



Council of the
European Union

Brussels, 22 February 2021
(OR. en)

6363/21

AGRI 70
AGRIFIN 20
AGRIORG 20
AGRISTR 11
DELECT 37

COVER NOTE

From: Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director

date of receipt: 19 February 2021

To: Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union

No. Cion doc.: C(2021) 993 final

Subject: COMMISSION DELEGATED REGULATION (EU) .../... of 19.2.2021 amending Delegated Regulation (EU) No 640/2014 as regards the rules on non-compliances in relation to the system for the identification and registration for bovine, ovine and caprine animals and on the calculation of the level of administrative penalties in respect of declared animals under animal aid schemes or animal-related support measures

Delegations will find attached document C(2021) 993 final.

Encl.: C(2021) 993 final



Brussels, 19.2.2021
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COMMISSION DELEGATED REGULATION (EU) .../...

of 19.2.2021

amending Delegated Regulation (EU) No 640/2014 as regards the rules on non-compliances in relation to the system for the identification and registration for bovine, ovine and caprine animals and on the calculation of the level of administrative penalties in respect of declared animals under animal aid schemes or animal-related support measures

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

The simplification proposal contained in this delegated act, in the field of direct payments and Integrated Administration and Control System (IACS), concerns the area of administrative penalties for animal related direct payment schemes and rural development measures. The proposed changes would apply only to the calculation of payments and the application of administrative penalties and will not affect the sectoral and cross-compliance rules.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

The initiative is a continuation of previous efforts to improve and simplify the delegated and implementing rules related to the management and control of the Common Agricultural Policy.

These proposals are built upon internal screening exercise and ongoing consultations with Member States on the possible simplification of the administrative penalty system under Voluntary Coupled Support animal related measures.

The documents relevant to the written consultation were transmitted simultaneously to the European Parliament and to the Council, as foreseen in the Common Understanding on delegated acts. It was published for public feedback on the Better Regulation Portal from 9 October to 6 November 2020; two comments were received but without remarks directed towards the concrete legal elements of the proposal and thus led to no further follow up linked to the adoption of this initiative.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

This Delegated Regulation contains a list of simplification proposals that can be made in the field of direct payments and the IACS.

The main legal elements of this Delegated Act are the following:

Alignment of the rules for taking into account non-compliances related to the system of identification and registration for bovine, ovine and caprine animals (Article 30).

Clarification of the principle of late notifications of animal events to the central database where the late notifications have taken place before the start of the retention period/reference date (Article 30).

Introduction of a threshold of three animals found non-determined without application of administrative penalties (Article 31).

Adjustment of the administrative penalties when more than three animals are found non-determined (Article 31).

It shall apply in relation to aid applications, applications for support and payment claims relating to claim years or premium periods starting as from 1 January 2021.

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

of 19.2.2021

amending Delegated Regulation (EU) No 640/2014 as regards the rules on non-compliances in relation to the system for the identification and registration for bovine, ovine and caprine animals and on the calculation of the level of administrative penalties in respect of declared animals under animal aid schemes or animal-related support measures

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 485/2008¹, and in particular Articles 63(4), 64(6) and 77(7) thereof,

Whereas:

- (1) Article 30 of Commission Delegated Regulation (EU) No 640/2014² contains rules to establish the number of determined animals for the purposes of voluntary coupled support based on livestock aid applications under animal aid schemes or rural development support based on payment claims under animal-related support measures. In particular, it sets out rules for cases of non-compliances with regard to the system for the identification and registration for bovine animals and for ovine and caprine animals. Council Regulation (EC) No 21/2004³ provides that the Member States are to establish a system for the identification and registration of ovine and caprine animals. Since that identification and registration system contains requirements similar to those of the identification and registration system for bovine animals as laid down in Regulation (EC) No 1760/2000 of the European Parliament and of the Council⁴, it is appropriate to align the rules for taking into account non-compliances related to the system of identification and registration of those three animal categories. In that context, it is appropriate to replace the reference to ‘ear tags’ by a reference to ‘means of identification’ in line with those two Regulations.

¹ OJ L 347 20.12.2013, p. 549.

² 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).

³ Council Regulation (EC) No 21/2004 of 17 December 2003 establishing a system for the identification and registration of ovine and caprine animals and amending Regulation (EC) No 1782/2003 and Directives 92/102/EEC and 64/432/EEC (OJ L 5, 9.1.2004, p. 8).

⁴ Regulation (EC) No 1760/2000 of the European Parliament and of the Council of 17 July 2000 establishing a system for the identification and registration of bovine animals and regarding the labelling of beef and beef products and repealing Council Regulation (EC) No 820/97 (OJ L 204, 11.8.2000, p. 1).

- (2) Taking into account the evolution of the integrated administration and control system and for reasons of simplification, it is appropriate to adapt the administrative penalties in respect of animal aid schemes and animal-related support measures laid down in Article 31 of Delegated Regulation (EU) No 640/2014 by exempting up to three animals found non-determined from the application of administrative penalties as long they can be individually identified by means of identification or supporting documentation, and by adjusting the level of penalties to be applied if more than three animals are found non-determined.
- (3) In accordance with Article 53(4) of Commission Delegated Regulation (EU) No 639/2014⁵, where the coupled support measure concerns bovine animals and/or sheep and goats, Member States have to define as an eligibility condition for the support, the requirements to identify and register animals provided for in Regulation (EC) No 1760/2000 or Regulation (EC) No 21/2004, respectively. Furthermore, in accordance with those Regulations, animal events such as births, deaths and movements are to be notified to the computerised database within certain time limits. Non-respect of those time limits is considered as a non-compliance in respect of the animal concerned. However, in order to ensure proportionality and without prejudice to other eligibility conditions fixed by the Member State, bovine, ovine and caprine animals should be considered as eligible for aid or support without application of administrative penalties as long as a late notification of an animal event took place before the start of a retention period or before a given reference date, as established by the Member State in accordance with Article 53(4) of Delegated Regulation (EU) No 639/2014.
- (4) For reasons of clarity and simplification, the wording of Article 31(3) of Delegated Regulation (EU) No 640/2014 should be aligned between the claim based and claimless system.
- (5) Delegated Regulation (EU) No 640/2014 should therefore be amended accordingly.
- (6) In order to allow Member States sufficient time to adjust their systems to implement the amended rules, this Regulation should apply in relation to aid applications, applications for support and payment claims submitted for claim years or premium periods starting as from 1 January 2021,

HAS ADOPTED THIS REGULATION:

Article 1

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

- (1) Article 30 is amended as follows:
 - (a) paragraph 4 is replaced by the following:

'4. Where cases of non-compliances with regard to the system for the identification and registration for bovine, ovine and caprine animals are found, the following shall apply:

 - (a) a bovine animal present on the holding which has lost one of the two means of identification shall be considered as determined provided that it

⁵ Commission Delegated Regulation (EU) No 639/2014 of 11 March 2014 supplementing Regulation (EU) No 1307/2013 of the European Parliament and of the Council establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy and amending Annex X to that Regulation (OJ L 181, 20.6.2014, p. 1).

is clearly and individually identified by the other elements of the system for the identification and registration of bovine animals referred to in points (b), (c) and (d) of the first paragraph of Article 3 of Regulation (EC) No 1760/2000;

- (b) an ovine or caprine animal present on the holding which has lost one of the two means of identification means shall be considered as determined provided that the animal can still be identified by a first means of identification in accordance with Article 4(2)(a) of Regulation (EC) No 21/2004 and provided that all other requirements of the system for the identification and registration of ovine and caprine animals are fulfilled;
- (c) where one single bovine, ovine or caprine animal present on the holding has lost two means of identification, it shall be considered as determined provided that the animal can still be individually identified by the register, animal passport, where relevant, database or other means laid down in Regulation (EC) No 1760/2000 or Regulation (EC) No 21/2004, respectively, and provided that the animal keeper can provide evidence that he has already taken action to remedy the situation before the announcement of the on-the-spot check;
- (d) where the non-compliances found relate to incorrect entries in the register, the animal passports or the computerised database for animals, but are not of relevance for the verification of the respect of the eligibility conditions other than that referred to in Article 53(4) of Delegated Regulation (EU) No 639/2014 under the aid scheme or support measure concerned, the animal concerned shall only be considered as not determined if such incorrect entries are found during at least two checks within a period of 24 months. In all other cases the animals concerned shall be considered as not determined after the first finding;
- (e) where the non-compliances found relate to late notifications of animal events to the computerised database, the animal concerned shall be considered as determined if the notification has taken place before the start of the retention period or before the reference date established in accordance with Article 53(4) of Delegated Regulation (EU) No 639/2014.

The entries in, and notifications to, the system for the identification and registration of bovine, ovine and caprine animals may be adjusted at any time in cases of obvious errors recognised by the competent authority.;

(b) paragraph 5 is deleted;

(2) Article 31 is replaced by the following:

‘Article 31

Administrative penalties in respect of animals under the animal aid schemes or animal-related support measures

1. The total amount of aid or support to which the beneficiary is entitled under an animal aid scheme or animal-related support measure or type of operation under such support measure for the claim year concerned shall be paid based on the number of animals determined in accordance with Article 30(3), provided that following administrative checks or on the spot checks:

- (a) no more than three animals are found non-determined, and
 - (b) non-determined animals can be individually identified by any means laid down in Regulation (EC) No 1760/2000 or (EC) No 21/2004.
2. If more than three animals are non-determined, the total amount of aid or support to which the beneficiary is entitled under the aid scheme or support measure or type of operation under such support measure referred to in paragraph 1 for the claim year concerned shall be reduced by:
- (a) the percentage to be established in accordance with paragraph 3, if it is not more than 20 %;
 - (b) twice the percentage to be established in accordance with paragraph 3, if it is more than 20 % but not more than 30 %.

If the percentage established in accordance with paragraph 3 is more than 30 %, no aid or support to which the beneficiary would have been entitled pursuant to Article 30(3) shall be granted under the aid scheme or support measure or type of operation under such support measure for the claim year concerned.

If the percentage established in accordance with paragraph 3 is more than 50 %, no aid or support to which the beneficiary would have been entitled pursuant to Article 30(3) shall be granted under the aid scheme or support measure or type of operation under such support measure for the claim year concerned. Moreover, the beneficiary shall be subject to an additional penalty of an amount equal to the amount corresponding to the difference between the number of animals declared and the number of animals determined in accordance with Article 30(3). If that amount cannot be fully off-set in the course of the three calendar years following the calendar year of the finding, in accordance with Article 28 of Implementing Regulation (EU) No 908/2014, the outstanding balance shall be cancelled.

For other species than those referred to in Article 30(4) of this Regulation, Member States may decide to determine a number of animals different from the threshold of three animals provided for in paragraphs 1 and 2 of this Article. When determining that number, Member States shall ensure that it is equivalent in substance to that threshold, by *inter alia* taking into account the livestock units and/or the amount of aid or support granted.

3. In order to establish the percentages referred to in paragraph 2, the number of animals of an aid scheme or support measure or type of operation found to be non-determined shall be divided by the number of animals determined for that aid scheme or support measure or type of operation under such support measure for the claim year concerned.
4. Where the calculation of the total amount of aid or support to which the beneficiary is entitled under an aid scheme or support measure or type of operation under such support measure for the claim year concerned is based on the number of days the animals fulfilling the eligibility conditions are present on the holding, the calculation of the number of animals found to be non-determined as referred to in paragraph 2 shall also be based on the number of days those animals are present on the holding.'

Article 2

Entry into force and application

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

It shall apply in relation to aid applications, applications for support and payment claims submitted for claim years or premium periods starting as from 1 January 2021.

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

Done at Brussels, 19.2.2021

For the Commission
The President
Ursula VON DER LEYEN