COMMISSION REGULATION (EC) No 961/1999

of 6 May 1999

laying down detailed implementing rules concerning the extension of rules issued by producer organisations in the fruit and vegetable sector

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2200/96 of 28 October 1996 on the common organisation of the market in fruit and vegetables [1], as amended by Regulation (EC) No 857/1999 [2], and in particular Article 48 thereof,

(1) Whereas Article 18 of Regulation (EC) No 2200/96 lays down the conditions under which the rules issued by producer organisations or associations of such organisations in the fruit and vegetable sector may be extended to all producers established in a specific economic area; whereas detailed rules should be adopted for the implementation of that Article;

(2) Whereas Article 18(7) of Regulation (EC) No 2200/96 requires the list of economic areas to be forwarded to the Commission for approval; whereas the Commission must be able to assess the list in the light of Article 18(2);

(3) Whereas Article 18(1) of the abovementioned Regulation lays down certain conditions for the extension of rules; whereas Article 18(3) lays down the conditions that producer organisations and associations of such organisations must meet in order to be considered representative; whereas the Commission must be able to assess compliance with those conditions;

(4) Whereas, where the rules to be extended concern withdrawals, producers who do not belong to producer organisations should be able to carry out withdrawals;

(5) Whereas Article 18(6) of the abovementioned Regulation lays down the conditions under which financial contributions may be levied on producers who do not belong to producer organisations; whereas the Commission must be able to assess compliance with those conditions;

(6) Whereas, where produce is sold on the tree, it should be made clear which rules are to be extended to the producers and the buyers respectively;

(7) Whereas Commission Regulation (EC) No 2137/84 [3] should be repealed;

(8) Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Fresh Fruit and Vegetables,

HAS ADOPTED THIS REGULATION:

Article 1

Notification as provided for in Article 18(7) of Regulation (EC) No 2200/96 of the list of economic areas referred to in Article 18(2) of that Regulation shall include all the information needed to assess whether the conditions laid down in Article 18(2) have been complied with.

Article 2

1. When a Member State notifies rules it has made binding for a given product and economic area pursuant to Article 18(5) of Regulation (EC) No 2200/96, it shall inform the Commission at the same time of:

(a) the producer organisation or association of organisations wich requested that its rules be extended;

(b) the number of producers who belong to that organisation or asosciation and the total number of producers in the economic area concerned; such information shall be given in respect of the situation obtaining at the time when the application for extension is made;

(c) the total production of the economic area and the production marketed by the producer organisation or association during the last marketing year for which figures are available;

(d) the date from which the rules to be extended have applied to the producer organisation or association concerned;

(e) the date from which the extension is to take effect and the duration of application of the extension.

[1] OJ L 297, 21.11.1996, p. 1.
[2] OJ L 108, 27.4.1999, p. 7.
[3] OJ L 196, 26.7.1984, p. 23.

2. For the purposes of determining representativeness within the meaning of Article 18(3) of Regulation (EC) No 2200/96, the Member States shall lay down conditions excluding:

— producers whose production is intended essentially for direct sale to consumers on the holding or in the production area,

— direct sales as referred to in the first indent,

— produce delivered for processing as referred to in Article 18(4)(b) of Regulation (EC) No 2200/96 except where the rules in question apply entirely or partly to such produce.

Article 3

Where it is decided, pursuant to Article 18 of Regulation (EC) No 2200/96, to extend rules on withdrawal, the Member State concerned shall determine at the same time which producer organisation or organisations are to be responsible for carrying out withdrawals on behalf of producers who do not belong to the producer organisation or association concerned.

Article 4

Where a Member State decides, pursuant to Article 18(6) of Regulation (EC) No 2200/96, that producers who do not belong to producer organisations are liable for a financial contribution, it shall forward to the Commission the information needed to assess compliance with the conditions laid down in Article 18(6). Such information shall include in particular the basis on which the contribution is calculted and the unit amount thereof, the beneficiary or beneficiaries and the nature of the various costs referred to in Article 18(6)(a) and (b).

Article 5

Where it is decided to apply an extension for a period exceeding one marketing year, the Member States shall verify in respect of each marketing year that the conditions with regard to representativeness laid down in Article 18(3) of Regulation (EC) No 2200/96 continue to be complied with throughout the period of application of the extension. If they find that the conditions are no longer complied with, they shall immediately repeal the extension with effect from the beginning of the following marketing year. They shall immediately inform the Commission of any such repeal, which shall be published in the 'C' series of the *Official Journal of the European Communities*.

Article 6

1. In cases where producers not belonging to a producer organisation sell their produce on the tree, the buyer shall, for the purposes of compliance with the rules referred to in point 1(e) and (f) and points 3 and 5 of Annex III to Regulation (EC) No 2200/96, be considered as having produced that produce.

2. The Member State concerned may decide that rules listed in Annex III to Regulation (EC) No 2200/96 other than those referred to in paragraph 1 may be made binding on buyers where the latter are responsible for management of the production concerned.

Article 7

Regulation (EEC) No 2137/84 is repealed.

Article 8

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

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

Done at Brussels, 6 May 1999.

For the Commission

Franz FISCHLER

Member of the Commission