

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;
- (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;

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Changes to legislation: There are outstanding changes not yet made to Commission Implementing Regulation (EU) No 809/2014. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details)

- (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.

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.

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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;
- (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⁽²⁾ and (EU) No 229/2013 of the European Parliament and of the Council⁽³⁾ for the direct support scheme in question.

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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;
- (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.

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Article 7

Recovery of undue payments

1. If undue payment is made, the beneficiary shall repay the amount in question plus, where applicable, interest calculated in accordance with paragraph 2.

2. Interests shall be calculated for the period elapsing between the payment deadline for the beneficiary indicated in the recovery order, which shall not be set at more than 60 days, and the date of either repayment or deduction.

The rate of interest applicable shall be calculated in accordance with 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.

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.

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- (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).
- (2) 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).
- (3) 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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