Commission Delegated Regulation (EU) 2017/723 of 16 February 2017 amending Delegated Regulation (EU) No 640/2014 supplementing Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to the integrated administration and control system and conditions for refusal or withdrawal of payments and administrative penalties applicable to direct payments, rural development support and cross compliance

COMMISSION DELEGATED REGULATION (EU) 2017/723

of 16 February 2017

amending Delegated Regulation (EU) No 640/2014 supplementing Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to the integrated administration and control system and conditions for refusal or withdrawal of payments and administrative penalties applicable to direct payments, rural development support and cross compliance

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 77(7) thereof,

Whereas:

(1) In the light of the experience gained after the introduction of the payment for agricultural practices beneficial for the climate and the environment ('the greening payment') as provided for in Chapter 3 of Title III of Regulation (EU) No 1307/2013 of the European Parliament and of the Council[(2)], it is appropriate to simplify certain rules regarding the method of calculation of the greening payment laid down in Commission Delegated Regulation (EU) No 640/2014[(3)].

(2) Within the integrated administration and control system, the calculation of the aid to which the beneficiary is entitled is based on the concept of crop group. It appears however that that concept is not necessary in the specific context of the greening payment, since the greening payment is to be based on the total area of the holding. In the interest of simplification, the concept of crop group should therefore be abolished for the greening payment.

(3) Articles 24 and 26 of Delegated Regulation (EU) No 640/2014 lay down the rules for the calculation of the reduction of the greening payment in case of non-compliance with the crop diversification requirements and the ecological focus area requirements, respectively. Those calculations involve a ratio of difference and a reduction factor of 50 %. For the sake of clarification without altering the level of the reductions, it is

Changes to legislation: *There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2017/723. (See end of Document for details)*

justified to reformulate those provisions and replace the ratio of difference as well as the reduction factor of 50 % by a multiplier.

(4) With a view to strike a better balance between the level of severity of the reductions and the need to preserve proportionate and fair reductions, it is appropriate to alleviate the reductions of the greening payment where the crop diversification obligation requires three different crops to be grown.

(5) Delegated Regulation (EU) No 640/2014 should therefore be amended accordingly.

(6) In order to avoid the situation where Member States would have to adapt their systems of payment calculation for claim year 2016 during the payment period, and to give predictability to beneficiaries as to which rules are applicable for the payment calculation, this Regulation should apply from 16 October 2017 in respect of claim years starting as from 1 January 2017,

HAS ADOPTED THIS REGULATION:

Article 1

Amendment of Delegated Regulation (EU) No 640/2014

Delegated Regulation (EU) No 640/2014 is amended as follows:

(1) Article 22 is replaced by the following:

Article 22

General principles

For the purposes of this Section, where the same area is determined for more than one of the agricultural practices beneficial for the climate and the environment as referred to in Article 43(2) of Regulation (EU) No 1307/2013, that area shall be taken into account separately for each of those practices in view of calculating the payment for agricultural practices beneficial for the climate and the environment, hereinafter referred to as “the greening payment”.;

(2) in Article 23(2), the first subparagraph is replaced by the following:

2. Without prejudice to the administrative penalties applicable in accordance with Article 28, if the area declared in a single application for the basic payment or the single area payment exceeds the area determined, the area determined shall be used for the calculation of the greening payment.;

(3) Article 24 is replaced by the following:

***Changes to legislation:** There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2017/723. (See end of Document for details)*

Article 24

Reduction of the greening payment in case of non-compliance with crop diversification

1 In respect of arable land for which the first subparagraph of Article 44(1) of Regulation (EU) No 1307/2013 requires at least two different crops while the main crop shall not cover more than 75 % of the total area of arable land, but the area determined for the main crop covers more than 75 % of the total area of arable land determined, the area to be used for the calculation of the greening payment in accordance with Article 23 of this Regulation shall be reduced by 2 times the area of the main crop in excess of the 75 % of the total area of arable land determined.

2 In respect of arable land for which the second subparagraph of Article 44(1) of Regulation (EU) No 1307/2013 requires at least three different crops while the main crop shall not cover more than 75 % of the total area of arable land, but the area determined for the main crop covers more than 75 % of the total area of arable land determined, the area to be used for the calculation of the greening payment in accordance with Article 23 of this Regulation shall be reduced by the area of the main crop in excess of the 75 % of the total area of arable land determined.

3 In respect of arable land for which the second subparagraph of Article 44(1) of Regulation (EU) No 1307/2013 requires at least three different crops while the two main crops shall not cover more than 95 % of the total area of arable land, but the area determined for the two main crops covers more than 95 % of the total area of arable land determined, the area to be used for the calculation of the greening payment in accordance with Article 23 of this Regulation shall be reduced by 5 times the area of the two main crops in excess of the 95 % of the total area of arable land determined.

4 In respect of holdings for which Article 44(2) of Regulation (EU) No 1307/2013 requires that the main crop on the remaining arable land shall not cover more than 75 % of that remaining arable land, but the area determined for the main crop on the remaining arable land determined covers more than 75 %, the area to be used for the calculation of the greening payment in accordance with Article 23 of this Regulation shall be reduced by 2 times the area of the main crop in excess of the 75 % of that remaining arable land determined.

5 Where a beneficiary has been found non-compliant with crop diversification as described in this Article for three years, the area by which the area to be used for the calculation of the greening payment is to be reduced in accordance with paragraphs 1 to 4 for the subsequent years shall be multiplied by 2.;

(4) in Article 26, paragraphs 2 and 3 are replaced by the following:

2. If the ecological focus area required exceeds the ecological focus area determined taking account of the weighting of ecological focus areas provided for in Article 46(3) of Regulation (EU) No 1307/2013, the area to be used for the calculation of the greening payment in accordance with Article 23 of this Regulation shall be reduced by 10 times the ecological focus area not found.

For the purposes of the first subparagraph, the ecological focus area determined shall not exceed the share of the ecological focus areas declared in the total area of arable land declared.