

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 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.

Status: Point in time view as at 11/03/2014.

Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) No 639/2014, SECTION 3. (See end of Document for details)

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

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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

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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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