COMMISSION REGULATION (EC) No 2190/2004

of 20 December 2004

amending Regulation (EC) No 1433/2003 laying down detailed rules for the application of Council Regulation (EC) No 2200/96 as regards operational funds, operational programmes and financial assistance

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], and in particular Article 48 thereof,

Whereas:

(1) Article 11 of Commission Regulation (EC) No 1433/2003 [2] provides that producer organisations already recognised are to submit their operational programmes to the competent national authority for approval.

(2) Producer groups applying for recognition under Article 11(2) of Regulation (EC) No 2200/96 should also be explicitly allowed to submit their operational programmes at the same time. Those programmes may not be approved unless the producer organisation in question has been recognised by the national authority no later than the final date laid down in Article 13(2) of Regulation (EC) No 1433/2003.

(3) Articles 13 and 14 of Regulation (EC) No 1433/2003 provide that the competent national authority is to take decisions on programmes and funds or amendments thereto, following submission by the producer organisations in accordance with Articles 11 and 14 of that Regulation, no later than the final date of 15 December. In view of the experience gained over the last few years, as a result of administrative overload, some Member States are unable to examine all the programmes or take decisions on them by that date.

(4) Instead of applying systematic derogations, and in order not to harm traders and to allow the national authorities to continue examining applications, the Member States should be allowed, for duly justified reasons, to postpone the final date of 15 December to 20 January of the year following that in which the application is submitted. Member States should be able to allow expenditure to be eligible from 1 January of the year following the application.

(5) Regulation (EC) No 1433/2003 should be amended accordingly.

(6) 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

Regulation (EC) No 1433/2003 is hereby amended as follows:

1. the following paragraph is added to Article 11:

'Producer groups applying for recognition as producer organisations under Article 11(2) of Regulation (EC) No 2200/96 may at the same time submit the operational programmes referred to in the first paragraph for approval. Approval of those programmes shall be subject to obtainment of recognition no later than the final date laid down in Article 13(2).';

2. the following subparagraph is added to Article 13(2):

'However, for duly justified reasons, Member States may take a decision on operational programmes and funds not later than 20 January following the date of the application. The approval decision may stipulate that expenditure is eligible from 1 January of the year following the application.';

3. the following subparagraph is added to Article 14(3):

'However, for duly justified reasons, Member States may take a decision on amendments to operational programmes not later than 20 January following the date of the application. The approval decision may stipulate that expenditure is eligible from 1 January of the year following the application.';

[1] OJ L 297, 21.11.1996, p. 1. Regulation as last amended by Commission Regulation (EC) No 47/2003 (OJ L 7, 11.1.2003, p. 64).

[2] OJ L 203, 12.8.2003, p. 25. Regulation as last amended by Regulation (EC) No 1813/2004 (OJ L 319, 20.10.2004, p. 5).

4. the following subparagraph is added to Article 16(2):

'Where Article 13(2) or Article 14(3) are applied, and notwithstanding the first and second subparagraphs, the implementation of operational programmes approved in accordance with these provisions shall commence not later than 31 January following their approval.';

5. the third paragraph of Article 17 is replaced by the following:

'Where Article 13(2) or Article 14(3) are applied, and notwithstanding the second subparagraph, Member States shall give notification of the approved amount of aid not later than 20 January.

Member States shall communicate to the Commission not later than 31 January the total amount of aid approved for all operational programmes.'

Article 2

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

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

Done at Brussels, 20 December 2004.

For the Commission
Mariann FISCHER BOEL
Member of the Commission