

Commission Regulation (EC) No 239/2005 of 11 February 2005 amending and correcting Regulation (EC) No 796/2004 laying down detailed rules for the implementation of cross-compliance, modulation and the integrated administration and control system provided for in Council Regulation (EC) No 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers

COMMISSION REGULATION (EC) No 239/2005

of 11 February 2005

amending and correcting Regulation (EC) No 796/2004 laying down detailed rules for the implementation of cross-compliance, modulation and the integrated administration and control system provided for in Council Regulation (EC) No 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1782/2003 of 29 September 2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers and amending Regulations (EEC) No 2019/93, (EC) No 1452/2001, (EC) No 1453/2001, (EC) No 1454/2001, (EC) No 1868/94, (EC) No 1251/1999, (EC) No 1254/1999, (EC) No 1673/2000, (EEC) No 2358/71 and (EC) No 2529/2001⁽¹⁾, and in particular Article 7(1), Article 34(2), and points (c), (d), (k) and (n) of Article 145 thereof,

Whereas:

- (1) Article 2 of Commission Regulation (EC) No 796/2004⁽²⁾ contains several definitions that need to be clarified. In particular, the definition of ‘permanent pasture’ in point 2 of that Article needs to be clarified and it is also necessary to introduce a definition for the term ‘grasses or other herbaceous forage’. However, in that context it has to be considered that the Member States need to have a certain flexibility to be able to take account of local agronomic conditions.
- (2) Following the introduction of a payment for hops to producer groups in the second paragraph of Article 68a of Regulation (EC) No 1782/2003 and Article 171 of Commission Regulation (EC) No 1973/2004 of 29 October 2004 laying down detailed rules for the application of Council Regulation (EC) No 1782/2003 as regards the support schemes provided for in Titles IV and IVa of that Regulation and the use of land set aside for the production of raw materials⁽³⁾, Regulation (EC) No 796/2004 needs to be amended in several respects and it is also appropriate to introduce particular provisions with regard to the application procedure and controls for that aid scheme.
- (3) Regulation (EC) No 1782/2003 provides for certain specific obligations for the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia (the new Member States) as regards the maintenance of permanent pasture, as

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part of the cross-compliance conditions. Accordingly, it is necessary to lay down rules for the determination of the proportion of permanent pasture in relation to arable land that has to be maintained in the new Member States. It is also necessary to provide for the individual obligations at the level of farmers to be respected where it is established that that proportion is decreasing to the detriment of land under permanent pasture.

- (4) Article 4(1) of Regulation (EC) No 796/2004 provides, with regard to certain situations, for the obligation of farmers not to convert land under permanent pasture without prior authorisation. That authorisation may also include the permission to convert land under permanent pasture subject to the condition that an equivalent amount of area is being established as land under permanent pasture to compensate for the conversion. For those cases, it should be provided that by way of derogation from the definition of 'permanent pasture' contained in Article 2(2) of Regulation (EC) No 796/2004, land thus established should be considered as land under permanent pasture from the moment of its establishment.
- (5) Under the second subparagraph of Article 4(2) of Regulation (EC) No 796/2004 a farmer may be obliged to re-convert into land under permanent pasture, land which used to be permanent pasture in the past and which was converted into land for other uses within a certain period of time. That period should be extended in order to share more equally amongst farmers the burden to maintain permanent pasture.
- (6) Article 11(2) of Regulation (EC) No 796/2004 provides that single applications are to be submitted by a date to be fixed by the Member States which must not be later than 15 May in a given year. However, due to the particular climatic conditions in Finland and Sweden, those two Member States may fix a later date which must not be later than 15 June. Following the accession of the new Member States, the same exception should now be provided for with regard to Estonia, Latvia and Lithuania. The date of 15 June should also apply with regard to notifications from farmers to the competent authority of subsequent amendments to the single application, as provided for in Article 15(2) of Regulation (EC) No 796/2004.
- (7) In order to enable Member States to carry out controls effectively, in particular controls on the respect of cross-compliance obligations, Article 14(1) of Regulation (EC) No 796/2004 obliges farmers to declare all the areas at their disposal whether or not they claim aid for such areas. It is necessary to provide for a mechanism to ensure that farmers comply with that obligation.
- (8) Article 20 of Regulation (EC) No 796/2004 contains special rules to provide for the situation where the latest date for the submission of an aid application is a public holiday, a Saturday or a Sunday. The same rule should apply to the submission of applications to the Single Payment Scheme in accordance with Article 34(2) of Regulation (EC) No 1782/2003.
- (9) In the first year of the application of the Single Payment Scheme farmers have to lodge an application if they want to participate in that scheme in accordance with Article 34(2) of Regulation (EC) No 1782/2003. Those applications will then serve as the basis for the allocation of payment entitlements. The punctual submission of the information included in those applications is essential for the Member States to establish

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the payment entitlements within the time-limits provided for in that Regulation and in order to guarantee a good start to the new scheme. Farmers have been made aware of the time-limits which they have to respect. Moreover, Member States have to provide the farmers with the appropriate pre-printed application forms long in advance of the submission of the application. Late submissions of those applications should therefore only be permitted within the same additional time-limit, as provided for in Article 21 of Regulation (EC) No 796/2004, for the late submission of any aid applications. A dissuasive reduction-rate should also be applied unless the delay is due to cases of *force majeure* or exceptional circumstances.

- (10) It is necessary to provide for a time period during which hemp grown for fibre may not be harvested after flowering in order to enable the control obligations provided for in respect of these crops to be carried out effectively.
- (11) It is necessary to clarify that areas declared under the Single Area Payment scheme in accordance with Article 143b of Regulation (EC) No 1782/2003, are to be regarded as one crop group within the meaning of Article 49(1) of Regulation (EC) No 796/2004. The same clarification should also be made with regard to areas declared by producer groups to support their aid applications for hops payments in accordance with the second paragraph of Article 68a of Regulation (EC) No 1782/2003.
- (12) In Article 50(6) of Regulation (EC) No 796/2004, the reduction level for payments to arable crop producers should be clarified.
- (13) Moreover, certain clarifications need to be introduced in respect of the sanctioning system applicable in the case of the non-compliance with such obligations.
- (14) Commission Regulation (EC) No 1655/2004 of 22 September 2004 laying down rules for the transition from the optional modulation system established by Article 4 of Council Regulation (EC) No 1259/1999 to the mandatory modulation system established by Council Regulation (EC) No 1782/2003⁽⁴⁾ has an impact on the kinds of reductions to be applied in respect of direct payments to be granted in accordance with Regulation (EC) No 796/2004. Those reductions, as well as the introduction of further kinds of reductions by this Regulation, need to be taken into account in the framework of Article 71 of Regulation (EC) No 796/2004.
- (15) Rules need to be established to cover the eventuality where a farmer has received unduly a number of payment entitlements or that the value of each of the payment entitlements was fixed at an incorrect level according to the different models under the Single Payment Scheme. Moreover, provision has to be made for the case where such payment entitlements have been transferred and for the case where transfers of payment entitlements have occurred without respecting Article 46(2) of Regulation (EC) No 1782/2003.
- (16) In several language versions of Regulation (EC) No 796/2004, the latest date which Member States may fix for the submission of the copies of supporting documents in relation to applications for seed aid referred to in point (d) of Article 13(8) of that Regulation is set at 31 May, instead of 15 June of the year following the harvest.

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- (17) In several language versions of Regulation (EC) No 796/2004 an error needs to be rectified in the second subparagraph of Article 21(2), where reference is made to Article 14(2) of that Regulation, instead of Article 15(2).
- (18) With regard to the liability in the case of the non-respect of cross compliance obligations provided for in Article 65(2) of Regulation (EC) No 796/2004, various language versions create ambiguity as regards the possibility to hold the farmer concerned liable under the applicable national rules, notably in case where the farmer did not act himself in the strict sense. It is therefore appropriate to harmonise that Article in all language versions.
- (19) It is therefore necessary to amend and correct Regulation (EC) No 796/2004 accordingly.
- (20) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Direct Payments,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 796/2004 is amended as follows:

1. Article 2 is amended as follows:
 - (a) points 1 and 2 are replaced by the following:
 1. “Arable land”: shall mean land cultivated for crop production and land under set-aside, or maintained in good agricultural and environmental condition in accordance with Article 5 of Regulation (EC) No 1782/2003, irrespective of whether or not that land is under greenhouses or under fixed or mobile cover;
 2. “Permanent pasture”: shall mean land used to grow grasses or other herbaceous forage naturally (self-seeded) or through cultivation (sown) and that has not been included in the crop rotation of the holding for five years or longer, excluding land under set-aside schemes pursuant to Article 6 of Council Regulation (EC) No 1251/1999⁽⁵⁾, land under set aside schemes pursuant to Article 54(2) and Article 107 of Regulation (EC) No 1782/2003, areas set aside in accordance with Council Regulation (EEC) No 2078/92⁽⁶⁾ and areas set aside in accordance with Articles 22, 23 and 24 of Council Regulation (EC) No 1257/1999⁽⁷⁾;
 - (b) the following point is inserted after the point (2):
 - (2a) ‘grasses or other herbaceous forage’: shall mean all herbaceous plants traditionally found in natural pastures or normally included in mixtures of seeds for pastures or meadows in the Member State (whether or not used for grazing animals). Member States may include crops listed in Annex IX to Regulation (EC) No 1782/2003;
 - (c) points 11 and 12 are replaced by the following:

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11. “Single application”: shall mean the application for direct payments in respect of the single payment scheme and other area-related aid schemes with the exception of an application for hops payment by a recognised producer group pursuant to the second paragraph of Article 68a of Regulation (EC) No 1782/2003;
 12. “Area-related aid schemes”: shall mean the single payment scheme, the hops payment to recognised producer groups referred to in the second paragraph of Article 68a of Regulation (EC) No 1782/2003 and all aid schemes established under Title IV of Regulation (EC) No 1782/2003, except those established under Chapters 7, 11 and 12 of that Title;
- (d) point 36 is replaced by the following:
36. “Specialised control bodies”: shall mean the national competent control authorities, as referred to in Article 42 of this Regulation, responsible, in accordance with the first subparagraph of Article 25(2) of Regulation (EC) No 1782/2003, for ensuring compliance with the statutory management requirements and good agricultural and environmental condition;
- (e) the following paragraph is added:
- For the purposes of this Regulation, “new Member States” shall mean the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia.;
2. Article 3 is amended as follows:
- (a) paragraph 2 is replaced by the following:
2. For the purpose of applying the second subparagraph of Article 5(2) of Regulation (EC) No 1782/2003, the Member States shall ensure that the ratio referred to in paragraph 1 of this Article shall not decrease to the detriment of land under permanent pasture by more than 10 % relatively to the ratio for the relevant reference year referred to in the first subparagraph of Article 5(2) of that Regulation (hereinafter referred to as the reference ratio).;
- (b) the introductory sentence of paragraph 4 is replaced by the following:
- ‘For the Member States, other than the new Member States, the reference ratio shall be established as follows:’;
- (c) the following paragraphs are added:
5. For the new Member States that have not applied in respect of the year 2004 the single area payment scheme referred to in Article 143b of Regulation (EC) No 1782/2003, the reference ratio shall be established as follows:
 - a the land under permanent pasture shall be the land under permanent pasture declared by the farmers in 2004, plus the land under permanent pasture declared in 2005 in accordance with Article 14(1) of this Regulation and that has not been declared for any use other

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than grassland in 2004, unless the farmer can demonstrate that such land was not under permanent pasture in 2004.

Areas declared in 2005 as land under permanent pasture and that in 2004 were eligible for the arable crops area payment in accordance with Article 1(3) of Regulation (EC) No 1251/1999 shall be discounted.

Land yet to be afforested in accordance with the third subparagraph of Article 5(2) of Regulation (EC) No 1782/2003 shall be discounted.

- b the total agricultural area shall be the total agricultural area declared by the farmers in 2005.

6 For the new Member States that have applied in respect of the year 2004 the single area payment scheme referred to in Article 143b of Regulation (EC) No 1782/2003, the reference ratio shall be established as follows:

- a the land under permanent pasture shall be the land under permanent pasture declared by the farmers in 2005 in accordance with Article 14(1) of this Regulation;
- b the total agricultural area shall be the total agricultural area declared by the farmers in 2005.;

3. Article 4 is amended as follows:

- (a) in paragraph 1, the following subparagraph is added:

If the authorisation referred to in the first subparagraph is subject to the condition that an area of land shall be established as permanent pasture, such land shall, as of the first day of conversion, be considered as permanent pasture by way of derogation from the definition laid down in Article 2(2). Those areas shall be used to grow grasses or other herbaceous forage for the five consecutive years following the date of conversion.;

- (b) paragraph 2 is amended as follows:

- (i) the second subparagraph is replaced by the following:

This obligation shall, in 2005, apply with regard to land converted into land for other uses since the relevant date under the first subparagraph of Article 5(2) of Regulation (EC) No 1782/2003. From 1 January 2006, that obligation shall apply with regard to land thus converted since the date of the start of the 24-month period preceding the last date at which the single applications had to be submitted at the latest in accordance with Article 11(2) of this Regulation in the Member State concerned.;

- (ii) the following sentence is added to the fifth subparagraph:

‘Those areas shall be used to grow grasses or other herbaceous forage for the five consecutive years following the date of their conversion.’;

4. the first subparagraph of Article 11(2) is replaced by the following:

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The single application shall be submitted by a date to be fixed by the Member States which shall not be later than 15 May. However, Estonia, Latvia, Lithuania, Finland and Sweden may fix a later date which shall not be later than 15 June.;

5. in Article 13, the following paragraph is added:
9. In the case of an application for the additional hops aid provided for in Article 68a of Regulation (EC) No 1782/2003, the single application shall contain an indication of the respective areas.;
6. Article 14 is amended as follows:
 - (a) in Paragraph 1, the following subparagraph is inserted after the first subparagraph:

Moreover, in the case where a Member State makes use of the option under Article 68a of Regulation (EC) No 1782/2003 to make a payment to recognised producer groups referred to in the second paragraph of that Article the farmer shall declare his agricultural parcels used for the cultivation of hops also under a separate heading in the single application form. In that case the farmer shall also indicate in the single application form his membership in the producer group concerned.;
 - (b) the following paragraph is inserted after paragraph 1:
 - 1a If, for a given year, a farmer does not declare all the areas referred to in paragraph 1 and the difference between the overall area declared in the single application on the one hand and the area declared plus the overall area of the parcels not declared, on the other, is more than 3 % of the area declared, the overall amount of direct payments payable to that farmer for that year shall be reduced by up to 3 % depending on the severity of the omission.;
7. Article 15(2) is replaced by the following:
 2. Without prejudice to the dates fixed by Estonia, Latvia, Lithuania, Finland or Sweden for the submission of the single application in accordance with the first subparagraph of Article 11(2), amendments made in accordance with paragraph 1 of this Article shall be notified to the competent authority in writing by 31 May of the calendar year concerned at the latest, except in the case of Estonia, Latvia, Lithuania, Finland and Sweden where they shall be notified by 15 June of the calendar year concerned at the latest.;
8. the following Chapter is inserted after Article 15:

CHAPTER Ia

**AID APPLICATIONS FOR HOPS PAYMENTS
BY RECOGNISED PRODUCER GROUPS***Article 15a***Aid application**

An aid application of producer groups applying for aid in accordance with Article 171 of Commission Regulation (EC) No 1973/2004⁽⁸⁾ shall contain all information necessary to establish eligibility for the aid, and in particular:

- (a) the identity of the producer group;
- (b) particulars permitting identification of the agricultural parcels concerned;
- (c) a statement by the producer group that it is aware of the conditions pertaining to the aid in question.

The producer group may only declare agricultural parcels used for the cultivation of hops and which were declared, in the same calendar year, by the members of the producer group in accordance with the second subparagraph of Article 14(1) of this Regulation.

The Member States may simplify the application procedure by sending to the producer group a pre-printed application form listing all the parcels declared for that purpose by their respective members in accordance with the second subparagraph of Article 14(1) of this Regulation.;

9. in Article 20, the following paragraph is added:

The first paragraph shall also apply with regard to applications by farmers to the single payment scheme in accordance with Article 34(2) of Regulation (EC) No 1782/2003.;

10. the following Article is inserted after Article 21:

*Article 21a***Late submission of an application to the single payment scheme**

- 1 Without prejudice to cases of *force majeure* and exceptional circumstances referred to in the first subparagraph of Article 34(3) of Regulation (EC) No 1782/2003 and by way of derogation from Article 21 of this Regulation, in the first year of the application of the single payment scheme in accordance with Title III of Regulation (EC) No 1782/2003, where, in the Member State concerned, an application for the allocation of entitlements in accordance with Article 34(3) of that Regulation and the single application for that year have to be submitted together by the farmer and where the farmer submits those applications after the relevant time limit, a 4 % reduction per working day shall be applied to the amounts to be paid in that year in respect of the payment entitlements to be allocated to the farmer.

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If such delay exceeds 25 calendar days, the application shall be considered inadmissible and no payment entitlements shall be allocated to the farmer.

2. Where, in the Member State concerned, the application to the single payment scheme and the single application have to be submitted independently from each other, Article 21 shall apply with regard to the submission of the single application.

In that case, without prejudice to cases of *force majeure* and exceptional circumstances referred to in the first subparagraph of Article 34(3) of Regulation (EC) No 1782/2003, the submission of an application to the single payment scheme in accordance with that Article after the relevant time limit shall lead to a 3 % reduction per working day in the amounts to be paid in the first year of the application of the single payment scheme in respect of the payment entitlements to be allocated to the farmer.

If the delay exceeds 25 calendar days, the application shall be considered inadmissible and no payment entitlements shall be allocated to the farmer.;

11. the following point is added to Article 24(1):

(h) between the agricultural parcels declared by producer groups in accordance with Article 15a, the corresponding parcels declared by the members of the producer group in accordance with the second subparagraph of Article 14(1), and the reference parcels as contained in the identification system for agricultural parcels to verify the eligibility for the aid.;

12. the following point is added to Article 26(2):

(e) 5 % of all farmers whose agricultural parcels are being declared by a producer group applying for hops payments in accordance with Article 15a.;

13. in Article 33 the following paragraph is added:

5. Crops of hemp grown for fibre must continue to be cultivated under normal growing conditions in accordance with local practice for at least 10 days from the date of the end of flowering so that the checks provided for in paragraphs 1, 2 and 3 can be made.

However, the Member States may authorise hemp grown for fibre to be harvested after flowering has begun but before the end of the 10-day period after the end of flowering, provided the inspectors indicate which representative parts of each plot concerned must continue to be cultivated for at least 10 days following the end of flowering for inspection purposes, in accordance with the method laid down in Annex I.;

14. after Article 33, the following subsection is inserted:

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SUB-SECTION IIA

ON-THE-SPOT CHECKS OF AID APPLICATIONS FOR HOPS PAYMENTS BY RECOGNISED PRODUCER GROUPS

Article 33a

Elements of the on-the-spot-checks

The on-the-spot checks referred to in Article 26(2)(e) shall be carried out by way of application of the provisions of Article 29, Article 30(1), the first and second subparagraphs of Article 30(2), Article 30(4) and Article 32 *mutatis mutandis*.

Those on-the-spot checks shall verify whether the conditions, as provided for in Article 171 of Regulation (EC) No 1973/2004, are respected.;

15. in Article 49(1), the following points are added:

- (g) areas for the purposes of the Single Area Payment scheme in accordance with Article 143b of Regulation (EC) No 1782/2003;
- (h) areas declared by producer groups in accordance with Article 15a of this Regulation.;

16. Article 50(6) is replaced by the following:

6. The calculation of the maximum eligible area for the payments to farmers applying for the arable crop area payment in accordance with Chapter 10 of Title IV of Regulation (EC) No 1782/2003 shall be made on the basis of the area of set-aside land determined and on a *pro rata* basis for each crop concerned. However, payments to arable crop producers shall, in relation to the area of set-aside land determined, only be reduced to the level corresponding to the area which would be needed to produce 92 tonnes of cereal, in accordance with Article 107(7) of Regulation (EC) No 1782/2003.;

17. Article 66 is amended as follows:

- (a) paragraph 3 is replaced by the following:

3. Where more than one non-compliance with regard to different areas of cross-compliance have been determined, the procedure for the fixing of the reduction as set out in paragraph 1 shall be applied individually to each non-compliance.

However, a non-compliance with a standard which also constitutes a requirement shall be considered to be one non-compliance.

The resulting percentages of reductions shall be added together. However, the maximum reduction shall not exceed 5 % of the overall amount referred to in paragraph 1.;

- (b) the third subparagraph of paragraph 4 is replaced by the following:

Once the maximum percentage of 15 % has been reached, the Paying Agency shall inform the farmer concerned that if the same non-compliance is determined again, it shall be considered that he has

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acted intentionally within the meaning of Article 67. Where a further non-compliance is determined thereafter, the percentage reduction to be applied shall be fixed by multiplying the result of the previous multiplication, where applicable, before the limitation to 15 % as provided for in the last sentence of the second subparagraph has been applied, by a factor of three.;

(c) the following paragraph is added:

5. In the case where a repeated non-compliance is determined together with another non-compliance or another repeated non-compliance, the resulting percentage reductions shall be added together. Without prejudice to the third subparagraph of paragraph 4, the maximum reduction shall, however, not exceed 15 % of the overall amount referred to in paragraph 1.;

18. Article 71(2) is amended as follows:

(a) Point (a) is replaced by the following:

(a) firstly, any reductions due to modulation in accordance with Article 10 of Regulation (EC) No 1782/2003 and, as the case may be, in accordance with Commission Regulation (EC) No 1655/2004⁽⁹⁾ shall be applied;;

(b) points (c) and (d) are replaced by the following:

(c) thirdly, the resulting amount shall serve as the basis for the calculation of any reductions to be applied because of late submissions on the basis of Articles 21 and 21a of this Regulation;

(d) fourthly, the resulting amount shall serve as the basis to calculate the reduction to be applied in accordance with Article 14(1a) of this Regulation;

(e) fifthly, the resulting amount shall be reduced by any reductions provided for in Chapter II of Title IV of this Regulation.;

19. The following Article is inserted after Article 73:

Article 73a

Recovery of undue entitlements

1 Where, after payment entitlements have been allocated to farmers in accordance with Regulation (EC) No 795/2004, it is established that certain payment entitlements have been allocated unduly, the farmer concerned shall give up the unduly allocated entitlements to the national reserve referred to in Article 42 of Regulation (EC) No 1782/2003.

In the case that the farmer concerned, meanwhile, transferred payment entitlements to other farmers, the transferees shall also be bound by the obligation provided for in the first subparagraph in proportion to the number of payment entitlements which have been transferred to them if the farmer to whom the payment entitlements had initially been allocated does not have a sufficient number of payment entitlements at his disposal.

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The entitlements allocated unduly shall be deemed not to have been allocated *ab initio*.

- 2 Where, after payment entitlements have been allocated to farmers in accordance with Regulation (EC) No 795/2004, it is established that the value of the payment entitlements is too high, that value shall be adjusted accordingly. That adjustment shall also be carried out in respect of payment entitlements which have, meanwhile, been transferred to other farmers. The value of the reduction shall be allocated to the national reserve referred to in Article 42 of Regulation (EC) No 1782/2003.

The payment entitlements shall be deemed as having been allocated *ab initio* at the value resulting from the adjustment.

- 3 Where a farmer has transferred any payment entitlements without respecting the second subparagraph of Article 46(2) of Regulation (EC) No 1782/2003, the situation shall be established as if the transfer had not taken place.

- 4 Undue amounts paid shall be recovered in accordance with Article 73.;

Article 2

Regulation (EC) No 796/2004 is corrected as follows:

1. in Article 13(8), point (d), the date ‘31 May’ is replaced by ‘15 June’;
2. in the second sentence of the second subparagraph of Article 21(2), the terms ‘Article 14(2)’ are replaced by ‘Article 15(2)’;
3. Article 65(2) is replaced by the following:

2. For the purposes of applying Article 6(1) of Regulation (EC) No 1782/2003, an action or omission shall be directly attributable to the individual farmer who committed the non-compliance and who, at the time of the determination of the non-compliance in question, is in charge of the holding, the area, the production unit or the animal concerned. Where the holding, the area, the production unit or the animal concerned was transferred to a farmer after the non-compliance had started to occur, the transferee shall equally be held liable where he maintained the non-compliance, provided he could have reasonably detected and terminated that non-compliance.

Article 3

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

It shall apply from 1 January 2005.

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

Done at Brussels, 11 February 2005.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

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- (1) OJ L 270, 21.10.2003, p. 1. Regulation last amended by Regulation (EC) No 2217/2004 (OJ L 375, 23.12.2004, p. 1).
- (2) OJ L 141, 30.4.2004, p. 18.
- (3) OJ L 345, 20.11.2004, p. 1.
- (4) OJ L 298, 23.9.2004, p. 3.
- (5) OJ L 160, 26.6.1999, p. 1.
- (6) OJ L 215, 30.7.1992, p. 85.
- (7) OJ L 160, 26.6.1999, p. 80.
- (8) OJ L 345, 20.11.2004, p. 1.
- (9) OJ L 298, 23.9.2004, p. 3.

Changes to legislation:

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