Commission Implementing Regulation (EU) 2017/1185 of 20 April 2017 laying down rules for the application of Regulations (EU) No 1307/2013 and (EU) No 1308/2013 of the European Parliament and of the Council as regards notifications to the Commission of information and documents and amending and repealing several Commission Regulations (Text with EEA relevance)

COMMISSION IMPLEMENTING REGULATION (EU) 2017/1185

of 20 April 2017

laying down rules for the application of Regulations (EU) No 1307/2013 and (EU) No 1308/2013 of the European Parliament and of the Council as regards notifications to the Commission of information and documents and amending and repealing several Commission Regulations

(Text with EEA relevance)

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 Article 67(3) thereof,

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[(2)], and in particular Articles 126 and 151, and Article 223(3) thereof,

Whereas:

(1) Regulations (EU) No 1307/2013 and (EU) No 1308/2013 have repealed and replaced Council Regulations (EC) No 73/2009[(3)] and (EC) No 1234/2007[(4)] respectively. Regulations (EU) No 1307/2013 and (EU) No 1308/2013 and the acts adopted on the basis of those Regulations lay down a wide range of obligations to notify information and documents to the Commission. Those regulations also empower the Commission to adopt delegated and implementing acts in that respect. In order to ensure the smooth notification of information and documents by Member States to the Commission, certain rules have to be adopted by means of such acts. Those acts should replace the rules laid down in Commission Regulation (EC) No 792/2009[(5)], which is repealed by Commission Delegated Regulation (EU) 2017/1183[(6)].

(2) The method to be used to notify the information and documents required to meet the notification obligations laid down in Regulations (EU) No 1307/2013 and (EU) No 1308/2013 as supplemented by Delegated Regulation (EU) 2017/1183, should be laid down and exceptions to that notification method should be specified.

Changes to legislation: *There are outstanding changes not yet made to Commission Implementing Regulation (EU) 2017/1185. 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*

(3) For documents to be recognised as valid for the Commission's purposes it should be possible to guarantee the authenticity, integrity and legibility of the documents and the associated metadata throughout the period for which they are required to be kept.

(4) Documents must be managed in accordance with the personal data protection rules. To that end, the general rules laid down by Union legislation, notably Directive 95/46/EC of the European Parliament and of the Council[(7)], Regulations (EC) No 45/2001[(8)] and (EC) No 1049/2001[(9)] of the European Parliament and of the Council and Directive 2002/58/EC of the European Parliament and of the Council[(10)] should apply, and further provisions should be laid down to guide Member States.

(5) It is important that information notified is of relevance to the market concerned, accurate and complete and Member States should put in place arrangements to ensure this, including the necessary measures to ensure that economic operators provide them with the required information within appropriate time limits.

(6) For the sake of simplification and reduction of administrative burden, when a Member State has not sent a notification, this should be interpreted by the Commission as a nil notification by the Member State.

(7) Member States may notify additional information that is relevant to the market beyond what is required by this Regulation. The Commission shall make available, through the information system, the necessary form for the transmission of such information.

(8) Information on product prices and production and market information is required for the purpose of monitoring, analysing and managing the market in agricultural products and for the purpose of applying Regulation (EU) No 1308/2013. It is accordingly appropriate that rules concerning the notification of this information are laid down.

(9) In order to simplify and facilitate access to rules concerning notification obligations, it is appropriate to incorporate in this Regulation the provisions regarding notifications from Member States to the Commission on the data on agricultural markets, particularly prices, production and balance sheet data, currently laid down in Commission Regulations (EC) No 315/2002[(11)], (EC) No 546/2003[(12)], (EC) No 1709/2003[(13)]; (EC) No 2336/2003[(14)], (EC) No 2095/2005[(15)], (EC) No 952/2006[(16)], (EC) No 1557/2006[(17)], (EC) No 589/2008[(18)], (EC) No 826/2008[(19)], (EC) No 1249/2008[(20)], (EC) No 436/2009[(21)], (EU) No 1272/2009[(22)] and (EU) No 479/2010[(23)] and Commission Implementing Regulations (EU) No 543/2011[(24)], (EU) No 1288/2011[(25)], (EU) No 1333/2011[(26)] and (EU) No 807/2013[(27)]. Those notification obligations should be updated in the light of acquired experience and for a more effective management of the common agricultural policy.

(10) In order to have a comprehensive picture of price data notified and to follow trends, it is appropriate to require that each price series is defined.

(11) Member States that have not adopted the euro shall report price information in their official currency.

(12) The Union is required to make certain notifications to the World Trade Organisation (WTO) in accordance with Article 18(2) of the WTO Agreement on Agriculture[(28)], as

***Changes to legislation:** There are outstanding changes not yet made to Commission Implementing Regulation (EU) 2017/1185. 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*

further detailed in paragraph 4 of WTO document G/AG/2 of 30 June 1995 and the Annex to the WTO Ministerial Decision of 19 December 2015 on export competition (WT/MIN(15)/45-WT/L/980). In order to comply with these requirements, the Union requires certain information from Member States, notably information relating to domestic support and export competition. Provisions concerning the notifications to be made by Member States to the Commission for these purposes should therefore be laid down.

(13) The provisions on notifications in the sugar sector should apply from 1 October 2017 in order to provide for a smooth transition with the ending of the quota system.

(14) Regulations (EC) No 315/2002, (EC) No 952/2006, (EC) No 589/2008, (EC) No 826/2008, (EC) No 1249/2008, (EC) No 436/2009, (EU) No 1272/2009, (EU) No 479/2010, and Implementing Regulations (EU) No 543/2011, (EU) No 1333/2011 and (EU) No 807/2013 should therefore be amended accordingly. Regulations (EC) No 546/2003, (EC) No 1709/2003, (EC) No 2336/2003, (EC) No 2095/2005 and (EC) No 1557/2006 and Implementing Regulation (EU) No 1288/2011 should be repealed.

(15) The measures provided for in this Regulation are in accordance with the opinion of the Committee of Direct Payments and the Committee for the Common Organisation of Agricultural Markets,

HAS ADOPTED THIS REGULATION:

CHAPTER I

PRINCIPLES AND REQUIREMENTS OF THE INFORMATION SYSTEM

Article 1

Commission information system and notification method

1 Notification of information and documents required pursuant to the notification obligations laid down in Regulations (EU) No 1307/2013 and (EU) No 1308/2013 and in the acts adopted on the basis of those Regulations shall be made by means of an information-technology-based system that the Commission makes available to Member States.

The information and documents shall be set up and notified in accordance with:

a the procedures established for the information system;

b the access rights granted by the single liaison body referred to in Delegated Regulation (EU) 2017/1183; and

c the forms made available to users in the information system.

[[F1]In the case of notifications pursuant to Regulation (EU) No 1308/2013 and the acts adopted on the basis of that Regulation, the information-technology-based system referred in the first subparagraph of this paragraph shall also be available, where relevant, to operators and third countries.**]**

Changes to legislation: *There are outstanding changes not yet made to Commission Implementing Regulation (EU) 2017/1185. 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 By way of exception to the first paragraph of paragraph 1, Member States may make the required information available to the Commission by mail, by telefax, by electronic mail or by hand:

a if the Commission has not made available the information technology means for a specific notification obligation;

b in cases of *force majeure* or exceptional circumstances which make it impossible for the Member State to use the information system referred to in paragraph 1.

Textual Amendments

F1 Inserted by Commission Implementing Regulation (EU) 2019/1746 of 1 October 2019 amending Implementing Regulation (EU) 2017/1185 laying down rules for the application of Regulations (EU) No 1307/2013 and (EU) No 1308/2013 of the European Parliament and of the Council as regards notifications to the Commission of information and documents (Text with EEA relevance).

Article 2

Integrity and legibility over time

The information system made available by the Commission shall be designed to protect the integrity of the documents notified and held. In particular, it shall:

(a) allow each user to be unequivocally identified and shall incorporate effective control measures of access rights in order to protect against illegal, malicious or unauthorised access, deletion, alteration or movement of documents, files or metadata;

(b) be equipped with physical protection systems against intrusions and environmental incidents and with software protection against possible cyber-attacks;

(c) prevent any unauthorised changes and incorporate integrity mechanisms to check if a document has been altered over time;

(d) keep an audit trail for each essential stage of the procedure;

(e) safeguard stored data in an environment which is secure in both physical and software terms, in accordance with point (b);

(f) provide reliable format conversion and migration procedures in order to guarantee that documents are legible and accessible throughout the entire storage period required;

(g) have sufficiently detailed and up-to-date functional and technical documentation on the operation and characteristics of the system; that documentation shall be accessible at all times to the organisational entities responsible for the functional and/or technical specifications.

Article 3

Authenticity of documents

The authenticity of a document notified or stored using an information system in conformity with this Regulation is recognised if the person who sent the document is duly identified and if the document has been set up and notified in compliance with this Regulation.

***Changes to legislation:** There are outstanding changes not yet made to Commission Implementing Regulation (EU) 2017/1185. 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*

Article 4

Protection of personal data

1 The provisions of this Regulation shall apply without prejudice to Directive 95/46/EC, Regulation (EC) No 45/2001, Regulation (EC) No 1049/2001, and Directive 2002/58/EC and the provisions adopted pursuant to them.

2 Member States shall take the necessary steps to protect the confidentiality of data received from economic operators.

3 Where information notified to the Commission is obtained from less than three operators, or where information from a single operator accounts for more than 70 % of the quantum of such information notified, the Member State concerned shall signal this to the Commission when notifying the information.

4 The Commission shall not publish information in such a way that can lead to the identification of an individual operator. Where such a risk exists, the Commission shall only publish such information in an aggregate form.

[[F2]*Article 5*

Default notification

Save as otherwise provided for in the acts referred to in Article 1, where Member States, and where relevant, third countries or operators, have not notified the required information or documents to the Commission by the deadline (‘nil return’), they shall be deemed to have notified the following:

(a) in the case of quantitative information, of a zero value;

(b) in the case of qualitative information, of a ‘nothing to report’ situation.**]**

Textual Amendments

F2 Substituted by Commission Implementing Regulation (EU) 2019/1746 of 1 October 2019 amending Implementing Regulation (EU) 2017/1185 laying down rules for the application of Regulations (EU) No 1307/2013 and (EU) No 1308/2013 of the European Parliament and of the Council as regards notifications to the Commission of information and documents (Text with EEA relevance).