Commission Delegated Regulation (EU) 2018/707 of 28 February 2018 amending Delegated Regulation (EU) No 639/2014 as regards the eligibility criteria for support for hemp under the basic payment scheme and certain requirements in respect of voluntary coupled support

COMMISSION DELEGATED REGULATION (EU) 2018/707

of 28 February 2018

amending Delegated Regulation (EU) No 639/2014 as regards the eligibility criteria for support for hemp under the basic payment scheme and certain requirements in respect of voluntary coupled support

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 1307/2013 of the European Parliament and of the Council of 17 December 2013 establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy and repealing Council Regulation (EC) No 637/2008 and Council Regulation (EC) No 73/2009[(1)], and in particular Articles 35(3), 52(9) and 67(1) and (2) thereof,

Whereas:

(1) Article 9(1) of Commission Delegated Regulation (EU) No 639/2014[(2)] requires seed used for the production of hemp to be certified in accordance with Council Directive 2002/57/EC[(3)]. However, Commission Directive 2008/62/EC[(4)] provides for an alternative certification of hemp seed in the case of conservation varieties. Therefore it is appropriate to include a reference to that Directive in Article 9(1) of Delegated Regulation (EU) No 639/2014.

(2) Pursuant to Article 52 of Regulation (EU) No 1307/2013 Member States may grant coupled support to farmers under the conditions laid down in Chapter 1 of Title IV of that Regulation and in Delegated Regulation (EU) No 639/2014.

(3) Article 52 of Regulation (EU) No 1307/2013 has been amended by Regulation (EU) 2017/2393 of the European Parliament and of the Council[(5)] in order to provide more clarity with regard to the responsibilities of Member States in respect of the production-limiting character of voluntary coupled support. It is therefore necessary to align the terminology used in Section 1 of Chapter 5 and in Article 67 of Delegated Regulation (EU) No 639/2014 as well as in Annex I to that Regulation with the new wording of Article 52 of Regulation (EU) No 1307/2013. On the basis of the experience gained with the application of Article 53 of Regulation (EU) No 1307/2013, it is also appropriate to update the content of the information to be submitted by the Member States to the Commission in accordance with Annex I to Delegated Regulation (EU) No 639/2014.

(4) In accordance with Article 52(3) of Regulation (EU) No 1307/2013, voluntary coupled support may only be granted to sectors or regions where specific types of farming or

Changes to legislation: *There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2018/707. (See end of Document for details)*

agricultural sectors undergo certain difficulties. Pursuant to Article 52(3) of Delegated Regulation (EU) No 639/2014, a type of farming or specific agricultural sector can only be considered as being in difficulties if there is a risk of abandonment or of decline of production. As a consequence of the clarification of the responsibilities of Member States in respect of the production-limiting character of voluntary coupled support, such limitation is not justified. It is therefore appropriate to delete Article 52(3) of Delegated Regulation (EU) No 639/2014. It is also appropriate to update the prohibition of cumulating support as laid down in Article 54(3) of that Regulation.

(5) Delegated Regulation (EU) No 639/2014 should therefore be amended accordingly.

(6) As the deletion of Article 52(5) of Regulation (EU) No 1307/2013 and the reformulation of Article 52(6) of that Regulation by Regulation (EU) 2017/2393 apply from 1 January 2015, it is appropriate that the corresponding amendments of Delegated Regulation (EU) No 639/2014 apply with respect to aid applications relating to calendar years subsequent to calendar year 2014, with the exception of the provision on the cumulation of support. For reasons of legal certainty, cumulation of support should continue to be determined on the basis of a comparison between the respective objectives of the coupled support measures or other Union measures and policies concerned. In that respect, the objective of voluntary coupled support should be regarded as the maintenance of the current levels of production in accordance with Article 52(5) of Regulation (EU) No 1307/2013 before being amended by Regulation (EU) 2017/2393. The amendment of Article 54(3) of Delegated Regulation (EU) No 639/2014 should therefore apply with respect to aid applications relating to calendar year 2019 and subsequent calendar years.

(7) With regard to the new provision on the certification of hemp seed, it is appropriate that it applies with respect to aid applications relating to calendar year 2018 and subsequent calendar years,

HAS ADOPTED THIS REGULATION:

Article 1

Amendment of Delegated Regulation (EU) No 639/2014

Delegated Regulation (EU) No 639/2014 is amended as follows:

(1) in Article 9, paragraph 1 is replaced by the following:

1. For the purposes of Article 32(6) of Regulation (EU) No 1307/2013, the eligibility of areas used for the production of hemp shall be subject to the use of seed of the varieties listed in the 'Common Catalogue of Varieties of Agricultural Plant Species' on 15 March of the year in respect of which the payment is granted and published in accordance with Article 17 of Council Directive 2002/53/EC[(6)]. The seed shall be certified in accordance with Council Directive 2002/57/EC[(7)] or in accordance with Article 10 of Commission Directive 2008/62/EC[(8)] in the case of conservation varieties.;

(2) in Article 52, paragraph 3 is deleted;

(3) in Article 53(2), the third subparagraph is replaced by the following:

> Without prejudice to Article 52(6) of Regulation (EU) No 1307/2013, for the per unit amount of support referred to in the second subparagraph of this paragraph, Member States may decide to apply modulated per unit amounts in respect of certain categories of farmers or at farm level in order to take into account economies of scale resulting from the size of the production structures in the targeted specific type of farming or specific agricultural sector, or, if the measure targets a region or an entire sector, in the region or sector concerned. Article 67(1) of this Regulation shall apply *mutatis mutandis* to the notification of such decisions.;

(4) in Article 53a, paragraphs 2 and 3 are replaced by the following:

2. Where the area or the number of animals eligible for support under a voluntary coupled support measure in the claim year concerned equals to or exceeds the area or the number of animals referred to in Article 52(6) of Regulation (EU) No 1307/2013 as notified in accordance with point (3)(j) of Annex I to this Regulation, the support measure shall not benefit from a transfer of funds from any other support measure(s).

3 Where the area or the number of animals eligible for support under a voluntary coupled support measure in the claim year concerned is lower compared to the area or the number of animals referred to in Article 52(6) of Regulation (EU) No 1307/2013 as notified in accordance with point (3)(j) of Annex I to this Regulation, a transfer of funds shall not result in the per unit amount becoming lower than the ratio between the amount fixed for the financing as notified in accordance with point (3)(i) of that Annex and the area or the number of animals referred to in Article 52(6) of Regulation (EU) No 1307/2013.;

(5) in Article 54, paragraph 3 is replaced by the following:

3. Where support under a certain coupled support measure may also be granted under another coupled support measure, or under a measure implemented under other Union measures and policies, Member States shall ensure that the farmer concerned may receive support aiming at addressing the same difficulty, as referred to in Article 52(3) of Regulation (EU) No 1307/2013 and as defined for that coupled support measure, under only one such measure per sector, region, specific type of farming or specific agricultural sector that is targeted in accordance with that provision.;

(6) in Article 67(3), point (c) is replaced by the following:

(c) for each affected measure, a justification that a transfer is consistent with the production-limiting character of the scheme referred to in Article 52(6) of Regulation (EU) No 1307/2013 and that the decisions notified to the Commission pursuant to Article 54 of that Regulation and paragraphs 1 and 2 of this Article do not become void.;

(7) Annex I is replaced by the text set out in the Annex to this Regulation.

Article 2

Entry into force and application

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

Points 2, 3, 4, 6 and 7 of Article 1 shall apply with respect to aid applications relating to calendar years subsequent to calendar year 2014.

Point 1 of Article 1 shall apply with respect to aid applications relating to calendar year 2018 and subsequent calendar years.

Point 5 of Article 1 shall apply with respect to aid applications relating to calendar year 2019 and subsequent calendar years.

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

Done at Brussels, 28 February 2018.

For the Commission

The President

Jean-Claude JUNCKER