



Brussels, **XXX**
[...](2016) **XXX** draft

COMMISSION DELEGATED REGULATION (EU) .../...

of **XXX**

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

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

Regulation (EU) No 1308/2013 of the European Parliament and of the Council establishing a common organisation of the markets in agricultural products laid down new rules regarding the producer organisations in the Fruit and Vegetables Sector. This Regulation also empowers the Commission to adopt delegated and implementing acts.

The purpose of this delegated act is to supplement Regulation (EU) No 1308/2013 as regards the recognition criteria of producer organisations in the fruit and vegetables sector, the associations of producer organisations, operational funds and operational programmes, crisis prevention and management measures, national financial assistance, reports and notifications, penalties, extension of rules, entry price system and import duties.

This delegated act amends the corresponding Articles of Commission Implementing Regulation (EU) No 543/2011 of 7 June 2011 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 in respect of the fruit and vegetables and processed fruit and vegetables sectors.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

Consultations, involving experts from all the 28 Member States have been carried out within the Expert Group on delegated acts under the single common organisation of the markets. Considering the large number of Articles, during the first five meetings (14 April, 5 May, 9 June, 3 and 27 July 2015) the revised texts were discussed by bundles of Articles. These meetings allowed for a presentation of the Commission's ideas on the scope of this act and an exchange of views. At the sixth meeting held on 29 September 2015 the completed versions of the draft texts both for the delegated and implementing acts were presented for the first time. The discussion continued with the Expert Group at meetings held on 12 and 27 October, 24 November and 15 December 2015 and 19 January, 15 February, 15 March, 19 April, 17 May, 14 June, 12, 19 July and 25 August 2016. The exercise consisted in clarifying the Commission's approach and hearing experts' views. The draft was then refined taking into account the observations and comments made orally during those meetings and sent in writing to the Commission. The draft versions of the present act were transmitted to the European Parliament and to the Council when the Expert Group meetings were convened.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

This delegated act contains provisions supplementing certain rules of Regulations (EU) No 1308/2013 and (EU) No 1306/2013 that are necessary to ensure the proper functioning of the producer organisations in the Fruit and Vegetables Sector in the new legal framework. It also adds clarity to certain provisions and introduces elements of simplification.

The act amends the corresponding Articles of Commission Implementing Regulation (EU) No 543/2011 of 7 June 2011 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 in respect of the fruit and vegetables and processed fruit and vegetables sectors. Articles on marketing standards are not amended because they will be reviewed in a wider framework. To allow for a smooth implementation of the amendments, transitional rules are included as well as a sufficient period of time between publication and application of the Regulation.

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Article 45

Support

1. The support for market withdrawals, comprising both the Union financial assistance and the producer organisation contribution, shall be no more than the amounts set out in Annex IV.

For products not included in Annex IV, Member States shall set maximum amounts of support, comprising both the Union financial assistance and the producer organisation contribution, at a level not exceeding 40% of the average market prices for the previous five years in case of free distribution and at a level not exceeding 30% of the average of market prices for the previous five years for destinations other than free distribution.

Where the producer organisation has received compensation from third parties for withdrawn products, the support referred to in the first subparagraph shall be reduced by an amount equivalent to the compensation received. In order to be eligible for support, the products concerned shall not enter again the commercial market for fruit and vegetables.

2. Market withdrawals shall not exceed 5 % of the volume of the marketed production of any given product of any given producer organisation. However, amounts which are disposed of in one of the ways referred to in Article 34(4) of Regulation (EU) No 1308/2013 or any other way approved by Member States under Article 46(2) of this Regulation shall not be taken into account in that proportion.

The volume of marketed production referred to in the first subparagraph shall be the average of the volume of marketed production in the previous three years. If this information is not available, the volume of marketed production for which the producer organisation was recognised shall be used.

The percentage referred to in the first subparagraph shall be annual averages of a three year period including the year in question and the previous two years, with five percentage points of annual margin of overrun.

3. The Union financial assistance in case of market withdrawals of fruit and vegetables which are disposed of by way of free distribution to the charitable organisations and institutions referred to in Article 34(4) of Regulation (EU) No 1308/2013 shall only cover payment for the disposed products in accordance with paragraph 1 of this Article and the costs referred to in Articles 16(1) and 17(1) of Implementing Regulation (EU) 2016/xxx.

ANNEX IV

Maximum amounts of support for market withdrawals as referred to in Article 45(1)

Product	Maximum support (EUR/100 kg)	
	Free distribution	Other destinations
Cauliflowers	21,05	15,79
Tomatoes (1 June – 31 October)	7,25	7,25
Tomatoes (1 November – 31 May)	33,96	25,48
Apples	24,16	18,11
Grapes	53,52	40,14
Apricots	64,18	48,14
Nectarines	37,82	28,37
Peaches	37,32	27,99
Pears	33,96	25,47
Aubergines	31,2	23,41
Melons	48,1	36,07
Watermelons	9,76	7,31
Oranges	21,00	21,00
Mandarins	25,82	19,50
Clementines	32,38	24,28
Satsumas	25,56	19,50
Lemons	29,98	22,48

