

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⁽¹⁾, 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⁽²⁾ 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⁽³⁾, 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⁽⁴⁾ or Council Regulation (EC) No 21/2004⁽⁵⁾. 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⁽⁶⁾. 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⁽⁷⁾. 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⁽⁸⁾ 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⁽⁹⁾ 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⁽¹⁰⁾, 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.

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) [View outstanding changes](#)

- (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:

Commencement Information

- 11** Regulation in so far as it relates to the CAP direct payment schemes for the claim year 2020 brought into domestic law on exit day by virtue of [Direct Payments to Farmers \(Legislative Continuity\) Act 2020 \(c. 2\), ss. 1, 9\(3\)](#)
Regulation in so far as it relates to the CAP direct payment schemes brought into domestic law on IP completion day in the form in which it was incorporated on exit day by virtue of [2020 c. 2, s. 1](#) and then subsequently amended during the IP period in relation to each constituent nation in accordance with [The Agriculture \(Payments\) \(Amendment, etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1445\), regs. 1, 2](#)
- 12** Regulation in all other cases apart from direct payment schemes brought into domestic law on IP completion day in the form in which it applied on exit day but as amended by the European Commission or the European Parliament and the Council between exit day and IP completion day and as it applies in EU law immediately before IP completion day in accordance with [The Agriculture \(Payments\) \(Amendment, etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1445\), regs. 1, 2](#)

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- (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 β -agonists, and repealing Directives 81/602/EEC, 88/146/EEC and 88/299/EEC ([OJ L 125, 23.5.1996, p. 3](#)).

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.

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Changes and effects yet to be applied to the whole legislation item and associated provisions

- Title 5 revoked by [S.I. 2023/816 Sch. Pt. 1 para. 1 Table 1](#)
- Art. 1(m) words substituted by [S.I. 2019/765 reg. 5\(2\)\(a\)\(iv\)](#) (This amendment not applied to legislation.gov.uk. Reg. 5(2)(a)(iv) substituted immediately before IP completion day by S.I. 2020/1445, reg. 8(3)(c))
- Art. 1(r)(s) revoked by [S.I. 2023/816 Sch. Pt. 1 para. 1 Table 2](#)
- Art. 6(2)(c) words substituted by [S.I. 2021/400 reg. 4\(3\)](#)
- Art. 6(2)(f)(iii)(iv) omitted by [S.I. 2019/765 reg. 5\(6\)\(b\)](#) (This amendment not applied to legislation.gov.uk. Reg. 5(6) substituted immediately before IP completion day by S.I. 2020/1445, reg. 8(8))
- art. 6(3)(b) omitted by [S.R. 2021/40 reg. 6\(2\)\(a\)](#)
- Art. 6(3)(c) omitted by [S.I. 2019/765 reg. 5\(6\)\(c\)](#) (This amendment not applied to legislation.gov.uk. Reg. 5(6) substituted immediately before IP completion day by S.I. 2020/1445, reg. 8(8))
- Art. 6(5) inserted by [S.I. 2021/407 reg. 5\(2\)\(c\)](#)
- Art. 14(1)(f) omitted by [S.I. 2022/765 reg. 11\(2\)](#)
- art. 14(1)(h) omitted by [S.R. 2021/40 reg. 6\(3\)](#)
- Art. 14(1a) inserted for specified purposes by [S.I. 2022/1225 reg. 8\(1\)reg. 8\(2\)\(b\)](#)
- Art. 17(7)(c) words substituted by [S.I. 2019/765 reg. 5\(16\)\(c\)\(i\)](#) (This amendment not applied to legislation.gov.uk. Reg. 5(16)(b)-(d) substituted immediately before IP completion day by S.I. 2020/1445, reg. 8(13))
- Art. 21(1)(d) words substituted by [S.I. 2019/765 reg. 5\(19\)\(a\)](#) (This amendment not applied to legislation.gov.uk. Reg. 5(19)(a)(b) substituted immediately before IP completion day by S.I. 2020/1445, reg. 8(18)(i))
- Art. 24(1)(c) revoked by [S.I. 2023/816 Sch. Pt. 1 para. 1 Table 2](#)
- Art. 29(1)(a) word omitted by [S.I. 2023/1430 Sch. 4 para. 7\(6\)\(b\)](#)
- Art. 29(1)(a) words omitted by [S.I. 2023/1430 Sch. 4 para. 7\(6\)\(a\)](#)
- Art. 29(1)(a) words omitted by [S.I. 2023/1430 Sch. 4 para. 7\(6\)\(c\)](#)
- Art. 29(1)(f) omitted by [S.I. 2019/765 reg. 5\(26\)\(a\)](#) (This amendment not applied to legislation.gov.uk. Reg. 5(26)-(28) substituted immediately before IP completion day by S.I. 2020/1445, reg. 8(22))
- Art. 29(1)(g) omitted by [S.I. 2019/765 reg. 5\(26\)\(a\)](#) (This amendment not applied to legislation.gov.uk. Reg. 5(26)-(28) substituted immediately before IP completion day by S.I. 2020/1445, reg. 8(22))
- Art. 30(f) omitted by [S.I. 2019/765 reg. 5\(27\)\(b\)](#) (This amendment not applied to legislation.gov.uk. Reg. 5(26)-(28) substituted immediately before IP completion day by S.I. 2020/1445, reg. 8(22))
- Art. 30(h) omitted by [S.I. 2019/765 reg. 5\(27\)\(b\)](#) (This amendment not applied to legislation.gov.uk. Reg. 5(26)-(28) substituted immediately before IP completion day by S.I. 2020/1445, reg. 8(22))
- Art. 31(b)(ii) words omitted by [S.I. 2019/765 reg. 5\(28\)\(a\)\(i\)](#) (This amendment not applied to legislation.gov.uk. Reg. 5(26)-(28) substituted immediately before IP completion day by S.I. 2020/1445, reg. 8(22))
- Art. 31(1)(c) words omitted by [S.I. 2019/765 reg. 5\(28\)\(a\)\(ii\)](#) (This amendment not applied to legislation.gov.uk. Reg. 5(26)-(28) substituted immediately before IP completion day by S.I. 2020/1445, reg. 8(22))
- Art. 31(1)(d) words omitted by [S.I. 2019/765 reg. 5\(28\)\(a\)\(iii\)](#) (This amendment not applied to legislation.gov.uk. Reg. 5(26)-(28) substituted immediately before IP completion day by S.I. 2020/1445, reg. 8(22))
- Art. 32a inserted by [S.I. 2021/400 reg. 4\(10\)](#)

- Art. 34(5)(c) words substituted by [S.I. 2019/765 reg. 5\(30\)\(c\)](#) (This amendment not applied to legislation.gov.uk. Reg. 5(30)-(32) substituted immediately before IP completion day by S.I. 2020/1445, reg. 8(24))
- Art. 34(5)(d) word inserted by [S.I. 2021/400 reg. 4\(11\)\(c\)\(ii\)](#)
- Art. 37(3)(c) words substituted by [S.I. 2019/765 reg. 5\(32\)\(a\)\(iii\)](#) (This amendment not applied to legislation.gov.uk. Reg. 5(30)-(32) substituted immediately before IP completion day by S.I. 2020/1445, reg. 8(24))
- Art. 40a(2)(b) words substituted by [S.I. 2019/765 reg. 5\(36\)](#) (This amendment not applied to legislation.gov.uk. Reg. 5(34)-(36) substituted immediately before IP completion day by S.I. 2020/1445, reg. 8(26))
- Art. 41(1)(h) words revoked by [S.I. 2023/816 Sch. Pt. 1 para. 1 Table 2](#)
- Art. 48(2)(e) sum substituted by [S.I. 2021/400 reg. 4\(22\)\(a\)\(ii\)\(aa\)](#)
- Art. 48(2)(e) words omitted by [S.I. 2021/400 reg. 4\(22\)\(a\)\(ii\)\(bb\)](#)
- Art. 48(5)(a) omitted by [S.I. 2021/400 reg. 4\(22\)\(b\)\(ii\)](#)
- Art. 64(a) word omitted by [S.I. 2019/765 reg. 5\(51\)](#) (This amendment not applied to legislation.gov.uk. Reg. 5(51) substituted immediately before IP completion day by S.I. 2020/1445, reg. 8(31))