

## Public Consultation on the legal recognition of Producer Organisations in the Beef Sector.

Dear Stakeholder,

Following the second Beef Roundtable discussion on 3 June 2014, the Minister for Agriculture, Food and the Marine undertook to explore the idea of legislating for Producer Organisations (POs) in the beef sector. This builds on a key recommendation in the Dowling report presented at that meeting which stated that:

*“Supply through producer groups could have benefits for both sides. Consideration should be given to introducing the CMO provisions for setting up a producer group regime.”*

The legal basis for beef POs derives from the EU Regulation on Common Organisation of the Markets for Agricultural Products (Reg. 1308/2013) and may be implemented nationally through a Statutory Instrument if a desire from stakeholders exists for such beef POs. DAFM now wishes to engage interest from the stakeholders on their views on a number of issues set out below. This will inform the development of the SI and help to ensure that it provides a legal basis which is fit for purpose and takes account of the variety of views and ideas across the sector.

To help guide the discussion, you will find attached in Annex I below the relevant Articles from Reg. 1308/2013 which should be studied before submitting comments. The full Regulation is also attached for information. DAFM is particularly interested in your views on the following questions:

Q1. What should be the minimum number of members in a PO? Should there also be an upper limit fixed on the number of members involved?

Q2. What are your views on the structure and governance of producer organisations? This includes commercial entities versus non-commercial groups, leadership structures, boards of directors, governance etc.

Q3. What do you see as the main role of producer organisations (see Article 152). Should they have a particular focus on for example, Research and Development at farm level, initiatives in the field of marketing and promotion, focus on on-farm efficiencies, progress sustainable farming techniques, climate change mitigation and other aims set down in Regulation 1308/2013 Article 152.

Q4. Do you see a role for POs becoming involved in contractual negotiations between producers and processors? (see Article 170 attached)

DAFM would be greatly interested to hear views on the above questions and also any other issues on Producer Organisations that are of interest. Attached in Annex 1 of this document are the most relevant Articles (152,153,154,155,156,170) of Regulation 1308/2013 pertaining to Producer Organisations.

Please note that all submissions and comments submitted to the Department of Agriculture Food and the Marine for this purpose may be subject to release under the Freedom of Information Acts 1997 to 2003.

Comments should be submitted by email to [\*\*BeefPolicy@agriculture.gov.ie\*\*](mailto:BeefPolicy@agriculture.gov.ie) or by post to the address below. Comments must be received, at the latest, **by Friday 19 September 2014**.

**Meat and Milk Policy Division**  
**Department of Agriculture, Food and the Marine**  
**Agriculture House**  
**Kildare Street**  
**Dublin 2**

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## Annex 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**

## *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;
- (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; EN 20.12.2013 Official Journal of the European Union L 347/737
  - (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.

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).

3. By way of derogation from paragraph 1, Member States shall recognise producer organisations, constituted by producers in the milk and milk products sector, which:

- (a) are formed on the initiative of the producers;
- (b) 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.

## *Article 153*

### **Statutes of producer organisations**

1. The statutes of a producer organisation shall require its producer members, in particular, to:

- (a) apply the rules adopted by the producer organisation relating to production reporting, production, marketing and protection of the environment;
- (b) be members of only one producer organisation for any given product of the holding; however Member States may derogate from this condition in duly justified cases where producer members hold two distinct production units located in different geographical areas;
- (c) provide the information requested by the producer organisation for statistical purposes.

2. The statutes of a producer organisation shall also provide for:

- (a) procedures for determining, adopting and amending the rules referred to in point (a) of paragraph 1;
- (b) the imposition on members of financial contributions needed to finance the producer organisation;
- (c) rules enabling the producer members to scrutinise democratically their organisation and its decisions;
- (d) penalties for infringement of obligations under the statutes, particularly for non-payment of financial contributions, or of the rules laid down by the producer organisation;
- (e) rules on the admission of new members, and in particular the minimum period of membership which may not be less than one year;
- (f) the accounting and budgetary rules necessary for the operation of the organisation.

3. Paragraphs 1 and 2 shall not apply to producer organisations in the milk and milk products sector.

## *Article 154*

### **Recognition of producer organisations**

1. In order to be recognised by a Member State, the producer organisation applying for such recognition shall be a legal entity or clearly defined part of a legal entity which:

(a) fulfils the requirements laid down in points (a), (b) and (c) of Article 152(1); EN L 347/738 Official Journal of the European Union 20.12.2013

(b) has a minimum number of members and/or covers a minimum volume or value of marketable production, to be laid down by the Member State concerned, in the area where it operates;

(c) provides sufficient evidence that it can carry out its activities properly, both over time and in terms of effectiveness, provision of human, material and technical support to its members, and as appropriate concentration of supply;

(d) has statutes that are consistent with points (a), (b) and (c) of this paragraph.

2. Member States may decide that producer organisations which have been recognised before 1 January 2014 on the basis of national law and which fulfil the conditions laid down in paragraph 1 of this Article are deemed to be recognised as producer organisations pursuant to Article 152.

3. Producer organisations which have been recognised before 1 January 2014 on the basis of national law and which do not fulfil the conditions laid down in paragraph 1 may continue to exercise their activities under national law until 1 January 2015.

4. Member States shall:

(a) decide whether to grant recognition to a producer organisation within four months of the lodging of an application, accompanied by all the relevant supporting evidence; this application shall be lodged with the Member State where the organisation has its headquarters;

(b) carry out, at intervals to be determined by them, checks to verify that recognised producer organisations are complying with this Chapter;

(c) in the event of non-compliance or irregularities in the application of the measures provided for in this Chapter, impose on those organisations and associations the applicable penalties they have laid down and, if necessary, decide whether recognition should be withdrawn;

(d) inform the Commission by 31 March of each year, of every decision to grant, refuse or withdraw recognition taken during the previous calendar year.

## *Article 155*

### **Outsourcing**

Member States may permit a recognised producer organisation or a recognised association of producer organisations in the sectors specified by the Commission in accordance with point (f) of Article 173(1) to outsource any of its activities other than production, including to subsidiaries, provided that the producer organisation or association of producer organisations

remains responsible for ensuring the carrying out of the outsourced activity and overall management control and supervision of the commercial arrangement for the carrying out of the activity.

## *Article 156*

### **Associations of producer organisations**

1. Member States may, on request, recognise associations of producer organisations in a specific sector listed in Article 1(2) which are formed at the initiative of recognised producer organisations.

Subject to the rules adopted pursuant to Article 173, associations of producer organisations may carry out any of the activities or functions of producer organisations.

2. By way of derogation from paragraph 1, Member States may, on request, recognise an association of recognised producer organisations in the milk and milk products sector if the Member State concerned considers that the association is capable of carrying out effectively any of the activities of a recognised producer organisation, and that it fulfils the conditions laid down in Article 161(1).

## *Article 170*

### **Contractual negotiations in the beef and veal sector**

1. A producer organisation in the beef and veal sector which is recognised under Article 152(1) and which pursues one or more of the objectives of concentrating supply, the placing on the market of the products produced by its members and optimising production costs may negotiate on behalf of its members, in respect of part or all of the aggregate production of their members, contracts for the supply of live cattle of genus *Bos taurus* for slaughter falling within CN codes ex 0102 29 21, ex 0102 29 41, ex 0102 29 51, ex 0102 29 61, or ex 0102 29 91:

- (a) aged less than 12 months; and
- (b) aged from 12 months and older.

A producer organisation fulfils the objectives mentioned in this paragraph provided that the pursuit of those objectives leads to the integration of activities and such integration is likely to generate significant efficiencies so that the activities of the producer organisation overall contribute to the fulfilment of the objectives of Article 39 TFEU.

This could be realised provided that:

(a) the producer organisation carries out at least one of the following activities:

- (i) joint distribution, including joint selling platform or joint transportation;
- (ii) joint promotion;
- (iii) joint organising of quality control;
- (iv) joint use of equipment or storage facilities;
- (v) joint management of waste directly related to the production of live cattle;
- (vi) joint procurement of inputs;

(b) these activities are significant in terms of quantity of beef and veal concerned and in terms of cost of the production and placing of the product on the market.

2. The negotiations by the recognised producer organisation may take place:

(a) whether or not there is a transfer of ownership by the farmers to the producer organisation;

(b) whether or not the price negotiated is the same as regards the aggregate production of some or all of the members;

(c) provided that, for a particular producer organisation, the quantity of beef and veal production covered by such negotiations which is produced in any particular Member State does not exceed 15 % of the total national production of each product referred to in (a) and (b) of the first subparagraph of paragraph 1 of that Member State expressed in carcass weight equivalent;

(d) provided that, for the quantity of beef and veal covered by such negotiations, the producer organisation concentrates supply and places the product of its members on the market;

(e) provided that the producers concerned are not members of any other producer organisation which also negotiates such contracts on their behalf;

(f) provided that the product in question is not covered by an obligation to supply arising from the producer's membership of a cooperative, which is not itself a member of the concerned producer organisation, in accordance with the conditions set out in the cooperative's statutes or the rules and decisions provided for in or derived from these statutes; and

(g) provided that the producer organisation notifies the competent authorities of the Member State in which it operates of the quantity of beef and veal production covered by such negotiations.

3. For the purposes of this Article, references to producer organisations shall also include associations of such producer organisations recognised under Article 156(1).

4. For the purposes of applying point (c) of paragraph 2, the Commission shall publish, by such means as it considers appropriate, the quantity of beef and veal production in Member States expressed in carcass weight equivalent. EN 20.12.2013 Official Journal of the European Union L 347/747

5. By way of derogation from point (c) of paragraph 2, even where the thresholds set out therein are not exceeded, the competition authority referred to in the second subparagraph of this paragraph may decide in an individual case that a particular negotiation by the producer organisation should either be reopened or should not take place at all if it considers that this is necessary in order to prevent competition being excluded or it finds that the product covered by the negotiations forms part of a separate market by virtue of the specific characteristics of the product or its intended use and that such collective negotiation would cover more than 15 % of the national production of such market, or if it finds that the objectives of 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). In other cases, that decision shall be taken by the national competition authority of the Member State to which the negotiations relate.

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

For the purposes of this Article, the definition of "national competition authority" in point (a) of Article 149(7) shall apply.

6. The Member States in which negotiations take place in accordance with this Article shall notify the Commission of the application of point (g) of paragraph 2 and paragraph 5

## Annex 2

**Link to full regulation 1308/2013.**



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