COMMISSION IMPLEMENTING REGULATION (EU) 2021/540

of 26 March 2021

amending Implementing Regulation (EU) No 809/2014 as regards certain notification obligations, on-the-spot checks relating to livestock aid applications and payment claims under animal-related support measures, and on the submission of the single application, aid applications or payment claims

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 ([1]), and in particular points (a) and (b) of the first subparagraph of Article 62(2) and points (b) and (c) of the first paragraph of Article 78 thereof,

Whereas:

(1) In accordance with Article 9(3) of Commission Implementing Regulation (EU) No 809/2014 ([2]), Member States are to notify the Commission by 15 July each year of a report in respect of the measures taken for the administration and the control of the voluntary coupled support concerning the previous calendar year. Experience has shown that the existing requirement of an annual notification of those measures has become obsolete in the current integrated administration and control system. For reasons of simplification, that requirement should be deleted.

(2) Where checks by monitoring are carried out, in accordance with Article 40a of Implementing Regulation (EU) No 809/2014, Member States obtain information that may indicate potential non-compliances also for the aid schemes and support measures subject to classical on-the-spot checks. That information should be used to induce compliance and improve the accuracy of data in the management and control system. Moreover, beneficiaries should be given the possibility to amend their single application, aid application or payment claim in order to rectify inaccuracies and avoid penalties. For reasons of simplifications and increased assurance, this should be reflected in Article 11(4) of Implementing Regulation (EU) No 809/2014.

(3) Experience has shown that Member States should be given greater flexibility in setting the final dates for the submission of the single application, aid applications or payment claims referred to in Article 13(1) of Implementing Regulation (EU) No 809/2014 in order to better take into account their specific circumstances and in particular changing climatic and weather conditions. That approach should also apply to the dates for submitting amendments referred to in Article 15(2) of that Regulation.

(4) Where a Member State applies the claimless system, the beneficiaries should be made aware that non-compliances with regard to the system for the identification and registration for bovine, ovine and caprine animals of all potentially eligible animals should be considered for the calculation of the support and the application of administrative penalties. However, the cases of non-compliance should be assessed in light of the specific rules set out in Article 30(4) of Commission Delegated Regulation (EU) No 640/2014 ([3]), and in accordance with Article 31 of that Regulation for the imposition of administrative penalties.

([1]) OJ L 347, 20.12.2013, p. 549.

([2]) Commission Implementing Regulation (EU) No 809/2014 of 17 July 2014 laying down rules for the application of Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to the integrated administration and control system, rural development measures and cross compliance (OJ L 227 31.7.2014, p. 69).

([3]) 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).

(5) Considering that follow-up checks required by Article 33a(1) of Implementing Regulation (EU) No 809/2014 may concern very small amounts while causing disproportionate administrative burden, Member States should be allowed to limit the population of farmers to be subject to those follow-up checks. For that purpose, the threshold for non-pursuing recoveries provided in point (a) of the first subparagraph of Article 54(3) of Regulation (EU) No 1306/2013 should be used, as a transparent and non-discriminatory benchmark.

(6) Experience has shown that phasing-in of checks by monitoring carried out under Article 40a of Implementing Regulation (EU) No 809/2014 may take longer than two years, depending on the size of the area concerned or complexities of the process. Member States should therefore be allowed a longer time to gradually progress towards the implementation of those checks on their full territory.

(7) In order to assist Member States better in preparing their decisions on applying the checks by monitoring, additional time is needed for preparing the relevant notifications. The deadline to submit those notifications should therefore be extended, both in relation to checks on the eligibility conditions and cross-compliance.

(8) For on the spot checks to be effective with regard to animal-related schemes, it is necessary to ensure that, where a Member State does not apply a retention period or where the retention period cannot be fixed in advance or where the retention period starts before an aid application or payment claim has been submitted, those checks are to be carried out during the period in which animals may qualify for payment or support. Furthermore, it should be clarified in Article 42(1) of Implementing Regulation (EU) No 809/2014 that this obligation also applies to on-the-spot checks carried out as a result of an increase of the control rate as set out in Article 35 of that Regulation, where relevant.

(9) Implementing Regulation (EU) No 809/2014 should therefore be amended accordingly.

(10) In order to ensure maximum efficiency of the rules provided in this Regulation, it 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.

(11) The measures provided for in this Regulation are in accordance with the opinion of the Committee for Direct Payments and the Rural Development Committee,

HAS ADOPTED THIS REGULATION:

Article 1

Implementing Regulation (EU) No 809/2014 is amended as follows:

(1) in Article 9, paragraph 3 is deleted;

(2) in the first subparagraph of Article 11(4), the second and third sentences are replaced by the following:

'The results shall be notified to beneficiaries in a timely manner to support them in fulfilling the eligibility criteria, commitments and other obligations. Member States may use the provisional results at parcel level referred to in point (d) of the first subparagraph of Article 40a(1) as information relevant for preliminary checks for aid schemes and support measures which are not subject to checks by monitoring. Where a Member State decides to do so, Article 40a(4) shall not apply in respect of the information notified to the beneficiaries in the framework of preliminary checks.';

(3) in the first subparagraph of Article 13(1), the second and third sentences are deleted;

(4) in Article 15, paragraph 2 is amended as follows:

(a) the first subparagraph is replaced by the following:

'Amendments made in accordance with paragraph 1 shall be notified to the competent authority by the final date fixed by the Member State.';

(b) in the second subparagraph, the first sentence is deleted;

(5) in the third subparagraph of Article 21(4), point (b) is replaced by the following:

'(b) the beneficiary is aware that any potentially eligible animals found not to be correctly identified or registered in the system for the identification and registration for animals shall count as animals non-determined in accordance with Article 31 of Delegated Regulation (EU) No 640/2014, unless they are covered by specific rules set out in Article 30(4) of that Regulation.';

(6) in Article 33a(1), the following subparagraph is added:

'Member States may decide to exclude from those follow-up on-the-spot checks beneficiaries whose reduced administrative penalty would correspond to the amounts for which Member States may decide not to pursue a recovery in accordance with point (a) of the first subparagraph of Article 54(3) of Regulation (EU) No 1306/2013.';

(7) in Article 40a(3), the second subparagraph is replaced by the following:

'The competent authority may decide to apply checks by monitoring to beneficiaries of an aid scheme or support measure in areas chosen on the basis of objective and non-discriminatory criteria. The competent authority shall substantially extend those areas in each consecutive year.'

(8) Article 40b is replaced by the following:

'*Article 40b*

Notifications

Member States shall notify the Commission by 1 February of each calendar year of their decision to opt for checks by monitoring in that calendar year and indicate all the schemes or measures or types of operations and all the areas subject to checks by monitoring.

The Commission shall provide by 1 November of each calendar year a template for the submission of the notifications detailing the elements to be included in such notification.';

(9) in Article 42(1), the second subparagraph is replaced by the following:

'Where the Member State has determined a period in accordance with Article 21(1)(d), at least 50 % of the minimum rate of on-the-spot checks provided for in Articles 32, 33 and 35, respectively, shall be spread throughout that period for the respective animal aid scheme or animal-related support measure. However, where no retention period is applied, where the retention period cannot be fixed in advance or where the retention period starts before an aid application or payment claim has been submitted, all on-the-spot checks referred to in Articles 32, 33 and 35 shall be spread over the period in which an animal may qualify for the payment or support.';

(10) Article 70b is replaced by the following:

'*Article 70b*

Notifications

Member States shall notify the Commission by 1 February of the calendar year in which they start carrying out checks by monitoring of their decision to opt for checks by monitoring in accordance with Article 70a.'.

Article 2

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, 26 March 2021.

For the Commission
The President
Ursula VON DER LEYEN