

Commission Delegated Regulation (EU) No 640/2014 of 11 March 2014 supplementing Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to the integrated administration and control system and conditions for refusal or withdrawal of payments and administrative penalties applicable to direct payments, rural development support and cross compliance

## TITLE II

### THE INTEGRATED ADMINISTRATION AND CONTROL SYSTEM

#### CHAPTER IV

#### CALCULATION OF AID AND ADMINISTRATIVE PENALTIES RELATING TO DIRECT PAYMENTS SCHEMES AND RURAL DEVELOPMENT MEASURES IN THE SCOPE OF THE INTEGRATED SYSTEM

##### SECTION 2

*Area-related aid schemes, except the payment for agricultural practices beneficial for the climate and the environment, or area-related support measures*

##### Article 17

#### General principles

[<sup>F1</sup>1. For the purposes of this Section, the following crop groups shall be distinguished as appropriate:

- (a) areas declared for the purpose of activation of payment entitlements under the basic payment scheme or for the purpose of being granted the single area payment;
- (b) areas giving right to the re-distributive payment;
- (c) areas giving right to payments under the young farmers scheme;
- (d) areas declared per voluntary coupled support measures;
- (e) a group for each of the areas declared for the purpose of any other area-related aid scheme or support measure, for which a different rate of aid or support is applicable;
- (f) areas declared under the heading 'other uses'.

For the purposes of point (e) of the first subparagraph, in respect of payments for areas facing natural or other specific constraints as referred to in Article 31 of Regulation (EU) No 1305/2013, where degressive aid amounts are used, the average of those amounts in relation to the respective areas declared shall be taken into account.]

2. Where the same area serves as the basis for an aid application and/or payment claim under more than one area-related aid scheme or support measure, that area shall be taken into account separately for each of those aid schemes or support measures.

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*Changes to legislation: There are outstanding changes not yet made to Commission Delegated Regulation (EU) No 640/2014. 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 Delegated Regulation (EU) 2016/1393 of 4 May 2016 amending Delegated Regulation (EU) No 640/2014 supplementing Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to the integrated administration and control system and conditions for refusal or withdrawal of payments and administrative penalties applicable to direct payments, rural development support and cross-compliance.

## Article 18

### Basis of calculation in respect of area-related payments

1. With regard to an aid applications under the basic payment scheme, the small farmers scheme, the re-distributive payment, the payment for areas with natural constraints and, where applicable, the young farmer scheme and where the Member State applies the basic payment scheme, the following shall apply:

- (a) if the number of payment entitlements declared exceeds the number of payment entitlements at the beneficiary's disposal, the number of payment entitlements declared shall be reduced to the number of payment entitlements at the beneficiary's disposal;
- (b) if there is a difference between the number of payment entitlements declared and the area declared, the area declared shall be adjusted to the lowest figure.

This paragraph shall not apply in the first year of allocation of payment entitlements.

2. In case of the payment for young farmers and where the Member State opts for the payment method laid down in Article 50(6), (7) and (8) of Regulation (EU) No 1307/2013; if the area declared under the basic payment scheme or the single area payment scheme exceeds the limit set by the Member State in accordance with Article 50(9) of that Regulation, the area declared shall be reduced to that limit.

3. In case of the re-distributive payment, if the area declared under the basic payment scheme or the single area payment scheme exceeds the limits set by the Member State in accordance with Article 41(4) of Regulation (EU) No 1307/2013, the area declared shall be reduced to that limit.

4. In case of the payment for areas with natural constraints and where the Member State opts for the payment method laid down in Article 48(4) of Regulation (EU) No 1307/2013, if the area declared under the basic payment scheme or the single area payment scheme exceeds the maximum number of hectares set by the Member State, the area declared shall be reduced to that number.

5. In case of aid applications and/or payment claims under area-related aid schemes or support measures, if the area of a crop group determined is established to be greater than the area declared in the aid application, the area declared shall be used for the calculation of the aid.

6. Without prejudice to administrative penalties in accordance with Article 19, in the case of aid applications and/or payment claims under area-related aid schemes or support measures, if the area declared exceeds the area determined for a crop group as referred to in Article 17(1), the aid shall be calculated on the basis of the area determined for that crop group.

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However, without prejudice to Article 60 of Regulation (EU) No 1306/2013, if the difference between the total area determined and the total area declared for payment under the direct aid schemes established in Titles III, IV and V of Regulation (EU) No 1307/2013 or the total area declared for payment under an area-related support measure is less than or equal to 0,1 hectare, the area determined shall be set equal to the area declared. For this calculation only over-declarations of areas at the level of a crop group as referred to in Article 17(1) shall be taken into account.

The second subparagraph shall not apply where that difference represents more than 20 % of the total area declared for payments.

7. For the purpose of calculating the aid under the basic payment scheme, the average of the values of different payment entitlements in relation to the respective area declared shall be taken into account.

### *Article 19*

#### **Administrative penalties in cases of over-declaration**

1. If, in respect of a crop group as referred to in Article 17(1), the area declared for the purposes of any area-related aid schemes or support measures exceeds the area determined in accordance with Article 18, the aid shall be calculated on the basis of the area determined reduced by twice the difference found if that difference is more than either 3 % or two hectares, but no more than 20 % of the area determined.

If the difference is more than 20 % of the area determined, no area-related aid or support shall be granted for the crop group concerned.

2. If the difference is more than 50 %, no area-related aid or support shall be granted for the crop group concerned. Moreover, the beneficiary shall be subject to an additional penalty equal to the amount of aid or support corresponding to the difference between the area declared and the area determined in accordance with Article 18.

[<sup>F13</sup> If the amount calculated in accordance with paragraphs 1 and 2 cannot be fully off-set in the course of the three calendar years following the calendar year of the finding, in accordance with Article 28 of Commission Implementing Regulation (EU) No 908/2014<sup>(1)</sup>, the outstanding balance shall be cancelled.]

#### **Textual Amendments**

- F1** Substituted by [Commission Delegated Regulation \(EU\) 2016/1393 of 4 May 2016 amending Delegated Regulation \(EU\) No 640/2014 supplementing Regulation \(EU\) No 1306/2013 of the European Parliament and of the Council with regard to the integrated administration and control system and conditions for refusal or withdrawal of payments and administrative penalties applicable to direct payments, rural development support and cross-compliance.](#)

### *[<sup>F2</sup>Article 19a*

**Administrative penalties in cases of over-declaration of areas for the basic payment scheme, the single area payment scheme, the re-distributive payment, the young farmers scheme, the payment for areas with natural constraints,**

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### **the small farmers scheme, Natura 2000 and Water Framework Directive payments and payments to areas facing natural or other specific constraints**

1. If, in respect of a crop group as referred to in Article 17(1), the area declared for the aid schemes provided for in Chapters 1, 2, 4 and 5 of Title III and in Title V of Regulation (EU) No 1307/2013 and the support measures referred to in Articles 30 and 31 of Regulation (EU) No 1305/2013 exceeds the area determined in accordance with Article 18 of this Regulation, the aid or support shall be calculated on the basis of the area determined reduced by 1,5 times the difference found if that difference is more than either 3 % of the area determined or 2 hectares.

The administrative penalty shall not exceed 100 % of the amounts based on the area declared.

[<sup>X1</sup>2. Where no administrative penalty has yet been imposed on the beneficiary under paragraph 1 for over-declaration of areas for the aid scheme or support measure concerned, the administrative penalty referred to in that paragraph shall be reduced by 50 % if the difference between the area declared and the area determined does not exceed 10 % of the area determined.]

3. Where a beneficiary had his administrative penalty reduced in accordance with paragraph 2 and another administrative penalty as referred to in this Article and in Article 21 is to be imposed on that beneficiary for the aid scheme or support measure concerned in respect of the following claim year, he shall pay the full administrative penalty in respect of that following claim year and shall pay the amount by which the administrative penalty calculated in accordance with paragraph 1 had been reduced in accordance with paragraph 2.

4. If the amount calculated in accordance with paragraphs 1, 2 and 3 cannot be fully off-set in the course of the three calendar years following the calendar year of the finding, in accordance with Article 28 of Implementing Regulation (EU) No 908/2014, the outstanding balance shall be cancelled.]

#### **Editorial Information**

**X1** Substituted by [Corrigendum to Commission Delegated Regulation \(EU\) 2016/1393 of 4 May 2016 amending Delegated Regulation \(EU\) No 640/2014 supplementing Regulation \(EU\) No 1306/2013 of the European Parliament and of the Council with regard to the integrated administration and control system and conditions for refusal or withdrawal of payments and administrative penalties applicable to direct payments, rural development support and cross-compliance \(Official Journal of the European Union L 225 of 19 August 2016\)](#).

#### **Textual Amendments**

**F2** Inserted by [Commission Delegated Regulation \(EU\) 2016/1393 of 4 May 2016 amending Delegated Regulation \(EU\) No 640/2014 supplementing Regulation \(EU\) No 1306/2013 of the European Parliament and of the Council with regard to the integrated administration and control system and conditions for refusal or withdrawal of payments and administrative penalties applicable to direct payments, rural development support and cross-compliance](#).

### *Article 20*

#### **Administrative penalties concerning the crop specific payment for cotton**

Without prejudice to the administrative penalties applicable accordance with Article 19 of this Regulation, where it is established that the beneficiary does not respect the

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obligations resulting from Article 61(1) and (2) of Commission Delegated Regulation (EU) No 639/2014<sup>(2)</sup>, the beneficiary shall lose the right to the increase of the aid provided for in Article 60(2) of Regulation (EU) No 1307/2013. Moreover, the aid for cotton per eligible hectare pursuant to Article 57 of Regulation (EU) No 1307/2013 shall be reduced by the amount of the increase that the beneficiary would otherwise have been granted in accordance with Article 60(2) of that Regulation.

#### Article 21

### **Administrative penalties, other than over-declarations of areas, concerning the payments for young farmers under Chapter V of Title III of Regulation (EU) No 1307/2013**

1. Without prejudice to the administrative penalties applicable in accordance with Article 19, where it is established that the beneficiary does not comply with the obligations referred to in Article 50(2) of Regulation (EU) No 1307/2013 and Article 49 of Delegated Regulation (EU) No 639/2014, the aid for young farmers shall not be paid or shall be withdrawn in full. Moreover, where it is established that the beneficiary provided false evidence for the purpose of proving compliance with the obligations, a penalty corresponding to 20 % of the amount the beneficiary has, or would otherwise have received as a payment for young farmers pursuant to Article 50(1) of Regulation (EU) No 1307/2013 shall be applied.

[<sup>F1</sup>2. If the amount of the undue payments and the administrative penalties referred to in paragraph 1 cannot be fully off-set in the course of the three calendar years following the calendar year of the finding, in accordance with Article 28 of Implementing Regulation (EU) No 908/2014, the outstanding balance shall be cancelled.]

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#### **Textual Amendments**

- F1** Substituted by [Commission Delegated Regulation \(EU\) 2016/1393 of 4 May 2016 amending Delegated Regulation \(EU\) No 640/2014 supplementing Regulation \(EU\) No 1306/2013 of the European Parliament and of the Council with regard to the integrated administration and control system and conditions for refusal or withdrawal of payments and administrative penalties applicable to direct payments, rural development support and cross-compliance.](#)

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- (1) [<sup>F1</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).]
- (2) 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 (see page 1 of this Official Journal).

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