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COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
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To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
No. Cion doc.:	C(2023) 2988 final
Subject:	COMMISSION DELEGATED REGULATION (EU) .../... of 10.5.2023 amending Delegated Regulation (EU) 2022/127 as regards the payment of advances under the school scheme and correcting that Regulation

Delegations will find attached document C(2023) 2988 final.

Encl.: C(2023) 2988 final



EUROPEAN
COMMISSION

Brussels, 10.5.2023
C(2023) 2988 final

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

of 10.5.2023

**amending Delegated Regulation (EU) 2022/127 as regards the payment of advances
under the school scheme and correcting that Regulation**

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

Commission Delegated Regulation (EU) 2022/1408¹ amended Regulation (EU) 2021/2116 of the European Parliament and of the Council on the financing, management and monitoring of the common agricultural policy² to allow Member States to pay advances to aid applicants under the EU school scheme.

Pursuant to Article 44(5) of Regulation (EU) 2021/2116, the Commission is empowered to adopt delegated acts supplementing that Regulation with specific conditions for the payment of advances.

Commission Delegated Regulation (EU) 2022/127³ supplements Regulation (EU) 2021/2116 with rules on paying agencies and other bodies, financial management, clearance of accounts, securities and use of euro. This delegated act lays down such specific conditions for the payment of advances under the school scheme. Those conditions consist of a maximum percentage of aid and the requirement to lodge a security for certain aid applicants, for a coherent and non-discriminatory payment of advances by the Member States and the sound financial management of Union funds.

Moreover, this delegated act corrects Article 28 of Delegated Regulation (EU) 2022/127 to refer in its title also to the forfeiture of the securities and to delete the reference in its paragraph 2 to a procedure for forfeiting the security.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

Consultations, involving experts from all the 27 Member States, have been carried out within the Expert Group for Agricultural Markets, in particular concerning aspects falling under the single CMO Regulation: Subgroup Animal Products, in the meetings of 20 October 2022, 15 December 2022 and 22 February 2023.

The Commission transmitted the draft delegated act to the European Parliament and to the Council, when convening the Expert Group meetings.

These meetings allowed for a presentation of the planned amendments and correction to Commission Delegated Regulation (EU) 2022/127, as well as an exchange of views with the experts.

¹ Commission Delegated Regulation (EU) 2022/1408 of 16 June 2022 amending Regulation (EU) 2021/2116 of the European Parliament and of the Council as regards the payment of advances for certain interventions and support measures provided for in Regulations (EU) 2021/2115 and (EU) No 1308/2013 of the European Parliament and of the Council (OJ L 216, 19.8.2022, p. 1).

² Regulation (EU) 2021/2116 of the European Parliament and of the Council of 2 December 2021 on the financing, management and monitoring of the common agricultural policy and repealing Regulation (EU) No 1306/2013 (OJ L 435, 6.12.2021, p. 187).

³ Commission Delegated Regulation (EU) 2022/127 of 7 December 2021 supplementing Regulation (EU) 2021/2116 of the European Parliament and of the Council with rules on paying agencies and other bodies, financial management, clearance of accounts, securities and use of euro (OJ L 20, 31.1.2022, p. 95).

The draft delegated regulation was posted in the European Commission portal “Have your say” from 6 March to 3 April 2023 to gather the views of citizens and stakeholders. It received feedback from seventeen stakeholders. Two stakeholders welcomed the amendments and provided suggestions that concern the implementation of the scheme at Member States’ level. Fifteen stakeholders made requests and suggestions going beyond the scope of the present act as they concern the design of the EU school scheme set out in Regulation (EU) No 1308/2013 by the European Parliament and the Council, in particular the scope of products.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

This delegated act amends Commission Delegated Regulation (EU) 2022/127 by inserting an additional article with the specific conditions for the advances to aid applicants under the school scheme and corrects the title and paragraph 2 of Article 28.

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

of 10.5.2023

amending Delegated Regulation (EU) 2022/127 as regards the payment of advances under the school scheme and correcting that Regulation

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2021/2116 of the European Parliament and of the Council of 2 December 2021 on the financing, management and monitoring of the common agricultural policy and repealing Regulation (EU) No 1306/2013¹, and in particular Article 44(5) and Article 64(3), point (b), thereof,

Whereas:

- (1) Commission Delegated Regulation (EU) 2022/127² supplements Regulation (EU) 2021/2116 with rules on paying agencies and other bodies, financial management, clearance of accounts, securities and use of euro.
- (2) In accordance with Article 44(3b) of Regulation (EU) 2021/2116, Member States may decide to pay advances under the aid scheme laid down in Part II, Title I, Chapter II, Section 1, of Regulation (EU) No 1308/2013 of the European Parliament and of the Council³ in respect of aid for school year 2023/2024 and subsequent school years. In order to ensure a coherent and non-discriminatory payment of advances and to guarantee the protection of Union funds, it is appropriate to set out specific conditions for the payment of advances in the form of a maximum percentage of aid to the applicants and the requirement for aid applicants to lodge a security.
- (3) Article 19 of Delegated Regulation (EU) 2022/127 lays down the specific situations in which the competent authority may waive the requirement of a security. Given that the risk of non-compliance with the obligations under the school scheme is low where aid applicants are public authorities, it is appropriate to allow the competent authority to also waive the requirement of a security for those aid applicants.
- (4) In Article 28 of Delegated Regulation (EU) 2022/127, the title should also refer to the forfeiture of the securities and, for reasons of clarity, the reference to Article 56 of

¹ OJ L 435, 6.12.2021, p. 187.

² Commission Delegated Regulation (EU) 2022/127 of 7 December 2021 supplementing Regulation (EU) 2021/2116 of the European Parliament and of the Council with rules on paying agencies and other bodies, financial management, clearance of accounts, securities and use of euro (OJ L 20, 31.1.2022, p. 95).

³ 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).

Commission Implementing Regulation (EU) 2022/128⁴ laying down the procedure for forfeiting the security should be added in paragraph 2.

- (5) Delegated Regulation (EU) 2022/127 should therefore be amended and corrected accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Amendment to Delegated Regulation (EU) 2022/127

In Chapter IIIa of Delegated Regulation (EU) 2022/127, the following Article is added:

‘Article 15b

Specific conditions for the payment of advances referred to in Article 44(3b) of Regulation (EU) 2021/2116

1. The payment of advances referred to in Article 44(3b) of Regulation (EU) 2021/2116 shall not exceed 80 % of the aid which aid applicants are entitled to for the implementation of one or more of the following activities in the course of the school year:

- (a) the supply or distribution of products to children;
- (b) accompanying educational measures;
- (c) monitoring or evaluation actions;
- (d) publicity.

2. The payment of advances referred to in paragraph 1 shall be subject to the lodging of a security at least equivalent to the amount of the advance.

3. By way of derogation from Article 19, the competent authority may also waive the security requirement where the party responsible for meeting the obligation is a public authority.’

Article 2

Correction of Delegated Regulation (EU) 2022/127

Article 28 of Delegated Regulation (EU) 2022/127 is corrected as follows:

⁴ Commission Implementing Regulation (EU) 2022/128 of 21 December 2021 laying down rules for the application of Regulation (EU) 2021/2116 of the European Parliament and of the Council on paying agencies and other bodies, financial management, clearance of accounts, checks, securities and transparency (OJ L 20, 31.1.2022, p. 131).

(1) the title is replaced by the following:

‘Release and forfeiture of securities’;

(2) paragraph 2 is replaced by the following:

‘2. Once the deadline for proving final entitlement to the sum granted has passed without production of evidence of entitlement, the competent authority shall immediately forfeit the security in accordance with the procedure laid down in Article 56 of Commission Implementing Regulation (EU) 2022/128*.

However, where specific Union rules so provide, evidence may still be produced after that date against partial repayment of the security.

* Commission Implementing Regulation (EU) 2022/128 of 21 December 2021 laying down rules for the application of Regulation (EU) 2021/2116 of the European Parliament and of the Council on paying agencies and other bodies, financial management, clearance of accounts, checks, securities and transparency (OJ L 20, 31.1.2022, p. 131).’

Article 3

Entry into force

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, 10.5.2023

For the Commission
The President
Ursula VON DER LEYEN