

CMO Regulation

Below the revised consolidated text for the common market organisation Regulation reflecting the overall compromise package agreed at the trilogue on 12 October 2017 and the technical finalisation at the meeting on 18 October 2017.

New text compared to the Commission proposal is set out in ***bold italics***. Deletions in the Commission proposal are indicated in ~~**bold strikethrough**~~.

DRAFT

Regulation of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union and amending Regulation (EC) No 2012/2002, Regulations (EU) No 1296/2013, (EU) 1301/2013, (EU) No 1303/2013, EU No 1304/2013, (EU) No 1305/2013, (EU) No 1306/2013, (EU) No 1307/2013, (EU) No 1308/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, (EU) No 652/2014 of the European Parliament and of the Council and Decision No 541/2014/EU of the European Parliament and of the Council

[...]

(231) One of the major obstacles to the formation of producer organisations, mainly in Member States which are lagging behind as regards the degree of organisation, appears to be the lack of mutual trust and past experiences. In this context, coaching, whereby producer organisations which are functioning show the way to other producer organisations, producer groups or individual producers of fruit and vegetables, could offset that obstacle and should thus be included among the objectives of producer organisations in the fruit and vegetables sector.

(232) In addition to withdrawals for free distribution, it is also appropriate to grant coaching actions intended to encourage producers to set up organisations meeting the criteria to be recognised *in order to benefit from* a full Union financing within the operational programmes of existing producer organisations.

(233) Crisis prevention and management measures should be extended to cover refilling of mutual funds which could as new instruments help to combat crises, *and to promotion and communication in order to diversify and consolidate the fruit and vegetables markets.*

~~(234) In Member States where the organisation of production in the fruit and vegetables sector is weak, granting of additional national financial contributions should be allowed.~~

~~(235) In order to ensure an efficient, targeted and sustainable support of producer organisations and their associations in the fruit and vegetables sector, the power to adopt certain acts should be delegated to the Commission in respect of the list of Member States that may grant national financial assistance to producer organisations.~~

(236) In order to simplify the current procedure of first authorising Member States to grant additional national financial assistance to producer organisations in regions of the Union where the organisation degree is particularly low and second reimbursing a part of the national financial assistance if further conditions are complied with, a new system *should* ~~could~~ be established for Member States where the organisation rate is *significantly below the EU average* ~~particularly low was below 20% at national level in 2013 could grant an additional percentage of the value of the marketed production as national aid with a result similar to the current scheme of prior authorisation and subsequent Union reimbursement. The Commission should regularly review the list of Member States that may grant additional national assistance to keep it updated.~~

(236a) In order to ensure protection for wine spirits with a geographical indication produced from wine against risks of misappropriation of reputation, Member States should be allowed to apply the scheme of authorisations for vine plantings to wines suitable for producing wine spirits with a geographical indication.

(236b) Producer organisations and their associations can play useful roles in concentrating supply, in improving the marketing, planning and adjusting of production to demand, optimising production costs and stabilising producer prices, carrying out research, promoting best practices and providing technical assistance, managing by-products and risk management tools available to their members, thereby contributing to strengthening the position of producers in the food chain. Their activities, including the contractual negotiations for the supply of agricultural products by such producer organisations and their associations when concentrating supply and placing the products of their members on the market, therefore contribute to the fulfilment of the objectives of the common agricultural policy laid down in Article 39 TFEU, since they strengthen the position of farmers in the food supply chain and can contribute to a better functioning of the food supply chain. The reform of the common agricultural policy in 2013 reinforced the role of producer organisations. The possibility to carry out activities such as production planning, cost optimisation, placing producer members' products on the market and conducting contractual negotiations by derogation from Article 101 TFEU should therefore be explicitly regulated as a right of recognised producer organisations in all sectors for which this Regulation establishes a common organisation of the markets. This derogation should only cover producer organisations which genuinely exercise an activity aimed at economic integration and which concentrate supply and place products of their members on the market. However, in addition to the application of Article 102 TFEU to such producer organisations, safeguards should be put in place in order to ensure that such activities do not exclude competition or jeopardise the objectives referred to in Article 39 TFEU. Competition authorities should have the right to intervene in such cases for the future and decide that such activities should be modified, discontinued or not take place at all. Until the adoption of the decision of the competition authority, the activities carried out by the producer organisation should be considered legal. Associations of producer organisations recognised under Article 156(1) of Regulation (EU) No 1308/2013 should be able to rely, for the activities that they carry out themselves, on the derogation provided for in Article 152(1a) of Regulation (EU) No 1308/2013 to the same extent and under the same conditions as producer organisations.

(236c) The use of contracts in the milk and milk products sector may help to reinforce the responsibility of operators and to increase their awareness of the need to better take into account the signals of the market, to improve price transmission and to adapt supply to demand, as well as to help to avoid certain unfair commercial practices. In order to incentivise the use of such contracts in the milk and milk products sector as well as in other sectors, producers, producer organisations or association of producer organisations should have the right to request for a written contract, even if the Member State has not made the use of such contracts compulsory.

(236d) While the parties to a contract for the delivery of raw milk are free to negotiate the elements of such contracts, Member States who make the use of contracts compulsory have been granted the opportunity to impose certain contract clauses, in particular their minimum duration. With a view to enabling the parties to achieve contractual clarity on the delivered quantities and prices, Member States should now also have the possibility of imposing on the parties the obligation to agree on a relationship between a delivered quantity and the price payable for that delivery.

(236e) Producer organisations are recognised in a specific sector listed in Article 1(2) of Regulation (EU) No 1308/2013. However, as producer organisations may operate in more than one sector and in the interest of avoiding administrative burden by obliging them to create several producer organisations for recognition purposes, it should be clarified that a producer organisation may obtain more than one recognition. However, in such cases, the producer organisation in question should fulfil the conditions of recognition for each of the sectors.

(236f) In order to facilitate better transmission of market signals and strengthen linkages between producer prices and value-added throughout the supply chain, farmers, including associations of farmers should be allowed to agree with their first purchaser on value-sharing clauses, including market gains and losses. As interbranch organisations can play an important part in allowing dialogue between actors in the supply chain and in promoting best practices and market transparency, they should be allowed to establish standard value-sharing clauses. However, the use of value-sharing clauses by farmers, associations of farmers and their first purchaser should remain voluntary.

(236g) Taking note of the role which interbranch organisations can play for the better functioning of the food supply chain, the list of possible objectives which such interbranch organisations may pursue should be extended to cover also measures to prevent and manage risks related to animal health, plant-protection and the environment.

(236h) Interbranch organisations are recognised in a specific sector listed in Article 1(2) of Regulation (EU) No 1308/2013. However, as interbranch organisations may operate in more than one sector and in the interest of avoiding administrative burden by obliging them to create several interbranch organisations for recognition purposes, it should be clarified that an interbranch organisation may obtain more than one recognition. However, in such cases, the interbranch organisation should fulfil the conditions of recognition for each of the sectors.

(237) The experience gained through the application of Article 188 of Regulation (EU)

No 1308/2013 ~~of the European Parliament and of the Council~~¹ has proven that the need to adopt implementing acts for the management of simple, mathematical processes linked to the way quotas are allocated is cumbersome and resource intense without any specific advantage linked to such an approach. The Commission has in fact no margin of discretion in this context considering that the related formula is already fixed by the provisions of Article 7(2) of Commission Regulation (EC) 1301/2006². In order to reduce the related administrative burden and streamline the process it should be provided that the Commission makes the results of the allocation of the ~~import~~ tariff quotas public through an appropriate web-publication. Moreover a specific provision should be included providing that Member States should only issue licences following the publication of the allocation results by the Commission.

(237a) A special approach should be allowed in the case of farmers' or producer organisations or their associations, the objective of which is the joint production or marketing of agricultural products or the use of joint facilities, unless such joint action excludes competition or jeopardises the attainment of the objectives of Article 39 TFEU. In order to ensure the effective use by farmers' or producer organisations or their associations of such provisions, the possibility to request the opinion of the European Commission on the compatibility of these agreements, decisions and concerted practices with the objectives of Article 39 TFEU should be introduced.

¹ ~~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 (OJ L 374, 20.12.2013, p. 671).~~

² Commission Regulation (EC) No 1301/2006 of 31 August 2006 laying down common rules for the administration of import tariff quotas for agricultural products managed by a system of import licences (OJ L 238, 1.9.2006, p. 13).

(237b) In order to ensure that the provisions allowing collective agreements and decisions to temporarily stabilise the sectors concerned in times of serious imbalances can be implemented in an effective and timely manner, the possibilities for such collective actions should be extended to farmers and associations of farmers. Furthermore, these temporary measures should no longer be authorised as a means of last resort but could complement Union action in the context of public intervention, private storage and the exceptional measures envisaged by Regulation (EU) No 1308/2013 of the European Parliament and of the Council³.

(237c) As it is appropriate to continue to help the milk and milk products sector in its transition as a result of the end of the quota system and to encourage it to respond more effectively to market and price fluctuations, the provisions reinforcing the contractual arrangements in the milk and milk products sector should no longer have an end date.

(237d) Agricultural markets should be transparent and information about prices should be accessible and useful to all those involved.

(237e) The experience gained through the application of Section A of Part II of Annex VIII to Regulation (EU) No 1308/2013 has proven that the need to adopt implementing acts for the approval of limited increases in wine enrichment limits, which are technical and uncontroversial in nature, is cumbersome and resource-intensive without any specific advantage resulting from such an approach. In order to reduce the related administrative burden and streamline the process it should be provided that Member States that choose to make use of that derogation notify the Commission of any such decisions.

³ 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 (OJ L 374, 20.12.2013, p. 671).

[...]

Article 270
Amendments to Regulation (EU) No 1308/2013

Regulation (EU) No 1308/2013 is amended as follows:

1. Article 33 is amended as follows:

(a) in paragraph 1, point (f) is replaced by the following:

"(f) crisis prevention and management, including providing coaching to other producer organisations, associations of producer organisations, producer groups or individual producers;"

(b) in paragraph 3:

(i) point (c) is replaced by the following:

"(c) promotion and communication, including actions and activities aimed at diversification and consolidation on the fruit and vegetable markets, whether for prevention or during a crisis period;"

(ii) point (d) is replaced by the following:

"(d) support for the administrative costs of setting up mutual funds and financial contribution to replenish mutual funds, following the compensation paid to producer members who experience a severe drop in their income as a result of adverse market conditions;"

(iii) the following point (i) is inserted:

"(i) coaching to other producer organisations, associations of producer organisations, producer groups or individual producers";

(c) *paragraph 5 is replaced by the following:*

"5. Member States shall ensure that:

(a) operational programmes include two or more environmental actions; or

(b) at least 10 % of the expenditure under operational programmes covers environmental actions.

Environmental actions shall respect the requirements for agri-environment-climate or organic farming commitments laid down in Articles 28(3), 29(2) and 29(3) of Regulation (EU) No 1305/2013.

Where at least 80 % of the producer members of a producer organisation are subject to one or more identical agri-environment-climate or organic farming commitments provided for in Articles 28(3), 29(2) and 29(3) of Regulation (EU) No 1305/2013, then each one of those commitments shall count as an environmental action as referred to in point (a) of the first subparagraph of this paragraph.

Support for the environmental actions referred to in the first subparagraph of this paragraph shall cover additional costs and income foregone resulting from the action."

2. in Article 34, paragraph 4 is replaced by the following:

"4. The 50 % limit provided for in paragraph 1 shall be increased to 100 % in the following cases:

- (a) market withdrawals of fruit and vegetables which do not exceed 5 % of the volume of marketed production of each producer organisation and which are disposed of by way of:
 - (i) free distribution to charitable organisations and foundations, approved to that effect by the Member States, for use in their activities to assist persons whose right to public assistance is recognised in national law, in particular because they lack the necessary means of subsistence;
 - (ii) free distribution to penal institutions, schools and public education institutions, *establishments referred to in Article 22* and to children's holiday camps as well as to hospitals and old people's homes designated by the Member States, which shall take all necessary steps to ensure that the quantities thus distributed are additional to the quantities normally bought in by such establishments.
- (b) actions related to coaching of other producer organisations, *or* producer groups *recognised in accordance with either Article 125e of Regulation (EC) No 1234/2007 or Article 27 of Regulation (EU) 1305/2013, or individual producers* from *regions of* Member States referred to in Article 35(1) *or individual producers*."

3. Article 35 is replaced by the following:

"Article 35

National financial assistance

1. ~~Bulgaria, Croatia, Cyprus, Estonia, Finland, Greece, Hungary, Lithuania, Luxemburg, Malta, Poland, Romania, Slovakia and Slovenia may grant producer organisations on their request national financial assistance equal to a maximum of 1 % of their value of marketed production. That assistance shall be additional to the operational fund. In regions of Member States in which the degree of organisation of producers in the fruit and vegetables sector is significantly below the EU average, Member States may grant producer organisations national financial assistance equal to a maximum of 80% of the financial contributions referred to in point (a) of Article 32(1) and up to 10% of the value of the marketed production of any such producer organisation. That assistance shall be additional to the operational fund.~~
2. ~~The Commission is empowered to adopt delegated acts in accordance with Article 227 amending paragraph 1 to add Member States where the degree of organisation of producers in the fruit and vegetable sector is particularly low and to delete Member States where that is no longer the case. The degree of organisation of producers in a region of a Member State shall be considered as significantly below the EU average where the average degree of organisation has been less than 20 % for three consecutive years preceding the implementation of the operational programme. Such degree of organisation shall be calculated as the value of fruit and vegetable production that was obtained in the region concerned and marketed by producer organisations, associations of producer organisations and producer groups recognised in accordance with either Article 125e of Regulation (EC) No 1234/2007 or Article 27 of Regulation (EU) 1305/2013, divided by the total value of the fruit and vegetable production that was obtained in that region.~~

3. *Member States that grant financial assistance in accordance with paragraph 1 shall inform the Commission of the regions that meet the criteria referred to in paragraph 2 and of the national financial assistance granted to producer organisations in those regions."*

3a. *in Article 37, point (d)(ii) is replaced by the following:*

"(ii) conditions relating to points (a), (b), (c) and (i) of the first subparagraph of Article 33(3);"

3b. *in Article 38, point (i) is replaced by the following:*

(i) promotion, communication, training and coaching measures in cases of crisis prevention and management;"

3c. *in Article 62, the following paragraph is added:*

"4a. Member states may apply this Chapter to areas producing wine suitable for producing wine spirits with a geographical indication as registered in accordance with Annex III of Regulation (EC) No 110/2008 of the European Parliament and of the Council. For the purposes of this Chapter, those areas may be treated as areas where wines with a protected designation of origin or protected geographical indication may be produced."

3d. *Article 64 is replaced by the following:*

"Article 64

Granting of authorisations for new plantings

1. *If the total area covered by the eligible applications in a given year does not exceed the area made available by the Member State, all such applications shall be accepted.*

Member States may, for the purpose of this Article, apply one or more of the following objective and non-discriminatory eligibility criteria:

- (a) *the applicant shall have an agricultural area which is not smaller than the area for which he requests the authorisation;*
- (b) *the applicant shall possess adequate occupational skills and competence;*
- (c) *the application shall not pose a significant risk of misappropriation of the reputation of specific protected designations of origin, which shall be presumed unless the existence of such risk is demonstrated by the public authorities;*
- (d) *the applicant does not have vines planted without authorisation as referred to in Article 71 of Regulation (EU) No 1308/2013 or without a planting right as referred to in Articles 85a and 85b of Regulation (EC) No 1234/2007;*
- (e) *where duly justified, one or more of the criteria referred to in paragraph 2, provided that they are applied in an objective and non-discriminatory manner.*

2. *If the total area covered by the eligible applications referred to in paragraph 1 in a given year exceeds the area made available by the Member State, authorisations shall be granted according to a pro-rata distribution of hectares to all applicants on the basis of the area for which they have requested the authorisation. Such granting may establish a minimum and/or a maximum area by applicant and also be partially or completely made according to one or more of the following objective and non-discriminatory priority criteria:*
- (a) producers who are setting up vine plantings for the first time, and who are established as the head of the holding (new entrants);*
 - (b) areas where vineyards contribute to the preservation of the environment;*
 - (c) areas to be newly planted in the framework of land consolidation projects;*
 - (d) areas facing natural or other specific constraints;*
 - (e) the sustainability of projects of development or replantations on the basis of an economic evaluation;*
 - (f) areas to be newly planted which contribute to increasing the competitiveness at farm holding and regional level;*
 - (g) projects with the potential to improve the quality of products with geographical indications;*
 - (h) areas to be newly planted in the framework of increasing the size of small and medium-sized holdings.*

3. *If the Member State decides to apply one or more of the criteria referred to in paragraph 2, the Member State may decide to add the additional condition that the applicant shall be a natural person who is no more than 40 years of age in the year of submission of the application.*
4. *Member States shall make public the criteria referred to in paragraphs 1, 2 and 3 that they apply and shall notify them forthwith to the Commission."*

3e. *in Article 148:*

- (a) *the following paragraph is inserted:*

"1a. If Member States do not make use of the possibilities provided for in paragraph 1 of this Article, a producer, producer organisation, or their associations may require that any delivery in raw milk to a processor of raw milk be the subject of a written contract between the parties and/or be the subject of a written offer of a contract from the first purchasers, under the conditions laid down in the first subparagraph of paragraph 4 of this Article. If the first purchaser is a micro, small or medium-sized enterprise within the meaning of Recommendation 2003/361/EC, the contract and/or the contract offer is not compulsory, without prejudice to the possibility for the parties to make use of a standard contract drawn up by an interbranch organisation."

- (b) *in paragraph 2, the introductory part is replaced by the following:*

"2. The contract and/or the offer for a contract referred to in paragraphs 1 and 1a shall:"

(c) *paragraph 3 is replaced by the following:*

“3. By way of derogation from paragraphs 1 and 1a, a contract and/or an offer for a contract shall not be required where raw milk is delivered by a member of a cooperative to the cooperative of which he is a member if the statutes of that cooperative or the rules and decisions provided for in or derived from these statutes contain provisions having similar effects to the provisions set out in points (a), (b) and (c) of paragraph 2.”

(d) *in paragraph 4, the second subparagraph is replaced by the following:*

"Notwithstanding the first subparagraph, one or more of the following shall apply:

(a) *where a Member State decides to make a written contract for the delivery of raw milk compulsory in accordance with paragraph 1, it may establish:*

(i) *the obligation to agree on a relationship between a certain quantity delivered and the price payable for this delivery;*

(ii) *a minimum duration, applicable only to written contracts between a farmer and the first purchaser of raw milk; such a minimum duration shall be at least six months, and shall not impair the proper functioning of the internal market;*

(b) *where a Member State decides that the first purchaser of raw milk must make a written offer for a contract to the farmer in accordance with paragraph 1, it may provide that the offer must include a minimum duration for the contract, set by national law for this purpose; such a minimum duration shall be at least six months, and shall not impair the proper functioning of the internal market."*

3f. *in Article 149, paragraph 1 is replaced with the following:*

"1. A producer organisation in the milk and milk products sector which is recognised under Article 161(1) may negotiate on behalf of its farmer members, in respect of part or all of their joint production, contracts for the delivery of raw milk by a farmer to a processor of raw milk, or to a collector within the meaning of the third subparagraph of Article 148(1).";

3g. *Article 152 is replaced by the following:*

"Article 152

Producer organisations

1. Member States may, on request, recognise producer organisations, which:

- (a) are constituted, and controlled in accordance with point (c) of Article 153(2), by producers in a specific sector listed in Article 1(2);*
- (b) are formed on the initiative of the producers and which carry out at least one of the following activities:*
 - (i) joint processing;*
 - (ii) joint distribution, including joint selling platform or joint transportation;*
 - (iii) joint packaging, labelling or promotion;*
 - (iv) joint organising of quality control;*

- (v) *joint use of equipment or storage facilities;*
 - (vi) *joint management of waste directly related to the production;*
 - (vii) *joint procurement of inputs;*
 - (viii) *any other joint activities of services pursuing one of the objectives listed in point (c) of this paragraph;*
- (c) *pursue a specific aim which may include at least one of the following objectives:*
- (i) *ensuring that production is planned and adjusted to demand, particularly in terms of quality and quantity;*
 - (ii) *concentration of supply and the placing on the market of the products produced by its members, including through direct marketing;*
 - (iii) *optimising production costs and returns on investments in response to environmental and animal welfare standards, and stabilising producer prices;*
 - (iv) *carrying out research and developing initiatives on sustainable production methods, innovative practices, economic competitiveness and market developments;*
 - (v) *promoting, and providing technical assistance for, the use of environmentally sound cultivation practices and production techniques, and sound animal welfare practices and techniques;*

- (vi) *promoting, and providing technical assistance for, the use of production standards, improving product quality and developing products with a protected designation of origin, with a protected geographical indication or covered by a national quality label;*
- (vii) *the management of by-products and of waste in particular to protect the quality of water, soil and landscape and preserving or encouraging biodiversity;*
- (viii) *contributing to a sustainable use of natural resources and to climate change mitigation;*
- (ix) *developing initiatives in the area of promotion and marketing;*
- (x) *managing of the mutual funds referred to in operational programmes in the fruit and vegetables sector referred to in Article 31(2) of this Regulation and under Article 36 of Regulation (EU) No 1305/2013.*
- (xi) *providing the necessary technical assistance for the use of the futures markets and of insurance schemes.*

1a. By way of derogation from Article 101(1) TFEU, a producer organisation recognised under paragraph 1 of this Article may plan production, optimise the production costs, place on the market and negotiate contracts for the supply of the agricultural products, on behalf of its members for all or part of their total production.

The activities referred to in the first subparagraph may take place:

- (a) provided that one or more of the activities referred to in point (b)(i–vii) of paragraph 1 is genuinely exercised, thus contributing to the fulfilment of the objectives of Article 39 TFEU;*
- (b) provided that the producer organisation concentrates supply and places the products of its members on the market, whether or not there is a transfer of ownership of agricultural products by the producers to the producer organisation;*
- (ba) whether or not the price negotiated is the same as regards the aggregate production of some or all of the members;*
- (c) provided that the producers concerned are not members of any other producer organisation as regards the products covered by the activities referred to in the first subparagraph; however, Member States may derogate from this condition in duly justified cases where producer members hold two distinct production units located in different geographic areas;*
- (d) provided that the agricultural product is not covered by an obligation to deliver arising from the farmer's membership of a cooperative, which is not itself a member of the producer organisations concerned, in accordance with the conditions set out in the cooperative's statutes or the rules and decisions provided for in or derived from those statutes;*

- 1b. For the purposes of this Article, references to producer organisations shall also include associations of producer organisations recognised under Article 156(1) if such associations of producer organisations meet the requirements set out in paragraph 1 of this Article.*
- 1c. The national competition authority referred to in Article 5 of Council Regulation (EC) No 1/2003 may decide in individual cases that, for the future, one or more of the activities referred to in the first subparagraph of paragraph 1a shall be modified, discontinued or not take place at all if it considers that this is necessary in order to prevent competition from being excluded or if it considers that the objectives referred to in Article 39 TFEU are jeopardised.*

For negotiations covering more than one Member State, the decision referred to in the first subparagraph shall be taken by the Commission without applying the procedure referred to in Article 229(2) or (3).

When acting under the first subparagraph, the national competition authority shall inform the Commission in writing before or without delay after initiating the first formal measure of the investigation and shall notify the Commission of the decisions adopted without delay after their adoption.

The decisions referred to in this paragraph shall not apply earlier than the date of their notification to the undertakings concerned.

2. *A producer organisation recognised under paragraph 1 may continue to be recognised if it engages in the marketing of products falling within CN code ex 2208 other than those referred to in Annex I to the Treaties, provided that the proportion of such products does not exceed 49 % of the total value of marketed production of the producer organisation and that such products do not benefit from Union support. Those products do not count, for producer organisations in the fruit and vegetables sector, towards the calculation of the value of marketed production for the purposes of Article 34(2).";*

3h. *in Article 154, paragraphs 2 and 3 are replaced by the following:*

"2. Member States may, on request, decide to grant more than one recognition to a producer organisation operating in several sectors referred to in Article 1(2) provided the producer organisation fulfils the conditions referred to in paragraph 1 for each sector for which it is recognised.

3. *Member States may decide that producer organisations which have been recognised before [the date of application of this Regulation] and which fulfil the conditions laid down in paragraph 1 of this Article shall be deemed to be recognised as producer organisations pursuant to Article 152.*

3a. *For producer organisations which have been recognised before [the date of application of this Regulation] but do not fulfil the conditions set out in paragraph 1 of this Article, Member States shall withdraw their recognition no later than [three years after the date of application of this Regulation].";*

3i. *in Article 157:*

(a) *in point (c) of paragraph 1, the following points are added:*

"(xv) establishing standard value sharing clauses within the meaning of Article 172a including market bonuses and losses, determining how any evolution of relevant market prices or other commodity markets is to be allocated between them;

(xvi) implementing measures to prevent and manage animal health, plant-protection and environmental risks."

(b) *after paragraph 1, the following paragraph is inserted:*

"1a. Member States may, on request, decide to grant more than one recognition to an interbranch organisation operating in several sectors referred to in Article 1(2) provided the interbranch organisation fulfils the conditions referred to in paragraph 1 and, where applicable, paragraph 3 for each sector for which it is recognised."

(c) *in point (c) of paragraph 3, the following points are added:*

"(xii) establishing standard value sharing clauses within the meaning of Article 172a including market bonuses and losses, determining how any evolution of relevant market prices or other commodity markets is to be allocated between them;

(xiii) implementing measures to prevent and manage animal health, plant-protection and environmental risks.”;

3j. *in Article 159, the title is replaced by the following:*

"Mandatory recognition";

3k. *in Article 161, paragraphs 1 and 2 are replaced with the following:*

"1. Member States shall, on request, recognise as producer organisations in the milk and milk products sector all legal entities or clearly defined parts of such entities, provided that:

(a) they are constituted by producers in the milk and milk products sector and are formed on their initiative;

(b) they pursue a specific aim which may include one or more of the following objectives:

(i) ensuring that production is planned and adjusted to demand, particularly in terms of quality and quantity;

(ii) concentration of supply and the placing on the market of the products produced by its members;

(iii) optimising production costs and stabilising producer prices;

(c) they have a minimum number of members and/or cover a minimum volume of marketable production, to be laid down by the Member State concerned, in the area where they operate;

(d) there is sufficient evidence that they can carry out their activities properly, both over time and in terms of effectiveness and concentration of supply;

(e) they have statutes that are consistent with points (a) to (d) of this paragraph.

2. Member States may decide that producer organisations which have been recognised before 2 April 2012 on the basis of national law and which fulfil the conditions laid down in paragraph 1 of this Article are to be considered as recognised producer organisations."

3l. in Article 168:

(a) the following paragraph is inserted:

"1a. If Member States do not make use of the possibilities provided for in paragraph 1 of this Article, a producer, producer organisation or their associations, in respect of agricultural products in a sector listed in Article 1(2) other than the milk, milk products and sugar sector may require that any delivery of its products to a processor or distributor be the subject of a written contract between the parties and/or be the subject of a written offer of a contract from the first purchasers, under the conditions laid down in paragraph 4 and in the first subparagraph of paragraph 6 of this Article.

If the first purchaser is a micro, small or medium-sized enterprise within the meaning of Recommendation 2003/361/EC, the contract and/or the contract offer is not compulsory without prejudice to the possibility for the parties to make use of a standard contract drawn up by an interbranch organisation.'';

(b) in paragraph 4, the introductory part is replaced by the following:

"4. Any contract or offer for a contract referred to in paragraphs 1 and 1a shall:";

(c) paragraph 5 is replaced by the following:

"5. By way of derogation from paragraphs 1 and 1a, a contract or an offer for a contract shall not be required where the products concerned are delivered by a member of a cooperative to the cooperative of which he is a member if the statutes of that cooperative or the rules and decisions provided for in, or derived from, these statutes contain provisions having similar effects to the provisions set out in points (a), (b) and (c) of paragraph 4."

3m. Articles 169, 170 and 171 are deleted.

3n. *the following Section and Article are inserted:*

*"Section 5a
Value-sharing clauses*

*Article 172a
Value-sharing*

"Without prejudice to any specific value sharing clauses in the sugar sector, farmers, including associations of farmers, and their first purchaser may agree on value sharing clauses, including market bonuses and losses, determining how any evolution of relevant market prices or other commodity markets is to be allocated between them.";

4. Article 188 is replaced by the following:

*"Article 188
Allocation process of tariff quotas*

1. The Commission shall make public, via an appropriate web-publication, the results of tariff quota allocation for the applications notified taking into account the tariff quotas available and the applications notified.
2. The publication referred to in paragraph 1 shall also make reference, when appropriate, to the need of rejecting pending applications, suspending the submission of applications or allocating unused quantities.

3. Member States shall issue import licences *and export licences* for the quantities applied for within the import tariff quotas *and export tariff quotas*, subject to the respective allocation coefficients and after they are made public by the Commission in accordance with paragraph 1.";

4a. *the second subparagraph of Article 209(1) is replaced by the following:*

"Article 101(1) TFEU shall not apply to agreements, decisions and concerted practices of farmers, farmers' associations, or associations of such associations, or producer organisations recognised under Article 152 or Article 161 of this Regulation, or associations of producer organisations recognised under Article 156 of this Regulation, which concern the production or sale of agricultural products or the use of joint facilities for the storage, treatment or processing of agricultural products, unless the objectives of Article 39 TFEU are jeopardised.";

4b. *in Article 209(2), the following subparagraph is inserted after the first subparagraph:*

"However, farmers, farmers' associations, or associations of such associations, or producer organisations recognised under Article 152 or Article 161 of this Regulation, or their associations recognised under Article 156 of this Regulation, may request an opinion from the Commission on the compatibility of those agreements, decisions and concerted practices with the objectives set out in Article 39 TFEU.

Requests for opinions shall be dealt with promptly and the Commission shall send the applicant its opinion within four months of receipt of a complete request. The Commission may, at its own initiative or at the request of a Member State, change the content of opinion, in particular if the applicant has provided inaccurate information or abused the opinion.";

4c. *in Article 222(1), the introductory part is replaced by the following:*

“1. During periods of severe imbalance in markets, the Commission may adopt implementing acts to the effect that Article 101(1) TFEU is not to apply to agreements and decisions of farmers, farmers’ associations, or associations of such associations or recognised producer organisations, their associations and recognised interbranch organisations in any of the sectors referred to in Article 1(2) of this Regulation, provided that such agreements and decisions do not undermine the proper functioning of the internal market, strictly aim to stabilise the sector concerned and fall under one or more of the following categories:”

4d. *in Article 222, paragraph 2 is deleted;*

4e. *in Article 232, paragraph 2 is deleted.*

5. *Point 1(c) of Part II of Annex VII is replaced by the following:*

“(c) have a total alcoholic strength of not more than 15 % volume. However, by way of derogation:

- the upper limit for the total alcoholic strength may reach up to 20 % volume for wines which have been produced without any enrichment from certain wine-growing areas of the Union, to be determined by the Commission by means of delegated acts pursuant to Article 75(2),*

- *the upper limit for the total alcoholic strength may exceed 15 % volume for wines with a protected designation of origin which have been produced without enrichment, except by partial concentration processes listed in paragraph 1 of Section B of Part I of Annex VIII, provided that the product specification in the technical file of the protected designation of origin concerned allows for that possibility;"*

5a. *Point 3 of Section A of Part I of Annex VIII is replaced by the following:*

- "3.** *In years when climatic conditions have been exceptionally unfavourable, the limit(s) laid down in point 2 may be raised by 0,5 % by the Member States as an exception for the regions concerned. Member States shall notify the Commission of any such increase".*

[...]

Article 280

Entry into force and application

This Regulation shall enter into force on the third day following that of its publication in the Official Journal of the European Union.

It shall apply from 1 January 20XX.

By derogation from the second paragraph of this Article, Article 265(11)(b) and (c), Article 265(12)(a), (b)(i), (c) and (d), Article 265(14)(b), Article 265(17), (18), (20) and (21), Article 265(24)(c), Article 265(25)(a)(i), Article 265(46), Article 265(48), Article 265(49), Article 50(a), Article 265(62), Article 266(3) and Article 273(3)(b) shall apply from 1 January 2014.

By derogation from the second paragraph of this Article, Article 270(3) shall apply from 1 January 2019.

By derogation from the second paragraph of this Article, Articles 201 to 207 shall apply to budgetary guarantees and financial assistance, and Articles 205 and 206 shall apply to financial instruments, from the date of entry into force of the post 2020 multiannual financial framework.

By derogation from the second paragraph of this Article, point 9 of Article 2 and Articles 39(5), 211, 212 and 213 shall apply from the date of entry into force of the post 2020 multiannual financial framework.

This Regulation shall be binding in its entirety and directly applicable in the Member States.