Commission Implementing Regulation (EU) No 1368/2011 of 21 December 2011 amending Regulation (EC) No 1121/2009 laying down detailed rules for the application of Council Regulation (EC) No 73/2009 as regards the support schemes for farmers provided for in Titles IV and V thereof, and Regulation (EC) No 1122/2009 laying down detailed rules for the implementation of Council Regulation (EC) No 73/2009 as regards cross-compliance, modulation and the integrated administration and control system, under the direct support schemes for farmers provided for in that Regulation, as well as for the implementation of Council Regulation (EC) No 1234/2007 as regards cross-compliance under the support scheme provided for the wine sector

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amending Regulation (EC) No 1121/2009 laying down detailed rules for the application of Council Regulation (EC) No 73/2009 as regards the support schemes for farmers provided for in Titles IV and V thereof, and Regulation (EC) No 1122/2009 laying down detailed rules for the implementation of Council Regulation (EC) No 73/2009 as regards cross-compliance, modulation and the integrated administration and control system, under the direct support schemes for farmers provided for in that Regulation, as well as for the implementation of Council Regulation (EC) No 1234/2007 as regards cross-compliance under the support scheme provided for the wine sector

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EC) No 73/2009 of 19 January 2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers, amending Regulations (EC) No 1290/2005, (EC) No 247/2006, (EC) No 378/2007 and repealing Regulation (EC) No 1782/2003[(1)], and in particular points (c), (l), and (n) of Article 142,

Whereas:

(1) On the basis of the experience gained and in particular the improvements made in the supporting systems used by the national administrations when implementing Commission Regulation (EC) No 1121/2009[(2)] and Commission Regulation (EC) No 1122/2009[(3)] it is appropriate to improve and simplify these two Regulations as regards the administration of direct payments and the related controls.

(2) In accordance with the second subparagraph of Article 16(3) of Regulation (EC) No 1122/2009, Member States may use information available in the computerised database of the identification and registration system of bovine animals for an aid application for bovine animals. It is appropriate to introduce a clarification on the start of the retention period applicable pursuant to Article 61 of Regulation (EC) No 1121/2009 where Member States have made use of this possibility. In addition, these Member

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States should, for the sake of simplification, be enabled to replace the submission of an application provided for in Article 62 of that Regulation by the submission of a statement of participation. Regulation (EC) No 1121/2009 should therefore be amended accordingly.

(3) Certain definitions set out in Regulation (EC) No 1122/2009 should be updated. Furthermore, the separate soft fruit payment provided for in Article 129 of Regulation (EC) No 73/2009 will be introduced as from 2012. Hence, the definition of area-related aid schemes should be amended accordingly and provision should be made for an appropriate application procedure.

(4) According to Article 11(2) of Regulation (EC) No 1122/2009, Member States have to determine a latest date for submitting the single application. After submission of the single application, farmers have the possibility to amend their application within the deadlines set in Article 14(2) of Regulation (EC) No 1122/2009. Administrative controls and on-the-spot checks depend on the receipt of final applications by Member States. Member States choosing to set the latest date for the submission of applications at an earlier date than the latest dates established in Article 11(2) of Regulation (EC) No 1122/2009 should also be able to start and finalise controls earlier. These Member States should therefore be allowed to establish a latest date for the amendments to the single application at an earlier date than the latest date established in Article 14(2). However, to give farmers sufficient time to notify possible changes, that date should not be earlier than 15 days after the latest date fixed by Member States for the submission of the single application.

(5) Due to the introduction of area-related support decoupled from production, the on-the-spot checks are in many cases limited to the verification of the size and the eligibility status of the area concerned. Those checks are to a large extent performed by remote sensing. In parallel, Member States regularly update their identification system for agricultural parcels. The methodology used for such updates may be similar to the performance of on-the-spot checks by means of remote sensing. Therefore, in a spirit of simplification and with a view to reducing administrative costs, it is appropriate to allow Member States performing a systematic update of the identification systems for agricultural parcels to use the results thereof as a replacement of part of the traditional on-the-spot checks. To avoid creating any additional risk for irregular payments, criteria to be fulfilled by management and control systems in the Member States opting for this possibility should be defined. Those criteria should in particular address the intervals and the coverage of the update, any particulars on the ortho-images used, the required quality of the identification system for agricultural parcels and the maximum yearly error rate.

(6) The requirement for bovine animals in a farm to comply with Regulation (EC) No 1760/2000 of the European Parliament and the Council of 17 July 2000 establishing a system for the identification and registration of bovine animals and regarding the labelling of beef and beef products and repealing Council Regulation (EC) No 820/97[(4)] is controlled via the on-the-spot checks performed under cross compliance. Currently, there is also an obligation to check animals for which no aid is claimed in the context of

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eligibility controls of direct payments. This additional control is applied only in those Member States that have chosen to maintain any coupled direct payments for bovine animals. However, in order to have an equal control burden in all Member States and to simplify the on-the-spot checks for the farmers and the national authorities, it is appropriate to abolish the check of animals for which no aid is claimed in the context of eligibility controls unless Member States make use of the possibility provided for in the second subparagraph of Article 16(3) of Regulation (EC) No 1122/2009.

(7) According to Article 16(1) of Regulation (EC) No 1122/2009, where an animal is moved to another location during the retention period, the farmer has to inform the competent authority. To avoid the risk of disproportionate reductions of the payment, rules on animals determined as eligible for payment should be established for the cases where the notification of movements of animals has been omitted but where the relevant animals can be immediately identified within the holding of the farmer concerned during the on-the-spot check.

(8) Rules on the identification and registration system of animals should in particular ensure traceability of animals. A loss of both ear-tags of a bovine animal as well as the loss of any ear-tag of an ovine or caprine animal would render the animal ineligible for payments and also leads to reductions under Articles 65 and 66 of Regulation (EC) No 1122/2009. However, there are situations where those animals could be identified by other means and where traceability of the relevant animals is thus ensured.

(9) According to Article 63(4)(a) of Regulation (EC) No 1122/2009, when a bovine animal declared for payment has lost one of the two ear tags and can be clearly and individually identified by other means of the identification and registration system for bovine animals, that animal is still included in the number of animals determined and thus eligible for payment. Moreover, the system for identification and registration of bovine animals is in general well established. Therefore, where one bovine animal has lost both ear tags and its identity can be established without any doubt it should also be included in the number of animals determined and thus eligible for payment. This should however only apply if the farmer has taken measures to remedy the situation before the announcement of the on-the-spot check and, in order to avoid any risk of irregular payments, the application of this rule should be limited to one single animal.

(10) A new improved system for identification of ovine and caprine animals under Council Regulation (EC) No 21/2004 of 17 December 2003 establishing a system for the identification and registration of ovine and caprine animals and amending Regulation (EC) No 1782/2003 and Directives 92/102/EEC and 64/432/EEC[(5)] has been implemented and it is therefore appropriate to introduce a similar provision for ovine and caprine animals declared for payment.

(11) Member States making use of the possibility provided for in the second subparagraph of Article 16(3) of Regulation (EC) No 1122/2009 should be allowed to provide that the notifications to the computerised database for identification and registration of bovine animals replace the notification from that farmer in case of a replacement of an animal during the retention period. This possibility should be made available to all Member States.

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(12) Furthermore, certain provisions of Regulation (EC) No 1122/2009 have become obsolete and should be deleted.

(13) Regulation (EC) No 1122/2009 should therefore be amended accordingly.

(14) The Management Committee for the Common Organisation of Agricultural Markets and the Management Committee for Direct Payments have not delivered an opinion within the time limit set by their chairman,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1121/2009 is amended as follows:

(1) in Article 61, the following paragraph is added:

However, where a Member State makes use of the possibility provided for in the second subparagraph of Article 16(3) of Regulation (EC) No 1122/2009, it shall fix the date when the period referred to in the first paragraph of this Article starts.;

(2) in Article 62, the following paragraph 3 is added:

3. Where a Member State makes use of the possibility provided for in the second subparagraph of Article 16(3) of Regulation (EC) No 1122/2009, the application for the suckler cow premium may take the form of a statement of participation which shall also fulfil the requirements laid down in points (a) and (b) of the first subparagraph of paragraph 1 of this Article. The Member State may decide that a statement of participation submitted for a given year is valid for one or more subsequent years where the information provided in the statement of participation remains accurate..

Article 2

Regulation (EC) No 1122/2009 is amended as follows:

(1) Article 2 is amended as follows:

(a) point (12) is replaced by the following:

(12) “area-related aid schemes” means the single payment scheme, area-related payments under specific support and all aid schemes established under Titles IV and V of Regulation (EC) No 73/2009, except those established under Sections 7, 10, and 11 of that Title IV, except the separate sugar payment established in Article 126 of that Regulation, except the separate fruit and vegetable payment established in Article 127 of that Regulation and except the separate soft fruit payment established in Article 129 of that Regulation.;

(b) point (21) is replaced by the following:

(21) “retention period” means the period during which an animal for which aid has been claimed has to be kept on the holding, as provided for in Article 35(3) and Article 61 of Commission Regulation (EC) No 1121/2009[6]

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(2) Article 13 is amended as follows:

(a) paragraphs 2, 3 and 4 are deleted;

(b) in paragraph 6, the first subparagraph is replaced by the following:

6. In the case of an application for transitional fruit and vegetables payments provided for in Section 8 of Chapter 1 of Title IV of Regulation (EC) No 73/2009 the single application shall contain a copy of the contract for processing or the commitment to supply provided for in Article 32 of Regulation (EC) No 1121/2009.;

(c) in paragraph 8, the first subparagraph is replaced by the following:

8. Uses of area referred to in Articles 6(2) of Regulation (EC) No 73/2009 and those listed in Annex VI to that Regulation or areas declared for the specific support provided for in Article 68 of Regulation (EC) No 73/2009, where those areas do not have to be declared in accordance with this Article, shall be declared under a separate heading in the single application form.;

(3) in Article 14, paragraph 2, the following subparagraph is added:

By way of derogation from the first subparagraph Member States may fix an earlier latest date for the notification of amendments. That date shall however not be earlier than 15 calendar days after the latest date for submitting the single application fixed in accordance with Article 11(2).;

(4) in Part II, Title II, the title of Chapter IV is replaced by the following:

Aid for sugar beet and cane producers, separate sugar payment, separate fruit and vegetables payment and separate soft fruit payment;

(5) Article 17 is amended as follows:

(a) the title is replaced by the following:

Requirements pertaining to applications for the aid for sugar beet and cane producers, the separate sugar payment, the separate fruit and vegetables payment and the separate soft fruit payment;

(b) in paragraph 1, the introductory phrase is replaced by the following:

1. Farmers applying for the aid for sugar beet and cane producers provided for in Section 7 of Chapter 1 of Title IV of Regulation (EC) No 73/2009, for the separate sugar payment provided for in Article 126 of that Regulation, for the separate fruit and vegetables payment provided for in Article 127 or for the separate soft fruit payment provided for in Article 129 of that Regulation shall submit an aid application containing all information necessary to establish eligibility for the aid, and in particular:;

(6) in Article 28(1), point (f) is deleted;

(7) a new Article 31a is inserted: