

Regulation (EU) 2017/2393 of the European Parliament and of the Council of 13 December 2017 amending Regulations (EU) No 1305/2013 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD), (EU) No 1306/2013 on the financing, management and monitoring of the common agricultural policy, (EU) No 1307/2013 establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy, (EU) No 1308/2013 establishing a common organisation of the markets in agricultural products and (EU) No 652/2014 laying down provisions for the management of expenditure relating to the food chain, animal health and animal welfare, and relating to plant health and plant reproductive material

REGULATION (EU) 2017/2393 OF THE EUROPEAN
PARLIAMENT AND OF THE COUNCIL

of 13 December 2017

amending Regulations (EU) No 1305/2013 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD), (EU) No 1306/2013 on the financing, management and monitoring of the common agricultural policy, (EU) No 1307/2013 establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy, (EU) No 1308/2013 establishing a common organisation of the markets in agricultural products and (EU) No 652/2014 laying down provisions for the management of expenditure relating to the food chain, animal health and animal welfare, and relating to plant health and plant reproductive material

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 42, Article 43(2) and point (b) of Article 168(4) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the Court of Auditors⁽¹⁾,

Having regard to the opinion of the European Economic and Social Committee⁽²⁾,

Having regard to the opinion of the Committee of the Regions⁽³⁾,

Acting in accordance with the ordinary legislative procedure⁽⁴⁾,

Whereas:

- (1) In order to ensure legal certainty and harmonised and non-discriminatory implementation of support to young farmers, it is necessary to provide that in the context of rural development the ‘date of setting up’, referred to in Regulation (EU) No 1305/2013 of the European Parliament and of the Council⁽⁵⁾ and in other relevant rules, means the date when the applicant performs or completes an action related to the setting up for the first time and that the application for support is to be submitted at

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the latest 24 months after that date. Moreover, experience from the negotiations of the programmes has shown that the rules for the joint setting up of young farmers and the thresholds for access to support required under Article 19(4) of Regulation (EU) No 1305/2013 should be clarified, and that the provisions on the duration of the business plan should be streamlined.

- (2) In order to facilitate implementation of advisory and training services by Member States' Managing Authorities, the status of beneficiary under that measure should be extended to those authorities, while at the same time ensuring that the provider of the service is chosen by a body functionally independent from those authorities and that checks are carried out at the level of the provider of advice or training.
- (3) With a view to incentivising participation in quality schemes, farmers or groups of farmers taking part in such schemes in the five years preceding the application for support should be eligible for a maximum duration of five years, while duly taking into account the time of the initial participation in the scheme.
- (4) In order to be sufficiently attractive to the private sector, it is essential that financial instruments are designed and implemented in a flexible and transparent manner. However, experience has shown that certain measure-specific eligibility rules limit the uptake of financial instruments in the rural development programmes, as well as the flexible use of financial instruments by fund managers. Therefore, it is appropriate to provide that certain measure-specific eligibility rules do not apply to financial instruments. For the same reason, it is also appropriate to provide that start-up aid to young farmers under Article 19 of Regulation (EU) No 1305/2013 may also be provided in the form of financial instruments. In view of those changes, it should be provided that, where support for investments under Article 17 of Regulation (EU) No 1305/2013 is granted in the form of financial instruments, the investment must contribute to one or more Union priorities for rural development.
- (5) In order to reduce administrative burden in relation to the implementation of the principle of no double funding in relation to greening, Member States should be given the possibility of applying a fixed, average deduction to all beneficiaries concerned carrying out the type of operation or sub-measure concerned.
- (6) Nowadays farmers are exposed to increasing economic risks as a consequence of market developments. However, those economic risks do not affect all agricultural sectors equally. Consequently, Member States should have the possibility, in duly justified cases, to help farmers by means of a sector-specific income stabilisation tool, in particular for sectors affected by a severe income drop, which would have a significant economic impact for a specific rural area, provided that the drop in income exceeds a threshold of at least 20 %. In order to ensure that the sector-specific income stabilisation tool is effective and adapted to Member States' specific circumstances, it should be possible for them to define, in their rural development programmes, the income to be taken into account for the activation of the tool, in a flexible manner. At the same time, and in order to promote the use of insurance by farmers, the threshold for the drop in production applicable for insurance should be reduced to 20 %. In addition, in order to

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monitor the expenditure made under the sector-specific income stabilisation tool and insurance, the content of the financial plan of the programme should be adapted.

- (7) The specific reporting requirement for the risk management measure in 2018 referred to in Article 36(5) of Regulation (EU) No 1305/2013 is already covered by the report to the European Parliament and the Council on the monitoring and evaluation of the common agricultural policy (CAP) referred to in Article 110(5) of Regulation (EU) No 1306/2013 of the European Parliament and of the Council⁽⁶⁾. Therefore, the second subparagraph of Article 36(5) of Regulation (EU) No 1305/2013 should be deleted.
- (8) With regard to mutual funds for farmers of all sectors, it appears that the prohibition of any contribution by public funds to initial capital stock laid down in Article 38(3) and Article 39(4) of Regulation (EU) No 1305/2013 hinders the effective functioning of those funds. That prohibition should therefore be deleted. It is also appropriate to expand the areas that can be covered by financial contributions to mutual funds, so that contributions can supplement the annual payments into the funds, as well as relate to their initial capital stock.
- (9) Support for investments for the restoration of production potential after natural disasters and catastrophic events under point (b) of Article 18(1) and point (d) of Article 24(1) of Regulation (EU) No 1305/2013 is usually granted to all eligible applicants. Therefore, Member States should not be obliged to define selection criteria for restoration operations. Moreover, in duly justified cases, where it is not possible to define selection criteria due to the nature of the operations, Member States should be allowed to define alternative selection methods.
- (10) Article 59 of Regulation (EU) No 1305/2013 defines the maximum European Agricultural Fund for Rural Development (EAFRD) contribution rates. In order to ease the pressure on the national budget of some Member States and to accelerate much-needed investments in Cyprus, the maximum contribution rate of 100 % referred to in point (f) of Article 59(4) of that Regulation should be extended until the programme closure. In addition, a reference to the specific contribution rate introduced in Regulation (EU) No 1303/2013 of the European Parliament and of the Council⁽⁷⁾ for the new financial instrument referred to in point (c) of Article 38(1) of Regulation (EU) No 1303/2013 should be mentioned in Article 59(4) of Regulation (EU) No 1305/2013.
- (11) Pursuant to Article 60(1) of Regulation (EU) No 1305/2013, in cases of emergency measures due to natural disasters, eligibility of expenditure relating to programme changes may start from the date when the natural disaster occurred. That possibility to make eligible expenditure made before the submission of a programme amendment should be extended to other circumstances, such as catastrophic events or a significant and sudden change in the socioeconomic conditions of the Member State or region.
- (12) Pursuant to the second subparagraph of Article 60(2) of Regulation (EU) No 1305/2013, in respect of investments in the agricultural sector, only expenditure incurred after the submission of an application is eligible. In cases, however, where the investment is related to emergency measures due to natural disasters, catastrophic events or adverse climatic events or a significant and sudden change in the socioeconomic conditions of the Member State or region, Member States should be given the possibility to provide in

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- their programmes that expenditure incurred after the occurrence of the event is eligible, in order to ensure their flexible and timely reaction to such events. In order to provide efficient support to emergency operations undertaken by the Member States in response to events which occurred in recent years, that possibility should apply from 1 January 2016.
- (13) In order to increase the use of the simplified cost options referred to in points (b) to (d) of Article 67(1) of Regulation (EU) No 1303/2013, it is necessary to limit the EAFRD-specific rules laid down in Article 62(2) of Regulation (EU) No 1305/2013 to aid granted in accordance with points (a) and (b) of Article 21(1), concerning income foregone and maintenance costs, and with Articles 28 to 31, 33 and 34 of Regulation (EU) No 1305/2013.
- (14) Article 74 of Regulation (EU) No 1305/2013 requires the Member States to consult the Monitoring Committee of the rural development programme on the selection criteria within four months from the approval of the programme. This creates an indirect obligation for the Member States to have defined all the selection criteria by that date even for the calls for applications which will be launched subsequently. In order to reduce unnecessary administrative burden, whilst ensuring that financial resources are used in the best possible way, Member States should be allowed to define the selection criteria and to ask for the opinion of the Monitoring Committee at any time before the publication of the calls for applications.
- (15) With a view to increasing the use of crop, animal and plant insurance, and of mutual funds and the income stabilisation tool, the maximum percentage of initial public support should be increased from 65 % to 70 %.
- (16) Financial discipline is used to ensure that the budget for the European Agricultural Guarantee Fund (EAGF) complies with the respective annual ceilings of the multiannual financial framework and to establish the reserve for crises in the agricultural sector. Given the technical character of the determination of the adjustment rate for direct payments and its inherent links with the Commission's estimates of expenditure set out in its annual draft budget, the procedure for setting the adjustment rate should be simplified by authorising the Commission to adopt it in accordance with the advisory procedure.
- (17) In order to harmonise the rules on automatic decommitment set out in Article 87 of Regulation (EU) No 1303/2013 and Article 38 of Regulation (EU) No 1306/2013, the date by which Member States have to send to the Commission information on exceptions to the decommitment referred to in Article 38(3) of Regulation (EU) No 1306/2013 should be adapted.
- (18) In order to provide for legal clarity as regards the treatment of the recoveries generated from the temporary reductions under Article 41(2) of Regulation (EU) No 1306/2013, the latter should be included in the list of sources of the assigned revenue under Article 43 of that Regulation.
- (19) In the interests of administrative simplification, it is appropriate to increase the threshold below which Member States may decide not to pursue recovery of undue

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payments from EUR 150 to EUR 250 provided that the Member State applies an equal or higher threshold for not pursuing national debts.

- (20) It is appropriate to ensure that the refusal or recovery of payments as a result of non-compliance with public procurement rules reflects the gravity of such non-compliance and respects the principle of proportionality, as expressed, for example, in the relevant guidelines established by the Commission for financial corrections to be made to expenditure financed by the Union under shared management for non-compliance with such rules. It is further appropriate to clarify that such non-compliance affects the legality and regularity of the transactions only up to the level of the part of the aid not to be paid or to be withdrawn.
- (21) In order to reduce administrative burden for small farmers, a further derogation should be introduced, exempting small farmers from declaring parcels on which a payment application is not made.
- (22) Having regard to practical and specific difficulties that the harmonisation of the payment deadlines for area-related payments between the EAGF and the EAFRD has given rise to, the transitional period should be extended by one more year. However, as regards area-related rural development measures, in order to maintain farmers' cash-flow, payments of advances before 16 October should remain possible.
- (23) In order to accommodate the diversity of agricultural systems across the Union, it is appropriate to allow Member States to consider ploughing up, which is relevant for the agronomic and environmental aspects, as a criterion to be used for the classification of permanent grassland.
- (24) Certain shrubs or trees which are not directly grazed by animals may nevertheless produce animal feed. Member States should be allowed to include those shrubs or trees in permanent grassland where grasses and other herbaceous forage remain predominant, in the whole or in part of their territory.
- (25) In order to clarify the classification prior to 2018 of land lying fallow as arable land, where it had been in place for five years or more, and provide certainty to the farmers concerned, Member States should be able to maintain its classification as arable land in 2018.
- (26) Land which can be grazed, where grasses and other herbaceous forage are not predominant or are absent, and where the grazing practices are neither traditional in character nor important for the conservation of biotopes and habitats, may nevertheless have relevant grazing value in certain areas. Member States should be allowed to consider those areas as permanent grassland in the whole or in part of their territory.
- (27) The experience gained in the first years of implementation of Regulation (EU) No 1307/2013 of the European Parliament and of the Council⁽⁸⁾ has shown that certain Member States applying the single area payment scheme did not use the entire amount of the funds available under the budgetary ceilings laid down in Commission Implementing Regulation (EU) 2015/1089⁽⁹⁾. Member States applying the basic payment scheme already have the possibility, within certain limits, of distributing payment entitlements for a higher value than the amount available for their basic

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payment scheme in order to ensure a more efficient use of the funds. Member States applying the single area payment scheme should also be allowed, within the same common limits and without prejudice to the respect of the net ceilings for direct payments, to calculate the necessary amount by which their single area payment scheme ceiling may be increased.

- (28) Certain Member States operate national fiscal or social security registers in which farmers are registered for their agricultural activities. Those Member States should be able to exclude from eligibility for direct payments farmers who are not registered accordingly.
- (29) As experience acquired in the past showed that support was in a number of cases granted to natural or legal persons whose business purpose was not, or was only marginally, targeted at an agricultural activity, Regulation (EU) No 1307/2013 introduced the active farmer clause. Pursuant thereto, Member States are to refrain from granting direct payments to certain persons unless such persons can demonstrate that their agricultural activity is not marginal. However, subsequent experience shows that implementing the three criteria for being regarded as an active farmer, listed in the third subparagraph of Article 9(2) of Regulation (EU) No 1307/2013, has proven difficult for many Member States. In order to reduce the administrative burden associated with the implementation of those three criteria, Member States should have the possibility to decide that only one or two of them are made available to demonstrate that a person is an active farmer.
- (30) Moreover, the experience of some Member States is that the difficulties and the administrative costs of implementing the elements relating to the list of activities or businesses as provided for in Article 9(2) of Regulation (EU) No 1307/2013, has outweighed the benefit of excluding a very limited number of non-active beneficiaries from the direct support schemes. When a Member State considers this to be the case, it should be able to discontinue the application of Article 9 thereof in relation to the list of activities or businesses.
- (31) It is appropriate to make explicit that Article 11 of Regulation (EU) No 1307/2013 allows Member States to review, on an annual basis, their decisions on the reduction of the part of the basic payment to be granted to farmers which exceeds EUR 150 000, provided that such a review does not lead to a reduction of the amounts available for rural development.
- (32) To allow Member States to adapt support under the CAP to their specific needs, they should be given appropriate opportunities to review their decision on transferring funds from their direct payments ceiling to their rural development programmes and vice versa. They should therefore be given the possibility to review their decision also with effect from calendar year 2019, provided that any such decision does not entail a decrease in the amounts assigned to rural development.
- (33) In addition to using a linear reduction of the value of payment entitlements under the basic payment scheme to replenish national or regional reserves to facilitate the participation of young farmers and farmers commencing their agricultural activity in the support scheme, Member States should also be allowed to use the same mechanism

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- to finance measures taken to prevent land from being abandoned and to compensate farmers for specific disadvantages.
- (34) To simplify and improve consistency between the rules applicable to greening measures, the exemption from the ecological focus area obligation applicable to holdings cultivating leguminous crops as a sole crop or in combination with grasses or other herbaceous forage or land lying fallow on more than 75 % of arable land pursuant to point (a) of Article 46(4) of Regulation (EU) No 1307/2013 should be extended to the obligation of crop diversification.
- (35) To ensure consistency in the way several types of crops are considered, on account of their substantial share in areas, in relation to the crop diversification requirement, the flexibility in applying the rules of crop diversification under Article 44(2) of Regulation (EU) No 1307/2013 should be extended to include the cultivation of crops under water for a significant part of the year or for a significant part of the crop cycle.
- (36) In order to streamline the existing exemptions from the crop diversification obligation set out in points (a) and (b) of Article 44(3) of Regulation (EU) No 1307/2013, applicable to land predominantly used for the production of grasses or other herbaceous forage, or for cultivation of leguminous crops or the cultivation of crops under water, or which is predominantly land lying fallow or permanent grassland, and so as to provide for equal treatment of all farmers with the same land use proportions, the upper limit of 30 hectares of arable land should no longer be applicable.
- (37) In order to take account of the agronomic specificity of *Triticum spelta*, it should be considered as a distinct crop for the purpose of Article 44 of Regulation (EU) No 1307/2013.
- (38) In order to streamline the existing exemptions from the ecological focus area obligation set out in points (a) and (b) of Article 46(4) of Regulation (EU) No 1307/2013, applicable to land predominantly used for the production of grasses or other herbaceous forage, or for cultivation of leguminous crops or the cultivation of crops under water, or which is predominantly land lying fallow or permanent grassland, the upper limit of 30 hectares of arable land should no longer be applicable.
- (39) Given the potential for indirect environmental benefits for biodiversity that may be provided by certain permanent crops, the list of ecological focus area types set out in Article 46 of Regulation (EU) No 1307/2013 should be extended to include *Miscanthus* and *Silphium perfoliatum*. Considering that the type of vegetation coverage may positively affect the biodiversity contribution of land lying fallow, land lying fallow for melliferous plants should be recognised as a distinct ecological focus area type. Consequently, weighting factors should be established for *Miscanthus*, *Silphium perfoliatum* and land lying fallow for melliferous plants. Weighting factors should be established in such a way as to reflect their different importance for biodiversity. The introduction of additional ecological focus area types requires the existing weighting factors for areas with nitrogen-fixing crops and for areas with short rotation coppice to be adapted so as to reflect the new balance between all ecological focus area types.

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- (40) Experience gained with the application of the support scheme for young farmers under Article 50 of Regulation (EU) No 1307/2013 has shown that, in some cases, young farmers cannot benefit from the full five years of support. While the focus of that support remains on new economic activity by young people starting their farming activities, Member States should facilitate the access of young farmers to the full five years of payment for young farmers also in cases where young farmers have not applied for support immediately after setting up.
- (41) Some Member States have assessed that the payment provided to young farmers under Article 50 of Regulation (EU) No 1307/2013 is insufficient to adequately respond to the financial challenges of the initial establishment and the structural adjustment of agricultural holdings set up by young farmers. To further enhance the prospects for participation of young farmers in farming, Member States should have the possibility to decide to increase the percentage applied to calculate the amount of the payment for young farmers in the range of 25 % to 50 % and irrespective of the calculation method applied. Such decision should be without prejudice to the 2 % limit of their national ceiling for direct payments to finance the payment for young farmers.
- (42) In order to enhance clarity with regard to the responsibilities of Member States as far as the production limiting character of voluntary coupled support is concerned, it is appropriate to reformulate Article 52(5) and (6) of Regulation (EU) No 1307/2013. As the reformulation reflects the current practice since 1 January 2015 with regard to the provisions concerned, it is appropriate that it should apply from claim year 2015.
- (43) In order to ensure the greatest possible consistency between Union schemes targeting sectors that, in certain years, are marked by structural market imbalances, the Commission should be empowered to adopt delegated acts allowing Member States to decide that voluntary coupled support can continue to be paid until 2020 on the basis of the production units for which such support was granted in a past reference period.
- (44) In order to enhance the flexibility with regard to voluntary coupled support, annual review by the Member States of their support decisions should be allowed with effect from claim year 2019.
- (45) One of the major obstacles to the formation of producer organisations, mainly in Member States which are lagging behind as regards the degree of organisation, appears to be the lack of mutual trust and past experiences. In this context, coaching, whereby producer organisations which are functioning show the way to other producer organisations, producer groups or individual producers of fruit and vegetables, could offset that obstacle and should thus be included among the objectives of producer organisations in the fruit and vegetables sector.
- (46) In addition to withdrawals for free distribution, it is also appropriate to provide financial support for coaching actions intended to encourage producers to set up organisations meeting the criteria to be recognised in order to benefit from full Union financing within the operational programmes of existing producer organisations.
- (47) Crisis prevention and management measures should be extended to cover replenishment of mutual funds which could as new instruments help to combat crises, and to promotion

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and communication in order to diversify and consolidate the fruit and vegetables markets.

- (48) In order to simplify the current procedure of first authorising Member States to grant additional national financial assistance to producer organisations in regions of the Union where the degree of organisation is particularly low and second reimbursing a part of the national financial assistance if further conditions are complied with, a new system should be established for Member States where the degree of organisation is significantly below the Union average. In order to ensure a smooth transition from the current procedure to the new system, a transitional period of one year should be provided for. The new system should therefore become applicable from 1 January 2019.
- (49) In order to ensure protection for wine spirits with a geographical indication against risks of misappropriation of reputation, Member States should be allowed to apply the rules on authorisations for vine plantings suitable for producing wines with a geographical indication also to wines suitable for producing wine spirits with a geographical indication.
- (50) The use of contracts in the milk and milk products sector may help to reinforce the responsibility of operators and to increase their awareness of the need to better take into account the signals of the market, to improve price transmission and to adapt supply to demand, as well as to help to avoid certain unfair commercial practices. In order to incentivise the use of such contracts in the milk and milk products sector as well as in other sectors, producers, producer organisations or association of producer organisations should have the right to request a written contract, even if the Member State concerned has not made the use of such contracts compulsory.
- (51) While the parties to a contract for the delivery of raw milk are free to negotiate the elements of such contracts, Member States who make the use of contracts compulsory have been granted the opportunity to impose certain contract clauses, in particular their minimum duration. With a view to enabling the parties to achieve contractual clarity on the delivered quantities and prices, Member States should also have the possibility of imposing on the parties the obligation to agree on a relationship between a delivered quantity and the price payable for that delivery.
- (52) Producer organisations and their associations can play useful roles in concentrating supply, in improving the marketing, planning and adjusting of production to demand, optimising production costs and stabilising producer prices, carrying out research, promoting best practices and providing technical assistance, managing by-products and risk management tools available to their members, thereby contributing to strengthening the position of producers in the food chain. Their activities, including the contractual negotiations for the supply of agricultural products by such producer organisations and their associations when concentrating supply and placing the products of their members on the market, therefore contribute to the fulfilment of the objectives of the CAP set out in Article 39 of the Treaty on the Functioning of the European Union (TFEU), since they strengthen the position of farmers in the food supply chain and can contribute to a better functioning of the food supply chain. The reform of the CAP in 2013 reinforced the role of producer organisations. By way of derogation from

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Article 101 TFEU, the possibility to carry out activities such as production planning, cost optimisation, placing producer members' products on the market and conducting contractual negotiations should therefore be explicitly regulated as a right of recognised producer organisations in all sectors for which Regulation (EU) No 1308/2013 of the European Parliament and of the Council⁽⁴⁰⁾ establishes a common organisation of the markets. That derogation should only cover producer organisations which genuinely exercise an activity aimed at economic integration and which concentrate supply and place products of their members on the market. However, in addition to the application of Article 102 TFEU to such producer organisations, safeguards should be put in place in order to ensure that such activities do not exclude competition or jeopardise the objectives set out in Article 39 TFEU. Competition authorities should have the right to intervene in such cases and decide that such activities should, for the future, be modified, discontinued or not take place at all. Until the adoption of the decision of the competition authority, the activities carried out by producer organisations should be considered legal. Associations of producer organisations recognised under Article 156(1) of Regulation (EU) No 1308/2013 should be able to rely, for the activities that they carry out themselves, on that derogation to the same extent and under the same conditions as producer organisations.

- (53) Producer organisations are recognised in a specific sector referred to in Article 1(2) of Regulation (EU) No 1308/2013. However, as producer organisations may operate in more than one sector and in the interest of avoiding administrative burden by obliging them to create several producer organisations for recognition purposes, it should be possible for a producer organisation to obtain more than one recognition. However, in such cases, the producer organisation in question should fulfil the conditions of recognition for each of the sectors concerned.
- (54) Taking note of the role which interbranch organisations can play for the better functioning of the food supply chain, the list of possible objectives which such interbranch organisations may pursue should be extended to cover also measures to prevent and manage risks related to animal health, plant-protection and the environment.
- (55) Interbranch organisations are recognised in a specific sector referred to in Article 1(2) of Regulation (EU) No 1308/2013. However, as interbranch organisations may operate in more than one sector and, in the interest of avoiding administrative burden by obliging them to create several interbranch organisations for recognition purposes, it should be possible for an interbranch organisation to obtain more than one recognition. However, in such cases, the interbranch organisation should fulfil the conditions of recognition for each of the sectors concerned.
- (56) In order to facilitate better transmission of market signals and strengthen linkages between producer prices and value added throughout the supply chain, farmers, including associations of farmers, should be allowed to agree with their first purchaser on value-sharing clauses, including market bonuses and losses. As interbranch organisations can play an important part in allowing dialogue between actors in the supply chain and in promoting best practices and market transparency, they should be

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allowed to establish standard value-sharing clauses. However, the use of value-sharing clauses by farmers, associations of farmers and their first purchaser should remain voluntary.

- (57) The experience gained through the application of Article 188 of Regulation (EU) No 1308/2013 has proven that the need to adopt implementing acts for the management of simple, mathematical processes linked to the way quotas are allocated is cumbersome and resource-intensive without any specific advantage linked to such an approach. The Commission has, in fact, no margin of discretion in this context considering that the related formula is already fixed by Article 7(2) of Commission Regulation (EC) No 1301/2006⁽¹¹⁾. In order to reduce the related administrative burden and streamline the process it should be provided that the Commission makes the results of the allocation of the tariff quotas public through an appropriate web-publication. Moreover a specific provision should be included providing that Member States should only issue licences following the publication of the allocation results by the Commission.
- (58) In order to ensure the effective use by farmers' or producer organisations or their associations of Article 209 of Regulation (EU) No 1308/2013, the possibility to request the opinion of the Commission on the compatibility of agreements, decisions and concerted practices of farmers' or producer organisations or their associations with the objectives set out in Article 39 TFEU should be introduced.
- (59) In order to ensure that the provisions in Regulation (EU) No 1308/2013 allowing collective agreements and decisions to temporarily stabilise the sectors concerned in times of severe imbalance in markets can be implemented in an effective and timely manner, the possibilities for such collective actions should be extended to farmers and associations of farmers. Furthermore, such temporary measures should no longer be authorised as a means of last resort but could complement Union action in the context of public intervention, private storage and the exceptional measures envisaged by Regulation (EU) No 1308/2013.
- (60) As it is appropriate to continue to help the milk and milk products sector in its transition as a result of the end of the quota system and to encourage it to respond more effectively to market and price fluctuations, the provisions in Regulation (EU) No 1308/2013 reinforcing the contractual arrangements in the milk and milk products sector should no longer have an end date.
- (61) Agricultural markets should be transparent and information about prices should be accessible and useful to all those involved.
- (62) The experience gained through the application of Section A of Part II of Annex VIII to Regulation (EU) No 1308/2013 has proven that the need to adopt implementing acts for the approval of limited increases in wine enrichment limits, which are technical and uncontroversial in nature, is cumbersome and resource-intensive without any specific advantage resulting from such an approach. In order to reduce the related administrative burden and streamline the process it should be provided that Member States that decide to make use of that derogation are to notify the Commission of any such decisions.

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- (63) Regulation (EU) No 652/2014 of the European Parliament and of the Council⁽¹²⁾ provides for the possibility to divide budgetary commitments into annual instalments only in the case of approval of multiannual programmes for the eradication, control and surveillance of animal diseases and zoonoses, for survey programmes concerning the presence of pests and for programmes concerning the control of pests in outermost regions of the Union. In the interest of simplification and in order to reduce the administrative burden, that possibility should be extended to the other actions provided for in that Regulation.
- (64) In order to enable the amendments provided for in this Regulation to be applied from 1 January 2018, it should enter into force on the day following that of its publication in the *Official Journal of the European Union*.
- (65) Regulations (EU) No 1305/2013, (EU) No 1306/2013, (EU) No 1307/2013, (EU) No 1308/2013 and (EU) No 652/2014 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Amendments to Regulation (EU) No 1305/2013

Regulation (EU) No 1305/2013 is amended as follows:

- (1) in Article 2(1), the second subparagraph is amended as follows:
- (a) point (n) is replaced by the following:
- (n) “young farmer” means a person who is no more than 40 years of age at the moment of submitting the application, possesses adequate occupational skills and competence and is setting up for the first time in an agricultural holding as head of that holding; the setting up may be done solely or jointly with other farmers, irrespective of its legal form;;
- (b) the following point is added:
- (s) “date of setting up” means the date when the applicant performs or completes (an) action(s) related to the setting up referred to in point (n).;
- (2) in Article 8(1), point (h)(ii) is replaced by the following:
- (ii) a table setting out, for each measure, for each type of operation with a specific EAFRD contribution rate, for the type of operation referred to in Article 37(1) and Article 39a and for technical assistance, the total Union contribution planned and the applicable EAFRD contribution rate. Where applicable, this table shall indicate separately the EAFRD contribution rate for less developed regions and for other regions;;
- (3) in Article 14, paragraph 4 is replaced by the following:
4. Eligible costs under this measure shall be the costs of organising and delivering the knowledge transfer or information action. Infrastructure installed as a

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result of demonstration may be used after the operation is completed. In the case of demonstration projects, support may also cover relevant investment costs. Costs for travel, accommodation and per diem expenses of participants as well as the cost of the replacement of farmers shall also be eligible for support. All costs identified under this paragraph shall be paid to the beneficiary.;

(4) Article 15 is amended as follows:

(a) paragraph 2 is replaced by the following:

2. The beneficiary of support provided in accordance with points (a) and (c) of paragraph 1 shall be either the provider of advice or training or the Managing Authority. Where the Managing Authority is the beneficiary, the provider of advice or training shall be selected by a body that is functionally independent from the Managing Authority. Support under point (b) of paragraph 1 shall be granted to the authority or body selected to set up the farm management, farm relief, farm advisory or forestry advisory service.;

(b) in paragraph 3, the first subparagraph is replaced by the following:

3. The authorities or bodies selected to provide advice shall have appropriate resources in the form of regularly trained and qualified staff and advisory experience and reliability with respect to the fields in which they advise. The providers under this measure shall be chosen through a selection procedure open to both public and private bodies. That selection procedure shall be objective and shall exclude candidates with conflicts of interest.;

(c) the following paragraph is inserted:

3a. For the purpose of this Article, Member States shall, in accordance with Article 65(1), carry out all checks at the level of the provider of advice or training.;

(5) Article 16 is amended as follows:

(a) in paragraph 1, the introductory part is replaced by the following:

1. Support under this measure shall cover new participation, or participation in the five preceding years, by farmers and groups of farmers, in.;

(b) paragraphs 2 and 3 are replaced by the following:

2. Support under this measure may also cover costs arising from information and promotion activities implemented by groups of producers, concerning products covered by a quality scheme receiving support in accordance with paragraph 1 of this Article. By way of derogation from Article 70(3) of Regulation (EU) No 1303/2013, those activities may only be implemented in the internal market.

3 Support under paragraph 1 shall be granted as an annual incentive payment, the level of which shall be determined in accordance with the level of the fixed costs arising from participation in supported schemes, for a maximum duration of five years.

In the case of initial participation prior to the application for support under paragraph 1, the maximum duration of five years shall be reduced by the

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number of years which have elapsed between the initial participation in a quality scheme and the time of the application for the support.

For the purposes of this paragraph, “fixed costs” means the costs incurred for entering a supported quality scheme and the annual contribution for participating in that scheme, including, where necessary, expenditure on checks required to verify compliance with the specifications of the scheme.

For the purposes of this Article, “farmer” means active farmer within the meaning of Article 9 of Regulation (EU) No 1307/2013, as applicable in the Member State concerned.;

(6) Article 17 is amended as follows:

(a) in paragraph 1, point (b) is replaced by the following:

(b) concern the processing, marketing and/or development of agricultural products covered by Annex I to the TFEU or cotton, except fishery products; the output of the production process may be a product not covered by that Annex; where support is provided in the form of financial instruments, the input may also be a product not covered by that Annex on condition that the investment contributes to one or more of the Union priorities for rural development.;

(b) paragraph 5 is replaced by the following:

5. Support may be granted to young farmers setting up for the first time in an agricultural holding as head of the holding in respect of investments to comply with Union standards applying to agricultural production, including occupational safety. Such support may be provided for a maximum of 24 months from the date of setting up as set out in the rural development programme, or until the actions defined in the business plan referred to in Article 19(4) are completed.;

(7) Article 19 is amended as follows:

(a) paragraph 4 is replaced by the following:

4. The application for support under point (a)(i) of paragraph 1 shall be submitted at the latest 24 months after the date of setting up.

Support under point (a) of paragraph 1 shall be conditional on the submission of a business plan. Implementation of the business plan shall start at the latest within nine months from the date of the decision granting the aid. The business plan shall have a maximum duration of five years.

The business plan shall provide that the young farmer is to comply with Article 9 of Regulation (EU) No 1307/2013, as applicable in the Member State concerned, within 18 months from the date of the decision granting the aid.

Member States shall define the action(s) referred to in point (s) of Article 2(1) in the rural development programmes.

Member States shall define upper and lower thresholds per beneficiary or holding for allowing access to support under points (a)(i) and (a)(iii) of

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- paragraph 1. The lower threshold for support under point (a)(i) of paragraph 1 shall be higher than the upper threshold for support under point (a)(iii) of paragraph 1. Support shall be limited to holdings falling within the definition of micro and small enterprises.;
- (b) the following paragraph is inserted:
- 4a. By way of derogation from Article 37(1) of Regulation (EU) No 1303/2013, support under point (a)(i) of paragraph 1 of this Article may also be provided in the form of financial instruments, or as a combination of grants and financial instruments.;
- (c) paragraph 5 is replaced by the following:
5. Support under point (a) of paragraph 1 shall be paid in at least two instalments. Instalments may be degressive. The payment of the last instalment under points (a)(i) and (a)(ii) of paragraph 1 shall be conditional upon the correct implementation of the business plan.;
- (8) in Article 20, the following paragraph is added:
4. Paragraphs 2 and 3 shall not apply where support is provided in the form of financial instruments.;
- (9) Article 23 is amended as follows:
- (a) the heading is replaced by the following:
Article 23
Establishment, regeneration or renovation of agroforestry systems;
- (b) paragraph 1 is replaced by the following:
1. Support under point (b) of Article 21(1) shall be granted to private land-holders, municipalities and their associations and shall cover the costs of establishment, regeneration and/or renovation and an annual premium per hectare to cover the costs of maintenance for a maximum period of five years.;
- (10) Article 28 is amended as follows:
- (a) in paragraph 6, the second subparagraph is replaced by the following:
When calculating the payments referred to in the first subparagraph, Member States shall deduct the amount necessary in order to exclude double funding of the practices referred to in Article 43 of Regulation (EU) No 1307/2013. Member States may calculate the deduction as a fixed, average amount applied to all beneficiaries concerned carrying out the type of operation concerned.;
- (b) paragraph 9 is replaced by the following:
9. Support may be provided for the conservation and for the sustainable use and development of genetic resources in agriculture, including non-indigenous resources, for operations not covered by the provisions under paragraphs 1 to 8. Such commitments may be carried out by beneficiaries other than those referred to in paragraph 2.;

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(11) Article 29 is amended as follows:

(a) paragraph 1 is replaced by the following:

1. Support under this measure shall be granted, per hectare of agricultural area, to farmers or groups of farmers who undertake, on a voluntary basis, to convert to or maintain organic farming practices and methods as defined in Regulation (EC) No 834/2007 and who are active farmers within the meaning of Article 9 of Regulation (EU) No 1307/2013, as applicable in the Member State concerned.;

(b) in paragraph 4, the second subparagraph is replaced by the following:

When calculating the payments referred to in the first subparagraph of this paragraph, Member States shall deduct the amount necessary in order to exclude double funding of the practices referred to in Article 43 of Regulation (EU) No 1307/2013. Member States may calculate the deduction as a fixed, average amount applied to all beneficiaries concerned carrying out the sub-measures concerned.;

(12) in Article 30(1), the second subparagraph is replaced by the following:

When calculating the payments related to the support referred to in the first subparagraph, Member States shall deduct the amount necessary in order to exclude double funding of the practices referred to in Article 43 of Regulation (EU) No 1307/2013. Member States may calculate the deduction as a fixed, average amount applied to all beneficiaries concerned carrying out the sub-measures concerned.;

(13) Article 31 is amended as follows:

(a) paragraph 2 is replaced by the following:

2. Payments shall be granted to farmers who undertake to pursue their farming activity in the areas designated pursuant to Article 32 and are active farmers within the meaning of Article 9 of Regulation (EU) No 1307/2013, as applicable in the Member State concerned.;

(b) in paragraph 5, the first subparagraph is replaced by the following:

5. In addition to the payments provided for in paragraph 2, Member States may grant payments under this measure between 2014 and 2020 to beneficiaries in areas which were eligible under Article 36(a)(ii) of Regulation (EC) No 1698/2005 during the 2007-2013 programming period. For beneficiaries in areas that are no longer eligible following the new delimitation referred to in Article 32(3), those payments shall be degressive over a maximum period of four years. That period shall start on the date that the delimitation in accordance with Article 32(3) is completed and at the latest in 2019. Those payments shall start at no more than 80 % of the average payment fixed in the programme for the programming period 2007-2013 in accordance with Article 36(a)(ii) of Regulation (EC) No 1698/2005, and shall end in 2020 at the latest at no more than 20 %. When the application of degressivity results in the level of the payment reaching EUR 25, the Member State can continue payments at this level until the phasing out period is completed.;

(14) in Article 33, paragraph 1 is replaced by the following:

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1. Animal welfare payments under this measure shall be granted to farmers who undertake, on a voluntary basis, to carry out operations consisting of one or more animal welfare commitments and who are active farmers within the meaning of Article 9 of Regulation (EU) No 1307/2013, as applicable in the Member State concerned.;
- (15) Article 36 is amended as follows:
- (a) paragraph 1 is amended as follows:
 - (i) point (c) is replaced by the following:
 - (c) an income stabilisation tool, in the form of financial contributions to mutual funds, providing compensation to farmers of all sectors for a severe drop in their income.;
 - (ii) the following point is added:
 - (d) a sector-specific income stabilisation tool, in the form of financial contributions to mutual funds, providing compensation to farmers of a specific sector for a severe drop in their income.;
 - (b) paragraph 2 is replaced by the following:
 2. For the purposes of this Article, “farmer” means active farmer within the meaning of Article 9 of Regulation (EU) No 1307/2013, as applicable in the Member State concerned.;
 - (c) paragraph 3 is replaced by the following:
 3. For the purpose of points (b), (c) and (d) of paragraph 1, “mutual fund” means a scheme accredited by the Member State in accordance with its national law for affiliated farmers to insure themselves, whereby compensation payments are made to affiliated farmers for economic losses caused by the outbreak of adverse climatic events or an animal or plant disease or pest infestation or an environmental incident, or for a severe drop in their income.;
 - (d) in paragraph 5, the second subparagraph is deleted.
- (16) in Article 37(1), the first subparagraph is replaced by the following:
1. Support under point (a) of Article 36(1) shall only be granted for insurance contracts which cover for loss caused by an adverse climatic event, or by an animal or plant disease, or a pest infestation, or an environmental incident or a measure adopted in accordance with Directive 2000/29/EC to eradicate or contain a plant disease, or pest which destroys more than 20 % of the average annual production of the farmer in the preceding three-year period or a three-year average based on the preceding five-year period, excluding the highest and lowest entry. Indexes may be used in order to calculate the annual production of the farmer. The calculation method used shall permit the determination of the actual loss of an individual farmer in a given year.;
- (17) Article 38 is amended as follows:
- (a) paragraph 3 is amended as follows:
 - (i) the first subparagraph is replaced by the following:

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3. The financial contributions referred to in point (b) of Article 36(1) may only relate to:
- a the administrative costs of setting up the mutual fund, spread over a maximum of three years in a degressive manner;
 - b the amounts paid by the mutual fund as financial compensation to farmers. In addition, the financial contribution may relate to interest on commercial loans taken out by the mutual fund for the purpose of paying the financial compensation to farmers in case of crisis;
 - c supplementing the annual payments into the fund;
 - d the initial capital stock of the mutual fund.;
- (ii) the third subparagraph is deleted;
- (b) in paragraph 5, the first subparagraph is replaced by the following:
5. Support shall be limited to the maximum support rate laid down in Annex II. Support under point (b) of paragraph 3 shall take into account any support already provided under points (c) and (d) of paragraph 3.;
- (18) Article 39 is amended as follows:
- (a) The heading is replaced by the following:
- Income stabilisation tool for farmers of all sectors
- (b) paragraph 1 is replaced by the following:
1. Support under point (c) of Article 36(1) shall only be granted where the drop in income exceeds 30 % of the average annual income of the individual farmer in the preceding three-year period or a three-year average based on the preceding five-year period excluding the highest and lowest entry. Income for the purposes of point (c) of Article 36(1) shall refer to the sum of revenues the farmer receives from the market, including any form of public support, deducting input costs. Payments by the mutual fund to farmers shall compensate for less than 70 % of the income lost in the year the producer becomes eligible to receive this assistance. Indexes may be used to calculate the annual loss of income of the farmer.;
- (c) paragraphs 4 and 5 are replaced by the following:
4. The financial contributions referred to in point (c) of Article 36(1) may only relate to:
- a the administrative costs of setting up the mutual fund, spread over a maximum of three years in a degressive manner;
 - b the amounts paid by the mutual fund as financial compensation to farmers. In addition, the financial contribution may relate to interest on commercial loans taken out by the mutual fund for the purpose of paying the financial compensation to farmers in case of crisis;
 - c supplementing the annual payments into the fund;
 - d the initial capital stock of the mutual fund.

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5 Support shall be limited to the maximum rate laid down in Annex II. Support under point (b) of paragraph 4 shall take into account any support already provided under points (c) and (d) of paragraph 4.;

(19) the following Article is inserted:

Article 39a

Income stabilisation tool for farmers of a specific sector

1 Support under point (d) of Article 36(1) shall only be granted in duly justified cases and where the drop in income exceeds a threshold of at least 20 % of the average annual income of the individual farmer in the preceding three-year period or a three-year average based on the preceding five-year period excluding the highest and lowest entry. Indexes may be used in order to calculate the annual loss of income of the farmer. Income for the purposes of point (d) of Article 36(1) shall refer to the sum of revenues the farmer receives from the market, including any form of public support, deducting input costs. Payments by the mutual fund to farmers shall compensate for less than 70 % of the income lost in the year the producer becomes eligible to receive this assistance.

2 Article 39(2) to (5) shall apply for the purpose of support under point (d) of Article 36(1).;

(20) Article 45 is amended as follows:

(a) paragraph 5 is replaced by the following:

5. Where support is provided through a financial instrument established in accordance with Article 37 of Regulation (EU) No 1303/2013, working capital may be eligible expenditure. Such eligible expenditure shall not exceed EUR 200 000 or 30 % of the total amount of the eligible expenditure for the investment, whichever is the higher.;

(b) the following paragraph is added:

7. Paragraphs 1, 2 and 3 shall not apply where support is provided in the form of financial instruments.;

(21) Article 49 is amended as follows:

(a) in paragraph 1, the following subparagraph is added:

By way of derogation from the first subparagraph, in exceptional and duly justified cases where it is not possible to establish selection criteria due to the nature of the type of operations concerned, the Managing Authority may define another selection method to be described in the rural development programme following consultation with the Monitoring Committee.;

(b) paragraphs 2 and 3 are replaced by the following:

2. The Member State authority responsible for the selection of operations shall ensure that operations, with the exception of operations under point (b) of Article 18(1), point (d) of Article 24(1) and Articles 28 to 31, 33 to 34 and 36 to 39a, are selected in accordance with the selection

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criteria referred to in paragraph 1 and according to a transparent and well documented procedure.

3 Beneficiaries may be selected on the basis of calls for proposals, applying economic, social and environmental efficiency criteria.;

(c) the following paragraph is added:

4. Paragraphs 1 and 2 shall not apply where support is provided in the form of financial instruments.;

(22) in Article 59, paragraph 4 is amended as follows:

(a) point (f) is replaced by the following:

(f) 100 % for an amount of EUR 100 million, in 2011 prices, allocated to Ireland, for an amount of EUR 500 million, in 2011 prices, allocated to Portugal and for an amount of EUR 7 million, in 2011 prices, allocated to Cyprus;;

(b) the following point is added:

(h) the contribution rate referred to in Article 39a(13) of Regulation (EU) No 1303/2013 for the financial instrument referred to in point (c) of Article 38(1) of that Regulation.;

(23) Article 60 is amended as follows:

(a) paragraph 1 is replaced by the following:

1. By way of derogation from Article 65(9) of Regulation (EU) No 1303/2013, in cases of emergency measures due to natural disasters, catastrophic events or adverse climatic events or a significant and sudden change in the socioeconomic conditions of the Member State or region, the rural development programmes may provide that eligibility of expenditure relating to programme changes may start from the date when the event occurred.;

(b) in paragraph 2, the second subparagraph is replaced by the following:

With the exception of general costs as defined in point (c) of Article 45(2), in respect of investment operations under measures falling within the scope of Article 42 TFEU, only expenditure which has been incurred after an application has been submitted to the competent authority shall be considered eligible. However, Member States may provide in their programme that expenditure which is related to emergency measures due to natural disasters, catastrophic events or adverse climatic events or a significant and sudden change in the socioeconomic conditions of the Member State or region, and which has been incurred by the beneficiary after the event occurs, is also eligible.;

(c) paragraph 4 is replaced by the following:

4. Payments by beneficiaries shall be supported by invoices and documents proving payment. Where this cannot be done, payments shall be supported by documents of equivalent probative value, except for the forms of support referred to in Article 67(1) of Regulation (EU) No 1303/2013 other than under point (a) thereof.;

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- (24) in Article 62, paragraph 2 is replaced by the following:
2. Where aid is granted on the basis of standard costs or additional costs and income foregone in accordance with points (a) and (b) of Article 21(1), as regards income foregone and maintenance costs, and with Articles 28 to 31, 33, and 34, Member States shall ensure that the relevant calculations are adequate and accurate and established in advance on the basis of a fair, equitable and verifiable calculation method. To this end, a body that is functionally independent from the authorities responsible for the programme implementation and possesses the appropriate expertise shall perform the calculations or confirm the adequacy and accuracy of the calculations. A statement confirming the adequacy and accuracy of the calculations shall be included in the rural development programme.;
- (25) in Article 66(1), point (b) is deleted;
- (26) in Article 74, point (a) is replaced by the following:
- (a) be consulted and shall issue an opinion, before publication of the relevant call for proposals, on the selection criteria for financed operations, which shall be revised according to programming needs.;
- (27) Annex II is amended in accordance with Annex I to this Regulation.

Article 2

Amendments to Regulation (EU) No 1306/2013

Regulation (EU) No 1306/2013 is amended as follows:

- (1) Article 26 is amended as follows:
- (a) paragraph 2 is deleted;
- (b) paragraphs 3 and 4 are replaced by the following:
3. The Commission shall, by 30 June of the calendar year in respect of which the adjustment rate applies, adopt implementing acts fixing the adjustment rate. Such implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 116(2).
4. Until 1 December of the calendar year in respect of which the adjustment rate applies, the Commission may, on the basis of new information, adopt implementing acts adapting the adjustment rate set in accordance with paragraph 3. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 116(2).;
- (2) in Article 38, paragraph 3 is replaced by the following:
3. In the event of legal proceedings or of an administrative appeal having suspensory effect, the period for automatic decommitment referred to in paragraph 1 or paragraph 2 shall, in respect of the amount relating to the operations concerned, be interrupted for the duration of those proceedings or that administrative appeal, provided that the Commission receives a substantiated notification from the Member State by 31 January of year N + 4.;
- (3) in Article 43(1), point (a) is replaced by the following:

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- (a) sums which under Articles 40, 52 and 54 and, as regards expenditure under the EAGF, under Article 41(2) and Article 51 must be paid to the Union's budget, including interest thereon;;
- (4) in Article 54(3), point (a)(ii) is replaced by the following:
- (ii) the amount to be recovered from the beneficiary in the context of an individual payment for an aid scheme or support measure, not including interest, falls between EUR 100 and EUR 250 and the Member State concerned applies a threshold equal to or higher than the amount to be recovered under its national law for not pursuing national debts.;
- (5) in Article 63(1), the following subparagraph is added:
- Where the non-compliance concerns national or Union rules on public procurement, the part of the aid not to be paid or to be withdrawn shall be determined on the basis of the gravity of the non-compliance and in accordance with the principle of proportionality. The legality and regularity of the transaction shall only be affected up to the level of the part of the aid not to be paid or to be withdrawn.;
- (6) in Article 72, paragraph 2 is replaced by the following:
2. By way of derogation from point (a) of paragraph 1 of this Article, Member States may decide that:
- a agricultural parcels of an area of up to 0,1 ha on which an application for payment is not made do not need to be declared, provided that the sum of such parcels does not exceed 1 ha, and/or may decide that a farmer who does not apply for any area-based direct payment does not have to declare his agricultural parcels in the case where the total area does not exceed 1 ha. In all cases, the farmer shall indicate in his application that he has agricultural parcels at his disposal and, at the request of the competent authorities, shall indicate their location;
- b farmers participating in the small farmer scheme as referred to in Title V of Regulation (EU) No 1307/2013 do not need to declare the agricultural parcels on which an application for payment is not made, unless such a declaration is required for the purpose of other aid or support.;
- (7) the third and fourth subparagraphs of Article 75(1) are replaced by the following:
- Notwithstanding the first and second subparagraphs of this paragraph, Member States may:
- (a) prior to 1 December but not before 16 October, pay advances of up to 50 % for direct payments;
- (b) prior to 1 December, pay advances of up to 75 % for the support granted under rural development as referred to in Article 67(2).

With regard to support granted under rural development, as referred to in Article 67(2), the first and second subparagraphs of this paragraph shall apply in respect of the aid applications or payment claims submitted from claim year 2019..

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Article 3

Amendments to Regulation (EU) No 1307/2013

Regulation (EU) No 1307/2013 is amended as follows:

- (1) Article 4 is amended as follows:
 - (a) paragraph 1 is amended as follows:
 - (i) point (h) is replaced by the following:
 - (h) “permanent grassland and permanent pasture” (together referred to as “permanent grassland”) means land used to grow grasses or other herbaceous forage naturally (self-seeded) or through cultivation (sown) and that has not been included in the crop rotation of the holding for five years or more, as well as, where Member States so decide, that has not been ploughed up for five years or more; it may include other species such as shrubs and/or trees which can be grazed and, where Member States so decide, other species such as shrubs and/or trees which produce animal feed, provided that the grasses and other herbaceous forage remain predominant. Member States may also decide to consider as permanent grassland:
 - (i) land which can be grazed and which forms part of established local practices where grasses and other herbaceous forage are traditionally not predominant in grazing areas; and/or
 - (ii) land which can be grazed where grasses and other herbaceous forage are not predominant or are absent in grazing areas;;
 - (ii) the following subparagraph is added:

Notwithstanding points (f) and (h) of the first subparagraph, Member States which, prior to 1 January 2018, have accepted parcels of land lying fallow as arable land may continue to accept them as such after that date. From 1 January 2018 parcels of land lying fallow which have been accepted as arable land under this subparagraph in 2018 shall become permanent grassland in 2023, or thereafter, if the conditions set out in point (h) are met.;
 - (b) in paragraph 2, the following subparagraphs are added:

Member States may decide that:

 - (a) land that has not been ploughed up for five years or more shall be considered permanent grassland as referred to in point (h) of the first subparagraph of paragraph 1, provided that the land is used to grow grasses or other herbaceous forages naturally (self-seeded)

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or through cultivation (sown) and that it has not been included in the crop rotation of the holding for five years or more;

- (b) permanent grassland may include other species such as shrubs and/or trees which produce animal feed, in areas where grasses and other herbaceous forage are predominant; and/or
- (c) land which can be grazed where grasses and other herbaceous forage are not predominant or are absent in grazing areas be considered permanent grassland as referred to in point (h) of the first subparagraph of paragraph 1.

Member States may decide, on the basis of objective and non-discriminatory criteria, to apply their decision in accordance with points (b) and/or (c) of the third subparagraph of this paragraph to the whole or a part of their territory.

Member States shall notify the Commission by 31 March 2018 of any decision taken pursuant to the third and fourth subparagraphs of this paragraph.;

- (2) in Article 6(2), the following subparagraph is added:

Where a Member State makes use of the option provided for in the second subparagraph of Article 36(4), the national ceiling set out in Annex II for that Member State for the respective year may be exceeded by the amount calculated in accordance with that subparagraph.;

- (3) Article 9 is amended as follows:

- (a) the following paragraph is inserted:

3a. In addition to paragraphs 1, 2 and 3, Member States may decide that no direct payments are to be granted to farmers who are not registered, for their agricultural activities, in a national fiscal or social security register.;

- (b) paragraph 4 is replaced by the following:

4. Paragraphs 2, 3 and 3a shall not apply to farmers who only received direct payments not exceeding a certain amount for the previous year. Such amount shall be decided by Member States on the basis of objective criteria such as their national or regional characteristics, and shall not be higher than EUR 5 000.;

- (c) paragraph 6 is replaced by the following:

6. Member States shall notify the Commission by 1 August 2014 of any decision referred to in paragraphs 2, 3 or 4, and by 31 March 2018 of any decision referred to in paragraph 3a. In the case of amendments to such decisions, Member States shall notify the Commission within two weeks of the date on which any decision to amend was taken.;

- (d) the following paragraphs are added:

7. Member States may decide from 2018, or from any subsequent year, that only one or two of the three criteria listed in the third subparagraph of paragraph 2 may be invoked by persons or groups of persons falling within the scope of the first and second subparagraphs of paragraph 2, in order

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to demonstrate that they are active farmers. Member States shall notify the Commission of such a decision, if applied from 2018, by 31 March 2018 or, if applied from a subsequent year, by 1 August of the year preceding its application.

8 Member States may decide to stop applying paragraph 2 from 2018 or any subsequent year. They shall notify the Commission of such a decision, if applied from 2018, by 31 March 2018 or, if applied from a subsequent year, by 1 August of the year preceding its application.;

(4) in Article 11, paragraph 6 is replaced by the following:

6. Member States may review their decisions on a reduction of payments in accordance with this Article on an annual basis, provided that such review does not lead to a reduction of the amounts available for rural development.

Member States shall notify the Commission of the decisions taken in accordance with this Article and of any estimated product of reductions for the years until 2019 by 1 August of the year preceding the application of such decisions, the last possible date for such notification being 1 August 2018.;

(5) Article 14 is amended as follows:

(a) in paragraph 1, the following subparagraph is added:

Member States may decide to review the decisions referred to in this paragraph with effect from calendar year 2019 and shall notify the Commission of any decision based on such review by 1 August 2018. Any decisions based on such review shall not result in a decrease of the percentage notified to the Commission in accordance with the first, second, third and fourth subparagraphs.;

(b) in paragraph 2, the following subparagraph is added:

Member States may decide to review the decisions referred to in this paragraph with effect from calendar year 2019 and shall notify the Commission of any decision based on such review by 1 August 2018. Any decisions based on such review shall not result in an increase of the percentage notified to the Commission in accordance with the first, second, third and fourth subparagraphs.;

(6) in Article 31(1), point (g) is replaced by the following:

(g) where Member States consider it necessary, a linear reduction of the value of payment entitlements under the basic payment scheme at national or regional level to cover cases referred to in Article 30(6) of this Regulation. In addition, Member States already making use of that linear reduction may in the same year also apply a linear reduction of the value of payment entitlements under the basic payment scheme at national or regional level to cover cases referred to in points (a) and (b) of the first subparagraph of Article 30(7) of this Regulation.;

(7) in Article 36(4), the following subparagraphs are added:

For each Member State, the amount calculated in accordance with the first subparagraph of this paragraph may be increased by a maximum of 3 % of the relevant annual national ceiling set out in Annex II after deduction of the amount

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resulting from the application of Article 47(1) for the relevant year. When a Member State applies such an increase, that increase shall be taken into account by the Commission when setting the annual national ceiling for the single area payment scheme pursuant to the first subparagraph of this paragraph. For that purpose, Member States shall notify the Commission by 31 January 2018 of the annual percentages by which the amount calculated pursuant to paragraph 1 of this Article is to be increased each calendar year from 2018.

Member States may review their decision referred to in the second subparagraph of this paragraph on an annual basis and shall notify the Commission of any decision based on such review by 1 August of the year preceding its application.;

(8) Article 44 is amended as follows:

(a) paragraph 2 is replaced by the following:

2. Without prejudice to the number of crops required pursuant to paragraph 1, the maximum thresholds set out therein shall not apply to holdings where grasses or other herbaceous forage or land lying fallow or cultivated with crops under water for a significant part of the year or for a significant part of the crop cycle cover more than 75 % of the arable land. In such cases, the main crop on the remaining arable area shall not cover more than 75 % of that remaining arable land, except where this remaining area is covered by grasses or other herbaceous forage or land lying fallow.;

(b) in paragraph 3, points (a) and (b) are replaced by the following:

(a) where more than 75 % of the arable land is used for the production of grasses or other herbaceous forage, is used for cultivation of leguminous crops, is land lying fallow or is subject to a combination of those uses;

(b) where more than 75 % of the eligible agricultural area is permanent grassland, is used for the production of grasses or other herbaceous forage or for the cultivation of crops under water for a significant part of the year or for a significant part of the crop cycle, or is subject to a combination of those uses.;

(c) in paragraph 4, the second subparagraph is replaced by the following:

Winter crop and spring crop shall be considered to be distinct crops even if they belong to the same genus. *Triticum spelta* shall be considered to be a distinct crop from crops belonging to the same genus.;

(9) Article 46 is amended as follows:

(a) in paragraph 1, the first subparagraph is replaced by the following:

1. Where the arable land of a holding covers more than 15 hectares, the farmer shall ensure that, from 1 January 2015, an area corresponding to at least 5 % of the arable land of the holding that the farmer declared in accordance with point (a) of the first subparagraph of Article 72(1) of Regulation (EU) No 1306/2013 and, if they are considered to be ecological focus area by the Member State in accordance with paragraph 2 of this Article, including the areas mentioned in points (c), (d), (g), (h), (k) and (l) of that paragraph is ecological focus area.;

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- (b) paragraph 2 is amended as follows:
 - (i) in the first subparagraph, the following points are added:
 - (k) areas with *Miscanthus*;
 - (l) areas with *Silphium perfoliatum*;
 - (m) land lying fallow for melliferous plants (pollen and nectar rich species).;
 - (ii) the second subparagraph is replaced by the following:

With the exception of the areas of the holding referred to in points (g), (h), (k) and (l) of the first subparagraph of this paragraph, the ecological focus area shall be located on the arable land of the holding. In the case of areas referred to in points (c) and (d) of the first subparagraph of this paragraph, the ecological focus area may also be adjacent to the arable land of the holding the farmer declared in accordance with point (a) of the first subparagraph of Article 72(1) of Regulation (EU) No 1306/2013.;
- (c) in paragraph 4, points (a) and (b) are replaced by the following:
 - (a) where more than 75 % of the arable land is used for the production of grasses or other herbaceous forage, is land lying fallow, is used for cultivation of leguminous crops, or is subject to a combination of those uses;
 - (b) where more than 75 % of the eligible agricultural area is permanent grassland, is used for the production of grasses or other herbaceous forage or for the cultivation of crops under water either for a significant part of the year or for a significant part of the crop cycle, or is subject to a combination of those uses.;
- (10) Article 50 is amended as follows:
 - (a) paragraph 5 is replaced by the following:

5. The payment for young farmers shall be granted per farmer for a period of five years, starting from the first submission of the application for the payment for young farmers provided that that submission takes place within the five years following the setting up referred to in point (a) of paragraph 2. That period of five years shall also apply for farmers who have received payment for young farmers in respect of claims before claim year 2018.

By way of derogation from the second sentence of the first subparagraph, Member States may decide that, for those young farmers who set up in accordance with point (a) of paragraph 2 in the period 2010-2013, the five-year period is to be reduced by the number of years which have elapsed between the setting up referred to in point (a) of paragraph 2 and the first submission of the application for the payment for young farmers.;
 - (b) in paragraph 6, points (a) and (b) are replaced by the following:

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- (a) between 25 % and 50 % of the average value of the owned or leased-in payment entitlements held by the farmer; or
 - (b) between 25 % and 50 % of an amount calculated by dividing a fixed percentage of the national ceiling for the calendar year 2019 set out in Annex II by the number of all eligible hectares declared in 2015 in accordance with Article 33(1). That fixed percentage shall be equal to the share of the national ceiling remaining for the basic payment scheme in accordance with Article 22(1) for 2015.;
 - (c) paragraph 7 is replaced by the following:
 - 7. Member States applying Article 36 shall each year calculate the amount of the payment for young farmers by multiplying a figure corresponding to a value between 25 % and 50 % of the single area payment calculated in accordance with Article 36 by the number of eligible hectares that the farmer has declared in accordance with Article 36(2).;
 - (d) in paragraph 8, the first subparagraph is replaced by the following:
 - 8. By way of derogation from paragraphs 6 and 7 of this Article, Member States may calculate each year the amount of the payment for young farmers by multiplying a figure corresponding to a value between 25 % and 50 % of the national average payment per hectare by the number of entitlements that the farmer has activated in accordance with Article 32(1), or by the number of eligible hectares that the farmer has declared in accordance with Article 36(2).;
 - (e) in paragraph 10, the first subparagraph is replaced by the following:
 - 10. Instead of applying paragraphs 6 to 9, Member States may allocate an annual lump sum amount per farmer calculated by multiplying a fixed number of hectares by a figure corresponding to a value between 25 % and 50 % of the national average payment per hectare, as established in accordance with paragraph 8.;
- (11) Article 52 is amended as follows:
- (a) paragraph 5 is deleted;
 - (b) paragraph 6 is replaced by the following:
 - 6. Coupled support is a production-limiting scheme that shall take the form of an annual payment based on fixed areas and yields or on a fixed number of animals and shall respect financial ceilings to be determined by Member States for each measure and notified to the Commission.;
 - (c) the following paragraph is added:
 - 10. The Commission is empowered to adopt delegated acts in accordance with Article 70 supplementing this Regulation as regards measures in order to avoid beneficiaries of voluntary coupled support suffering from structural market imbalances in a sector. Those delegated acts may allow Member States to decide that such support may continue to be paid until 2020 on the basis of the production units for which voluntary coupled support was granted in a past reference period.;

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(12) in Article 53, paragraph 6 is replaced by the following:

6. Member States may, by 1 August of any given year, review their decision pursuant to this Chapter and decide, with effect from the following year:
- a to leave unchanged, increase or decrease the percentage fixed pursuant to paragraphs 1, 2 and 3, within the limits laid down therein where applicable, or to leave unchanged or decrease the percentage fixed pursuant to paragraph 4;
 - b to modify the conditions for granting the support;
 - c to cease granting the support under this Chapter.

Member States shall notify the Commission of any such decision by the date referred to in the first subparagraph.;

(13) Article 70 is amended as follows:

- (a) paragraph 2 is replaced by the following;

2. The power to adopt delegated acts referred to in Article 2, Article 4(3), Article 6(3), Article 7(3), Article 8(3), Article 9(5), Article 20(6), Article 35, Article 36(6), Article 39(3), Article 43(12), Article 44(5), Article 45(5) and (6), Article 46(9), Article 50(11), Article 52(9) and (10), Article 57(3), Article 58(5), Article 59(3), Article 64(5), Article 67(1) and (2) and Article 73 shall be conferred on the Commission for a period of seven years from 1 January 2014. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the seven-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.;

- (b) paragraph 3 is replaced by the following;

3. The delegation of power referred to in Article 2, Article 4(3), Article 6(3), Article 7(3), Article 8(3), Article 9(5), Article 20(6), Article 35, Article 36(6), Article 39(3), Article 43(12), Article 44(5), Article 45(5) and (6), Article 46(9), Article 50(11), Article 52(9) and (10), Article 57(3), Article 58(5), Article 59(3), Article 64(5), Article 67(1) and (2) and Article 73 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.;

- (c) paragraph 5 is replaced by the following;

5. A delegated act adopted pursuant to Article 2, Article 4(3), Article 6(3), Article 7(3), Article 8(3), Article 9(5), Article 20(6), Article 35, Article 36(6), Article 39(3), Article 43(12), Article 44(5), Article 45(5) and (6), Article 46(9), Article 50(11), Article 52(9) and (10), Article 57(3), Article 58(5), Article 59(3), Article 64(5), Article 67(1) and (2) and Article 73 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council

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have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.;

- (14) Annex X is amended in accordance with Annex II to this Regulation.

Article 4

Amendments to Regulation (EU) No 1308/2013

Regulation (EU) No 1308/2013 is amended as follows:

- (1) Article 33 is amended as follows:
- (a) in paragraph 1, point (f) is replaced by the following:
 - (f) crisis prevention and management, including providing coaching to other producer organisations, associations of producer organisations, producer groups or individual producers.;
 - (b) the first subparagraph of paragraph 3 is amended as follows:
 - (i) points (c) and (d) are replaced by the following:
 - (c) promotion and communication, including actions and activities aimed at diversification and consolidation on the fruit and vegetable markets, whether for prevention or during a crisis period;
 - (d) support for the administrative costs of setting up mutual funds and financial contributions to replenish mutual funds, following the compensation paid to producer members who experience a severe drop in their income as a result of adverse market conditions.;
 - (ii) the following point is added:
 - (i) coaching to other producer organisations, associations of producer organisations, producer groups or individual producers.;
 - (c) the second and third subparagraphs of paragraph 5 are replaced by the following:

Environmental actions shall respect the requirements for agri-environment-climate or organic farming commitments laid down in Article 28(3) and Article 29(2) and (3) of Regulation (EU) No 1305/2013.

Where at least 80 % of the producer members of a producer organisation are subject to one or more identical agri-environment-climate or organic farming commitments provided for in Article 28(3) and Article 29(2) and (3) of Regulation (EU) No 1305/2013, each one of those commitments shall count as an environmental action as referred to in point (a) of the first subparagraph of this paragraph.;
- (2) in Article 34, paragraph 4 is replaced by the following:

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4. The 50 % limit provided for in paragraph 1 shall be increased to 100 % in the following cases:
- a market withdrawals of fruit and vegetables which do not exceed 5 % of the volume of marketed production of each producer organisation and which are disposed of by way of:
 - (i) free distribution to charitable organisations and foundations, approved to that effect by the Member States, for use in their activities to assist persons whose right to public assistance is recognised in national law, in particular because they lack the necessary means of subsistence;
 - (ii) free distribution to penal institutions, schools and public education institutions, establishments referred to in Article 22 and to children's holiday camps as well as to hospitals and old people's homes designated by the Member States, which shall take all necessary steps to ensure that the quantities thus distributed are additional to the quantities normally bought in by such establishments;
 - b actions related to coaching of other producer organisations, or of producer groups recognised in accordance with Article 125e of Regulation (EC) No 1234/2007 or Article 27 of Regulation (EU) No 1305/2013, provided those organisations or groups are from regions of Member States referred to in Article 35(1) of this Regulation, or of individual producers.;
- (3) Article 35 is replaced by the following:

Article 35

National financial assistance

- 1 In regions of Member States in which the degree of organisation of producers in the fruit and vegetables sector is significantly below the Union average, Member States may grant producer organisations national financial assistance equal to a maximum of 80 % of the financial contributions referred to in point (a) of Article 32(1) and up to 10 % of the value of the marketed production of any such producer organisation. That assistance shall be additional to the operational fund.
- 2 The degree of organisation of producers in a region of a Member State shall be considered as significantly below the Union average where the average degree of organisation has been less than 20 % for three consecutive years preceding the implementation of the operational programme. The degree of organisation shall be calculated as the value of fruit and vegetable production that was obtained in the region concerned and marketed by producer organisations, associations of producer organisations and producer groups recognised in accordance with Article 125e of Regulation (EC) No 1234/2007 or Article 27 of Regulation (EU) No 1305/2013, divided by the total value of the fruit and vegetable production that was obtained in that region.
- 3 Member States that grant national financial assistance in accordance with paragraph 1 shall inform the Commission of the regions that meet the criteria referred to in paragraph 2 and of the national financial assistance granted to producer organisations in those regions.;

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- (4) in Article 37, point (d)(ii) is replaced by the following:
- (ii) conditions relating to points (a), (b), (c) and (i) of the first subparagraph of Article 33(3);;
- (5) in the first paragraph of Article 38, point (i) is replaced by the following:
- (i) promotion, communication, training and coaching measures in cases of crisis prevention and management;;
- (6) in Article 62, the following paragraph is added:
5. Member States may apply this Chapter to areas producing wine suitable for producing wine spirits with a geographical indication as registered in accordance with Annex III to Regulation (EC) No 110/2008 of the European Parliament and of the Council⁽¹³⁾. For the purposes of this Chapter, those areas may be treated as areas where wines with a protected designation of origin or protected geographical indication may be produced.;
- (7) Article 64 is amended as follows:
- (a) in the second subparagraph of paragraph 1, the following point is inserted:
- (ca) the applicant does not have vines planted without authorisation as referred to in Article 71 of this Regulation or without a planting right as referred to in Articles 85a and 85b of Regulation (EC) No 1234/2007;;
- (b) in paragraph 2, the introductory part is replaced by the following:
2. If the total area covered by the eligible applications referred to in paragraph 1 in a given year exceeds the area made available by the Member State, authorisations shall be granted according to a pro-rata distribution of hectares to all applicants on the basis of the area for which they have requested the authorisation. Such granting may establish a minimum and/or a maximum area by applicant and also be partially or completely made in accordance with one or more of the following objective and non-discriminatory priority criteria;;
- (c) the following paragraph is inserted:
- 2a. If the Member State decides to apply one or more of the criteria referred to in paragraph 2, the Member State may add the additional condition that the applicant shall be a natural person who is no more than 40 years of age in the year of submission of the application.;
- (d) paragraph 3 is replaced by the following:
3. Member States shall make public the criteria referred to in paragraphs 1, 2 and 2a that they apply and shall notify them forthwith to the Commission.;
- (8) Article 148 is amended as follows:
- (a) the following paragraph is inserted:
- 1a. Where Member States do not make use of the possibilities provided for in paragraph 1 of this Article, a producer, a producer organisation, or an

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association of producer organisations may require that any delivery in raw milk to a processor of raw milk be the subject of a written contract between the parties and/or be the subject of a written offer for a contract from the first purchasers, under the conditions laid down in the first subparagraph of paragraph 4 of this Article.

If the first purchaser is a micro, small or medium-sized enterprise within the meaning of Recommendation 2003/361/EC, the contract and/or the contract offer is not compulsory, without prejudice to the possibility for the parties to make use of a standard contract drawn up by an interbranch organisation.;

(b) in paragraph 2, the introductory part is replaced by the following:

2. The contract and/or the offer for a contract referred to in paragraphs 1 and 1a shall.;

(c) paragraph 3 is replaced by the following:

3. By way of derogation from paragraphs 1 and 1a, a contract and/or an offer for a contract shall not be required where raw milk is delivered by a member of a cooperative to the cooperative of which he is a member if the statutes of that cooperative or the rules and decisions provided for in or derived from these statutes contain provisions having similar effects to the provisions set out in points (a), (b) and (c) of paragraph 2.;

(d) in paragraph 4, the introductory part and point (a) of the second subparagraph are replaced by the following:

Notwithstanding the first subparagraph, one or more of the following shall apply:

(a) where a Member State decides to make a written contract for the delivery of raw milk compulsory in accordance with paragraph 1, it may establish:

(i) an obligation for the parties to agree on a relationship between a given quantity delivered and the price payable for that delivery;

(ii) a minimum duration, applicable only to written contracts between a farmer and the first purchaser of raw milk; such a minimum duration shall be at least six months, and shall not impair the proper functioning of the internal market.;

(9) in Article 149, paragraph 1 is replaced by the following:

1. A producer organisation in the milk and milk products sector which is recognised under Article 161(1) may negotiate on behalf of its farmer members, in respect of part or all of their joint production, contracts for the delivery of raw milk by a farmer to a processor of raw milk, or to a collector within the meaning of the third subparagraph of Article 148(1).;

(10) Article 152 is amended as follows:

(a) in paragraph 1, point (b) is replaced by the following:

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- (b) are formed on the initiative of the producers and which carry out at least one of the following activities:
- (i) joint processing;
 - (ii) joint distribution, including by joint selling platforms or joint transportation;
 - (iii) joint packaging, labelling or promotion;
 - (iv) joint organising of quality control;
 - (v) joint use of equipment or storage facilities;
 - (vi) joint management of waste directly related to the production;
 - (vii) joint procurement of inputs;
 - (viii) any other joint service activities pursuing one of the objectives listed in point (c) of this paragraph;
- (b) the following paragraphs are inserted:

1a. By way of derogation from Article 101(1) TFEU, a producer organisation recognised under paragraph 1 of this Article may plan production, optimise the production costs, place on the market and negotiate contracts for the supply of agricultural products, on behalf of its members for all or part of their total production.

The activities referred to in the first subparagraph may take place:

- a provided that one or more of the activities referred to in point (b)(i) to (vii) of paragraph 1 is genuinely exercised, thus contributing to the fulfilment of the objectives set out in Article 39 TFEU;
- b provided that the producer organisation concentrates supply and places the products of its members on the market, whether or not there is a transfer of ownership of agricultural products by the producers to the producer organisation;
- c whether or not the price negotiated is the same as regards the aggregate production of some or all of the members;
- d provided that the producers concerned are not members of any other producer organisation as regards the products covered by the activities referred to in the first subparagraph;
- e provided that the agricultural product is not covered by an obligation to deliver arising from the farmer's membership of a cooperative, which is not itself a member of the producer organisations concerned, in accordance with the conditions set out in the cooperative's statutes or the rules and decisions provided for in or derived from those statutes.

However, Member States may derogate from the condition set out in point (d) of the second subparagraph in duly justified cases where producer members hold two distinct production units located in different geographical areas.

1b For the purposes of this Article, references to producer organisations shall also include associations of producer organisations

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recognised under Article 156(1) if such associations meet the requirements set out in paragraph 1 of this Article.

1c The national competition authority referred to in Article 5 of Regulation (EC) No 1/2003 may decide in individual cases that, for the future, one or more of the activities referred to in the first subparagraph of paragraph 1a are to be modified, discontinued or not take place at all if it considers that this is necessary in order to prevent competition from being excluded or if it considers that the objectives set out in Article 39 TFEU are jeopardised.

For negotiations covering more than one Member State, the decision referred to in the first subparagraph of this paragraph shall be taken by the Commission without applying the procedure referred to in Article 229(2) or (3).

When acting under the first subparagraph of this paragraph, the national competition authority shall inform the Commission in writing before or without delay after initiating the first formal measure of the investigation and shall notify the Commission of the decisions without delay after their adoption.

The decisions referred to in this paragraph shall not apply earlier than the date of their notification to the undertakings concerned.;

(c) paragraph 3 is deleted;

(11) Article 154 is amended as follows:

(a) the following paragraph is inserted:

1a. Member States may, on request, decide to grant more than one recognition to a producer organisation operating in several sectors referred to in Article 1(2) provided the producer organisation fulfils the conditions referred to in paragraph 1 of this Article for each sector for which it seeks recognition.;

(b) paragraphs 2 and 3 are replaced by the following:

2. Member States may decide that producer organisations which have been recognised before 1 January 2018 and which fulfil the conditions laid down in paragraph 1 of this Article shall be deemed to be recognised as producer organisations pursuant to Article 152.

3. Where producer organisations have been recognised before 1 January 2018 but do not fulfil the conditions set out in paragraph 1 of this Article, Member States shall withdraw their recognition no later than 31 December 2020.;

(12) Article 157 is amended as follows:

(a) in point (c) of paragraph 1, the following points are added:

(xv) establishing standard value sharing clauses within the meaning of Article 172a, including market bonuses and losses, determining how any evolution of relevant market prices of the products

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- concerned or other commodity markets is to be allocated between them;
- (xvi) implementing measures to prevent and manage animal health, plant-protection and environmental risks.;
- (b) the following paragraph is inserted:
- 1a. Member States may, on request, decide to grant more than one recognition to an interbranch organisation operating in several sectors referred to in Article 1(2) provided the interbranch organisation fulfils the conditions referred to in paragraph 1 and, where applicable, paragraph 3 for each sector for which it seeks recognition.;
- (c) in point (c) of paragraph 3, the following points are added:
- (xii) establishing standard value sharing clauses within the meaning of Article 172a, including market bonuses and losses, determining how any evolution of relevant market prices of the products concerned or other commodity markets is to be allocated between them;
- (xiii) implementing measures to prevent and manage animal health, plant-protection and environmental risks.;
- (13) in Article 159, the heading is replaced by the following:
- Mandatory recognition;
- (14) Article 161 is amended as follows:
- (a) in paragraph 1, the introductory part and point (a) are replaced by the following:
1. Member States shall, on request, recognise as producer organisations in the milk and milk products sector all legal entities or clearly defined parts of such entities, provided that:
- a they are constituted by producers in the milk and milk products sector, are formed on their initiative and pursue a specific aim which may include one or more of the following objectives:
- (i) ensuring that production is planned and adjusted to demand, particularly in terms of quality and quantity;
- (ii) concentration of supply and the placing on the market of the products produced by their members;
- (iii) optimising production costs and stabilising producer prices;;
- (b) paragraph 2 is replaced by the following:
2. Member States may decide that producer organisations which have been recognised before 2 April 2012 on the basis of national law and which fulfil the conditions laid down in paragraph 1 are to be considered as recognised producer organisations.;
- (15) Article 168 is amended as follows:

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- (a) the following paragraph is inserted:
- 1a. Where Member States do not make use of the possibilities provided for in paragraph 1 of this Article, a producer, a producer organisation or an association of producer organisations, in respect of agricultural products in a sector referred to in Article 1(2) other than the milk, milk products and sugar sector, may require that any delivery of its products to a processor or distributor be the subject of a written contract between the parties and/or be the subject of a written offer for a contract from the first purchasers, under the conditions laid down in paragraph 4 and in the first subparagraph of paragraph 6 of this Article.
- If the first purchaser is a micro, small or medium-sized enterprise within the meaning of Recommendation 2003/361/EC, the contract and/or the contract offer is not compulsory without prejudice to the possibility for the parties to make use of a standard contract drawn up by an interbranch organisation.;
- (b) in paragraph 4, the introductory part is replaced by the following:
4. Any contract or offer for a contract referred to in paragraphs 1 and 1a shall.;
- (c) paragraph 5 is replaced by the following:
5. By way of derogation from paragraphs 1 and 1a, a contract or an offer for a contract shall not be required where the products concerned are delivered by a member of a cooperative to the cooperative of which he is a member if the statutes of that cooperative or the rules and decisions provided for in, or derived from, these statutes contain provisions having similar effects to the provisions set out in points (a), (b) and (c) of paragraph 4.;
- (16) Articles 169, 170 and 171 are deleted;
- (17) the following Section is inserted:

Section 5a

Value-sharing clauses

Article 172a

Value-sharing

Without prejudice to any specific value-sharing clauses in the sugar sector, farmers, including associations of farmers, and their first purchaser may agree on value sharing clauses, including market bonuses and losses, determining how any evolution of relevant market prices for the products concerned or other commodity markets is to be allocated between them.;

- (18) in Article 184, paragraph 1 is replaced by the following:
1. Tariff quotas for the import of agricultural products for release into free circulation in the Union or a part thereof, or tariff quotas for imports of Union

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agricultural products into third countries, which are to be partly or fully administered by the Union, resulting from international agreements concluded in accordance with the TFEU or any other act adopted in accordance with Article 43(2) or Article 207 TFEU, shall be opened and/or administered by the Commission by means of delegated acts pursuant to Article 186 of this Regulation and implementing acts pursuant to Article 187 of this Regulation.;

- (19) Article 188 is replaced by the following:

Article 188

Allocation process for tariff quotas

1 The Commission shall make public, via an appropriate web-publication, the results of tariff quota allocation for the applications notified taking into account the tariff quotas available and the applications notified.

2 The publication referred to in paragraph 1 shall also make reference, when appropriate, to the need of rejecting pending applications, suspending the submission of applications or allocating unused quantities.

3 Member States shall issue import licences and export licences for the quantities applied for within the import tariff quotas and export tariff quotas, subject to the respective allocation coefficients and after they are made public by the Commission in accordance with paragraph 1.;

- (20) Article 209 is amended as follows:

- (a) the second subparagraph of paragraph 1 is replaced by the following:

Article 101(1) TFEU shall not apply to agreements, decisions and concerted practices of farmers, farmers' associations, or associations of such associations, or producer organisations recognised under Article 152 or Article 161 of this Regulation, or associations of producer organisations recognised under Article 156 of this Regulation, which concern the production or sale of agricultural products or the use of joint facilities for the storage, treatment or processing of agricultural products, unless the objectives set out in Article 39 TFEU are jeopardised.;

- (b) in paragraph 2, the following subparagraphs are inserted after the first subparagraph:

However, farmers, farmers' associations, or associations of such associations, or producer organisations recognised under Article 152 or Article 161 of this Regulation, or associations of producer organisations recognised under Article 156 of this Regulation, may request an opinion from the Commission on the compatibility of those agreements, decisions and concerted practices with the objectives set out in Article 39 TFEU.

The Commission shall deal with requests for opinions promptly and shall send the applicant its opinion within four months of receipt of a complete request. The Commission may, at its own initiative or at the request of a Member State, change the content of an opinion, in particular if the applicant has provided inaccurate information or misused the opinion.;

- (21) Article 222 is amended as follows:

Changes to legislation: There are currently no known outstanding effects for the Regulation (EU) 2017/2393 of the European Parliament and of the Council. (See end of Document for details)

- (a) in paragraph 1, the introductory part is replaced by the following:
 - 1. During periods of severe imbalance in markets, the Commission may adopt implementing acts to the effect that Article 101(1) TFEU is not to apply to agreements and decisions of farmers, farmers' associations, or associations of such associations, or recognised producer organisations, associations of recognised producer organisations and recognised interbranch organisations in any of the sectors referred to in Article 1(2) of this Regulation, provided that such agreements and decisions do not undermine the proper functioning of the internal market, strictly aim to stabilise the sector concerned and fall under one or more of the following categories.;
 - (b) paragraph 2 is deleted;
- (22) in Article 232, paragraph 2 is deleted;
- (23) Annexes VII and VIII are amended in accordance with Annex III to this Regulation.

Article 5

Amendments to Regulation (EU) No 652/2014

Regulation (EU) No 652/2014 is amended as follows:

- (1) in Article 4, the following paragraph is added:
 - 4. In the case of approval of multiannual actions, budgetary commitments may be divided into annual instalments. Where budgetary commitments are so divided, the Commission shall commit the annual instalments taking into account the progress of the actions, the estimated needs and the budget available.;
- (2) in Article 13, paragraph 5 is deleted;
- (3) in Article 22, paragraph 5 is deleted;
- (4) in Article 27, paragraph 5 is deleted.

Article 6

Entry into force and application

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

It shall apply from 1 January 2018.

However:

- (a) point 11(a) and (b) of Article 3 shall apply from 1 January 2015;
- (b) point 23(b) of Article 1 shall apply from 1 January 2016; and
- (c) point 3 of Article 4 shall apply from 1 January 2019.

Changes to legislation: There are currently no known outstanding effects for the Regulation (EU) 2017/2393 of the European Parliament and of the Council. (See end of Document for details)

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

Done at Strasbourg, 13 December 2017.

For the European Parliament

The President

A. TAJANI

For the Council

The President

M. MAASIKAS

Changes to legislation: There are currently no known outstanding effects for the Regulation (EU) 2017/2393 of the European Parliament and of the Council. (See end of Document for details)

ANNEX I

Annex II to Regulation (EU) No 1305/2013 is amended as follows:

- (1) in the line concerning Article 17(3), Subject: Investment in physical assets, Agricultural sector, Maximum amount in EUR or rate: 40 %, the fourth column, the introductory part and the first indent is replaced by the following:

Of the amount of eligible investment in other regions

The above rates may be increased by an additional 20 percentage points, provided that maximum combined support does not exceed 90 %, for:

- Young farmers for a maximum of five years from the date of setting up as set out in the rural development programme, or until the actions defined in the business plan referred to in Article 19(4) are completed;;

- (2) in the line concerning Article 17(3), Subject: Investments in physical assets, Processing and marketing of products listed in Annex I to the TFEU, Maximum amount in EUR or rate: 40 %, the fourth column is replaced by the following:

Of the amount of eligible investment in other regions

The above rates may be increased by an additional 20 percentage points, provided that maximum combined support does not exceed 90 %, for operations supported in the framework of the EIP, for collective investments and integrated projects or operations linked to a merger of producer organisations;

- (3) the lines concerning Article 37(5), Article 38(5) and Article 39(5) are replaced by the following:

37(5)	Crop, animal and plant insurance	70 %	Of the insurance premium due
38(5)	Mutual funds for adverse climatic events, animal and plant diseases, pest infestations and environmental incidents	70 %	Of the eligible costs
39(5)	Income stabilisation tool	70 %	Of the eligible costs

ANNEX II

In Annex X to Regulation (EU) No 1307/2013, the table ‘Conversion and weighting factors referred to in Article 46(3)’ is amended as follows:

- (1) the line ‘Areas with short rotation coppice’ is replaced by the following:

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Areas with short rotation coppice (per 1 m ²)	n.a.	0,5	0,5 m ²
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- (2) the line ‘Areas with nitrogen fixing crops’ is replaced by the following:

Areas with nitrogen fixing crops (per 1 m ²)	n.a.	1	1 m ²
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- (3) the following lines are added:

Areas with <i>Miscanthus</i>	n.a.	0,7	0,7 m ²
Areas with <i>Silphium perfoliatum</i>	n.a.	0,7	0,7 m ²
Land lying fallow for melliferous plants (pollen and nectar rich species)	n.a.	1,5	1,5 m ²

ANNEX III

Annexes VII and VIII to Regulation (EU) No 1308/2013 are amended as follows:

- (1) in point 1(c) of Part II of Annex VII, the second indent is replaced by the following:
- the upper limit for the total alcoholic strength may exceed 15 % volume for wines with a protected designation of origin which have been produced without enrichment, or enriched only by partial concentration processes listed in point 1 of Section B of Part I of Annex VIII, provided that the product specification in the technical file of the protected designation of origin concerned allows for that possibility;;
- (2) in Section A of Part I of Annex VIII, point 3 is replaced by the following:
3. In years when climatic conditions have been exceptionally unfavourable, the limit(s) laid down in point 2 may be raised by 0,5 % by the Member States as an exception for the regions concerned. Member States shall notify the Commission of any such increase..

Commission statements

Ad Article 1 - Rural development

— Extension of the duration of rural development programmes

Expenditure relating to the 2014-2020 rural development programmes approved in accordance with Article 10(2) of Regulation (EU) No 1305/2013 will continue to be eligible for EAFRD

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contribution if paid to the beneficiaries by latest 31 December 2023. The Commission will address the continuation of support for rural development after 2020 in the context of its proposal for the next MFF.

— **Risk management**

The Commission confirms its intention to review the functioning and efficiency of the risk management tools which are currently included in Regulation (EU) No 1305/2013 in the context of its proposal on the modernisation and simplification of the Common Agricultural Policy.

— **Penalties for Leader**

The Commission confirms its intention to review the effectiveness and proportionality of the penalties for LEADER included in Commission Implementing Regulation (EU) 809/2014.

Ad Article 2 - Horizontal Regulation

— **Crisis reserve**

The Commission confirms that the operation of the reserve for crises in the agricultural sector and the reimbursement of appropriations related to financial discipline as provided for in Articles 25 and 26(5) of Regulation (EU) No 1306/2013 will be reviewed in the context of the preparations for the next MFF with a view to allowing an efficient and timely intervention in times of market crisis.

— **Single audit**

The Commission supports the single audit approach, as confirmed by its proposal for Article 123 of the new Financial Regulation. The Commission also confirms that the current legal framework for the management and control of agricultural expenditure, established by Regulation (EU) No 1306/2013, already allows for such an approach and that this has been taken up in its audit strategy for the 2014-2020 period. In particular, where the opinion of the Certification Body delivered in accordance with Article 9(1) of Regulation (EU) No 1306/2013 is considered reliable, the Commission takes this opinion into account when assessing the need for audits of the paying agency concerned.

Ad Article 3 - Direct payments

— **Protein Plan**

The Commission confirms its intention to review the supply and demand situation for plant proteins in the EU and to consider the possibility of developing a 'European plant protein strategy' with a view to further encouraging the production of plant proteins in the EU in an economically and environmentally sound way.

Ad Article 4 - CMO

— **Voluntary production reduction**

The Commission confirms that Regulation (EU) 1308/2013 establishing a common organisation of the markets in agricultural products already contains, in Articles 219 and 221, the necessary legal base allowing it, subject to the availability of budgetary resources, to address market disturbances and other specific problems, including at regional level, with the possibility of granting direct financial assistance to farmers. Moreover, the Commission's proposal to add a sector-specific income stabilisation tool to Regulation (EU) No 1305/2013 on support for rural development will allow Member States to include in their rural development programmes the possibility of compensating farmers in a specific sector in the event of a significant drop in their income.

Changes to legislation: There are currently no known outstanding effects for the Regulation (EU) 2017/2393 of the European Parliament and of the Council. (See end of Document for details)

The Commission further confirms that Article 219 allows it to introduce, in case of market disturbance or threats thereof, schemes under which Union aid is granted to producers who undertake to reduce their production on a voluntary basis, including the necessary details for the operation of such a scheme (Example: Commission Delegated Regulation (EU) 2016/1612 (OJ L 242, 9.9.2016, p. 4).

— **Recognition of transnational IBOs**

The Commission recalls that rules on producer cooperation of recognising transnational producer organisations, transnational associations of producer organisations or transnational interbranch, including the necessary administrative cooperation between the Member States concerned, are currently laid down in Commission Delegated Regulation (EU) 2016/232. The operation and adequacy of these rules will be reviewed in the context of the ongoing process on the modernisation and simplification of the CAP.

— **Unfair trading practices**

The Commission confirms that it has launched an initiative on the food supply chain which is now proceeding through the various stages required by the Better Regulation guidelines. It will decide on a possible legislative proposal once this procedure has been completed, if possible in the first half of 2018.

— **Producer co-operation**

The Commission takes note of the agreement between Parliament and Council on the amendments to Articles 152, 209, 222 and 232. The Commission notes that the amendments agreed by Parliament and Council are substantial in nature and included without an impact assessment as required by point 15 of the Inter-Institutional Agreement on Better Law-Making. This leads to an unwelcome degree of legal and procedural uncertainty of which the impact and implications are not known.

As the changes to the Commission's original proposal taken together result in a significant change to the legal framework, the Commission notes with concern that some of the new provisions in favour of producers' organisations might have the effect of endangering the viability and wellbeing of small farmers and the interest of the consumers. The Commission confirms its commitment to maintain effective competition in the agricultural sector, and give full effect to the objectives of the CAP laid down in Article 39 of the Treaty on the Functioning of the European Union. In this context, the Commission notes that the amendments agreed by the co-legislators foresee only a very limited role for both the Commission and the national competition authorities to act to preserve effective competition.

The Commission's overall agreement on the 'Omnibus' proposal, including the amendments agreed by Parliament and Council, is without prejudice to any future proposals the Commission may make in these areas in the context of the reform of the common agricultural policy for the post-2020 period and other initiatives which are specifically meant to address some of the issues touched upon by the text now agreed by the European Parliament and the Council.

The Commission regrets that the issue of the very limited role for both the Commission and the National Competition authorities to act to preserve effective competition has not been addressed in a satisfactory manner by the co-legislators, and expresses concern with the possible implications of this limitation for farmers and consumers. The Commission notes that the legal text must be interpreted in a manner consistent with the Treaty, notably as regards the possibility for the Commission and national competition authorities to intervene if a producer organisation, which covers a large share of the market, seeks to restrict the freedom of action of its members. The Commission regrets that this possibility is not clearly safeguarded in the legal text.

Changes to legislation: There are currently no known outstanding effects for the Regulation (EU) 2017/2393 of the European Parliament and of the Council. (See end of Document for details)

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- (1) [OJ C 91, 23.3.2017, p. 1.](#)
- (2) [OJ C 75, 10.3.2017, p. 63.](#)
- (3) [OJ C 306, 15.9.2017, p. 64.](#)
- (4) Position of the European Parliament of 12 December 2017 (not yet published in the Official Journal) and decision of the Council of 12 December 2017.
- (5) Regulation (EU) No 1305/2013 of the European Parliament and of the Council of 17 December 2013 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) and repealing Council Regulation (EC) No 1698/2005 ([OJ L 347, 20.12.2013, p. 487](#)).
- (6) Regulation (EU) No 1306/2013 of the European Parliament and of the Council of 17 December 2013 on the financing, management and monitoring of the common agricultural policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008 ([OJ L 347, 20.12.2013, p. 549](#)).
- (7) Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006 ([OJ L 347, 20.12.2013, p. 320](#)).
- (8) Regulation (EU) No 1307/2013 of the European Parliament and of the Council of 17 December 2013 establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy and repealing Council Regulation (EC) No 637/2008 and Council Regulation (EC) No 73/2009 ([OJ L 347, 20.12.2013, p. 608](#)).
- (9) Commission Implementing Regulation (EU) 2015/1089 of 6 July 2015 establishing budgetary ceilings for 2015 applicable to certain direct support schemes provided for in Regulation (EU) No 1307/2013 of the European Parliament and of the Council and setting the share for the special demining reserve for Croatia ([OJ L 176, 7.7.2015, p. 29](#)).
- (10) Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 ([OJ L 347, 20.12.2013, p. 671](#)).
- (11) Commission Regulation (EC) No 1301/2006 of 31 August 2006 laying down common rules for the administration of import tariff quotas for agricultural products managed by a system of import licences ([OJ L 238, 1.9.2006, p. 13](#)).
- (12) Regulation (EU) No 652/2014 of the European Parliament and of the Council of 15 May 2014 laying down provisions for the management of expenditure relating to the food chain, animal health and animal welfare, and relating to plant health and plant reproductive material, amending Council Directives 98/56/EC, 2000/29/EC and 2008/90/EC, Regulations (EC) No 178/2002, (EC) No 882/2004 and (EC) No 396/2005 of the European Parliament and of the Council, Directive 2009/128/EC of the European Parliament and of the Council and Regulation (EC) No 1107/2009 of the European Parliament and of the Council and repealing Council Decisions 66/399/EEC, 76/894/EEC and 2009/470/EC ([OJ L 189, 27.6.2014, p. 1](#)).
- (13) Regulation (EC) No 110/2008 of the European Parliament and of the Council of 15 January 2008 on the definition, description, presentation, labelling and the protection of geographical indications of spirit drinks and repealing Council Regulation (EEC) No 1576/89 ([OJ L 39, 13.2.2008, p. 16](#));

Changes to legislation:

There are currently no known outstanding effects for the Regulation (EU) 2017/2393 of the European Parliament and of the Council.