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From: Secretary-General of the European Commission,  
signed by Mr Jordi AYET PUIGARNAU, Director

date of receipt: 11 March 2014

To: Mr Uwe CORSEPIUS, Secretary-General of the Council of the European  
Union

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No. Cion doc.: C(2014) 1447 final

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Subject: COMMISSION DELEGATED REGULATION (EU) No .../.. of 11.3.2014  
supplementing Regulation (EU) No 1308/2013 of the European Parliament  
and of the Council by amending Commission Regulation (EC) No 826/2008  
as regards certain requirements related to the agricultural products  
benefiting from private storage aid

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Delegations will find attached Commission document C(2014) 1447 final.

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Encl.: C(2014) 1447 final



Brussels, 11.3.2014  
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**COMMISSION DELEGATED REGULATION (EU) No .../..**

**of 11.3.2014**

**supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council by amending Commission Regulation (EC) No 826/2008 as regards certain requirements related to the agricultural products benefiting from private storage aid**

## EXPLANATORY MEMORANDUM

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

Regulation (EU) No 1308/2013 of the European Parliament and of the Council repeals Council Regulation (EC) No 1234/2007 and empowers the Commission to adopt delegated acts.

In accordance with Article 19(1) of Regulation (EU) No 1308/2013, the purpose of this delegated act is to lay down additional requirements as regards quality and product characteristics for flax fibre, cheese with a protected designation of origin (PDO) or, a protected geographical indication (PGI) and skimmed milk powder made from cow's milk. These products will become eligible for private storage aid under Regulation (EU) No 1308/2013. They were not eligible under Council Regulation (EC) No 1234/2007.

This delegated act supplements the implementing rules of Commission Regulation (EC) No 826/2008.

In addition to this, this delegated act aligns some provisions of the implementing rules of Regulation (EC) No 826/2008 to the new provisions of Regulation (EU) No 1308/2013.

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

Consultations, involving experts from all the 28 Member States have been carried within the Experts Group for Horizontal questions concerning the CAP. Two meetings were organised for the specific purpose of exchanging expert views on the present act. These meetings allowed for a full presentation of the Commission's draft provisions and a thorough exchange of views on all aspects of the draft. The exercise consisted in clarifying the Commission's approach and hearing experts' views. The draft was then refined taking into account the observations and comments made orally in the meeting and/or sent in writing to the Commission after that meeting. Successive versions of the draft act were transmitted to the European Parliament and to the Council after convening the Experts Group meetings.

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

The act contains provisions supplementing certain non-essential parts of Regulation (EU) No 1308/2013 that are necessary to ensure its correct and efficient functioning and to ensure a smooth transition to the new rules, where necessary.

Article 1 provides for changes to be made in different articles of Commission Regulation (EC) No 826/2008 as a result of eligibility of the three above-mentioned products for private storage aid or as a result of modifications in the provisions of Regulation (EU) No 1308/2013.

Annex I contains the additional requirements as regards quality and product characteristics for flax fibre, cheese with a protected designation of origin (PDO) or, a protected geographical indication (PGI) skimmed milk powder and butter.

Annex II contains new and simplified eligibility conditions for butter (as a result of changes in eligibility conditions for this product in Regulation (EU) No 1308/2013) and for skimmed milk powder.

#### **4. BUDGETARY IMPLICATION**

The adoption of this delegated act does not entail financial implications.

# COMMISSION DELEGATED REGULATION (EU) No .../..

of 11.3.2014

**supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council by amending Commission Regulation (EC) No 826/2008 as regards certain requirements related to the agricultural products benefiting from private storage aid**

THE EUROPEAN COMMISSION,

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

Having regard to 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 1037/01 and (EC) No 1234/2007, and in particular Article 19(1) and (4)(a) thereof,

Whereas:

- (1) Commission Regulation (EC) No 826/2008<sup>1</sup> lays down common rules for the granting of private storage aid for certain agricultural products. The products eligible for private storage aid were listed in Articles 28 and 31 of Council Regulation (EC) No 1234/2007<sup>2</sup>.
- (2) Regulation (EU) No 1308/2013 has repealed and replaced Regulation (EC) No 1234/2007 as from 1 January 2014. Section 3 of Chapter I of Title I of Part II of Regulation (EU) No 1308/2013 contains provisions on aid for private storage.
- (3) Article 17 of Regulation (EU) No 1308/2013 lists the products eligible for private storage aid. Compared to the products listed in Articles 28 and 31 of Regulation (EC) No 1234/2007, Article 17 of Regulation (EU) No 1308/2013 includes three more products which are flax fibre, cheese with a protected designation of origin (PDO) or a protected geographical indication (PGI) and skimmed milk powder made from cow's milk.
- (4) In accordance with Article 17 of Regulation (EU) No 1308/2013, aid for private storage may be granted if the products concerned fulfil the conditions laid down in Section 3 of Chapter I of Title I of Part II of that Regulation and the additional requirements as regards quality and product characteristics to be adopted by the Commission.

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<sup>1</sup> Commission Regulation (EC) No 826/2008 of 20 August 2008 laying down common rules for the granting of private storage aid for certain agricultural products (OJ L 223, 21.8.2008, p. 3).

<sup>2</sup> Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) (OJ L 299, 16.11.2007, p. 1).

- (5) Eligibility conditions for butter laid down in Article 17(e) of Regulation (EU) No 1308/2013 have been changed compared to those provided for in Regulation (EC) No 1234/2007.
- (6) Provisions on quality and product characteristics and eligibility criteria already exist in Regulation (EC) No 826/2008 for products eligible for private storage aid under Articles 28 and 31 of Regulation (EC) No 1234/2007.
- (7) It is appropriate to adopt the quality requirements and the eligibility criteria with respect to quantities for flax fibre, skimmed milk powder and cheese with a PDO or PGI, to adapt those for butter and to incorporate them in Regulation (EC) No 826/2008.
- (8) Article 18 of Regulation (EU) No 1308/2013 has set out the criteria that should be taken into account in the decision of the Commission to grant private storage aid. These criteria include the average recorded Union market prices and the reference thresholds and production costs for the products concerned as well as the need to respond in a timely way to a particularly difficult market situation or economic developments having a significant negative impact on the margins in the sector.
- (9) Articles 3 and 5 of Regulation (EC) No 826/2008 provide that the decision to grant private storage aid for white sugar and, respectively, beef may be taken based on recorded average Union prices. Those Articles are based on Regulation (EC) No 1234/2007 which has now been repealed and replaced by Regulation (EU) No 1308/2013. It is therefore appropriate to delete Articles 3 and 5 of Regulation (EC) No 826/2008.
- (10) The quantity stored during the contractual storage period should be equal to the contractual quantity. However, for the purposes of Articles 15, 18 and 34 of Regulation (EC) No 826/2008, a margin of tolerance in respect of the quantity stored is allowed for certain products eligible for private storage aid. Given the characteristics of the products such a tolerance should be also fixed for skimmed milk powder in big bags and for long flax fibre.
- (11) As regards the quality characteristics to be laid down for flax fibre, long flax fibres are considered to be high quality products that should be eligible for private storage aid.
- (12) As the production of butter is no longer required to take place in an approved undertaking, the provisions for certifying compliance with the specific origin requirements in case of storage in a Member State other than that of the production of the butter, laid down in Annex II to Regulation (EC) No 826/2008, are no longer applicable. New simplified rules should be laid down as regards the proof that the butter stored fulfils the requirements of Articles 9 and 17(e) of Regulation (EU) No 1308/2013. The same rules should also apply to skimmed milk powder.
- (13) Regulation (EC) No 826/2008 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

*Article 1*

Regulation (EC) No 826/2008 is amended as follows:

- (1) In Article 2, paragraph 2 is replaced by the following:

"2. Butter and skimmed milk powder shall fulfil the additional requirements set out in Annex II to this Regulation".
- (2) Articles 3 and 5 are deleted.
- (3) In Article 7, paragraph 3 is replaced by the following:

"3. Tenders or applications for private storage aid for butter, skimmed milk powder, and cheeses shall relate to products which have been fully placed in storage, unless otherwise specified in the Regulation opening the tendering procedure or in the Regulation fixing the amount of aid in advance."
- (4) In Article 15(1), point (b) is replaced by the following:

"(b) to place and to keep in storage at least 99%, respectively 90% for meat products, 98% for olive oil, 95% for cheeses, 97% for skimmed milk powder in big bags and 97% for long flax fibre of the contractual quantity for the contractual storage period, at the risk of the contracting party within the meaning of Article 19 of this Regulation and under the conditions referred to in Article 22(1)(a) of this Regulation."
- (5) In Article 18(1), point (b) is replaced by the following:

"(b) to place and to keep in storage at least 99%, respectively 90% for meat products, 98% for olive oil, 95% for cheeses, 97% for skimmed milk powder in big bags and 97% for long flax fibre of the contractual quantity for the contractual storage period, at the risk of the contracting party within the meaning of Article 19 of this Regulation and under the conditions referred to in Article 22(1)(a) of this Regulation."
- (6) In Article 34(1), the following subparagraphs are added:

"For skimmed milk powder in "big bags", the aid shall be paid for the quantity actually stored if this represents not less than 97 % of the contractual quantity.

For long flax fibre the aid shall be paid for the quantity actually stored if this represents not less than 97% of the contractual quantity."
- (7) Annex I is amended in accordance with the Annex I to this Regulation.
- (8) Annex II is replaced by the text set out in Annex II to this Regulation.

*Article 2*

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

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

Done at Brussels, 11.3.2014

*For the Commission*  
*The President*  
*José Manuel BARROSO*