Commission Implementing Regulation (EU) 2017/39 of 3 November 2016 on rules for the application of 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

COMMISSION IMPLEMENTING REGULATION (EU) 2017/39

of 3 November 2016

on rules for the application of 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

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 25 and 223(3) 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 62(2)(a) to (d) and 64(7)(a) thereof,

Having regard to Council Regulation (EU) No 1370/2013 of 16 December 2013 determining measures on fixing certain aids and refunds related to the common organisation of the markets in agricultural products[(3)], and in particular Article 5(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[(4)] 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

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in accordance with the new framework, certain rules are to be adopted by means of such acts. Those acts should replace Commission Delegated Regulations (EU) No 1047/2014[(5)] and (EU) 2016/247[(6)], Commission Implementing Regulation (EU) 2016/248[(7)] and Commission Regulation (EC) No 657/2008[(8)]. Those acts are repealed by Commission Delegated Regulation (EU) 2017/40[(9)].

(2) In accordance with Article 23(8) of Regulation (EU) No 1308/2013, Member States wishing to participate in the school scheme should draw up a strategy for its implementation. In order to be able to evaluate the implementation of the school scheme, the elements of the strategy should be defined. To limit the administrative burden, it is appropriate to distinguish those elements that should be included in the strategy from those that should be made available to the Commission upon request, namely in case of audits, if not included in the strategy.

(3) In the interest of sound administration and budget management, Member States implementing the school scheme should submit a request for Union aid on an annual basis. In addition, the content of such request should be defined.

(4) The content and frequency of applications for aid submitted by aid applicants should be determined as well as the rules concerning the submission of those applications. In addition, the evidence required to support the applications for aid should be specified. Penalties to be applied by the competent authority in case of late submission of applications for aid should also be laid down.

(5) The conditions for payment of the aid should be further clarified to take account of the distinction between aid for the supply and distribution of products and aid for carrying out accompanying educational measures, monitoring, evaluation and publicity. The content of the documentary evidence required in support of each application for the payment of the aid should also be specified.

(6) The deadlines for transfers between the financial allocations for school fruit and vegetables and for school milk, and the submission, format and content of transfer notifications to the Commission should be defined.

(7) In order to maximise the full potential of available funds, the Commission should adopt the measures to reallocate unrequested Union aid between the Member States participating in the school scheme that have notified their willingness to use more than their available allocation, according to Article 5(5) of Regulation (EU) No 1370/2013. The conditions for those transfers of funds between Member States should be defined.

(8) In order to assess the effectiveness of the school scheme and to help Member States to further improve their national and regional strategies, Member States should notify the Commission of the results and findings of their monitoring and evaluation of the scheme. For the sake of clarity, it is appropriate to fix a date for the notification of the results of the annual monitoring exercise and of the evaluation report to the Commission. The Commission should publish those documents.

(9) To protect the financial interests of the Union, effective control measures should be adopted to combat irregularities and fraud. These control measures should involve systematic administrative checking of all aid applications supplemented by on-the-spot

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checks. The scope, content, timing and reporting of those control measures should be specified so as to ensure an equitable and uniform approach between Member States, taking account of their different implementation of the school scheme.

(10) Amounts unduly paid should be recovered in accordance with Commission Implementing Regulation (EU) No 809/2014[(10)].

(11) In accordance with Article 23(10) of Regulation (EU) No 1308/2013, the public should be made sufficiently aware of the Union's financial contribution to the school scheme. Further to the provision on the poster provided for in Delegated Regulation (EU) 2017/40, it is appropriate to lay down rules on publicising the school scheme and on the use of the Union emblem.

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

HAS ADOPTED THIS REGULATION:

Article 1

Scope and definition

1 This Regulation lays down rules for the application of Regulations (EU) No 1308/2013 and (EU) No 1370/2013 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 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 Regulation (EU) No 1308/2013 (‘the school scheme’).

2 For the purposes of the school scheme, ‘school year’ means a period running from 1 August until 31 July of the following year.

Article 2

Member States' strategies

1 A Member State's strategy as referred to in Article 23(8) of Regulation (EU) No 1308/2013 and in Article 2 of Delegated Regulation (EU) 2017/40 shall include the following elements:

a the administrative level at which the school scheme will be implemented;

b the needs to be addressed through implementation of the school scheme and their ranking in terms of priorities;

c the results expected to be achieved through implementation of the school scheme and the indicators to measure their achievement;

d the initial situation in relation to which progress in achieving the results will be measured, based on available data;

e the estimated budget for the main elements of the school scheme with regard to the school fruit and vegetables and the school milk, as well as the budget for elements concerning the entire school scheme;

f the target group;

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g the list of products, by product groups listed in Article 23(3), (4), (5) and, if applicable, (7) of Regulation (EU) No 1308/2013, that will be supplied under the school scheme;

h if products are not made available free of charge under the school scheme, the arrangements put in place to ensure that the amount of Union aid is duly reflected in the price of those products;

i if standard scales of unit costs, flat-rate financing and/or lump sums are authorised, the fair, equitable and verifiable calculation method used for their establishment; if a cost-based system is used, the arrangements to assess the reasonableness of the costs submitted by aid applicants;

j the objectives and the content of the accompanying educational measures;

k the procedures for involving relevant authorities and stakeholders;

l the procedures for selecting the suppliers of products, materials and services under the school scheme;

m the arrangements put in place for publicising the provision of Union aid under the school scheme.

2 Member States shall make available to the Commission upon request the following information, if not included in the strategy:

a the criteria for the choice of the products that will be supplied under the school scheme and the priority or priorities referred to under Article 23(11) of Regulation (EU) No 1308/2013;

b the arrangements for the supply and/or distribution of the products, including with regard to the eligible costs, the envisaged frequency and timing of distribution and, in case distribution is allowed in the framework of regular school meals, the measures taken to comply with Article 11 of Delegated Regulation (EU) 2017/40;

c if maximum prices to be paid by beneficiaries for the products, materials and services made available under the school scheme are set, the fair, equitable and verifiable calculation method used for their establishment;

d the amount of national aid if such aid is granted in addition to Union aid for the school scheme;

e if existing national schemes are extended or made more effective through Union aid under the school scheme, the arrangements put in place to ensure the added value of the school scheme;

f if products referred to in Article 23(5) of Regulation (EU) No 1308/2013 are distributed, the arrangements to ensure that Union aid shall be paid only for the milk component of those products and shall not exceed the amount referred to in Article 5(3) of Regulation (EU) No 1370/2013;

g the structures, arrangements and forms put in place for the monitoring and evaluation of the school scheme in accordance with Article 9 of Delegated Regulation (EU) 2017/40 and for checks in accordance with Articles 9 and 10 of this Regulation.

3 The Commission shall publish the Member States' strategies.

Article 3

Member States' request for Union aid

Member States shall submit by 31 January each year their request for Union aid relating to the next school year and, if applicable, update the request for Union aid relating to the ongoing school year. The request shall contain the following information:

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(a) information relating to the next school year:

(i) the indicative allocation of aid for school fruit and vegetables and for school milk set out in Annex 1 to Regulation (EU) No 1370/2013;

(ii) the willingness to transfer part of the indicative allocation for school fruit and vegetables or for school milk to the other indicative allocation, up to the maximum percentage referred to in Article 23a(4) of Regulation (EU) No 1308/2013, and the percentage and the amount of the transfer;

(iii) the willingness to use more than the indicative allocation for school fruit and vegetables and/or for school milk and the maximum additional amount requested, should an additional allocation be available;

(iv) the amount of the indicative allocation that is not requested, if there is no willingness to use the entire amount of the indicative allocation for school fruit and vegetables and/or for school milk;

(v) the total amount requested for school fruit and vegetables and for school milk;

(b) information relating to the ongoing school year:

(i) the transfer between the definitive allocations referred to in Article 23a(4)(b) of Regulation (EU) No 1308/2013;

(ii) if there is no willingness to use the entire amount of the definitive allocation of aid for school fruit and vegetables and/or for school milk for the ongoing school year, the amount which will not be requested for school fruit and vegetables and/or for school milk;

(iii) the willingness to use more than the entire amount of the definitive allocation of aid for school fruit and vegetables and/or for school milk available to them in the ongoing school year should an additional allocation be available.

The amounts referred to in this Article shall be expressed in EUR.

Article 4

Aid application submitted by aid applicants

1 Member States shall determine the form, content and frequency of aid applications in accordance with their strategy and the rules laid down in paragraphs 2 to 6.

2 Aid applications relating to the supply and distribution of products shall include at least the following information:

a the quantities of products distributed by groups of products as referred to in paragraphs 3, 4, 5 and, if applicable, 7 of Article 23 of Regulation (EU) No 1308/2013;

b the identification of the applicant and the name and address or a unique identification number of the educational establishment or educational authority to which those quantities were distributed;

c the number of children in the school register at the beginning of the school year in the educational establishment(s) due to receive the products covered by the school scheme during the period covered by the aid application.