1. The title of these regulations is the Fruit and Vegetable Producer Organisations Regulations.

2. In these regulations, unless the context otherwise requires:
   "Paying Agency" shall have the same meaning as that assigned to it in the Paying Agency Regulations.

3. A producer organisation shall be any legal entity constituted and recognised in terms of the provisions of Articles 122 to 125 of Regulation (EC) 1234 of 2007 and Title III of Regulation (EC) 1182 of 2007.

4. The Director shall recognise producer organisations in terms of the provisions of Article 125(b) of Regulation (EC) 1234 of 2007 and Article 4 of Regulation (EC) 1182 of 2007.

5. The Rules of Association of applicant groups shall provide for:
   (a) procedures for determining, adopting and amending the said rules of association;
   (b) the democratic scrutiny by members of the producer organisation and its decisions;
   (c) the payment by members of the financial contributions provided for in their Rules of Association for the establishment and replenishment of the operational fund provided for in regulation 11(1)(a);
   (d) the provision by members of the information requested by the producer organisation for statistical purposes, in particular on growing areas, quantities cropped, yield and direct sales;
   (e) the imposition of penalties for infringement by members of the obligations arising from the Rules of Association or of other rules laid down by the producer organisation;
   (f) the admission of new members, particularly concerning a minimum membership period;
   (g) the accounting and budgetary rules necessary for the operation of the producer organisation.

6. (1) The minimum membership period of a producer shall be not less than one year:

   Provided that where an operational programme pursuant to...
regulation 9 has been submitted, no member may disclaim his obligations under that programme during the period of its implementation, except where the producer organisation concerned gives its approval.

(2) Resignation of membership shall be notified to the producer organisation or producer group in writing by not later than the 30th September of a particular year and shall take effect from the 1st January of the following year.

(3) Producer organisations and producer groups shall inform the Director, in writing, by the 30th September of each year, of the resignation of any member or of the recruitment of a new member during the previous 12-month period. Producer organisations or producer groups shall provide the Director with a copy of the signed Members’ Agreement and proof of payment, together with information regarding the member’s details including name and address, produce marketed and holdings committed to the producer organisation or producer group on a prescribed form to be provided by the Director.

Powers of the Director.

7. The Director shall:

(a) within three months of the lodging of an application with all the supporting documents, decide whether to grant recognition to a producer organisation; and

(b) cause to be carried out checks at regular intervals to ascertain that producer organisations comply with the terms and conditions for recognition, impose in the event of non-compliance the applicable penalties and decide, where necessary, to withdraw recognition.

Producer groups.

Amended by: L.N. 210 of 2011.

8. (1) New producer groups may request preliminary recognition in accordance with the provisions of Articles 38 to 42 of Regulation (EC) 1580/2007.

(2) During the five years following the date of preliminary recognition, the Director may grant to the producer groups referred to in subregulation (1) aid to encourage their formation and facilitate their administration according to the provisions of Article 45 of Regulation (EC) 1580/2007.

(3) Producer groups shall submit their recognition plans to the Director, who shall approve or reject them or request their modification in line with these regulations:

Provided that where a producer group is desirous of applying for EU aid in terms of any of the schemes listed in the Paying Agency Regulations, it shall submit its recognition plan to the Paying Agency, which shall approve or reject it or request modification to such recognition plan in respect of eligibility for funding, prior to the submission to the Director.

(4) Producer groups may submit a request to effect amendments to their recognition plans during their implementation. Notification for change shall be submitted in writing by the producer group to the Director and to the Paying Agency by the 15th September of that particular year and shall be accompanied by
supporting documentation justifying the amendments being requested.

9. Producer organisations shall submit operational programmes to the Director, who shall approve or reject them or request their modification in line with these regulations:

Provided that where a producer organisation is desirous of applying for EU aid in terms of any of the schemes listed in the Paying Agency Regulations, it shall submit its operational programme to the Paying Agency, which shall approve or reject it or request modification to such operational programme in respect of eligibility for funding, prior to the submission to the Director.

10. The operational programmes shall comply with the requirements of Articles 57 to 68 of Regulation (EC) 1580/2007.

10A. The reference period for the calculation of the value of the marketed product, shall be of twelve months, and may be selected by the producer organisation in accordance with any of the criteria indicated in Article 53(2) of Regulation (EC) 1580/2007. The producer organisation shall ensure that such reference period coincides with the financial period as provided for under Article 53(3) of Regulation (EC) No 1580/2007. The selected reference period cannot be modified for the whole duration of the operational programme except under exceptional circumstances.

11. (1) The producer organisation shall set up an operational fund, which shall be maintained by:

(a) financial contributions paid by members based on the quantities or value of fruit and vegetables actually marketed;

(b) financial assistance allocated to the producer organisation by the Minister in terms of Article 103(d) of Regulation (EC) 1234/2007.

(2) Producer organisations shall submit an application for the financial assistance referred to in subregulation (1)(b) according to the provisions of Regulation (EC) 1580/2007, and for assistance under other aid schemes on the basis of Regulation (EC) 1092/2001 and Regulation (EC) 1535/2003.

(3) Producer organisations and their members must keep up-to-date suitable documentation and should, in particular, specify the areas under tomatoes, peaches, pears, citrus and vegetable crops on the basis of Regulation (EC) 73/2009.

12. Operational funds shall conform to the provisions and requirements of Articles 54, 55 and 56 of Regulation (EC) 1580/2007.

13. Use of the operational fund to finance market withdrawals according to the provisions of Section 2 of Regulation (EC) 1580/2007 shall be permissible only if an operational programme has been approved by the Director.
FRUIT AND VEGETABLE PRODUCER ORGANISATIONS

Replacement of members.

14. An association of producer organisations recognised by the Director may replace its members for the purpose of managing their operational fund and for establishing, implementing and submitting their operational programmes as referred to in regulations 9 and 10. In such cases, the association shall receive the financial assistance referred to in regulation 11(1)(b).

Duration of operational programmes.

15. Operational programmes and their financing by producers and the producer organisations on the one hand and by the Director on the other shall have a minimum duration of three and a maximum duration of five years.

Implications of submission of operational programme.

16. Submission of an operational programme to the Director by a producer organisation or by an association of producer organisations shall imply a commitment by the producer organisations or association to submit to national checks, in particular as regards proper management of public resources.

Characteristics of interbranch organisations.

17. An interbranch organisation shall be a legal entity constituted and recognised in terms of the provisions of Articles 123 to 125 of Regulation (EC) 1234/2007 and Title IV of Regulation (EC) 1182/2007.

Recognition of interbranch organisations.

18. The Director may recognise as interbranch organisations within the meaning of these regulations all organisations established in Malta which make an appropriate application, on condition that:

(a) they carry out their activity in Malta;
(b) they represent a significant share in the production of and, or trade in and, or processing of fruit and vegetables or products processed from fruit and vegetables in Malta;
(c) they carry out several of the measures referred to in regulation 17;
(d) they are not themselves engaged in the production or processing or marketing of fruit and vegetables or products processed from fruit and vegetables;
(e) they present evidence that at least 75% of members in the participating producer organisations are in agreement with the setting up of the interbranch organisation:

Provided that no more than one interbranch organisation for each product listed in the First Schedule shall be so recognised.

19. The Director shall decide whether to grant recognition to interbranch organisations in terms of article 11(2) of the Producer Organisations Act.

20. Recognition of an interbranch organisation shall constitute an authorisation to carry out the measures listed in regulation 17(4).

21. (1) In cases where an interbranch organisation is considered to be representative of the production of and, or trade in and, or processing of a given product, the Director may, at the
request of the organisation, make some of the agreements, decisions or concerted practices agreed on within that organisation binding for a limited period on other operators in Malta, whether individuals or groups, who do not belong to the organisation.

(2) An interbranch organisation shall be deemed representative within the meaning of subregulation (1) where it accounts for at least two thirds of the production and, or trade in and, or processing of the product or products concerned.

22. The rules for which extension to other operators may be requested:

(a) must concern one of the following aims:
   (i) production and market reporting;
   (ii) drawing up of standard contracts;
   (iii) rules on marketing;
   (iv) rules on protecting the environment;
   (v) measures to promote and exploit the potential of products;
   (vi) measures to promote organic farming as well as designations of origin, quality labels and geographical indications;

(b) must have been in force for at least one marketing year and may be made binding for no more than three marketing years;

(c) must not cause any harm to other operators in Malta.

23. In cases where rules for one or more products are extended and where one or more of the activities listed in regulation 22(1) are pursued by a recognised interbranch organisation and are in the general economic interest of those persons whose activities relate to one or more of the products concerned, the Director may decide that individuals or groups that are not members of the organisation but which benefit from those activities shall pay the organisation all or part of the financial contributions paid by its members to the extent that such contributions are intended to cover costs directly incurred as a result of pursuing the activities in question.

24. Aid unduly paid or aid applied for fraudulently or irregularly shall be recovered or withheld and penalties shall be applied to the beneficiary and, or applicant concerned according to the provisions of Article 125 of Regulation (EC) 1580/2007.

25. (1) Any producer organisation or interbranch organisation which fails to comply with, or contravenes any of the provisions of these regulations, or of the applicable provisions of Regulations (EC) 1234 of 2007 and 1182 of 2007 shall be guilty of an offence against the Act and shall be liable to an administrative fine, which shall be imposed by the Director, of not less than one thousand five hundred euro (€1500) but not exceeding two thousand and three hundred and twenty-nine euro and thirty-seven cents (€2,329.37) for each offence, and to an additional fine of one hundred and fifty euro (€150) for each day during which the said failure to comply or
contravention exists.

(2) The Director may withdraw recognition of a producer organisation or interbranch organisation in terms of the provisions of Articles 116 and 117 of Regulation (EC) 1580 of 2007 and Articles 125b of Regulation 1234 of 2007 and Articles 4 and 21 of Regulation (EC) 1182 of 2007.