is replaced by the following:

Section 3

Support related to mutual funds

Article 40

Support related to mutual funds

1 Member States shall adopt detailed provisions concerning support for the administrative cost of setting up mutual funds and the replenishment of mutual funds, as referred to in point (d) of the first subparagraph of Article 33(3) of Regulation (EU) No 1308/2013.

2 The support for the administrative cost of setting up mutual funds referred to in paragraph 1 shall comprise both the Union financial assistance and the contribution from the producer organisation. The total amount of that support shall not exceed 5 %, 4 % or 2 % of the contribution of the producer organisation to the mutual fund in the first, second and third year of its operation, respectively.

3 A producer organisation may receive the support for the administrative cost of setting up mutual funds referred to in paragraph 1, only once and only within the three first years of the operation of the mutual fund. Where a producer organisation only asks for that support in the second or the third year of operation of the mutual funds, the support shall be 4 % or 2 % of the contribution of the producer organisation to the mutual fund in the second and third year of its operation, respectively.

4 Member States may fix ceilings for the amounts that may be received by a producer organisation as a support related to mutual funds.;

(7) in Chapter III of Title II, the following Section 8 is added:

Section 8

Support related to coaching

Article 51a

Implementation of coaching measures

1 For the purposes of Article 33(3)(i) of Regulation (EU) No 1308/2013, the following coaching measures shall be eligible for support:

a exchange of best practices related to crisis prevention and management measures referred to in Article 33(3) of Regulation (EU) No 1308/2013, helping recognised producer organisations, producer groups or individual

producers to benefit from experience with implementation of crisis prevention and management measures;

b promoting the setting-up of new producer organisations, merging existing ones or enabling individual producers to join an existing producer organisation;

c creating networking opportunities for coaching providers and recipients, to strengthen in particular marketing channels as a means of crisis prevention and management.

2 The coaching provider shall be the association of producer organisations or the producer organisation. The coaching provider shall be the beneficiary of the support for coaching measures.

3 The coaching recipient shall be a recognised producer organisation or a producer group located in regions with an organisation rate lower than 20 %, for the three consecutive years preceding the implementation of the operational programme.

Individual producers, non-members of a producer organisation or their associations, may be coaching recipients even if they are located in regions with organisation rate above 20 %.

4 The expenditure related to coaching shall be part of the crisis prevention and management measures of the operational programme referred to in Article 33(3) of Regulation (EU) No 1308/2013.

Eligible costs related to coaching are listed in Annex III to this Regulation.

All costs identified in Annex III shall be paid to the coaching provider.

5 Coaching measures shall not be outsourced.;

(8) Article 52 is replaced by the following:

Article 52

Conditions for the application of national financial assistance

1 For the purposes of Article 35(1) of Regulation (EU) No 1308/2013, the degree of organisation of producers in a region of a Member State shall be calculated on the basis of the value of fruit and vegetables produced in the region concerned and marketed by:

a recognised producer organisations and associations of producer organisations; and

b producer groups recognised in accordance with Article 125e of Regulation (EC) No 1234/2007 or producer organisations and producer groups recognised in accordance with Article 27 of Regulation (EU) No 1305/2013.

For the purpose of the calculation, the value established as referred to in the first subparagraph shall be divided by the total value of the fruit and vegetables produced in that region.

2 The value of fruit and vegetables produced in the region concerned and marketed by the organisations, associations and groups referred to in points (a) and (b) of the first subparagraph of paragraph 1 shall only include those products for which