

COMMISSION IMPLEMENTING REGULATION (EU) No 147/2012

of 20 February 2012

amending Regulation (EU) No 65/2011 laying down detailed rules for the implementation of Council Regulation (EC) No 1698/2005, as regards the implementation of control procedures as well as cross-compliance in respect of rural development support measures

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 1698/2005 of 20 September 2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) ⁽¹⁾, and in particular Articles 51(4) and 74(4) and Article 91 thereof,

Whereas:

- (1) Article 6(2) of Commission Regulation (EU) No 65/2011 ⁽²⁾ contains definitions which, according to the text of that Article, are to apply only to Title I of Part II of that Regulation. However, the terms 'area-related measures' and 'animal-related measures' appear throughout the Regulation. Those terms should therefore be included in the list of definitions set out in Article 2 of the Regulation.
- (2) For the sake of consistency, in Article 31(a)(ii) of Regulation (EU) No 65/2011, the term 'area-related support' should be replaced by the term 'area-related measures'.
- (3) Commission Regulation (EC) No 1122/2009 of 30 November 2009 laying down detailed rules for the implementation of Council Regulation (EC) No 73/2009 as regards cross-compliance, modulation and the integrated administration and control system, under the direct support schemes for farmers provided for that Regulation, as well as for the implementation of Council Regulation (EC) No 1234/2007 as regards cross-compliance under the support scheme provided for the wine sector ⁽³⁾ has been amended to improve and simplify certain control rules as regards animal-related payments. For the sake of consistency with controls for animal-related measures under Regulation (EU) No 65/2011, corresponding rules should be included in that Regulation.
- (4) In accordance with Article 17(3) of Regulation (EU) No 65/2011, a bovine animal which has lost one of the two ear tags is to be deemed to belong to the animals determined provided that it is clearly and individually identified by the other elements of the system for the identification and registration of bovine animals. The system for the identification and registration of bovine animals is in general well established. Therefore, where one bovine animal has lost both ear tags and its identity can be established without any doubt it should also be

included in the number of animals determined and should be eligible for payment. This should, however, only apply if the farmer has taken measures to remedy the situation before the announcement of the on-the-spot check and, in order to avoid any risk of irregular payments, the application of this rule should be limited to one single animal.

- (5) A new improved system for the identification of ovine and caprine animals has been set up under 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 ⁽⁴⁾. A similar provision for ovine and caprine animals declared for payment should therefore be included in Article 17 of Regulation (EU) No 65/2011.
- (6) In accordance with Article 7(1) of Regulation (EU) No 65/2011, Article 16 of Regulation (EC) No 1122/2009 applies *mutatis mutandis* for the purposes of Title I of Part II of Regulation (EU) No 65/2011. While under the second subparagraph of Article 16(1) of Regulation (EC) No 1122/2009 beneficiaries of animal-related measures are required to inform the competent authorities about any change of location of the animals during the applicable retention period, it should be made clear that failure to do so should not lead to penalties if the animals concerned are immediately located within the holding during the on-the-spot check.
- (7) As regards the rules on reductions and exclusions set out in Article 17 of Regulation (EU) No 65/2011 and the order of reductions laid down in Article 22 of that Regulation, it should be made clear that offsetting in accordance with Commission Regulation (EC) No 885/2006 ⁽⁵⁾ should always be carried out last in the order of reductions pursuant to Article 22 of Regulation (EU) No 65/2011. Articles 17 and 22 of that Regulation should therefore be amended accordingly.
- (8) Regulation (EU) No 65/2011 should therefore be amended accordingly.
- (9) The measures provided for in this Regulation are in accordance with the opinion of the Rural Development Committee,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EU) No 65/2011 is amended as follows:

⁽¹⁾ OJ L 277, 21.10.2005, p. 1.

⁽²⁾ OJ L 25, 28.1.2011, p. 8.

⁽³⁾ OJ L 316, 2.12.2009, p. 65.

⁽⁴⁾ OJ L 5, 9.1.2004, p. 8.

⁽⁵⁾ OJ L 171, 23.6.2006, p. 90.

(1) in Article 2, the following definitions are added:

- (d) "Area-related measures" means measures or sub-measures for which support is based on the size of the area declared;
- (e) "Animal-related measures" means measures or sub-measures for which support is based on the number of animals declared.;

(2) in Article 6(2), points (a) and (b) are deleted;

(3) Article 17 is amended as follows:

- (a) in paragraph 3, the first subparagraph is replaced by the following:

'3. A bovine animal which has lost one of the two ear tags shall be deemed to belong to the animals determined provided that it is clearly and individually identified by the other elements of the system for the identification and registration of bovine animals. Furthermore, where one single bovine animal of a holding has lost two ear tags it shall be deemed to belong to the animals determined provided that the animal can still be identified by register, animal passport, database or other means laid down in Regulation (EC) No 1760/2000 of the European Parliament and of the Council (*) and provided that the keeper can provide evidence that he had already taken action to remedy the situation before the announcement of the on-the-spot check.

(*) OJ L 204, 11.8.2000, p. 1.;

- (b) the following paragraphs are inserted:

'3a. An ovine or caprine animal which has lost one ear tag shall be deemed to belong to the animals determined provided that the animal can still be identified by a first means of identification in accordance with Article 4(2)(a) of Council 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.

3b. Where a beneficiary has failed to inform the competent authorities pursuant to the second subparagraph of Article 16(1) of Regulation (EC) No 1122/2009 that animals were moved to another location during the retention period, the animals concerned shall be deemed to belong to the animals determined if the animals were immediately located within the holding during the on-the-spot check.

(*) OJ L 5, 9.1.2004, p. 8.;

- (c) in the third subparagraph of paragraph 5, the second sentence is deleted;

- (d) in the second subparagraph of paragraph 7, the second sentence is deleted;

- (e) the following paragraph is added:

'8. The amount resulting from the exclusions provided for in the third subparagraph of paragraph 5 and in the second subparagraph of paragraph 7 of this Article shall be offset in accordance with Article 5b of Commission Regulation (EC) No 885/2006. If the amount cannot be fully offset in accordance with that Article in the course of the 3 calendar years following the calendar year of the finding, the outstanding balance shall be cancelled.;

- (4) in Article 22, the sixth indent is replaced by the following:

'— finally, in accordance with Articles 16(7) and 17(8) of this Regulation.;

- (5) in Article 31(a), point (ii) is replaced by the following:

'(ii) for area-related measures, the total area broken down by individual aid scheme';

Article 2

This Regulation shall enter into force on the seventh day following 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, 20 February 2012.

For the Commission
The President
José Manuel BARROSO