Commission Delegated Regulation (EU) 2018/273 of 11 December 2017 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards the scheme of authorisations for vine plantings, the vineyard register, accompanying documents and certification, the inward and outward register, compulsory declarations, notifications and publication of notified information, and supplementing Regulation (EU) No 1306/2013 of the European Parliament and of the Council as regards the relevant checks and penalties, amending Commission Regulations (EC) No 555/2008, (EC) No 606/2009 and (EC) No 607/2009 and repealing Commission Regulation (EC) No 436/2009 and Commission Delegated Regulation (EU) 2015/560

COMMISSION DELEGATED REGULATION (EU) 2018/273

of 11 December 2017

supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards the scheme of authorisations for vine plantings, the vineyard register, accompanying documents and certification, the inward and outward register, compulsory declarations, notifications and publication of notified information, and supplementing Regulation (EU) No 1306/2013 of the European Parliament and of the Council as regards the relevant checks and penalties, amending Commission Regulations (EC) No 555/2008, (EC) No 606/2009 and (EC) No 607/2009 and repealing Commission Regulation (EC) No 436/2009 and Commission Delegated Regulation (EU) 2015/560

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 69, 89, 145(4), 147(3) and 223(2) thereof and point 5 of Section D of Part II of Annex VIII to that Regulation,

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 Articles 64(6) and 89(5) 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(1) Regulation (EU) No 1308/2013 has repealed and replaced Council Regulation (EC) No 1234/2007[(3)].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, the vineyard register, accompanying documents and certification, inward and outward register, and communication requirements in the wine sector and empower the Commission to adopt delegated and implementing

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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] concerning certification of varietal wines and administrative rules relating to inward and outward registers. In the interest of simplification, the new delegated act should also incorporate the provisions of Commission Delegated Regulation (EU) 2015/560[8].

(2) In the interest of legal certainty, certain terms used in this Regulation and in Commission Implementing Regulation (EU) 2018/274[9] should be defined. It is appropriate to define the different types of vine areas and operators in relation to the specific rights and requirements provided for each of them in both Regulations.

(3) Article 62 of Regulation (EU) No 1308/2013 lays down the general requirement for the Member States to grant an authorisation for vine plantings upon submission of an application by producers intending to plant or replant vines. However, pursuant to paragraph 4 of that Article, certain areas are exempted from the scheme of authorisations. It is necessary to lay down rules on the conditions for the application of that exemption. The areas intended for experimental purposes or for graft nurseries should only be used for the specified purposes in order to avoid the circumvention of the new scheme. Grapevine products made from such areas should not be marketed unless Member States consider that there are no risks of market disturbance. Existing wine-growing experiments and graft nurseries should be allowed to continue under the rules applicable to them before the entry into force of Delegated Regulation (EU) 2015/560. In order to guarantee that areas whose wine or vine products are intended solely for the consumption by the winegrower's household do not contribute to market disturbances, it is appropriate to lay down a size limit and make the exemption subject to the condition that the winegrower is not involved in commercial wine production. For the same reason, such exemption should also be extended to organisations without a commercial activity. In respect of areas established by a producer having lost a certain area planted with vines due to compulsory purchases in the public interest under national law, a condition as regards the maximum surface of the new area should be laid down, so as to avoid undermining the general objectives of the scheme of authorisations for vine plantings.

(4) Article 64(1) and (2) 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. Specific conditions associated to some of the eligibility and priority criteria should be laid down in order to establish a level playing field for their implementation and to avoid the circumvention of the system of authorisations by producers being granted authorisations. In addition, the three additional criteria introduced by Delegated Regulation (EU) 2015/560 should be maintained: an eligibility criterion on the misappropriation of reputation of protected geographical indications; a priority criterion favouring those producers that comply with the rules of the scheme and do not have abandoned vineyards in their holding; and a priority criterion favouring non-profit organisations with a social purpose having received lands confiscated in case of terrorism and other types of crime. The eligibility criterion responds to the need of protecting the reputation of specific geographical indications in a similar manner as

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the reputation of specific designations of origin, ensuring that they are not threatened by new plantings. The first priority criterion favours certain applicants on the basis of their background that shows their respect for the rules of the authorisations scheme and that they are not applying for authorisations for new plantings while having areas planted with vines out of production which could generate authorisations for replanting. The second priority criterion aims at favouring non-profit organisations with a social purpose having received lands confiscated in case of terrorism and other types of crime, in order to promote the social use of land that could risk otherwise being out of production.

(5) Taking into account Article 118 of Regulation (EU) No 1306/2013 and in order to address natural and socioeconomic differences and different growth strategies by the economic actors in those different areas within a particular territory, Member States should be permitted to apply the eligibility criteria and priority criteria referred to in Article 64(1) and (2) of Regulation (EU) No 1308/2013, as well as the three additional eligibility and priority criteria, differently at regional level, for specific areas eligible for a protected designation of origin ('PDO'), for specific areas eligible for a protected geographical indication ('PGI') or for areas without a geographical indication. Such differences in the application of those criteria in the different areas of a particular territory should always be based on the differences between those areas.

(6) In order to respond to cases of circumvention not anticipated by this Regulation, Member States should adopt measures to avoid the circumvention of eligibility or priority criteria by applicants of authorisations where their actions are not already covered by the specific anti-circumvention provisions laid down in this Regulation with regard to the specific eligibility and priority criteria.

(7) Article 66(2) of Regulation (EU) No 1308/2013 provides for the possibility of co-existence of vines that the producer has undertaken to grub up with newly planted vines. In order to prevent irregularities, Member States should have the possibility to ensure by the appropriate means that the undertaking to grub up is carried out, including the requirement to lodge a security accompanying the granting of an authorisation for anticipated replanting. In addition it is necessary to specify that in case the grubbing up is not carried out within the 4-year deadline set out in that provision, the vines planted in the pledged area are to be considered as non-authorised.

(8) Article 66(3) of Regulation (EU) No 1308/2013 allows Member States to restrict the replanting in areas eligible for the production of wines with protected designations of origin or protected geographical indications, on the basis of a recommendation from recognised and representative professional organisations. The grounds or reasons for such decisions of restriction should be defined in order to clarify the limits of their scope, while ensuring the coherence of the scheme and avoiding its circumvention. It should be ensured that the automaticity in granting authorisations for replantings established in Article 66(1) of Regulation (EU) No 1308/2013 does not hinder the possibility of Member States to limit the issuing of authorisations for specific areas in accordance with Article 63(2)(b) and (3) of that Regulation. Nevertheless it should be

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clarified that certain specific cases may not be considered as a circumvention of the scheme.

(9) Article 145 of Regulation (EU) No 1308/2013 provides that certain Member States are to keep a vineyard register containing up-to-date information about the production potential. The details of the information to be included in the vineyard register should be laid down in this Regulation.

(10) Pursuant to Article 147(1) of Regulation (EU) No 1308/2013, wine products may be put into circulation within the territory of the Union only with an officially authorised accompanying document. Rules on the use of that accompanying document should be laid down.

(11) Experience in Member States has shown that the scope of the exemptions from the obligation of transporting wine products with an accompanying document may cover wider distances and a wider range of operations, thus facilitating wine movements, without preventing a satisfactory level of traceability of wine products. In particular, grape juice and must falling within CN codes 2009 61 and 2009 69 delivered to operators not involved in winemaking should also be exempted since those operators are not subject to control by the authorities in charge of the wine sector and the traceability of those products can be ensured by means of a commercial document.

(12) Council Directive 2008/118/EC[(10)] contains harmonised arrangements for certain excise goods, including certain alcoholic beverages, and provides for an electronic administrative document and other documents that must accompany consignments of such goods. With a view to establishing uniform rules applicable within the Union and simplifying administrative formalities for operators, it is appropriate to provide that documents accompanying consignments of wine products for the purpose of applying excise rules are also considered as recognised accompanying documents within the meaning of Regulation (EU) No 1308/2013.

(13) Taking into account Article 40 of Directive 2008/118/EC and in order to accelerate the administrative formalities for operators and present higher guarantees of reliability for the certification and traceability of wine products, the use of a simplified information system for issuing electronic accompanying documents put in place by the Member States providing the use of a commercial document containing at least the details necessary for identifying the product and for tracking its movement should be recognised as regards consignments of wine products from small producers and consignments of wine products not subject to excise duty. However, in order to allow the Member States that do not use yet such an information system to set it up, a transitional period should be provided during which both paper and electronic accompanying documents may be used.

(14) Taking into account Article 30 of Directive 2008/118/EC, Member States should be allowed to use simplified procedures and documents that enable them to monitor the movement of wine products carried out exclusively on their territory.

(15) The accompanying documents may also serve to certify certain characteristics of wine products in general and their vintage year or wine grape varieties and their PDO or

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PGI in particular. In order to ensure equal treatment of all operators, this Regulation should lay down the conditions under which the accompanying documents can be used for the purpose of such certification. In order to simplify administrative formalities for operators and to remove the burden of routine tasks from the competent authorities, provision should be made for the latter to authorise consignors to fill in and self-certify in the accompanying documents the origin or provenance and characteristics of the wine products, the vintage year or the grape variety(ies) from which the products are produced and the PDO or PGI of the wine.

(16) Where specific certificates concerning the characteristics of the wine products have to be provided by operators at the request of third countries, this Regulation should offer the possibility to use a certification for exported wine products and provide for the conditions for its authenticity and use.

(17) In addition to the accompanying documents, supplementary documents, such as export declarations, are required by the customs rules as proof of export of wine products. Additional procedures should therefore be laid down for drawing up and validating those documents in accordance with the rules laid down in or under Regulation (EU) No 952/2013 of the European Parliament and of the Council[(11)].

(18) Wine products transported in bulk are more susceptible to fraudulent practices than labelled bottled products fitted with a non-reusable closing device. Therefore, prior information of the competent authority at the place of loading on the details included in the accompanying document should be required for such consignments, unless an information system is used allowing the competent authority at the place of unloading to be informed of those details.

(19) To facilitate checks by the competent authorities of transports of consignments of third country products released into free circulation or of Union products that were initially exported and then reimported into the Union, a reference to the documents used for the release into free circulation or, in the case of products originating in the Union, to the accompanying document issued for the initial dispatch or other accepted document proving the origin of the products should be required on the documents accompanying the consignments of such products after release into free circulation.

(20) In the interest of legal certainty, rules should be laid down to harmonise the action to be taken by the consignee in case of refusal of a product transported under cover of an accompanying document and to specify under the cover of which accompanying document the product may subsequently be transported.

(21) To address cases where the competent authority finds or has a justified reason to suspect that a serious infringement of Union or national rules in the wine sector as regards the transport of wine products under the cover of accompanying documents or the production conditions or composition of such products has been committed by a consignor and with a view to enabling the competent authorities to monitor the subsequent movement or to decide on the future use of the product in question, it is appropriate to lay down detailed provisions regarding the procedure that may be required by the competent authority as regards the accompanying documents and the