

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 V

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

*CHAPTER I*

*Common provisions*

*Article 64*

**Definitions**

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

- (a) ‘specialised control bodies’ means the [<sup>F1</sup>national] competent control authorities, as referred to in Article 67 of this Regulation, responsible for ensuring compliance with the rules referred to in Article 93 of Regulation (EU) No 1306/2013;
- (b) ‘act’ means each of the individual Directives and Regulations listed in Annex II to Regulation (EU) No 1306/2013;
- (c) ‘year of the finding’ means the calendar year in which the administrative or on-the-spot check was carried out;
- (d) [<sup>F2</sup>‘areas of cross-compliance’ means any of the three different areas referred to in Article 93(1) of Regulation (EU) No 1306/2013 and the maintenance of permanent pasture as referred to in Article 93(3) of that Regulation.]
- (d) [<sup>F2</sup>‘areas of cross-compliance’ means any of the three different areas referred to in Article 93(1) of Regulation (EU) No 1306/2013.]

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**Textual Amendments**

- F1** Word in Art. 64(a) omitted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by virtue of [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(40)(a)**
- F2** Art. 64(d) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(40)(b)**

*Status: Point in time view as at 14/06/2020.*

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

## CHAPTER II

### Control

#### Section 1

#### General provisions

#### Article 65

#### Control system as regards cross-compliance

1. [<sup>F3</sup>Member States][<sup>F3</sup>The relevant authority] shall establish a system guaranteeing effective control of the respect of cross-compliance. That system shall, in particular provide for:
  - (a) where the competent control authority is not the paying agency, the transfer of the necessary information concerning the beneficiaries referred to in Article 92 of Regulation (EU) No 1306/2013 from the paying agency to the specialised control bodies and/or, where applicable, via the coordinating authority;
  - (b) the methods to be applied for the selection of control samples;
  - (c) indications with regard to the nature and extent of the checks to be carried out;
  - (d) control reports containing in particular any detected non-compliance and an assessment of its severity, extent, permanence and reoccurrence;
  - (e) where the competent control authority is not the paying agency, the transfer of the control reports from the specialised control bodies either to the paying agency or the coordinating authority or both;
  - (f) the application of the system of reductions and exclusions by the paying agency.
2. [<sup>F4</sup>Member States][<sup>F4</sup>The relevant authority] may provide for a procedure according to which the beneficiary indicates to the paying agency the elements necessary to identify the requirements and standards applicable to him.

#### Textual Amendments

- F3** Words in Art. 65(1) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(41)**
- F4** Words in Art. 65(2) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(41)**

#### Article 66

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

With regard to checks of cross-compliance where such checks cannot be finalised before payments and annual premia referred to in Article 92 of Regulation (EU) No 1306/2013

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are received by the beneficiary concerned, the amount due to be paid by the beneficiary as a result of any administrative penalty shall be recovered in accordance with Article 7 of this Regulation or by offsetting.

#### *Article 67*

### **Responsibility of the competent control authority**

1. The responsibilities of the competent control authorities shall be as follows:
  - (a) the specialised control bodies shall bear the responsibility for carrying out the control and checks on the respect of the requirements and standards in question;
  - (b) the paying agencies shall bear the responsibility for fixing administrative penalties in individual cases in accordance with Chapter II of Title IV of Delegated Regulation (EU) No 640/2014 and Chapter III of this Title.
2. By way of derogation from paragraph 1, [<sup>F5</sup>Member States][<sup>F5</sup>the relevant authority] may decide that the control and checks in relation to all or certain requirements, standards, acts, or areas of cross-compliance are to be carried out by the paying agency, provided that the [<sup>F6</sup>Member State][<sup>F6</sup>relevant authority] guarantees that the effectiveness of the control and checks is at least equal to that achieved when the control and checks are carried out by a specialised control body.

#### **Textual Amendments**

- F5** Words in Art. 67(2) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(42)(a)**
- F6** Words in Art. 67(2) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(42)(b)**

#### *Section 2*

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

#### *Article 68*

### **Minimum control rate**

1. [<sup>F7</sup>The competent control authority shall, with regard to the requirements and standards for which it is responsible, carry out on-the-spot checks on at least 1 % of the total number of the beneficiaries referred to in Article 92 of Regulation (EU) No 1306/2013 and for which the competent control authority in question is responsible.]

[<sup>F7</sup>The competent control authority shall, with regard to the requirements and standards for which it is responsible, carry out on-the-spot checks on at least 1% of the total number of the beneficiaries receiving direct payments and the other beneficiaries referred to in Article 92 of Regulation (EU) No 1306/2013, as it has effect in EU law.]

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By way of derogation from the first subparagraph, in the case of groups of persons as referred to in Articles 28 and 29 of Regulation (EU) No 1305/2013 each individual member of those groups may be considered as beneficiary for the purpose of calculating the control sample as specified in the first subparagraph.

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

Where the legislation applicable to the act and standards already fixes a minimum control rate, that rate shall be applied instead of the minimum rate referred to in the first subparagraph. Alternatively, [<sup>F8</sup>Member States][<sup>F8</sup>the relevant authority] may decide that any instances of non-compliance detected in the course of any on-the-spot checks under the legislation applicable to the acts and standards which are carried out outside the sample referred to in the first subparagraph, shall be reported to, and followed up by, the competent control authority in charge of the act or standard concerned. The provisions of this Chapter and Chapters I, II and III of Title III shall apply.

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

2. By way of derogation from paragraph 1, in order to reach the minimum control rate referred to in that paragraph at the level of each act or standard or group of acts or standards, the [<sup>F9</sup>Member State][<sup>F9</sup>relevant authority] may:

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

In such cases the on-the-spot checks shall cover all aspects of the relevant acts or standards as defined under cross-compliance. Furthermore the [<sup>F10</sup>Member State][<sup>F10</sup>relevant authority] 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.

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

5. When a [<sup>F11</sup>Member State][<sup>F11</sup>relevant authority] decides to make use of the option provided for in Article 97(3) of Regulation (EU) No 1306/2013, the actions necessary to verify that the beneficiaries have remedied the situation of non-compliance concerned shall apply on a sample of 20 % of those beneficiaries.

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#### Textual Amendments

- F7** Words in Art. 68(1) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(43)(a)(i)**
- F8** Words in Art. 68(1) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(43)(a)(ii)**
- F9** Words in Art. 68(2) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(43)(b)(i)**
- F10** Words in Art. 68(2) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(43)(b)(ii)**
- F11** Words in Art. 68(5) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(43)(c)**

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

- C1** [Art. 68\(1\)](#) modified (W.) (14.6.2020) by [The Payments to Farmers \(Controls and Checks\) \(Wales\) \(Coronavirus\) Regulations 2020 \(S.I. 2020/531\)](#), regs. 1(2), **2(g)**

### Article 69

#### Selection of the control sample

1. <sup>[F12]</sup>The selection of the sample of farms to be checked in accordance with Article 68 shall be based, where applicable, on a risk analysis according to the applicable legislation, or on a risk analysis appropriate to the requirements or standards. That risk analysis may be based on the level of an individual farm or on the level of categories of farms or geographical zones. Where the competent authority decides to apply the option provided for in Article 40a(4) or in Article 70a(3) of this Regulation, findings revealed by checks by monitoring in the previous claim year shall be taken into account in the risk analysis.]

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

- (a) a beneficiary's participation in the farm advisory system established pursuant to Article 12 of Regulation (EU) No 1306/2013;
- (b) a beneficiary's participation in a certification system if the scheme in question is relevant for the requirements and standards concerned.

<sup>[F13]</sup>A Member State<sup>[F13]</sup>The relevant authority] may decide on the basis of a risk analysis to exclude beneficiaries participating in a certification system as referred to in point (b) of the second subparagraph from the risk-based control sample. However, when the certification system only covers part of the requirements and standards to be respected under cross-compliance by the beneficiary, appropriate risk factors shall be applied for the requirements or standards that are not covered by the certification system.

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

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2. Paragraph 1 shall not apply to checks carried out as a follow-up of any non-compliance brought to the attention of the competent control authority in any other way. However, it shall apply to checks carried out as follow-up under the second subparagraph of Article 97(3) of Regulation (EU) No 1306/2013.
  3. To provide the element of representativeness, between 20 % and 25 % of the minimum number of beneficiaries to be subject to on-the-spot checks as provided for in the first subparagraph of Article 68(1), shall be selected randomly. However, if the number of beneficiaries to be subject to on-the-spot checks exceeds that minimum number, the percentage of randomly selected beneficiaries in the additional sample shall not exceed 25 %.
  4. A partial selection of the control sample may, where appropriate, be made before the end of the application period in question, on the basis of available information. The provisional sample shall be completed when all relevant applications are available.
  5. The sample of beneficiaries to be checked in accordance with Article 68(1) may be selected from the samples of beneficiaries which were already selected pursuant to Articles 30 to 34 and to whom the relevant requirements or standards apply. However, this possibility does not apply to the control of beneficiaries under the support schemes in the wine sector referred to in Articles 46 and 47 of Regulation (EU) No 1308/2013.
- [<sup>F14</sup>6. By way of derogation from Article 68(1), the sample of beneficiaries to be checked on the spot may be selected at the minimum rate of 1% of the beneficiaries receiving direct payments.]
7. Where it is concluded, on the basis of the risk analysis applied at farm level, that non-beneficiaries represent a higher risk than the beneficiaries referred to in Article 92 of Regulation (EU) No 1306/2013 those beneficiaries may be replaced by non-beneficiaries. In that case, the overall number of farmers checked shall, nevertheless, attain the control rate provided for in Article 68(1) of this Regulation. The reasons for such replacements shall be properly justified and documented.
  8. The procedures set out in paragraphs 5 and 6 may be combined where such a combination increases the effectiveness of the control system.

#### Textual Amendments

- F12** Substituted by [Commission Implementing Regulation \(EU\) 2019/1804 of 28 October 2019 amending Implementing Regulation \(EU\) No 809/2014 as regards amendments of aid applications or payment claims, checks in the integrated administration and control system and the control system in relation to cross compliance.](#)
- F13** Words in Art. 69(1) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(44)(a)**
- F14** Art. 69(6) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(44)(b)**

*Status: Point in time view as at 14/06/2020.*

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## Article 70

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

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

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

[<sup>F15</sup>3. Where appropriate, the on-the-spot checks may be carried out by applying remote-sensing techniques or by using Copernicus Sentinels satellite data or other data with at least equivalent value.]

[<sup>F16</sup>4. Competent authorities may carry out checks of the requirements and standards relevant for cross-compliance by means of checks by monitoring carried out in accordance with Article 70a of this Regulation.]

#### Textual Amendments

- F15** Substituted by [Commission Implementing Regulation \(EU\) 2018/746 of 18 May 2018 amending Implementing Regulation \(EU\) No 809/2014 as regards modification of single applications and payment claims and checks.](#)
- F16** Inserted by [Commission Implementing Regulation \(EU\) 2019/1804 of 28 October 2019 amending Implementing Regulation \(EU\) No 809/2014 as regards amendments of aid applications or payment claims, checks in the integrated administration and control system and the control system in relation to cross compliance.](#)

## <sup>F16</sup>Article 70a

### Checks by monitoring

1. Competent authorities may carry out checks by monitoring. Where they elect to do so, they shall:

- (a) set up a procedure of regular and systematic observation, tracking and assessment of all the requirements and standards relevant for cross-compliance which can be monitored by Copernicus Sentinels satellite data or other data with at least equivalent value, over a period of time that allows to conclude on the compliance with the requirements and standards;
- (b) carry out, where necessary, and in order to conclude on the determination of the compliance with the requirements and standards, appropriate follow-up activities;
- (c) carry out checks for 1 % of the beneficiaries concerned by requirements and standards relevant for cross-compliance which cannot be monitored by Copernicus Sentinels satellite data or other data with at least equivalent value, and are relevant to conclude on the compliance with the requirements and standards. Between 20 % and 25 % of the 1 % of the beneficiaries shall be selected randomly. The remaining beneficiaries shall be selected on the basis of a risk analysis;

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- (d) inform beneficiaries about the decision to carry out checks by monitoring and set up appropriate tools to communicate with beneficiaries on at least provisional results at parcel level of the procedure set up in accordance with point (a) of this paragraph, warning alerts and evidence requested for the purposes of points (b) and (c). Competent authorities shall ensure timely communication with the beneficiaries to support them in complying with the requirements and standards and, without prejudice to the early warning system in Article 99(2) of Regulation (EU) No 1306/2013, allow the beneficiary to address or remedy the situation before the conclusions are drawn in the control report referred to in Article 72, but not later than one month following the communication of the provisional results.

For the purposes of points (b) and (c), physical inspections in the field shall be carried out when relevant evidence, including evidence provided by the beneficiary at the request of the competent authority, does not allow to conclude on the compliance with the requirements and standards relevant for cross-compliance subject to the checks by monitoring. Physical inspections in the field may be limited to checks of requirements and standards that are relevant to conclude on the compliance with the requirements and standards relevant for cross-compliance subject to the checks by monitoring.

2. Where the competent authority carries out checks by monitoring in accordance with paragraph 1, can demonstrate effective operational procedures complying with the rules laid down in Articles 7 and 29, and has proven the quality of the identification system for agricultural parcels as assessed in accordance with Article 6 of Delegated Regulation (EU) No 640/2014, Articles 25, 68, 69 and 71 of this Regulation do not apply.

3. Where the procedure referred to in point (a) of paragraph 1 reveals findings relevant for direct payment schemes, rural development measures and requirements and/or standards not checked by monitoring, competent authorities may decide to take into account those findings only in respect of beneficiaries selected in accordance with Articles 30, 31, 32 and 68 for on-the-spot checks of direct payment schemes, rural development measures and requirements and/or standards not checked by monitoring. The derogation shall be limited to the three years following the 1<sup>st</sup> of January of the calendar year in which the competent authority started carrying out checks by monitoring.

#### Textual Amendments

- F16** Inserted by [Commission Implementing Regulation \(EU\) 2019/1804 of 28 October 2019 amending Implementing Regulation \(EU\) No 809/2014 as regards amendments of aid applications or payment claims, checks in the integrated administration and control system and the control system in relation to cross compliance.](#)

#### Article 70b

#### Notifications

Member States shall notify the Commission by 1 December of the calendar year preceding the calendar year in which they start carrying out checks by monitoring of their decision to opt for checks by monitoring in accordance with Article 70a.]



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### Textual Amendments

- F16** Inserted by [Commission Implementing Regulation \(EU\) 2019/1804 of 28 October 2019 amending Implementing Regulation \(EU\) No 809/2014 as regards amendments of aid applications or payment claims, checks in the integrated administration and control system and the control system in relation to cross compliance.](#)

## Article 71

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

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

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

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

In general, each beneficiary selected for an on-the-spot check shall be checked at a time when most requirements and standards for which he was selected may be checked. However, <sup>[F17]</sup>Member States<sup>[F17]</sup> the relevant authority] shall ensure that an appropriate level of control for all requirements and standards is achieved during the year.

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

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

Furthermore, where the legislation applicable to the act or standards so provides, the actual inspection of the compliance with the requirements and standards as part of an on-the-spot check may be limited to a representative sample of the objects to check. However, the <sup>[F18]</sup>Member States<sup>[F18]</sup> relevant authority] shall ensure that the checks are carried out on all requirements and standards for which the compliance may be checked at the time of the visit.

3. The checks referred to in paragraph 1 shall, as a general rule, be carried out as part of one visit. They shall consist of a verification of the requirements and standards the compliance

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with which may be checked at the time of that visit. The aim of those checks shall be to detect any possible non-compliance with those requirements and standards and, in addition, to identify cases to be submitted for further checks.

4. On-the-spot checks at farm level may be replaced by administrative checks, provided that the <sup>F19</sup>Member State<sup>F19</sup> relevant authority] ensures that administrative checks are at least as effective as on-the-spot checks.

5. When carrying out on-the-spot checks, <sup>F20</sup>Member States<sup>F20</sup> the relevant authority] may make use of objective control indicators specific to certain requirements and standards, provided they ensure that the effectiveness of the control of the requirements and standards concerned is at least equal to on-the-spot checks carried out without the use of indicators.

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

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

#### Textual Amendments

- F17** Words in Art. 71(1) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(45)(a)**
- F18** Words in Art. 71(2) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(45)(b)**
- F19** Words in Art. 71(4) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(45)(c)**
- F20** Words in Art. 71(5) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(45)(d)**

## Article 72

### Control report

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

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;

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

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

[<sup>F16</sup>Where checks by monitoring are carried out in accordance with Article 70a, points (a)(ii) and (iii) of the second subparagraph of this paragraph shall not apply. The control report shall indicate the results of the checks by monitoring at parcel level.]

[<sup>F12</sup>2. Paragraph 1 shall apply regardless whether the beneficiary in question was selected for the on-the-spot check in accordance with Article 69, checked on the spot pursuant to the legislation applicable to the acts and standards in accordance with Article 68(2), checked by monitoring in accordance with Article 70a, or as a follow-up of non-compliance brought to the attention of the competent control authority in any other way.]

3. [<sup>F12</sup>The beneficiary shall be informed of any determined non-compliance within three months after the date of the on-the-spot check. When checks by monitoring are carried out in accordance with Article 70a, the beneficiary shall be informed of any determined non-compliance within three months after the expiry of the time period granted to the beneficiary to address or remedy the situation in accordance with Article 70a(1)(d).]

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

Unless the beneficiary has taken immediate remedial action putting an end to the non-compliance found within the meaning of Article 97(3) of Regulation (EC) No 1306/2013, the beneficiary concerned shall be informed, at the latest within one month after the decision not to apply the administrative penalty provided for in that Article, that remedial action shall be taken.

4. [<sup>F12</sup>Without prejudice to any particular provisions contained in the legislation applicable to the requirements and standards, the control report shall be finalised within one month after the on-the-spot check. When checks by monitoring are carried out in accordance

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with Article 70a, the control report shall be finalised within one month after the expiry of the time period granted to the beneficiary to address or remedy the situation in accordance with Article 70a(1)(d). However, that period may be extended to three months under duly justified circumstances, in particular if chemical or physical analysis so requires.]

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

However, where the report does not contain any findings, a [F21 Member State][F21 the relevant authority] may decide that such report is not sent, provided that it is made directly accessible to the paying agency or coordinating authority one month after its finalisation.

#### **Textual Amendments**

- F12** Substituted by [Commission Implementing Regulation \(EU\) 2019/1804 of 28 October 2019 amending Implementing Regulation \(EU\) No 809/2014 as regards amendments of aid applications or payment claims, checks in the integrated administration and control system and the control system in relation to cross compliance.](#)
- F16** Inserted by [Commission Implementing Regulation \(EU\) 2019/1804 of 28 October 2019 amending Implementing Regulation \(EU\) No 809/2014 as regards amendments of aid applications or payment claims, checks in the integrated administration and control system and the control system in relation to cross compliance.](#)
- F21** Words in Art. 72(4) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(46)**

## *CHAPTER III*

### *Calculation and application of administrative penalties*

#### *Article 73*

#### **General principles**

1. Where more than one paying agency is responsible for the management of the different schemes listed in Annex I to Regulation (EU) No 1307/2013, of the measures referred to in Article 21(1)(a) and (b) and Articles 28 to 31, 33 and 34 of Regulation (EU) No 1305/2013 and of payments related to the support schemes in the wine sector referred to in Articles 46 and 47 of Regulation (EU) No 1308/2013, [F22 Member States][F22 the relevant authority] shall ensure that determined non-compliances and, where applicable, any corresponding administrative penalties are brought to the attention of all paying agencies involved in those payments. This includes cases where the non-compliance with eligibility criteria also constitutes non-compliance with the rules on cross-compliance and vice versa. [F22 Member States][F22 The relevant authority] shall ensure, when applicable, that one rate of reduction is applied.

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

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

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

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

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

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

#### **Textual Amendments**

- F22** Words in Art. 73(1) substituted (31.1.2020 in so far as it relates to the Common Agricultural Policy direct payment schemes) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), regs. 1(2), **14(47)(a)**

### *Article 74*

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

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

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

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

### *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

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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.

**Status:**

Point in time view as at 14/06/2020.

**Changes to legislation:**

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