Changes to legislation: *There are outstanding changes not yet made to Regulation (EU) No 1151/2012 of the European Parliament and of the Council. 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*

Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs

REGULATION (EU) No 1151/2012 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 21 November 2012

on quality schemes for agricultural products and foodstuffs

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 43(2) and the first paragraph of Article 118 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee[(1)],

Having regard to the opinion of the Committee of the Regions[(2)],

Acting in accordance with the ordinary legislative procedure[(3)],

Whereas:

(1) The quality and diversity of the Union's agricultural, fisheries and aquaculture production is one of its important strengths, giving a competitive advantage to the Union's producers and making a major contribution to its living cultural and gastronomic heritage. This is due to the skills and determination of Union farmers and producers who have kept traditions alive while taking into account the developments of new production methods and material.

(2) Citizens and consumers in the Union increasingly demand quality as well as traditional products. They are also concerned to maintain the diversity of the agricultural production in the Union. This generates a demand for agricultural products or foodstuffs with identifiable specific characteristics, in particular those linked to their geographical origin.

(3) Producers can only continue to produce a diverse range of quality products if they are rewarded fairly for their effort. This requires that they are able to communicate to buyers and consumers the characteristics of their product under conditions of fair competition. It also requires them to be able to correctly identify their products on the marketplace.

(4) Operating quality schemes for producers which reward them for their efforts to produce a diverse range of quality products can benefit the rural economy. This is particularly the case in less favoured areas, in mountain areas and in the most remote regions, where the farming sector accounts for a significant part of the economy and production costs are high. In this way quality schemes are able to contribute to and complement rural development policy as well as market and income support policies of the common

Changes to legislation: *There are outstanding changes not yet made to Regulation (EU) No 1151/2012 of the European Parliament and of the Council. 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*

agricultural policy (CAP). In particular, they may contribute to areas in which the farming sector is of greater economic importance and, especially, to disadvantaged areas.

(5) The Europe 2020 policy priorities as set out in the Commission Communication entitled 'Europe 2020: A strategy for smart, sustainable and inclusive growth', include the aims of achieving a competitive economy based on knowledge and innovation and fostering a high-employment economy delivering social and territorial cohesion. Agricultural product quality policy should therefore provide producers with the right tools to better identify and promote those of their products that have specific characteristics while protecting those producers against unfair practices.

(6) The set of complementary measures envisaged should respect the principles of subsidiarity and proportionality.

(7) Agricultural product quality policy measures are laid down in Council Regulation (EEC) No 1601/91 of 10 June 1991 laying down general rules on the definition, description and presentation of aromatized wines, aromatized wine-based drinks and aromatized wine-product cocktails[(4)]; Council Directive 2001/110/EC of 20 December 2001 relating to honey[(5)] and in particular in Article 2 thereof, Council Regulation (EC) No 247/2006 of 30 January 2006 laying down specific measures for agriculture in the outermost regions of the Union[(6)] and in particular in Article 14 thereof; Council Regulation (EC) No 509/2006 of 20 March 2006 on agricultural products and foodstuffs as traditional specialities guaranteed[(7)]; Council Regulation (EC) No 510/2006 of 20 March 2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs[(8)]; Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation)[(9)] and in particular in Part II, Title II, Chapter I, Section I and in Section Ia, Subsection I thereof; Council Regulation (EC) No 834/2007 of 28 June 2007 on organic production and labelling of organic products[(10)]; and Regulation (EC) No 110/2008 of the European Parliament and of the Council of 15 January 2008 on the definition, description, presentation, labelling and the protection of geographical indications of spirit drinks[(11)].

(8) The labelling of agricultural products and foodstuffs should be subject to the general rules laid down in Directive 2000/13/EC of the European Parliament and of the Council of 20 March 2000 on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs[(12)], and in particular the provisions aimed at preventing labelling that may confuse or mislead consumers.

(9) The Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on agricultural product quality policy identified the achievement of a greater overall coherence and consistency of agricultural product quality policy as a priority.

(10) The geographical indications scheme for agricultural products and foodstuffs and the traditional specialities guaranteed scheme have certain common objectives and provisions.

***Changes to legislation:** There are outstanding changes not yet made to Regulation (EU) No 1151/2012 of the European Parliament and of the Council. 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*

(11) The Union has for some time been pursuing an approach that aims to simplify the regulatory framework of the CAP. This approach should also be applied to regulations in the field of agricultural product quality policy, without, in so doing, calling into question the specific characteristics of those products.

(12) Some regulations that form part of the agricultural product quality policy have been reviewed recently but are not yet fully implemented. As a result, they should not be included in this Regulation. However, they may be incorporated at a later stage, once the legislation has been fully implemented.

(13) In the light of the aforementioned considerations, the following provisions should be amalgamated into a single legal framework comprising the new or updated provisions of Regulations (EC) No 509/2006 and (EC) No 510/2006 and those provisions of Regulations (EC) No 509/2006 and (EC) No 510/2006 that are maintained.

(14) In the interests of clarity and transparency, Regulations (EC) No 509/2006 and (EC) No 510/2006 should therefore be repealed and replaced by this Regulation.

(15) The scope of this Regulation should be limited to the agricultural products intended for human consumption listed in Annex I to the Treaty and to a list of products outside the scope of that Annex that are closely linked to agricultural production or to the rural economy.

(16) The rules provided for in this Regulation should apply without affecting existing Union legislation on wines, aromatised wines, spirit drinks, product of organic farming, or outermost regions.

(17) The scope for designations of origin and geographical indications should be limited to products for which an intrinsic link exists between product or foodstuff characteristics and geographical origin. The inclusion in the current scheme of only certain types of chocolate as confectionery products is an anomaly that should be corrected.

(18) The specific objectives of protecting designations of origin and geographical indications are securing a fair return for farmers and producers for the qualities and characteristics of a given product, or of its mode of production, and providing clear information on products with specific characteristics linked to geographical origin, thereby enabling consumers to make more informed purchasing choices.

(19) Ensuring uniform respect throughout the Union for the intellectual property rights related to names protected in the Union is a priority that can be achieved more effectively at Union level.

(20) A Union framework that protects designations of origin and geographical indications by providing for their inclusion on a register facilitates the development of those instruments, since the resulting, more uniform, approach ensures fair competition between the producers of products bearing such indications and enhances the credibility of the products in the consumers' eyes. Provision should be made for the development of designations of origin and geographical indications at Union level and for promoting the creation of mechanisms for their protection in third countries in the framework of the World Trade Organisation (WTO) or multilateral and bilateral agreements,

Changes to legislation: *There are outstanding changes not yet made to Regulation (EU) No 1151/2012 of the European Parliament and of the Council. 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*

thereby contributing to the recognition of the quality of products and of their model of production as a factor that adds value.

(21) In the light of the experience gained from the implementation of Council Regulation (EEC) No 2081/92 of 14 July 1992 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs[13] and Regulation (EC) No 510/2006, there is a need to address certain issues, to clarify and simplify some rules and to streamline the procedures of this scheme.

(22) In the light of existing practice, the two different instruments for identifying the link between the product and its geographical origin, namely the protected designation of origin and the protected geographical indication, should be further defined and maintained. Without changing the concept of those instruments, some modifications to the definitions should be adopted in order to better take into account the definition of geographical indications laid down in the Agreement on Trade-Related Aspects of Intellectual Property Rights and to make them simpler and clearer for operators to understand.

(23) An agricultural product or foodstuff bearing such a geographical description should meet certain conditions set out in a specification, such as specific requirements aimed at protecting the natural resources or landscape of the production area or improving the welfare of farm animals.

(24) To qualify for protection in the territories of Member States, designations of origin and geographical indications should be registered only at Union level. With effect from the date of application for such registration at Union level, Member States should be able to grant transitional protection at national level without affecting intra-Union or international trade. The protection afforded by this Regulation upon registration, should be equally available to designations of origin and geographical indications of third countries that meet the corresponding criteria and that are protected in their country of origin.

(25) The registration procedure at Union level should enable any natural or legal person with a legitimate interest from a Member State, other than the Member State of the application, or from a third country, to exercise their rights by notifying their opposition.

(26) Entry in the register of protected designations of origin and protected geographical indications should also provide information to consumers and to those involved in trade.

(27) The Union negotiates international agreements, including those concerning the protection of designations of origin and geographical indications, with its trade partners. In order to facilitate the provision to the public of information about the names so protected, and in particular to ensure protection and control of the use to which those names are put, the names may be entered in the register of protected designations of origin and protected geographical indications. Unless specifically identified as designations of origin in such international agreements, the names should be entered in the register as protected geographical indications.

(28) In view of their specific nature, special provisions concerning labelling should be adopted in respect of protected designations of origin and protected geographical

***Changes to legislation:** There are outstanding changes not yet made to Regulation (EU) No 1151/2012 of the European Parliament and of the Council. 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*

indications that require producers to use the appropriate Union symbols or indications on packaging. In the case of Union names, the use of such symbols or indications should be made obligatory in order to make this category of products, and the guarantees attached to them, better known to consumers and in order to permit easier identification of these products on the market, thereby facilitating checks. Taking into account the requirements of the WTO, the use of such symbols or indications should be made voluntary for third-country geographical indications and designations of origin.

(29) Protection should be granted to names included in the register with the aim of ensuring that they are used fairly and in order to prevent practices liable to mislead consumers. In addition, the means of ensuring that geographical indications and designations of origin are protected should be clarified, particularly as regards the role of producer groups and competent authorities of Member States.

(30) Provision should be made for specific derogations that permit, for transitional periods, the use of a registered name alongside other names. Those derogations should be simplified and clarified. In certain cases, in order to overcome temporary difficulties and with the long-term objective of ensuring that all producers comply with the specifications, those derogations may be granted for a period of up to 10 years.

(31) The scope of the protection granted under this Regulation should be clarified, in particular with regard to those limitations on registration of new trade marks set out in Directive 2008/95/EC of the European Parliament and of the Council of 22 October 2008 to approximate the laws of the Member States relating to trade marks[(14)] that conflict with the registration of protected designations of origin and protected geographical indications as is already the case for the registration of new trade marks at Union level. Such clarification is also necessary with regard to the holders of prior rights in intellectual property, in particular those concerning trade marks and homonymous names registered as protected designations of origin or as protected geographical indications.

(32) Protection of designations of origin and geographical indications should be extended to the misuse, imitation and evocation of the registered names on goods as well as on services in order to ensure a high level of protection and to align that protection with that which applies to the wine sector. When protected designations of origin or protected geographical indications are used as ingredients, the Commission Communication entitled ‘Guidelines on the labelling of foodstuffs using protected designations of origin (PDOs) or protected geographical indications (PGIs) as ingredients’ should be taken into account.

(33) The names already registered under Regulation (EC) No 510/2006 on 3 January 2013 should continue to be protected under this Regulation and they should be automatically included in the register.

(34) The specific objective of the scheme for traditional specialities guaranteed is to help the producers of traditional products to communicate to consumers the value-adding attributes of their product. However, as only a few names have been registered, the current scheme for traditional specialities guaranteed has failed to realise its potential. Current provisions should therefore be improved, clarified and sharpened in order