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

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

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 38, Article 174(1)(d), Article 181(3), and Article 182(1) and (4) thereof,

Having regard to Regulation (EU) No 1306/2013 of the European Parliament and of the Council of 17 December 2013 on the financing, management and monitoring of the common agricultural policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008[(2)], and in particular Article 58(4)(a), Article 62(2)(a) to (d) and (h) and Article 64(7)(a) thereof,

Whereas:

(1) Regulation (EU) No 1308/2013 has replaced Council Regulation (EC) No 1234/2007[(3)] and lays down new rules concerning the fruit and vegetables and processed fruit and vegetables sectors. It also empowers the Commission to adopt delegated and implementing acts in that respect. Those acts should replace some of the provisions of Commission Implementing Regulation (EU) No 543/2011[(4)]. That Regulation is amended by Commission Delegated Regulation (EU) 2017/891[(5)].

(2) In order to optimise the allocation of financial resources and to improve the quality of the strategy, provisions should be laid down establishing the structure and content of the national strategy for sustainable operational programmes and the national framework for environmental actions. The environmental actions that may be included in that national framework and the requirements to be complied with should be established to facilitate the drafting and implementation of those actions.

(3) Furthermore, rules should be provided regarding the content of the operational programmes, the documents to be submitted, time limits for submission and implementation periods of operational programmes.

Changes to legislation: *There are outstanding changes not yet made to Commission Implementing Regulation (EU) 2017/892. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(4) To ensure the correct application of the aid scheme for producer organisations, provisions on information to be included in the applications for aid as well as procedures for the payment of aid should be laid down. To prevent cash-flow difficulties, a system of advance payments accompanied by appropriate securities should be made available to producer organisations. For similar reasons, an alternative system should be available for the reimbursement of expenditure already incurred.

(5) As the production of fruit and vegetables is unpredictable and the products are perishable, the surplus on the market, even if it is not too great, can significantly disturb the market. Therefore, implementing rules relating to crisis prevention and management measures need to be laid down.

(6) Detailed rules concerning the national financial assistance which Member States may grant in regions of the Union where the degree of organisation of producers is particularly low should be laid down. Procedures should be provided for the approval of such national financial assistance as well as for the approval and the amount of the reimbursement by the Union. In addition, the proportion of reimbursement should be laid down.

(7) Provisions concerning the type and format of certain information to be provided for the application of Regulation (EU) No 1308/2103, Delegated Regulation (EU) 2017/891 and this Regulation should be laid down. Those provisions should cover information from producers and producer organisations to the Member States and from the Member States to the Commission.

(8) Provisions should be laid down as regards the administrative and the on-the spot checks necessary to ensure the proper application of Regulation (EU) No 1308/2013 in the fruit and vegetables sector.

(9) For the purposes of Article 59(6) of Regulation (EU) No 1306/2013, rules on the correction of obvious errors in aid applications, notifications, claims or requests need to be laid down.

(10) Rules should be laid down concerning financial contributions from producers who do not belong to producer organisations, associations of producer organisations or inter-branch organisations for which rules are made binding that are agreed within organisations or associations that are considered to be representative in a specific economic area.

(11) Standard import values should be calculated on the basis of the weighted average of the average representative prices of imported products sold on Member State's import markets, using the data on these prices and on imported quantities of the products concerned notified by Member States to the Commission pursuant to Article 74 of Delegated Regulation (EU) 2017/891. Provisions should be laid down concerning cases in which no average representative prices are available for products of a given origin.

(12) Detailed rules concerning the import duty which can be imposed on certain products in addition to that provided for in the Common Customs Tariff should be laid down. Provision should be made that additional import duty may be imposed if import volumes

***Changes to legislation:** There are outstanding changes not yet made to Commission Implementing Regulation (EU) 2017/892. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

of the products concerned exceed trigger levels determined for the product and the period of application. Goods en route to the Union are exempt from the additional import duty and, therefore, specific provisions for such goods should be adopted.

(13) This Regulation should enter into force on and apply from the seventh day following that of its publication in the *Official Journal of the European Union.*

(14) The measures provided for in this Regulation are in accordance with the opinion of the Committee for the Common Organisation of the Agricultural Markets,

HAS ADOPTED THIS REGULATION:

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

Changes to legislation: *There are outstanding changes not yet made to Commission Implementing Regulation (EU) 2017/892. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(EU) No 1305/2013 of the European Parliament and of the Council[6] to be fulfilled by the environmental actions selected under an operational programme.

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.

***Changes to legislation:** There are outstanding changes not yet made to Commission Implementing Regulation (EU) 2017/892. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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;