Commission Delegated Regulation (EU) 2017/40 of 3 November 2016 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council with regard to Union aid for the supply of fruit and vegetables, bananas and milk in educational establishments and amending Commission Delegated Regulation (EU) No 907/2014

COMMISSION DELEGATED REGULATION (EU) 2017/40

of 3 November 2016

supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council with regard to Union aid for the supply of fruit and vegetables, bananas and milk in educational establishments and amending Commission Delegated Regulation (EU) No 907/2014

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 Article 24 and Article 223(2) 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 Articles 64(6)(a) and 106(5) thereof,

Whereas:

(1) Section I of Chapter II of Title I of Part II of Regulation (EU) No 1308/2013 provides for two aid schemes intended to improve the distribution of agricultural products to children in educational establishments. The first scheme concerns the supply of fruit and vegetables, processed fruit and vegetables and banana products (school fruit and vegetables scheme) and the second concerns the supply of milk and milk products (school milk scheme). Those two schemes are replaced by one single scheme introduced by Regulation (EU) 2016/791 of the European Parliament and of the Council[(3)] with effect from the 2017/2018 school year. This single scheme provides for a new common framework for the Union aid for the supply of fruit and vegetables, processed fruit and vegetable products, fresh products of the banana sector (‘school fruit and vegetables’) and for the supply of milk and milk products (‘school milk’) to children in educational establishments (the ‘school scheme’). Regulation (EU) No 1308/2013 as amended by Regulation (EU) 2016/791 also empowers the Commission to adopt delegated and implementing acts. In order to ensure the smooth functioning of the school scheme in accordance with the new framework, certain rules are to be adopted by means of such acts. Those acts should replace Commission Delegated Regulations

Changes to legislation: *Commission Delegated Regulation (EU) 2017/40 is up to date with all changes known to be in force on or before 28 December 2020. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(EU) No 1047/2014[(4)] and (EU) 2016/247[(5)], Commission Implementing Regulation (EU) 2016/248[(6)] and Commission Regulation (EC) No 657/2008[(7)]. Those acts should therefore be repealed but they should continue to apply until the current school fruit and vegetables scheme and school milk scheme come to an end.

(2) In accordance with Article 23(8) of Regulation (EU) No 1308/2013, as a condition for participating in the school scheme, Member States are to draw up a strategy at national or regional level for the implementation of the school scheme prior to participation in the school scheme. A new strategy is to be drawn up every 6 years. Where Member States decide to implement the school scheme at regional level, they are to draw up a strategy for each region and provide for a coordination framework, according to their provisions or procedures. They are to establish a single contact point for the exchange of information with the Commission in order to facilitate the Commission in assessing the strategies and in monitoring and evaluating the implementation in the Member State concerned. It is also appropriate to establish provisions defining the deadlines by which the strategy and any consequent amendments are to be submitted to the Commission.

(3) Specific conditions should be established for the design and application of the accompanying educational measures, in particular as regards the need to support distribution of products. The possibility that those measures could also involve teachers and parents should be allowed, with a view to enhancing the effectiveness of those measures and the overall effectiveness of the school scheme.

(4) In the interest of legal certainty, it is appropriate to specify the costs incurred for the implementation of the school scheme that are eligible for Union aid.

(5) In the interest of sound administration, budget management and supervision, the conditions for granting aid and for the selection and approval of aid applicants should be specified.

(6) Specific conditions should be established for the suspension and withdrawal of approval and for the administrative penalties to be imposed on aid applicants that fail to comply with the obligations laid down under the school scheme.

(7) In order to assess the effectiveness of the school scheme, to allow peer review and the exchange of good practices, Member States should monitor and evaluate the implementation of the school scheme on a regular basis and send their results to the Commission. For that purpose, the nature and the type of information in the monitoring reports should be specified. Furthermore, a failure by the Member States to comply with the monitoring and evaluation requirements may jeopardise the assessment of the effectiveness of the school scheme and the assurance on the correct management of Union aid. Provisions should therefore be established for a dissuasive reduction in aid to be applied by the Commission where a Member State is late in submitting the evaluation report.

(8) With a view to an effective monitoring and evaluation of the school scheme, the nature and type of information to be notified to the Commission by the Member States should be specified.

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(9) In order to ensure that products distributed under the school scheme meet the objectives of promoting healthy eating habits and ensuring children become accustomed to the natural taste of those products, it is appropriate to specify that the maximum level of added sugar in products referred to in Article 23(4) of Regulation (EU) No 1308/2013, for which the addition of sugar is not technically necessary to prepare or manufacture them, should be zero.

(10) In order to ensure that products distributed under the school scheme meet the objectives of promoting healthy eating habits, it is appropriate to specify the maximum level of added sugar and/or honey in products listed in Annex V to Regulation (EU) No 1308/2013 that Member States may allow. Member States may provide for lower limits.

(11) Specific conditions should be established to ensure there is added value and visibility of the Union school scheme when products receiving Union aid under the school scheme are distributed with regular school meals in educational establishments.

(12) In accordance with Article 23*a*(8) of Regulation (EU) No 1308/2013, Member States are to publicise their involvement in the school scheme and the fact that it is subsidised by the Union. For that purpose, Member States should be able to use a poster to be exhibited in participating educational establishments. The poster should be produced in compliance with certain minimum requirements.

(13) Chapter V of Commission Delegated Regulation (EU) No 907/2014[(8)] lays down rules concerning the operative event for the exchange rate applicable for the amounts and payments of Union aid. It is therefore necessary to include rules as regards the aid linked to the implementation of the school scheme. Delegated Regulation (EU) No 907/2014 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

CHAPTER I

GENERAL RULES ON THE SCHOOL SCHEME

Article 1

Scope and definitions

1 This Regulation lays down rules supplementing Regulation (EU) No 1308/2013 as regards Union aid for the supply and distribution of fruit and vegetables, processed fruit and vegetable products and fresh products of the banana sector (‘school fruit and vegetables’), and for the supply and distribution of milk and milk products (‘school milk’) to children in educational establishments, for accompanying educational measures and for certain related costs in the framework of the scheme referred to under Article 23 of that Regulation (‘the school scheme’).

2 For the purposes of this Regulation, the definition of the school year laid down in Article 1(2) of Commission Implementing Regulation (EU) 2017/39[(9)] shall apply.

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Article 2

Member States' strategy

1 When drawing up the strategy referred to in Article 23(8) of Regulation (EU) No 1308/2013, Member States may choose the administrative level at which they wish to implement the school scheme. If a Member State decides to implement the school scheme at a regional level, it shall draw up a strategy for each region and an accompanying coordination framework at Member State level. The Member State shall establish a single contact point for the exchange of information with the Commission.

2 If a Member State does not make products under the school scheme available free of charge, it shall explain in its strategy the arrangements it has put in place to ensure that Union aid under the school scheme is reflected in the price at which those products are made available.

3 Member States wishing to participate in the school scheme shall notify the Commission of their strategy by 30 April preceding the first school year covered by the strategy. However, Member States shall notify the Commission of their strategy covering the 6-year period starting with the 2017/2018 school year by 1 August 2017.

4 A Member State may amend its strategy. The Member State shall notify the Commission of its amended strategy within 2 months of the amendment.

Article 3

Accompanying educational measures

1 The accompanying educational measures referred to in Article 23(10) of Regulation (EU) No 1308/2013 shall be directly linked to the objectives of the school scheme.

2 Accompanying educational measures shall support the distribution of school fruit and vegetables and school milk and, in the event that they include agricultural products other than those referred to in Article 23(3), (4) and (5) of Regulation (EU) No 1308/2013, the measures shall provide for the tasting of those other products.

3 Accompanying educational measures may involve also parents and teachers.

Article 4

Eligible costs

1 The following costs are eligible for Union aid:

a the costs of the products supplied under the school scheme and distributed to children in educational establishments referred to in Article 22 of Regulation (EU) No 1308/2013, which may include the costs of purchasing, renting, hiring and leasing of equipment used in the supply and distribution of products, as provided for in the strategy of the Member State;

b the costs of accompanying educational measures, including:

(i) costs of organising tasting classes, setting up and maintaining school gardens, organising visits to farms and similar activities aimed at reconnecting children with agriculture;

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(ii) costs of measures aimed at educating children about agriculture, healthy eating habits, local food chains, organic production, sustainable production, and combating food waste;

c the costs of publicity for the school scheme, which shall be directly aimed at informing the wider public about the school scheme, including:

(i) the cost of the poster referred to in Article 12 of this Regulation;

(ii) the cost of information campaigns by means of broadcasting, electronic communications, newspapers and similar means of communication;

(iii) the cost of information sessions, conferences, seminars and workshops dedicated to informing the wider public about the school scheme and similar events;

(iv) the cost of information and promotion material such as letters, leaflets, brochures, gadgets and similar;

d the costs of networking measures to exchange experiences and best practices on implementation of the school scheme;

e the costs relating to the obligation for Member States to monitor and evaluate the effectiveness of their school scheme;

f the costs of transport and distribution of the products supplied under the school scheme, insofar as they are not covered by point (a) of this paragraph.

2 The costs referred to in paragraph 1 shall not be financed under any other Union aid scheme, programme, measure or operation.

3 Value added tax (VAT) is not eligible for Union aid.

4 Expenditure relating to personnel costs is not eligible for Union aid if those personnel costs are financed from public funds of the Member State.

Article 5

General conditions for the granting of aid and selection of aid applicants

1 Aid granted to a Member State under the school scheme shall be distributed to those applicants for aid that have been approved by the competent authority of the Member State in accordance with Article 6 and whose application relates to the implementation of one or more of the following:

a the supply or distribution of products to children in educational establishments under the school scheme;

b accompanying educational measures;

c monitoring or evaluation actions;

d publicity.

2 Member States shall select aid applicants from among the following bodies:

a educational establishments;

b educational authorities;

c suppliers or distributors of products;