



Council of the  
European Union

Brussels, 20 February 2017  
(OR. en)

6457/17

AGRI 80  
AGRIFIN 15  
AGRIORG 17  
AGRISTR 14  
DELACTION 31

#### COVER NOTE

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From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	16 February 2017
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	C(2017) 805 final
Subject:	COMMISSION DELEGATED REGULATION (EU) .../... of 16.2.2017 amending Delegated Regulation (EU) No 640/2014 supplementing Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to the integrated administration and control system and conditions for refusal or withdrawal of payments and administrative penalties applicable to direct payments, rural development support and cross compliance

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Delegations will find attached document C(2017) 805 final.

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Encl.: C(2017) 805 final



Brussels, 16.2.2017  
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**COMMISSION DELEGATED REGULATION (EU) .../...**

**of 16.2.2017**

**amending Delegated Regulation (EU) No 640/2014 supplementing Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to the integrated administration and control system and conditions for refusal or withdrawal of payments and administrative penalties applicable to direct payments, rural development support and cross compliance**

## EXPLANATORY MEMORANDUM

### **1. CONTEXT OF THE DELEGATED ACT**

The simplification of the Common Agricultural Policy has been identified by Commissioner Hogan as one of the key political priorities for his mandate. It is based upon the three following guiding principles:

- the respect of 2013 political decision;
- the respect of the sound financial management of the CAP;
- the need to concentrate on simplifications for the benefit of farmers and other beneficiaries.

Until now there are four so-called waves of simplification. The first wave of simplification related to eligibility conditions in relation to the identification and registration requirements for animals under voluntary coupled support and deadlines for the aid application in 2015, whereas the second wave focused on changes of the IACS guidelines which could be effective already for claim year 2015. The third wave of simplification included amendments to:

- Commission Implementing Regulation (EU) No 809/2014 with regard to IACS, in particular to introduce i) further possibilities to correct the aid applications with regard to the greening payment, ii) a system of preliminary checks of aid applications, iii) rules for the management of collective claims under certain rural development measures iv) further possibilities to combine or reduce the samples for on-the-post controls to overall reduce the number of beneficiaries to be controlled. These amendments were published with Commission Implementing Regulation (EU) No 2333/2015;
- Commission Delegated Regulation (EU) No 640/2014 with regards to IACS, in particular concerning administrative penalties for certain area-related direct payment schemes and rural development measures followed by further technical clarifications and adaptations. These amendments were published with Commission Delegated Regulation (EU) No 2016/1393.

The simplification proposal in this Delegated Act is part of the fourth wave of simplification. It concerns the calculation of the reductions of the greening payment (the payment for agricultural practices beneficial for the climate and the environment) under the Integrated Administration and Control System (IACS). The aim is to facilitate the implementation by the Member States and to provide for more proportionate reductions for beneficiaries in the most demanding situation for them where crop diversification requires 3 different crops to be grown. The modifications are of technical nature and focus on both clarifying and simplifying the relevant articles.

### **2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT**

This simplification proposal is following the simplification debate undertaken in 2015 in the Council and the European Parliament, in the Expert Groups and Committees as well as the Public consultation on the experience with the first year of implementation of greening obligations under the direct payment scheme which was launched on 15 December 2015.

A draft version of this Delegated Act was presented to and discussed with the Member States' representatives in the framework of the Expert Group for Direct Payments meetings held on 25 August and on 28 September 2016.

In accordance with the Better Regulation Guidelines (SWD(2015) 111 final of 19.5.2015), the draft Delegated Regulation was published in the Better Regulation portal for a four weeks public consultation period, from 19 December 2016 to 16 January 2017. Four comments were received from stakeholders. Three of them were not related to this Delegated act, but to the Delegated Act amending Regulation (EU) No 639/2014<sup>1</sup>. The remaining comment called for more proportionality in the adapted level of reductions in respect of greening, in particular as regards the ecological focus area requirement. The level of the reduction has been thoroughly assessed along the drafting and the consultation processes and is considered proportional and well-reflecting the concept of the greening payment and the particular nature of the different greening requirements.

### **3. LEGAL ELEMENTS OF THE DELEGATED ACT**

The proposal replaces the previous calculation method that included a "ratio of difference", which was perceived as very complicated, by a straightforward and clearer multiplier. It also includes a more proportionate (softened) reduction of payment for non-compliances in the cases where farmers must comply with crop diversification by having at least 3 different crops on their arable land. At last the concept of the crop groups, on which the calculation of the aid is based on, is abolished. This concept does not appear necessary in the specific context of the greening payment since the greening payment is to be based on the total area of the holding.

It should apply from 15 October 2017 to aid applications for the greening payment and to the single applications relating to the claim years starting as from 1 January 2017.

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<sup>1</sup> COMMISSION DELEGATED REGULATION (EU) .../...of XXX amending Delegated Regulation (EU) No 639/2014 as regards the control measures relating to the cultivation of hemp, certain provisions on the greening payment, the payment for young farmers in control of a legal person, the calculation of the per unit amount in the framework of voluntary coupled support, the fractions of payment entitlements and certain notification requirements relating to the single area payment scheme and the voluntary coupled support, and amending Annex X to Regulation (EU) No 1307/2013 of the European Parliament and of the Council

COMMISSION DELEGATED REGULATION (EU) .../...

of 16.2.2017

**amending Delegated Regulation (EU) No 640/2014 supplementing Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to the integrated administration and control system and conditions for refusal or withdrawal of payments and administrative penalties applicable to direct payments, rural development support and cross compliance**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 1306/2013 of the European Parliament and of the Council of 17 December 2013 on the financing, management and monitoring of the common agricultural policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008<sup>2</sup>, and in particular Article 77(7) thereof,

Whereas:

- (1) In the light of the experience gained after the introduction of the payment for agricultural practices beneficial for the climate and the environment ("the greening payment") as provided for in Chapter 3 of Title III of Regulation (EU) No 1307/2013 of the European Parliament and of the Council<sup>3</sup>, it is appropriate to simplify certain rules regarding the method of calculation of the greening payment laid down in Commission Delegated Regulation (EU) No 640/2014<sup>4</sup>.
- (2) Within the integrated administration and control system, the calculation of the aid to which the beneficiary is entitled is based on the concept of crop group. It appears however that that concept is not necessary in the specific context of the greening payment, since the greening payment is to be based on the total area of the holding. In the interest of simplification, the concept of crop group should therefore be abolished for the greening payment.
- (3) Articles 24 and 26 of Delegated Regulation (EU) No 640/2014 lay down the rules for the calculation of the reduction of the greening payment in case of non-compliance

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<sup>2</sup> OJ L 347, 20.12.2013, p. 549.

<sup>3</sup> 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).

<sup>4</sup> Commission Delegated Regulation (EU) No 640/2014 of 11 March 2014 supplementing Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to the integrated administration and control system and conditions for refusal or withdrawal of payments and administrative penalties applicable to direct payments, rural development support and cross compliance (OJ L 181, 20.6.2014, p. 48).

with the crop diversification requirements and the ecological focus area requirements, respectively. Those calculations involve a ratio of difference and a reduction factor of 50%. For the sake of clarification without altering the level of the reductions, it is justified to reformulate those provisions and replace the ratio of difference as well as the reduction factor of 50% by a multiplier.

- (4) With a view to strike a better balance between the level of severity of the reductions and the need to preserve proportionate and fair reductions, it is appropriate to alleviate the reductions of the greening payment where the crop diversification obligation requires three different crops to be grown.
- (5) Delegated Regulation (EU) No 640/2014 should therefore be amended accordingly.
- (6) In order to avoid the situation where Member States would have to adapt their systems of payment calculation for claim year 2016 during the payment period, and to give predictability to beneficiaries as to which rules are applicable for the payment calculation, this Regulation should apply from 16 October 2017 in respect of claim years starting as from 1 January 2017,

HAS ADOPTED THIS REGULATION:

#### *Article 1*

#### *Amendment of Delegated Regulation (EU) No 640/2014*

Delegated Regulation (EU) No 640/2014 is amended as follows:

- (1) Article 22 is replaced by the following:

'Article 22

#### ***General principles***

For the purposes of this Section, where the same area is determined for more than one of the agricultural practices beneficial for the climate and the environment as referred to in Article 43(2) of Regulation (EU) No 1307/2013, that area shall be taken into account separately for each of those practices in view of calculating the payment for agricultural practices beneficial for the climate and the environment, hereinafter referred to as 'the greening payment'.';

- (2) In Article 23(2), the first subparagraph is replaced by the following:

'2. Without prejudice to the administrative penalties applicable in accordance with Article 28, if the area declared in a single application for the basic payment or the single area payment exceeds the area determined, the area determined shall be used for the calculation of the greening payment.';

- (3) Article 24 is replaced by the following:

'Article 24

***Reduction of the greening payment in case of non-compliance with crop diversification***

1. In respect of arable land for which the first subparagraph of Article 44(1) of Regulation (EU) No 1307/2013 requires at least two different crops while the main crop shall not cover more than 75% of the total area of arable land, but the area determined for the main crop covers more than 75% of the total area of arable land determined, the area to be used for the calculation of the greening payment in accordance with Article 23 of this Regulation shall be reduced by 2 times the area of the main crop in excess of the 75% of the total area of arable land determined.

2. In respect of arable land for which the second subparagraph of Article 44(1) of Regulation (EU) No 1307/2013 requires at least three different crops while the main crop shall not cover more than 75% of the total area of arable land, but the area determined for the main crop covers more than 75% of the total area of arable land determined, the area to be used for the calculation of the greening payment in accordance with Article 23 of this Regulation shall be reduced by the area of the main crop in excess of the 75% of the total area of arable land determined.

3. In respect of arable land for which the second subparagraph of Article 44(1) of Regulation (EU) No 1307/2013 requires at least three different crops while the two main crops shall not cover more than 95% of the total area of arable land, but the area determined for the two main crops covers more than 95% of the total area of arable land determined, the area to be used for the calculation of the greening payment in accordance with Article 23 of this Regulation shall be reduced by 5 times the area of the two main crops in excess of the 95% of the total area of arable land determined.

4. In respect of holdings for which Article 44(2) of Regulation (EU) No 1307/2013 requires that the main crop on the remaining arable land shall not cover more than 75% of that remaining arable land, but the area determined for the main crop on the remaining arable land determined covers more than 75 %, the area to be used for the calculation of the greening payment in accordance with Article 23 of this Regulation shall be reduced by 2 times the area of the main crop in excess of the 75% of that remaining arable land determined.

5. Where a beneficiary has been found non-compliant with crop diversification as described in this Article for three years, the area by which the area to be used for the calculation of the greening payment is to be reduced in accordance with paragraphs 1 to 4 for the subsequent years shall be multiplied by 2.;

(4) In Article 26, paragraphs 2 and 3 are replaced by the following:

'2. If the ecological focus area required exceeds the ecological focus area determined taking account of the weighting of ecological focus areas provided for in Article 46(3) of Regulation (EU) No 1307/2013, the area to be used for the calculation of the greening payment in accordance with Article 23 of this Regulation shall be reduced by 10 times the ecological focus area not found.

For the purposes of the first subparagraph, the ecological focus area determined shall not exceed the share of the ecological focus areas declared in the total area of arable land declared.

3. Where a beneficiary has been found non-compliant with the ecological focus area requirements as described in this Article for three years, the area by which the area to be used for the calculation of the greening payment is to be reduced in accordance with paragraph 2 for the subsequent years shall be multiplied by 2.'.

## *Article 2*

### *Entry into force and application*

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

It shall apply from 16 October 2017 to aid applications for the greening payment and to single applications relating to claim years starting as from 1 January 2017.

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

Done at Brussels, 16.2.2017

*For the Commission*  
*The President*  
*Jean-Claude JUNCKER*