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COUNCIL REGULATION (EC) No 1251/1999
of 17 May 1999
establishing a support system for producers of certain arable crops

(OJ L 160, 26.6.1999, p. 1)

Amended by:

	Official Journal		
	No	page	date
► <u>M1</u> Council Regulation (EC) No 2704/1999 of 14 December 1999	L 327	12	21.12.1999
► <u>M2</u> Council Regulation (EC) No 1672/2000 of 27 July 2000	L 193	13	29.7.2000
► <u>M3</u> Council Regulation (EC) No 1038/2001 of 22 May 2001	L 145	16	31.5.2001

Amended by:

► <u>A1</u> Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded	L 236	33	23.9.2003
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**COUNCIL REGULATION (EC) No 1251/1999
of 17 May 1999**

establishing a support system for producers of certain arable crops

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 36 and 37 thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the European Parliament ⁽²⁾,

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

Having regard to the opinion of the Committee of the Regions ⁽⁴⁾,

Having regard to the opinion of the European Court of Auditors ⁽⁵⁾,

- (1) Whereas the common agricultural policy aims to attain the objectives referred to in Article 33 of the Treaty, taking account of the market situation;
- (2) Whereas, in order to ensure better market balance, a new scheme of support was introduced by Council Regulation (EEC) No 1765/92 of 30 June 1992 establishing a support system for producers of certain arable crops ⁽⁶⁾;
- (3) Whereas, after the 1992 reform of the common agricultural policy, there has been a particular improvement of market balances;
- (4) Whereas set-aside under the support system for producers of certain arable crops, introduced in 1992 in addition to a lowering of the intervention price, has helped to keep production under control, while increased price competitiveness has allowed significant additional cereals quantities to be used on the domestic market, mainly for animal feed;
- (5) Whereas the support on the basis of the scheme introduced in 1992 should be continued, taking into account, however, market developments and experience acquired in applying the current scheme;
- (6) Whereas Member States may, under certain conditions, make grass silage eligible for area payments under this regime;
- (7) Whereas the reform of the support scheme has to take into account the international obligations of the Community;
- (8) Whereas the best way to achieve market balance is to approximate the Community prices of cereals to the prices on the world market and to provide for non-crop specific area payments;
- (9) Whereas area payments should be revised if the market conditions differ from those currently foreseen;
- (10) Whereas the area eligible should be restricted to the area down to arable crops or publicly funded set aside in the past;
- (11) Whereas, when the sum of the areas for which payment is claimed under the scheme is in excess of the base area, a reduction of the eligible area per farm should be provided for in order to ensure market balance;

⁽¹⁾ OJ C 170, 4.6.1998, p. 4.

⁽²⁾ Opinion delivered on 6 May 1999 (not yet published in the Official Journal).

⁽³⁾ OJ C 284, 14.9.1998, p. 55.

⁽⁴⁾ OJ C 93, 6.4.1999, p. 1.

⁽⁵⁾ OJ C 401, 22.12.1998, p. 3.

⁽⁶⁾ OJ L 181, 1.7.1992, p. 12. Regulation as last amended by Regulation (EC) No 1624/98 (OJ L 210, 28.7.1998, p. 3).

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- (12) Whereas Member States may apply one or more national base areas; whereas it is considered appropriate that the Member States which choose this option should be able to divide each national base area into sub-base areas; whereas, when a national base area has been exceeded, the Member State concerned should be allowed to concentrate the application of the measures totally or partially on those areas for which the overshoot has been noted;
- (13) Whereas area payments should reflect the specific structural characteristics that influence yield; whereas the drawing up of a regionalisation plan based on objective criteria should be left to the Member States; whereas uniform average yields should be established by the regionalisation plans; whereas these plans should be consistent with the average yields of each region achieved in a given period, taking into account any structural differences between production regions; whereas a specific procedure should be provided in order to examine these plans at Community level;
- (14) Whereas differentiation of yields may be permitted for irrigated and non-irrigated areas provided that a separate base area for irrigated crops is established and there is no extension of the total base area;
- (15) Whereas maize has a different yield which distinguishes it from other cereals and therefore may justify a separate treatment;
- (16) Whereas, in order to calculate the area payment, a basic amount per tonne should be multiplied by the 'average cereals yield' determined for the region concerned; whereas when different yields for maize and for other cereals are fixed, separate base areas for maize should be established;
- (17) Whereas a single basic amount should be fixed for arable crops; whereas the basic amounts per tonne should be increased taking into account the reduction in several steps in the cereals intervention price; whereas a specific aid should be established for protein crops in order to preserve their competitiveness with cereals;
- (18) Whereas in the case of a final reduction in intervention price the basic amount shall be increased applying the same compensation rate as that used in the 2000/2001 and 2001/2002 marketing years;
- (19) Whereas a special scheme for durum wheat should be established to ensure a durum wheat production level which is sufficient to supply user industries while keeping budgetary expenditure in check; whereas that objective should be achieved by introducing a supplement limited, for each Member State concerned, to a maximum area of durum wheat; whereas any overshoot of those areas should lead to an adjustment to the applications submitted;
- (20) Whereas, moreover, in some Member States, the production of durum wheat is well established in regions outside traditional zones; whereas it is desirable to safeguard a certain level of production in those regions by the grant of special aid;
- (21) Whereas, in order to benefit from the area payments, producers should set aside a predetermined percentage of their arable area; whereas the land set aside should be cared for so as to meet certain minimum environmental standards; whereas the areas set aside should also be eligible for use for non-food purposes, provided effective control systems can be applied;
- (22) Whereas in the current market situation, the set-aside requirement should be reduced to 10 % for the period 2000-2006; whereas this percentage should be re-examined to take account of production and market developments;

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- (23) Whereas the set-aside obligation should be subject to due compensation; whereas the compensation should be equivalent to the area payments for cereals;
- (24) Whereas no set-aside requirement should be imposed for small producers whose claim for area payments is below a certain level, whereas this level should be fixed;
- (25) Whereas for voluntary set-aside, producers may be granted set-aside payment for land additionally set-aside; whereas a maximum area limit should be fixed by Member States;
- (26) Whereas area payments should be paid once a year for a given area; whereas areas not cultivated immediately before the entry into force of the scheme established by Regulation (EEC) No 1765/92 should not be eligible for payment; whereas to take account of certain specific situations, where this provision is unduly restrictive, certain derogations should be permitted to be managed by the Member States;
- (27) Whereas it is necessary to determine certain conditions for applying for area payments and to specify when producers should be paid;
- (28) Whereas payment dates should be fixed in order to ensure an even distribution of arable crops sales during the marketing year;
- (29) Whereas sowing dates should be adapted to natural conditions in the different production areas;
- (30) Whereas it is necessary to provide for transitional rules in order to abolish crop specific payments for oilseeds from the 2002/2003 marketing year onwards; whereas some of the existing provisions in this sector have to be maintained taking into account the international obligations of the Community;
- (31) Whereas expenditure incurred by the Member States as a result of the obligations arising out of the application of this Regulation should be financed by the Community in accordance with Articles 1 and 2 of Council Regulation (EC) No 1258/99 of 17 May 1999 on the financing of the common agricultural policy⁽¹⁾;
- (32) Whereas it is necessary to provide for transitional measures and to enable the Commission to adopt, if necessary, additional transitional measures;
- (33) Whereas the adaptations to the arable crops support system should be introduced as from the marketing year 2000/2001;
- (34) Whereas, in view of the present adaptations to the current support scheme and to previous modifications, it is appropriate, for reasons of clarity, to replace Regulation (EEC) No 1765/92 by a new Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

1. This Regulation hereby establishes a system of area payments for producers of arable crops.
2. For the purposes of this Regulation:
 - the marketing year shall run from 1 July to 30 June,
 - ‘arable crops’ are taken to mean those listed in Annex I.
3. Member States where maize is not a traditional crop may make grass silage eligible for the arable crops area payments, under the same conditions as those applicable for arable crops.

⁽¹⁾ See page 103 of this Official Journal.

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CHAPTER I

Article 2

1. Community producers of arable crops may apply for an area payment under the conditions set out in this Regulation.
2. The area payment shall be fixed on a per hectare basis and regionally differentiated.

The area payment shall be granted for the area which is down to arable crops or subject to set-aside in accordance with Article 6 and which does not exceed a regional base area. This is established as the average number of hectares within a region down to arable crops or, where appropriate, fallow in conformity with a publicly funded scheme during 1989, 1990 and 1991. A region in this sense shall be understood to mean a Member State or a region within the Member State, at the option of the Member State concerned.

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For the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia, the regional base areas shall be established as the average number of hectares within a region down to arable crops during a consecutive three-year period within the period 1997-2001. The total of the regional base areas for each of these Member States shall not exceed the base areas mentioned in Annex VI.

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3. Producers applying for the area payment shall be subject to an obligation to set aside part of the land of their holding from production and shall receive compensation for this obligation.

4. When the sum of the areas for which payment is claimed under the arable crops' scheme, including the set-aside provided for under that scheme, is in excess of the base area, the eligible area per farmer shall be reduced proportionately for all the payments granted under this Regulation in the region in question, during the same marketing year.

Areas which are not the subject of an application for payment under this Regulation but are used to support an application for aid under Council Regulation (EC) No 1254/1999 of 17 May 1999 on the common organisation of the market in beef and veal⁽¹⁾ shall also be taken into account for the calculation of areas for which payment is claimed.

5. If a Member State makes grass silage eligible for the arable crops area payments, a separate base area shall be defined. If the base area for arable crops or grass silage is not reached in a given marketing year, the balance of hectares shall be allocated for the same marketing year to the corresponding base area.

6. Where a Member State has chosen to establish one or more national base areas, it may subdivide each national base area into sub-base areas according to objective criteria to be defined by the Member State.

For the purposes of applying this paragraph, the 'Secano' and 'Regadío' base areas shall be considered as national base areas.

Where there is an overshoot of a national base area, the Member State concerned may, in accordance with objective criteria, concentrate the measure applicable under paragraph 4 totally or partially on the sub-base areas for which the overshoot has been noted.

Member States which have decided to apply the possibilities provided for in this paragraph, shall notify producers and the Commission by 15 September of their choices and the detailed rules for their application.

⁽¹⁾ See page 21 of this Official Journal.

▼B*Article 3*

1. For the purpose of setting average yields to be used for calculation of the area payment, each Member State shall establish a regionalisation plan setting out the relevant objective criteria for determination of the separate production regions in order to arrive at distinct homogeneous areas.

With this in mind, Member States shall take due account of specific situations in drawing up their regionalisation plans. They may in particular adjust average yields in line with any structural differences between production regions.

2. Member States may also apply a different yield figure for maize than for other cereals in their regionalisation plans.

(a) Where the yield for maize is higher than for other cereals, a base area, as referred to in Article 2(2), shall be established separately for maize, covering one or more maize production regions, at the choice of the Member State.

Member States may also, in the regions in question, establish separate base areas for arable crops other than maize. In such cases, if the base area for maize is not reached in a given marketing year, the balance of hectares shall be allocated for the same marketing year to the corresponding base area for arable crops other than maize.

(b) Where the yield for maize is equal to or less than that for other cereals, a base area may also be established separately for maize in accordance with point (a). In such cases and if the Member States chooses to establish a base area for 'arable crops other than maize':

- if the base area for 'maize' is not reached in a given marketing year, the balance of hectares shall be allocated for the same marketing year to the corresponding base areas for other crops,
- if the base area for 'arable crops other than maize' is not reached in a given marketing year, the balance of hectares shall be allocated for the same marketing year to the base area for 'maize' concerned.

Should these base areas be exceeded, Article 2(4) shall apply.

3. Member States may in their regionalisation plans set different yields for irrigated and non-irrigated land. In that case, Member States shall establish a separate base area for areas bearing irrigated crops.

The irrigated base area shall be equal to the average area irrigated from 1989 to 1991 with a view to harvesting arable crops including the increases made pursuant to Article 3(1), fourth subparagraph, last sentence of Regulation (EEC) No 1765/92. However, the irrigated base area in Portugal shall be progressively increased by up to 60 000 ha, for those areas where it has been established that investment in irrigation began after 1 August 1992. This increase may be added partially or totally to the irrigated maize base area as referred to in Article 3(2).

The establishment of the irrigated base area must not lead to any increase in the total base area of the Member State concerned. Should the irrigated base area be exceeded, Article 2(4) shall apply.

If the irrigated base area is not reached in a given marketing year, the balance of hectares shall be allocated for the same marketing year to the corresponding non-irrigated base area.

4. The regionalisation plan shall in all cases ensure that the average yield of the Member State concerned established for the period and in accordance with the criteria referred to in paragraph 5 is respected.

5. For each production region, the Member State shall give details of the areas and yields of arable crops produced in that region during the five-year period 1986/1987 to 1990/1991. Average cereals yields shall be separately calculated for each region by excluding the year with the highest and the year with the lowest yield during that period.

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However, this obligation may be fulfilled in the case of:

- Portuguese cereals by providing data having been supplied pursuant to Council Regulation (EEC) No 3653/90 of 11 December 1990 introducing transitional measures governing the common organisation of the market in cereals and rice in Portugal ⁽¹⁾,
- the five new German *Länder* by providing the average crop yield applicable in the other German *Länder*,
- Italy and Spain by fixing the reference yield at 3,9 tonnes/hectare and 2,9 tonnes/hectare respectively,

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- the Czech Republic, Cyprus, Estonia, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia by fixing the reference yields at the levels mentioned in Annex VI.

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If a Member State decides to treat:

- maize separately from other cereals, the average cereals yield, which shall not be altered, shall be broken down between maize and other cereals,
- irrigated land separately from non-irrigated land, the corresponding average yield, which shall not be altered, shall be broken down between the two types.

6. Member States shall submit their regionalisation plan to the Commission by 1 August 1999 together with all necessary supporting information. In order to fulfil this obligation, they may refer to their regionalisation plan submitted to the Commission in accordance with Regulation (EEC) No 1765/92.

The Commission shall examine the regionalisation plans submitted by the Member States and shall ensure that each plan is based on appropriate, objective criteria and is consistent with available historical information. The Commission may object to plans that are not compatible with the aforementioned relevant criteria in particular with the average yield of the Member State. In this case the plans shall be subject to adjustment by the Member State concerned after consultation with the Commission.

The regionalisation plan may be revised by the Member State concerned at the request of the Commission or at the initiative of that Member State in accordance with the same procedure as outlined in this Article.

7. Should a Member State, pursuant to paragraph 1, choose to establish production regions the demarcation of which does not correspond to that of regional base areas, it shall send the Commission a summary statement of payment applications and the yields pertaining to these. If it emerges from this information that, in a Member State, the average yield resulting from the regionalisation plan applied in 1993 or, in the case of Austria, Finland and Sweden, the average yield resulting from the plan applied in 1995 ► **A1** or, in the case of Cyprus, the Czech Republic, Estonia, Hungary, Italy, Latvia, Lithuania, Malta, Poland, Slovakia, Slovenia, and Spain the yield as fixed in Article 3(5) is exceeded ◀, all payments to be made in that Member State for the following marketing year shall be reduced in proportion to the overrun which has been recorded. However, this provision shall not apply where the quantity for which applications were made, expressed in tonnes of cereals, does not exceed that resulting from the product of the total base areas of the Member State by the aforementioned average yield.

Member States may decide to ascertain whether there has been any exceeding of the average yield for each base area. In such cases, the provisions of this paragraph shall be applied to the payments to be paid in each base area concerned.

⁽¹⁾ OJ L 362, 27.12.1990, p. 28. Regulation as amended by Commission Regulation (EC) No 1664/95 (OJ L 158, 8.7.1995, p. 13).

▼B*Article 4*

1. Without prejudice to Article 10, the area payment shall be calculated by multiplying the basic amount per tonne by the average cereal yield determined in the regionalisation plan for the region concerned.

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2. The calculation mentioned in paragraph 1 shall be made using the average cereals yield. However, where maize is treated separately, the 'maize' yield shall be used for maize and the 'cereals other than maize' yield shall be used for cereals, oilseeds, linseed and flax and hemp grown for fibre.

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3. The basic amount shall be fixed as follows:

for protein crops:

— EUR 72,50/t from the 2000/2001 marketing year onwards;

for cereals, grass silage and set-aside:

— EUR 58,67/t for the 2000/2001 marketing year,

— EUR 63,00/t from the 2001/2002 marketing year onwards;

► **M2** for linseed and flax and hemp grown for fibre ◀:

— EUR 88,26/t for the 2000/2001 marketing year,

— EUR 75,63/t for the 2001/2002 marketing year,

— EUR 63,00/t from the 2002/2003 marketing year onwards;

for oilseeds:

— EUR 63,00/t from the 2002/2003 marketing year onwards.

The amount of EUR 63/t may be increased from the 2002/2003 marketing year onwards in the light of a final reduction in the intervention price for cereals provided for in Article 3(4) of Regulation (EEC) No 1766/92.

This increase in area payments will bear the same proportion to the intervention price reduction as that applicable in 2000/2001 and 2001/2002.

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4. In Finland, and in Sweden north of the 62nd Parallel and some adjacent areas affected by comparable climatic conditions rendering agricultural activity particularly difficult, a supplementary amount to the area payment of EUR 19 per tonne, multiplied by the yield utilised for the area payments, shall be applied for cereals, oilseeds, linseed and flax and hemp grown for fibre.

▼B*Article 5*

A supplement to the area payment of EUR 344,50 per hectare shall be paid for the area down to durum wheat in the traditional production zones listed in Annex II, subject to the limits fixed in Annex III.

Should the total of the areas for which a supplement to the area payment is claimed be greater than the limit referred to above during the course of a marketing year, the area per producer for which the supplement may be paid shall be reduced proportionately.

However, subject to the limits per Member State laid down in Annex III, Member States may distribute the areas indicated in that Annex among the production zones as defined in Annex II, or, if necessary, the production regions referred to in Article 3, according to the extent of the production of durum wheat during the period 1993 to 1997. Where this is done, should the total of the areas within a region for which a supplement to the area payment is requested be greater than the corresponding regional limit during the course of a marketing year, the area per producer in that production region for which the supplement may be paid shall be reduced proportionately. The reduction shall be made when, within a Member State, the areas in regions,

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which have not reached their regional limits, have been distributed to regions in which those limits have been exceeded.

In regions where the production of durum wheat is well established, other than those referred to in Annex II, special aid amounting to EUR 138,90 per hectare shall be granted up to a limit of the number of hectares laid down in Annex IV.

▼M2*Article 5a*

1. For flax and hemp grown for fibre, the area payment shall be made only, depending on circumstances, when the contract is concluded or commitment made as referred to in Article 2(1) of Regulation (EC) No 1673/2000.

For hemp grown for fibre, the area payment shall also be made only where the varieties used have a tetrahydrocannabinol content not exceeding 0,2 %.

2. Member States shall establish a system for verifying the tetrahydrocannabinol content of the crops grown on at least 30 % of the areas of hemp grown for fibre for which area payment applications have been made. However, if a Member State introduces a system of prior approval for such cultivation, the minimum shall be 20 %.

▼B*Article 6*

1. The set-aside obligation for each producer applying for area payments shall be fixed as a proportion of his area down to arable crops and for which a claim is made and left in set-aside pursuant to this Regulation.

The basic rate of compulsory set-aside is fixed at 10 % from the 2000/2001 marketing year up to the 2006/2007 marketing year.

2. Member States shall apply appropriate environmental measures which correspond to the specific situation of the land set-aside.

▼M3

3. The land set aside may be used for:

- producing materials for the manufacture within the Community of products not directly intended for human or animal consumption, provided that effective controls are applied;
- growing legume crops on a agricultural holding, managed for the totality of its production, in compliance with the obligations laid down in Regulation (EEC) No 2092/91.

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Member States shall be authorised to pay national aid up to 50 % of the costs associated with establishing multiannual crops intended for bio-mass production on set-aside land.

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If the quantity of by-products for feed or food uses likely to be made available as a result of the cultivation of oilseeds on land set-aside under the first subparagraph will, on the basis of the forecast quantities covered by contracts made with producers, exceed 1 million metric tonnes annually expressed in soya bean meal equivalents, in order to limit such quantity to 1 million metric tonnes, the amount of the forecast quantity under each contract, which may be used for feed or food uses, shall be reduced.

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4. Where different yields are set for irrigated and non-irrigated land, the payment for set-aside for non-irrigated land apply. In the case of Portugal, payment shall take account of the aid granted under Regulation (EEC) No 3653/90.

5. Producers may be granted the set-aside payment on land voluntarily set aside in excess of their obligation. Member States shall allow farmers to set-aside up to at least 10 % of the area down to arable

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crops and for which a payment application is made, and left in set-aside pursuant to this Regulation. Higher percentages may be set by a Member State taking into account specific situations and ensuring sufficient occupation of farmland.

6. The set-aside payment may be granted on a multiannual basis for a period up to five years.

7. Producers who make a payment application for an area no bigger than the area which would be needed to produce 92 tonnes of cereals, on the basis of the yields determined for their region, are not bound by the set-aside obligation. Paragraphs 5 and 6 shall apply to these producers.

8. Without prejudice to Article 7, areas:

- set aside pursuant to agri-environment (Articles 22 to 24 of Council Regulation (EC) No 1257/1999 of 17 May 1999 on support for rural development from the European Agricultural Guidance and Guarantee Fund (EAGGF) and amending certain Regulations ⁽¹⁾, which are neither put to any agricultural use nor used for any lucrative purposes other than those accepted for other land set aside under this Regulation, or
- afforested pursuant to afforestation (Article 31 of Regulation (EC) No 1257/1999,

as a result of an application made after 28 June 1995, may, up to any limit per holding which may be set by the Member State concerned, be counted as being set aside for the purposes of the set-aside requirement indicated in paragraph 1. Such limit shall be set only to the extent necessary to avoid a disproportionate amount of the available budget relating to the scheme in question being concentrated on a small number of farms.

However, on these areas, the area payment specified in Article 4 shall not be granted and the support granted under Article 24(1), or Article 31(1), second indent of Regulation (EC) No 1257/1999 (rural development regulation) shall be limited to an amount equal at most to the area payment for set aside specified in Article 4(3).

Member States may decide not to apply the scheme provided for in this paragraph to a new applicant in any region in which there is a continuing risk of a significant overshoot of the regional base area.

*Article 7***▼M2**

Applications for payments may not be made in respect of land which, on 31 December 1991, was under permanent pasture, permanent crops or trees or was used for non-agricultural purposes. However, applications for payments for areas used for growing flax or hemp for fibre and, if appropriate, for obligatory set-aside relating to it may be presented for land which benefited from aid granted under Council Regulation (EEC) No 1308/70 of 29 June 1970 on the common organisation of the market in flax and hemp ⁽²⁾ during at least one of the marketing years from 1998/1999 to 2000/2001.

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For Latvia, Lithuania, Hungary, Malta, Poland, and Slovenia, applications for payments may not be made in respect of land which, on 31 December 2000, was under permanent pasture, permanent crops or trees or was used for non-agricultural purposes. For Slovakia applications for payments may not be made in respect of land which, on 31 December 2001 was under permanent pasture, permanent crops or trees or was used for non-agricultural purposes. For Estonia applications for payments may not be made in respect of land which, on 1 October 2002 was under permanent pasture, permanent crops or trees or was

⁽¹⁾ See page 80 of this Official Journal.

⁽²⁾ OJ L 146, 4.7.1970, p. 1. Regulation as last amended by Regulation (EC) No 2702/1999 (OJ L 327, 14.12.1999, p. 7).

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used for non-agricultural purposes. For the Czech Republic applications for payments may not be made in respect of land which, on 30 November 2002 was under permanent pasture, permanent crops or trees or was used for non-agricultural purposes. For Cyprus applications for payments may not be made in respect of land which on 1 December 2002, was under permanent pasture, permanent crops or trees or was used for non-agricultural purposes.

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Member States may, on terms to be determined, depart from these provisions under certain specific circumstances, in particular for areas subject to restructuring programmes or for areas subject to standard rotations of multiannual arable crops with those crops listed in Annex I. In such cases, they shall take action to prevent any significant increase in the total eligible agricultural area. This may in particular involve deeming previously eligible areas ineligible as an offsetting measure.

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Member States may also depart from the provisions of the first and second sub-paragraphs under certain specific circumstances relating to one or other form of public intervention where such intervention results in a farmer growing crops on land previously regarded as ineligible in order to continue his normal agricultural activity and the intervention in question means that land originally eligible ceases to be so with the result that the total amount of eligible land is not increased significantly.

Moreover, Member States may, in certain cases not covered by the previous two subparagraphs, depart from the first and second subparagraphs if they provide proof in a plan submitted to the Commission that the total amount of eligible land remains unchanged.

▼ B*Article 8*

1. Payments shall be made between 16 November and 31 January following the harvest. However, where Article 6(3) applies, area payments for the land set aside shall be paid between 16 November and 31 March.
2. In order to qualify for the area payment, a producer shall by 31 May at the latest preceding the relevant harvest have sown the seed and by 15 May at the latest have lodged an application.
3. Member States shall take the necessary measures to remind applicants of the need to respect environmental legislation.

Article 9

Detailed rules for the application of this Chapter shall be adopted in accordance with the procedure laid down in Article 23 of Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals ⁽¹⁾ and in particular:

- those relating to the establishment and management of base areas,
- those relating to the establishment of production regionalisation plans,
- those relating to grass silage,
- those relating to the granting of the area payment,
- those relating to the minimum area eligible for payment; such rules shall take particular account of the monitoring requirements and of the desired effectiveness of the scheme in question,
- those determining, for durum wheat, the eligibility for the supplement to the area payment referred to in Article 5 and the eligibility requirements for the special aid referred to in that Article,

⁽¹⁾ OJ L 181, 1.7.1992, p. 21. Regulation as last amended by Commission Regulation (EC) No 923/96 (OJ L 126, 24.5.1996, p. 37).

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and in particular determination of the regions to be taken into consideration,

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- with regard to flax and hemp grown for fibre, those relating to the arrangements for contracts and to the commitment referred to in Article 5a(1),
- with regard to hemp grown for fibre, those relating to the specific control measures and methods for determining tetrahydrocannabinol levels,

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- those relating to set-aside, and in particular those relating to Article 6(3); these conditions shall define the fodder legumes that may be grown on land set aside and, with regard to the first indent of the first subparagraph of that paragraph, may include the growing of crops without compensation,

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- those relating to the conditions for applying Article 7; these conditions shall specify under what circumstances the provisions of Article 7 may be waived and Member States' obligation to refer envisaged action to the Commission for approval,
- those relating to compliance with the Memorandum of Understanding on certain oil seeds between the European Economic Community and the United States of America within the framework of the GATT approved by Decision 93/355/EEC ⁽¹⁾.

According to the same procedure, the Commission may:

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- either make the granting of payments subject to the use of:
 - (i) specific seeds;
 - (ii) certified seed in the case of durum wheat and flax and hemp grown for fibre;
 - (iii) certain varieties in the cases of oilseeds, durum wheat, linseed and flax and hemp grown for fibre,
- or provide for the possibility for Member States to make the grant of payments subject to such conditions,

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- allow the dates in Article 8(2) to be varied in certain zones where exceptional climatic conditions render the normal dates inapplicable,
- allow Member States, subject to the budgetary situation, to authorise, by way of derogation from Article 8(1), payments prior to 16 November in certain regions, of up to 50 % of the area payments and of the payment for set-aside in years in which exceptional climatic conditions have so reduced yields that producers face severe financial difficulties.

CHAPTER II

Article 10

1. For the 2000/2001 and 2001/2002 marketing years the area payments for oilseeds are calculated by multiplying the following amounts by the average cereals yield determined in the regionalisation plan in the region concerned:

- EUR 81,74/t for the 2000/2001 marketing year,
- EUR 72,37/t for the 2001/2002 marketing year.

However, Member States shall have the possibility of continuing to fix the oilseeds payments on the basis of historical regional oilseeds yield. In that case the yield shall be multiplied by 1,95.

2. For the 2000/2001 and 2001/2002 marketing years, a maximum guaranteed area (MGA) shall be established for the crop-specific oilseeds area payments of 5 482 000 hectares, reduced by the rate of

⁽¹⁾ OJ L 147, 18.6.1993, p. 25.

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compulsory set-aside applicable for that marketing year, or by 10 % if that rate is less than 10 %. If after the application of Article 2 the maximum guaranteed area is exceeded, the Commission shall reduce the amounts referred to in paragraph 1, in accordance with the provisions of paragraphs 3 and 4.

3. If the area of oilseeds already determined as eligible for crop specific oilseeds area payments in any year exceeds the MGAs, the Commission shall reduce, by 1 % for each percentage point by which the MGA is exceeded, the basic amount for that year. If the MGA is exceeded by more than a threshold percentage, special rules shall apply. Up to the threshold percentage, the reduction of the amount shall be uniform in all Member States. Beyond the threshold percentage, appropriate additional reductions shall apply in those Member States that have exceeded the national reference areas set out in Annex V, reduced by the rate referred to in paragraph 4. However, in the case of Germany the appropriate additional reduction may be adjusted at its request, in whole or in part, according to the regional base area; where this option is exercised, Germany shall immediately send the Commission the data used to calculate the reductions to be applied.

The Commission shall, in accordance with the procedure laid down in Article 23 of Regulation (EEC) No 1766/92, establish the size and distribution of the appropriate reductions to be applied and shall, in particular, ensure that the weighted average reduction for the Community as a whole is equal to the percentage by which the MGA has been exceeded.

4. The threshold percentage provided for in paragraph 3 should be 0 %.

5. If the oilseeds area payment is reduced in accordance with the provisions in paragraphs 3 and 4, the Commission shall reduce the relevant basic amounts for the following marketing year by the same percentage unless the MGA is not exceeded in that year, in which case the commission may determine that such a reduction shall not apply.

6. If the MGA for the Community is exceeded in 2000/2001 marketing year, the percentage of reduction of the regional reference amounts applied for the 1999/2000 marketing year shall be applied by the Commission to the relevant basic amount for the 2000/2001 marketing year by the same percentage.

7. Notwithstanding the provisions in this Article, Member States in which there is a significant risk of the National Reference Area set out in Annex V being substantially exceeded in the following marketing year may limit the area for which an individual producer may receive the oilseed area payments referred to in this article. Such limit shall be calculated as a percentage of the arable land area, of either the Member State or the regional base area, that is eligible for the area payments provided for in this Regulation and shall be applied to the eligible arable area of the producer. This limit may be differentiated between regional base areas or sub-base areas on the basis of objective criteria. Member States shall announce such limit, at the latest, by 1 August of the marketing year prior to that in respect of which the area payment is requested, or by an earlier date in the case of a Member State, or regions within a Member State, where plantings for the marketing year concerned take place prior to 1 August.

8. The reduction resulting from the overshoot of the MGA, applied in accordance with the provisions of this Article, cannot lead to an amount less than:

- EUR 58,67/t for the 2000/2001 marketing year,
- EUR 63,00/t for the 2001/2002 marketing year.

9. Producers of confectionery sunflower seed, sown for harvest, shall be excluded from the benefit of the support provided for under the terms of this article.

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10. Within two years from the application of the present article the Commission will submit a report to the Council on the development on the oilseeds market. If necessary this report will be accompanied by appropriate proposals should the production potential deteriorate seriously.

Article 11

The amounts of the area payments and the payment for set-aside as well as the percentage area to be set aside fixed in this Regulation may be changed in the light of developments in production, productivity and the markets, according to the procedure laid down in Article 37(2) of the Treaty.

Article 12

Should specific measures be necessary to facilitate the transition from the system in force to that established by this Regulation, such measures shall be adopted in accordance with the procedure laid down in Article 23 of Regulation (EEC) No 1766/92.

Article 13

The measures defined in this Regulation shall be deemed to be intervention intended to stabilise agricultural markets within the meaning of Article 1(2)(b) of Council Regulation (EC) No 1258/1999.

Article 14

Regulation (EEC) No 1765/92 and Regulation (EEC) No 1872/94 are hereby repealed.

Article 15

1. This Regulation shall enter into force seven days after its publication in the *Official Journal of the European Communities*.
2. This Regulation shall apply from the 2000/2001 marketing year onwards.
3. Regulation (EEC) No 1765/92 and Regulation (EEC) No 1872/94 shall continue to be applied in relation to the 1998/1999 and 1999/2000 marketing years.

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

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ANNEX I

DEFINITION OF PRODUCTS

CN code	Description
I. CEREALS	
1001 10 00	Durum wheat
1001 90	Other wheat and meslin other than durum wheat
1002 00 00	Rye
1003 00	Barley
1004 00 00	Oats
1005	Maize
1007 00	Grain sorghum
1008	Buckwheat, millet and canary seed; other cereals
0709 90 60	Sweet corn
II. OILSEEDS	
1201 00	Soya beans
ex 1205 00	Rape seed
ex 1206 00 10	Sunflower seed
III. PROTEIN CROPS	
0713 10	Peas
0713 50	Field beans
ex 1209 29 50	Sweet lupins
▼ <u>M2</u>	
IV. FLAX	
ex 1204 00	Linseed (<i>Linum usitatissimum</i> L.)
ex 5301 10 00	Flax, raw or retted, grown for fibre (<i>Linum usitatissimum</i> L.)
V. HEMP	
ex 5302 10 00	Hemp, raw or retted, grown for fibre (<i>Cannabis sativa</i> L.)



ANNEX II

TRADITIONAL PRODUCTION ZONES FOR DURUM WHEAT

GREECE

Nomoi (prefectures) of the following regions

Central Greece

Peloponnese

Ionian Islands

Thessaly

Macedonia

Aegean Islands

Thrace

SPAIN

Provinces

Almería

Badajoz

Burgos

Cádiz

Córdoba

Granada

Huelva

Jaén

Málaga

Navarra

Salamanca

Seville

Toledo

Zamora

Zaragoza

AUSTRIA

Pannonia

FRANCE

Regions

Midi-Pyrénées

Provence-Alpes-Côte d'Azur

Languedoc-Roussillon

Departments ()*

Ardèche

Drôme

ITALY

Regions

Abruzzo

Basilicata

Calabria

(*) Each of these departments may be linked to one of the abovementioned regions.

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Campania
Latium
Marches
Molise
Umbria
Apulia
Sardinia
Sicily
Tuscany

PORTUGAL

Districts

Santarém
Lisbon
Setúbal
Portalegre
Évora
Beja
Faro

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CYPRUS

HUNGARY

▼ A1*ANNEX III***MAXIMUM GUARANTEED AREAS IN RECEIPT OF THE SUPPLEMENT TO THE AREA PAYMENT FOR DURUM WHEAT**

	<i>(hectares)</i>
Greece	617 000
Spain	594 000
France	208 000
Italy	1 646 000
Cyprus	6 183
Austria	7 000
Portugal	118 000
Hungary	2 500

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ANNEX IV

**MAXIMUM GUARANTEED AREAS IN RECEIPT OF THE SPECIAL
AID FOR DURUM WHEAT**

	<i>(hectares)</i>
Germany	10 000
Spain	4 000
France	50 000
Italy	4 000
Hungary	4 305
Slovakia	4 717
United Kingdom	5 000

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ANNEX V

NATIONAL REFERENCE AREA

(in 1 000 hectares)

Country	For the 2000/2001 and 2001/2002 marketing years
Belgium	6
Denmark	236
Germany	929
Greece	26
Spain	1 168
France	1 730
Ireland	5
Italy	542
Luxembourg	2
Netherlands	7
Austria	147
Portugal	93
Finland	70
Sweden	137
United Kingdom	385

▼ **A1***ANNEX VI***NATIONAL BASE AREAS AND REFERENCE YIELDS IN THE CZECH REPUBLIC, ESTONIA, CYPRUS, LATVIA, LITHUANIA, HUNGARY, MALTA, POLAND, SLOVENIA AND SLOVAKIA**

	base area (hectares)	Reference yield (tonnes per hectare)
Czech Republic	2 253 598	4,20
Estonia	362 827	2,40
Cyprus	79 004	2,30
Latvia	443 580	2,50
Lithuania	1 146 633	2,70
Hungary	3 487 792	4,73
Malta	4 565	2,02
Poland	9 454 671	3,00
Slovenia	125 171	5,27
Slovakia	1 003 453	4,06