Commission Implementing Regulation (EU) 2017/1242 of 10 July 2017 amending Implementing Regulation (EU) No 809/2014 laying down rules for the application of Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to the integrated administration and control system, rural development measures and cross-compliance

COMMISSION IMPLEMENTING REGULATION (EU) 2017/1242

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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 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[(1)], and in particular Article 62(2) (a) and (b) and Article 78(b) and (c) thereof,

Whereas:

(1) Article 21 of Commission Implementing Regulation (EU) No 809/2014[(2)] lays down the requirements pertaining to livestock aid applications and to payment claims under animal-related support measures. In the case of short production-cycle species with a high turnover of animals, the number of animals in respect of which a livestock payment claim under the measure provided for in Article 33 of Regulation (EU) No 1305/2013 of the European Parliament and of the Council[(3)] is submitted, may change significantly throughout the claim year. This may lead to a substantial difference between the number of animals declared in the livestock payment claim and the number of animals that will eventually benefit from increased welfare conditions. As a consequence, the number of animals declared in the livestock payment claim turns out to be only indicative. In respect of those short production-cycle species, Member States should therefore be allowed to establish a system which allows a beneficiary to apply for support in respect of all animals which qualify for support at a date or during a period determined by the Member State. In the absence of a computerised database, it should be possible to establish the actual number of animals on the basis of slaughter certificates or other supporting documents submitted to the competent authority after the date of submission of the livestock payment claim.

(2) The application of selection criteria is not obligatory for all measures or types of operations. Therefore, the administrative checks carried out on the applications for support should only include the verification of that element where necessary.

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2017/1242. (See end of Document for details)*

(3) The verification of the reasonableness of the costs is made at the stage of the administrative checks relating to the application for support and on the basis of a defined evaluation system. Specific rules should however apply where the risk of unreasonable costs is low or where the content of the costs may not be defined before the implementation of the operation.

(4) In accordance with Article 67(1) of Regulation (EU) No 1303/2013 of the European Parliament and of the Council[(4)], the amount of the support may be established on the basis of standard scales of unit costs, lump sums or flat rates. In such cases, the administrative checks should not include the verification of the amount of the costs incurred and the payments made by the beneficiary.

(5) The rules on checks which apply to financial instruments should be adapted in order to ensure consistency with the management and control rules laid down in Regulation (EU) No 1303/2013 and in Commission Delegated Regulation (EU) No 480/2014[(5)] and to take into account the specificities of support granted in the form of a financial instrument.

(6) The expenditure subject to on-the-spot checks should not be the expenditure to be paid, but the expenditure claimed to the paying agency. Since the expenditure to be paid can only be determined after all checks have been completed, taking that expenditure as subject of checks would render the achievement of the control rate unpredictable. In addition, the expenditure subject to on-the-spot checks should not include expenditure made by the paying agency only for advance payments, since that expenditure does not correspond to expenditure incurred by the beneficiary. Furthermore, expenditure related to financial instruments should be counted towards the achievement of the minimum control rate only to the extent that it is actually checked by the competent authority. In order to ensure the fulfilment of the minimum control rate each calendar year, the checks should be performed by the date foreseen for the submission of the control data and control statistics laid down in Article 9 of Implementing Regulation (EU) No 809/2014.

(7) In order not to duplicate checks unnecessarily, on-the-spot checks should only cover elements that have not yet been the subject of administrative checks.

(8) In accordance with Articles 48 and 51 of Implementing Regulation (EU) No 809/2014, checks have to verify compliance with, inter alia, eligibility criteria, commitments and other obligations. Furthermore, according to Article 50(4)(a) of that Implementing Regulation, the sample of operations to be checked on-the-spot has to take into account the need to check an appropriate mix of types and sizes of operations. The measure-specific provisions on the subject matter or the intensity of the checks laid down in Articles 54 to 59 of Implementing Regulation (EU) No 809/2014 are therefore unnecessary.

(9) As regards administrative penalties, in order to ensure equal treatment of the operations selected and the operations not selected for on-the-spot checks, the expenditure checked should, in both cases, be the expenditure claimed.

(10) Implementing Regulation (EU) No 809/2014 should therefore be amended accordingly.

(11) The amendments made by this Regulation should apply to applications for support or payment claims relating to claim years or premium periods starting from 1 January 2018. However, taking into account the difficulties encountered in the claim year 2015 by the Member States having to adapt their systems to the deadline of submitting the livestock payment claim laid down in Article 13 of Implementing Regulation (EU) No 809/2014, as well as to the system on reductions, exclusions and penalties provided for in Commission Delegated Regulation (EU) No 640/2014[(6)], the provision allowing the actual number of animals of short production-cycle species to be established on the basis of slaughter certificates or other supporting documents submitted to the competent authority after the submission of the livestock payment claim should apply to livestock payment claims relating to claim years starting as from 1 January 2016.

(12) The measures provided for in this Regulation are in accordance with the opinion of the Rural Development Committee,

HAS ADOPTED THIS REGULATION:

Article 1

Implementing Regulation (EU) No 809/2014 is amended as follows:

(1) In Article 21, the following paragraph 4a is inserted:

4a. For short production-cycle species supported under Article 33 of Regulation (EU) No 1305/2013 Member States may, in the absence of a computerised database, introduce procedures by which data contained in the slaughter certificates or in other supporting documents are to be used for the purposes of the livestock payment claim. Those data shall offer the level of assurance and implementation necessary for the proper management of the support measure involved at the level of individual animals.

The procedures referred to in the first subparagraph may consist of a system according to which a beneficiary applies for support in respect of all animals which, at a date or during a period determined by the Member State, qualify for support on the basis of the data contained in the slaughter certificates or in other supporting documents.

In that case, Member States shall take the necessary measures to guarantee that in accordance with the provisions applicable to the support measure in question, the date or the period referred to in the second subparagraph are clearly identified and known to the beneficiary.

(2) Article 48 is amended as follows:

(a) Paragraph 2 is amended as follows:

(i) point (c) is replaced by the following:

(c) compliance with the selection criteria, where those criteria apply;

(ii) point (e) is replaced by the following:

(e) for costs referred to in Article 67(1)(a) of Regulation (EU) No 1303/2013, excluding contributions in kind and depreciation, a verification of the reasonableness of the costs submitted. The costs shall be evaluated using a suitable evaluation

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system, such as reference costs, a comparison of different offers or an evaluation committee. For operations with a support rate up to 30 % or for operations supported under Article 35 of Regulation (EU) No 1305/2013, the verification of the reasonableness of the costs may be carried out at the stage of the administrative checks on payment claims. For operations with eligible costs up to EUR 5 000, the reasonableness of the costs may be established by a draft budget agreed *ex ante* by the managing authority.

(b) In paragraph 3, points (a) and (b) are replaced by the following:

(a) the completed operation compared with the operation for which the application for support was granted;

(b) the costs incurred and the payments made, except where a form or method as referred to in Article 67(1)(b), (c) or (d) of Regulation (EU) No 1303/2013 is applied.

(c) The following paragraph 6 is added:

6. As regards the financial instruments referred to in Article 38(1)(b) of Regulation (EU) No 1303/2013, paragraphs 1 to 5 of this Article shall neither apply to the contribution to the financial instrument nor to the support to the final recipient. However, Articles 58 and 59 of Regulation (EU) No 1306/2013 and Article 9 of Commission Delegated Regulation (EU) No 480/2014[(7)] shall apply.

(3) Article 50 is amended as follows:

(a) Paragraph 1 is amended as follows:

(i) the first subparagraph is replaced by the following:

The expenditure covered by on-the-spot checks shall represent at least 5 % of the expenditure referred to in Article 46 and co-financed by the European Agricultural Fund for Rural Development (EAFRD) which is claimed to the paying agency each calendar year and which does not concern operations for which only advance payments have been claimed.

(ii) the following third subparagraph is added:

As regards financial instruments, only the payments to the final recipients subject to on-the-spot checks shall be counted towards the expenditure covered by on-the-spot checks as referred to in the first subparagraph.

(b) In paragraph 2, the first subparagraph is replaced by the following:

Only checks carried out until the date foreseen for submission of the control data and control statistics according to Article 9 shall be counted towards the achievement of the minimum level referred to in paragraph 1.

(4) Article 51 is amended as follows:

(a) Paragraph 1 is replaced by the following: