Recitals

1) In the light of the experience gained after the introduction of the payment for agricultural practices beneficial for the climate and the environment (hereinafter: the “greening payment”) as defined in Chapter 3 of Title III of Regulation (EU) No 1307/2013(1), it appears appropriate to simplify certain rules regarding the basis and modalities for the calculation of the greening payment.

2) Within the integrated administration and control system, the calculation of the aid to which the beneficiary is entitled to is based on the concept of crop group. It appears however that such a definition is not necessary in the specific context of the greening payment since the greening payment is to be based on the total area of the holding. For the purpose of simplification, the concept of crop group should therefore be abolished for the greening payment.

3) Articles 24 and 26 of Commission Delegated Regulation (EU) No 640/2014(2) lay down the rules for the calculation of the reduction of the greening payment in case of non-compliance with respectively the crop diversification requirements and the ecological focus area requirements. These calculations involve a ratio of difference and a reduction factor of 50%. For the sake of clarification without altering the level of the reductions, it is

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justified to reformulate the provisions and replace the ratio of difference as well as the reduction factor of 50% by a multiplier.

4) For the purpose of striking a better balance between the level of severity of the reductions and the need to preserve proportionate and fair reductions, it is appropriate to amend Article 24 to alleviate the greening reductions in case where the crop diversification obligation requires three different crops to be grown.

5) In order to avoid the situation where the Member States would have to adapt their systems of payments calculation for claim year 2016 during the payment period, and also to give predictability to beneficiaries as to which rules are applicable for the payment calculation, this Regulation shall apply on 15 October 2017.

SECTION 3
PAYMENT FOR AGRICULTURAL PRACTICES BENEFICIAL FOR THE CLIMATE AND THE ENVIRONMENT

Article 22
General principles

For the purposes of this Section, where the same area is determined for more than one greening practice as referred to in Article 43(2) of Regulation (EU) No 1307/2013, that area shall be taken into account separately to assess the compliance for each greening practice in view of calculating the greening payment.

Article 23
Basis of calculation of the payment for agricultural practices beneficial for the climate and the environment in respect of the eligible hectares declared under the basic payment scheme or the single area payment scheme

1. Where the Member State applies the basic payment scheme, the following shall apply:
   (a) if the number of payment entitlements declared exceeds the number of payment entitlements at the beneficiary's disposal, the number of payment entitlements declared shall be reduced to the number of payment entitlements at the beneficiary's disposal;
   (b) if there is a difference between the number of payment entitlements declared and the area declared, the area declared shall be adjusted to the lowest figure.

2. Without prejudice to the administrative penalties applicable in accordance with Article 28, if the area declared in a single application for the basic payment or the single area payment exceeds the area determined, the area determined shall be used for the calculation of the greening payment for agricultural practices beneficial for the climate and the environment hereinafter referred to as "the greening payment".

However, if the area determined for the basic payment scheme or the single area payment scheme is found to be greater than the area declared in the aid application, the area declared shall be used for the calculation of the greening payment.
Article 24
Reduction of the greening payment in case of non-compliance with crop diversification

1. Where the first subparagraph of Article 44(1) of Regulation (EU) No 1307/2013 requires at least two different crops, but the area determined for the main crop covers more than 75% of the total area of arable land determined, the area to be used for the calculation of the greening payment in accordance with Article 23 of this Regulation shall be reduced by 2 times the area of the main crop in excess of the 75% referred to above.

2. Where the second subparagraph of Article 44(1) of Regulation (EU) No 1307/2013 requires at least three different crops, but the area determined for the main crop covers more than 75% of the total area of arable land determined, the area to be used for the calculation of the greening payment in accordance with Article 23 of this Regulation shall be reduced by the area of the main crop in excess of the 75% referred to above.

3. Where the second subparagraph of Article 44(1) of Regulation (EU) No 1307/2013 requires at least three different crops, but the area determined for the two main crops covers more than 95% of the total area of arable land determined, the area to be used for the calculation of the greening payment in accordance with Article 23 of this Regulation shall be reduced by 5 times the area of the two main crops in excess of the 95% referred to above.

3a. Where Article 44(2) of Regulation (EU) No 1307/2013 requires that the main crop on the remaining arable land shall not cover more than 75% of that remaining arable land, but the area determined for the main crop on the remaining arable land determined covers more than 75%, the area to be used for the calculation of the greening payment in accordance with Article 23 of this Regulation shall be reduced by 2 times the area of the main crop in excess of the 75% referred to above.

4. Where a beneficiary has been found non-compliant with crop diversification as described in this Article for three years, the area by which the area to be used for the calculation of the greening payment is to be reduced in accordance with paragraphs 1, 2, 3 and 3a for the subsequent years shall be multiplied by 2.

Article 25
Reduction of the greening payment in case of non-compliance with the permanent grassland requirements

1. If a non-compliance with the third subparagraph of Article 45(1) of Regulation (EU) No 1307/2013 has been determined, the area to be used for the calculation of the greening payment in accordance with Article 23 of this Regulation shall be reduced by the area determined as non-compliant with the requirements in the third subparagraph of Article 45(1) of Regulation (EU) No 1307/2013.

2. If a non-compliance with the obligations as referred to in Article 44 of Delegated Regulation (EU) No [DA DPR] has been determined, the area to be used for the calculation of the greening payment in accordance with Article 23 of this Regulation shall be reduced by the area determined as non-compliant with the obligations as referred to in Article 44 of Delegated Regulation (EU) No [DA DPR].
3. Non-compliances shall be deemed to be 'determined' if they are established as a consequence of any kind of checks carried out in accordance with Article 74 of Regulation (EU) No 1306/2013 or after having been brought to the attention of the competent control authority or paying agency in whatever other way.

Article 26
Reduction of the greening payment in case of non-compliance with the ecological focus area requirements

1. The ecological focus area required in accordance with Article 46(1) of Regulation (EU) No 1307/2013, hereinafter referred to as "the ecological focus area required", shall be calculated on the basis of the total area of arable land determined and including, if applicable pursuant to Article 46(2) of Regulation (EU) No 1307/2013, the areas determined as referred to in points (c), (d), (g) and (h) of the first subparagraph of Article 46(2) of that Regulation.

2. If the ecological focus area required exceeds the ecological focus area determined taking account of the weighting of ecological focus areas provided for in Article 46(3) of Regulation (EU) No 1307/2013, the area to be used for the calculation of the greening payment in accordance with Article 23 of this Regulation shall be reduced by 10 times the ecological focus area not found.

For the purpose of the first subparagraph the ecological focus area determined shall not exceed the share of the ecological focus areas declared in the total area of arable land declared.

3. Where a beneficiary has been found non-compliant with the ecological focus area requirements as described in this Article for three years, the area by which the area to be used for the calculation of the greening payment is to be reduced in accordance with paragraph 2 for the subsequent years shall be multiplied by 2.

Article 27
Maximum reduction of the greening payment

1. The sum of the reductions calculated in accordance with Articles 24 and 26 expressed in hectares shall not exceed the total number of hectares of arable land determined including, if applicable pursuant to Article 46(2) of Regulation (EU) No 1307/2013, the areas determined as referred to in points (c), (d), (g) and (h) of the first subparagraph of Article 46(2) of that Regulation.

2. Without prejudice to the application of administrative penalties applicable in accordance with Article 28, the total reduction calculated in accordance with Articles 24 to 26 shall not exceed the greening payment calculated in accordance with Article 23.

Article 28
Administrative penalties as regards the greening payment

1. If the area to be used for the calculation of the greening payment in accordance with Article 23 differs from the area to be used for the calculation of the greening payment after application of Articles 24 to 27, the greening payment shall be calculated on this later area reduced by twice the difference established if that
difference is more than either 3% or two hectares, but no more than 20% of the area to be used for the calculation of the greening payment after application of Articles 24 to 27.

If the difference is more than 20%, no aid shall be granted.

If the difference is more than 50%, no aid shall be granted. Moreover, the beneficiary shall be subject to an additional penalty equal to the amount of aid corresponding to the difference between the area to be used for the calculation of the greening payment in accordance with Article 23 and the area to be used for calculation of the greening payment after application of Articles 24 to 27.

2. If the beneficiary does not declare all his area under arable land with the result that he would have been exempted from the obligations provided for in Articles 44, 45 and 46 of Regulation (EU) No 1307/2013, and/or he does not declare all his permanent grassland which is environmentally sensitive in accordance with Article 45(1) of that Regulation and the non-declared area is more than 0.1ha, the area to be used for the calculation of the greening payment after application of Articles 24 to 27 of this Regulation shall be further reduced by 10%.

3. In accordance with Article 77(6) of Regulation (EU) No 1306/2013, the administrative penalty calculated in accordance with paragraphs 1 and 2 of this Article shall not be applied in claim years 2015 and 2016. The administrative penalty calculated in accordance with paragraph 1 and 2 shall be divided by 5 and limited to 20% of the amount of the greening payment to which the farmer concerned would have been entitled in accordance with Article 23 in claim year 2017, and divided by 4 and limited to 25% of the same amount for claim years 2018 and onwards.

4. If the amount of the administrative penalties calculated in accordance with paragraphs 1, 2 and 3 cannot be fully off-set in the course of the three calendar years following the calendar year of the finding, in accordance with Article 28 of Implementing Regulation (EU) No 908/2014, the outstanding balance shall be cancelled.

Article 29

Applicable rules for equivalent practices

This Section shall apply mutatis mutandis to the equivalent practices referred to in Article 43(3) of Regulation (EU) No 1307/2013.