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► **B** **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

(OJ L 227, 31.7.2014, p. 69)

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**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**

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) notifications to be made by the Member States to the Commission in accordance with their obligations to protect the financial interests of the Union;
- (b) administrative and on-the-spot checks to be carried out by the Member States 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) 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;

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- (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 Member States 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.

*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, within a Member State, more than one paying agency is responsible for the management of direct payments and rural development measures with regard to the same beneficiary, the Member State 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 Member State 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.

*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.

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Where a Member State makes use of the possibilities provided for in Article 21(3), that Member State 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.

*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⁽¹⁾ 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:

- (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;

⁽¹⁾ 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).

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- (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 Union or national law.

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 Member States on the basis of the conditions established in accordance with that Regulation and with the programmes for the outermost regions of the Union and the smaller Aegean islands established respectively by Regulations (EU) No 228/2013 ⁽¹⁾ and (EU) No 229/2013 of the European Parliament and of the Council ⁽²⁾ 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 point (b) 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;

⁽¹⁾ 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).

⁽²⁾ 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).

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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 point (e) 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) the linear reduction provided for in Article 65(2)(c) of Regulation (EU) No 1307/2013;
 - (iv) 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 national ceiling fixed in accordance with Article 42(2) 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) 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.

*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.

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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 national law, but shall not be lower than the interest rate applicable for the recovery of amounts under national 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.

*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 Member States 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):

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- (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 Union rules;
- (c) the holding transferred shall be considered, where appropriate, as a separate holding in respect of the claim year in question.

5. Member States 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) Member States shall apply *mutatis mutandis* the requirements set out in paragraphs 2, 3 and 4.

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.

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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.

TITLE II

INTEGRATED ADMINISTRATION AND CONTROL SYSTEM

CHAPTER I

*General rules***▼M1***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.

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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, Member States 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;

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- (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, Member States 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. Member States may decide to use data derived from data sources at the disposal of national authorities for the purposes of the aid applications and payment claims. In that case Member State 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.

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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 alphanumerical data of the areas declared (hereinafter referred to as 'geo-spatial aid application form'), Member States 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.

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Member States 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.

▼B*Article 12***General provisions pertaining to the single application and to the submission of applications for support under rural development measures**

1. If Member States decide 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.

*Article 13***Final date of submission of the single application, aid applications or payment claims**

1. Member States 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. However, Estonia, Latvia, Lithuania, Finland and Sweden may fix a later date which shall not be later than 15 June.

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In setting the final dates, Member States 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.

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.

*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.

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.

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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.

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4. 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, Member States may authorise the beneficiary to modify, in duly justified circumstances, the content of the single application as regards the use of the agricultural parcels, provided that this does not put the beneficiary in a more favourable position with regard to the fulfilment of the greening obligations based on the initial application. Member States may decide to set a final date for the notification of these modifications to the competent authority.

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, modifications in accordance with the first subparagraph shall not be authorised in respect of the agricultural parcels affected by the non-compliance.

*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.

*Article 15***Amendments to the single application or payment claim and modifications following the preliminary checks****▼ B**

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 or 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.

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1a. Where a beneficiary has been notified of the results of the preliminary checks as referred to in Article 11(4), that beneficiary may modify 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.

2. Amendments made in accordance with paragraph 1 shall be notified to the competent authority by 31 May of the year concerned,

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except in the case of Estonia, Latvia, Lithuania, Finland and Sweden, where they shall be notified by 15 June of the year concerned.

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

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).

2a. Modifications following the preliminary checks made in accordance with paragraph 1a shall be notified to the competent authority at the latest 35 calendar days after the final date of submission of the single application, aid application or payment claims referred to in Article 13. However, where this period of 35 calendar days expires before the final date for notification of amendments in accordance with paragraph 2 of this Article, the modifications shall be notified to the competent authority at the latest 10 calendar days after the final date for notification of amendments of the year concerned.

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

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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.

*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****▼ M1**

1. For the purpose of the identification of all agricultural parcels on the holding and/or non-agricultural land as referred to in

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Article 14(1)(d) and (e), the competent authority shall provide the beneficiary with the geo-spatial aid application form.

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2. Paragraph 1 shall apply as follows:

(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, 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.

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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 ⁽¹⁾ 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.

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) the official labels used on the packaging of the seeds in accordance with Council Directive 2002/57/EC ⁽²⁾, and in particular Article 12 thereof, or any other document recognised as equivalent by the Member State.

⁽¹⁾ 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).

⁽²⁾ 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).

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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 Member States but not later than 1 September. Where the labels also have to be submitted to other national authorities, the Member States 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.

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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 Titles III, IV and V 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.

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

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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.

*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.



Section 3

Other applications

Article 20

Specific provisions pertaining to aid applications

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.

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, Member States 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.

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 Member State, 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;

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(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. Member States 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. Member States 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 Member State, qualify for aid and/or support on the basis of the data contained in the computerised database for animals.

In that case, Member States shall take the necessary measures to guarantee that:

- (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.

5. Member States 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.

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 Article 20, Article 24, Article 30, except paragraph

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7(e), and Article 39 of Regulation (EU) No 1307/2013 shall be submitted by a date to be fixed by the Member States. The date fixed shall not be later than 15 May of the relevant calendar year.

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. Member States 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.

*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.

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, 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, or the unit value of the payment entitlements as referred to in Article 26(5) of that Regulation, or the increase of the unit value of payment entitlements as provided for in Article 30(10) of that Regulation, 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.

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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. Member States 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.

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;

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- (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. Member States shall ensure that compliance with all conditions applicable established by Union law or laid down in relevant national law 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 Member States.

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, 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.

4. The competent authority shall carry out physical inspections in the field in the event that photo-interpretation of ortho-images (satellite or aerial) do not provide results that would permit definitive conclusions to be drawn to the satisfaction of the competent authority concerning the eligibility or 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.

*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.

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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.

▼B*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 Union law.

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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.

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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.

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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.

*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.

Member States 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 and/or support under rural

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development measures in the scope of the integrated system are cross-notified to the relevant competent authority in charge of granting the corresponding payment. Member States 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.

*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:

- (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 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, Member States 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.

*Article 29***Cross-checks**

1. Where appropriate, the administrative checks shall include cross-checks:

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- (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 ⁽¹⁾, 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;
- (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) 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) 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.

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.

⁽¹⁾ 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).

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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, Member State 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.

*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 or the single area payment scheme in accordance with Chapter 1 of Title III of Regulation (EU) No 1307/2013. Member States 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) 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) 5 % of all beneficiaries applying for the payment under the small farmers scheme in accordance with Title V of Regulation (EU) No 1307/2013;

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- (g) 30 % of the areas declared for the production of hemp in accordance with Article 32(6) of Regulation (EU) No 1307/2013;
- (h) 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.

*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 ⁽¹⁾ or Directive 2009/147/EC of the European Parliament and of the Council ⁽²⁾ 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 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 national or regional environmental certification schemes as referred to in Article 43(3)(b) of Regulation (EU) No 1307/2013;

⁽¹⁾ Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ L 206, 22.7.1992, p. 7).

⁽²⁾ Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (OJ L 20, 26.1.2010, p. 7).

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- (d) 5 % of all beneficiaries participating in 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;
- (g) 100 % of all beneficiaries with an obligation to re-convert land into land under permanent grassland according to Article 42 of Delegated Regulation (EU) No 639/2014;
- (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 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 ⁽¹⁾ 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.

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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.

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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.

*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.

⁽¹⁾ 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).

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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.

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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).

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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.

▼M1

Where a Member State uses the option to introduce the collective claim, this paragraph shall not apply to collectives.

▼B

4. Beneficiaries checked under paragraph 3 shall not be taken into account for the purpose of paragraph 1.

*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.

▼B

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).

▼M2*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.

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 update 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.

▼B*Article 34*

Selection of the control sample

1. Applications or applicants found not to be admissible or not eligible for payment at the time of submission or after administrative checks shall not form part of the control population.

2. For the purposes of Articles 30 and 31, the sample selection shall be carried out as follows:

- (a) between 1 and 1,25 % of the beneficiaries applying for the basic payment scheme or the single area payment scheme in accordance with Chapter 1 of Title III of Regulation (EU) No 1307/2013 shall be selected randomly from all beneficiaries applying for those schemes. ► **M1** Beneficiaries selected randomly in accordance with the first subparagraph of paragraph 3 of this Article may be considered as part of the control sample provided for in the first sentence of this point. The number of such beneficiaries in the control sample shall not go beyond their proportion in the control population; ◀
- (b) between 1 and 1,25 % of the control population for greening shall be selected randomly from all beneficiaries selected in accordance with point (a). Where necessary to reach that percentage, additional beneficiaries shall be selected randomly among the control population for greening;

▼ M1

- (ba) between 0,6 % and 0,75 % of the control population as referred to in Article 31(1)(b) shall be selected randomly from all beneficiaries selected in accordance with point (a) of this subparagraph. Where necessary to reach that percentage, additional beneficiaries shall be selected randomly among the control population as referred to in Article 31(1)(b);
- (c) the remaining number of beneficiaries in the control sample referred to in Article 31(1)(a) and (b) shall be selected on the basis of a risk analysis;

▼ B

- (d) all beneficiaries selected in accordance with points (a) to (c) of this subparagraph may be considered as part of the control samples provided for in Article 30(b) to (e), (g) and (h). Where necessary to respect the minimum control rates, additional beneficiaries shall be selected randomly from their respective control populations;

▼ M1

- (e) all beneficiaries selected in accordance with points (a) to (d) of this subparagraph and those selected on the basis of a risk analysis in accordance with the first subparagraph of paragraph 3 of this Article may be considered as part of the control sample provided for in Article 30(a). Where necessary to respect the minimum control rate, additional beneficiaries shall be selected randomly from all beneficiaries applying for the basic payment scheme or the single area payment scheme in accordance with Chapter 1 of Title III of Regulation (EU) No 1307/2013;

▼ B

- (f) the minimum number of beneficiaries referred to in Article 30(f) shall be selected randomly from all beneficiaries applying for the payment under the small farmers scheme in accordance with Title V of Regulation (EU) No 1307/2013;

▼ M1

-
- (h) between 20 % and 25 % of the minimum number of beneficiaries referred to in Article 31(1)(c) shall be selected randomly from all beneficiaries selected in accordance with point (a) of this subparagraph.. The remaining number of beneficiaries referred to in Article 31(1)(c) shall be selected on the basis of a risk analysis from all beneficiaries selected in accordance with point (e) of this subparagraph. Where necessary to respect the minimum control rates, additional beneficiaries shall be selected on the basis of a risk analysis from their respective control populations;
 - (ha) between 20 % and 25 % of the minimum number of beneficiaries referred to in Article 31(1)(d) and (h) shall be selected randomly from all beneficiaries selected in accordance with point (b) of this subparagraph. Where necessary to reach that percentage, additional beneficiaries shall be selected randomly from all beneficiaries selected in accordance with point (a) of this subparagraph. The remaining number of beneficiaries referred to in Article 31(1)(d) and (h) shall be selected on the basis of a risk analysis from all beneficiaries selected in accordance with point (c) of this subparagraph. Where necessary to respect the minimum control rates, additional beneficiaries shall be selected on the basis of a risk analysis from their respective control populations;

▼B

- (i) between 20 % and 25 % of the minimum number of collective implementations referred to in Article 31(1)(e) shall be selected randomly from all collective implementations in accordance with Article 46(6) of Regulation (EU) No 1307/2013. The remaining number of collective implementations referred to in Article 31(1)(e) shall be selected on the basis of a risk analysis.

▼M1

The on-the-spot check regarding the additional beneficiaries selected in accordance with points (d), (e), (h) and (ha) of the first subparagraph as well as the beneficiaries selected in accordance with point (f) of the first subparagraph may be limited to the aid scheme they have been selected for if the minimum control rates of the other aid schemes they applied for are already respected.

The on-the-spot check regarding the additional beneficiaries selected in accordance with Article 31(3) and the beneficiaries selected in accordance with points (h), (ha) and (i) of the first subparagraph of this paragraph may be limited to the greening practices they have been selected for if the minimum control rates of the other aid schemes and greening practices they are required to observe are already respected.

▼B

For the purposes of Article 31 Member States shall ensure representativeness of the control sample as regards the different practises.

▼M1

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.

3. For the purposes of Articles 32 and 33, first between 20 % and 25 % of the minimum number of beneficiaries to be subject to on-the-spot checks and where Article 32(2a) is applied 100 % of the collectives and between 20 % and 25 % of the commitments to be subject to on-the-spot checks shall be selected randomly. The remaining number of beneficiaries and commitments to be subject to on-the-spot checks shall be selected on the basis of a risk analysis.

For the purposes of Articles 32 and 33, the random part of the sample may also include beneficiaries already selected in accordance with the first sentence of point (a) of the first subparagraph of paragraph 2 of this Article. The number of such beneficiaries in the control sample shall not go beyond their proportion in the control population.

For the purposes of Article 32, Member States may, as a result of the risk analysis, select specific rural development measures which apply to the beneficiaries.

▼B

4. If the number of beneficiaries to be subject to on-the-spot checks exceeds the minimum number of beneficiaries referred to in Articles 30 to 33, the percentage of randomly selected beneficiaries in the additional sample shall not exceed 25 %.

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

- (b) by comparing the results as regards the difference between the area declared and the area determined of the risk based and randomly selected sample referred to in the first subparagraph of paragraph 2; 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 referred to in the first subparagraph of paragraph 2;
- (c) by taking into account the specific situation and, where appropriate, evolution of the risk factors' relevance in the Member State;
- (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.

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

▼M1

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.

▼ M1

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 ⁽¹⁾.

▼ B

3. By way of derogation from Article 30(a), (b) and (f), Member States may, as regards the basic payment scheme, the single area payment scheme, the re-distributive payment 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 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 Member States 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 Member States with less than 150 000 eligible hectares recorded in the identification system for agricultural parcels.

Before applying the first subparagraph, Member States 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.

▼ M1

The third and fourth subparagraphs of paragraph 2 shall apply *mutatis mutandis*.

⁽¹⁾ 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)

▼B

4. By way of derogation from Article 32(1), Member States 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.

▼M1

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.

▼B

5. ►**M1** 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, Member States 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 Article 30(a), (b) and (f) 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 Member State 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.

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.

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.

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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 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 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 Member State upon the beneficiaries or groups of beneficiaries.

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 Member State 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.

▼M1

4. 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.

*Article 38***Area measurement**

1. While all agricultural parcels shall be subject to eligibility checks, 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 and/or payment claim has been submitted under the area-related aid schemes and/or rural development measures. When this sample check reveals any non-compliance, all agricultural parcels shall be measured, or conclusions from the measured sample shall be extrapolated.

The first subparagraph shall not apply to agricultural parcels to be checked for the purpose of ecological focus area in accordance with Article 46 of Regulation (EU) No 1307/2013.

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 at Union level.

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.

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7. Where Article 17(1)(b) 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, two separate measurements shall be carried out on the agricultural parcel for the purpose of the basic payment scheme 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.

*Article 39***Verification of eligibility conditions**

1. The eligibility of agricultural parcels shall be verified by any appropriate means. 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.

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.

4. With regard to the control of rural development measures and where the Member States provide that particular elements of an on-the-spot check may be carried out on the basis of a sample, that sample shall guarantee a reliable and representative level of control. Member States shall establish the criteria for the selection of the sample. If the checks on that sample reveal any non-compliance, the extent and scope of the sample shall be extended appropriately.

*Article 40***Checks with remote sensing**

Where a Member State 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

- (b) carry out physical inspections in the field of all agricultural parcels for which photo interpretation 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.

*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;
- (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.

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 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.

▼ M1

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.

▼ B

Where the on-the-spot check is carried out by means of remote sensing in accordance with Article 40, the Member States 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. 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.

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 Member State 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. ► **M1** However, where the retention period starts before an aid application or payment claim has been submitted or where it cannot be fixed in advance, Member States 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 Member State 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,

▼B

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.

*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;
- (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 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.

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3. Where Member States carry 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.

*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.

▼M3**▼B**

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.

*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) compliance with the selection criteria;
 - (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) 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

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costs shall be evaluated using a suitable evaluation system, such as reference costs, a comparison of different offers or an evaluation committee.

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

- (a) the completed operation compared with the operation for which the application for support was submitted and granted;
- (b) the costs incurred and the payments made.

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.

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. The expenditure covered by on-the-spot checks shall represent at least 5 % of the expenditure referred to in Article 46 which is co-financed by the European Agricultural Fund for Rural Development (EAFRD) and which is to be paid by the paying agency each calendar year.

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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.

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2. Only checks carried out until the end of the calendar year in question 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.

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.



Article 51

Content of the on-the-spot-checks

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. 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.

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;

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- (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.

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

Article 54

Knowledge transfer and information actions

The competent authority shall verify compliance with the requirement that the bodies providing knowledge transfer and information services have the appropriate capacities as required by Article 14(3) of Regulation (EU) No 1305/2013. The competent authority shall verify the content and duration of the farm and forest exchange schemes and visits according to Article 14(5) of that Regulation. Those verifications shall be carried out by administrative checks and, on a sample basis, by on-the-spot checks.

Article 55

Advisory services, farm management and farm relief services

For the operations provided for in Article 15(1)(a) and (c) of Regulation (EU) No 1305/2013, the competent authority shall verify compliance with the requirement that the authorities or bodies selected to provide advice have the appropriate resources and the selection procedure has been conducted through public procurement as required by Article 15(3) of that Regulation. That verification shall be carried out by administrative checks and, on a sample basis, by on-the-spot checks.

Article 56

Quality schemes for agricultural products, and foodstuffs

For the measure provided for in Article 16 of Regulation (EU) No 1305/2013, the competent authority may, where appropriate, make use of evidence received from other services, bodies or organisations to

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verify compliance with obligations and eligibility criteria. However, the competent authority shall ensure that it is satisfied that the service, body or organisation is operating to a standard sufficient to control compliance with the obligations and eligibility criteria. To this end, the competent authority shall carry out administrative checks and, on a sample basis, on-the-spot checks.

*Article 57***Farm and business development**

For the operations provided for in Article 19(1)(a) of Regulation (EU) No 1305/2013, the competent authority shall, by administrative checks and, on a sample basis, by on-the-spot checks, verify compliance with:

- (a) the business plan in accordance with Article 19(4) and (5) of Regulation (EU) No 1305/2013 and Article 8 of Commission Implementing Regulation (EU) No 808/2014 ⁽¹⁾, including in the case of young farmers the requirement that they comply with the definition of active farmer as referred to in Article 19(4) of Regulation (EU) No 1305/2013;
- (b) the rule for the grace period for meeting the conditions relating to occupational skills as referred to in Article 2(3) of Commission Delegated Regulation (EU) No 807/2014 ⁽²⁾.

*Article 58***Setting up of producer groups and organisations**

For the measure provided for in Article 27 of Regulation (EU) No 1305/2013, Member States shall recognise the producer group after verifying compliance of the group with the criteria set out in paragraph 1 of that Article and with the national rules. After recognition, the competent authority shall verify the continuous compliance with the recognition criteria and with the business plan in accordance with Article 27(2) of that Regulation by administrative checks and at least once during the five-year period through an on-the-spot check.

*Article 59***Risk management**

As regards the specific support provided for in Article 36 of Regulation (EU) No 1305/2013, the competent authority shall, by administrative checks and, on a sample basis, by on-the-spot checks, verify in particular:

- ⁽¹⁾ Commission Implementing Regulation (EU) No 808/2014 of 17 July 2014 laying down rules for the application of Regulation (EU) No 1305/2013 of the European Parliament and of the Council on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) (see page 18 of this Official Journal).
- ⁽²⁾ Commission Delegated Regulation (EU) No 807/2014 of 11 March 2014 supplementing Regulation (EU) No 1305/2013 of the European Parliament and of the Council on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) and introducing transitional provisions (see page 1 of this Official Journal).

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- (a) that farmers were eligible for the support in accordance with Article 36(2) of Regulation (EU) No 1305/2013;
- (b) when controlling applications for payments by mutual funds as provided for in Article 36(1)(b) and (c) of Regulation (EU) No 1305/2013, that the compensation was paid in full to affiliated farmers in accordance with Article 36(3) of that Regulation.

*Article 60***LEADER**

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

*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. 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.
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 paying agency and the intermediate financial institution.

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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.

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

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. In that case the expenditure examined shall be the cumulative expenditure incurred for the operation concerned. This is without prejudice to the results of the previous on-the-spot checks of the operations concerned.



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 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) ‘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.

CHAPTER II

Control

Section 1

General provisions

Article 65

Control system as regards cross-compliance

1. Member States 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;

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- (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. Member States 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.

*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, Member States 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 Member State 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.

Section 2**On-the-spot checks***Article 68***Minimum control rate**

1. 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

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referred to in Article 92 of Regulation (EU) No 1306/2013 and for which the competent control authority in question is responsible.

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, Member States 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 Member State 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 Member State shall ensure that the effectiveness of those on-the-spot 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.

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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 Member State 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.

*Article 69***Selection of the control sample**

1. 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.

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

A Member State 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.

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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.

6. By way of derogation from Article 68(1), the samples of beneficiaries to be checked on the spot may be selected at the minimum rate of 1 %, separately from each of the following populations of beneficiaries who are under the cross-compliance obligations in accordance with Article 92 of Regulation (EU) No 1306/2013:

- (a) beneficiaries receiving direct payments under Regulation (EU) No 1307/2013;
- (b) beneficiaries receiving support in the wine sector under Articles 46 and 47 of Regulation (EU) No 1308/2013;
- (c) beneficiaries receiving the annual premia under Article 21(1)(a) and (b) and Articles 28 to 31, 33 and 34 of Regulation (EU) No 1305/2013.

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.

*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.

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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.

3. Where appropriate, the on-the-spot checks may be carried out by applying remote-sensing techniques.

*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, Member States 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.

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 Member States 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.

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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 Member State ensures that administrative checks are at least as effective as on-the-spot checks.

5. When carrying out on-the-spot checks, Member States 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.

*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.

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;

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- (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.

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) or as a follow-up of non-compliance brought to the attention of the competent control authority in any other way.

3. The beneficiary shall be informed of any determined non-compliance within three months after the date of the on-the-spot check.

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

4. 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. 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 Member State 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.



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, Member States 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 the rules on cross-compliance and vice versa. Member States 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.

▼B*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).

*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

*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.

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

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