Commission Implementing Regulation (EU) No 809/2014 of 17 July 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) No 809/2014

of 17 July 2014

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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 Articles 58(4), 62(2)(a) to (f) and (h), 63(5), 77(8), 78, 96(4), 101(2), thereof,

Whereas:

(1) Regulation (EU) No 1306/2013 lays down the basic rules concerning, inter alia, the obligations on Member States to protect the financial interests of the Union. In order to ensure that the new legal framework established by that Regulation functions smoothly and applies uniformly, the Commission has been empowered to adopt certain rules in relation to administrative and on-the-spot checks, the measurement of areas, the cases in which aid applications or payment claims may be corrected, the application and calculation of partial or total withdrawals and the recovery of undue payments and penalties, the application and calculation of administrative penalties, the requirements for the computerised database, aid applications and payment claims and applications for payment entitlements, including the final date for submission, the carrying-out of checks, transfers of holdings, payments of advances, the carrying-out of checks relating to cross-compliance obligations, the calculation and application of administrative penalties in cross-compliance and technical specifications necessary for the purpose of the uniform application of the basic rules on the integrated administration and control system ('integrated system') as regards cross-compliance.

(2) Member States should take the required measures to ensure the proper functioning of the administration and control system where more than one paying agency is responsible for the same beneficiary.

(3) Where the competent authority has not yet informed the beneficiary of any errors contained in the aid application or payment claim nor announced an on-the-spot check, beneficiaries should be entitled to withdraw their aid applications or payment claims or parts thereof at any time. Beneficiaries should also be allowed to correct or adjust

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obvious errors contained in the aid application or payment claims and any supporting documents, in certain cases to be recognised by the national authorities.

(4) Specific and detailed provisions need to be laid down in order to ensure the equitable application of the various reductions to be applied in respect of one or several aid applications or payment claims by the same beneficiary. The sequence for the calculation of the various potential reductions on each direct payment scheme or rural development measure in the scope of the integrated system should therefore be determined.

(5) In order to ensure the uniform application of the principle of good faith throughout the Union, where amounts unduly paid are recovered, the conditions under which that principle may be invoked should be laid down without prejudice to the treatment of the expenditure concerned in the context of the clearance of accounts under Regulation (EU) No 1306/2013.

(6) Rules should be established concerning the consequences of transferring entire holdings that are subject to certain obligations under the direct payment schemes or under rural development measures in the scope of the integrated system.

(7) In order to enable the Commission to monitor the integrated system effectively, the Member States should notify it of annual control data and statistics. Similarly, statistics of the checks on rural development measures outside the scope of the integrated system, including the results of such checks, should be provided by the Member States annually. Moreover, the Commission should, where appropriate, be informed of any measures taken by the Member States in respect of cross-compliance.

(8) Pursuant to Article 75 of Regulation (EU) No 1306/2013 Member States may pay advances as regards direct payments under certain conditions, including the finalisation of the administrative and on-the-spot checks in respect of the claim year concerned. Article 8 of Regulation (EU) No 1307/2013 of the European Parliament and of the Council[(2)] provides that the adjustment rate determined in accordance with Article 26 of Regulation (EU) No 1306/2013 applies to the direct payments in excess of a fixed threshold. However, according to Article 26(4) of Regulation (EU) No 1306/2013 the Commission may, on the basis of new information in its possession, adapt the adjustment rate for direct payments until 1 December. As a consequence, the adjustment rate of financial discipline that may be applied may not yet be known by 16 October. The balance payment as from 1 December should take into account the adjustment rate of financial discipline applicable at that time.

(9) The general framework for the introduction of simplified procedures in the context of communications between the beneficiary and the national authorities should be set up. That framework should, in particular, provide for the possibility to make use of electronic means. It has however to be guaranteed that, in particular, the data thus transmitted is fully reliable and that the relevant procedures are operated without any discrimination between beneficiaries. In order to simplify the administration for the beneficiaries as well as for the national authorities, it should furthermore be possible for the competent authorities to use directly the information at the disposal of the national

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authorities instead of requiring the beneficiary to provide such information to verify the eligibility of certain payments.

(10) To allow effective checks in Member States that decide that all aid applications for direct payments and payment claims for rural development measures in the scope of the integrated system are to be covered by the single application pursuant to Article 72(4) of Regulation (EU) No 1306/2013, it should be provided that any applications for aid or payment claims which are in some way area-related are to be submitted only once per year in one single application.

(11) Member States should fix final dates for the submission of the single application and/or payment claims which, in order to allow timely processing and checks of the aid application and payment claims, should not be later than 15 May. Due to the particular climatic conditions in Estonia, Latvia, Lithuania, Finland and Sweden, those Member States should however be allowed to set a later date which should not be later than 15 June. Moreover, it should be possible to provide for case-by-case derogations should climatic conditions in a given year in the future so require.

(12) In the single application beneficiaries should declare not only the area used for agricultural purposes but also their payment entitlements and any information required in order to establish the eligibility for the aid and/or support. It is however appropriate to allow Member States to derogate from certain obligations where the payment entitlements to be allocated in a given year are not yet definitively established.

(13) To allow as much flexibility as possible with regard to beneficiaries' plans concerning the use of area, they should be allowed to amend their single application or payment claim until such dates where sowing would normally take place, provided that all the particular requirements under the different aid schemes or support measures are respected and that the competent authority has not yet informed the beneficiary of errors in the single application or payment claim, nor notified the on-the-spot check which revealed errors, in relation to the part affected by the amendment. After such amendments have been made, the possibility should be given to adjust the corresponding supporting documents or contracts to be submitted.

(14) Since beneficiaries remain responsible for submitting a correct aid application or payment claim, they should make the necessary corrections and changes to the pre-established form, where appropriate.

(15) In case of aid applications for area-related aid schemes and/or payment claims for area-related support measures, a pre-established form should be provided to the beneficiary in an electronic format and the corresponding graphical material through a software application based on a geographic information system (GIS) (hereinafter referred to as 'geo-spatial aid application form'). Geo-spatial aid application forms will contribute to the prevention of errors by beneficiaries when declaring their agricultural areas and will render administrative cross-checks more efficient. In addition, more accurate spatial information provided with geo-spatial aid application forms will provide more reliable data for the purpose of monitoring and evaluation. Therefore, it is appropriate to require that as of a certain date all such aid applications and/or payment claims are to be submitted on the basis of the electronic geo-spatial aid application form. However,

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where beneficiaries are not able to use that form, the competent authority should provide an alternative to the beneficiaries to enable them to submit an aid application and/or payment claim. In any case, the competent authority should ensure that the declared areas are digitised.

(16) Any specific information related to the production of hemp or to voluntary coupled support, or to the crop-specific payment for cotton should be provided together with the single application, or where appropriate due to the nature of the information at a later date. It should, furthermore, be provided that areas for which no aid is being requested, are declared in the single application form. Since it is important to have detailed information for certain types of use of an area, information on those types of use should be declared separately whilst others may be declared under one heading.

(17) In circumstances where beneficiaries are required to have ecological focus area on the agricultural area in order to be eligible for the payment for agricultural practices beneficial for the climate and the environment referred to in Article 43 of Regulation (EU) No 1307/2013 (‘the greening payment’), beneficiaries should declare the ecological focus area with their aid applications for area-related aid schemes. Where a part of the ecological focus area obligations is implemented at regional level or collectively, the declaration of the ecological focus areas should be complemented with a separate declaration of the ecological focus areas implemented at regional level or collectively.

(18) In order to allow effective monitoring and control, the application for participation in the small farmers scheme should contain a reference to the single application submitted by the same beneficiary. To allow effective checks in respect of the special conditions for the small farmers scheme, all the necessary information should be provided using the simplified application procedure provided for in Article 72(3) of Regulation (EU) No 1306/2013. Furthermore it should be clarified that beneficiaries deciding to withdraw from the small farmers scheme should be required to inform the competent authority in due time in order to allow a smooth transition to the payments pursuant to Titles III and IV of Regulation (EC) No 1307/2013.

(19) In order to enable checks related to cross-compliance obligations, an aid application form should also be submitted by beneficiaries who have agricultural area at their disposal, but do not apply for any of the aid and/or support subject to the single application. However, it is appropriate to allow Member States to exempt beneficiaries from this obligation, where the information is already available to the authorities.

(20) With a view to simplifying the application procedures and in accordance with Article 72(3) of Regulation (EU) No 1306/2013, Member States should provide the beneficiary as far as possible with pre-established forms containing the information necessary to enable the beneficiary to submit a correct aid application or payment claim. It should be possible that the pre-established form is designed in such a way that the beneficiary only needs to confirm the absence of changes with respect to the aid application and/or the payment claim submitted in the previous year.

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(21) Common provisions should be laid down on the details to be included in livestock aid applications or payment claims where a Member State opts for the application of animal-related voluntary coupled support or rural development measures.

(22) In accordance with Article 53(4) of Commission Delegated Regulation (EU) No 639/2014[(3)], payments under the animal-related voluntary coupled support or rural development measures may only be made for animals that are properly identified and registered in accordance with Regulation (EC) No 1760/2000 of the European Parliament and of the Council[(4)] or Council Regulation (EC) No 21/2004[(5)]. Beneficiaries submitting aid applications or payment claims under the aid schemes or support measures concerned should therefore be given access to the relevant information in due time.

(23) The timely submission of applications for payment entitlements by beneficiaries is essential for the Member States to be in a position to establish payment entitlements. Therefore a final date for submission should be set.

(24) Rules need to be established to cover the situations in which undue payment entitlements were allocated, in particular as a result of over-declaration, or in which the value of the payment entitlements was fixed at an incorrect level, for example, because it was calculated on the basis of an incorrect reference amount. It should be made clear that any adjustment to the number and/or value of payment entitlements should not lead to a systematic recalculation of the remaining payment entitlements. In certain cases, unduly allocated payment entitlements correspond to very small amounts, but lead to substantial costs and an administrative burden when recovering them. For the sake of simplification and to strike a balance between the costs and the administrative burden on the one hand and the amount to be recovered on the other hand, a minimum amount should be fixed under which no recovery needs to be made.

(25) Compliance with the provisions on the aid schemes and support measures under the integrated system should be effectively monitored. To this end, and to ensure a harmonised level of monitoring in all Member States, it is necessary to set out in detail the criteria and technical procedures for carrying out administrative and on-the-spot checks in respect of the eligibility criteria, commitments and other obligations established for the direct payment schemes, rural development measures and cross-compliance.

(26) It should be clarified that whenever photo-interpretation is performed, for example during on-the-spot checks or in the context of updating the identification system for agricultural parcels, and whenever this photo-interpretation does not lead to conclusive results, field checks should be carried out.

(27) The announcement of on-the-spot checks for eligibility or cross-compliance should only be allowed when such announcement would not jeopardise the checks, and in any case appropriate time limits should apply. Furthermore, where specific sectoral rules for acts or standards relevant for cross-compliance provide for unannounced on-the-spot checks, those rules should be respected.