

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

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

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 1306/2013 of the European Parliament and of the Council of 17 December 2013 on the financing, management and monitoring of the common agricultural policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008<sup>(1)</sup>, and in particular Articles 58(4), 62(2)(a) to (f) and (h), 63(5), 77(8), 78, 96(4), 101(2), thereof,

Whereas:

- (1) Regulation (EU) No 1306/2013 lays down the basic rules concerning, inter alia, the obligations on Member States to protect the financial interests of the Union. In order to ensure that the new legal framework established by that Regulation functions smoothly and applies uniformly, the Commission has been empowered to adopt certain rules in relation to administrative and on-the-spot checks, the measurement of areas, the cases in which aid applications or payment claims may be corrected, the application and calculation of partial or total withdrawals and the recovery of undue payments and penalties, the application and calculation of administrative penalties, the requirements for the computerised database, aid applications and payment claims and applications for payment entitlements, including the final date for submission, the carrying-out of checks, transfers of holdings, payments of advances, the carrying-out of checks relating to cross-compliance obligations, the calculation and application of administrative penalties in cross-compliance and technical specifications necessary for the purpose of the uniform application of the basic rules on the integrated administration and control system ('integrated system') as regards cross-compliance.
- (2) Member States should take the required measures to ensure the proper functioning of the administration and control system where more than one paying agency is responsible for the same beneficiary.
- (3) Where the competent authority has not yet informed the beneficiary of any errors contained in the aid application or payment claim nor announced an on-the-spot check, beneficiaries should be entitled to withdraw their aid applications or payment claims or parts thereof at any time. Beneficiaries should also be allowed to correct or adjust

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obvious errors contained in the aid application or payment claims and any supporting documents, in certain cases to be recognised by the national authorities.

- (4) Specific and detailed provisions need to be laid down in order to ensure the equitable application of the various reductions to be applied in respect of one or several aid applications or payment claims by the same beneficiary. The sequence for the calculation of the various potential reductions on each direct payment scheme or rural development measure in the scope of the integrated system should therefore be determined.
- (5) In order to ensure the uniform application of the principle of good faith throughout the Union, where amounts unduly paid are recovered, the conditions under which that principle may be invoked should be laid down without prejudice to the treatment of the expenditure concerned in the context of the clearance of accounts under Regulation (EU) No 1306/2013.
- (6) Rules should be established concerning the consequences of transferring entire holdings that are subject to certain obligations under the direct payment schemes or under rural development measures in the scope of the integrated system.
- (7) In order to enable the Commission to monitor the integrated system effectively, the Member States should notify it of annual control data and statistics. Similarly, statistics of the checks on rural development measures outside the scope of the integrated system, including the results of such checks, should be provided by the Member States annually. Moreover, the Commission should, where appropriate, be informed of any measures taken by the Member States in respect of cross-compliance.
- (8) Pursuant to Article 75 of Regulation (EU) No 1306/2013 Member States may pay advances as regards direct payments under certain conditions, including the finalisation of the administrative and on-the-spot checks in respect of the claim year concerned. Article 8 of Regulation (EU) No 1307/2013 of the European Parliament and of the Council<sup>(2)</sup> provides that the adjustment rate determined in accordance with Article 26 of Regulation (EU) No 1306/2013 applies to the direct payments in excess of a fixed threshold. However, according to Article 26(4) of Regulation (EU) No 1306/2013 the Commission may, on the basis of new information in its possession, adapt the adjustment rate for direct payments until 1 December. As a consequence, the adjustment rate of financial discipline that may be applied may not yet be known by 16 October. The balance payment as from 1 December should take into account the adjustment rate of financial discipline applicable at that time.
- (9) The general framework for the introduction of simplified procedures in the context of communications between the beneficiary and the national authorities should be set up. That framework should, in particular, provide for the possibility to make use of electronic means. It has however to be guaranteed that, in particular, the data thus transmitted is fully reliable and that the relevant procedures are operated without any discrimination between beneficiaries. In order to simplify the administration for the beneficiaries as well as for the national authorities, it should furthermore be possible for the competent authorities to use directly the information at the disposal of the national

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authorities instead of requiring the beneficiary to provide such information to verify the eligibility of certain payments.

- (10) To allow effective checks in Member States that decide that all aid applications for direct payments and payment claims for rural development measures in the scope of the integrated system are to be covered by the single application pursuant to Article 72(4) of Regulation (EU) No 1306/2013, it should be provided that any applications for aid or payment claims which are in some way area-related are to be submitted only once per year in one single application.
- (11) Member States should fix final dates for the submission of the single application and/or payment claims which, in order to allow timely processing and checks of the aid application and payment claims, should not be later than 15 May. Due to the particular climatic conditions in Estonia, Latvia, Lithuania, Finland and Sweden, those Member States should however be allowed to set a later date which should not be later than 15 June. Moreover, it should be possible to provide for case-by-case derogations should climatic conditions in a given year in the future so require.
- (12) In the single application beneficiaries should declare not only the area used for agricultural purposes but also their payment entitlements and any information required in order to establish the eligibility for the aid and/or support. It is however appropriate to allow Member States to derogate from certain obligations where the payment entitlements to be allocated in a given year are not yet definitively established.
- (13) To allow as much flexibility as possible with regard to beneficiaries' plans concerning the use of area, they should be allowed to amend their single application or payment claim until such dates where sowing would normally take place, provided that all the particular requirements under the different aid schemes or support measures are respected and that the competent authority has not yet informed the beneficiary of errors in the single application or payment claim, nor notified the on-the-spot check which revealed errors, in relation to the part affected by the amendment. After such amendments have been made, the possibility should be given to adjust the corresponding supporting documents or contracts to be submitted.
- (14) Since beneficiaries remain responsible for submitting a correct aid application or payment claim, they should make the necessary corrections and changes to the pre-established form, where appropriate.
- (15) In case of aid applications for area-related aid schemes and/or payment claims for area-related support measures, a pre-established form should be provided to the beneficiary in an electronic format and the corresponding graphical material through a software application based on a geographic information system (GIS) (hereinafter referred to as 'geo-spatial aid application form'). Geo-spatial aid application forms will contribute to the prevention of errors by beneficiaries when declaring their agricultural areas and will render administrative cross-checks more efficient. In addition, more accurate spatial information provided with geo-spatial aid application forms will provide more reliable data for the purpose of monitoring and evaluation. Therefore, it is appropriate to require that as of a certain date all such aid applications and/or payment claims are to be submitted on the basis of the electronic geo-spatial aid application form. However,

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where beneficiaries are not able to use that form, the competent authority should provide an alternative to the beneficiaries to enable them to submit an aid application and/or payment claim. In any case, the competent authority should ensure that the declared areas are digitised.

- (16) Any specific information related to the production of hemp or to voluntary coupled support, or to the crop-specific payment for cotton should be provided together with the single application, or where appropriate due to the nature of the information at a later date. It should, furthermore, be provided that areas for which no aid is being requested, are declared in the single application form. Since it is important to have detailed information for certain types of use of an area, information on those types of use should be declared separately whilst others may be declared under one heading.
- (17) In circumstances where beneficiaries are required to have ecological focus area on the agricultural area in order to be eligible for the payment for agricultural practices beneficial for the climate and the environment referred to in Article 43 of Regulation (EU) No 1307/2013 ('the greening payment'), beneficiaries should declare the ecological focus area with their aid applications for area-related aid schemes. Where a part of the ecological focus area obligations is implemented at regional level or collectively, the declaration of the ecological focus areas should be complemented with a separate declaration of the ecological focus areas implemented at regional level or collectively.
- (18) In order to allow effective monitoring and control, the application for participation in the small farmers scheme should contain a reference to the single application submitted by the same beneficiary. To allow effective checks in respect of the special conditions for the small farmers scheme, all the necessary information should be provided using the simplified application procedure provided for in Article 72(3) of Regulation (EU) No 1306/2013. Furthermore it should be clarified that beneficiaries deciding to withdraw from the small farmers scheme should be required to inform the competent authority in due time in order to allow a smooth transition to the payments pursuant to Titles III and IV of Regulation (EC) No 1307/2013.
- (19) In order to enable checks related to cross-compliance obligations, an aid application form should also be submitted by beneficiaries who have agricultural area at their disposal, but do not apply for any of the aid and/or support subject to the single application. However, it is appropriate to allow Member States to exempt beneficiaries from this obligation, where the information is already available to the authorities.
- (20) With a view to simplifying the application procedures and in accordance with Article 72(3) of Regulation (EU) No 1306/2013, Member States should provide the beneficiary as far as possible with pre-established forms containing the information necessary to enable the beneficiary to submit a correct aid application or payment claim. It should be possible that the pre-established form is designed in such a way that the beneficiary only needs to confirm the absence of changes with respect to the aid application and/or the payment claim submitted in the previous year.

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- (21) Common provisions should be laid down on the details to be included in livestock aid applications or payment claims where a Member State opts for the application of animal-related voluntary coupled support or rural development measures.
- (22) In accordance with Article 53(4) of Commission Delegated Regulation (EU) No 639/2014<sup>(3)</sup>, payments under the animal-related voluntary coupled support or rural development measures may only be made for animals that are properly identified and registered in accordance with Regulation (EC) No 1760/2000 of the European Parliament and of the Council<sup>(4)</sup> or Council Regulation (EC) No 21/2004<sup>(5)</sup>. Beneficiaries submitting aid applications or payment claims under the aid schemes or support measures concerned should therefore be given access to the relevant information in due time.
- (23) The timely submission of applications for payment entitlements by beneficiaries is essential for the Member States to be in a position to establish payment entitlements. Therefore a final date for submission should be set.
- (24) Rules need to be established to cover the situations in which undue payment entitlements were allocated, in particular as a result of over-declaration, or in which the value of the payment entitlements was fixed at an incorrect level, for example, because it was calculated on the basis of an incorrect reference amount. It should be made clear that any adjustment to the number and/or value of payment entitlements should not lead to a systematic recalculation of the remaining payment entitlements. In certain cases, unduly allocated payment entitlements correspond to very small amounts, but lead to substantial costs and an administrative burden when recovering them. For the sake of simplification and to strike a balance between the costs and the administrative burden on the one hand and the amount to be recovered on the other hand, a minimum amount should be fixed under which no recovery needs to be made.
- (25) Compliance with the provisions on the aid schemes and support measures under the integrated system should be effectively monitored. To this end, and to ensure a harmonised level of monitoring in all Member States, it is necessary to set out in detail the criteria and technical procedures for carrying out administrative and on-the-spot checks in respect of the eligibility criteria, commitments and other obligations established for the direct payment schemes, rural development measures and cross-compliance.
- (26) It should be clarified that whenever photo-interpretation is performed, for example during on-the-spot checks or in the context of updating the identification system for agricultural parcels, and whenever this photo-interpretation does not lead to conclusive results, field checks should be carried out.
- (27) The announcement of on-the-spot checks for eligibility or cross-compliance should only be allowed when such announcement would not jeopardise the checks, and in any case appropriate time limits should apply. Furthermore, where specific sectoral rules for acts or standards relevant for cross-compliance provide for unannounced on-the-spot checks, those rules should be respected.

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- (28) It should be provided that Member States have to combine the various checks, where appropriate. However, in respect of certain support measures the on-the-spot checks should be spread over the year in order to be able to verify the respect of commitments. The duration of an on-the-spot check should be limited to the minimum required. However, where eligibility criteria, commitments or obligations are linked to a certain time period, an on-the-spot check may require additional visits to a beneficiary at a later date. For such cases it should be specified that the time span of the on-the-spot check as well as the number of visits has to be limited to the minimum required.
- (29) It should be ensured that any instance of non-compliance detected is appropriately followed-up and taken into account for granting the payments. In this context, when verifying the respect of eligibility conditions, account should also be taken of any possible non-compliance reported by bodies, services or organisations other than those directly in charge of the checks. In addition, Member States should ensure that any relevant finding made in the framework of the checks of the compliance with the eligibility criteria, commitments and other obligations are cross-notified between competent authorities in charge of granting the payments. This principle should be extended to all the findings made by the public or private certification authorities in respect of the beneficiaries who opted for fulfilling their greening obligations through equivalence practices covered by a certification scheme, which should be notified to the authority in charge of granting the greening payment. Finally, where the checks in relation to rural development measures cover equivalent practices, the results of such checks should be cross-notified for the purposes of their being taken into account in the subsequent assessment of eligibility for the receipt of greening payments.
- (30) For an effective detection of non-compliance during the administrative checks, rules should be laid down in particular as regards the content of the cross-checks. Any instances of non-compliance should be followed up with any appropriate procedure.
- (31) For reasons of simplification, where a reference parcel is subject to an aid application or payment claim of two or more beneficiaries applying for aid and/or support under the same aid scheme or support measure and the over-declared or overlapping area falls within the tolerance defined for measurement of agricultural parcels, Member States should be authorised to provide for a proportional reduction of the areas concerned. However, the beneficiaries concerned should be entitled to appeal against such decisions.
- (32) The minimum number of beneficiaries to be checked on the spot under the various aid schemes and support measures should be determined.
- (33) The control sample in respect of the on-the-spot checks of the area-related aid schemes should be made on the basis of a stratified sampling method in order to keep the administrative burden in proportion and the number of beneficiaries to be checked on-the-spot to a reasonable level. The stratified sampling method should comprise a random part in order to obtain a representative error rate. However, regarding the on-the-spot checks for the greening payment, animal aid schemes or rural development measures, the sample should be drawn partly on the basis of risk analysis. The competent authority should establish the risk factors targeting the areas where the risk

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of errors is the highest. To ensure relevant and efficient risk analysis, the effectiveness of the risk criteria should be assessed and updated on an annual basis taking into account the relevance of each risk criterion, comparing the results of randomly and risk-based selected samples, the specific situation in the Member States and the nature of the non-compliance.

- (34) In certain cases it is relevant to carry out on-the-spot checks before all applications are received. Member States should therefore be allowed to make a partial selection of the control sample before the end of the application period.
- (35) In order for the on-the-spot check to be effective it is important for the staff carrying out the checks to be informed of the reason for the selection for the on-the-spot check. Member States should keep records of such information.
- (36) Significant non-compliance found during the on-the-spot checks should require an increase in the level of the on-the-spot checks in respect of the following year to reach an acceptable level of assurance of the correctness of the aid applications and payment claims concerned.
- (37) It is necessary to lay down the conditions under which a reduction of the minimum level of the on-the-spot checks for certain aid schemes and support measures can be considered justified on the basis of a well-functioning management and control system and error rates that remain at an acceptable level.
- (38) To ensure proper monitoring and effective control, on-the-spot checks of area-related aid schemes and rural development measures should cover all agricultural parcels declared. In respect of certain rural development measures the on-the-spot check should cover also non-agricultural land. In the interests of facilitating the implementation of the integrated system, it should be permitted to limit the actual measurement of the agricultural parcels to a random sample of 50 % of the agricultural parcels declared. Results from the sample-based measurements should be extrapolated to the rest of the population or the measurements should be extended to all the agricultural parcels declared.
- (39) Rules regarding the elements of the on-the-spot checks, the verification of the eligibility conditions, the area measurement methods and the measurement tools that Member States have to use for the purpose of the on-the-spot checks, should be laid down to ensure a quality of the measurement which is equivalent to that required by technical standards drawn up at Union level.
- (40) The conditions for the use of remote sensing for on-the-spot checks should be laid down and provision should be made for field checks to be carried out in all cases where photo-interpretation does not lead to clear results. Due to weather conditions, for example, it might occur that not all parcels are covered by imagery of sufficient quality to verify all eligibility conditions or to carry out the area measurement. In such cases the on-the-spot check should be carried out or supplemented by traditional means. Moreover, it is appropriate to require that the verification of the compliance with all eligibility criteria, commitments and other obligations is made at the same level of accuracy as an on-the-spot check carried out by traditional means.

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- (41) To enable the national authorities as well as any competent Union authority to follow up on-the-spot checks carried out, the details of the checks should be recorded in a control report. The beneficiary or a representative should be given the opportunity to sign the report. However, in respect of on-the-spot checks by means of remote sensing Member States should be allowed to provide that this opportunity is only given where the check reveals non-compliance. Irrespective of the kind of on-the-spot check carried out, the beneficiary should receive a copy of the report if any non-compliance is found.
- (42) Special control provisions have been established on the basis of Commission Regulation (EC) No 1082/2003<sup>(6)</sup>. Where the checks under that Regulation are carried out, the results should be included in the control report for the purposes of the integrated system.
- (43) As regards Member States opting for the application of an animal aid scheme or animal-related support measure, the timing and the minimum content of on-the-spot checks should be specified in respect of aid or support applied for under those aid schemes or support measures. In order to check the correctness of declarations made in aid applications or payment claims and notifications to the computerised database for animals effectively, it is essential to carry out such on-the-spot checks. On-the-spot checks in respect of animal aid schemes or animal-related support measures should in particular cover the verification of the compliance with the eligibility conditions, the correctness of the entries in the register and, where applicable, passports.
- (44) To enable the competent national authorities as well as any competent Union authority to follow up on-the-spot checks carried out, the details of the checks should be recorded in a control report. The beneficiary or a representative should be given the opportunity to sign the report during the check. Irrespective of the kind of on-the-spot check carried out, the beneficiary should receive a copy of the report if any non-compliance is found.
- (45) For the purposes of Article 32(6) of Regulation (EU) No 1307/2013 rules should be laid down for the implementation of the system to be used by the Member States for the verification of the tetrahydrocannabinol content in hemp
- (46) In that context, it is necessary to provide for a time period during which hemp grown for fibre may not be harvested after flowering, in order to enable the control obligations provided for in respect of such crops to be carried out effectively.
- (47) More detailed rules are needed for the organisation of administrative and on-the-spot checks and for the calculation of administrative penalties as regards rural development measures outside the scope of the integrated system.
- (48) Given the particular characteristics of those measures, the administrative checks should verify compliance with Union or national law and with the applicable rural development programme and should cover all the eligibility criteria, commitments and other obligations that are possible to be verified by such checks. To verify the realisation of investment operations, the administrative checks should normally also include a visit to the operation supported or to the investment site.



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- (49) On-the-spot checks should be organised on the basis of random and risk based samples. The proportion of the random sample should be high enough in order to obtain a representative error rate.
- (50) In order to ensure sufficient checks, it is necessary to define a minimum control level for the on-the-spot checks. This level should be increased where the checks reveal significant non-compliance. Similarly, the level should be able to be reduced by the Member States when the error rates are under the materiality threshold and the management and control systems work properly.
- (51) It is necessary to define the content of the on-the-spot checks, in order to ensure a uniform application of those checks.
- (52) Ex-post checks of investment operations should be undertaken to verify compliance with the durability requirement as defined in Article 71 of Regulation (EU) No 1303/2013 of the European Parliament and of the Council<sup>(7)</sup>. The basis and contents of those checks should be specified.
- (53) Experience has shown that specific control provisions are needed for certain specific rural development measures and for expenditure relating to technical assistance at the initiative of the Member States.
- (54) Pursuant to Regulation (EU) No 1306/2013, no administrative penalties are to be imposed where the non-compliance is of a minor nature, including where expressed in the form of a threshold. Rules should be laid down in relation to certain rural development measures for identifying non-compliance as minor, including the setting of a quantitative threshold expressed as a percentage of the eligible amount of support. This threshold should be defined, after which a proportional administrative penalty should apply.
- (55) Monitoring the adherence to the different cross-compliance obligations requires the setting-up of a control system and of appropriate administrative penalties. For this purpose, different authorities within the Member States need to communicate information on, in particular, aid applications, control samples and results of on-the-spot checks. Provision should be made for the basic elements of such a system.
- (56) Regulation (EU) No 1306/2013 introduces cross-compliance obligations for beneficiaries receiving direct payments under Regulation (EU) No 1307/2013, support in the wine sector under Articles 46 and 47 of Regulation (EU) No 1308/2013 of the European Parliament and of the Council<sup>(8)</sup> and the annual premia under points (a) and (b) of Article 21(1), Articles 28 to 31, 33 and 34 of Regulation (EU) No 1305/2013 of the European Parliament and of the Council<sup>(9)</sup> and provides for a system of reductions and exclusions where such obligations are not fulfilled. The details for that system should be established.
- (57) Cross-compliance checks may be finalised before or after the payments and annual premia referred to in Article 92 of Regulation (EU) No 1306/2013 are received. In particular, where such checks cannot be finalised before those payments and annual premia are received, the amount due to be paid by the beneficiary as a result of any

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administrative penalty should be recovered in accordance with this Regulation or by offsetting.

- (58) Rules regarding the authorities in the Member States responsible for the control system concerning cross-compliance obligations should be laid down.
- (59) The minimum control rate for verifying the respect of the cross-compliance obligations should be established. That control rate should be fixed, at least, at 1 % of the total number of the beneficiaries referred to in Article 92 of Regulation (EU) No 1306/2013 falling within the area of competence of each control authority to be selected on the basis of an appropriate risk analysis.
- (60) For the purpose of calculating the control sample, in the specific case of a group of persons as referred to in Articles 28 and 29 of Regulation (EU) No 1305/2013, Member States should be afforded flexibility in determining whether to consider the group as whole, or each of its members, individually.
- (61) Member States should be given the option to fulfil the minimum control rate at the level of each competent control authority, at the level of the paying agency or at the level of an act or standard, or group of acts or standards.
- (62) Where the specific legislation applicable to the act or standards provides for minimum control rates, Member States should respect those rates. However, Member States should be allowed to apply a single control rate for the cross-compliance on-the-spot checks. If Member States choose this option, any instance of non-compliance detected in the course of on-the-spot checks under the sectorial legislation should be reported and followed-up under cross-compliance.
- (63) For the sake of simplification, as regards the cross-compliance obligations in relation to Council Directive 96/22/EC<sup>(10)</sup>, the application of a specific sampling level of monitoring plans should be considered to fulfil the requirement of the minimum rate set by this Regulation.
- (64) Member States should be conferred with the flexibility necessary to reach the minimum control rate by using the results of other on-the-spot checks or by replacing beneficiaries.
- (65) In order to avoid any weakening of the control system, in particular as to the sampling for the cross-compliance on-the-spot-checks, follow-up checks carried out in reference to the *de minimis* rule, provided for in Article 97(3) of Regulation (EU) No 1306/2013 should not be taken into account in the calculation establishing the cross-compliance minimum control sample.
- (66) The determination of significant degree of non-compliances in relation to cross-compliance should lead to an increase of the number of the on-the-spot checks during the following year in order to reach an acceptable level of assurance of the correctness of the aid applications concerned. The additional checks should target the acts or standards concerned.

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- (67) As regards the application of the *de minimis* rule pursuant to Article 97(3) of Regulation (EU) No 1306/2013, it is important to establish the percentage of beneficiaries that should be checked to verify that the findings of non-compliance have been remedied.
- (68) The control sample for cross-compliance should be drawn partly on the basis of a risk analysis and partly by random selection. The competent authority should establish the risk factors as it is in a better position to choose the relevant risk factors. To ensure a relevant and efficient risk analysis, the effectiveness of the risk analysis should be assessed and updated on an annual basis taking into account the relevance of each risk factor, comparing the results of randomly and risk-based selected samples and the specific situation in the Member States.
- (69) The sampling of on-the-spot checks for cross-compliance can be improved by allowing Member States to take into account the risk analysis concerning the beneficiary's participation in the farm advisory system provided for in Article 12 of Regulation (EU) No 1306/2013 as well as beneficiaries' participation in relevant certification systems. However, when taking that participation into account, it should be demonstrated that the beneficiaries participating in those systems represent a lesser risk than beneficiaries not participating in those systems.
- (70) In certain cases it is relevant to carry out on-the-spot checks relating to cross-compliance before all applications are received. Member States should therefore be permitted to make a partial selection of the control sample before the end of the application period.
- (71) As a general rule, the control sample for cross-compliance should be drawn from the overall population of beneficiaries referred to in Article 92 of Regulation (EU) No 1306/2013 and for which the competent control authority in question is responsible. As a derogation from this rule, the samples may be selected separately from each of the three categories of beneficiaries. Member States should be authorised to draw the control sample on the basis of the samples of beneficiaries that are selected for an on-the-spot check as regards eligibility criteria. A combination of the procedures should also be allowed only insofar as it increases the effectiveness of the control system.
- (72) In the case of a group of persons as referred to in Articles 28 and 29 of Regulation (EU) No 1305/2013 being selected for the on-the-spot checks, it should be ensured that all its members are checked with regard to their compliance with the relevant requirements and standards.
- (73) On-the-spot checks for cross-compliance would in general require several visits to the same farm. In order to reduce the burden of the checks for both beneficiaries and administrations, it should be possible for the checks to be limited to one visit. The timing of that visit should be clarified. Nevertheless, Member States should ensure that a representative and effective check of the requirements and standards is carried out within the same calendar year.
- (74) The limitation of the on-the-spot checks to a sample of at least half of the parcels concerned should not imply a proportionate reduction of the relevant possible penalty.

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- (75) To simplify the cross-compliance on-the-spot checks and to make better use of existing control capacities, it should be possible, when the effectiveness of the checks is at least equal to that achieved when the on-the-spot checks are to be carried out, to replace checks at farm level by administrative checks.
- (76) It should furthermore be possible for Member States to make use of objective indicators specific to certain requirements or standards when carrying out the on-the-spot checks in the context of cross-compliance. Those indicators should however be directly linked to the requirements or standards they represent and cover all elements that are to be checked.
- (77) On-the-spot checks should be carried out in the calendar year in which the relevant aid applications and payment claims have been submitted. As regards the applicants for the support schemes in the wine sector under Articles 46 and 47 of Regulation (EU) No 1308/2013, those checks should be carried out at any time during the period indicated in the second subparagraph of Article 97(1) of Regulation (EU) No 1306/2013.
- (78) Rules for the setting-up of detailed and specific control reports for cross-compliance have to be established. The specialised inspectors in the field should indicate their findings as well as the degree of seriousness of such findings in order to enable the paying agency to fix the related reductions or, as the case may be, to decide on exclusions from the payments and annual premia listed in Article 92 of Regulation (EU) No 1306/2013.
- (79) In order for the on-the-spot check to be effective, it is important for the staff carrying out the checks to be informed of the reason for which the beneficiary was selected for the on-the-spot check. Member States should keep a record of such information.
- (80) Information on the results of checks of cross-compliance should be made available to all paying agencies responsible for the management of the different payments subject to cross-compliance requirements so that, where the findings so justify, appropriate reductions are applied.
- (81) The beneficiaries should be informed about any possible non-compliance determined as a result of an on-the-spot check. It is appropriate to provide for a certain time limit within which the beneficiaries should receive that information. However, it should not be possible for the beneficiaries concerned to avoid the consequences of any determined non-compliance as a result of that time limit being exceeded.
- (82) In respect of the *de minimis* or early warning system provided for in Article 97(3) and Article 99(2) of Regulation (EU) No 1306/2013 respectively, it should be clarified that the obligation to inform the beneficiary about remedial action does not apply if the beneficiary has already taken immediate action.
- (83) Requirements regarding the remediation of the relevant non-compliance should be laid down for situations where a Member State decides not to apply any administrative penalties for non-compliance as provided for in Articles 97(3) and 99(2) of Regulation (EU) No 1306/2013.

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- (84) In order to improve the communication between the parties involved in the control, it should be provided that relevant supporting documents are sent or made accessible to the paying agency or the coordinating authority upon request.
- (85) The administrative penalty should be applied to the total amount of the payments listed in Article 92 of Regulation (EU) No 1306/2013, granted or to be granted to the beneficiary, in respect of the relevant aid applications or payment claims submitted in the course of the calendar year of the finding. As regards applicants for the support schemes in the wine sector under Articles 46 and 47 of Regulation (EU) No 1308/2013, in particular, the administrative penalty should be applied to the total amount received in respect of the application for support schemes under those Articles. As regards the measure concerning restructuring and conversion, the total amount should be divided by three.
- (86) In the case of a group of persons as referred to in Articles 28 and 29 of Regulation (EU) No 1305/2013, the reduction related to non-compliance by a member of the group should be calculated in accordance with the relevant cross-compliance provisions. The application of the resulting percentage of reduction should take account of the fact that cross-compliance obligations are individual and should respect the principle of proportionality. However, it should be left to Member States to decide whether that reduction should be applied to the group or only to non-compliant members.
- (87) Detailed procedural and technical rules concerning the calculation and application of administrative penalties relating to cross-compliance obligations should be laid down.
- (88) Reductions and exclusions should be graded according to the seriousness of the non-compliance committed and should go as far as the total exclusion of the beneficiary from all the payments listed in Article 92 of Regulation (EU) No 1306/2013 in the following calendar year.
- (89) The Committee for Direct Payments and the Rural Development Committee have not delivered an opinion within the time limit set by the Chair,

HAS ADOPTED THIS REGULATION:

## TITLE I

### GENERAL PROVISIONS

#### *Article 1*

#### **Scope**

This Regulation lays down rules for the application of Regulation (EU) No 1306/2013 in relation to:

- (a) [F<sup>1</sup> notifications to be made by the Member States to the Commission in accordance with their obligations to protect the financial interests of the Union;]

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- (b) administrative and on-the-spot checks to be carried out by the [<sup>F2</sup>Member States][<sup>F2</sup>relevant authority] with regard to the respect of eligibility criteria, commitments and other obligations;
- (c) the minimum level of on-the-spot checks and on the obligation to increase that level or the possibility of reducing it;
- (d) the reporting of the checks and verifications carried out and their results;
- (e) the authorities responsible for carrying out checks for compliance as well as to the content of such checks;
- (f) specific control measures and methods for determining tetrahydrocannabinol levels in hemp;
- (g) [<sup>F3</sup>the establishment and operation of a system for the verification of approved inter-branch organisations for the purposes of the crop-specific payment for cotton;]
- (h) cases in which aid applications and payment claims or any other communications, claims or requests may be corrected and adjusted after their submission;
- (i) application and calculation of the partial or total withdrawal of payments;
- (j) recovery of undue payments and penalties as well as of unduly allocated payment entitlements and the application of interest;
- (k) the application and calculation of the administrative penalties;
- (l) identifying a non-compliance as minor;
- (m) aid applications and payment claims and applications for payment entitlements, including the final date for the submission of applications, the requirements as to the minimum amount of information to be included in applications, provisions for amendments to or withdrawal of aid applications, exemption from the requirement to submit aid applications and provisions which allow [<sup>F4</sup>Member States][<sup>F4</sup>a relevant authority] to apply simplified procedures;
- (n) the carrying out of checks in order to verify compliance with obligations, and the correctness and completeness of the information provided in the aid application or payment claim, including rules on measurement tolerances for on-the-spot checks;
- (o) technical specifications needed for the purpose of the uniform implementation of Chapter II of Title V of Regulation (EC) No 1306/2013;
- (p) the transfer of holdings;
- (q) the payment of advances;
- (r) the carrying out of checks relating to cross-compliance obligations, including the taking account of a farmer's participation in the farm advisory system and a farmer's participation in a certification system;
- (s) the calculation and application of administrative penalties in respect of cross-compliance obligations, including as regards beneficiaries consisting of a group of persons.

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### Textual Amendments

- F1** Art. 1(a) omitted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by virtue of [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(2)(a)(i)**
- F2** Words in Art. 1(b) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(2)(a)(ii)**
- F3** Art. 1(g) omitted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by virtue of [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(2)(a)(iii)**
- F4** Words in Art. 1(m) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(2)(a)(iv)**

## Article 2

### Exchange of information on aid applications, applications for support, payment claims and other declarations

1. For the purpose of the proper administration of aid schemes and support measures and where<sup>[F5]</sup>, within a Member State, [<sup>F5</sup>a relevant authority has] more than one paying agency [<sup>F6</sup>is] responsible for the management of direct payments and rural development measures with regard to the same beneficiary, the [<sup>F7</sup>Member State][<sup>F7</sup>relevant authority] concerned shall take the appropriate measures to ensure, where relevant, that the information requested in the aid applications, applications for support, payment claims or other declarations is made available to all paying agencies involved.

2. Where checks are not carried out by the responsible paying agency, the [<sup>F8</sup>Member State][<sup>F8</sup>relevant authority] concerned shall ensure that sufficient information on the checks carried out and their results is received by that paying agency. It is for the paying agency to define its needs for information.

### Textual Amendments

- F5** Words in Art. 2(1) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(3)(a)(i)**
- F6** Word in Art. 2(1) omitted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by virtue of [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(3)(a)(ii)**
- F7** Words in Art. 2(1) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(3)(a)(iii)**
- F8** Words in Art. 2(2) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(3)(b)**

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### Article 3

#### **Withdrawal of aid applications, applications for support, payment claims and other declarations**

1. An aid application, application for support, payment claim or other declaration may be totally or partially withdrawn at any time in writing. Such withdrawal shall be recorded by the competent authority.

Where a [F<sup>9</sup>Member State][F<sup>9</sup>relevant authority] makes use of the possibilities provided for in Article 21(3), that [F<sup>9</sup>Member State][F<sup>9</sup>relevant authority] may provide that the notifications to the computerised database for animals of an animal that has left the holding may substitute a withdrawal in writing.

2. Where the competent authority has already informed the beneficiary of any cases of non-compliance in the documents referred to in paragraph 1, or where the competent authority has given notice to the beneficiary of its intention to carry out an on-the-spot check, or where an on-the-spot check reveals any non-compliance, withdrawals shall not be authorised in respect of the parts of those documents affected by the non-compliance.

3. Withdrawals in accordance with paragraph 1 shall put beneficiaries into the position they were in before the submission of the documents in question or part thereof.

#### **Textual Amendments**

- F9** Words in Art. 3(1) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(3)(c)**

### Article 4

#### **Corrections and adjustments of obvious errors**

Aid applications, applications for support or payment claims and any supporting documents provided by the beneficiary may be corrected and adjusted at any time after their submission in cases of obvious errors recognised by the competent authority on the basis of an overall assessment of the particular case and provided that the beneficiary acted in good faith.

The competent authority may recognise obvious errors only if they can be straightforwardly identified at a clerical check of the information given in the documents referred to in the first subparagraph.

### Article 5

#### **Application of reductions, refusals, withdrawals and penalties**

Where a case of non-compliance which is subject to the application of penalties in accordance with Chapter II of Title IV of Commission Delegated Regulation (EU) No 640/2014<sup>(11)</sup> is also subject to withdrawals or penalties in accordance with Chapters III and IV of Title II, or in accordance with Title III of that Regulation:



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- (a) the reductions, refusals, withdrawals or penalties provided for in Chapters III and IV of Title II or in Title III of Delegated Regulation (EU) No 640/2014 shall be applied with regard to the direct payment schemes or rural development measures in the scope of the integrated system;
- (b) the penalties provided for in Chapter II of Title IV of Delegated Regulation (EU) No 640/2014 shall be applied to the total amount of payments to be granted to the beneficiary concerned in accordance with Article 92 of Regulation (EU) No 1306/2013 that are not subject to the reductions, refusals, withdrawals or penalties referred to in point (a).

The reductions, refusals, withdrawals and penalties referred to in the first subparagraph shall be applied in accordance with Article 6 of this Regulation without prejudice to additional penalties pursuant to other provisions of [F10 Union or national law] [F10 the law applying in the constituent nation].

#### Textual Amendments

**F10** Words in Art. 5 substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(3)(d)**

### Article 6

#### Order of reductions, refusals, withdrawals and penalties on each direct payment scheme or rural development measure

1. The amount of the payment to be granted to a beneficiary under a scheme listed in Annex I to Regulation (EU) No 1307/2013 shall be determined by the [F11 Member States] [F11 relevant authority] on the basis of the conditions established in accordance with that Regulation [F12 and with the programmes for the outermost regions of the Union and the smaller Aegean islands established respectively by Regulations (EU) No 228/2013<sup>(12)</sup> and (EU) No 229/2013 of the European Parliament and of the Council<sup>(13)</sup> for the direct support scheme in question].
2. For each scheme listed in Annex I to Regulation (EU) No 1307/2013 and for each rural development measure in the scope of the integrated system as defined in point (6) of the second subparagraph of Article 2(1) of Delegated Regulation (EU) No 640/2014, the reductions, withdrawals and penalties shall be calculated, if relevant, in the following order:
  - (a) the reductions and penalties provided for in Chapter IV of Title II of Delegated Regulation (EU) No 640/2014, except the penalties referred to in Article 16 of that Regulation, shall be applied to any case of non-compliance;
  - (b) the amount resulting from the application of point (a) shall serve as a basis for the calculation of the refusals provided for in Title III of Delegated Regulation (EU) No 640/2014;
  - (c) the amount resulting from the application of [F13 point (b)] [F13 point (a)] shall serve as a basis for the calculation of any reductions to be applied in case of late submission in accordance with Articles 13 and 14 of Delegated Regulation (EU) No 640/2014;

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- (d) the amount resulting from the application of point (c) shall serve as a basis for the calculation of any reductions to be applied in cases of non-declaration of agricultural parcels in accordance with Article 16 of Delegated Regulation (EU) No 640/2014;
- (e) the amount resulting from the application of point (d) shall serve as a basis for the calculation of the withdrawals provided for in Title III of Delegated Regulation (EU) No 640/2014;
- (f) the amount resulting from the application of [<sup>F14</sup>point (e)][<sup>F14</sup>point (d)] shall serve as a basis for applying:
- (i) the linear reduction provided for in Article 51(2) of Regulation (EU) No 1307/2013;
  - (ii) the linear reduction provided for in Article 51(3) of Regulation (EU) No 1307/2013;
  - (iii) [<sup>F15</sup>the linear reduction provided for in Article 65(2)(c) of Regulation (EU) No 1307/2013;]
  - (iv) [<sup>F15</sup>the linear reduction provided for in Article 65(4) of Regulation (EU) No 1307/2013;]
  - (v) the linear reduction to be applied in case the payments to be made in accordance with Article 41 of Regulation (EU) No 1307/2013 exceed the [<sup>F16</sup>share of the] national ceiling fixed in accordance with [<sup>F17</sup>Article 42(2)][<sup>F17</sup>Article 42(1)] of that Regulation.
3. The amount resulting from the application of point (f) of paragraph 2 shall serve as a basis for:
- (a) applying the reduction of payments provided for in Article 11 of Regulation (EU) No 1307/2013;
  - (b) applying the linear reduction percentage established in accordance with the second subparagraph of Article 7(1) of Regulation (EU) No 1307/2013;
  - (c) [<sup>F18</sup>applying the adjustment rate referred to in Article 8 of Regulation (EU) No 1307/2013.]
4. The amount of the payment resulting from the application of paragraph 3 shall serve as a basis for the calculation of any reductions to be applied for the non-respect of cross-compliance in accordance with Chapter II of Title IV of Delegated Regulation (EU) No 640/2014.

#### Textual Amendments

- F11** Words in Art. 6(1) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(4)(a)**
- F12** Words in Art. 6(1) omitted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by virtue of [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(4)(b)**
- F13** Words in Art. 6(2)(c) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(5)(a)**

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- F14** Words in Art. 6(2)(f) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(5)(b)(i)**
- F15** Art. 6(2)(f)(iii)(iv) omitted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by virtue of [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(5)(b)(ii)**
- F16** Words in Art. 6(2)(f)(v) inserted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(5)(b)(iii)(aa)**
- F17** Words in Art. 6(2)(f)(v) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(5)(b)(iii)(bb)**
- F18** Art. 6(3)(c) omitted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by virtue of [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(6)**

## Article 7

### Recovery of undue payments

1. If undue payment is made, the beneficiary shall repay the amount in question plus, where applicable, interest calculated in accordance with paragraph 2.
2. Interests shall be calculated for the period elapsing between the payment deadline for the beneficiary indicated in the recovery order, which shall not be set at more than 60 days, and the date of either repayment or deduction.

The rate of interest applicable shall be calculated in accordance with [<sup>F19</sup>national law][<sup>F19</sup>the law applying in the constituent nation], but shall not be lower than the interest rate applicable for the recovery of amounts under [<sup>F20</sup>national provisions][<sup>F20</sup>those provisions].

3. The repayment obligation referred to in paragraph 1 shall not apply if the payment was made by error of the competent authority or of another authority and if the error could not reasonably have been detected by the beneficiary.

However, where the error relates to factual elements relevant for the calculation of the payment concerned, the first subparagraph shall only apply if the decision to recover was not communicated within 12 months of the payment.

#### Textual Amendments

- F19** Words in Art. 7(2) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(7)(a)**
- F20** Words in Art. 7(2) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(7)(b)**

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## Article 8

### Transfer of holdings

1. For the purposes of this Article:
  - (a) ‘transfer of a holding’ means the sale, lease or any similar type of transaction in respect of the production units concerned;
  - (b) ‘transferor’ means the beneficiary whose holding is transferred to another beneficiary;
  - (c) ‘transferee’ means the beneficiary to whom the holding is transferred.
2. Where a holding is transferred in its entirety from one beneficiary to another beneficiary following the submission of an aid application, application for support or payment claim and before all the conditions for granting the aid or support have been fulfilled, no aid or support shall be granted to the transferor in respect of the transferred holding.
3. The aid applied for or the payment claimed by the transferor shall be granted to the transferee where:
  - (a) within a period to be determined by the [F21Member States][F21relevant authority] the transferee informs the competent authority of the transfer and requests payment of the aid and/or support;
  - (b) the transferee presents any evidence required by the competent authority;
  - (c) all the conditions for granting the aid and/or support are fulfilled in respect of the holding transferred.
4. Once the transferee informs the competent authority and requests payment of the aid and/or support in accordance with paragraph 3(a):
  - (a) all rights and obligations of the transferor resulting from the legal relationship between the transferor and the competent authority generated by the aid application, application for support or payment claim shall be conferred on the transferee;
  - (b) all actions necessary for the granting of the aid and/or support and all declarations made by the transferor prior to the transfer shall be attributed to the transferee for the purposes of applying the relevant [F22Union rules][F22sectoral agricultural legislation];
  - (c) the holding transferred shall be considered, where appropriate, as a separate holding in respect of the claim year in question.
5. [F23Member States][F23The relevant authority] may decide, where appropriate, to grant the aid and/or support to the transferor. In that event:
  - (a) no aid or support shall be granted to the transferee;
  - (b) [F24Member States][F24the relevant authority] shall apply *mutatis mutandis* the requirements set out in paragraphs 2, 3 and 4.

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### Textual Amendments

- F21** Words in Art. 8(3)(a) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(8)(a)**
- F22** Words in Art. 8(4)(b) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(8)(b)**
- F23** Words in Art. 8(5) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(8)(c)(i)**
- F24** Words in Art. 8(5) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(8)(c)(ii)**

### <sup>F25</sup> Article 9

#### Notifications

1. Each year, by 15 July, for all direct payment schemes, rural development measures and technical assistance and support schemes in the wine sector referred to in Articles 46 and 47 of Regulation (EU) No 1308/2013, Member States shall notify the Commission of the control data and control statistics covering the previous calendar year and, in particular, of the following:
  - (a) data relating to individual beneficiaries in terms of aid applications and payment claims, areas and animals declared and/or claimed, results of administrative, on-the-spot checks and *ex post* checks;
  - (b) where applicable, the results of the checks relating to cross-compliance including the relevant reductions and exclusions.

Such notification shall take place by electronic means using the technical specifications for the transfer of the control data and control statistics made available to them by the Commission.

2. By 15 July 2015, Member States shall notify the Commission of a report in respect of the options chosen for the control of the cross-compliance requirements and the competent control bodies responsible for the checks of the cross-compliance requirements and standards. Subsequent modifications concerning information provided in that report shall be notified without delay.
3. Each year, by 15 July, Member States shall notify the Commission of a report in respect of the measures taken for the administration and the control of the voluntary coupled support concerning the previous calendar year.
4. The computerised data established as a part of the integrated system shall be used to support the information to be sent to the Commission in the framework of sectoral rules.]

*Status: Point in time view as at 31/05/2020.*

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### Textual Amendments

- F25** Art. 9 omitted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by virtue of [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(9)**

## TITLE II

### INTEGRATED ADMINISTRATION AND CONTROL SYSTEM

#### CHAPTER I

#### General rules

#### <sup>F26</sup><sup>F27</sup> Article 10

#### Advances for direct payments

Where a Member State pays advances for direct payments in accordance with Article 75 of Regulation (EU) No 1306/2013, the adjustment rate for financial discipline referred to in Article 8 of Regulation (EU) No 1307/2013 shall not be taken into account for calculating those advance payments.

The balance payment to be granted to beneficiaries as from 1 December shall take into account the adjustment rate for financial discipline applicable to the relevant claim year for the total amount of direct payments in relation to that year.]]

### Textual Amendments

- F26** Art. 10 omitted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by virtue of [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(9)**
- F27** 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.](#)

*Status: Point in time view as at 31/05/2020.*

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## CHAPTER II

### **Aid applications and payment claims**

#### Section 1

#### **Common provisions**

#### Article 11

#### **Simplification of procedures**

1. Save as otherwise provided in Regulations (EU) No 1305/2013, (EU) No 1306/2013 and (EU) No 1307/2013, Delegated Regulation (EU) No 640/2014 or this Regulation, [F28 Member States][F28 the relevant authority] may permit or require that any kind of communications under this Regulation both from the beneficiary to the authorities and *vice versa* be made by electronic means, provided that this does not cause any discrimination between beneficiaries and that appropriate measures are taken to ensure in particular that:

- (a) the beneficiary is unambiguously identified;
- (b) the beneficiary complies with all requirements under the direct payment scheme or rural development measure concerned;
- (c) the transmitted data is reliable in view of the proper management of the direct payment scheme or rural development measure concerned; where use is made of the data contained in the computerised database for animals as defined in point (9) of the second subparagraph of Article 2(1) of Delegated Regulation (EU) No 640/2014, that database shall offer the level of assurance and implementation necessary for the proper management of the direct payment scheme or rural development measure involved;
- (d) where accompanying documents cannot be transmitted electronically, such documents are received by the competent authorities within the same time limits as for transmission by non-electronic means.

2. With regard to the submission of aid applications or payment claims, [F29 Member States][F29 the relevant authority] may, under the conditions laid down in paragraph 1, provide for simplified procedures where data is already available to the authorities, in particular where the situation has not changed since the latest submission of an aid application or payment claim under the direct payment scheme or rural development measure concerned in accordance with Article 72(3) of Regulation (EU) No 1306/2013. [F29 Member States][F29 The relevant authority] may decide to use data derived from data sources at the disposal of [F30 national] authorities for the purposes of the aid applications and payment claims. In that case [F31 Member State][F31 the relevant authority] shall ensure that those data sources offer the level of assurance necessary for the proper management of the data in order to guarantee the reliability, integrity and security of that data.

3. Where possible, the competent authority may request the information required in any supporting documents to be submitted together with the aid application or payment claim directly from the source of the information.

[F32]4. Where the integrated system provides for the pre-established form and the corresponding graphic material referred to in Article 72(3) of Regulation (EU) No 1306/2013 through a GIS-based interface, enabling the processing of the spatial and alphanumeric data

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of the areas declared (hereinafter referred to as ‘geo-spatial aid application form’), [<sup>F33</sup>Member States][<sup>F33</sup>the relevant authority] may decide to introduce a system of preliminary cross-checks (hereinafter referred to as ‘preliminary checks’), which shall include at least the cross-checks referred to in points (a), (b) and (c) of the first subparagraph of Article 29(1) of this Regulation. The results shall be notified to the beneficiary within a period of 26 calendar days after the final date of submission of the single application, aid application or payment claims referred to in Article 13 of this Regulation. However, where this period of 26 calendar days expires before the final date for notification of amendments in accordance with Article 15(2) of this Regulation, the results shall be notified to the beneficiary at the latest the calendar day following the final date for notification of amendments of the year concerned.

[<sup>F33</sup>Member States][<sup>F33</sup>The relevant authority] may decide to carry-out such preliminary checks at regional level, provided that the system using the geo-spatial aid application form is set up at regional level.

5. Where the beneficiary is a group of persons applying for support for agri-environment-climate operations as referred to in Article 28 of Regulation (EU) No 1305/2013 (hereinafter referred to as ‘collective’), the Member State may decide to derogate from the requirement in Article 14 of this Regulation that the payment claim is to contain all information necessary to establish eligibility for the support and from the restriction in Article 13 of this Regulation that all relevant data for the proper administrative and financial management of the support is to be submitted by the final date of submission of the payment claim, by introducing a simplified annual payment claim (hereinafter referred to as ‘collective claim’) that shall be submitted by a collective.

Articles 2, 3, 4, 9, 11, 13, 15 and 16, 17(1) and (3) to (9), and Articles, 21, 24, 25, 27, 28, 29, 35, 38, 39, 40, 42, 43 and 45 of this Regulation and Articles 4, 12 and 13 of Regulation (EU) No 640/2014 shall apply *mutadis mutandis* in respect of the particular requirements established in view of the collective claim.

For collectives, Member States shall include a description of the administrative arrangements in the rural development programme.]

#### Textual Amendments

- F28** Words in Art. 11(1) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(10)(a)**
- F29** Words in Art. 11(2) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(10)(b)(i)**
- F30** Word in Art. 11(2) omitted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by virtue of [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(10)(b)(ii)**
- F31** Words in Art. 11(2) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(10)(b)(iii)**
- F32** 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](#).



*Status: Point in time view as at 31/05/2020.*

*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)*

**F33** Words in Art. 11(4) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(10)(c)**

## Article 12

### General provisions pertaining to the single application and to the submission of applications for support under rural development measures

1. If [<sup>F34</sup>Member States decide][<sup>F34</sup>the relevant authority decides ] pursuant to Article 72(4) of Regulation (EU) No 1306/2013 that the aid applications for direct payments and payment claims for rural development measures are to be covered by the single application, Articles 20, 21 and 22 of this Regulation shall apply *mutatis mutandis* in respect of the particular requirements established in view of the aid application and/or payment claim under those schemes or measures.
2. A beneficiary applying for aid and/or support under any of the area-related direct payments or rural development measures may submit only one single application per year.
3. Member States shall provide for appropriate procedures for the submission of applications for support under rural development measures.

#### Textual Amendments

**F34** Words in Art. 12(1) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(11)**

## Article 13

### Final date of submission of the single application, aid applications or payment claims

1. [<sup>F35</sup>Member States][<sup>F35</sup>The relevant authority] shall fix the final dates by which the single application, aid applications or payment claims shall be submitted. The final dates shall not be later than 15 May each year [<sup>F36</sup>except in claim year 2020, when the final dates shall not be later than 15 June]. [<sup>F37</sup>However, Estonia, Latvia, Lithuania, Finland and Sweden may fix a later date which shall not be later than 15 June.]

In setting the final dates, [<sup>F38</sup>Member States][<sup>F38</sup>the relevant authority] shall take into account the period required for all relevant data to be available for the proper administrative and financial management of the aid and/or support and shall ensure that effective checks may be scheduled.

- <sup>F39</sup>2. In accordance with the procedure referred to in the second paragraph of Article 78 of Regulation (EU) No 1306/2013, the final dates referred to in paragraph 1 of this Article may be set at a later date in certain zones subject to exceptional climatic conditions.]

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### Textual Amendments

- F35** Words in Art. 13(1) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(12)(a)(i)**
- F36** Words in Art. 13(1) inserted (E.) (15.5.2020) by [The Direct Payments to Farmers \(Application Deadlines\) \(Coronavirus\) \(Amendment\) \(England\) Regulations 2020 \(S.I. 2020/510\)](#), regs. 1(1), **2(2)**
- F37** Words in Art. 13(1) omitted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by virtue of [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(12)(a)(ii)**
- F38** Words in Art. 13(1) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(12)(a)(iii)**
- F39** Art. 13(2) omitted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by virtue of [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(12)(b)**

### Modifications etc. (not altering text)

- C1** Art. 13(1) modified (W.) (30.4.2020) by [The Common Agricultural Policy \(Payments to Farmers\) \(Coronavirus\) \(Wales\) Regulations 2020 \(S.I. 2020/473\)](#), regs. 1(2), **2(a)**

## Article 14

### Contents of the single application or payment claim

1. The single application or payment claim shall contain all information necessary to establish eligibility for the aid and/or support, in particular:
  - (a) the identity of the beneficiary;
  - (b) details of the direct payment schemes and/or rural development measures concerned;
  - (c) the identification of the payment entitlements in accordance with the identification and registration system provided for in Article 7 of Delegated Regulation (EU) No 640/2014 for the purposes of the basic payment scheme;
  - (d) particulars permitting the unambiguous identification of all agricultural parcels on the holding, their area expressed in hectares to two decimal places, their location and, and where required, further specifications on the use of the agricultural parcels;
  - (e) where applicable, particulars permitting the unambiguous identification of non-agricultural land for which support under rural development measures is being claimed;
  - (f) where appropriate, any supporting documents needed to establish the eligibility for the scheme and/or measure concerned;
  - (g) a statement by the beneficiary that he is aware of the conditions pertaining to the direct payment schemes and/or rural development measures in question;
  - (h) where applicable, an indication by the beneficiary that he is covered by the list of non-agricultural businesses or activities referred to in the first and second subparagraphs of Article 9(2) of Regulation (EU) No 1307/2013.

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2. For the purpose of the identification of the payment entitlements referred to in paragraph 1(c), the pre-established forms provided to the beneficiary in accordance with Article 72(3) of Regulation (EU) No 1306/2013 shall mention the identification of the payment entitlements in accordance with the identification and registration system provided for in Article 7 of Delegated Regulation (EU) No 640/2014.

[<sup>F40</sup>3. For the first year of application of the basic payment scheme the Member States may derogate from this Article and Article 17 of this Regulation as regards payment entitlements.]

<sup>F41</sup>4. ....

#### Textual Amendments

**F40** Art. 14(3) omitted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by virtue of [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(13)(a)**

**F41** 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](#).

### <sup>F32</sup>Article 14a

#### Collective claims

1. Where a Member State uses the option to introduce collective claims, Article 14 shall not apply in respect of such collective claims.

2. The collective shall submit one collective claim per year.

3. The collective claim shall contain all information necessary to establish eligibility for the support, with the exception of information in respect of the commitments covered by the agri-environment-climate operations as referred to in Article 28 of Regulation EU (No) 1305/2013. The collective claim shall contain in particular:

- (a) the identity of the collective;
- (b) the unique identification of each participating member of the collective;
- (c) a reference to the application for support submitted by the collective;
- (d) details of the agri-environment-climate operations concerned;
- (e) particulars permitting the unambiguous identification of all agricultural parcels on the holding, their area expressed in hectares to two decimal places, their location and, where required, further specifications on the use of the agricultural parcels;
- (f) where applicable, particulars permitting the unambiguous identification of non-agricultural land for which support under rural development measures is being claimed;
- (g) where appropriate, any supporting documents needed to establish the eligibility for the measure concerned;

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- (h) a statement by the collective stating that the participating members are aware of the conditions pertaining to the rural development measures in question and of the financial consequences in cases of non-compliances.

Where the application for support submitted by the collective contains the information referred to in points (b), (d) and (h) of the first subparagraph, that information may be substituted by a reference to that application for support.

4. By way of derogation from the first subparagraph of paragraph 3, Member States may decide that the collective claim shall contain all details in respect of the commitments covered by the agri-environment-climate operations.

5. The collective shall notify the competent authority of each commitment covered by the agri-environment-climate operations no later than 14 calendar days before the commitment is undertaken. Member States shall provide for appropriate procedures for this notification.

Where the details in respect of the commitments covered by the agri-environment-climate operations are contained in the collective claim in accordance with paragraph 4, the commitments do not need to be notified in accordance with the first subparagraph of this paragraph, unless a change in type, timing or location of the commitment occurs.]

#### Textual Amendments

**F32** 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.](#)

### *F<sup>42</sup>* Article 15

#### **Amendments to the single application or payment claim**

1. After the final date of submission of the single application or payment claim, individual agricultural parcels or individual payment entitlements may be added or adjusted in the single application or payment claim provided that the requirements under the direct payment schemes or rural development measures concerned are respected.

Changes regarding the use of direct payment scheme or rural development measure in respect of individual agricultural parcels or in respect of payment entitlements already declared in the single application may be made under the same conditions.

Where the amendments referred to in the first and second subparagraphs have a bearing on any supporting documents or contracts to be submitted, such documents or contracts may be amended accordingly.

1a. Where a beneficiary has been notified of the results of the preliminary checks as referred to in Article 11(4), that beneficiary may amend the single application or payment claim in order to include all necessary corrections with respect to individual parcels in accordance with the results of those cross-checks where they indicated a potential non-compliance.

1b. Where checks by monitoring are carried out in accordance with Article 40a, and the competent authorities have communicated the provisional results at parcel level referred to in point (d) of Article 40a(1), beneficiaries may amend the single application or payment claim regarding adjustment or use of individual agricultural parcels checked by monitoring,

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provided that the requirements under the direct payment schemes or rural development measures concerned are respected. Individual payment entitlements may be added in cases where the amendment of the single application or payment claim leads to an increase of area declared.

2. Amendments made in accordance with the first and second subparagraphs of paragraph 1 shall be notified to the competent authority by 31 May of the year concerned [F43 except in claim year 2020, when they shall be notified by 30 June] [F44], except in the case of Estonia, Latvia, Lithuania, Finland and Sweden, where they shall be notified by 15 June of the year concerned].

By way of derogation from the first subparagraph, Member States may set an earlier final date for the notification of such amendments. That date shall however not be earlier than 15 calendar days after the final date for submitting the single application or payment claim fixed in accordance with Article 13(1).

By way of derogation from the first and second subparagraphs, [F45 Member States] [F45 the relevant authority] may authorise the beneficiary to amend at a later date, in duly justified circumstances, the single application or payment claim as regards the use of the agricultural parcels declared for the purpose of 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 or the Natura 2000 and Water Framework Directive payment in accordance with Article 30 of Regulation (EU) No 1305/2013 provided that this does not put the beneficiary in a more favourable position with regard to the fulfilment of the obligations based on the initial application. In this case, Member States may decide to set a final date for the notification of these amendments to the competent authority.

Such notifications shall be made in writing or via the geo-spatial aid application form.

2a. Amendments following the preliminary checks made in accordance with paragraph 1a shall be notified to the competent authority at the latest nine calendar days after the final date for notification of the results of the preliminary checks referred to in Article 11(4) to the beneficiary.

Such notifications shall be made in writing or via the geo-spatial aid application form.

2b. Amendments following the communication of provisional results at parcel level referred to in point (d) of Article 40a(1) made in accordance with paragraph 1b shall be notified to the competent authority by the date fixed by that competent authority at the level of the aid scheme or support measure or type of operation. The date shall be at least 15 calendar days before the date when the payment of the first instalment or the advances is to be made in accordance with Article 75 of Regulation (EU) No 1306/2013.

Such notifications shall be made in writing or via the geo-spatial aid application form.

3. Where the competent authority has already informed the beneficiary of any case of non-compliance in the single application or payment claim or where it has given notice to the beneficiary of its intention to carry out an on-the-spot check or where an on-the-spot check reveals any non-compliance, amendments in accordance with paragraph 1 shall not be authorised in respect of the agricultural parcels affected by the non-compliance.

For the purposes of the first subparagraph, the obligation provided in point (d) of Article 40a(1) shall not be considered as a notice to the beneficiary of a competent authority's intention to carry out an on-the-spot check.]

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### Textual Amendments

- F42** 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.](#)
- F43** Words in Art. 15(2) inserted (E.) (15.5.2020) by [The Direct Payments to Farmers \(Application Deadlines\) \(Coronavirus\) \(Amendment\) \(England\) Regulations 2020 \(S.I. 2020/510\)](#), regs. 1(1), **2(3)**
- F44** Words in Art. 15(2) omitted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by virtue of [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(14)(a)**
- F45** Words in Art. 15(2) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(14)(b)**

### Modifications etc. (not altering text)

- C2** Art. 15(2) modified (W.) (30.4.2020) by [The Common Agricultural Policy \(Payments to Farmers\) \(Coronavirus\) \(Wales\) Regulations 2020 \(S.I. 2020/473\)](#), regs. 1(2), **2(b)**
- C3** Art. 15(2) modified (N.I.) (31.5.2020) by [The Direct Payments to Farmers Single Application Amendment Date \(Amendment\) \(Coronavirus\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/81\)](#), regs. 1(1), **2**

## Article 16

### Correction of the pre-established forms

When submitting the single application, aid application and/or payment claim form, the beneficiary shall correct the pre-established form referred to in Article 72(3) of Regulation (EU) No 1306/2013 if any amendments, in particular transfers of payment entitlements in accordance with Article 34 of Regulation (EU) No 1307/2013, have occurred or if any information contained in the pre-established forms is incorrect.

## Section 2

### *aid applications for area-related aid schemes and payment claims for area-related support measures*

## Article 17

### Specific requirements pertaining to aid applications for area-related aid schemes and payment claims for area-related support measures

[<sup>F27</sup>1. For the purpose of the identification of all agricultural parcels on the holding and/or non-agricultural land as referred to in Article 14(1)(d) and (e), the competent authority shall provide the beneficiary with the geo-spatial aid application form.]

2. Paragraph 1 shall apply as follows:

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- (a) As from claim year 2016, to a number of beneficiaries corresponding to that required to cover at least 25 % of the total area determined for the basic payment scheme or the single area payment scheme in the previous year;
- (b) As from claim year 2017, to a number of beneficiaries corresponding to that required to cover at least 75 % of the total area determined for the basic payment scheme or the single area payment scheme in the previous year;
- (c) As from claim year 2018, to all beneficiaries.

3. Where the beneficiary is not in the position to submit the aid application and/or payment claim using the geo-spatial aid application form, the competent authority shall provide the beneficiary with either:

- (a) the required technical assistance; or
- (b) the pre-established forms and the corresponding graphic material in paper. In this case, the competent authority shall transcribe the information received from the beneficiary into the geo-spatial aid application form.

4. The pre-established forms provided to the beneficiary shall specify the maximum eligible area per reference parcel in accordance with points (a) and (b) of Article 5(2) of Delegated Regulation (EU) No 640/2014 and the area determined in the previous year per agricultural parcel for the purposes of the basic payment scheme [F<sup>46</sup>, the single area payment scheme] and/or area-related rural development measure.

The graphic material supplied to the beneficiary in accordance with Article 72(3) of Regulation (EU) No 1306/2013 shall indicate the boundaries and the unique identification of the reference parcels as referred to in Article 5(1) of Delegated Regulation (EU) No 640/2014 and the boundaries of the agricultural parcels determined in the previous year as to enable the beneficiary to indicate correctly the size and location of each agricultural parcel. As from claim year 2016, it shall also indicate the type, size and location of the ecological focus areas determined in the previous year.

5. The beneficiary shall unambiguously identify and declare the area of each agricultural parcel and, where applicable, the type, size and location of the ecological focus areas. With regard to the greening payment, the beneficiary shall also specify the use of the agricultural parcels declared.

For this purpose, the beneficiary may confirm the information already provided in the pre-established form. However, where the information on the area, location or boundary of the agricultural parcel or, where applicable, the size and location of the ecological focus areas is not correct or is incomplete, the beneficiary shall correct or make changes to the pre-established form.

The competent authority shall assess on the basis of the corrections or complements provided by the beneficiaries in the pre-established form whether an update of the corresponding reference parcel is required, having regard to Article 5(3) of Delegated Regulation (EU) No 640/2014.

6. Where the beneficiary is carrying out equivalent practices in accordance with Article 43(3)(a) of Regulation (EU) No 1307/2013 through commitments undertaken in accordance with Article 39(2) of Council Regulation (EC) No 1698/2005<sup>(14)</sup> or Article 28(2) of Regulation (EU) No 1305/2013, the commitment shall be indicated in the aid application with reference to the corresponding payment claim.

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Where the beneficiary is carrying out equivalent practices through national or regional environmental certification schemes in accordance with Article 43(3)(b) of Regulation (EU) No 1307/2013, paragraphs 4 and 5 of this Article shall apply *mutatis mutandis* as regards the pre-established form and the declaration by the beneficiary.

For the purpose of regional or collective implementations in accordance with Article 46(5) and 46(6) of Regulation (EU) No 1307/2013 and for the part of the ecological focus area obligations that the beneficiaries have to fulfil individually, beneficiaries participating in such regional or collective implementations shall unambiguously identify and declare, in respect of each agricultural parcel, the type, size and location of the ecological focus area in accordance with paragraph 5 of this Article. In their aid application or payment claim beneficiaries shall make reference to the declaration of a regional or collective implementation as referred to in Article 18 of this Regulation.

7. For areas used for the production of hemp in accordance with Article 32(6) of Regulation (EU) No 1307/2013, the single application shall contain:

- (a) all information required for the identification of the parcels sown with hemp, indicating the varieties of seed used;
- (b) an indication as to the quantities of the seeds used (kg per hectare);
- (c) <sup>[F47]</sup>the official labels used on the packaging of the seeds in accordance with Council Directive 2002/57/EC<sup>(15)</sup>, and in particular Article 12 thereof, or any other document recognised as equivalent by the <sup>[F48]</sup>Member State<sup>[F48]</sup>relevant authority]; or, in the case of conservation varieties certified in accordance with Commission Directive 2008/62/EC<sup>(16)</sup>, the supplier's labels or the printed or stamped notice used on the packaging of the seeds of conservation varieties as referred to in Article 18 of that Directive.]

<sup>[F49]</sup>By way of derogation from point (c) of the first subparagraph, where sowing takes place after the final date for submitting the single application, the labels shall be submitted by 30 June at the latest. However, for hemp cultivated as catch crop, the labels shall be submitted by a date to be fixed by the <sup>[F50]</sup>Member States<sup>[F50]</sup>relevant authority] but not later than 1 September. Where the labels also have to be submitted to other <sup>[F51]</sup>national] authorities, the <sup>[F50]</sup>Member States<sup>[F50]</sup>relevant authority] may provide for those labels to be returned to the beneficiary once they have been submitted in accordance with that point. The labels returned shall be marked as used for an application.]

<sup>[F52]</sup>8. For the crop specific payment for cotton provided for in Chapter 2 of Title IV of Regulation (EU) No 1307/2013, the single application shall contain:

- (a) the name of the variety of cotton seed used;
- (b) where appropriate, the name and address of the approved inter-branch organisation of which the beneficiary is a member.]

9. Areas that are not used for the purposes of the aid schemes provided for in <sup>[F53]</sup>Titles III, IV and V<sup>[F53]</sup>Titles III and IV] of Regulation (EU) No 1307/2013 or for the support schemes in the wine sector as referred to in Regulation (EC) No 1308/2013 shall be declared under one or more 'other uses' headings.

#### Textual Amendments

- F27** 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



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- 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.
- F46** Words in Art. 17(4) omitted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by virtue of [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(15)(a)**
- F47** Substituted by [Commission Implementing Regulation \(EU\) 2018/709 of 14 May 2018 amending Implementing Regulation \(EU\) No 809/2014 as regards the labels requirement pertaining to the aid applications concerning the areas used for the production of hemp](#).
- F48** Words in Art. 17(7)(c) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(15)(b)(i)**
- F49** Substituted 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](#).
- F50** Words in Art. 17(7) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(15)(b)(ii)(aa)**
- F51** Word in Art. 17(7) omitted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by virtue of [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(15)(b)(ii)(bb)**
- F52** Art. 17(8) omitted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by virtue of [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(16)**
- F53** Words in Art. 17(9) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(17)**

## Article 18

### Declaration of a regional or collective implementation

For each regional or collective implementation in accordance with Article 46(5) or (6) of Regulation (EU) No 1307/2013, a declaration of a regional or collective implementation shall be submitted supplementing the aid application or payment claim of each participating beneficiary.

The declaration shall contain all necessary complementary information to verify compliance with obligations in respect of the regional or collective implementations in accordance with Article 46(5) or (6) of that Regulation, in particular:

- (a) the unique identification of each participating beneficiary;
- (b) the minimum percentage that each participating beneficiary needs to fulfil individually as referred to in the second subparagraph of Article 46(6) of that Regulation;
- (c) the total area of the contiguous structures of adjacent ecological focus areas as referred to in Article 46(5) of that Regulation or of the common ecological focus area as referred to in Article 46(6) of that Regulation, in respect of which obligations are fulfilled collectively;
- (d) pre-established graphic material indicating the boundaries and the unique identification of the reference parcels to be used to unambiguously identify the

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contiguous structures of adjacent ecological focus areas or the common ecological focus area and to indicate their boundaries.

In case of regional implementation, if the detailed plan provided for in Article 46(6) of Delegated Regulation (EU) No 639/2014 contains all the information listed in the second subparagraph of this Article, the declaration referred to in the first subparagraph may be substituted by a reference to the plan.

In case of a collective implementation, the declaration referred to in the first subparagraph shall be supplemented by the written agreement provided for in Article 47(4) of Delegated Regulation (EU) No 639/2014.

### *]<sup>F54</sup> Article 19*

#### **Applications relating to participation in and withdrawal from the small farmers scheme**

1. Applications submitted in 2015 for participation in the small farmers scheme referred to in Article 62(1) of Regulation (EU) No 1307/2013 shall contain a reference to the single application submitted for claim year 2015 by the same beneficiary and, where applicable, a statement by the beneficiary that he is aware of the special conditions pertaining to the small farmers scheme provided for in Article 64 of that Regulation.

Member States may decide that the application referred to in the first subparagraph is to be submitted together or as part of the single application.

2. As from claim year 2016, Member States shall provide for the simplified application procedure referred to in Article 72(3) of Regulation (EU) No 1306/2013.

3. The pre-established forms to be used in the application procedure referred to in paragraph 2 shall be drawn up on the basis of the information provided with the single application submitted for claim year 2015 and shall contain, in particular:

- (a) all additional information necessary to establish compliance with Article 64 of Regulation (EU) No 1307/2013 and, where relevant, all additional information necessary to confirm that the beneficiary still complies with Article 9 of that Regulation;
- (b) a statement by the beneficiary that he is aware of the special conditions pertaining to the small farmers scheme provided for in Article 64 of Regulation (EU) No 1307/2013.

Where Member States opt for the payment method laid down in point (a) of the first subparagraph of Article 63(2) of Regulation (EU) No 1307/2013 without applying the third subparagraph thereof, the pre-established forms shall, by way of derogation from the first subparagraph of this paragraph be provided in accordance with Section 1 of this Chapter.

4. Beneficiaries deciding to withdraw from the small farmers scheme in respect of a year subsequent to 2015 in accordance with the second subparagraph of Article 62(1) of Regulation (EU) No 1307/2013 or Article 62(2) of that Regulation shall inform the competent authority of their withdrawal in accordance with the modalities put in place by the Member States.]

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#### Textual Amendments

- F54** Art. 19 omitted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by virtue of [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(18)**

### Section 3

#### Other applications

#### Article 20

#### Specific provisions pertaining to aid applications

[<sup>F55</sup>A beneficiary who does not apply for aid under any of the area-related aid schemes but applies for aid under another scheme listed in Annex I to Regulation (EU) No 1307/2013 or for support schemes in the wine sector pursuant to Articles 46 and 47 of Regulation (EU) No 1308/2013 shall, if he has agricultural area at his disposal, declare those areas in his aid application form in accordance with Article 17 of this Regulation.]

[<sup>F55</sup>1. A beneficiary who does not apply for aid under any of the area-related aid schemes but applies for aid under another scheme listed in Annex 1 to Regulation (EU) 1307/2013 shall, if he has agricultural area at his disposal, declare those areas in his aid application form in accordance with Article 17 of this Regulation.]

A beneficiary who is only subject to cross-compliance obligations in accordance with Articles 46 and 47 of Regulation (EU) No 1308/2013 shall declare in his aid application form the areas at his disposal in respect of each calendar year in which those obligations apply.

However, [<sup>F56</sup>Member States][<sup>F56</sup>the relevant authority] may exempt beneficiaries from the obligations provided for in the first and second subparagraphs where the information concerned is made available to the competent authorities in the framework of other administration and control systems that guarantee compatibility with the integrated system in accordance with Article 61 of Regulation (EU) No 1306/2013.

#### Textual Amendments

- F55** Art. 20(1) substituted for words in Art. 20 (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(19)(a)**
- F56** Words in Art. 20 substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(19)(b)**

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## Article 21

### Requirements pertaining to livestock aid application and to payment claims under animal-related support measures

1. A livestock aid application as defined in point (15) of the second subparagraph of Article 2(1) of Delegated Regulation (EU) No 640/2014 or payment claim under animal-related support measures as defined in point (14) of the second subparagraph of Article 2(1) of that Regulation shall contain all information necessary to establish eligibility for the aid and/or support, and in particular:

- (a) the identity of the beneficiary;
- (b) a reference to the single application if it has already been submitted;
- (c) the number of animals of each type in respect of which a livestock aid application or a payment claim is being submitted and, for bovines, the identification code of the animals;
- (d) where applicable, an undertaking by the beneficiary to keep the animals referred to in point (c) on his holding during a period, determined by the [F57 Member State][F57 relevant authority], and information on the location or locations where the animals will be held including the period concerned;
- (e) where appropriate, any supporting documents needed to establish the eligibility for the scheme or measure concerned;
- (f) a statement by the beneficiary that he is aware of the conditions pertaining to the aid and/or support in question.

2. Every animal keeper shall have the right to obtain from the competent authority without constraint, at reasonable intervals and without excessive delay, information on the data relating to him and his animals kept in the computerised database for animals. When submitting his livestock aid application or payment claim, the beneficiary shall declare that that data is correct and complete or he shall rectify incorrect or complete missing data.

3. [F58 Member States][F58 A relevant authority] may decide that some of the information referred to in paragraph 1 need not to be included in the livestock aid application or payment claim, where it has already been communicated to the competent authority.

4. [F59 Member States][F59 A relevant authority] may introduce procedures by which data contained in the computerised database for animals may be used for the purposes of the livestock aid application or payment claim, provided that the computerised database for animals offers the level of assurance and implementation necessary for the proper management of the aid schemes or support measures involved at the level of individual animals.

The procedures referred to in the first subparagraph may consist of a system according to which a beneficiary may apply for aid and/or support in respect of all animals which, at a date or during a period determined by the [F60 Member State][F60 relevant authority], qualify for aid and/or support on the basis of the data contained in the computerised database for animals.

In that case, [F61 Member States][F61 the relevant authority] shall take the necessary measures to guarantee that:

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- (a) in accordance with the provisions applicable to the aid scheme and/or support measure in question, the date or the period referred to in the second subparagraph are clearly identified and known to the beneficiary;
- (b) the beneficiary is aware that any potentially eligible animals found not to be correctly identified or registered in the system for the identification and registration for animals shall count as animals found with non-compliances as referred to in Article 31 of Delegated Regulation (EU) No 640/2014.

[<sup>F62</sup>4a. For short production-cycle species supported under Article 33 of Regulation (EU) No 1305/2013 Member States may, in the absence of a computerised database, introduce procedures by which data contained in the slaughter certificates or in other supporting documents are to be used for the purposes of the livestock payment claim. Those data shall offer the level of assurance and implementation necessary for the proper management of the support measure involved at the level of individual animals.

The procedures referred to in the first subparagraph may consist of a system according to which a beneficiary applies for support in respect of all animals which, at a date or during a period determined by the Member State, qualify for support on the basis of the data contained in the slaughter certificates or in other supporting documents.

In that case, Member States shall take the necessary measures to guarantee that in accordance with the provisions applicable to the support measure in question, the date or the period referred to in the second subparagraph are clearly identified and known to the beneficiary.]

5. [<sup>F63</sup>Member States][<sup>F63</sup>A relevant authority] may provide that some of the information referred to in paragraph 1 can or shall be forwarded via a body or bodies approved by them. However, the beneficiary shall remain responsible for the data transmitted.

#### Textual Amendments

- F57** Words in Art. 21(1)(d) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(20)(a)**
- F58** Words in Art. 21(3) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(20)(b)**
- F59** Words in Art. 21(4) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(20)(c)(i)**
- F60** Words in Art. 21(4) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(20)(c)(ii)**
- F61** Words in Art. 21(4) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(20)(c)(iii)**
- F62** Inserted by [Commission Implementing Regulation \(EU\) 2017/1242 of 10 July 2017 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](#).
- F63** Words in Art. 21(5) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(20)(d)**

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## Section 4

### Specific provisions pertaining to payment entitlements

#### Article 22

#### Allocation or increase of the value of payment entitlements

1. Applications for allocation of payment entitlements or the increase of the value of payment entitlements under the basic payment scheme in accordance with <sup>F64</sup>Article 20, Article 24, Article 30, except paragraph 7(e), <sup>F65</sup>and Article 39] of Regulation (EU) No 1307/2013 shall be submitted by a date to be fixed by the <sup>F66</sup>Member States]<sup>F66</sup>relevant authority]. The date fixed shall not be later than 15 May of the relevant calendar year.

<sup>F67</sup>However, Estonia, Latvia, Lithuania, Finland and Sweden may fix a later date which shall not be later than 15 June of the relevant calendar year.]

2. <sup>F68</sup>Member States]<sup>F68</sup>A relevant authority] may decide that the application for allocation of payment entitlements shall be submitted at the same time as the aid application under the basic payment scheme.

#### Textual Amendments

- F64** Words in Art. 22(1) omitted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by virtue of [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(21)(a)(i)**
- F65** Words in Art. 22(1) omitted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by virtue of [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(21)(a)(ii)**
- F66** Words in Art. 22(1) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(21)(a)(iii)**
- F67** Words in Art. 22(1) omitted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by virtue of [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(21)(a)(iv)**
- F68** Words in Art. 22(2) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(21)(b)**

#### Modifications etc. (not altering text)

- C4** Art. 22(1) modified (W.) (30.4.2020) by [The Common Agricultural Policy \(Payments to Farmers\) \(Coronavirus\) \(Wales\) Regulations 2020 \(S.I. 2020/473\)](#), regs. 1(2), **2(c)**

#### Article 23

#### Recovery of undue payment entitlements

1. Where, after payment entitlements have been allocated to beneficiaries in accordance with Regulation (EU) No 1307/2013, it is established that the number of payment entitlements allocated was too high, the number of allocated payment entitlements in excess shall revert to the national reserve or regional reserves referred to in Article 30 of Regulation (EU) No 1307/2013.

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Where the error referred to in the first subparagraph was made by the competent authority or by another authority and if the error could not reasonably have been detected by the beneficiary, the value of the remaining payment entitlements allocated to that beneficiary shall be adjusted accordingly.

Where the beneficiary concerned by the allocation of a too high number of payment entitlements, meanwhile, has transferred payment entitlements to other beneficiaries, the transferees shall also be bound by the obligation provided for in the first subparagraph in proportion to the number of payment entitlements which have been transferred to them if the beneficiary to whom the payment entitlements had initially been allocated does not have a sufficient number of payment entitlements at his disposal to cover the number of undue payment entitlements.

2. Where, after payment entitlements have been allocated to beneficiaries in accordance with Regulation (EU) No 1307/2013, it is established that the payments received by a beneficiary for 2014 as referred to in the first subparagraph of Article 26(2) of that Regulation [<sup>F69</sup>(as it had effect immediately before exit day)], or the value of the payment entitlements held by a beneficiary on the date of submission of his application for 2014 as referred to in the first subparagraph of Article 26(3) of that Regulation [<sup>F70</sup>(as it had effect immediately before exit day)], or the unit value of the payment entitlements as referred to in Article 26(5) of that Regulation [<sup>F71</sup>(as it had effect immediately before exit day)], or the increase of the unit value of payment entitlements as provided for in Article 30(10) of that Regulation [<sup>F72</sup>, or the total value of aid received by a beneficiary for the calendar year preceding the implementation of the basic payment scheme as referred to in the first subparagraph of Article 40(3) of that Regulation], were too high, the value of those payment entitlements based on the incorrect reference for the beneficiary concerned shall be adjusted accordingly.

That adjustment shall also be carried out in respect of payment entitlements which have, meanwhile, been transferred to other beneficiaries.

The value of the reduction shall revert to the national reserve or regional reserves referred to in Article 30 of Regulation (EU) No 1307/2013.

3. Where, after payment entitlements have been allocated to beneficiaries in accordance with Regulation (EU) No 1307/2013, it is established that for the same beneficiary, both the situation referred to in paragraph 1 and that referred to in paragraph 2 occurred, the adjustment of the value of all payment entitlements as referred to in paragraph 2 shall be made before the undue payment entitlements revert to the national reserve or regional reserves in accordance with paragraph 1.

4. The adjustments of the number and/or value of payment entitlements provided for in this Article shall not lead to a systematic recalculation of the remaining payment entitlements.

5. [<sup>F73</sup>Member States][<sup>F73</sup>The relevant authority] may decide not to recover undue payment entitlements where the total value of those payment entitlements as set out in the electronic register for identification and registration of payment entitlements at the time the verifications in view of making the adjustments provided for in this Article take place is EUR 50 or less for any of the years in which the basic payment scheme is implemented in accordance with Regulation (EU) No 1307/2013.

Undue amounts paid in respect of the claim years preceding the adjustments shall be recovered in accordance with Article 7 of this Regulation. When determining such undue amounts, account shall be taken of the impact of the adjustments provided for in this Article on the number and, where relevant, the value of the payment entitlements for all the years concerned.

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### Textual Amendments

- F69** Words in Art. 23(2) inserted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(22)(a)(i)**
- F70** Words in Art. 23(2) inserted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(22)(a)(ii)**
- F71** Words in Art. 23(2) inserted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(22)(a)(iii)**
- F72** Words in Art. 23(2) omitted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by virtue of [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(22)(a)(iv)**
- F73** Words in Art. 23(5) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(22)(b)**

## 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. <sup>[F74]</sup>Member States<sup>[F74]</sup> [The relevant authority] shall ensure that compliance with all conditions applicable established by <sup>[F75]</sup>Union law or laid down in relevant national law<sup>[F75]</sup> [the law applying in the constituent nation] 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 <sup>[F74]</sup>Member States<sup>[F74]</sup> [relevant authority].
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,



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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>F76</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.

#### Textual Amendments

- F74** Words in Art. 24(2) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(23)(a)**
- F75** Words in Art. 24(2) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(23)(b)**
- F76** 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>F27</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

- F27** 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](#).

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## 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 [<sup>F77</sup>Union law][<sup>F77</sup>the law applying in the constituent nation].

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>F32</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 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

- F32** 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.](#)
- F77** Words in [Art. 26\(1\)](#) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(24)**

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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)*

## 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>F42</sup>[<sup>F78</sup>Member States][<sup>F78</sup>The relevant authority] 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. [<sup>F78</sup>Member States][<sup>F78</sup>The relevant authority] 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.

#### Textual Amendments

- F42** 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.](#)
- F78** Words in Art. 27 substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(25)**

## 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:

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- (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 [F79]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, [F80]Member States][F80]a relevant authority] 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.

#### Textual Amendments

- F79** Word in Art. 28(1)(b) omitted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by virtue of [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(26)(a)**
- F80** Words in Art. 28(2) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(26)(b)**

### 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>(17)</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;
  - (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;

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- (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) <sup>[F81]</sup>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) <sup>[F81]</sup>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>[F82]</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, <sup>[F83]</sup>Member State<sup>[F83]</sup> a relevant authority] 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

- F81** Art. 29(1)(f)(g) omitted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by virtue of [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(27)(a)**
- F82** 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](#).
- F83** Words in Art. 29(3) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(27)(b)**

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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 [<sup>F84</sup>or the single area payment scheme] in accordance with Chapter 1 of Title III of Regulation (EU) No 1307/2013. [<sup>F85</sup>Member States][<sup>F85</sup>The relevant authority] 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) [<sup>F86</sup>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) [<sup>F87</sup>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) [<sup>F88</sup>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.]

#### **Textual Amendments**

**F84** Words in Art. 30(a) omitted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by virtue of [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(28)(a)(i)**

**F85** Words in Art. 30(a) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(28)(a)(ii)**

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- F86** Art. 30(c) omitted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by virtue of [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(28)(b)**
- F87** Art. 30(f) omitted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by virtue of [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(28)(c)**
- F88** Art. 30(h) omitted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by virtue of [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(28)(c)**

### 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:
  - (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>(18)</sup> or Directive 2009/147/EC of the European Parliament and of the Council<sup>(19)</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 [<sup>F89</sup>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 [<sup>F90</sup>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 [<sup>F91</sup>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;

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- (g) [<sup>F76</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 [<sup>F92</sup>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>(20)</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>F273</sup>3. 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 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

- F27** 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.
- F76** 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.
- F89** Words in Art. 31(1)(b)(ii) omitted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by virtue of The Financing, Management and Monitoring of Direct Payments to Farmers (Amendment) Regulations 2020 (S.I. 2020/90), regs. 1(2), **14(29)(a)(i)**
- F90** Words in Art. 31(1)(c) omitted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by virtue of The Financing, Management and Monitoring of Direct Payments to Farmers (Amendment) Regulations 2020 (S.I. 2020/90), regs. 1(2), **14(29)(a)(ii)**
- F91** Words in Art. 31(1)(d) omitted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by virtue of The Financing, Management and Monitoring of Direct Payments to Farmers (Amendment) Regulations 2020 (S.I. 2020/90), regs. 1(2), **14(29)(a)(iii)**
- F92** Words in Art. 31(2) omitted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by virtue of The Financing, Management and Monitoring of Direct Payments to Farmers (Amendment) Regulations 2020 (S.I. 2020/90), regs. 1(2), **14(29)(b)**



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## 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>F32</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.

[<sup>F32</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

**F32** 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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### 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>F93</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>F76</sup>2. 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.]]

#### Textual Amendments

- F76** 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.](#)
- F93** 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.](#)

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## Article 34

### Selection of the control sample

[<sup>F76</sup>1. 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 [<sup>F94</sup>points (a), (c), (d) and (e)] [<sup>F94</sup>points (a) to (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, [<sup>F95</sup>Member States] [<sup>F95</sup>the relevant authority] 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>F96</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.]

[<sup>F97</sup>3. For the purposes of Article 33, between 20% and 25% of the minimum number of beneficiaries to be subject to on-the-spot checks shall be selected randomly. The remaining number of beneficiaries to be subject to on-the-spot checks shall be selected on the basis of a risk analysis.

For the purposes of Article 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.]

4. If the number of beneficiaries to be subject to on-the-spot checks exceeds the minimum number of beneficiaries referred to in [<sup>F98</sup>Articles 30 to 33] [<sup>F98</sup>Articles 30, 31 and 33], the percentage of randomly selected beneficiaries in the additional sample shall not exceed 25 %.

[<sup>F82</sup>4a. For the purposes of [<sup>F99</sup>Articles 30 to 33] [<sup>F99</sup>Articles 30, 31 and 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

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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>F76</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 [<sup>F100</sup>Member State][<sup>F100</sup>constituent nation];
- (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

- F42** 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.
- F76** 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.
- F82** 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.
- F94** Words in Art. 34(2)(a) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by The Financing, Management and Monitoring of Direct Payments to Farmers (Amendment) Regulations 2020 (S.I. 2020/90), regs. 1(2), **14(30)(a)(i)**
- F95** Words in Art. 34(2) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by The Financing, Management and Monitoring of Direct Payments to Farmers (Amendment) Regulations 2020 (S.I. 2020/90), regs. 1(2), **14(30)(a)(ii)**
- F96** 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.
- F97** Art. 34(3) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by The Financing, Management and Monitoring of Direct Payments to Farmers (Amendment) Regulations 2020 (S.I. 2020/90), regs. 1(2), **14(30)(b)**
- F98** Words in Art. 34(4) substituted for the words "Articles 30 to 33" (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by The Financing, Management and

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Monitoring of Direct Payments to Farmers (Amendment) Regulations 2020 (S.I. 2020/90), regs. 1(2), 14(30)(c)

**F99** Words in Art. 34(4a) substituted for the words “Articles 30 to 33” (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by The Financing, Management and Monitoring of Direct Payments to Farmers (Amendment) Regulations 2020 (S.I. 2020/90), regs. 1(2), 14(30)(c)

**F100** Words in Art. 34(5)(c) substituted for the words “Member State” (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by The Financing, Management and Monitoring of Direct Payments to Farmers (Amendment) Regulations 2020 (S.I. 2020/90), regs. 1(2), 14(30)(d)

### 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 [F101 Article 30(a), (b) and (f)] [F101 Article 30(a) and (b)], [F102 Member States] [F102 the relevant authority] may, as regards the basic payment scheme [F103], the single area payment scheme, [F103 and] the re-distributive payment [F104] and the small farmers scheme], decide to reduce the minimum level of on-the-spot checks carried out each year per scheme to 3 %.

[F27 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.]

[F32 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>(21)</sup>.]

3. By way of derogation from [F105 Article 30(a), (b) and (f)] [F105 Article 30(a) and (b)], [F106 Member States] [F106 the relevant authority] may, as regards the basic payment scheme [F107], the single area payment scheme, [F107 and] the re-distributive payment [F108] 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

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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 [<sup>F109</sup>Member States][<sup>F109</sup>the relevant authority] systematically update the identification system for agricultural parcels and check all beneficiaries in the entire area 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 [<sup>F109</sup>Member States][<sup>F109</sup>the relevant authority] with less than 150 000 eligible hectares recorded in the identification system for agricultural parcels.

Before applying the first subparagraph, [<sup>F110</sup>Member States][<sup>F110</sup>the relevant authority] 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>F27</sup>The third and fourth subparagraphs of paragraph 2 shall apply *mutatis mutandis* .]

4. By way of derogation from Article 32(1), [<sup>F111</sup>Member States][<sup>F111</sup>the relevant authority] 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>F27</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>F27</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, [<sup>F112</sup>Member States][<sup>F112</sup>the relevant authority] 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 [<sup>F113</sup>Article 30(a), (b) and (f)][<sup>F113</sup>Article 30(a) and (b)] 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 [<sup>F114</sup>Member State][<sup>F114</sup>relevant authority] 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.

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[<sup>F115</sup>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.]

### Textual Amendments

- F27** 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.](#)
- F32** 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.](#)
- F101** Words in Art. 36(2) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(31)(a)(i)**
- F102** Words in Art. 36(2) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(31)(a)(ii)**
- F103** Word in Art. 36(2) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(31)(a)(iii)**
- F104** Words in Art. 36(2) omitted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by virtue of [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(31)(a)(iv)**
- F105** Words in Art. 36(3) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(31)(b)(i)(aa)**
- F106** Words in Art. 36(3) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(31)(b)(i)(bb)**
- F107** Word in Art. 36(3) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(31)(b)(i)(cc)**
- F108** Words in Art. 36(3) omitted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by virtue of [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(31)(b)(i)(dd)**
- F109** Words in Art. 36(3) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(31)(b)(ii)**
- F110** Words in Art. 36(3) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(31)(b)(iii)**
- F111** Words in Art. 36(4) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(31)(c)** (which amending provision is revoked (8.6.2020) by [S.I. 2020/576](#), regs. 1, **7(4)**)
- F112** Words in Art. 36(5) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(31)(d)(i)**

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- F113** Words in Art. 36(5) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(31)(d)(ii)**
- F114** Words in Art. 36(6) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(31)(e)(i)**
- F115** Words in Art. 36(6) omitted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by virtue of [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(31)(e)(ii)**

## 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 <sup>F116</sup>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 <sup>F117</sup>a regional implementation in accordance with Article 46(5) of Regulation (EU) No 1307/2013, the on-the-spot check shall also cover the area measurement and verification of the obligations imposed by the <sup>F118</sup>Member State]<sup>F118</sup>relevant authority] upon the beneficiaries or groups of beneficiaries.



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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 [F119 Member State][F119 relevant authority] 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.

[F324. 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

- F32** 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.](#)
- F116** Words in Art. 37(3) omitted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by virtue of [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(32)(a)(i)**
- F117** Words in Art. 37(3) omitted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by virtue of [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(32)(a)(ii)(aa)**
- F118** Words in Art. 37(3) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(32)(a)(ii)(bb)**
- F119** Words in Art. 37(3)(c) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(32)(a)(iii)(aa)**

### Article 38

#### Area measurement

[F421. 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 [F120 at Union level][F120 in the relevant constituent nation].

*Status: Point in time view as at 31/05/2020.*

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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.

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>F76</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>F76</sup>separate measurements] shall be carried out on the agricultural parcel for the purpose of the basic payment scheme [<sup>F121</sup>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>F96</sup>9. 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.]

*Status: Point in time view as at 31/05/2020.*

*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

- F42** 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.](#)
- F76** 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.](#)
- F96** 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.](#)
- F120** Words in Art. 38(2) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(33)(a)**
- F121** Words in Art. 38(8) omitted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by virtue of [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(33)(b)**

## Article 39

### Verification of eligibility conditions

[<sup>F42</sup>1. 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.

*Status: Point in time view as at 31/05/2020.*

*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)*

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>F42</sup>4. 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.]

#### Textual Amendments

**F42** 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 [<sup>F122</sup>Member State][<sup>F122</sup>relevant authority] 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>F76</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

**F76** 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.

**F122** Words in Art. 40 substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by The Financing, Management and Monitoring of Direct Payments to Farmers (Amendment) Regulations 2020 (S.I. 2020/90), regs. 1(2), **14(34)**

*Status: Point in time view as at 31/05/2020.*

*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)*

## <sup>F82</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;
- (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>F42</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>F42</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>F96</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

*Status: Point in time view as at 31/05/2020.*

*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)*

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 [F123 Member State][F123 relevant authority] 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).

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.

[F96] 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

- F42** 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.
- F82** 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.
- F96** 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.
- F123** Words in Art. 40a(2)(b) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by The Financing, Management and Monitoring of Direct Payments to Farmers (Amendment) Regulations 2020 (S.I. 2020/90), regs. 1(2), **14(35)**

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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)*

## <sup>F124</sup><sup>F82</sup> Article 40b

### Notifications

<sup>F42</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>F125</sup> .....]

#### Textual Amendments

- F42** 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.](#)
- F82** 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.](#)
- F124** Art. 40b omitted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by virtue of [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(36)**
- F125** 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;

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- (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>F82</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 [<sup>F126</sup>Member States make][<sup>F126</sup>the relevant authority makes] 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.

[<sup>F32</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>F42</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 [<sup>F127</sup>Member States][<sup>F127</sup>relevant authority] 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

**F32** 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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- F42** 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.
- F82** 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.
- F126** Words in Art. 41(2) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by The Financing, Management and Monitoring of Direct Payments to Farmers (Amendment) Regulations 2020 (S.I. 2020/90), regs. 1(2), **14(37)(a)(i)**
- F127** Words in Art. 41(2) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by The Financing, Management and Monitoring of Direct Payments to Farmers (Amendment) Regulations 2020 (S.I. 2020/90), regs. 1(2), **14(37)(a)(ii)**

### 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 <sup>F128</sup>Member State<sup>F128</sup> relevant authority] 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. <sup>F32</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, <sup>F129</sup>Member States<sup>F129</sup> the relevant authority] 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 <sup>F130</sup>Member State<sup>F130</sup> relevant authority] 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,

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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.

#### Textual Amendments

- F32** 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.](#)
- F128** Words in Art. 42(1) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(38)(a)(i)**
- F129** Words in Art. 42(1) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(38)(a)(ii)**
- F130** Words in Art. 42(1) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(38)(b)**

### 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;

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(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 [<sup>F131</sup>Member States make][<sup>F131</sup>the relevant authority makes] 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 [<sup>F132</sup>Member States carry][<sup>F132</sup>the relevant authority carries] 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.

#### **Textual Amendments**

**F131** Words in Art. 43(2) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(39)(a)**

**F132** Words in Art. 43(3) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(39)(b)**

## *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.

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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)

<sup>F133</sup> Article 45

[<sup>F133</sup> Verification of the tetrahydrocannabinol content in hemp growth]

**Textual Amendments**

**F133** 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.

TITLE IV

**NON-AREA-RELATED AND NON-ANIMAL-RELATED RURAL DEVELOPMENT MEASURES**

CHAPTER I

**Introductory provision**

Article 46

**Scope**

This Title shall apply to expenditure incurred under the measures provided for in Articles 14 to 20, Article 21(1) with the exception of the annual premium under points (a) and (b), Article 27, Article 28(9), Articles 35 and 36 and Article 51(2) of Regulation (EU) No 1305/2013, in Article 35(1) of Regulation (EU) No 1303/2013 and in Article 20, Article 36(a)(vi), (b)(ii), (vi) and (vii), Article 36(b)(i) and (iii) as far as the establishment cost is concerned, and Articles 52 and 63 of Regulation (EC) No 1698/2005.

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## CHAPTER II

### Checks

#### Section 1

#### General provisions

##### Article 47

#### Applications for support, payment claims and other declarations

1. Member States shall provide for appropriate procedures for submitting applications for support, payment claims and other declarations relating to non-area-related or non-animal-related rural development measures.
2. For measures under Articles 15(1)(b), 16(1) and 19(1)(c), and Article 27 of Regulation (EU) No 1305/2013, the beneficiary shall submit an annual payment claim.

#### Section 2

#### Provisions for checks

##### Article 48

#### Administrative checks

1. Administrative checks shall be carried out on all applications for support, payment claims or other declarations required to be submitted by a beneficiary or a third party, and shall cover all elements that can be checked and are appropriate to be checked by means of administrative checks. The procedures shall require recording of the control work undertaken, the results of the verification and the measures taken in the event of discrepancies.
2. Administrative checks on applications for support shall ensure the compliance of the operation with applicable obligations established by Union or national law or by the rural development programme, including those of public procurement, State aid and other obligatory standards and requirements. The checks shall in particular include verification of:
  - (a) the eligibility of the beneficiary;
  - (b) the eligibility criteria, commitments and other obligations of the operation for which support is requested;
  - (c) <sup>F134</sup>compliance with the selection criteria, where those criteria apply;]
  - (d) the eligibility of the costs of the operation, including compliance with the category of costs or calculation method to be used when the operation or part of it falls under Article 67(1)(b), (c) and (d) of Regulation (EU) No 1303/2013;
  - (e) <sup>F134</sup>for costs referred to in Article 67(1)(a) of Regulation (EU) No 1303/2013, excluding contributions in kind and depreciation, a verification of the reasonableness of the costs submitted. The costs shall be evaluated using a suitable evaluation system,

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such as reference costs, a comparison of different offers or an evaluation committee. For operations with a support rate up to 30 % or for operations supported under Article 35 of Regulation (EU) No 1305/2013, the verification of the reasonableness of the costs may be carried out at the stage of the administrative checks on payment claims. For operations with eligible costs up to EUR 5 000, the reasonableness of the costs may be established by a draft budget agreed *ex ante* by the managing authority.]

3. Administrative checks on payment claims shall include in particular, and where appropriate for the claim in question, verification of:

- (a) [F134 the completed operation compared with the operation for which the application for support was granted;
- (b) the costs incurred and the payments made, except where a form or method as referred to in Article 67(1)(b), (c) or (d) of Regulation (EU) No 1303/2013 is applied.]

4. Administrative checks shall include procedures to avoid irregular double financing with other Union or national schemes and with the previous programming period. Where financing from other sources exists, those checks shall ensure that the total support received does not breach the maximum permissible amounts or support rates.

5. Administrative checks on investment operations shall include at least one visit to the operation supported or the investment site to verify the realisation of the investment.

However, the competent authority may decide not to carry out such visits for duly justified reasons, such as the following:

- (a) the operation is included in the sample for an on-the-spot check to be carried out in accordance with Article 49;
- (b) the competent authority considers that the operation in question is a small investment;
- (c) the competent authority considers that the risk that the conditions for receiving support are not met is low, or that the risk that the investment has not been realised is low.

The decision referred to in the second subparagraph and its justification shall be recorded.

[F1356. As regards the financial instruments referred to in Article 38(1)(b) and (c) of Regulation (EU) No 1303/2013, paragraphs 1 to 5 of this Article shall neither apply to the contribution to the financial instrument nor to the support to the final recipient. However, Articles 58 and 59 of Regulation (EU) No 1306/2013 and Article 9 of Commission Delegated Regulation (EU) No 480/2014<sup>(22)</sup> shall apply.]

#### Textual Amendments

**F134** Substituted by Commission Implementing Regulation (EU) 2017/1242 of 10 July 2017 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.

**F135** Substituted by Commission Implementing Regulation (EU) 2019/936 of 6 June 2019 amending Implementing Regulations (EU) No 808/2014, (EU) No 809/2014 and (EU) No 908/2014 as regards financial instruments set up under the programmes for rural development.

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## Article 49

### On-the-spot-checks

1. Member States shall organise on-the-spot checks on approved operations using an appropriate sampling basis. Those checks shall, to the extent possible, be carried out before the final payment is made for an operation.
2. The inspectors undertaking the on-the-spot check shall not have been involved in administrative checks of the same operation.

## Article 50

### Control rate and sampling of on-the-spot-checks

1. <sup>[F134]</sup>The expenditure covered by on-the-spot checks shall represent at least 5 % of the expenditure referred to in Article 46 and co-financed by the European Agricultural Fund for Rural Development (EAFRD) which is claimed to the paying agency each calendar year and which does not concern operations for which only advance payments have been claimed.]

<sup>[F136]</sup>Where an operation subject to on-the-spot check has received advance or interim payments, those payments shall be counted towards the expenditure covered by on-the-spot checks as referred to in the first subparagraph.]

<sup>[F62]</sup>As regards financial instruments, only the payments to the final recipients subject to on-the-spot checks shall be counted towards the expenditure covered by on-the-spot checks as referred to in the first subparagraph.]

2. <sup>[F134]</sup>Only checks carried out until the date foreseen for submission of the control data and control statistics according to Article 9 shall be counted towards the achievement of the minimum level referred to in paragraph 1.]

Payment claims found not to be eligible after administrative checks shall not be counted towards the achievement of the minimum level referred to in paragraph 1.

3. Only checks meeting all the requirements of Articles 49 and 51 may be counted towards achievement of the minimum level referred to in paragraph 1.

4. The sample of approved operations to be checked in accordance with paragraph 1 shall take into account in particular:

- (a) the need to check an appropriate mix of types and sizes of operations;
- (b) any risk factors identified following national or Union checks;
- (c) the type of operation's contribution to the risk of error in implementation of the rural development programme;
- (d) the need to maintain a balance between the measures and types of operations;
- (e) the need to select randomly between 30 % and 40 % of expenditure.

5. Where on-the-spot checks reveal any significant non-compliance in the context of a support measure or type of operation, the competent authority shall increase the control rate to an appropriate level in the following calendar year for the measure or type of operation concerned.

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6. By way of derogation from paragraph 1, Member States may decide to reduce the minimum level of on-the-spot checks carried out each calendar year as referred to in paragraph 1 to 3 % of the amount co-financed by EAFRD.

Member States may apply the first subparagraph only if the general conditions for reducing the minimum level of on-the-spot checks laid down by the Commission in accordance with Article 62(2)(b) of Regulation (EU) No 1306/2013 are fulfilled.

Where any of the conditions referred to in the second subparagraph are no longer met, Member States shall immediately revoke their decision to reduce the minimum level of on-the-spot checks. They shall apply the minimum level of on-the-spot checks referred to in paragraph 1 as of the following calendar year.

#### Textual Amendments

- F62** Inserted by [Commission Implementing Regulation \(EU\) 2017/1242 of 10 July 2017 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.](#)
- F134** Substituted by [Commission Implementing Regulation \(EU\) 2017/1242 of 10 July 2017 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.](#)
- F136** Substituted 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 51

#### Content of the on-the-spot-checks

[<sup>F134</sup>1. On-the-spot checks shall verify that the operation has been implemented in accordance with the applicable rules and shall cover all the eligibility criteria, commitments and other obligations relating to the conditions for the granting of support, which can be checked at the time of the visit and have not been the subject of administrative checks. They shall ensure that the operation is eligible for an EAFRD support.]

2. On-the-spot checks shall verify the accuracy of the data declared by the beneficiary against underlying documents.

This includes a verification that the payment claims submitted by the beneficiary are supported by accounting or other documents, including, where necessary, a check on the accuracy of the data in the payment claim on the basis of data or commercial documents held by third parties.

3. On-the-spot checks shall verify that the use or intended use of the operation is consistent with the use described in the application for support and for which the support was granted.

4. Except in exceptional circumstances, duly recorded and explained by the competent authorities, on-the-spot checks shall include a visit to the place where the operation is implemented or, if the operation is intangible, to the operation promoter.



*Status: Point in time view as at 31/05/2020.*

*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)*

[<sup>F135</sup>5. As regards the financial instruments referred to in Article 38(1)(b) and (c) of Regulation (EU) No 1303/2013, paragraphs 1 to 4 of this Article shall neither apply to the contribution to the financial instrument nor to the support to the final recipient. However, Articles 58 and 59 of Regulation (EU) No 1306/2013 and Article 9 of Delegated Regulation (EU) No 480/2014 shall apply.]

#### **Textual Amendments**

**F134** Substituted by [Commission Implementing Regulation \(EU\) 2017/1242 of 10 July 2017 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.](#)

**F135** Substituted by [Commission Implementing Regulation \(EU\) 2019/936 of 6 June 2019 amending Implementing Regulations \(EU\) No 808/2014, \(EU\) No 809/2014 and \(EU\) No 908/2014 as regards financial instruments set up under the programmes for rural development.](#)

### *Article 52*

#### **Ex-post checks**

1. Ex-post checks shall be carried out on investment operations to verify the respect of commitments pursuant to Article 71 of Regulation (EU) No 1303/2013 or detailed in the rural development programme.
2. The *ex-post* checks shall cover in each calendar year at least 1 % of EAFRD expenditure for investment operations that are still subject to commitment as referred to in paragraph 1 and for which the final payment has been made from the EAFRD. Only checks carried out until the end of the calendar year in question shall be taken into account.
3. The sample for operations to be checked in accordance with paragraph 1 shall be based on an analysis of the risks and financial impact of different operations, types of operations or measures. Between 20 % and 25 % of the sample shall be selected randomly.

### *Article 53*

#### **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. The report shall indicate in particular:
  - (a) the measures and applications or payment claims checked;
  - (b) the persons present;
  - (c) whether notice was given to the beneficiary of the visit and, if so, the period of prior notice;
  - (d) the results of the checks and, where applicable, any particular observations;
  - (e) any further control measures to be carried out.
2. Paragraph 1 shall apply *mutatis mutandis* to *ex-post* checks under this Section.

*Status: Point in time view as at 31/05/2020.*

*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)*

3. The beneficiary shall be given the opportunity to sign the report during the check, to attest the beneficiary's 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.

### Section 3

#### *Provisions on checks for specific measures*

#### <sup>F137</sup> Article 54

#### <sup>F137</sup> Knowledge transfer and information actions

##### Textual Amendments

**F137** Deleted by [Commission Implementing Regulation \(EU\) 2017/1242 of 10 July 2017 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.](#)

#### <sup>F137</sup> Article 55

#### Advisory services, farm management and farm relief services

##### Textual Amendments

**F137** Deleted by [Commission Implementing Regulation \(EU\) 2017/1242 of 10 July 2017 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.](#)

#### <sup>F137</sup> Article 56

#### Quality schemes for agricultural products, and foodstuffs

##### Textual Amendments

**F137** Deleted by [Commission Implementing Regulation \(EU\) 2017/1242 of 10 July 2017 amending Implementing Regulation \(EU\) No 809/2014 laying down rules for the application of Regulation](#)

*Status: Point in time view as at 31/05/2020.*

*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)*

(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.

*F137 Article 57*

**Farm and business development**

**Textual Amendments**

**F137** Deleted by Commission Implementing Regulation (EU) 2017/1242 of 10 July 2017 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.

*F137 Article 58*

**Setting up of producer groups and organisations**

**Textual Amendments**

**F137** Deleted by Commission Implementing Regulation (EU) 2017/1242 of 10 July 2017 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.

*F137 Article 59*

**Risk management]**

**Textual Amendments**

**F137** Deleted by Commission Implementing Regulation (EU) 2017/1242 of 10 July 2017 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 60*

**LEADER**

1. Member States shall implement an appropriate system for supervision of local action groups.

*Status: Point in time view as at 31/05/2020.*

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2. In respect of expenditure incurred under Article 35(1)(b) and (c) of Regulation (EU) No 1303/2013, Member States may delegate the carrying out of the administrative checks provided for in Article 48 of this Regulation to local action groups by a formal act. However, Member States shall remain responsible for verifying that those local action groups have the administrative and control capacity to undertake that work.

In case of delegation referred to in the first subparagraph, the competent authority shall carry out regular checks of the local action groups, including bookkeeping checks and repetition of administrative checks on a sample basis.

The competent authority shall also carry out on-the-spot checks as referred to in Article 49 of this Regulation. As regards the control sample for expenditure concerning LEADER, at least the same percentage as that referred to in Article 50 of this Regulation shall apply.

3. In respect of expenditure incurred under Article 35(1)(a), (d) and (e) of Regulation (EU) No 1303/2013 and Article 35(1)(b) and (c) of that Regulation where the local action group itself is the beneficiary of the support, administrative checks shall be carried out by persons independent of the local action group concerned.

[<sup>F62</sup>4. By way of derogation from Article 48(2)(e), in respect of operations implemented by a local action group and covering a group of projects under a common theme, the verification of the reasonableness of costs may be carried out at the stage of the administrative checks on payment claims concerning that group of projects.]

#### Textual Amendments

**F62** Inserted by Commission Implementing Regulation (EU) 2017/1242 of 10 July 2017 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 61

#### Interest rate and guarantee fee subsidies

1. In respect of expenditure incurred under Article 69(3)(a) of Regulation (EU) No 1303/2013, administrative checks and on-the-spot checks shall be carried out with reference to the beneficiary and depending on the realisation of the operation concerned. [<sup>F137</sup> The risk analysis in accordance with Article 50 of this Regulation shall cover, at least once, the operation concerned on the basis of the discounted value of the subsidy.]

[<sup>F134</sup>2. The competent authority shall ensure, via administrative checks and, if necessary, via in-situ visits to the intermediate financial institutions and to the beneficiary, that the payments to the intermediate financial institutions are in conformity with Union law and with the agreement concluded between the competent authority and the intermediate financial institution.]

3. If interest rate or guarantee fee subsidies are combined with financial instruments in a single operation targeting the same final recipients, the competent authority shall carry out checks at the level of final recipients only in those cases established in Article 40(3) of Regulation (EU) No 1303/2013.

*Status: Point in time view as at 31/05/2020.*

*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**

- F134** Substituted by Commission Implementing Regulation (EU) 2017/1242 of 10 July 2017 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.
- F137** Deleted by Commission Implementing Regulation (EU) 2017/1242 of 10 July 2017 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 62*

#### **Technical assistance at the initiative of the Member States**

In respect of expenditure incurred under Article 51(2) of Regulation (EU) No 1305/2013, Articles 48 to 51 and Article 53 of this Regulation shall apply *mutatis mutandis*.

Administrative checks referred to in Article 48 and on-the-spot checks referred to in Article 49 shall be carried out by an entity which is functionally independent from the entity authorising the payment of the technical assistance.

#### *CHAPTER III*

#### ***Undue payments and administrative penalties***

#### *Article 63*

#### **Partial or full withdrawal of the support and administrative penalties**

1. Payments shall be calculated on the basis of amounts found to be eligible during the administrative checks referred to in Article 48.

The competent authority shall examine the payment claim received from the beneficiary, and establish the amounts that are eligible for support. It shall establish:

- (a) the amount that is payable to the beneficiary based on the payment claim and the grant decision;
- (b) the amount that is payable to the beneficiary after an examination of the eligibility of the expenditure in the payment claim.

If the amount established pursuant to point (a) of the second subparagraph exceeds the amount established pursuant to point (b) of that subparagraph by more than 10 %, an administrative penalty shall be applied to the amount established pursuant to that point (b). The amount of the penalty shall be the difference between those two amounts but shall not go beyond full withdrawal of the support.

However, no penalties shall be applied if the beneficiary can demonstrate to the satisfaction of the competent authority that he is not at fault for the inclusion of the

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ineligible amount or if the competent authority is otherwise satisfied that the beneficiary concerned is not at fault.

[<sup>F134</sup>2. The administrative penalty referred to in paragraph 1 shall be applied *mutatis mutandis* to non-eligible expenditure identified during on-the-spot checks referred to in Article 49.]

#### Textual Amendments

**F134** Substituted by Commission Implementing Regulation (EU) 2017/1242 of 10 July 2017 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.

## TITLE V

### CONTROL SYSTEM AND ADMINISTRATIVE PENALTIES IN RELATION TO CROSS COMPLIANCE

#### CHAPTER I

#### Common provisions

#### Article 64

#### Definitions

For the purposes of the technical specifications needed for the implementation of the control system and administrative penalties in relation to cross-compliance, the following definitions shall apply:

- (a) ‘specialised control bodies’ means the [<sup>F138</sup>national] competent control authorities, as referred to in Article 67 of this Regulation, responsible for ensuring compliance with the rules referred to in Article 93 of Regulation (EU) No 1306/2013;
- (b) ‘act’ means each of the individual Directives and Regulations listed in Annex II to Regulation (EU) No 1306/2013;
- (c) ‘year of the finding’ means the calendar year in which the administrative or on-the-spot check was carried out;
- (d) [<sup>F139</sup>‘areas of cross-compliance’ means any of the three different areas referred to in Article 93(1) of Regulation (EU) No 1306/2013 and the maintenance of permanent pasture as referred to in Article 93(3) of that Regulation.]
- (d) [<sup>F139</sup>‘areas of cross-compliance’ means any of the three different areas referred to in Article 93(1) of Regulation (EU) No 1306/2013.]

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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

- F138** Word in Art. 64(a) omitted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by virtue of [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(40)(a)**
- F139** Art. 64(d) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(40)(b)**

## CHAPTER II

### Control

#### Section 1

### General provisions

#### Article 65

### Control system as regards cross-compliance

1. <sup>[F140]</sup>Member States<sup>[F140]</sup>The relevant authority] shall establish a system guaranteeing effective control of the respect of cross-compliance. That system shall, in particular provide for:
  - (a) where the competent control authority is not the paying agency, the transfer of the necessary information concerning the beneficiaries referred to in Article 92 of Regulation (EU) No 1306/2013 from the paying agency to the specialised control bodies and/or, where applicable, via the coordinating authority;
  - (b) the methods to be applied for the selection of control samples;
  - (c) indications with regard to the nature and extent of the checks to be carried out;
  - (d) control reports containing in particular any detected non-compliance and an assessment of its severity, extent, permanence and reoccurrence;
  - (e) where the competent control authority is not the paying agency, the transfer of the control reports from the specialised control bodies either to the paying agency or the coordinating authority or both;
  - (f) the application of the system of reductions and exclusions by the paying agency.
2. <sup>[F141]</sup>Member States<sup>[F141]</sup>The relevant authority] may provide for a procedure according to which the beneficiary indicates to the paying agency the elements necessary to identify the requirements and standards applicable to him.

### Textual Amendments

- F140** Words in Art. 65(1) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(41)**

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**F141** Words in Art. 65(2) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(41)**

## Article 66

### Payment of aid in relation to checks of cross-compliance

With regard to checks of cross-compliance where such checks cannot be finalised before payments and annual premia referred to in Article 92 of Regulation (EU) No 1306/2013 are received by the beneficiary concerned, the amount due to be paid by the beneficiary as a result of any administrative penalty shall be recovered in accordance with Article 7 of this Regulation or by offsetting.

## Article 67

### Responsibility of the competent control authority

1. The responsibilities of the competent control authorities shall be as follows:
  - (a) the specialised control bodies shall bear the responsibility for carrying out the control and checks on the respect of the requirements and standards in question;
  - (b) the paying agencies shall bear the responsibility for fixing administrative penalties in individual cases in accordance with Chapter II of Title IV of Delegated Regulation (EU) No 640/2014 and Chapter III of this Title.
2. By way of derogation from paragraph 1, [<sup>F142</sup>Member States][<sup>F142</sup>the relevant authority] may decide that the control and checks in relation to all or certain requirements, standards, acts, or areas of cross-compliance are to be carried out by the paying agency, provided that the [<sup>F143</sup>Member State][<sup>F143</sup>relevant authority] guarantees that the effectiveness of the control and checks is at least equal to that achieved when the control and checks are carried out by a specialised control body.

#### Textual Amendments

**F142** Words in Art. 67(2) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(42)(a)**

**F143** Words in Art. 67(2) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(42)(b)**



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## Section 2

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

#### Article 68

##### **Minimum control rate**

1. <sup>[F144]</sup>The competent control authority shall, with regard to the requirements and standards for which it is responsible, carry out on-the-spot checks on at least 1 % of the total number of the beneficiaries referred to in Article 92 of Regulation (EU) No 1306/2013 and for which the competent control authority in question is responsible.]

<sup>[F144]</sup>The competent control authority shall, with regard to the requirements and standards for which it is responsible, carry out on-the-spot checks on at least 1% of the total number of the beneficiaries receiving direct payments and the other beneficiaries referred to in Article 92 of Regulation (EU) No 1306/2013, as it has effect in EU law.]

By way of derogation from the first subparagraph, 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 those groups may be considered as beneficiary for the purpose of calculating the control sample as specified in the first subparagraph.

The minimum control rate referred to in the first subparagraph may be reached at the level of each competent control authority or at the level of each act or standard or group of acts or standards. Where the checks are not carried out by the paying agency, this minimum control rate may however be reached at the level of each paying agency.

Where the legislation applicable to the act and standards already fixes a minimum control rate, that rate shall be applied instead of the minimum rate referred to in the first subparagraph. Alternatively, <sup>[F145]</sup>Member States<sup>[F145]</sup> the relevant authority] may decide that any instances of non-compliance detected in the course of any on-the-spot checks under the legislation applicable to the acts and standards which are carried out outside the sample referred to in the first subparagraph, shall be reported to, and followed up by, the competent control authority in charge of the act or standard concerned. The provisions of this Chapter and Chapters I, II and III of Title III shall apply.

As regards the cross-compliance obligations in relation to Directive 96/22/EC, the application of a specific sampling level of monitoring plans shall be considered to fulfil the requirement of the minimum rate mentioned in the first subparagraph.

2. By way of derogation from paragraph 1, in order to reach the minimum control rate referred to in that paragraph at the level of each act or standard or group of acts or standards, the <sup>[F146]</sup>Member State<sup>[F146]</sup> relevant authority] may:

- (a) use the results of on-the-spot checks carried out pursuant to the legislation applicable to those acts and standards for the selected beneficiaries; or
- (b) replace selected beneficiaries by beneficiaries subject to an on-the-spot check carried out pursuant to the legislation applicable to those acts and standards, provided that those beneficiaries are beneficiaries as referred to in Article 92 of Regulation (EU) No 1306/2013.

In such cases the on-the-spot checks shall cover all aspects of the relevant acts or standards as defined under cross-compliance. Furthermore the <sup>[F147]</sup>Member State<sup>[F147]</sup> relevant authority] shall ensure that the effectiveness of those on-the-spot

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checks is at least equal to that achieved when the on-the-spot checks are carried out by competent control authorities.

3. When establishing the minimum control rate referred to in paragraph 1 of this Article, the required actions as referred to in Article 97(3) of Regulation (EU) No 1306/2013, shall not be taken into account.

4. Should on-the-spot checks reveal a significant degree of non-compliance with a given act or standard, the number of on-the-spot checks to be carried out for that act or standard in the following control period shall be increased. Within a specific act the competent control authority may decide to limit the scope of those further on-the-spot checks to the most frequently infringed requirements.

5. When a [<sup>F148</sup>Member State][<sup>F148</sup>relevant authority] decides to make use of the option provided for in Article 97(3) of Regulation (EU) No 1306/2013, the actions necessary to verify that the beneficiaries have remedied the situation of non-compliance concerned shall apply on a sample of 20 % of those beneficiaries.

#### Textual Amendments

- F144** Words in Art. 68(1) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(43)(a)(i)**
- F145** Words in Art. 68(1) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(43)(a)(ii)**
- F146** Words in Art. 68(2) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(43)(b)(i)**
- F147** Words in Art. 68(2) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(43)(b)(ii)**
- F148** Words in Art. 68(5) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(43)(c)**

#### Article 69

##### Selection of the control sample

1. [<sup>F42</sup>The selection of the sample of farms to be checked in accordance with Article 68 shall be based, where applicable, on a risk analysis according to the applicable legislation, or on a risk analysis appropriate to the requirements or standards. That risk analysis may be based on the level of an individual farm or on the level of categories of farms or geographical zones. Where the competent authority decides to apply the option provided for in Article 40a(4) or in Article 70a(3) of this Regulation, findings revealed by checks by monitoring in the previous claim year shall be taken into account in the risk analysis.]

The risk analysis may take into account one or both of following:

- (a) a beneficiary's participation in the farm advisory system established pursuant to Article 12 of Regulation (EU) No 1306/2013;

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(b) a beneficiary's participation in a certification system if the scheme in question is relevant for the requirements and standards concerned.

[<sup>F149</sup>A Member State][<sup>F149</sup>The relevant authority] may decide on the basis of a risk analysis to exclude beneficiaries participating in a certification system as referred to in point (b) of the second subparagraph from the risk-based control sample. However, when the certification system only covers part of the requirements and standards to be respected under cross-compliance by the beneficiary, appropriate risk factors shall be applied for the requirements or standards that are not covered by the certification system.

When the analysis of control results reveals that there is a significant frequency of non-compliance with the requirements or standards included in a certification system as referred to in point (b) of the second subparagraph, the risk factors related to the requirements or standards concerned shall be re-assessed.

2. Paragraph 1 shall not apply to checks carried out as a follow-up of any non-compliance brought to the attention of the competent control authority in any other way. However, it shall apply to checks carried out as follow-up under the second subparagraph of Article 97(3) of Regulation (EU) No 1306/2013.

3. To provide the element of representativeness, between 20 % and 25 % of the minimum number of beneficiaries to be subject to on-the-spot checks as provided for in the first subparagraph of Article 68(1), shall be selected randomly. However, if the number of beneficiaries to be subject to on-the-spot checks exceeds that minimum number, the percentage of randomly selected beneficiaries in the additional sample shall not exceed 25 %.

4. A partial selection of the control sample may, where appropriate, be made before the end of the application period in question, on the basis of available information. The provisional sample shall be completed when all relevant applications are available.

5. The sample of beneficiaries to be checked in accordance with Article 68(1) may be selected from the samples of beneficiaries which were already selected pursuant to Articles 30 to 34 and to whom the relevant requirements or standards apply. However, this possibility does not apply to the control of beneficiaries under the support schemes in the wine sector referred to in Articles 46 and 47 of Regulation (EU) No 1308/2013.

[<sup>F150</sup>6. By way of derogation from Article 68(1), the sample of beneficiaries to be checked on the spot may be selected at the minimum rate of 1% of the beneficiaries receiving direct payments.]

7. Where it is concluded, on the basis of the risk analysis applied at farm level, that non-beneficiaries represent a higher risk than the beneficiaries referred to in Article 92 of Regulation (EU) No 1306/2013 those beneficiaries may be replaced by non-beneficiaries. In that case, the overall number of farmers checked shall, nevertheless, attain the control rate provided for in Article 68(1) of this Regulation. The reasons for such replacements shall be properly justified and documented.

8. The procedures set out in paragraphs 5 and 6 may be combined where such a combination increases the effectiveness of the control system.

#### Textual Amendments

**F42** 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 31/05/2020.*

*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)*

**F149** Words in Art. 69(1) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(44)(a)**

**F150** Art. 69(6) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(44)(b)**

## Article 70

### Determination of the compliance with the requirements and standards

1. Where applicable, the respect of the requirements and standards shall be determined by the use of means as provided for in the legislation applicable to the requirement or standard in question.

2. In other cases and where appropriate, the determination shall be carried out by the use of any appropriate means decided by the competent control authority which ensure precision at least equivalent to that required for official determinations under the national rules.

[<sup>F763</sup> Where appropriate, the on-the-spot checks may be carried out by applying remote-sensing techniques or by using Copernicus Sentinels satellite data or other data with at least equivalent value.]

[<sup>F964</sup> Competent authorities may carry out checks of the requirements and standards relevant for cross-compliance by means of checks by monitoring carried out in accordance with Article 70a of this Regulation.]

#### Textual Amendments

**F76** 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.](#)

**F96** 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>F96</sup> Article 70a

### 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 the requirements and standards relevant for cross-compliance 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 compliance with the requirements and standards;
- (b) carry out, where necessary, and in order to conclude on the determination of the compliance with the requirements and standards, appropriate follow-up activities;

*Status: Point in time view as at 31/05/2020.*

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- (c) carry out checks for 1 % of the beneficiaries concerned by requirements and standards relevant for cross-compliance which cannot be monitored by Copernicus Sentinels satellite data or other data with at least equivalent value, and are relevant to conclude on the compliance with the requirements and standards. Between 20 % and 25 % of the 1 % of the beneficiaries shall be selected randomly. The remaining beneficiaries shall be selected on the basis of a risk analysis;
- (d) 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 paragraph, 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 complying with the requirements and standards and, without prejudice to the early warning system in Article 99(2) of Regulation (EU) No 1306/2013, allow the beneficiary to address or remedy the situation before the conclusions are drawn in the control report referred to in Article 72, but not later than one month following the communication of the provisional results.

For the purposes of points (b) and (c), 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 compliance with the requirements and standards relevant for cross-compliance subject to the checks by monitoring. Physical inspections in the field may be limited to checks of requirements and standards that are relevant to conclude on the compliance with the requirements and standards relevant for cross-compliance subject to the checks by monitoring.

2. Where the competent authority carries out checks by monitoring in accordance with paragraph 1, can demonstrate effective operational procedures complying with the rules laid down in Articles 7 and 29, 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, Articles 25, 68, 69 and 71 of this Regulation do not apply.

3. 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**

**F96** 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.](#)

*Status: Point in time view as at 31/05/2020.*

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## Article 70b

### Notifications

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 in accordance with Article 70a.]

#### Textual Amendments

**F96** 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 71

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

1. When carrying out the checks on the sample provided for in Article 68(1), the competent control authority shall ensure that all beneficiaries selected are checked with regard to their compliance with the requirements and standards for which the competent control authority is responsible.

Notwithstanding the first subparagraph, where the minimum control rate is reached at the level of each act or standard or group of acts or standards as provided for in the third subparagraph of Article 68(1), the beneficiaries selected shall be checked with regard to their compliance with the act or standard or group of acts and standards in question.

When a group of persons as referred to in Articles 28 and 29 of Regulation (EU) No 1305/2013 is selected in the sample provided for in Article 68(1) of this Regulation, the competent control authority shall ensure that all members of the group are checked with regard to their compliance with the requirements and standards for which they are responsible.

In general, each beneficiary selected for an on-the-spot check shall be checked at a time when most requirements and standards for which he was selected may be checked. However, [<sup>F151</sup>Member States][<sup>F151</sup>the relevant authority] shall ensure that an appropriate level of control for all requirements and standards is achieved during the year.

2. On-the-spot checks shall, where applicable, cover all the agricultural land of the holding. Nevertheless, the actual inspection in the field as part of an on-the-spot check may be limited to a sample of at least half of the agricultural parcels concerned by the requirement or standard on the holding, provided that such sample guarantees a reliable and representative level of control in respect of requirements and standards.

The first subparagraph shall be without prejudice to the calculation and application of the administrative penalty as referred to in Chapter II of Title IV of Delegated Regulation (EU) No 640/2014 and in Chapter III of this Title. When the sample check referred to in the first subparagraph reveals non-compliance, the sample of agricultural parcels actually inspected shall be increased.

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Furthermore, where the legislation applicable to the act or standards so provides, the actual inspection of the compliance with the requirements and standards as part of an on-the-spot check may be limited to a representative sample of the objects to check. However, the <sup>F152</sup>[Member States]<sup>F152</sup>[relevant authority] shall ensure that the checks are carried out on all requirements and standards for which the compliance may be checked at the time of the visit.

3. The checks referred to in paragraph 1 shall, as a general rule, be carried out as part of one visit. They shall consist of a verification of the requirements and standards the compliance with which may be checked at the time of that visit. The aim of those checks shall be to detect any possible non-compliance with those requirements and standards and, in addition, to identify cases to be submitted for further checks.

4. On-the-spot checks at farm level may be replaced by administrative checks, provided that the <sup>F153</sup>[Member State]<sup>F153</sup>[relevant authority] ensures that administrative checks are at least as effective as on-the-spot checks.

5. When carrying out on-the-spot checks, <sup>F154</sup>[Member States]<sup>F154</sup>[the relevant authority] may make use of objective control indicators specific to certain requirements and standards, provided they ensure that the effectiveness of the control of the requirements and standards concerned is at least equal to on-the-spot checks carried out without the use of indicators.

The indicators shall have a direct link to the requirements or standards they represent and cover all elements to be checked when controlling that or those requirements or standards.

6. On-the-spot checks related to the sample provided for in Article 68(1) of this Regulation shall be carried out within the same calendar year where the aid applications, and/or payment claims are submitted or, as regards to the applications for the support schemes in the wine sector under Articles 46 and 47 of Regulation (EU) No 1308/2013, at any time during the period indicated in the second subparagraph of Article 97(1) of Regulation (EU) No 1306/2013.

#### Textual Amendments

**F151** Words in Art. 71(1) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\), regs. 1\(2\), 14\(45\)\(a\)](#)

**F152** Words in Art. 71(2) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\), regs. 1\(2\), 14\(45\)\(b\)](#)

**F153** Words in Art. 71(4) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\), regs. 1\(2\), 14\(45\)\(c\)](#)

**F154** Words in Art. 71(5) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\), regs. 1\(2\), 14\(45\)\(d\)](#)

#### Article 72

#### Control report

1. Every on-the-spot check carried out under this Title shall be the subject of a control report to be established by the competent control authority or under its responsibility.

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The report shall be divided into the following parts:

- (a) a general part containing, in particular, the following information:
  - (i) the beneficiary selected for the on-the-spot check;
  - (ii) the persons present;
  - (iii) whether notice of the visit was given to the beneficiary and, if so, the period of advance prior notice;
- (b) a part reflecting separately the checks carried out in respect of each of the acts and standards and containing, in particular, the following information:
  - (i) the requirements and standards subject to the on-the-spot check;
  - (ii) the nature and extent of checks carried out;
  - (iii) the findings;
  - (iv) the acts and standards in relation to which any non-compliances are found;
- (c) an evaluation part giving an assessment of the importance of the non-compliance in respect of each act and/or standard on the basis of the criteria ‘severity’, ‘extent’, ‘permanence’ and ‘reoccurrence’ in accordance with Article 99(1) of Regulation (EU) No 1306/2013 with an indication of any factors that should lead to an increase or decrease of the reduction to be applied.

Where provisions relating to the requirement or standard in question leave a margin not to further pursue the non-compliance found, or where supports are granted pursuant to Article 17(5) and (6) of Regulation (EU) No 1305/2013, this shall be indicated in the report.

[<sup>F96</sup>Where checks by monitoring are carried out in accordance with Article 70a, points (a)(ii) and (iii) of the second subparagraph of this paragraph shall not apply. The control report shall indicate the results of the checks by monitoring at parcel level.]

[<sup>F42</sup>2. Paragraph 1 shall apply regardless whether the beneficiary in question was selected for the on-the-spot check in accordance with Article 69, checked on the spot pursuant to the legislation applicable to the acts and standards in accordance with Article 68(2), checked by monitoring in accordance with Article 70a, or as a follow-up of non-compliance brought to the attention of the competent control authority in any other way.]

3. [<sup>F42</sup>The beneficiary shall be informed of any determined non-compliance within three months after the date of the on-the-spot check. When checks by monitoring are carried out in accordance with Article 70a, the beneficiary shall be informed of any determined non-compliance within three months after the expiry of the time period granted to the beneficiary to address or remedy the situation in accordance with Article 70a(1)(d).]

Unless the beneficiary has taken immediate remedial action putting an end to the non-compliance found within the meaning of the second subparagraph of Article 99(2) of Regulation (EC) No 1306/2013, the beneficiary shall be informed within the time limit set in the first subparagraph of this paragraph that remedial action shall be taken pursuant to the second subparagraph of Article 99(2) of Regulation (EC) No 1306/2013.

Unless the beneficiary has taken immediate remedial action putting an end to the non-compliance found within the meaning of Article 97(3) of Regulation (EC) No 1306/2013, the beneficiary concerned shall be informed, at the latest within one month



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after the decision not to apply the administrative penalty provided for in that Article, that remedial action shall be taken.

4. <sup>[F42]</sup>Without prejudice to any particular provisions contained in the legislation applicable to the requirements and standards, the control report shall be finalised within one month after the on-the-spot check. When checks by monitoring are carried out in accordance with Article 70a, the control report shall be finalised within one month after the expiry of the time period granted to the beneficiary to address or remedy the situation in accordance with Article 70a(1)(d). However, that period may be extended to three months under duly justified circumstances, in particular if chemical or physical analysis so requires.]

Where the competent control authority is not the paying agency, the control report and, when requested, the relevant supporting documents shall be sent or made accessible to the paying agency or the coordinating authority within a month after its finalisation.

However, where the report does not contain any findings, a <sup>[F155]</sup>Member State<sup>[F155]</sup> the relevant authority] may decide that such report is not sent, provided that it is made directly accessible to the paying agency or coordinating authority one month after its finalisation.

#### Textual Amendments

- F42** 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.](#)
- F96** 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.](#)
- F155** Words in Art. 72(4) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(46)**

## CHAPTER III

### *Calculation and application of administrative penalties*

#### *Article 73*

#### **General principles**

1. Where more than one paying agency is responsible for the management of the different schemes listed in Annex I to Regulation (EU) No 1307/2013, of the measures referred to in Article 21(1)(a) and (b) and Articles 28 to 31, 33 and 34 of Regulation (EU) No 1305/2013 and of payments related to the support schemes in the wine sector referred to in Articles 46 and 47 of Regulation (EU) No 1308/2013, <sup>[F156]</sup>Member States<sup>[F156]</sup> the relevant authority] shall ensure that determined non-compliances and, where applicable, any corresponding administrative penalties are brought to the attention of all paying agencies involved in those payments. This includes cases where the non-compliance with eligibility criteria also constitutes non-compliance with

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the rules on cross-compliance and vice versa. <sup>F156</sup>Member States<sup>F156</sup> The relevant authority shall ensure, when applicable, that one rate of reduction is applied.

2. Where more than one case of non-compliance with regard to various acts or standards of the same area of cross-compliance have been determined, those cases shall, for the purpose of fixing the reduction provided for in Articles 39(1) and 40 of Delegated Regulation (EC) No 640/2014, be considered as one non-compliance.

3. A non-compliance with a standard which also constitutes a non-compliance with a requirement shall be considered to be one non-compliance. For the purpose of the calculation of reductions, the non-compliance shall be considered as part of the area of the requirement.

4. The administrative penalty shall be applied to the total amount of the payments referred to in Article 92 of Regulation (EU) No 1306/2013 granted or to be granted to that beneficiary:

- (a) following aid applications or payments claims he has submitted or will submit in the course of the year of the finding; and/or
- (b) in respect of applications for support schemes in the wine sector under Articles 46 and 47 of Regulation (EU) No 1308/2013.

As regards point (b) of the first subparagraph, the relevant amount shall be divided by 3 for restructuring and conversion.

5. In respect of a group of persons as referred to in Articles 28 and 29 of Regulation (EU) No 1305/2013, the percentage of reduction shall be calculated in accordance with Chapter III of this Title and Chapter II of Title IV of Delegated Regulation (EC) No 640/2014. In that case Member States may, for the sake of proportionality, apply that percentage of reduction to the part of the subsidy allocated to the non-compliant member of the group.

#### Textual Amendments

**F156** Words in Art. 73(1) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(47)(a)**

### Article 74

#### Calculation and application of administrative penalties in case of negligence

1. Where more than one negligent non-compliance with regard to different areas of cross-compliance has been determined, the procedure for the fixing of the reduction as set out in Article 39(1) of Delegated Regulation (EU) No 640/2014 shall be applied individually to each non-compliance.

The resulting percentages of reductions shall be added together. However, the maximum reduction shall not exceed 5 % of the total amount referred to in Article 73(4) of this Regulation.

2. Where a reoccurrence is determined together with another non-compliance or another reoccurrence, the resulting percentage reductions shall be added together. The maximum reduction shall, however, not exceed 15 % of the total amount referred to in Article 73(4).

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## Article 75

### **Calculation and application of administrative penalties in case of intentional non-compliance**

In cases of intentional non-compliance of extreme extent, severity or permanence, the beneficiary shall, in addition to the penalty imposed and calculated in accordance with Article 40 of Delegated Regulation (EU) No 640/2014, be excluded from all the payments referred to in Article 92 of Regulation (EU) No 1306/2013 in the following calendar year.

## TITLE VI

### **FINAL PROVISIONS**

#### *<sup>F157</sup>Article 76*

#### **Entry into force and application**

This Regulation shall enter into force on the seventh day following that of its publication in the *Official Journal of the European Union*.

It shall apply to aid applications, applications for support or payment claims relating to claim years or premium periods starting as from 1 January 2015.]

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#### **Textual Amendments**

**F157** Art. 76 omitted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by virtue of [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(48)**

This Regulation shall be binding in its entirety and directly applicable in all Member States.

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**Status:** Point in time view as at 31/05/2020.

**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)

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F133 ANNEX

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*Status: Point in time view as at 31/05/2020.*

*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)*

- (1) [OJ L 347, 20.12.2013, p. 549.](#)
- (2) Regulation (EU) No 1307/2013 of the European Parliament and of the Council of 17 December 2013 establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy and repealing Council Regulation (EC) No 637/2008 and Council Regulation (EC) No 73/2009 ([OJ L 347, 20.12.2013, p. 608](#)).
- (3) 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 ([OJ L 181, 20.6.2014, p 1](#)).
- (4) Regulation (EC) No 1760/2000 of the European Parliament and of the Council of 17 July 2000 establishing a system for the identification and registration of bovine animals and regarding the labelling of beef and beef products and repealing Council Regulation (EC) No 820/97 ([OJ L 204, 11.8.2000, p. 1](#)).
- (5) Council Regulation (EC) No 21/2004 of 17 December 2003 establishing a system for the identification and registration of ovine and caprine animals and amending Regulation (EC) No 1782/2003 and Directives 92/102/EEC and 64/432/EEC ([OJ L 5, 9.1.2004, p. 8](#)).
- (6) Commission Regulation (EC) No 1082/2003 of 23 June 2003 laying down detailed rules for the implementation of Regulation (EC) No 1760/2000 of the European Parliament and of the Council as regards the minimum level of controls to be carried out in the framework of the system for the identification and registration of bovine animals ([OJ L 156, 25.6.2003, p. 9](#)).
- (7) Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006 ([OJ L 347, 20.12.2013, p. 320](#)).
- (8) Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 ([OJ L 347, 20.12.2013, p. 671](#)).
- (9) Regulation (EU) No 1305/2013 of the European Parliament and of the Council of 17 December 2013 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) and repealing Council Regulation (EC) No 1698/2005 ([OJ L 347, 20.12.2013, p. 487](#)).
- (10) Council Directive 96/22/EC of 29 April 1996 concerning the prohibition on the use in stockfarming of certain substances having a hormonal or thyrostatic action and of  $\beta$ -agonists, and repealing Directives 81/602/EEC, 88/146/EEC and 88/299/EEC ([OJ L 125, 23.5.1996, p. 3](#)).
- (11) 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 ([OJ L 181, 20.6.2014, p 48](#)).
- (12) Regulation (EU) No 228/2013 of the European Parliament and of the Council of 13 March 2013 laying down specific measures for agriculture in the outermost regions of the Union and repealing Council Regulation (EC) No 247/2006 ([OJ L 78, 20.3.2013, p. 23](#)).
- (13) Regulation (EU) No 229/2013 of the European Parliament and of the Council of 13 March 2013 laying down specific measures for agriculture in favour of the smaller Aegean islands and repealing Council Regulation (EC) No 1405/2006 ([OJ L 78, 20.3.2013, p. 41](#)).
- (14) Council Regulation (EC) No 1698/2005 of 20 September 2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) ([OJ L 277, 21.10.2005, p. 1](#)).
- (15) [<sup>F47</sup>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](#)).]
- (16) [<sup>F47</sup>Commission Directive 2008/62/EC of 20 June 2008 providing for certain derogations for acceptance of agricultural landraces and varieties which are naturally adapted to the local and

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- regional conditions and threatened by genetic erosion and for marketing of seed and seed potatoes of those landraces and varieties (OJ L 162, 21.6.2008, p. 13).]
- (17) 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).
- (18) 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).
- (19) 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).
- (20) 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).
- (21) <sup>F32</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)]
- (22) <sup>F135</sup> Commission Delegated Regulation (EU) No 480/2014 of 3 March 2014 supplementing Regulation (EU) No 1303/2013 of the European Parliament and of the Council laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund (OJ L 138, 13.5.2014, p. 5).]

#### Textual Amendments

- F32** 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.
- F47** Substituted by Commission Implementing Regulation (EU) 2018/709 of 14 May 2018 amending Implementing Regulation (EU) No 809/2014 as regards the labels requirement pertaining to the aid applications concerning the areas used for the production of hemp.
- F135** Substituted by Commission Implementing Regulation (EU) 2019/936 of 6 June 2019 amending Implementing Regulations (EU) No 808/2014, (EU) No 809/2014 and (EU) No 908/2014 as regards financial instruments set up under the programmes for rural development.

**Status:**

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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.