Commission Implementing Regulation (EU) 2018/274 of 11 December 2017 laying down rules for the application of Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards the scheme of authorisations for vine plantings, certification, the inward and outward register, compulsory declarations and notifications, and of Regulation (EU) No 1306/2013 of the European Parliament and of the Council as regards the relevant checks, and repealing Commission Implementing Regulation (EU) 2015/561

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THE EUROPEAN COMMISSION,

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

Having regard to 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[(1)], and in particular Articles 70 and 72, Article 91(d) to (g), Article 123 and Articles 145(3), 147(4) and 223(3) thereof,

Having regard to Regulation (EU) No 1306/2013 of the European Parliament and of the Council of 17 December 2013 on the financing, management and monitoring of the common agricultural policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008[(2)], and in particular Article 62(2) (a) and (b) thereof,

Whereas:

(1) Regulation (EU) No 1308/2013 has repealed and replaced Council Regulation (EC) No 1234/2007[(3)]. Chapter III of Title I and Section 2 of Chapter II of Title II of Part II of Regulation (EU) No 1308/2013 contain rules as regards the scheme of authorisations for vine plantings and its management, vineyard register, accompanying documents, inward and outward register, competent authorities for check purposes and communication requirements in the wine sector and empowers the Commission to adopt delegated and implementing acts in that respect. Those acts should replace the relevant provisions of Commission Regulations (EC) No 555/2008[(4)] and (EC) No 436/2009[(5)], as well as some provisions of Commission Regulations (EC) No 606/2009[(6)] and (EC) No 607/2009[(7)], which are repealed or deleted, respectively, by Commission Delegated Regulation (EU) 2018/273[(8)].

Changes to legislation: *There are outstanding changes not yet made to Commission Implementing Regulation (EU) 2018/274. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(2) Article 62 of Regulation (EU) No 1308/2013 lays down the general requirement for Member States to grant an authorisation for vine planting upon submission of an application by producers intending to plant or replant vines. Article 63 of that Regulation provides for a safeguard mechanism for new plantings, whereby Member States have to grant every year authorisations for new plantings corresponding to 1 % of the total area actually planted with vines in their territory, but where lower limits may be decided on the basis of sound justifications. Article 64 of Regulation (EU) No 1308/2013 lays down rules concerning the granting of authorisations for new plantings and sets out eligibility and priority criteria that Member States may apply.

(3) Rules should be established at Union level concerning the procedure to be followed by Member States regarding the decisions on the safeguard mechanism and on the choice of eligibility and priority criteria. Such rules should include time limits for decisions to be taken and implications in case certain decisions are not taken.

(4) In order to provide consistent application of Union law in all Member States and to ensure that Union producers are subject to the same rules when applying for authorisations for new plantings, the rules on the granting of authorisations for new plantings should also include the processing of applications, the selection procedure and their annual granting. These rules should aim at ensuring a transparent, fair, and timely functioning of the system, adapted to the needs of the wine sector. They should also prevent that applicants face unjustified inequalities, excessive delays or disproportionate administrative burden. In particular, since the beginning of the marketing year for the wine sector is on 1 August, the granting of authorisations for new plantings by that date seems well adjusted to the needs of the wine sector and ensures that vine plantings can still be undertaken within the same calendar year. An appropriate date should be fixed to ensure that all relevant decisions taken by the Member State are made public in due time before the opening of the call for applications and to allow producers to be well aware of the applicable rules before they submit an application.

(5) Where the total number of hectares requested in the eligible applications largely exceeds the number of hectares made available by Member States, it may lead to a large share of individual applicants obtaining only a fraction of the hectares they applied for and therefore refusing the corresponding authorisations and thus being subject to administrative penalties. To address such situations, it is appropriate not to impose such penalties where the authorisations granted correspond to less than a certain percentage of what was applied for. Furthermore, in order to avoid the loss of the corresponding authorisations, it should be made possible for Member States either to transfer them to the following year or to redistribute them within the same year among the applicants whose application was not fully satisfied and who did not reject the authorisations granted.

(6) Article 66 of Regulation (EU) No 1308/2013 and Articles 3 and 4 of Commission Delegated Regulation (EU) 2015/560[(9)] establish rules concerning the granting of authorisations for replanting in the same holding. Rules should also be established at Union level concerning the procedure to be followed by Member States when granting those authorisations for replanting, and the time frame for Member States to grant

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these authorisations. In order to enable producers to address constraints as regards replanting in the same holding due to phytosanitary, environmental or operational reasons, Member States should have the possibility to allow the producers to submit an application within a reasonable but limited period after the grubbing up. Furthermore, given that the submission and processing of applications for authorisations for replanting creates an important administrative burden for Member States and for the producers, it should also be possible to apply a simplified procedure in the specific cases where the area to be replanted corresponds to the area grubbed up or where no restrictions on replantings are imposed.

(7) Article 68 of Regulation (EU) No 1308/2013 establishes rules on the granting of authorisations on the basis of conversion of planting rights granted before 31 December 2015. Rules should also be established at Union level concerning the procedure to be followed by Member States for granting of such authorisations. The time frame for submission and treatment of the requests should be established, so that Member States can receive and process the requests for conversion in an appropriate and timely manner.

(8) In accordance with Article 62(2) of Regulation (EU) No 1308/2013, authorisations are to be granted for a specific area of the producer's holding identified in the application. In duly justified cases, applicants should be given the possibility to change such specific area during the period of validity of the authorisation. However, this possibility should be excluded in some cases in order to prevent the circumvention of the scheme of authorisations for vine plantings.

(9) Article 120(2)(a) of Regulation (EU) No 1308/2013 provides that Member States are to introduce laws, regulations or administrative provisions to ensure certification, approval and verification procedures so as to guarantee the veracity of the information provided in the labelling and presentation of wines without a protected designation of origin or a protected geographical indication. In order to ensure the protection and correct information of consumers and equal treatment of operators, rules should be laid down regarding the procedure and technical criteria applicable to the administrative certification, approval and verification of wine products without a protected designation of origin or a protected geographical indication intended to be marketed. Rules should also be laid down as regards the costs involved by administrative certification and the conditions under which the operators may draw up certificates for their products under supervision of competent authorities designated in accordance with Article 146 of Regulation (EU) No 1308/2013.

(10) Under Article 147(2) of Regulation (EU) No 1308/2013, natural or legal persons who hold wine products are to keep an inward and outward register in respect of those products. In order to guarantee the traceability of the wine products and to enable the verification by Member States of their origin, characteristics or compliance with authorised oenological practices or food safety standards, it is necessary to set out rules concerning the products to be entered in the register and the information relating to these products. For the same reasons, rules also need to be laid down regarding the information relating to the operations carried out on those products.

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(11) The substances used in certain oenological practices, especially enrichment, acidification and sweetening, are particularly open to the danger of fraudulent use. Records and detailed particulars should therefore be kept concerning those practices and substances to enable the competent authorities to supervise their movement and use during the whole process of wine production.

(12) Since other products are added to sparkling wines and liqueur wines during the elaboration process, supplementary information should be provided in addition to the records kept for still wines.

(13) In order to ensure a harmonised application and equal treatment of operators, the requirements applicable to the keeping of the inward and outward register should be specified and adapted to the type of operations and products. To this end, measures should be laid down in this Regulation as regards the composition of the register, the deadlines for recording particulars in the register and the closure of the register, as well as the measures regarding the acceptable percentages for losses from evaporation of products or other changes in the volume of products.

(14) In order to facilitate the management and monitoring of market operations, a time limit should be laid down for submitting production, stock and harvest declarations. Since harvesting takes place at different times in different Member States, the deadlines for declarations by producers should be staggered.

(15) In order to facilitate reporting, the form and manner in which operators are requested to provide the information to be included in production, stock, harvest and treatment or marketing declarations should be provided by the Member States.

(16) Chapter VII of Delegated Regulation (EU) 2018/273 on checks, competent authorities, liaison bodies and mutual assistance provides for the possibility for the liaison body of a Member State to request the liaison body of another Member State to collect samples of wine, grape must or another liquid wine product for checking purposes. This Regulation should lay down the rules applicable to the collection, treatment, holding and analyses of the samples collected and determine the laboratory where the analyses have to be made.

(17) An analytical databank of isotopic data is to be kept and updated at the level of the Union in accordance with Article 39 of Delegated Regulation (EU) 2018/273. In order to facilitate interpretation of the results obtained from isotopic analyses carried out in Union laboratories equipped for that purpose and to guarantee that the results obtained in such laboratories are comparable, uniform rules should be drawn up for the collection of grape samples and for their vinification. Furthermore, to guarantee the quality and comparability of analytical data, a system of recognised quality standards should be applied to the laboratories designated by Member States to carry out the isotopic analysis of samples for the databank.

(18) Isotopic analysis of wine products and the interpretation of their results are delicate procedures. The analytical databank should help harmonising the interpretation of the results obtained by the designated laboratories of the Member States in applying the methods of analysis. In order to achieve a uniform interpretation of such analysis

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results, the analytical databank should be made accessible, on request, to the designated laboratories that notify the data using the methods of isotopic analysis and to competent authorities designated by the Member States to ensure compliance with the Union rules in the wine sector, while respecting the protection of private data and the purpose the databank was created for.

(19) Article 62 of Regulation (EU) No 1306/2013 provides for the need to lay down provisions on the on-the-spot checks of the implementation of the scheme of authorisations for vine plantings, to be carried out by the Member States. General rules on control are needed in order to clarify that the main tool for verifying the compliance with the scheme is the vineyard register. Such provisions should set a general framework for Member States to develop more detailed provisions at national level in order to avoid non-authorised plantings and to ensure that the rules of the scheme of authorisations are respected, including the respect of the deadline for using the authorisations and for grubbing up in the case of anticipated replanting as well as the respect of the commitments made by the producers to obtain the authorisations.

(20) In order to be able to verify the compliance of the measures implemented by the Member States in the framework of the national support programmes referred to in Section 4 of Chapter II of Title I of Part II of Regulation (EU) No 1308/2013 with Union law in the wine sector, this Regulation should lay down provisions on checks and provide to this end the use of the vineyard register referred to in Article 145 of Regulation (EU) No 1308/2013. The conditions for the verification of the information in the vineyard register should also be laid down, including the availability of updated information for the purposes of monitoring and verifying the compliance with the rules provided for in the wine sector to which the information relates. To this end, the implementation of administrative checks and annual on-the-spot checks concerning all wine growers identified in the vineyard register should be laid down, setting out a minimum percentage of checks per year and common rules.

(21) In accordance with Article 223 of Regulation (EU) No 1308/2013, rules should be laid down on the information to be notified by undertakings, Member States and third countries, the methods of notification and arrangements for the management of the information to be notified.

(22) In order to facilitate the communication of information from the Member States to the Commission on all relevant aspects of the management and control of the scheme of authorisations for vine plantings and to allow for a proper monitoring of its implementation, rules should be laid down concerning the content, form, timing, frequency and deadlines of the yearly notifications as regards this scheme.

(23) For the proper management of the wine sector, it is appropriate to provide that all notifications from the Member States to the Commission required in accordance with Regulation (EU) No 1308/2013, Delegated Regulation (EU) 2018/273 and this Regulation should be made in accordance with Commission Delegated Regulation (EU) 2017/1183[(10)] and Commission Implementing Regulation (EU) 2017/1185[(11)] and to determine how long accompanying documents, information, records and registers should be kept.