

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

TITLE III

CHECKS

CHAPTER I

*Common provisions*

*Article 24*

**General principles**

1. Administrative checks and on-the-spot checks provided for in this Regulation shall be made in such a way as to ensure effective verification of:
  - (a) the correctness and completeness of the information provided in the aid application, application for support, payment claim or other declaration;
  - (b) compliance with all eligibility criteria, commitments and other obligations for the aid scheme and/or support measure concerned, the terms under which aid and/or support or exemption from obligations are granted;
  - (c) the requirements and standards relevant for cross-compliance.
2. Member States shall ensure that compliance with all conditions applicable established by Union law or laid down in relevant national law and documents containing implementing arrangements or by the rural development programme can be checked according to a set of verifiable indicators to be established by the Member States.
3. The results of the administrative and on-the-spot checks shall be assessed to establish whether any problems encountered could in general entail a risk for other similar operations, beneficiaries or other bodies. The assessment shall also identify the causes of such situations, any further examination which may be required and necessary corrective and preventive actions.
- [<sup>F14</sup>4. The competent authority shall carry out physical inspections in the field in the event that photo-interpretation of satellite or aerial ortho-images or other relevant evidence including evidence provided by the beneficiary at the request of the competent authority do not provide results that would permit definitive conclusions to be drawn to the satisfaction of the competent authority concerning the eligibility or, where applicable, the correct size of the area that is the subject of administrative or on-the-spot checks.]
5. This Chapter shall apply to all checks carried out under this Regulation and without prejudice to specific rules provided for in Title IV and V. Paragraph 3 shall however not apply to Title V.

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*Changes to legislation: There are outstanding changes not yet made to Commission Implementing Regulation (EU) No 809/2014. 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)*

#### Textual Amendments

- F1** Substituted by [Commission Implementing Regulation \(EU\) 2018/746 of 18 May 2018 amending Implementing Regulation \(EU\) No 809/2014 as regards modification of single applications and payment claims and checks.](#)

### Article 25

#### Announcement of on-the-spot checks

On-the-spot checks may be announced provided that it does not interfere with their purpose or effectiveness. Any announcement shall be strictly limited to the minimum time period necessary and shall not exceed 14 days.

[<sup>F2</sup>However, for on-the-spot checks concerning livestock aid applications or payment claims under animal-related support measures or commitments notified in accordance with Article 14a(5), the announcement shall not exceed 48 hours, except in duly justified cases. Furthermore, where the legislation applicable to the acts and standards relevant to cross-compliance requires the on-the-spot check to be unannounced, those rules shall also apply in the case of on-the-spot checks related to cross-compliance.]

#### Textual Amendments

- F2** Substituted by [Commission Implementing Regulation \(EU\) 2015/2333 of 14 December 2015 amending Implementing Regulation \(EU\) No 809/2014 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.](#)

### Article 26

#### Timing of on-the-spot checks

1. Where appropriate, on-the-spot checks provided for in this Regulation shall be carried out at the same time as any other checks provided for in Union law.

2. For the purpose of rural development measures in the scope of the integrated system, the on-the-spot checks shall be spread over the year on the basis of an analysis of the risks presented by the different commitments under each measure.

[<sup>F3</sup>The on-the-spot checks on commitments notified in accordance with Article 14a(5) shall be carried out within the time limits that ensure an effective verification of the commitment notified.]

3. On-the-spot checks shall verify compliance with all eligibility criteria, commitments and other obligations of those aid schemes or support measures for which a beneficiary has been selected in accordance with Article 34.

The duration of on-the-spot checks shall be strictly limited to the minimum time period necessary.

4. Where certain eligibility criteria, commitments and other obligations can only be checked during a specific time period, the on-the-spot checks may require additional visits at

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a later date. In such a case, the on-the-spot checks shall be coordinated in such a way to limit the number and the duration of such visits to one beneficiary to the minimum required. Where appropriate, such visits may also be carried out by way of remote sensing in accordance with Article 40.

Where additional visits relating to land laying fallow, field margins, buffer strips, strips of eligible hectares along forest edges, catch crops and/or green cover declared as ecological focus area are required, the number of those additional visits shall for 50 % of the cases concern the same beneficiary, selected on a risk based basis, and for the remaining 50 % of the cases different additionally selected beneficiaries. The different additional beneficiaries shall be selected randomly from all beneficiaries having land laying fallow, field margins, buffer strips, strips of eligible hectares along forest edges, catch crops and/or green cover declared as ecological focus area and such visits may be limited to the areas declared as land laying fallow, field margins, buffer strips, strips of eligible hectares along forest edges, catch crops and/or green cover.

Where additional visits are required, Article 25 shall apply to each additional visit.

#### **Textual Amendments**

- F3** Inserted by [Commission Implementing Regulation \(EU\) 2015/2333 of 14 December 2015 amending Implementing Regulation \(EU\) No 809/2014 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.](#)

### *Article 27*

#### **Cross-notification of results of checks**

Where applicable, administrative and on-the-spot checks on eligibility shall take into account suspected cases of non-compliance reported by other services, bodies or organisations.

[<sup>F4</sup>Member States shall ensure that all relevant findings made in the framework of the checks on compliance with the eligibility criteria, commitments and other obligations in respect of the schemes listed in Annex I to Regulation (EU) No 1307/2013, requirements and standards relevant for cross-compliance, and/or support under rural development measures in the scope of the integrated system are cross-notified to the relevant competent authority in charge of granting the corresponding payment. Member States shall also ensure that public or private certification authorities referred to in Article 38 of Delegated Regulation (EU) No 639/2014 notify the competent authority in charge of granting the payment for agricultural practices beneficial for the climate and the environment of any finding relevant for the correct granting of such payment to beneficiaries who opted for fulfilling their obligations through the equivalence by certification.]

Where the administrative or on-the-spot checks in relation to rural development measures in the scope of the integrated system cover equivalent practices as referred to in Article 43(3) of Regulation (EU) No 1307/2013, the results of such checks shall be cross-notified for follow-up in respect of granting the payment for agricultural practices beneficial for the climate and the environment.

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### Textual Amendments

- F4** Substituted by [Commission Implementing Regulation \(EU\) 2019/1804 of 28 October 2019 amending Implementing Regulation \(EU\) No 809/2014 as regards amendments of aid applications or payment claims, checks in the integrated administration and control system and the control system in relation to cross compliance.](#)

## CHAPTER II

### *Administrative checks within the integrated system*

#### *Article 28*

#### **Administrative checks**

1. The administrative checks referred to in Article 74 of Regulation (EU) No 1306/2013, including cross-checks, shall permit the detection of non-compliances, in particular the automated detection using computerised means. The checks shall cover all elements that are possible and appropriate to control by means of administrative checks. They shall ensure that:

- (a) the eligibility criteria, commitments and other obligations for the aid scheme or support measure are fulfilled;
- (b) there is no double financing through other Union schemes;
- (c) the aid application or payment claim is complete and submitted within the relevant time-limit and, where applicable, that supporting documents have been submitted and that they prove eligibility;
- (d) there is compliance with long-term commitments, where appropriate.

2. In respect of animal aid schemes and animal-related support measures, Member States may, where appropriate, make use of evidence received from other services, bodies or organisations to verify the compliance with the eligibility criteria, commitments and other obligations, provided that the service, body or organisation in question is operating to a standard sufficient to control such compliance.

#### *Article 29*

#### **Cross-checks**

1. Where appropriate, the administrative checks shall include cross-checks:
  - (a) on declared payment entitlements and on declared agricultural parcels, respectively, in order to avoid multiple granting of the same aid or support in respect of the same calendar or claim year and to prevent any undue accumulation of aid granted under area-related aid schemes listed in Annex I to Regulation (EU) No 1307/2013 and Annex VI to Council Regulation (EC) No 73/2009<sup>(1)</sup>, and area-related support measures as defined in point (21) of the second subparagraph of Article 2 of Delegated Regulation (EU) No 640/2014;
  - (b) on the payment entitlements to verify their existence and the eligibility for aid;

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- (c) between the agricultural parcels as declared in the single application and/or payment claim and the information as contained in the identification system for agricultural parcels per reference parcel in accordance with Article 5(2) of Delegated Regulation (EU) No 640/2014 to verify the eligibility for direct payment scheme and/or rural development measure of the areas as such;
- (d) between the payment entitlements and the area determined in order to verify that the entitlements are accompanied by at least an equal number of eligible hectares as defined in Article 32(2) to (6) of Regulation (EU) No 1307/2013;
- (e) by means of the system for the identification and registration of animals, to verify eligibility for the aid and/or support and to avoid undue multiple granting of the same aid and/or support in respect of the same calendar or claim year;
- (f) between the declarations of the beneficiary in the single application to be a member of an approved inter-branch organisation, the information under Article 17(8) of this Regulation and the information transmitted by the approved inter-branch organisations concerned, to verify eligibility for the increase of the aid provided for in Article 60(2) of Regulation (EU) No 1307/2013;
- (g) to verify the compliance with the criteria for the approval of inter-branch organisations and the list of their members at least once every 5 years.

For the purposes of point (c) of the first subparagraph, where the integrated system provides for geo-spatial aid application forms, the cross-checks shall be carried out as spatial intersection of the digitised area declared with the identification system of agricultural parcels. In addition, cross-checks shall be carried out to prevent double claiming of the same area.

[<sup>F5</sup>Data from applications or concerning applicants found not to be admissible or not eligible for payment as referred to in Article 34(1) shall be used for the purposes of points (a), (c) and (e) of the first subparagraph of this paragraph.]

2. Indications of non-compliance resulting from cross-checks shall be followed-up by any other appropriate administrative procedure, and where necessary, by an on-the-spot check.

3. Where a reference parcel is subject to an aid application and/or payment claim by two or more beneficiaries under the same aid scheme or under the same support measure and where the agricultural parcels declared are spatially overlapping or where the overall area declared exceeds the maximum eligible area determined in accordance with points (a) and (b) of Article 5(2) of Delegated Regulation (EU) No 640/2014, and the difference falls within the measurement tolerance defined in accordance with Article 38 of this Regulation in respect of that reference parcel, Member State may provide for a proportional reduction of the areas concerned, unless a beneficiary demonstrates that any of the other beneficiaries concerned over-declared his areas to the detriment of the former.

#### Textual Amendments

- F5** Inserted by [Commission Implementing Regulation \(EU\) 2018/746 of 18 May 2018 amending Implementing Regulation \(EU\) No 809/2014 as regards modification of single applications and payment claims and checks.](#)

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## CHAPTER III

### ***On-the-spot checks within the integrated system***

#### *Section 1*

#### ***Common provisions***

#### *Article 30*

#### **Control rate for area-related aid schemes other than the payment for agricultural practices beneficial for the climate and environment**

For area-related aid schemes other than the payment for agricultural practices beneficial for the climate and the environment in accordance with Chapter 3 of Title III of Regulation (EU) No 1307/2013 (hereinafter referred to as ‘the greening payment’), the control sample for on-the-spot checks carried out each year shall cover at least:

- (a) 5 % of all beneficiaries applying for the basic payment scheme or the single area payment scheme in accordance with Chapter 1 of Title III of Regulation (EU) No 1307/2013. Member States shall ensure that the control sample contains at least 5 % of all beneficiaries declaring mainly agricultural areas which are areas naturally kept in a state suitable for grazing in accordance with Article 10(1) of Delegated Regulation (EU) No 639/2014;
- (b) 5 % of all beneficiaries applying for the redistributive payment in accordance with Chapter 2 of Title III of Regulation (EU) No 1307/2013;
- (c) 5 % of all beneficiaries applying for the payment for areas with natural constraints in accordance with Chapter 4 of Title III of Regulation (EU) No 1307/2013;
- (d) 5 % of all beneficiaries applying for the payment for young farmers in accordance with Chapter 5 of Title III of Regulation (EU) No 1307/2013;
- (e) 5 % of all beneficiaries applying for area-related payments under voluntary coupled support in accordance with Chapter 1 of Title IV of Regulation (EU) No 1307/2013;
- (f) 5 % of all beneficiaries applying for the payment under the small farmers scheme in accordance with Title V of Regulation (EU) No 1307/2013;
- (g) 30 % of the areas declared for the production of hemp in accordance with Article 32(6) of Regulation (EU) No 1307/2013;
- (h) 5 % of all beneficiaries applying for the crop specific payment for cotton in accordance with Chapter 2 of Title IV of Regulation (EU) No 1307/2013.

#### *Article 31*

#### **Control rate for the greening payment**

1. For the greening payment, the control sample for on-the-spot checks carried out each year shall cover at least:

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- (a) 5 % of all beneficiaries required to observe the agricultural practices beneficial for the climate and the environment (hereinafter referred to as ‘the greening practices’), and who are not part of the control populations referred to in points (b) and (c) (hereinafter referred to as ‘the control population for greening’); this sample shall, at the same time, cover at least 5 % of all beneficiaries having areas covered with permanent grasslands which are environmentally sensitive in areas covered by Council Directive 92/43/EEC<sup>(2)</sup> or Directive 2009/147/EC of the European Parliament and of the Council<sup>(3)</sup> and further sensitive areas referred to in Article 45(1) of Regulation (EU) No 1307/2013;
- (b) 3 % of:
  - (i) either all beneficiaries qualifying for the greening payment who are exempted from both the crop diversification and the ecological focus area obligations by not meeting the thresholds referred to in Articles 44 and 46 of Regulation (EU) No 1307/2013 and who are not concerned by the obligations referred to in Article 45 of that Regulation;
  - (ii) or, in the years where Article 44 of Delegated Regulation (EU) No 639/2014 does not apply in a Member State, the beneficiaries qualifying for the greening payment who are exempted from both the crop diversification and the ecological focus area obligations by not meeting the thresholds referred to in Articles 44 and 46 of Regulation (EU) No 1307/2013 and who are not concerned by the obligations referred to in Article 45(1) of that Regulation;
- (c) 5 % of all beneficiaries required to observe the greening practices and using national or regional environmental certification schemes as referred to in Article 43(3)(b) of Regulation (EU) No 1307/2013;
- (d) 5 % of all beneficiaries participating in a regional implementation in accordance with Article 46(5) of Regulation (EU) No 1307/2013;
- (e) 5 % of the collective implementation in accordance with Article 46(6) of Regulation (EU) No 1307/2013;
- (f) 100 % of the contiguous structures of adjacent ecological focus areas as referred to in Article 46(3) of Delegated Regulation (EU) No 639/2014;
- (g) [<sup>F1</sup>100 % of all parcels on which an obligation to re-convert land into land under permanent grassland according to Article 42 of Delegated Regulation (EU) No 639/2014 applies;]
- (h) 20 % of all beneficiaries with an obligation to re-convert land into land under permanent grassland according to Article 44(2) and (3) of Delegated Regulation (EU) No 639/2014.

2. Beneficiaries who observe the greening practices through equivalent practices in accordance with Article 43(3)(a) of Regulation (EU) No 1307/2013 or who participate in the small farmers scheme in accordance with Article 61 of that Regulation or who comply for the whole holding with the requirements laid down in Article 29(1) of Council Regulation (EC) No 834/2007<sup>(4)</sup> as regards organic farming shall not be part of the control sample and shall not be counted against the control rates laid down in this Article.

[<sup>F23</sup> Where the ecological focus areas are not identified in the identification system for agricultural parcels as referred to in Article 70 of Regulation (EU) No 1306/2013, the control rate laid down in points (a) and (c) to (e) of paragraph 1 shall be supplemented by 5 % of all beneficiaries of the respective control population who are required to have ecological focus

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area on the agricultural area in accordance with Articles 43 and 46 of Regulation (EU) No 1307/2013.]

However, the first subparagraph shall not apply where the administration and control system ensures that all ecological focus areas declared are identified and, where applicable, recorded in the identification system for agricultural parcels in accordance with Article 5(2)(c) of Delegated Regulation (EU) No 640/2014 before payment.

#### Textual Amendments

- F1** Substituted by Commission Implementing Regulation (EU) 2018/746 of 18 May 2018 amending Implementing Regulation (EU) No 809/2014 as regards modification of single applications and payment claims and checks.
- F2** Substituted by Commission Implementing Regulation (EU) 2015/2333 of 14 December 2015 amending Implementing Regulation (EU) No 809/2014 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.

### Article 32

#### Control rate for rural development measures

1. The control sample for on-the-spot checks carried out each year shall cover at least 5 % of all beneficiaries applying for rural development measures. For the measures provided for in Articles 28 and 29 of Regulation (EU) No 1305/2013, the control rate of 5 % shall be achieved at the level of the individual measure.

That control sample shall also represent at least 5 % of the beneficiaries of Article 28 of Regulation (EU) No 1305/2013 that include equivalent practices as referred to in Article 43(3) of Regulation (EU) No 1307/2013.

2. By way of derogation from paragraph 1, in the case of groups of persons as referred to in Articles 28 and 29 of Regulation (EU) No 1305/2013, each individual member of such groups may be considered as beneficiary for the purpose of calculation of the control rate laid down in paragraph 1.

[<sup>F3</sup>2a. By way of derogation from paragraphs 1 and 2, where a Member State uses the option to introduce the collective claim, the control sample for on-the-spot checks carried out each year shall cover at least:

- (a) 5 % of all collectives submitting a collective claim; this sample shall, at the same time, cover at least 5 % of the total area declared in the collective claim in accordance with Article 14a(3); and
- (b) 5 % of the commitments notified in accordance with Article 14a(5).]

3. For beneficiaries of multi-annual support granted in accordance with Articles 21(1)(a), 28, 29 and 34 of Regulation (EU) No 1305/2013 or Article 36(a)(iv) and (v), (b)(i), (iii) and (v) of Regulation (EC) No 1698/2005 involving payments exceeding five years, the Member States may decide, after the fifth year of payment, to check at least 2,5 % of those beneficiaries.

The first subparagraph shall apply to support granted under the third subparagraph of Article 28(6) of Regulation (EU) No 1305/2013 after the fifth year of the payment for the relevant commitment.



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[<sup>F3</sup>Where a Member State uses the option to introduce the collective claim, this paragraph shall not apply to collectives.]

4. Beneficiaries checked under paragraph 3 shall not be taken into account for the purpose of paragraph 1.

#### Textual Amendments

**F3** Inserted by Commission Implementing Regulation (EU) 2015/2333 of 14 December 2015 amending Implementing Regulation (EU) No 809/2014 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.

### Article 33

#### Control rate for animal aid schemes

1. For animal aid schemes, the control sample for on-the-spot checks carried out each year shall for each of the aid schemes cover at least 5 % of all beneficiaries applying for that respective aid scheme.

However, where the computerised database for animals does not offer the level of assurance and implementation necessary for the proper management of the aid scheme involved the percentage shall be 10 % for the respective aid scheme.

The control sample selected shall cover at least 5 % of all animals for which aid is applied for per aid scheme.

2. Where applicable, the control sample for on-the-spot checks carried out each year shall cover 10 % of other services, bodies or organisations that provide evidence to verify the compliance with the eligibility criteria, commitments and other obligations as referred to in Article 28(2).

### <sup>F6</sup>Article 33a

#### Additional control rate for on-the-spot checks to follow-up the beneficiaries referred to in Article 19a(2) of Delegated Regulation (EU) No 640/2014

1. The beneficiaries who were subject to a reduced administrative penalty in accordance with Article 19a(2) of Delegated Regulation (EU) No 640/2014 for an area-related aid scheme or support measure following an over-declaration identified in the course of an on-the-spot check shall be subject to a follow-up on-the-spot check for that given aid scheme or support measure in the following claim year.

[<sup>F12</sup>The follow-up on-the-spot check referred to in paragraph 1 shall not be necessary where the over-declaration identified has led to an up-date of the reference parcels concerned in the identification system for agricultural parcels as referred to in Article 5 of Delegated Regulation (EU) No 640/2014 in the year of the finding or where checks by monitoring as referred to in Article 40a of this Regulation are carried out for the aid scheme or support measure in question in the following claim year and allow the competent authority to conclude whether the administrative penalty set out in Article 19a(3) of Delegated Regulation (EU) No 640/2014 shall be applied.]]

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#### Textual Amendments

- F1** Substituted by [Commission Implementing Regulation \(EU\) 2018/746 of 18 May 2018 amending Implementing Regulation \(EU\) No 809/2014 as regards modification of single applications and payment claims and checks.](#)
- F6** Inserted by [Commission Implementing Regulation \(EU\) 2016/1394 of 16 August 2016 amending Implementing Regulation \(EU\) No 809/2014 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.](#)

#### Article 34

##### Selection of the control sample

[<sup>F1</sup> Applications or applicants found not to be admissible or not eligible for payment at the time of submission or after administrative or on-the-spot checks shall not form part of the control population.

2. For the purposes of Articles 30 and 31, the sample selection shall ensure that:
  - (a) between 1 % and 1,25 % of the control population referred to in points (a) to (f) and (h) of Article 30 and in points (a), (c), (d) and (e) of Article 31(1) shall be selected randomly;
  - (b) between 0,6 % and 0,75 % of the control population referred to in point (b) of Article 31(1) shall be selected randomly;
  - (c) between 4 % and 5 % of the control population referred to in point (h) of Article 31(1) shall be selected randomly;
  - (d) the remaining number of beneficiaries in the control sample referred to in points (a) to (e) and (h) of Article 31(1) shall be selected on the basis of a risk analysis.

For the purposes of Article 31, Member States shall ensure representativeness of the control sample as regards the different practices.

The additional beneficiaries to be subject to on-the-spot checks for the purposes of the first subparagraph of Article 31(3) shall be selected on the basis of a risk analysis.

[<sup>F7</sup>Where the competent authority decides to apply the option provided for in Article 40a(4) or in Article 70a(3), findings revealed by checks by monitoring in the previous claim year shall be taken into account in the risk analysis referred to in point (d) of the second subparagraph.]

3. [<sup>F4</sup>For the purposes of Articles 32 and 33, between 20 % and 25 % of the minimum number of beneficiaries to be subject to on-the-spot checks and, where Article 32(2a) applies, 100 % of the collectives and between 20 % and 25 % of the commitments to be subject to on-the-spot checks shall be selected randomly. The remaining number of beneficiaries and commitments to be subject to on-the-spot checks shall be selected on the basis of a risk analysis. Where the competent authority decides to apply the option provided for in Article 40a(4) or in Article 70a(3), findings revealed by checks by monitoring in the previous claim year shall be taken into account in the risk analysis.]

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For the purposes of Articles 32 and 33, the random part of the sample may also include either the beneficiaries already randomly selected in accordance with points (a), (b) and (c) of paragraph 2 or the additional beneficiaries selected randomly in accordance with the second subparagraph of Article 26(4) or both. The number of such beneficiaries in the control sample shall not go beyond their proportion in the control population.

For the purposes of Article 32, Member States may, as a result of the risk analysis, select specific rural development measures which apply to the beneficiaries.]

4. If the number of beneficiaries to be subject to on-the-spot checks exceeds the minimum number of beneficiaries referred to in Articles 30 to 33, the percentage of randomly selected beneficiaries in the additional sample shall not exceed 25 %.

[<sup>F54a</sup> For the purposes of Articles 30 to 33 and point (c) of Article 40a(1), the same beneficiary may be used to respect several of the minimum control rates concerned provided that the effectiveness of selection of the risk based samples required therein is not affected.

The on-the-spot check regarding the selected beneficiaries may be limited to the aid scheme or rural development measure they have been selected for if the minimum control rates of the other aid schemes or support measures they applied for are already respected.]

5. The effectiveness of the risk analysis shall be assessed and updated on an annual basis as follows:

- (a) by establishing the relevance of each risk factor;
- (b) [<sup>F1</sup>by comparing the results as regards the difference between the area declared and the area determined of the risk based and randomly selected sample; or by comparing the results as regards the difference between the animals declared and the animals determined of the risk based and randomly selected sample;]
- (c) by taking into account the specific situation and, where appropriate, evolution of the risk factors' relevance in the Member State;
- (d) by taking into account the nature of the non-compliance that prompt an increase of the control rate in accordance with Article 35.

6. The competent authority shall keep records of the reasons for the selection of each beneficiary for an on-the-spot check. The inspector carrying out the on-the-spot check shall be informed accordingly prior to the commencement of the on-the-spot check.

7. Where appropriate, a partial selection of the control sample may be made on the basis of available information before the final date referred to in Article 13. That provisional sample shall be completed when all relevant aid applications or payment claims are available.

#### Textual Amendments

- F1** Substituted by Commission Implementing Regulation (EU) 2018/746 of 18 May 2018 amending Implementing Regulation (EU) No 809/2014 as regards modification of single applications and payment claims and checks.
- F4** Substituted by Commission Implementing Regulation (EU) 2019/1804 of 28 October 2019 amending Implementing Regulation (EU) No 809/2014 as regards amendments of aid applications or payment claims, checks in the integrated administration and control system and the control system in relation to cross compliance.

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- F5** Inserted by Commission Implementing Regulation (EU) 2018/746 of 18 May 2018 amending Implementing Regulation (EU) No 809/2014 as regards modification of single applications and payment claims and checks.
- F7** Inserted by Commission Implementing Regulation (EU) 2019/1804 of 28 October 2019 amending Implementing Regulation (EU) No 809/2014 as regards amendments of aid applications or payment claims, checks in the integrated administration and control system and the control system in relation to cross compliance.

### Article 35

#### Increase of the control rate

Where on-the-spot checks reveal any significant non-compliance in the context of a given aid scheme or support measure or in a region or part of a region, the competent authority shall appropriately increase the percentage of beneficiaries to be checked on-the-spot in the following year.

### Article 36

#### Reduction of the control rate

1. The control rates laid down in this Chapter may only be reduced in respect of aid schemes or support measures set out in this Article.

2. By way of derogation from Article 30(a), (b) and (f), Member States may, as regards the basic payment scheme, the single area payment scheme, the re-distributive payment and the small farmers scheme, decide to reduce the minimum level of on-the-spot checks carried out each year per scheme to 3 %.

[<sup>F2</sup>The first subparagraph shall only apply if a system of spatial intersection of all aid applications with the identification system for agricultural parcels is in place in accordance with Article 17(2) for all beneficiaries.]

In respect of claim year 2015 the rate of errors found in the random sample checked on the spot shall not exceed 2 % in the preceding two financial years. That rate of errors shall be certified by the Member State in accordance with the established methodology drawn up at Union level.]

[<sup>F3</sup>In respect of claim year 2016 the rate of errors found in the random sample checked on the spot shall not exceed 2 % in the preceding financial year. That rate of errors shall be certified by the Member State in accordance with the new methodology drawn up at Union level taking account of Article 7(4) of Commission Implementing Regulation (EU) No 908/2014<sup>(5)</sup>.]

3. By way of derogation from Article 30(a), (b) and (f), Member States may, as regards the basic payment scheme, the single area payment scheme, the re-distributive payment and the small farmers scheme, decide to reduce the control sample to the sample selected in accordance with point (a) of the first subparagraph of Article 34(2) if checks based on the ortho-images used for the update of the identification system for agricultural parcels referred to in Article 70 of Regulation (EU) No 1306/2013 are carried out.

The first subparagraph shall only apply if Member States systematically update the identification system for agricultural parcels and check all beneficiaries in the entire area

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covered by it within a period of maximum three years, covering per year at least 25 % of the eligible hectares recorded in the identification system for agricultural parcels. However, that minimum coverage percentage per year shall not apply to Member States with less than 150 000 eligible hectares recorded in the identification system for agricultural parcels.

Before applying the first subparagraph, Member States shall have made a complete update of the identification system for agricultural parcels concerned within the previous three years.

The ortho-images used for the update shall not be older than 15 months at the date of their use for the purpose of the update of the identification system for agricultural parcels.

The quality of the identification system for agricultural parcels as assessed in accordance with Article 6 of Delegated Regulation (EU) No 640/2014 during the two years preceding the application of the first subparagraph shall be sufficient to ensure effective verification of the conditions under which aid is granted.

The decision referred to in the first subparagraph may be taken at national level or regional level. For the purposes of this subparagraph, a region shall be comprised of the whole area covered by one or more autonomous identification systems for agricultural parcels.

[<sup>F2</sup>The third and fourth subparagraphs of paragraph 2 shall apply *mutatis mutandis*.]

4. By way of derogation from Article 32(1), Member States may decide to reduce the minimum level of on-the-spot checks carried out each calendar year to 3 % of the beneficiaries applying for rural development measures in the scope of the integrated system.

[<sup>F2</sup>However, the first subparagraph shall not apply in relation to beneficiaries that include equivalent practices as referred to in Article 43(3) of Regulation (EU) No 1307/2013 and to collectives and commitments which are selected in accordance with Article 32(2a) of this Regulation.]

5. [<sup>F2</sup>Paragraphs 2, 3 and 4 shall only apply if the general conditions for reducing the minimum level of on-the-spot checks laid down in Article 41 of Implementing Regulation (EU) No 908/2014 are fulfilled.] Where any of those conditions or the conditions laid down in paragraphs 2 or 3 of this Article are no longer met, Member States shall immediately revoke their decision to reduce the minimum level of on-the-spot checks and shall apply the minimum level of on-the-spot checks provided for in Article 30(a), (b) and (f) and/or Article 32 as of the following claim year for the aid schemes or support measures concerned.

6. By way of derogation from Article 30(g), where a Member State introduces a system of prior approval for the cultivation of hemp, the minimum level of on-the-spot checks may be reduced to 20 % of the areas declared for the production of hemp as referred to in Article 32(6) of Regulation (EU) No 1307/2013.

In that case, the Member State shall notify the Commission of its detailed rules and conditions linked to its system of prior approval the year before the application of the reduced control rate. Any amendments to those detailed rules or conditions shall be notified to the Commission without undue delay.

*Status: Point in time view as at 01/11/2019.*

*Changes to legislation: There are outstanding changes not yet made to Commission Implementing Regulation (EU) No 809/2014. 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)*

### Textual Amendments

- F2** Substituted by [Commission Implementing Regulation \(EU\) 2015/2333 of 14 December 2015 amending Implementing Regulation \(EU\) No 809/2014 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.](#)
- F3** Inserted by [Commission Implementing Regulation \(EU\) 2015/2333 of 14 December 2015 amending Implementing Regulation \(EU\) No 809/2014 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.](#)

## Section 2

### ***On-the-spot checks with regard to aid applications for area-related aid schemes and payment claims for area-related support measures***

#### Article 37

#### **Elements of on-the-spot checks**

1. On-the-spot checks shall cover all the agricultural parcels for which aid is requested under schemes listed in Annex I to Regulation (EU) No 1307/2013 and/or for which support is requested under rural development measures in the scope of the integrated system.

With regard to the control of the rural development measures provided for in Article 21(1)(a) and Articles 30 and 34 of Regulation (EU) No 1305/2013, the on-the-spot checks shall also cover all non-agricultural land for which support is being claimed.

The competent authority shall assess on the basis of the control results whether an update of the corresponding reference parcels is required, having regard to Article 5(3) of Delegated Regulation (EU) No 640/2014.

2. On-the-spot checks shall cover the area measurement and verification of the eligibility criteria, commitments and other obligations of the area declared by the beneficiary under the aid schemes and/or support measures referred to in paragraph 1.

For beneficiaries applying for direct payments under the schemes listed in Annex I to Regulation (EU) No 1307/2013 and whose agricultural areas are mainly areas naturally kept in a state suitable for grazing or cultivation, the on-the-spot check shall also cover the verification of the minimum activity carried out on those areas as referred to in Article 9(1) of Regulation (EU) No 1307/2013.

3. On-the-spot checks related to greening practices shall cover all obligations to be respected by the beneficiary. Where relevant, the compliance with the thresholds referred to in Articles 44 and 46 of Regulation (EU) No 1307/2013 for exemption from the practices shall form part of on-the-spot checks. This subparagraph shall also apply to the on-the-spot checks carried out in respect of national or regional environmental certification schemes as referred to in Article 43(3)(b) of Regulation (EU) No 1307/2013.

Where the on-the-spot check concerns a regional implementation in accordance with Article 46(5) of Regulation (EU) No 1307/2013, the on-the-spot check shall also cover

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the area measurement and verification of the obligations imposed by the Member State upon the beneficiaries or groups of beneficiaries.

Where the on-the-spot check concerns a collective implementation in accordance with Article 46(6) of Regulation (EU) No 1307/2013, the on-the-spot check shall cover:

- (a) the verification of the criteria for close proximity set in accordance with Article 47(1) of Delegated Regulation (EU) No 639/2014;
- (b) the area measurement and verification of the criteria for the contiguous ecological focus areas;
- (c) the additional obligations imposed by the Member State upon the beneficiaries or groups of beneficiaries, where appropriate;
- (d) the individual greening obligations to be respected by the beneficiary participating in the collective implementation.

[<sup>F3</sup>4. For collectives selected in accordance with point (a) of Article 32(2a), the on-the-spot checks shall cover the area measurement, verification of the eligibility criteria and other obligations of the area declared in the collective claim.

For commitments selected in accordance with point (b) of Article 32(2a), the on-the-spot check shall cover the verification of the commitments notified.]

#### **Textual Amendments**

- F3** Inserted by [Commission Implementing Regulation \(EU\) 2015/2333 of 14 December 2015 amending Implementing Regulation \(EU\) No 809/2014 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.](#)

### *Article 38*

#### **Area measurement**

[<sup>F4</sup>1. The actual area measurement of the agricultural parcel as part of an on-the-spot check may be limited to a randomly selected sample of at least 50 % of the agricultural parcels for which an aid application or payment claim has been submitted under the area-related aid schemes or rural development measures. When this sample check reveals any non-compliance, all agricultural parcels shall be measured or conclusions from the sample shall be extrapolated.]

2. Agricultural parcel areas shall be measured by any means proven to assure measurement of quality at least equivalent to that required by applicable technical standards, as drawn up at Union level.

3. The competent authority may make use of remote sensing in accordance with Article 40 and Global Navigation Satellite Systems (GNSS) techniques where possible.

4. A single value buffer tolerance shall be defined for all area measurements performed using GNSS and/or ortho-imagery. For this purpose the measurement tools used shall be validated for at least one validation class of buffer tolerance below the single value. However, the single tolerance value shall not exceed 1.25 m.

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The maximum tolerance with regard to each agricultural parcel shall not, in absolute terms, exceed 1.0 ha.

However, for the measures referred to in Article 21(1)(a) and Articles 30 and 34 of Regulation (EU) No 1305/2013 as far as the forestry area is concerned, Member States may define appropriate tolerances, which shall in no case be greater than twice the tolerance set out in the first subparagraph of this paragraph.

5. The total area of an agricultural parcel may be taken into account in the measurement provided that it is fully eligible. In other cases the net eligible area shall be taken into account. For that purpose, the pro-rata system as referred to in Article 10 of Delegated Regulation (EU) No 640/2014 may be applied, where appropriate.

6. For the purpose of the calculation of shares of different crops for crop diversification as referred to in Article 44 of Regulation (EU) No 1307/2013, the area actually covered by one crop in accordance with Article 40(2) of Delegated Regulation (EU) No 639/2014 shall be taken into account for the measurement. On areas where mixed cropping is applied, the total area covered with mixed cropping in accordance with the first and the second subparagraphs of Article 40(3) of that Regulation or covered with a mixed crop in accordance with the third subparagraph of Article 40(3) of that Regulation shall be taken into account.

7. Where [<sup>F1</sup>Article 17 of Delegated Regulation (EU) No 640/2014] may lead to an artificial division of the area of adjacent agricultural parcels with a homogeneous land cover type into separate agricultural parcels, the measurement of this area of adjacent agricultural parcels with a homogeneous land cover type shall be combined in one single measurement of the agricultural parcels concerned.

8. Where appropriate, [<sup>F1</sup>separate measurements] shall be carried out on the agricultural parcel for the purpose of the basic payment scheme or the single area payment scheme in accordance with Chapter 1 of Title III of Regulation (EU) No 1307/2013 and a spatially different overlapping agricultural parcel for the purpose of the remaining area-related aid schemes and/or rural development measures, where appropriate.

[<sup>F79</sup> Where the eligible area measured in accordance with paragraphs 1 to 8 is different from the area established as a basis for the calculation of the aid or support where checks by monitoring are applied in accordance with Article 40a, the area measured in accordance with paragraphs 1 to 8 of this Article shall prevail.

10. In the specific case of agricultural parcels of permanent grassland or permanent pastures used in common by several beneficiaries, the actual measurement may be substituted by checks based on the ortho-images used for the update of the identification system for agricultural parcels referred to in Article 70 of Regulation (EU) No 1306/2013 provided that those checks are carried out on all such parcels within a period of maximum three years and the competent authority can demonstrate effective operational procedures complying with the rules laid down in Article 7 of this Regulation and effects the recoveries appropriately.]

#### Textual Amendments

- F1** Substituted by [Commission Implementing Regulation \(EU\) 2018/746 of 18 May 2018 amending Implementing Regulation \(EU\) No 809/2014 as regards modification of single applications and payment claims and checks.](#)
- F4** Substituted by [Commission Implementing Regulation \(EU\) 2019/1804 of 28 October 2019 amending Implementing Regulation \(EU\) No 809/2014 as regards amendments of aid applications or payment claims, checks in the integrated administration and control system and the control system in relation to cross compliance.](#)



*Status: Point in time view as at 01/11/2019.*

*Changes to legislation: There are outstanding changes not yet made to Commission Implementing Regulation (EU) No 809/2014. 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)*

**F7** Inserted by Commission Implementing Regulation (EU) 2019/1804 of 28 October 2019 amending Implementing Regulation (EU) No 809/2014 as regards amendments of aid applications or payment claims, checks in the integrated administration and control system and the control system in relation to cross compliance.

### Article 39

#### Verification of eligibility conditions

[<sup>F41</sup> The verification of the eligibility criteria, commitments and other obligations of the agricultural parcels as part of an on-the-spot check may be limited to a randomly selected sample of at least 50 % of the agricultural parcels for which an aid application or payment claim has been submitted under the area-related aid schemes or rural development measures.

However, for rural development measures, when some eligibility criteria, commitments or other obligations of the agricultural parcels cannot be adequately checked when limiting the checks to a randomly selected sample in accordance with the first subparagraph, an additional risk based sample allowing the checking of these criteria, commitments or obligations shall be selected.

When the randomly selected sample or the risk based sample reveal any non-compliance, all agricultural parcels shall be subject to the verification of the eligibility criteria, commitments and other obligations or conclusions from the sample shall be extrapolated.

The eligibility of agricultural parcels shall be verified by any appropriate means, including evidence provided by the beneficiary at the request of the competent authority. That verification shall also include a verification of the crop, where appropriate. To that end, additional proof shall be requested where necessary.]

2. For permanent grassland which can be grazed and which forms part of the established local practices where grasses and other herbaceous forage are traditionally not predominant in grazing areas, the reduction coefficient according to Article 32(5) of Regulation (EU) No 1307/2013 may be applied, where appropriate, to the eligible area measured in accordance with Article 38 of this Regulation. Where an area is used in common, the competent authorities shall allocate it between the individual beneficiaries in proportion to their use or right of use of it.

3. Landscape features declared by beneficiaries as ecological focus area that are not included in the eligible area in accordance with Articles 9 and 10 of Delegated Regulation (EU) No 640/2014 shall be verified according to the same principles as applicable to the eligible area.

[<sup>F44</sup> In the specific case of agricultural parcels of permanent grassland or permanent pastures used in common by several beneficiaries, the verification of the eligibility criteria, commitments and other obligations may be substituted by checks based on the ortho-images used for the update of the identification system for agricultural parcels referred to in Article 70 of Regulation (EU) No 1306/2013 provided that those checks are carried out on all such parcels within a period of maximum three years and the competent authority can demonstrate effective operational procedures complying with the rules laid down in Article 7 of this Regulation and effects the recoveries appropriately.]

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*Changes to legislation: There are outstanding changes not yet made to Commission Implementing Regulation (EU) No 809/2014. 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)*

#### Textual Amendments

- F4** Substituted by [Commission Implementing Regulation \(EU\) 2019/1804 of 28 October 2019 amending Implementing Regulation \(EU\) No 809/2014 as regards amendments of aid applications or payment claims, checks in the integrated administration and control system and the control system in relation to cross compliance.](#)

#### Article 40

#### Checks with remote sensing

Where a Member State carries out on-the-spot checks by remote sensing, the competent authority shall:

- (a) perform photo interpretation of ortho-images (satellite or aerial) of all agricultural parcels per aid application and/or payment claim to be checked with a view to recognising the land cover types, and where appropriate the crop type, and measuring the area;
- (b) [<sup>F1</sup>carry out physical inspections in the field of all agricultural parcels for which photo interpretation or other relevant evidence requested by the competent authority does not make it possible to verify the accuracy of the declaration of areas to the satisfaction of the competent authority;]
- (c) carry out all checks required to verify the compliance with the eligibility criteria, commitments and other obligations of the agricultural parcels;
- (d) take alternative action to cover the area measurement in accordance with Article 38(1) of any parcels not covered by imagery.

#### Textual Amendments

- F1** Substituted by [Commission Implementing Regulation \(EU\) 2018/746 of 18 May 2018 amending Implementing Regulation \(EU\) No 809/2014 as regards modification of single applications and payment claims and checks.](#)

#### <sup>F5</sup>Article 40a

#### Checks by monitoring

1. Competent authorities may carry out checks by monitoring. Where they elect to do so, they shall:

- (a) set up a procedure of regular and systematic observation, tracking and assessment of all eligibility criteria, commitments and other obligations which can be monitored by Copernicus Sentinels satellite data or other data with at least equivalent value, over a period of time that allows to conclude on the eligibility of the aid or support requested;
- (b) carry out, where necessary, and in order to conclude on the eligibility of aid or support requested, appropriate follow-up activities;

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- (c) carry out checks for 5 % of the beneficiaries concerned by eligibility criteria, commitments and other obligations which cannot be monitored by Copernicus Sentinels satellite data or other data with at least equivalent value, and are relevant to conclude on the eligibility of aid or support. Between 1 % and 1,25 % of the beneficiaries shall be selected randomly. The remaining beneficiaries shall be selected on the basis of a risk analysis;
- (d) [<sup>F4</sup>inform beneficiaries about the decision to carry out checks by monitoring and set up appropriate tools to communicate with beneficiaries on at least provisional results at parcel level of the procedure set up in accordance with point (a) of this subparagraph, warning alerts and evidence requested for the purposes of points (b) and (c). Competent authorities shall ensure timely communication with the beneficiaries to support them in fulfilling the eligibility criteria, commitments and other obligations and allow the beneficiaries to address or remedy the situation before the conclusions are drawn in the control report referred to in Article 41.]

[<sup>F4</sup>For the purposes of points (b) and (c) of the first subparagraph, physical inspections in the field shall be carried out when relevant evidence, including evidence provided by the beneficiary at the request of the competent authority, does not allow to conclude on the eligibility of the aid or support requested. Physical inspections in the field may be limited to checks of eligibility criteria, commitments and other obligations that are relevant to conclude on the eligibility of the aid or support requested. These physical inspections shall include area measurement only where necessary to conclude on the compliance with these eligibility criteria, commitments or other obligations.]

[<sup>F7</sup>For the purposes of point (c) of the first subparagraph, checks of eligibility criteria, commitments and other obligations which cannot be monitored by Copernicus Sentinels satellite data or other data with at least equivalent value may be limited to a sample of at least 50 % of the agricultural parcels declared by a beneficiary. The competent authority may select this sample randomly or on the basis of other criteria. Where the sample of agricultural parcels is selected randomly and the checks reveal any non-compliance, the competent authority shall extrapolate the conclusions from the sample or shall check all agricultural parcels. Where the sample is selected on the basis of other criteria and the checks reveal any non-compliance, the competent authority shall check all agricultural parcels.]

2. Where the competent authority carries out checks by monitoring in accordance with paragraph 1, can demonstrate effective operational procedures fulfilling the requirements laid down in Articles 7, 17 and 29 of this Regulation and has proven the quality of the identification system for agricultural parcels as assessed in accordance with Article 6 of Delegated Regulation (EU) No 640/2014:

- (a) Articles 25, 26, 30, 31, 32, 34, 35, 36, Article 37(2), (3) and (4) and Articles 38 and 40 of this Regulation do not apply;
- (b) the verification of tetrahydrocannabinol content in hemp growth carried out in accordance with Article 9 of Delegated Regulation (EU) No 639/2014 shall be made for 30 % of the area or 20 % of the area in case the Member State has a system of prior approval in place.

3. The competent authority may decide to apply checks by monitoring at the level of the individual area-related aid scheme or support measure or type of operation or to defined groups of beneficiaries subject to on-the-spot checks for the greening payment, as referred to in points (a) to (h) of Article 31(1).

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In the first two years of application, the competent authority may decide to apply checks by monitoring to beneficiaries of an aid scheme or support measure in areas chosen on the basis of objective and non-discriminatory criteria. In such cases the areas subject to checks by monitoring in the second year of application shall be greater than in the first year of application.

Where the competent authority decides to carry out checks in accordance with the first or second subparagraph, paragraphs 1 and 2 shall apply only to the beneficiaries subject to checks by monitoring.

[<sup>F4</sup> Where the procedure referred to in point (a) of paragraph 1 reveals findings relevant for direct payment schemes, rural development measures and requirements and/or standards not checked by monitoring, competent authorities may decide to take into account those findings only in respect of beneficiaries selected in accordance with Articles 30, 31, 32 and 68 for on-the-spot checks of direct payment schemes, rural development measures and requirements and/or standards not checked by monitoring. The derogation shall be limited to the three years following the 1<sup>st</sup> of January of the calendar year in which the competent authority started carrying out checks by monitoring.]]

#### Textual Amendments

- F4** Substituted by [Commission Implementing Regulation \(EU\) 2019/1804 of 28 October 2019 amending Implementing Regulation \(EU\) No 809/2014 as regards amendments of aid applications or payment claims, checks in the integrated administration and control system and the control system in relation to cross compliance.](#)
- F5** Inserted by [Commission Implementing Regulation \(EU\) 2018/746 of 18 May 2018 amending Implementing Regulation \(EU\) No 809/2014 as regards modification of single applications and payment claims and checks.](#)
- F7** Inserted by [Commission Implementing Regulation \(EU\) 2019/1804 of 28 October 2019 amending Implementing Regulation \(EU\) No 809/2014 as regards amendments of aid applications or payment claims, checks in the integrated administration and control system and the control system in relation to cross compliance.](#)

<sup>F5</sup> Article 40b

#### Notifications

[<sup>F4</sup> Member States shall notify the Commission by 1 December of the calendar year preceding the calendar year in which they start carrying out checks by monitoring of their decision to opt for checks by monitoring and indicate the schemes or measures or types of operations and, where relevant, areas of such schemes or measures subject to checks by monitoring and the criteria used to select them. The Commission shall provide by 1 November of each calendar year a template for the submission of the notifications detailing the elements to be included in such notification.]]

[<sup>F8</sup> . . . . .]

#### Textual Amendments

- F4** Substituted by [Commission Implementing Regulation \(EU\) 2019/1804 of 28 October 2019 amending Implementing Regulation \(EU\) No 809/2014 as regards amendments of aid applications or payment](#)

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claims, checks in the integrated administration and control system and the control system in relation to cross compliance.

- F5** Inserted by Commission Implementing Regulation (EU) 2018/746 of 18 May 2018 amending Implementing Regulation (EU) No 809/2014 as regards modification of single applications and payment claims and checks.
- F8** Deleted by Commission Implementing Regulation (EU) 2019/1804 of 28 October 2019 amending Implementing Regulation (EU) No 809/2014 as regards amendments of aid applications or payment claims, checks in the integrated administration and control system and the control system in relation to cross compliance.

## Article 41

### Control report

1. Every on-the-spot check under this Section shall be the subject of a control report which makes it possible to review the details of the checks carried out and to draw conclusions on the compliance with the eligibility criteria, commitments and other obligations. The report shall indicate in particular:

- (a) the aid schemes or support measures, the aid applications or payment claims checked;
- (b) the persons present;
- (c) the agricultural parcels checked, the agricultural parcels measured including, where applicable, the result of the measurements per measured agricultural parcel and the measuring methods used;
- (d) where applicable, the results of the measurement of non-agricultural land for which support under rural development measures is being claimed and the measuring methods used;
- (e) whether notice of the check was given to the beneficiary and, if so, the period of prior notice;
- (f) indications of any specific control measures to be carried out in the context of individual aid schemes or support schemes;
- (g) indication of any further control measures carried out;
- (h) indication of any non-compliance found that could require cross-notification in view of other aid schemes, support measures and/or cross-compliance;
- (i) indication of any non-compliance found that could require follow-up during the following years.

[<sup>F5</sup>Where checks by monitoring are carried out in accordance with Article 40a, points (b) to (e) of the first subparagraph shall not apply. The control report shall indicate the results of the checks by monitoring at parcel level.]

2. The beneficiary shall be given the opportunity to sign the report during the check to attest his presence at the check and to add observations. Where Member States make use of a control report established by electronic means during the check, the competent authority shall provide for the possibility of an electronic signature by the beneficiary or the control report shall be sent without delay to the beneficiary giving him the opportunity to sign the report and to add

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any observations. Where any non-compliance is found the beneficiary shall receive a copy of the control report.

[<sup>F3</sup>By way of derogation from the first subparagraph, where the Member State uses the option to introduce collective claims, the Member State may decide not to give the collective the opportunity to sign the control report if no non-compliance is revealed during the check. If any non-compliance is revealed as a consequence of such checks, the opportunity to sign the report shall be given before the competent authority draws its conclusions from the findings with regard to any resulting reductions, refusals, withdrawals or penalties.]

[<sup>F4</sup>Where the on-the-spot check is carried out by means of remote sensing in accordance with Article 40 or by means of monitoring in accordance with Article 40a, the Member States may decide not to give the beneficiary the opportunity to sign the control report if no non-compliance is revealed during the check by remote-sensing or by monitoring. If any non-compliance is revealed as a consequence of such checks or by monitoring, the opportunity to sign the report shall be given before the competent authority draws its conclusions from the findings with regard to any resulting reductions, refusals, withdrawals or administrative penalties. Where checks by monitoring are applied, this obligation shall be considered fulfilled if beneficiaries are notified of non-compliances through the tools set up to communicate with beneficiaries in accordance with point (d) of Article 40a(1) and beneficiaries are given the opportunity to contest the non-compliances before the competent authority draws its conclusions from the findings with regard to any resulting reductions, refusals, withdrawals or administrative penalties.]

#### Textual Amendments

- F3** Inserted by [Commission Implementing Regulation \(EU\) 2015/2333 of 14 December 2015 amending Implementing Regulation \(EU\) No 809/2014 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.](#)
- F4** Substituted by [Commission Implementing Regulation \(EU\) 2019/1804 of 28 October 2019 amending Implementing Regulation \(EU\) No 809/2014 as regards amendments of aid applications or payment claims, checks in the integrated administration and control system and the control system in relation to cross compliance.](#)
- F5** Inserted by [Commission Implementing Regulation \(EU\) 2018/746 of 18 May 2018 amending Implementing Regulation \(EU\) No 809/2014 as regards modification of single applications and payment claims and checks.](#)

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### Section 3

#### ***On-the-spot checks of livestock aid applications and payment claims under animal-related support measures***

#### Article 42

#### **On-the-spot checks**

1. On-the-spot checks shall verify that all eligibility criteria, commitments and other obligations are fulfilled and cover all animals for which aid applications or payment claims have been submitted under the animal aid schemes or animal-related support measures to be checked.

Where the Member State has determined a period in accordance with Article 21(1) (d) at least 50 % of the minimum rate of on-the-spot checks provided for in Article 32 or Article 33 shall be spread throughout that period for the respective animal aid scheme or animal-related support measure. [F<sup>3</sup>However, where the retention period starts before an aid application or payment claim has been submitted or where it cannot be fixed in advance, Member States may decide that the on-the-spot checks provided for in Article 32 or 33 shall be spread over the period in which an animal may qualify for the payment or support.]

Where the Member State makes use of the possibility provided for in Article 21(3), the potentially eligible animals as defined in point (17) of the second subparagraph of Article 2(1) of Delegated Regulation (EU) No 640/2014 shall also be checked.

On-the-spot checks shall include in particular a check that the number of animals present on the holding for which aid applications and/or payment claims have been submitted and, where applicable, the number of potentially eligible animals corresponds to the number of animals entered in the registers and to the number of animals notified to the computerised database for animals.

2. On-the-spot checks shall also include checks:

- (a) of the correctness and coherence of entries in the register and the notifications to the computerised database for animals on the basis of a sample of supporting documents such as purchase and sales invoices, slaughter certificates, veterinary certificates and, where applicable, animal passports or movement documents, in relation to animals for which aid applications or payment claims were submitted in the six months prior to the on-the-spot check; however if anomalies are found, the check shall be extended to 12 months prior to the on-the-spot check;
- (b) that bovine or ovine/caprine animals are identified by ear tags or other means of identification, accompanied, where applicable, by animal passports or movement documents and that they are recorded in the register and have been duly notified to the computerised database for animals.

The checks referred to in point (b) of the first subparagraph may be made on the basis of a random sample. When this sample check reveals any non-compliance, all animals shall be checked, or conclusions from the sample shall be extrapolated.

*Status: Point in time view as at 01/11/2019.*

*Changes to legislation: There are outstanding changes not yet made to Commission Implementing Regulation (EU) No 809/2014. 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)*

#### **Textual Amendments**

- F3** Inserted by [Commission Implementing Regulation \(EU\) 2015/2333 of 14 December 2015 amending Implementing Regulation \(EU\) No 809/2014 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.](#)

### *Article 43*

#### **Control report in relation to animal aid schemes and animal-related support measures**

1. Every on-the-spot check under this Section shall be the subject of a control report which makes it possible to review the details of the checks carried out. The report shall indicate in particular:
  - (a) the animal aid schemes and/or animal-related support measures and livestock aid applications and/or payment claims checked;
  - (b) the persons present;
  - (c) the number and type of animals found and, where applicable, the ear tag numbers, entries in the register and in the computerised databases for animals and any supporting documents checked, the results of the checks and, where applicable, particular observations in respect of individual animals and/or their identification code;
  - (d) whether notice was given to the beneficiary of the visit and, if so, the period of prior notice. Particularly where the limit of 48 hours referred to in Article 25 is exceeded the reason shall be stated in the control report;
  - (e) indications of any specific control measures to be carried out in the context of the animal aid schemes and/or animal-related support measures;
  - (f) indication of any further control measures to be carried out.
2. The beneficiary shall be given the opportunity to sign the report during the check to attest his presence at the check and to add observations. Where Member States make use of a control report established by electronic means during the check, the competent authority shall provide for the possibility of an electronic signature by the beneficiary or the control report shall be sent without delay to the beneficiary giving him the opportunity to sign the report and to add any observations. Where any non-compliance is found the beneficiary shall receive a copy of the control report.
3. Where Member States carry out on-the-spot checks pursuant to this Regulation in conjunction with inspections pursuant to Regulation (EC) No 1082/2003, the control report shall be supplemented by reports in accordance with Article 2(5) of that Regulation.
4. Where on-the-spot checks carried out in accordance with this Regulation reveal cases of non-compliance with Title I of Regulation (EC) No 1760/2000 or Regulation (EC) No 21/2004, copies of the control report provided for in this Article shall be sent without delay to the authorities responsible for the implementation of those Regulations.



*Status: Point in time view as at 01/11/2019.*

*Changes to legislation: There are outstanding changes not yet made to Commission Implementing Regulation (EU) No 809/2014. 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)*

## CHAPTER IV

### **Specific rules**

#### Article 44

#### **Rules on control results in respect of regional or collective ecological focus areas**

In the case of regional or collective implementation in accordance with Article 46(5) or (6) of Regulation (EU) No 1307/2013, the area of the common contiguous ecological focus areas determined shall be allocated to each participant proportionally to his share in the common ecological areas based on what he has declared pursuant to Article 18 of this Regulation.

For the purpose of applying Article 26 of Delegated Regulation (EU) No 640/2014 to each participant in a regional or collective implementation, the ecological focus area determined shall be the sum of the allocated share of the common ecological focus areas determined as referred to in the first subparagraph of this Article and the ecological focus areas determined in respect of the individual obligation.

#### <sup>F9</sup>Article 45

#### **[<sup>F9</sup>Verification of the tetrahydrocannabinol content in hemp growth]**

#### **Textual Amendments**

- F9** Deleted by Commission Implementing Regulation (EU) 2017/1172 of 30 June 2017 amending Implementing Regulation (EU) No 809/2014 as regards the control measures relating to the cultivation of hemp.

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- (1) 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 (OJ L 30, 31.1.2009, p. 16).
- (2) Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ L 206, 22.7.1992, p. 7).
- (3) Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (OJ L 20, 26.1.2010, p. 7).
- (4) Council Regulation (EC) No 834/2007 of 28 June 2007 on organic production and labelling of organic products and repealing Regulation (EEC) No 2092/91 (OJ L 189, 20.7.2007, p. 1).
- (5) [<sup>F3</sup>Commission Implementing Regulation (EU) No 908/2014 of 6 August 2014 laying down rules for the application of Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to paying agencies and other bodies, financial management, clearance of accounts, rules on checks, securities and transparency (OJ L 255, 28.8.2014, p. 59)]

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#### Textual Amendments

- F3** Inserted by Commission Implementing Regulation (EU) 2015/2333 of 14 December 2015 amending Implementing Regulation (EU) No 809/2014 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.

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**Changes to legislation:**

There are outstanding changes not yet made to Commission Implementing Regulation (EU) No 809/2014. Any changes that have already been made to the legislation appear in the content and are referenced with annotations.