

II

(Non-legislative acts)

REGULATIONS

COUNCIL REGULATION (EU) 2016/795

of 11 April 2016

amending Regulation (EU) No 1370/2013 determining measures on fixing certain aids and refunds related to the common organisation of the markets in agricultural products

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 43(3) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) Article 43(3) of the Treaty provides that the Council, on a proposal from the Commission, is to adopt measures on fixing aid.
- (2) Articles 5 and 6 of Council Regulation (EU) No 1370/2013 ⁽¹⁾ fix the amount of Union aid under the school fruit and vegetables scheme and the school milk scheme, as provided for by Regulation (EU) No 1308/2013 of the European Parliament and of the Council ⁽²⁾, set out certain rules on the extent of the aid and its allocation to Member States in the case of the school fruit and vegetables scheme and fix the maximum quantity of products eligible for aid in the case of the school milk scheme.
- (3) Section 1 of Chapter II of Title I of Part II of Regulation (EU) No 1308/2013, as amended by Regulation (EU) 2016/791 of the European Parliament and of the Council ⁽³⁾, provides for a new common framework for the Union aid for the supply of fruit and vegetables, processed fruit and vegetables and fresh products of the banana sector ('school fruit and vegetables') and of milk and milk products ('school milk') to children in educational establishments ('the school scheme').
- (4) Regulation (EU) No 1308/2013 provides for Union aid for accompanying educational measures that support the supply and distribution of school fruit and vegetables and school milk, as well as for Union aid covering certain costs related to such supply and distribution. In order to ensure sound budgetary management, a maximum level of Union aid for the financing of those accompanying educational measures and of those related costs should be fixed.

⁽¹⁾ Council Regulation (EU) No 1370/2013 of 16 December 2013 determining measures on fixing certain aids and refunds related to the common organisation of the markets in agricultural products (OJ L 346, 20.12.2013, p. 12).

⁽²⁾ 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 (OJ L 347, 20.12.2013, p. 671).

⁽³⁾ Regulation (EU) 2016/791 of the European Parliament and of the Council of 11 May 2016 amending Regulations (EU) No 1308/2013 and (EU) No 1306/2013 as regards the aid scheme for the supply of fruit and vegetables, bananas and milk in educational establishments (see page 1 of this Official Journal).

- (5) Regulation (EU) No 1308/2013 provides for Union aid for the supply and distribution of drinking milk and lactose-free versions thereof to children in educational establishments and allows Member States to provide for the distribution of certain milk products other than such drinking milk, as well as of products listed in Annex V to that Regulation. While Regulation (EU) No 1308/2013 does not provide for maximum amounts of Union aid for agricultural products, it limits Union aid to the milk component of non-agricultural products listed in Annex V to that Regulation. To ensure the proper functioning of that aid and to ensure flexibility in the administration of the school scheme, the maximum amount of Union aid for that milk component should be fixed.
- (6) Regulation (EU) No 1308/2013 lays down the overall annual amount of Union aid for the Union as a whole and objective criteria for the allocation of that overall amount among Member States. Annual indicative allocations should therefore be fixed for each Member State. In order to allow Member States with a limited demographic size to implement a cost-effective scheme, a minimum amount of Union aid to which Member States are entitled should be fixed. Given that Croatia joined the Union on 1 July 2013, the criterion of the historical use of Union aid for the supply of milk and milk products to children should not apply to it until 1 August 2023.
- (7) In order to ensure the efficient and targeted use of Union funds, provision should be made for the reallocation, within the limits set out in Regulation (EU) No 1308/2013, of indicative allocations that have not been applied for by Member States, either in whole or in part, to other Member States, without exceeding the overall annual limit for Union aid provided for in Regulation (EU) No 1308/2013.
- (8) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission relating to: the fixing of the maximum level of Union aid per category of related costs; the fixing, after a 6-year transitional period, of indicative allocations of Union aid to each Member State; the fixing, where necessary and upon assessment, of new indicative allocations; the measures necessary for the reallocation of indicative allocations among Member States; and the fixing of definitive allocations for each Member State. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council ⁽¹⁾.
- (9) Regulation (EU) No 1370/2013 should therefore be amended accordingly. To take into account the periodicity of the school year, the new rules should become applicable as from 1 August 2017,

HAS ADOPTED THIS REGULATION:

Article 1

Amendments to Regulation (EU) No 1370/2013

Regulation (EU) No 1370/2013 is amended as follows:

- (1) Articles 5 and 6 are replaced by the following:

'Article 5

Aid for the supply of school fruit and vegetables and of school milk, accompanying educational measures and related costs

1. Union aid for the financing of accompanying educational measures as referred to in point (b) of Article 23(1) of Regulation (EU) No 1308/2013 shall not exceed 15 % of Member States' annual definitive allocations as referred to in paragraph 6 of this Article.

⁽¹⁾ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

2. Union aid for related costs as referred to in point (c) of Article 23(1) of Regulation (EU) No 1308/2013 shall in total not exceed 10 % of Member States' annual definitive allocations as referred to in paragraph 6 of this Article.

The Commission shall adopt implementing acts fixing the maximum level of Union aid per category of such costs as a percentage of Member States' annual definitive allocations or as a percentage of the costs of the products concerned.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 15(2) of this Regulation.

3. The amount of Union aid for the milk component of the products referred to in Article 23(5) of Regulation (EU) No 1308/2013 shall not exceed EUR 27/100 kg.

4. The aid referred to in Article 23(1) of Regulation (EU) No 1308/2013 shall be allocated to each Member State in accordance with this paragraph and taking into account the criteria laid down in the first subparagraph of Article 23a(2) of Regulation (EU) No 1308/2013.

From 1 August 2017 until 31 July 2023, the indicative allocations of the aid referred to in points (a) and (b) of the second subparagraph of Article 23a(1) of Regulation (EU) No 1308/2013 for each Member State shall be as set out in Annex I. During that period, point (c) of the first subparagraph of Article 23a(2) of Regulation (EU) No 1308/2013 shall not apply to Croatia.

From 1 August 2023, the Commission shall adopt implementing acts fixing, on the basis of the criteria referred to in the first subparagraph of Article 23a(2) of Regulation (EU) No 1308/2013, the indicative allocations to each Member State of the aid referred to in points (a) and (b) of the second subparagraph of Article 23a(1) of that Regulation. However, Member States shall each receive at least EUR 290 000 of Union aid for the distribution of school fruit and vegetables and at least EUR 193 000 of Union aid for the distribution of school milk, as defined in Article 23(2) of Regulation (EU) No 1308/2013.

The Commission shall subsequently assess at least every 3 years whether those indicative allocations remain consistent with the criteria laid down in Article 23a(2) of Regulation (EU) No 1308/2013. Where necessary, the Commission shall adopt implementing acts fixing new indicative allocations.

The implementing acts referred to in this paragraph shall be adopted in accordance with the examination procedure referred to in Article 15(2) of this Regulation.

5. Where, for a given year, a Member State has not submitted a request for Union aid in accordance with Article 23a(3) of Regulation (EU) No 1308/2013 or has requested only part of its indicative allocation as referred to in paragraph 4 of this Article, the Commission shall reallocate that indicative allocation or the unrequested part thereof to those Member States who have notified it of their willingness to use more than their indicative allocation.

The Commission shall, by means of implementing acts, adopt the measures necessary for carrying out such a reallocation, which shall be based on the criterion referred to in point (a) of the first subparagraph of Article 23a(2) of Regulation (EU) No 1308/2013 and limited according to the level of use of the definitive allocation of Union aid as referred to in paragraph 6 of this Article by the Member State concerned for the school year that ended prior to the annual request for Union aid.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 15(2) of this Regulation.

6. Following the requests submitted by the Member States in accordance with Article 23a(3) of Regulation (EU) No 1308/2013, the Commission shall each year adopt implementing acts fixing the definitive allocation of aid for school fruit and vegetables and for school milk among participating Member States within the limits set out in Article 23a(1) of Regulation (EU) No 1308/2013, taking account of the transfers referred to in Article 23a(4) of that Regulation.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 15(2) of this Regulation.;

(2) the following Annex is inserted:

'ANNEX I

INDICATIVE ALLOCATIONS

for the period 1 August 2017 to 31 July 2023

(as referred to in the second subparagraph of Article 5(4))

Member State	Indicative allocation for school fruit and vegetables	Indicative allocation for school milk
Belgium	3 367 930	1 650 729
Bulgaria	2 093 779	1 020 451
Czech Republic	3 123 230	1 600 707
Denmark	1 807 661	1 460 645
Germany	19 696 932	9 404 154
Estonia	439 163	700 309
Ireland	1 757 779	900 398
Greece	3 218 885	1 550 685
Spain	12 932 647	6 302 784
France	22 488 086	12 625 577
Croatia	1 360 232	800 354
Italy	16 711 302	8 003 535
Cyprus	290 000	500 221
Latvia	633 672	700 309
Lithuania	900 888	1 032 456
Luxembourg	290 000	193 000
Hungary	3 029 587	1 756 776
Malta	290 000	193 000

Member State	Indicative allocation for school fruit and vegetables	Indicative allocation for school milk
Netherlands	5 431 641	2 401 061
Austria	2 238 064	1 100 486
Poland	11 639 985	10 204 507
Portugal	3 283 397	2 220 981
Romania	6 866 848	10 399 594
Slovenia	554 020	320 141
Slovakia	1 708 720	900 398
Finland	1 599 047	3 824 689
Sweden	2 854 972	8 427 723
United Kingdom	19 391 534	9 804 331
Total	150 000 000	100 000 000'

(3) the Annex is numbered as 'Annex II'.

Article 2

Entry into force and application

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

It shall apply from 1 August 2017.

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

Done at Luxembourg, 11 April 2016.

For the Council
The President
M.H.P. VAN DAM