

Commission Delegated Regulation (EU) No 639/2014 of 11 March 2014 supplementing Regulation (EU) No 1307/2013 of the European Parliament and of the Council establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy and amending Annex X to that Regulation

## CHAPTER 1

### SCOPE AND GENERAL PROVISIONS

#### *SECTION 1*

#### ***Scope and general principles***

##### *Article 1*

#### **Scope**

This Regulation lays down provisions supplementing certain non-essential elements of Regulation (EU) No 1307/2013 in relation to:

- (a) general provisions on direct payments;
- (b) the basic payment scheme;
- (c) the single area payment scheme;
- (d) the payment for farmers observing agricultural practices beneficial for the climate and the environment;
- (e) the payment for young farmers commencing their agricultural activity;
- (f) voluntary coupled support;
- (g) the crop-specific payment for cotton;
- (h) notification obligations of Member States.

##### *Article 2*

#### **General principles**

1. Member States shall implement this Regulation in accordance with objective criteria and in such a way as to ensure the equal treatment of farmers and to avoid distortions of the market and of competition, while promoting a sustainable management of natural resources and climate action.
2. Member States shall ensure that all conditions for support implemented under this Regulation are verifiable and controllable.
3. Member States shall implement this Regulation:

- (a) in respect of support other than coupled support, respecting the requirements set out in paragraphs 1, 5 and 6 of Annex 2 to the Agreement on Agriculture; and
- (b) in respect of coupled support, respecting the requirements of Article 6(5) of the Agreement on Agriculture.

### *Article 3*

#### **Reductions due to financial discipline**

Reductions due to financial discipline provided for in Article 8 of Regulation (EU) No 1307/2013 shall be applied to the sum of the payments from the different direct support schemes listed in Annex I to Regulation (EU) No 1307/2013 to which each farmer is entitled to after the application of the withdrawals and administrative penalties relating to direct payments pursuant to Chapter IV of Title II of Delegated Regulation (EU) No 640/2014 and before the application of administrative penalties in relation to cross-compliance pursuant to Chapter II of Title IV of that Delegated Regulation.

### *SECTION 2*

#### ***Provisions related to definitions in Regulation (EU) No 1307/2013***

### *Article 4*

#### **Framework for criteria on maintaining the agricultural area in a state suitable for grazing or cultivation**

1. For the purposes of the point (ii) of Article 4(1)(c) of Regulation (EU) No 1307/2013, the criteria that farmers are to meet in order to fulfil the obligation to maintain the agricultural area in a state suitable for grazing or cultivation without preparatory action going beyond usual agricultural methods and machineries shall be established by Member States in either or both of the following ways:
  - (a) Member States require at least one annual activity to be carried out by a farmer. Where justified for environmental reasons, Member States may decide to recognise also activities that are carried out only every second year;
  - (b) Member States set out the characteristics to be met by an agricultural area in order to be deemed maintained in a state suitable for grazing or cultivation.
2. When establishing criteria referred to in paragraph 1, Member States may distinguish between different types of agricultural areas.

### *Article 5*

#### **Framework for minimum activities on agricultural areas naturally kept in a state suitable for grazing or cultivation**

For the purposes of the point (iii) of Article 4(1)(c) of Regulation (EU) No 1307/2013, the minimum activity to be established by the Member States that is to be carried out on agricultural areas naturally kept in a state suitable for grazing or cultivation shall be at least one annual activity to be carried out by a farmer. Where justified for environmental

reasons, Member States may decide to recognise also activities that are carried out only every second year.

#### *Article 6*

##### **Predominance of grasses and other herbaceous forage in case of permanent grassland**

For the purposes of Article 4(1)(h) of Regulation (EU) No 1307/2013, grasses and other herbaceous forage shall be deemed to remain predominant where they cover more than 50 % of the eligible area at the level of the agricultural parcel within the meaning of Article 67(4)(a) of Regulation (EU) No 1306/2013.

#### *Article 7*

##### **Established local practices in case of permanent grassland**

For the purposes of Article 4(1)(h) of Regulation (EU) No 1307/2013, established local practices shall be any or a combination of the following:

- (a) practices for areas for livestock grazing which are traditional in character and are commonly applied on the areas concerned;
- (b) practices which are important for the conservation of habitats listed in Annex I to Council Directive 92/43/EEC<sup>(1)</sup> and of biotopes and habitats covered by Directive 2009/147/EC of the European Parliament and of the Council<sup>(2)</sup>.

#### *Article 8*

##### **Reduction coefficient according to Article 32(5) of Regulation (EU) No 1307/2013**

When applying Article 32(5) of Regulation (EU) No 1307/2013 for permanent grassland which can be grazed and which forms part of established local practices where grasses and other herbaceous forage are traditionally not predominant in grazing areas, Member States may distinguish between different categories of areas in order to apply different reduction coefficients to such categories.

#### *Article 9*

##### **Production of hemp**

For the purposes of Article 32(6) of Regulation (EU) No 1307/2013, the eligibility of areas used for the production of hemp shall be subject to the use of seed of the varieties listed in the 'Common Catalogue of Varieties of Agricultural Plant Species' on 15 March of the year in respect of which the payment is granted and published in accordance with Article 17 of Council Directive 2002/53/EC<sup>(3)</sup>. The seed shall be certified in accordance with Council Directive 2002/57/EC<sup>(4)</sup>.

### SECTION 3

#### *Active farmer*

##### *Article 10*

#### **Cases where agricultural areas are mainly areas naturally kept in a state suitable for grazing or cultivation**

1. For the purposes of Article 9(1) of Regulation (EU) No 1307/2013, a natural or legal person, or a group of natural or legal persons, shall be considered as having agricultural areas which are mainly areas naturally kept in a state suitable for grazing or cultivation, where such areas represent more than 50 % of all agricultural area declared in accordance with Article 72(1) (a) of Regulation (EU) No 1306/2013.
2. Article 9(1) of Regulation (EU) No 1307/2013 shall not apply to a natural or legal person, or a group of natural or legal persons who carry out, on areas naturally kept in a state suitable for grazing or cultivation, an agricultural activity within the meaning of the point (i) of Article 4(1)(c) of Regulation (EU) No 1307/2013.

##### *Article 11*

#### **Receipts obtained from non-agricultural activities**

1. For the purposes of point (a) of the third subparagraph of Article 9(2) of Regulation (EU) No 1307/2013 and, where appropriate, Article 13 of this Regulation, receipts obtained from agricultural activities shall be those receipts that have been received by a farmer from his agricultural activity within the meaning of Article 4(1)(c) of that Regulation on his holding, including the Union support under the European Agricultural Guarantee Fund (EAGF) and the European Agricultural Fund for Rural Development (EAFRD), as well as any national aid granted for agricultural activities, except complementary national direct payments pursuant to Articles 18 and 19 of Regulation (EU) No 1307/2013.

Receipts from processing of agricultural products within the meaning of Article 4(1) (d) of Regulation (EU) No 1307/2013 of the holding shall be deemed as receipts from agricultural activities provided that the products processed remain the ownership of the farmer and that such processing results in another agricultural product within the meaning of Article 4(1)(d) of Regulation (EU) No 1307/2013.

Any other receipts shall be considered to be receipts from non-agricultural activities.

2. For the purposes of paragraph 1, 'receipts' means gross receipts before deduction of related costs and taxes.
3. The Union support referred to in paragraph 1 shall be calculated:
  - (a) in Bulgaria and Romania, for the year 2015, on the basis of the relevant amount set out in point A of Annex V to Regulation (EU) No 1307/2013;
  - (b) in Croatia, for each year referred to in Article 17 of Regulation (EU) No 1307/2013, on the basis of the amount set out in point A of Annex VI to that Regulation.

## Article 12

### **Amount of direct payments referred to in Article 9(2) and (4) of Regulation (EU) No 1307/2013 and in Article 13(2) of this Regulation**

1. The annual amount of direct payments of a farmer referred to in point (a) of the third subparagraph of Article 9(2) of Regulation (EU) No 1307/2013 and, where appropriate, in Article 13(2) of this Regulation, shall be the total amount of direct payments to which the farmer was entitled in accordance with Regulation (EU) No 1307/2013 for the most recent fiscal year for which evidence on receipts from non-agricultural activities is available. That amount shall be calculated without taking into account the application of Articles 63 and 91(1) of Regulation (EU) No 1306/2013.

Where the most recent fiscal year referred to in the first subparagraph is 2014 or earlier, the annual amount of direct payments shall be the total amount of direct payments to which the farmer was entitled in accordance with Regulation (EC) No 73/2009 before the reductions and exclusions provided for in Articles 21 and 23 of that Regulation.

2. Where a farmer did not submit an aid application for direct payments in accordance with Regulation (EU) No 1307/2013 in the most recent fiscal year referred to in the first subparagraph of paragraph 1, Member States shall establish the total amount of direct payments referred to in the first subparagraph of paragraph 1 by multiplying the number of eligible hectares declared by that farmer in the year of submitting the aid application in accordance with Article 72(1)(a) of Regulation (EU) No 1306/2013 by the national average direct support payment per hectare for the year referred to in the first subparagraph of paragraph 1.

The national average direct support payment per hectare referred to in the first subparagraph shall be established by dividing the national ceiling set out in Annex II to Regulation (EU) No 1307/2013 for that year by the total number of eligible hectares declared in that Member State for that year in accordance with Article 72(1)(a) of Regulation (EU) No 1306/2013.

Where the year referred to in the first subparagraph of paragraph 1 is 2014 or earlier, the national average direct support payment per hectare referred to in the first subparagraph of this paragraph shall be established by dividing the national ceiling set out in Annex VIII to Regulation (EC) No 73/2009 of that year by the total number of eligible hectares declared in that Member State for that year in accordance with Article 19(1)(a) of Regulation (EC) No 73/2009.

3. The amount of direct payments of a farmer referred to in Article 9(4) of Regulation (EU) No 1307/2013 shall be the total amount of direct payments to which the farmer was entitled in accordance with Regulation (EU) No 1307/2013 before the application of Articles 63 and 91(1) of Regulation (EU) No 1306/2013 for the previous year.

Where the year referred to in the first subparagraph is 2014, the amount of direct payments shall be the total amount of direct payments for the year 2014 to which the farmer was entitled pursuant to Regulation (EC) No 73/2009 before the reductions and exclusions provided for in Articles 21 and 23 of that Regulation.

4. Where a farmer did not submit an aid application for direct payments in accordance with Regulation (EU) No 1307/2013 for the previous year as referred to in the first subparagraph of paragraph 3, Member States shall establish the total amount of direct payments referred to in the first subparagraph of paragraph 3 by multiplying the number of eligible hectares declared by that farmer in the year of submitting the aid application in accordance with Article 72(1)(a)

of Regulation (EU) No 1306/2013 by the national average direct support payment per hectare for the previous year.

The national average direct support payment per hectare referred to in the first subparagraph shall be established by dividing the national ceiling set out in Annex II to Regulation (EU) No 1307/2013 for that year by the total number of eligible hectares declared in that Member State for that year in accordance with Article 72(1)(a) of Regulation (EU) No 1306/2013.

Where the previous year referred to in first subparagraph of paragraph 3 is 2014, Member States shall establish the annual amount of direct payments of that farmer by multiplying the number of eligible hectares declared by that farmer for the year 2015 in accordance with Article 72(1)(a) of Regulation (EU) No 1306/2013 by the national average direct support payment per hectare for the year 2014.

The national average direct support payment per hectare for the year 2014 shall be established by dividing the national ceiling for the year 2014 set out in Annex VIII to Regulation (EC) No 73/2009 by the total number of eligible hectares declared in that Member State for the year 2014 in accordance with Article 19(1)(a) of that Regulation.

5. The total amount of direct payments referred to in paragraphs 1 and 2 shall be calculated:

- (a) in Bulgaria and Romania, for the year 2015, on the basis of the relevant amount set out in point A of Annex V to Regulation (EU) No 1307/2013;
- (b) in Croatia, for each year referred to in Article 17 of Regulation (EU) No 1307/2013, on the basis of the amount set out in point A of Annex VI to that Regulation.

### *Article 13*

#### **Criteria for proving that agricultural activities are not insignificant and that the principal business or company objects consist of exercising an agricultural activity**

1. For the purposes of point (b) of the third subparagraph of Article 9(2) of Regulation (EU) No 1307/2013, agricultural activities are not insignificant if the total receipts obtained from agricultural activities within the meaning of Article 11 of this Regulation in the most recent fiscal year for which such evidence is available represent at least one third of the total receipts obtained in the most recent fiscal year for which such evidence is available.

Member States may decide to set the threshold for the total receipts obtained from agricultural activities at a level lower than one third provided that such lower threshold does not allow natural or legal persons with marginal agricultural activities to be considered as active farmers.

By way of derogation from the first and second subparagraphs, Member States may establish alternative criteria allowing an entity to demonstrate that its agricultural activities are not insignificant pursuant to point (b) of the third subparagraph of Article 9(2) of Regulation (EU) No 1307/2013.

2. For the purposes of point (a) of Article 9(3) of Regulation (EU) No 1307/2013, Member States may decide that agricultural activities form only an insignificant part of the overall economic activities of a natural or legal person, or a group of natural or legal persons, by using the following methods:

- (a) the annual amount of direct payments is less than 5 % of the total receipts obtained from non-agricultural activities within the meaning of Article 11 of this Regulation in the most recent fiscal year for which such evidence is available;
- (b) the total amount of receipts obtained from agricultural activities within the meaning of Article 11 of this Regulation in the most recent fiscal year for which such evidence is available is lower than a threshold to be decided by Member States and not exceeding one third of the total amount of receipts obtained in the most recent fiscal year for which such evidence is available.

By way of derogation from the first subparagraph, Member States may establish alternative criteria according to which agricultural activities are to be considered insignificant pursuant to point (a) of Article 9(3) of Regulation (EU) No 1307/2013.

3. For the purposes of point (c) of the third subparagraph of Article 9(2) of Regulation (EU) No 1307/2013 and, where appropriate, point (b) of Article 9(3) of that Regulation, an agricultural activity shall be considered to be the principal business or company object of a legal person if recorded as a principal business or company object in the official business register or any equivalent official evidence of a Member State. In the case of a natural person, equivalent evidence shall be required.

Where no such registers exist, Member States shall use equivalent evidence.

By way of derogation from the first and second subparagraphs, Member States may establish alternative criteria according to which an agricultural activity is to be considered to be a principal business or company object of a natural or legal person pursuant point (c) of the third subparagraph of Article 9(2) and, where appropriate, to point (b) of Article 9(3) of that Regulation.

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*Status: This is the original version (as it was originally adopted).*

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- (1) 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](#)).
- (2) 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](#)).
- (3) Council Directive 2002/53/EC of 13 June 2002 on the common catalogue of varieties of agricultural plant species ([OJ L 193, 20.7.2002, p. 1](#)).
- (4) Council Directive 2002/57/EC of 13 June 2002 on the marketing of seed of oil and fibre plants ([OJ L 193, 20.7.2002, p. 74](#)).