

II

(Non-legislative acts)

REGULATIONS

COMMISSION IMPLEMENTING REGULATION (EU) 2018/252

of 19 February 2018

on exceptional market support measures for the poultry sector in France

THE EUROPEAN COMMISSION,

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

Having regard to 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 ⁽¹⁾, and in particular Article 220(1)(a) thereof,

Whereas:

- (1) Between 1 December 2016 and 30 June 2017, numerous outbreaks of highly pathogenic avian influenza of subtype H5 were confirmed and notified by France. In total, 486 outbreaks were confirmed in France. The species affected are ducks, geese, turkeys, Guinea fowls, quails, and *Gallus domesticus* chicks, chickens, cockerels, capons, poulards, young hens and laying hens.
- (2) France immediately and efficiently took all the necessary animal health and veterinary measures required in accordance with Council Directive 2005/94/EC ⁽²⁾.
- (3) In particular, France took control, monitoring and preventive measures and established protection and surveillance zones ('the regulated zones') pursuant to Commission Implementing Decisions (EU) 2017/247 ⁽³⁾, (EU) 2017/417 ⁽⁴⁾, (EU) 2017/554 ⁽⁵⁾, (EU) 2017/696 ⁽⁶⁾, (EU) 2017/780 ⁽⁷⁾ and (EU) 2017/1139 ⁽⁸⁾. In order to control and prevent the spread of the disease, France imposed two sets of measures, the first being restrictions to movements of birds, prohibition of placing of birds and prolonged fallowing periods in poultry holdings in the regulated zones established following an outbreak of highly pathogenic avian influenza of subtype H5; and the second being the implementation, in the ducks and geese holdings located in the zones regulated on 31 March 2017, of a further extension of fallowing periods and a prohibition of placing of birds until 28 May 2017.

⁽¹⁾ OJ L 347, 20.12.2013, p. 671.

⁽²⁾ Council Directive 2005/94/EC of 20 December 2005 on Community measures for the control of avian influenza and repealing Directive 92/40/EEC (OJ L 10, 14.1.2006, p. 16).

⁽³⁾ Commission Implementing Decision (EU) 2017/247 of 9 February 2017 on protective measures in relation to outbreaks of highly pathogenic avian influenza in certain Member States (OJ L 36, 11.2.2017, p. 62).

⁽⁴⁾ Commission Implementing Decision (EU) 2017/417 of 7 March 2017 amending the Annex to Implementing Decision (EU) 2017/247 on protective measures in relation to outbreaks of the highly pathogenic avian influenza in certain Member States (OJ L 63, 9.3.2017, p. 177).

⁽⁵⁾ Commission Implementing Decision (EU) 2017/554 of 23 March 2017 amending the Annex to Implementing Decision (EU) 2017/247 on protective measures in relation to outbreaks of the highly pathogenic avian influenza in certain Member States (OJ L 79, 24.3.2017, p. 15).

⁽⁶⁾ Commission Implementing Decision (EU) 2017/696 of 11 April 2017 amending the Annex to Implementing Decision (EU) 2017/247 on protective measures in relation to outbreaks of the highly pathogenic avian influenza in certain Member States (OJ L 101, 13.4.2017, p. 80).

⁽⁷⁾ Commission Implementing Decision (EU) 2017/780 of 3 May 2017 amending Implementing Decision (EU) 2017/247 on protective measures in relation to outbreaks of the highly pathogenic avian influenza in certain Member States (OJ L 116, 5.5.2017, p. 30).

⁽⁸⁾ Commission Implementing Decision (EU) 2017/1139 of 23 June 2017 amending the Annex to Implementing Decision (EU) 2017/247 on protective measures in relation to outbreaks of the highly pathogenic avian influenza in certain Member States (OJ L 164, 27.6.2017, p. 59).

- (4) In applying those measures, France managed to contain and eradicate the spread of the disease. The Union and national animal health and veterinary measures were applied until 29 September 2017 in all relevant holdings.
- (5) France informed the Commission that the necessary health and veterinary measures, which had been applied to contain and eradicate the spread of the disease, had affected a very large number of operators and that those operators suffered income losses not eligible for Union financial contribution under Regulation (EU) No 652/2014 of the European Parliament and of the Council ⁽¹⁾.
- (6) On 12 April, 3 August and 13 November 2017, the Commission received formal requests from France for part-financing of certain exceptional measures pursuant to Article 220(3) of Regulation (EU) No 1308/2013.
- (7) As a result of the animal health and veterinary measures applied, fallowing periods were prolonged, placing of birds was prohibited and movements were restricted on holdings of all types of poultry in the regulated zones established following outbreaks of highly pathogenic avian influenza of subtype H5. This concerned the following species: ducks, geese, turkeys, Guinea fowls, quails and *Gallus domesticus* chicks, chickens, cockerels, capons, poulards, young hens and laying hens. This led to a loss of production of poultry in these holdings. It is therefore appropriate to compensate these losses.
- (8) As a result of the animal health and veterinary measures applied, the placing of ducks and geese in all holdings located in the regulated zones was forbidden until 28 May 2017. This led to a loss of production of poultry meat in these ducks and geese holdings. It is therefore appropriate to compensate these losses.
- (9) In accordance with Article 220(5) of Regulation (EU) No 1308/2013, the Union part-financing has to be equivalent to 50 % of the expenditure borne by France for the exceptional market support measures. The maximum quantities eligible for financing in respect of each exceptional market support measure should be fixed by the Commission after scrutinising the request received from France.
- (10) To avoid any risk of overcompensation, the flat rate amount of part-financing should be based on technical and economic studies or accounting documents and fixed at an appropriate level for each animal and product according to the categories of animals produced in terms of species but also in terms of the production method, i.e. standard production, free range production, certified production under national scheme, certified production under the Label Rouge scheme, production covered by a Protected Geographical Indication (PGI), and, finally, in terms of the length of the supply chain, i.e. long supply chain for poultry producers who only produce live animals, short supply chain for poultry producers who produce live animals and transform them into processed products.
- (11) To avoid any risk of double funding, losses suffered should not have been compensated by state aid or insurance and the Union part-financing under this Regulation should be limited to eligible animals and products for which no Union financial contribution has been received under Regulation (EU) No 652/2014.
- (12) The extent and duration of the exceptional market support measures provided for in this Regulation should be limited to what is strictly necessary to support the market. In particular, the exceptional market support measures should apply only to the production of poultry in the holdings located in the regulated zones and for the duration of the animal health and veterinary measures laid down in the Union and French legislation relevant to the 486 outbreaks of highly pathogenic avian influenza confirmed between 1 December 2016 and 30 June 2017, and to the zones regulated on 31 March 2017.
- (13) To ensure flexibility in case the numbers of animals not produced and eligible for compensation differ from the maximum numbers set in this Regulation which are based on estimates, compensation may be adjusted within certain limits, as long as the maximum amount of expenditure part-financed by the Union is respected.

⁽¹⁾ Regulation (EU) No 652/2014 of the European Parliament and of the Council of 15 May 2014 laying down provisions for the management of expenditure relating to the food chain, animal health and animal welfare, and relating to plant health and plant reproductive material, amending Council Directives 98/56/EC, 2000/29/EC and 2008/90/EC, Regulations (EC) No 178/2002, (EC) No 882/2004 and (EC) No 396/2005 of the European Parliament and of the Council, Directive 2009/128/EC of the European Parliament and of the Council and Regulation (EC) No 1107/2009 of the European Parliament and of the Council and repealing Council Decisions 66/399/EEC, 76/894/EEC and 2009/470/EC (OJ L 189, 27.6.2014, p. 1).

- (14) For the sake of a sound budgetary management of these exceptional market support measures, only those payments made by France to beneficiaries by 30 September 2018 at the latest, should be eligible for Union part-financing. Article 5(2) of Commission Delegated Regulation (EU) No 907/2014 ⁽¹⁾ should not be applicable.
- (15) In order to ensure the eligibility and the correctness of the payments, France should carry out *ex-ante* checks.
- (16) To allow the Union to perform its financial control, France should communicate to the Commission the clearance of payments.
- (17) In order to ensure an immediate implementation of the measures laid down in this Regulation by France, this Regulation should enter into force on the day following that of its publication in the *Official Journal of the European Union*.
- (18) The measures provided for in this Regulation are in accordance with the opinion of the Committee for the Common Organisation of the Agricultural Markets,

HAS ADOPTED THIS REGULATION:

Article 1

The Union shall provide part-financing equivalent to 50 % of the expenditure borne by France to support the market of poultry seriously affected by the 486 outbreaks of highly pathogenic avian influenza of subtype H5 which were detected and notified by France between 1 December 2016 and 30 June 2017.

Article 2

Expenditure borne by France shall be eligible for Union part-financing only:

- (a) for the duration of the application of animal health and veterinary measures referred to in Union and French legislation listed in the Annex; and
- (b) for those poultry holdings that have been subject to the animal health and veterinary measures and located in the zones referred to in Union and French legislation listed in the Annex ('the regulated zones'); and
- (c) if it has been paid by France to the beneficiaries by 30 September 2018 at the latest. Article 5(2) of Delegated Regulation (EU) No 907/2014 shall not apply; and
- (d) if the animal or product, for the period referred to in paragraph a), has not benefitted from any compensation by means of state aid or insurance and for which no Union financial contribution has been received under Regulation (EU) No 652/2014.

Article 3

1. The maximum level of Union part-financing shall be EUR 32 500 000, detailed as follows:
 - (a) for loss of production of geese and ducks located in the regulated zones, the following flat rates shall apply per animal:
 - (i) for producers with a short supply chain:
 - Mulard ducks starter covered by CN code 0105 99 10:
EUR 0,24 per animal for a maximum of 420 877 animals,
 - Mulard ducks fattened covered by CN code 0105 99 10:
EUR 1,13 per animal for a maximum of 469 483 animals,
 - Mulard ducks finished covered by CN code 0105 99 10:
EUR 4,41 per animal for a maximum of 596 122 animals,

⁽¹⁾ Commission Delegated Regulation (EU) No 907/2014 of 11 March 2014 supplementing Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to paying agencies and other bodies, financial management, clearance of accounts, securities and use of euro (OJ L 255, 28.8.2014, p. 18).

- Mulard ducks covered by CN code 0105 99 10 whole carcasses:
EUR 2,20 per animal for a maximum of 624 494 animals,
 - Mulard ducks covered by CN code 0105 99 10 cut in pieces:
EUR 4,275 per animal for a maximum of 434 960 animals,
 - Mulard ducks covered by CN code 0105 99 10 processed:
EUR 19,055 per animal for a maximum of 152 038 animals,
 - Starter geese covered by CN code 0105 99 20:
EUR 2,455 per animal for a maximum of 5 625 animals,
 - Geese covered by CN code 0105 99 20 whole carcasses:
EUR 10,595 per animal for a maximum of 9 832 animals,
 - Geese covered by CN code 0105 99 20 processed:
EUR 23,33 per animal for a maximum of 3 004 animals,
 - Ducks covered by CN code 0105 99 10 for roasting:
EUR 5,16 per animal for a maximum of 215 animals,
 - Geese covered by CN code 0105 99 20 for roasting:
EUR 11,505 per animal for a maximum of 215 animals;
- (ii) for producers with a long supply chain:
- Mulard ducks starter standard, PGI and Label Rouge covered by CN code 0105 99 10:
EUR 0,24 per animal for a maximum of 7 681 851 animals,
 - Mulard ducks fattened standard covered by CN code 0105 99 10:
EUR 0,515 per animal for a maximum of 456 754 animals,
 - Mulard ducks fattened PGI covered CN code 0105 99 10:
EUR 0,68 per animal for a maximum of 6 464 618 animals,
 - Mulard ducks fattened Label Rouge covered by CN code 0105 99 10:
EUR 0,81 per animal for a maximum of 724 618 animals,
 - Mulard ducks finished standard covered by CN code 0105 99 10:
EUR 1,48 per animal for a maximum of 776 279 animals,
 - Mulard ducks finished PGI covered by CN code 0105 99 10:
EUR 1,645 per animal for a maximum of 5 929 395 animals,
 - Mulard ducks finished Label Rouge covered by CN code 0105 99 10:
EUR 2,63 per animal for a maximum of 633 228 animals,
 - Muscovy ducks standard covered by CN code 0105 99 10:
EUR 0,48 per animal for a maximum of 104 958 animals,
 - Muscovy ducks certified covered by CN code 0105 99 10:
EUR 0,585 per animal for a maximum of 215 animals,
 - Muscovy ducks Label Rouge covered by CN code 0105 99 10:
EUR 0,625 per animal for a maximum of 215 animals,
 - Mallard ducks covered by CN code 0105 99 10:
EUR 1,1325 per animal for a maximum of 2 000 animals,

- Geese fattened covered by CN code 0105 99 20:
EUR 2,855 per animal for a maximum of 26 572 animals,
- Geese finished covered by CN code 0105 99 20:
EUR 5,54 per animal for a maximum of 19 082 animals;
- (b) for loss of production of poultry other than ducks and geese located in the regulated zones, the following flat rates shall apply per animal and per day:
 - (i) for producers with a short supply chain:
 - Chickens covered by CN code 0105 94 00, whole carcasses:
EUR 0,02459 per animal and per day for a maximum of 178 319 animals,
 - Chickens covered by CN code 0105 94 00, cut in pieces:
EUR 0,03776 per animal and per day for a maximum of 2 097 animals,
 - Chickens covered by CN code 0105 94 00, processed:
EUR 0,086 per animal and per day for a maximum of 705 animals,
 - Guinea fowls covered by CN code 0105 99 50, whole carcasses:
EUR 0,021335 per animal and per day for a maximum of 4 181 animals,
 - Guinea Fowls covered by CN code 0105 99 50, cut in pieces:
EUR 0,032765 per animal and per day for a maximum 215 animals,
 - Turkeys covered by CN code 0105 99 30, whole carcasses:
EUR 0,045895 per animal and per day for a maximum of 215 animals,
 - Turkeys covered by CN code 0105 99 30, cut in pieces:
EUR 0,070485 per animal and per day for a maximum of 215 animals,
 - Capons covered by CN code 0105 94 00, whole carcasses:
EUR 0,038595 per animal and per day for a maximum of 215 animals,
 - Poulards covered by CN code 0105 94 00, whole carcasses:
EUR 0,045085 per animal and per day for a maximum of 215 animals,
 - (ii) for producers with a long supply chain:
 - Standard chickens and cockerels covered by CN code 0105 94 00:
EUR 0,00191 per animal and per day for a maximum of 2 235 243 animals,
 - Label Rouge or free range chickens covered by CN code 0105 94 00:
EUR 0,004165 per animal and per day for a maximum of 5 904 353 animals,
 - Organic chickens covered by CN code 0105 94 00:
EUR 0,00505 per animal and per day for a maximum of 295 130 animals,
 - Standard Guinea fowls covered by CN code 0105 99 50:
EUR 0,002325 per animal and per day for a maximum of 25 166 animals,
 - Label Rouge and free range Guinea fowls covered by CN code 0105 99 50:
EUR 0,003655 per animal and per day for a maximum of 484 740 animals,
 - Standard turkeys covered by CN code 0105 99 30:
EUR 0,005195 per animal and per day for a maximum of 66 237 animals,
 - Label Rouge and free range turkeys covered by CN code 0105 99 30:
EUR 0,00654 per animal and per day for a maximum of 215 animals,

- Standard quails covered by CN code 0106 39 80:
EUR 0,000605 per animal and per day for a maximum of 2 407 761 animals,
 - Label Rouge and free range quails covered by CN code 0106 39 80:
EUR 0,00107 per animal and per day for a maximum of 922 861 animals,
 - Capons covered by CN code 0105 94 00:
EUR 0,009475 per animal and per day for a maximum of 215 animals,
 - Poulards covered by CN code 0105 94 00:
EUR 0,006575 per animal and per day for a maximum of 215 animals;
- (iii) for producers of starter chicks:
- Starter chicken covered by CN code 0105 94 00:
EUR 0,013135 per animal and per day for a maximum of 135 489 animals,
 - Starter Guinea fowls covered by CN code 0105 99 50:
EUR 0,00812 per animal and per day for a maximum of 5 004 animals,
 - Starter turkeys covered by CN code 0105 99 30:
EUR 0,01261 per animal and per day for a maximum of 215 animals;
- (iv) for producers of laying hens:
- Standard young hens for laying covered by CN code 0105 94 00:
EUR 0,00182 per animal and per day for a maximum of 127 001 animals,
 - Young hens for laying in barn covered by CN code 0105 94 00:
EUR 0,002545 per animal and per day for a maximum of 25 460 animals,
 - Young organic hens for laying covered by CN code 0105 94 00:
EUR 0,00197 per animal and per day for a maximum of 215 animals,
 - Laying hens in cage covered by CN code 0105 94 00:
EUR 0,004275 per animal and per day for a maximum of 118 675 animals,
 - Laying hens in barn covered by CN code 0105 94 00:
EUR 0,00575 per animal and per day for a maximum of 215 animals,
 - Free range laying hens covered by CN code 0105 94 00:
EUR 0,00867 per animal and per day for a maximum of 33 273 animals,
 - Label rouge laying hens covered by CN code 0105 94 00:
EUR 0,009585 per animal and per day for a maximum of 215 animals,
 - Organic laying hen covered by CN code 0105 94 00:
EUR 0,01306 per animal and per day for a maximum of 46 887 animals.

2. Where the number of animals not produced and eligible for compensation exceeds the maximum number of animals per item set in paragraph 1, expenditure eligible for Union part-financing may be adjusted per item and go beyond the amounts resulting from the application of the maximum numbers of animals per item, provided that the total of adjustments remains below 10 % of the maximum level of expenditure part-financed by the Union referred to in Article 3(1).

Article 4

France shall carry out administrative and physical checks in accordance with Articles 58 and 59 of Regulation (EU) No 1306/2013 of the European Parliament and of the Council ⁽¹⁾.

In particular, France shall verify:

- (a) the eligibility of the applicant submitting the request for support;
- (b) for each eligible applicant: the eligibility, the quantity and the value of the actual loss of production;
- (c) that funding has not been received by any eligible applicant from any other sources to compensate the losses referred to in Article 2.

For eligible applicants for which administrative checks are completed, aid can be paid without waiting for all checks being made, notably those on applicants selected for on-the-spot checks.

In cases where the eligibility of an applicant was not confirmed, the aid shall be recovered and sanctions applied.

Article 5

France shall communicate to the Commission the clearance of payments.

Article 6

This Regulation shall enter into force on the 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, 19 February 2018.

For the Commission
The President
Jean-Claude JUNCKER

⁽¹⁾ 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 (OJ L 347, 20.12.2013, p. 549).

ANNEX

Regulated zones and periods as referred to in Article 2

Parts of France and periods established in accordance with Directive 2005/94/EC and defined in:

- Commission Implementing Decision (EU) 2017/247 of 9 February 2017 on protective measures in relation to outbreaks of highly pathogenic avian influenza in certain Member States (OJ L 36, 11.2.2017, p. 62),
 - Commission Implementing Decision (EU) 2017/417 of 7 March 2017 amending Implementing Decision (EU) 2017/247 on protective measures in relation to outbreaks of the highly pathogenic avian influenza in certain Member States (OJ L 63, 9.3.2017, p. 177),
 - Commission Implementing Decision (EU) 2017/554 of 23 March 2017 amending Implementing Decision (EU) 2017/247 on protective measures in relation to outbreaks of the highly pathogenic avian influenza in certain Member States (OJ L 79, 24.3.2017, p. 15),
 - Commission Implementing Decision (EU) 2017/696 of 11 April 2017 amending Implementing Decision (EU) 2017/247 on protective measures in relation to outbreaks of the highly pathogenic avian influenza in certain Member States (OJ L 101, 13.4.2017, p. 80),
 - Commission Implementing Decision (EU) 2017/780 of 3 May 2017 amending Implementing Decision (EU) 2017/247 on protective measures in relation to outbreaks of the highly pathogenic avian influenza in certain Member States (OJ L 116, 5.5.2017, p. 30),
 - Commission Implementing Decision (EU) 2017/1139 of 23 June 2017 amending the Annex to Implementing Decision (EU) 2017/247 on protective measures in relation to outbreaks of the highly pathogenic avian influenza in certain Member States (OJ L 164, 27.6.2017, p. 59),
 - Order of 31 March 2017 establishing additional arrangements for prevention, surveillance and to combat highly pathogenic avian influenza in some parts of the territory (Official Journal of the French Republic of 2.4.2017, text 24 of 71),
 - Prefectural Orders declaring an infection following outbreaks of highly pathogenic avian influenza confirmed between 1 December 2016 and 30 June 2017,
 - Prefectural Orders withdrawing declarations of infection following outbreaks of highly pathogenic avian influenza confirmed between 1 December 2016 and 30 June 2017,
-