



EUROPEAN COMMISSION

## MEMO

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### Delegated acts on the CAP Reform – an explanation of the main elements

At the end of December 2013 the [Basic Regulations](#) for the reformed Common Agriculture Policy (CAP) were published in the Official Journal, following their adoption by the European Parliament (EP) and the Council. This includes the regulations i) on Direct Payments, ii) the Common Market Organisation (CMO), iii) Rural Development and, iv) a Horizontal Regulation on the financing, management and monitoring of the CAP.

After the Council and the European Parliament reached a political agreement on the reform of the Common Agriculture Policy in June 2013 and the last remaining issues were finalised in September 2013 ([IP/13/613](#), [IP/13/864](#) and [MEMO/13/937](#)), the Commission started to prepare Delegated and Implementing Acts so that the new rules could enter into force in 2014, or from January 2015 for most of the new Direct Payment arrangements as well as the Integrated Administration and Control System and cross compliance. Separate "[transition rules](#)" (Reg 1310/13) for 2014 were approved by Council and the European Parliament and published at the same time as the four Basic Regulations. Delegated acts supplement the EP and Council acts or amend elements of the act that are not considered essential, while implementing acts are adopted by the Commission to ensure that the EP and Council acts are applied in a uniform way in all Member States.

As far as the implementation of the reform is concerned, the Commission has worked with Member State and EP experts in recent months to prepare the Delegated Acts, and today it has adopted 10 Delegated Acts detailing rules that supplement and amend the Basic Regulations ([see IP/14/231](#)). In addition the Commission is, with the assistance of the relevant Committees with Member States' experts, in the process of finalising the Implementing Acts. The 10 Delegated Acts will now be transmitted to Council and EP, who have the right to oppose the acts during 2 or 4 months. If there is no opposition, the delegated acts will be officially published together with the implementing acts, once these are also adopted.

The main elements covered by the different Delegated Acts can be summarized as follows:

#### 1. Direct Payments

The delegated act supplementing the Direct Payments Regulation (Regulation (EU) No 1307/2013) provides further rules in particular to the following subjects:

**Active farmer:** The basic act requires that no direct payments are granted to natural or legal persons (or groups of natural or legal persons) whose agricultural areas are mainly areas naturally kept in a state suitable for grazing or cultivation and who do not carry out on those areas the minimum activity defined by Member States. Therefore, the delegated act determines when such areas are to be considered as the main part of a farmer's agricultural land and clarifies the scope of application of that provision.

Furthermore, according to the basic act, entities falling within the scope of the so-called negative list are to be considered active farmers if they are able to prove that they meet one of the criteria. As one of these criteria consists of demonstrating that the annual amount of direct payments is at least 5 % of the total receipts obtained from non-agricultural activities, the delegated act lays down provisions for establishing whether receipts stem from agricultural or non-agricultural activities and how the annual amount of direct payments is to be determined. The latter is relevant for the implementation of the derogation in the basic act, which exempts certain farmers from the active farmer requirement.

In the framework of the negative list as well as in relation to the possibility for Member States to include further natural or legal persons into the scope of the active farmer provisions, the question arises under which conditions agricultural activities are insignificant or the principal business or company object of an entity does not consist of exercising an agricultural activity. For these two criteria, the delegated act defines certain detailed criteria and gives Member States a possibility to establish alternative criteria to target agricultural activities which are only marginal.

**The Basic Payment:** Further rules are provided to deal with some specific cases when implementing the basic payment scheme and the transitional single area payment scheme, e.g. the allocation of payment entitlements in a case of inheritance; the possibility to inherit the rights for a differentiated single area payment, if applied by a Member State; the implementing framework for Member States applying a limitation on payment entitlements allocated per certain categories of permanent grassland; and for Member States deciding to maintain under the basic payment scheme those payment entitlements which were allocated under the single area payment scheme, etc. In addition, detailed rules are provided for the use of the national/regional reserve.

The Basic Regulation introduces a new "**greening**" component in the future system of direct payments in the form of a payment for farmers observing agricultural practices beneficial for the climate and the environment. The requirements tied to this payment as stipulated in the basic act are generalised, non-contractual actions globally ensuring that EU agriculture is based on practices that go beyond cross compliance. These are crop diversification, maintaining sensitive permanent grasslands and ensuring that the permanent grassland ratio does not decrease by more than 5%, and ecological focus area on 5% of arable land.

The delegated act lays down detailed rules regarding the calculation of shares of different crops for crop diversification, the framework for the designation of environmentally sensitive permanent grassland areas outside Natura 2000 sites, the calculation of the ratio of permanent grassland and the individual obligations that may be necessary to maintain the permanent grassland ratio.

A subject that was heavily discussed was the specification of the criteria that qualify the different areas listed in the Basic Act that can be considered ecological focus area (EFA). For some production-related EFAs, it will be up to Member States to define whether any conditions should be foreseen as regards the production methods. While taking into account efforts already made by farmers, these criteria ensure the safeguarding and improvement of biodiversity on farms. For instance, regarding areas with nitrogen-fixing crops, Member States will have to make sure that only areas with nitrogen-fixing crops that are contributing to the objective of improving biodiversity are recognised as EFA.

Furthermore, rules are provided for the regional and collective implementation of EFA. The delegated act also establishes, as foreseen in the Basic Act, the conversion (to ease the measurement of certain types of EFA) and weighting factors from 0.3 to 2.0 (that reflect the differences in terms of importance for biodiversity) to be applied to different types of EFA. For example, hedges will have a weighting factor of 2 – such that a hedge of 5m<sup>2</sup>.will be considered as 10m<sup>2</sup> of EFA – while a feature such as catch crops will have a coefficient of 0.3, i.e. 1m<sup>2</sup> is equivalent to 0.3m<sup>2</sup> of EFA.

The political agreement on the CAP reform obliges Member States to implement a 25% top-up to direct payments for **young farmers** in order to support the initial setting up of young farmers. It also provides that such payment is available in addition to the basic payment to those young farmers who are no more than 40 years of age in their first year of application for the payment and who are setting up for the first time an agricultural holding as head of the holding. The delegated act establishes detailed rules regarding eligibility conditions in cases where a farmer is a legal person, a group of legal persons or a group of natural persons. The same principles apply as foreseen in the political agreement, namely - in order for a holding to benefit from the payment for young farmers, a young farmer has to be head of the holding exercising effective and long-term control over that holding. Not only does this approach fully respect the political agreement, it also provides for non-differentiated treatment between farmers who apply as natural persons and those applying as legal persons.

When implementing the **voluntary coupled support**, the Member States will have to define the eligibility criteria for support measures and fix areas and yields or number of animals on the basis of a maximum reached in at least one year during a reference period of 5 years preceding the year of their decision to grant voluntary coupled support. They will have to ensure consistency with other EU measures and policies, and avoid accumulation of support. The difficulties referred to in the basic Regulation are specified as being situations where there is a risk of decline or abandonment of production in a determined region or sector. The annual payment results from the ratio between the amount fixed for financing the support and the area or number of animals eligible in the year in question or as initially fixed. Where the support concerns oilseeds, a maximum area to be supported shall be fixed at EU level in order to comply with international commitments. The criteria for approval by the Commission are specified.

## **2. Common Market Organisation**

As regards the Regulation establishing a common organisation of the markets in agricultural products (Regulation (EU) No 1308/2013), five delegated acts were adopted:

- **Wine**

The purpose of this delegated act, which concerns the national support programmes in the wine sector, is to lay down rules for the three new elements introduced by the reform: information about wine for the EU consumers (highlighting responsible consumption of wine and the systems covering designations of origin and geographical indications), innovation in the wine sector and replanting of vineyards following grubbing-up due to health or phytosanitary reasons.

- **School Fruit and Vegetable Scheme**

In the context of CAP 2020 reform, accompanying measures directly linked to the objectives of the School Fruit and Vegetables Scheme of increasing short- and long-term fruit and vegetable consumption, and shaping healthy eating habits become eligible to the Union co-financing. The delegated act lays down detailed rules concerning the eligible costs, the financial ceiling of 15% of the national allocations and other elements necessary for the eligibility of these measures.

- **Fruit and vegetables**

This delegated act lays down rules concerning new elements introduced by the CAP 2020 reform regarding operational programmes in the fruit and vegetables sector and the entry price system, extends two provisions already in force in the scheme under the previous Regulation 1234/2007 and clarifies the rules concerning certain recognition criteria for Producer Organisations, as well as introducing a step by step sanction mechanism in case of non-compliance with these recognition criteria. Concerning the entry price system, this delegated act lays down provisions to lodge a security and establishes that a flat rate, the standard import value, can be used to clear customs when products are sold on consignment (these provisions will apply from 1 October 2014).

- **Olive oil**

The EU finances three-year work programmes drawn up by recognised producer organisations to support the olive oil and table olives sector in different domains such as quality, environment, competitiveness and traceability. The delegated act updates existing detailed rules for these programmes and aims to ensure an efficient and effective use of the Union aid at the level of the specific measures retained by the producer organisations.

- **Private storage aid**

The delegated act on private storage reflects the changes in the new CMO. Thus it provides for product requirements and/or additional provisions concerning the new products eligible for private storage aid (PDO/PGI cheeses, skimmed milk powder (SMP) and flax fibre).

### **3. Rural Development**

The Delegated Act supplementing the Regulation on support for rural development (Regulation (EU) No 1305/2013) sets out detailed rules to ensure a consistent approach regarding the implementation of measures supported by the European Agricultural Fund for Rural Development (EAFRD) across all Member States.

#### **Young farmers:**

This key area of CAP reform is also addressed in the Delegated Act for the EAFRD, in particular, to ensure a consistent approach with the support to young farmers offered under Pillar I of the CAP. It is important to ensure equal treatment of beneficiaries irrespective of their legal form, and to apply the principle that a young farmer has to be head of the holding exercising effective and long-term control over that holding. The Delegated Act also sets a grace period for the acquisition of occupational skills. This period is 36 months from the date of the individual decision on granting support.

### **No double funding under the measures "Agri-environment-climate", "Organic farming" and "Natura 2000 and Water Framework Directive payments":**

In order to ensure sound financial management of the EAFRD the Delegated Act specifies methods to avoid double funding of agricultural practices beneficial to the climate and the environment, including equivalent practices, which are paid for under Pillar I of the CAP (i.e. the so-called "greening" provisions, see above). EAFRD payments must cover only the additional costs and/or income foregone related to the commitments going beyond the relevant obligatory practices set out in the Pillar I greening provisions. For the three specific agri-environment-climate "equivalent practices" (winter soil cover, catch crops and production on arable land with no use of fertilisers and/or plant protection products) – i.e. the practices for which it is not possible to identify accurately which elements go beyond the greening provisions – the agri-environment-climate payments must be reduced by a lump sum, as established in the direct payments Delegated Act, corresponding to the part of the greening payment.

### **Other EAFRD areas addressed in the Delegated Act**

The Delegated Act also details rules on a number of other EAFRD measures, e.g. related to: environmental requirements for afforestation; extensification of livestock farming; support for local breeds; upgraded production methods eligible for animal welfare payments; investments in general; and renewable energy projects. In order to ensure a smooth transition between the 2007-2013 and 2014-2020 programming periods, the Delegated Act also lays down certain transitional rules.

### **The EAFRD as one of the European Structural and Investment Funds**

The EAFRD is one of the European Structural and Investment (ESI) Funds. Thus, the Commission Delegated Acts supplementing Parts I, II and V of the Regulation setting out common provisions on all ESI Funds (Regulation (EU) No 1303/2013) also apply directly to rural development. The Delegated Acts in question include those related to the code of conduct on partnership, technical rules for the application of the performance framework, and financial instruments supported by the ESI Funds.

## **4. Horizontal Regulation**

Three delegated acts supplement the Horizontal Regulation (Regulation (EU) No 1306/2013).

One horizontal act deals with rules on paying agencies and other bodies, financial management, clearance of accounts, securities and use of the euro:

As regards **paying agencies and other bodies** the rules are based on the current system in place, but with some up-dates as regards accreditation criteria for paying agencies. As regards **financial management** the rules represent a continuation of current systems in place as regards late payments, but with new rules on early payments and suspension of parts of payments if control statistics are submitted late by Member States. As regards **clearance of accounts** new rules are set out on criteria and methodology for financial corrections applied by the Commission in the framework of the conformity clearance of accounts. As regards **securities** and **use of the euro** current rules have been updated and simplified while being put together in one act. Finally, as regards **transitional rules** it has been ensured that Member States will continue to apply current rules to the rural development programming period 2007-2013 and as regards on-going files on irregularities.

Another delegated act establishes common rules notably as regards to the integrated administration and control system (IACS), and conditions for refusals or withdrawals of payments and administrative penalties applicable to direct payments, rural development support and cross compliance:

Member States are obliged to operate an **integrated administration and control system (IACS)**. With respect to this integrated system, detailed rules are provided inter alia on the basic features and technical rules for the identification system for agricultural parcels and the identification of beneficiaries. Also rules are specified as regards the basis for the calculation of aid and on how to deal with certain cases in which eligible areas contain landscape features or trees. New rules were needed in relation to the new "greening" requirements foreseen in the context of direct payments with regard to the basis of calculation of the greening payment, including rules on the reduction of the greening payment in case of non-compliances and the application of administrative penalties. These rules are established in line with IACS principles, including the principle of proportionality.

As regards **rural development**, this delegated act also lays down additional, specific provisions how refusals, withdrawals and administrative penalties are to be applied in case of non-compliance with eligibility criteria, commitments and obligations for rural development measures. Refusals and withdrawals are based on the proportionality principle and take into account the severity, extent, duration and reoccurrence of the non-compliance found. In addition, rules are laid down how the administrative penalty can be suspended where it is foreseen that the beneficiary could remedy the non-compliance.

As regards **cross compliance** the current rules have been streamlined by introducing some elements of simplification of the system. In particular, rules concerning the application of the early warning system have been set and the calculation of reductions in relation to repetitions has been simplified. This also increases the flexibility of national administrations in managing the system. Finally, in line with the Basic Act, obligations in relation to the maintenance of permanent pasture have been limited to a period of two years. In order to allow a smooth transition between the previous and the new regime, some transitional measures are foreseen to enable smooth entry into force of the new rules supplementing the Horizontal Regulation as compared to the previous legal framework.

Finally, there is one delegated act on **public intervention expenditure**, which to a very large extent represents a continuation of the current rules as regards expenditure financed by the EU budget in relation to public intervention.