

Regulation (EU) No 1307/2013 of the European Parliament and of the Council of 17 December 2013 establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy and repealing Council Regulation (EC) No 637/2008 and Council Regulation (EC) No 73/2009

### TITLE III

#### **BASIC PAYMENT SCHEME, SINGLE AREA PAYMENT SCHEME AND RELATED PAYMENTS**

#### *CHAPTER 1*

#### *Basic payment scheme and single area payment scheme*

#### *Section 1*

#### *Setting up of the basic payment scheme*

#### *Article 21*

#### **Payment entitlements**

- 1 Support under the basic payment scheme shall be available to farmers:
  - a who obtain payment entitlements under this Regulation through allocation pursuant to Article 20(4), through first allocation pursuant to Article 24 or Article 39, through allocation from the national reserve or regional reserves pursuant to Article 30 or through transfer pursuant to Article 34; or
  - b who comply with Article 9 and hold owned or leased-in payment entitlements in a Member State which has decided, in accordance with paragraph 3, to keep its existing payment entitlements.
- 2 Payment entitlements obtained under the single payment scheme in accordance with Regulation (EC) No 1782/2003 and with Regulation (EC) No 73/2009 shall expire on 31 December 2014.
- 3 By way of derogation from paragraph 2, Member States which established the single payment scheme in accordance with Section I of Chapter 5 of Title III or Chapter 6 of Title III of Regulation (EC) No 1782/2003 or Chapter 3 of Title III of Regulation (EC) No 73/2009 may, by 1 August 2014, decide to keep the existing payment entitlements. They shall notify any such decision to the Commission by that date.
- 4 As regards Member States which take the decision referred to in paragraph 3, when the number of owned or leased-in payment entitlements established in accordance with Regulation (EC) No 1782/2003 and with Regulation (EC) No 73/2009 which a farmer holds on the final date for submission of applications to be set in accordance with point (b) of the first subparagraph of Article 78 of Regulation (EU) No 1306/2013 exceeds the number of eligible hectares which the farmer declares in his aid application in accordance with point (a) of the first subparagraph of Article 72(1) of Regulation (EU) No 1306/2013 for 2015, and which are at his disposal on

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a date fixed by the Member State, which shall be no later than the date fixed in that Member State for amending such an aid application, the number of payment entitlements exceeding the number of eligible hectares shall expire on the latter date.

## *Article 22*

### **Basic payment scheme ceiling**

1 The Commission shall adopt implementing acts setting, for each Member State, the annual national ceiling for the basic payment scheme by deducting from the annual national ceiling set out in Annex II the ceilings fixed in accordance with Articles 42, 47, 49, 51 and 53. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 71(2).

2 For each Member State, the amount calculated in accordance with the paragraph 1 of this Article may be increased by a maximum of 3 % of the relevant annual national ceiling set out in Annex II after deduction of the amount resulting from the application of Article 47(1) for the relevant year. When a Member State applies such an increase, that increase shall be taken into account by the Commission when setting the annual national ceiling for the basic payment scheme pursuant to paragraph 1 of this Article. For that purpose, Member States shall notify the Commission by 1 August 2014 of the annual percentages by which the amount calculated pursuant to paragraph 1 of this Article is to be increased.

3 Member States may review their decision referred to in paragraph 2 on an annual basis and shall notify the Commission of any decision based on such review by 1 August of the year preceding its application.

4 For each Member State and each year, the total value of all payment entitlements and the national reserve or the regional reserves shall equal the respective annual national ceiling set by the Commission pursuant to paragraph 1.

[<sup>F15</sup> If the ceiling for a Member State set by the Commission pursuant to paragraph 1 of this Article is different from that of the previous year as a result of any decision taken by that Member State in accordance with paragraph 3 of this Article, Article 14(1) or (2), Article 42(1), the second subparagraph of Article 49(1), the second subparagraph of Article 51(1), or Article 53, that Member State shall linearly reduce or increase the value of all payment entitlements in order to ensure compliance with paragraph 4 of this Article.]

#### **Textual Amendments**

- F1** Substituted by [Regulation \(EU\) 2019/288 of the European Parliament and of the Council of 13 February 2019 amending Regulations \(EU\) No 1305/2013 and \(EU\) No 1307/2013 as regards certain rules on direct payments and support for rural development in respect of the years 2019 and 2020.](#)

## *Article 23*

### **Regional allocation of the national ceilings**

1 Member States may decide, by 1 August 2014, to apply the basic payment scheme at regional level. In such cases, they shall define the regions in accordance with objective and

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non-discriminatory criteria such as their agronomic and socio-economic characteristics, their regional agricultural potential, or their institutional or administrative structure.

Member States applying Article 36 may take the decision referred to in the first subparagraph by 1 August of the year preceding the first year of implementation of the basic payment scheme.

2 Member States shall divide the annual national ceiling for the basic payment scheme referred to in Article 22(1) between the regions in accordance with objective and non-discriminatory criteria.

Member States not applying Article 30(2) shall make that division after applying the linear reduction provided for in Article 30(1).

3 Member States may decide that the regional ceilings shall be subject to annual progressive modifications in accordance with pre-established annual steps and objective and non-discriminatory criteria such as agricultural potential or environmental criteria.

4 To the extent necessary to respect the applicable regional ceilings determined in accordance with paragraph 2 or 3, Member States shall make a linear reduction or increase in the value of the payment entitlements in each of the relevant regions.

5 Member States applying paragraph 1 may decide to cease the application of the basic payment scheme at regional level from a date to be set by them.

6 Member States applying the first subparagraph of paragraph 1 shall notify the Commission of the decision referred to in that subparagraph and of the measures taken for the application of paragraphs 2 and 3 by 1 August 2014.

Member States applying the second subparagraph of paragraph 1 shall notify the Commission of any decision referred to in that subparagraph and of the measures taken for the application of paragraphs 2 and 3 by 1 August of the relevant year.

Member States applying paragraph 1 shall notify the Commission of any decision referred to in paragraph 5 by 1 August of the year preceding the first year of implementation of that decision.

#### *Article 24*

### **First allocation of payment entitlements**

1 Payment entitlements shall be allocated to farmers who are entitled to be granted direct payments in accordance with Article 9 of this Regulation provided that:

- a they apply for allocation of payment entitlements under the basic payment scheme by the final date for submission of applications in 2015 to be set in accordance with point (b) of the first subparagraph of Article 78 of Regulation (EU) No 1306/2013, except in case of force majeure or exceptional circumstances; and
- b they were entitled to receive payments, before any reduction or exclusion provided for in Chapter 4 of Title II of Regulation (EC) No 73/2009, in respect of an aid application for direct payments, for transitional national aid or for complementary national direct payments in accordance with Regulation (EC) No 73/2009 for 2013.

The first subparagraph shall not apply in Member States applying Article 21(3) of this Regulation.

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Member States may allocate payment entitlements to farmers who are entitled to be granted direct payments in accordance with Article 9 of this Regulation, who fulfil the condition provided for in point (a) of the first subparagraph and who:

- a did not receive payments for 2013 in respect of an aid application as referred to in the first subparagraph of this paragraph and who, on the date fixed by the Member State concerned in accordance with Article 11(2) of Commission Regulation (EC) No 1122/2009<sup>(1)</sup> for the claim year 2013:
  - (i) in Member States applying the single payment scheme:
    - were producing fruits, vegetables, ware potatoes, seed potatoes or ornamental plants, and did so on a minimum area expressed in hectares if the Member State concerned decides to adopt such a requirement, or
    - were cultivating vineyards; or
  - (ii) in Member States applying the single area payment scheme, had only agricultural land that was not in good agricultural condition on 30 June 2003 as provided for in Article 124(1) of Regulation (EC) No 73/2009;
- b in 2014, are allocated payment entitlements from the national reserve under the single payment scheme pursuant to Article 41 or 57 of Regulation (EC) No 73/2009; or
- c never held owned or leased-in payment entitlements established under Regulation (EC) No 73/2009 or Regulation (EC) No 1782/2003 and who submit verifiable evidence that, on the date fixed by the Member State in accordance with Article 11(2) of Regulation (EC) No 1122/2009 for the claim year 2013, they produced, reared or grew agricultural products, including through harvesting, milking, breeding animals and keeping animals for farming purposes. Member States may establish their own additional objective and non-discriminatory eligibility criteria for this category of farmers as regards appropriate skills, experience or education.

2 Except in the case of force majeure or exceptional circumstances, the number of payment entitlements allocated per farmer in 2015 shall be equal to the number of eligible hectares, which the farmer declares in his aid application in accordance with point (a) of the first subparagraph of Article 72(1) of Regulation (EU) No 1306/2013 for 2015 and which are at his disposal on a date fixed by the Member State. That date shall be no later than the date fixed in that Member State for amending such an aid application.

3 Member States may apply one or more of the limitations, as set out in paragraphs 4 to 7, on the number of payment entitlements to be allocated under paragraph 2.

4 Member States may decide that the number of payment entitlements to be allocated shall be equal to either the number of eligible hectares which the farmer declared in accordance with Article 34(2) of Regulation (EC) No 73/2009 in 2013, or the number of eligible hectares referred to in paragraph 2 of this Article, whichever is the lowest. For Croatia, the use of this option shall be without prejudice to the allocation of payment entitlements for de-mined hectares in accordance with Article 20(4) of this Regulation.

5 Where the total number of eligible hectares referred to in paragraph 2 of this Article declared in a Member State would result in an increase of more than 35 % of the total number of eligible hectares declared in accordance with Article 35 of Regulation (EC) No 73/2009 in 2009, or in the case of Croatia in 2013, Member States may limit the number of payment entitlements to be allocated in 2015 to a minimum of either 135 % or 145 % of the total number of eligible hectares declared in 2009, or, in the case of Croatia, of the total number of eligible hectares declared in 2013, in accordance with Article 35 of Regulation (EC) No 73/2009.

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When using this option, Member States shall allocate a reduced number of payment entitlements to farmers. That number shall be calculated by applying a proportional reduction to the additional number of eligible hectares declared by each farmer in 2015 compared to the number of eligible hectares within the meaning of Article 34(2) of Regulation (EC) No 73/2009 that that farmer declared in his aid application in 2011 or, in the case of Croatia, in 2013, without prejudice to the de-mined hectares for which payment entitlements are to be allocated in accordance with Article 20(4) of this Regulation.

6 Member States may decide to apply, for the purposes of establishing the number of payment entitlements to be allocated to a farmer, a reduction coefficient to those eligible hectares referred to in paragraph 2 which consist of permanent grassland located in areas with difficult climate conditions, especially due to their altitude and other natural constraints such as poor soil quality, steepness and water supply.

7 Member States may decide that the number of payment entitlements to be allocated to a farmer shall be equal to the number of eligible hectares referred to in paragraph 2 of this Article which were not hectares of vineyards on the date fixed by the Member State in accordance with Article 11(2) of Regulation (EC) No 1122/2009 for the claim year 2013 or hectares of arable land under permanent greenhouses.

8 In the case of the sale or lease of their holding or part of it, natural or legal persons complying with paragraph 1 of this Article may, by contract signed before the final date for submitting applications in 2015 to be set in accordance with point (b) of the first subparagraph of Article 78 of Regulation (EU) No 1306/2013, transfer the right to receive payment entitlements in accordance with paragraph 1 of this Article to one or more farmers provided that the latter comply with the conditions laid down in Article 9 of this Regulation.

9 A Member State may decide to fix a minimum size per holding, expressed in eligible hectares, in respect of which the farmer may apply for an allocation of payment entitlements. That minimum size shall not exceed the threshold set out in point (b) of Article 10(1) in conjunction with paragraph 2 of that Article.

10 Member States shall, where relevant, notify the Commission of the decisions referred to in this Article by 1 August 2014.

11 The Commission shall adopt implementing acts laying down rules on applications for the allocation of payment entitlements submitted in the year of allocation of payment entitlements where those payment entitlements may not yet be definitively established and where that allocation is affected by specific circumstances. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 71(2).

## *Article 25*

### **Value of payment entitlements and convergence**

1 In 2015, Member States shall calculate the unit value of payment entitlements by dividing a fixed percentage of the national ceiling set out in Annex II for each relevant year by the number of payment entitlements in 2015 at national or regional level, excluding those allocated from the national reserve or regional reserves in 2015.

The fixed percentage referred to in the first subparagraph shall be calculated by dividing the national or regional ceiling for the basic payment scheme to be set in accordance with, respectively, Article 22(1) or Article 23(2) of this Regulation for 2015, after applying the linear reduction provided for in paragraph 1 or, where applicable, paragraph

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2 of Article 30, by the national ceiling for 2015 set out in Annex II. The payment entitlements shall be expressed in a number that corresponds to a number of hectares.

2 By way of derogation from the calculation method referred to in paragraph 1, Member States may decide to differentiate the value of payment entitlements in 2015, excluding those allocated from the national reserve or regional reserves in 2015, for each relevant year on the basis of their initial unit value as calculated in accordance with Article 26.

3 From claim year 2019 at the latest, all payment entitlements in a Member State or, where Article 23 is applied, in a region shall have a uniform unit value.

4 By way of derogation from paragraph 3, a Member State may decide that payment entitlements with an initial unit value as calculated in accordance with Article 26 that is lower than 90 % of the national or regional unit value in 2019 shall, for claim year 2019 at the latest, have their unit value increased by at least one third of the difference between their initial unit value and 90 % of the national or regional unit value in 2019.

Member States may decide to set the percentage referred to in the first subparagraph at a level higher than 90 % but not above 100 %.

In addition, Member States shall provide that, at the latest for claim year 2019, no payment entitlement shall have a unit value lower than 60 % of the national or regional unit value in 2019, unless this would, in Member States applying the threshold referred to in paragraph 7, result in a maximum decrease exceeding that threshold. In such cases, the minimum unit value shall be set at a level necessary to respect that threshold.

5 The national or regional unit value in 2019 referred to in the paragraph 4 shall be calculated by dividing a fixed percentage of the national ceiling set out in Annex II, or of the regional ceiling, for calendar year 2019 by the number of payment entitlements in 2015 in the Member State or region concerned, excluding those allocated from the national reserve or regional reserves in 2015. That fixed percentage shall be calculated by dividing the national or regional ceiling for the basic payment scheme to be set in accordance with, respectively, Article 22(1) or Article 23(2) for the year 2015, after applying the linear reduction provided for in paragraph 1 or, where applicable, paragraph 2 of Article 30, by the national ceiling set out in Annex II, or the regional ceiling, for 2015.

6 The regional ceilings referred to in the paragraph 5 shall be calculated by applying a fixed percentage to the national ceiling set out in Annex II for the year 2019. That fixed percentage shall be calculated by dividing the respective regional ceilings established in accordance with Article 23(2) for the year 2015 by the national ceiling to be set in accordance with Article 22(1) for the year 2015, after applying the linear reduction provided for in Article 30(1) where the second subparagraph of Article 23(2) applies.

7 In order to finance the increases in the value of payment entitlements referred to in paragraph 4, where payment entitlements have an initial unit value higher than the national or regional unit value in 2019, the difference between their initial unit value and the national or regional unit value in 2019 shall be decreased on the basis of objective and non-discriminative criteria to be determined by Member States. Such criteria may include the fixing of a maximum decrease of the initial unit value of 30 %.

8 When applying paragraph 2 of this Article, the transition from the initial unit value of payment entitlements as calculated in accordance with Article 26 to their final unit value in 2019 as established in accordance with paragraph 3 or paragraphs 4 to 7 of this Article shall be made in equal steps starting from 2015.

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In order to ensure compliance with the fixed percentage referred to in paragraph 1 of this Article for each year, the value of the payment entitlements with an initial unit value that is higher than the national or regional unit value in 2019 shall be adjusted.

9 By way of derogation from paragraph 8 of this Article, where Member States which, in accordance with Article 21(3), decide to keep their existing entitlements apply paragraph 2 of this Article, the transition from the initial unit value of payment entitlements as established in accordance with Article 26(5) to their final unit value in 2019 as established in accordance with paragraph 3 or paragraphs 4 to 7 of this Article shall, where applicable, be made by applying the steps decided nationally in accordance with Article 63(3) of Regulation (EC) No 1782/2003.

In order to ensure compliance with the fixed percentage referred to in paragraph 1 of this Article for each year, the value of all payment entitlements shall be linearly adjusted.

10 In 2015, Member States shall inform farmers of the value of their payment entitlements as calculated in accordance with this Article and Articles 26 and 27 for each year of the period covered by this Regulation.

#### *Article 26*

#### **Calculation of the initial unit value**

1 The initial unit value of payment entitlements referred to in Article 25(2) in Member States which apply the single payment scheme in calendar year 2014 and which have not decided to keep their existing payment entitlements in accordance with Article 21(3) shall be set in accordance with either of the methods set out in paragraphs 2 or 3.

2 A fixed percentage of the payments the farmer received for 2014 under the single payment scheme, in accordance with Regulation (EC) No 73/2009, before reductions and exclusions provided for in Chapter 4 of Title II of that Regulation, shall be divided by the number of payment entitlements he is allocated in 2015, excluding those allocated from the national reserve or regional reserves in 2015.

That fixed percentage shall be calculated by dividing the national or regional ceiling for the basic payment scheme to be set in accordance with, respectively, Article 22(1) or Article 23(2) of this Regulation for the year 2015, after applying the linear reduction provided for in paragraph 1 or, where applicable, paragraph 2 of Article 30 of this Regulation, by the amount of the payments for 2014 under the single payment scheme in the Member State or region concerned, before reductions and exclusions provided for in Chapter 4 of Title II of Regulation (EC) No 73/2009.

3 A fixed percentage of the value of the entitlements, including special entitlements, which the farmer held on the date of submission of his application for 2014 under the single payment scheme, in accordance with Regulation (EC) No 73/2009, shall be divided by the number of payment entitlements he is allocated in 2015, excluding those allocated from the national reserve or regional reserves in 2015.

That fixed percentage shall be calculated by dividing the national or regional ceiling for the basic payment scheme to be set in accordance with, respectively, Article 22(1) or Article 23(2) of this Regulation for the year 2015, after applying the linear reduction provided for in paragraph 1 or, where applicable, paragraph 2 of Article 30 of this Regulation, by the total value of all entitlements, including special entitlements, in the Member State or region concerned for 2014, under the single payment scheme.

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For the purpose of this paragraph, a farmer shall be considered to hold payment entitlements on the date of submission of his application for 2014 where payment entitlements were allocated or definitively transferred to him by that date.

4 Member States which apply the single area payment scheme in calendar year 2014 shall calculate the initial unit value of payment entitlements referred to in Article 25(2) of this Regulation by dividing a fixed percentage of the total value of aid the farmer received for 2014 under the single area payment scheme in accordance with Regulation (EC) No 73/2009 and under Articles 132 and 133a of that Regulation, before reductions and exclusions provided for in Chapter 4 of Title II of that Regulation, by the number of payment entitlements he is allocated in 2015, excluding those allocated from the national reserve or regional reserves in 2015.

That fixed percentage shall be calculated by dividing the national or regional ceiling for the basic payment scheme to be set in accordance with, respectively, Article 22(1) or Article 23(2) of this Regulation for the year 2015, after applying the linear reduction provided for in paragraph 1 or, where applicable, paragraph 2 of Article 30 of this Regulation, by the total value of aid granted under the single area payment scheme in accordance with Regulation (EC) No 73/2009 and under Articles 132 and 133a of that Regulation for 2014 in the Member State or region concerned, before reductions and exclusions provided for in Chapter 4 of Title II of that Regulation.

5 Member States which apply the single payment scheme in calendar year 2014 and which, in accordance with Article 21(3) of this Regulation, decide to keep their existing payment entitlements shall calculate the initial unit value of payment entitlements referred to in Article 25(2) of this Regulation by multiplying the unit value of the entitlements by a fixed percentage. That fixed percentage shall be calculated by dividing the national or regional ceiling for the basic payment scheme to be set in accordance with, respectively, Article 22(1) or Article 23(2) of this Regulation for the year 2015, after applying the linear reduction provided for in paragraph 1 or, where applicable, paragraph 2 of Article 30 of this Regulation, by the amount of the payments for 2014 under the single payment scheme in the Member State or region concerned, before reductions and exclusions provided for in Chapter 4 of Title II of Regulation (EC) No 73/2009.

6 For the purposes of calculation methods provided for in this Article, provided that the relevant sectors do not receive any voluntary coupled support pursuant to Title IV of this Regulation, Member States may also take into account the support granted for calendar year 2014 under one or more of the schemes pursuant to Article 52, Article 53(1) and points (a) and (b) of Article 68(1) of Regulation (EC) No 73/2009 and, as regards Member States which applied the single area payment scheme in accordance with Regulation (EC) No 73/2009, pursuant to point (c) of Article 68(1) and Articles 126, 127 and 129 of that Regulation.

Member States which decide to apply the voluntary coupled support pursuant to Title IV of this Regulation may take into account the differences between the level of support granted in calendar year 2014 and the level of support to be granted in accordance with Title IV of this Regulation when applying a calculation method provided for in this Article, provided that:

- a the voluntary coupled support pursuant to Title IV of this Regulation is granted to a sector which was granted support in calendar year 2014 pursuant to Article 52, Article 53(1) and points (a) and (b) of Article 68(1) and, for Member States which applied the single area payment scheme, pursuant to point (c) of Article 68(1) and Articles 126, 127 and 129 of Regulation (EC) No 73/2009; and
- b the amount per unit of the voluntary coupled support is lower than the amount per unit of the support in 2014.



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[<sup>F2</sup>For the purposes of the calculation methods provided for in this Article, provided that the redistributive payment pursuant to Article 41 is not applied, Member States shall fully take into account the support granted for calendar year 2014 under Articles 72a and 125a of Regulation (EC) No 73/2009.]

#### Textual Amendments

- F2** Inserted by Regulation (EU) No 1310/2013 of the European Parliament and of the Council of 17 December 2013 laying down certain transitional provisions on support for rural development by the European Agricultural Fund for Rural Development (EAFRD), amending Regulation (EU) No 1305/2013 of the European Parliament and of the Council as regards resources and their distribution in respect of the year 2014 and amending Council Regulation (EC) No 73/2009 and Regulations (EU) No 1307/2013, (EU) No 1306/2013 and (EU) No 1308/2013 of the European Parliament and of the Council as regards their application in the year 2014.

#### Article 27

##### **Inclusion of the special national de-mining reserve**

For Croatia, any reference in Articles 25 and 26 to the national reserve shall be read as including the special national de-mining reserve referred to in Article 20.

In addition, the amount arising from the special national de-mining reserve shall be deducted from the ceilings of the basic payment scheme referred to in the second subparagraph of Article 25(1), in paragraphs 5 and 6 of that Article and in Article 26.

#### Article 28

##### **Windfall profit**

For the purposes of Article 25(4) to (7) and Article 26, a Member State may, on the basis of objective criteria, provide that, in cases of sale or grant or expiry of all or part of a lease of agricultural areas after the date fixed pursuant to Article 35 or Article 124(2) of Regulation (EC) No 73/2009 and before the date fixed pursuant to Article 33(1) of this Regulation, the increase, or part of the increase, in the value of payment entitlements that would be allocated to the farmer concerned is to revert to the national reserve or regional reserves where the increase would lead to a windfall profit for the farmer concerned.

Those objective criteria shall be established in such a way as to ensure the equal treatment of farmers and to avoid distortions of the market and of competition and shall include, at least, the following:

- (a) a minimum duration for the lease; and
- (b) the proportion of the payment received which shall revert to the national reserve or regional reserves.

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## Article 29

### Notifications concerning the value of payment entitlements and convergence

Member States shall notify the Commission of any decision referred to in Articles 25, 26 and 28 by 1 August 2014.

## Section 2

### National reserve and regional reserves

## Article 30

### Establishment and use of the national reserve or regional reserves

1 Each Member State shall establish a national reserve. In order to do so, Member States shall proceed, in the first year of implementation of the basic payment scheme, to a linear percentage reduction of the basic payment scheme ceiling at national level.

2 By way of derogation from paragraph 1, Member States exercising the option in Article 23(1) may establish regional reserves. In order to do so, Member States shall proceed, in the first year of implementation of the basic payment scheme, to a linear percentage reduction of the relevant basic payment scheme ceiling at regional level referred to in the first subparagraph of Article 23(2).

3 The reduction referred to in paragraphs 1 and 2 shall not be higher than 3 %, unless a higher percentage is required to cover any allocation needs pursuant to paragraph 6 or to points (a) and (b) of paragraph 7 for the year 2015 or, for Member States applying Article 36, for the first year of implementation of the basic payment scheme.

4 Member States shall allocate payment entitlements from their national or regional reserves in accordance with objective criteria and in such a way as to ensure the equal treatment of farmers and to avoid distortions of the market and of competition.

5 Payment entitlements referred to in paragraph 4 shall only be allocated to farmers entitled to be granted direct payments in accordance with Article 9.

6 Member States shall use their national or regional reserves to allocate payment entitlements, as a matter of priority, to young farmers and to farmers commencing their agricultural activity.

7 Member States may use their national or regional reserves to:

- a allocate payment entitlements to farmers in order to prevent land from being abandoned, including in areas subject to restructuring or development programmes relating to a form of public intervention;
- b allocate payment entitlements to farmers in order to compensate them for specific disadvantages;
- c allocate payment entitlements to farmers who were prevented from being allocated payment entitlements under this Chapter as a result of force majeure or exceptional circumstances;

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- d allocate, in cases where they apply Article 21(3) of this Regulation, payment entitlements to farmers whose number of eligible hectares that they declared in 2015 in accordance with point (a) of the first subparagraph of Article 72(1) of Regulation (EU) No 1306/2013 and that are at their disposal on a date fixed by the Member State, which shall be no later than the date fixed in that Member State for amending such an aid application, is higher than the number of owned or leased-in payment entitlements established in accordance with Regulation (EC) No 1782/2003 and with Regulation (EC) No 73/2009 that they hold on the final date for submission of applications to be set in accordance with point (b) of the first subparagraph of Article 78 of Regulation (EU) No 1306/2013;
- e linearly increase, on a permanent basis, the value of all payment entitlements under the basic payment scheme at national or regional level if the relevant national or regional reserve exceeds 0,5 % of the annual national or regional ceiling for the basic payment scheme, provided that sufficient amounts remain available for allocations under paragraph 6, under points (a) and (b) of this paragraph and under paragraph 9 of this Article;
- f cover the yearly needs for payments to be granted in accordance with Article 51(2) and Article 65(1), (2) and (3) of this Regulation.

For the purpose of this paragraph, Member States shall decide on the priorities between the different uses referred to herein.

8 When applying paragraph 6 and points (a), (b) and (d) of paragraph 7, Member States shall fix the value of payment entitlements allocated to farmers at the national or regional average value of payment entitlements in the year of allocation.

The national or regional average value shall be calculated by dividing the national or regional ceiling for the basic payment scheme set in accordance with, respectively, Article 22(1) or Article 23(2) for the year of allocation, excluding the amount of the national reserve or regional reserves and, in the case of Croatia, the special de-mining reserve, by the number of allocated payment entitlements.

Member States shall fix the steps for annual progressive modifications of the value of payment entitlements allocated from the national reserve or regional reserves, taking account of the modifications of the national or regional ceiling for the basic payment scheme set in accordance with, respectively, Article 22(1) and Article 23(2) that result from the variations in the level of the national ceilings set out in Annex II.

9 Where a farmer is entitled to receive payment entitlements or to increase the value of the existing ones by virtue of a definitive court ruling or by virtue of a definitive administrative act of the competent authority of a Member State, the farmer shall receive the number and value of payment entitlements established in that ruling or act at a date to be fixed by the Member State. However, that date shall not be later than the latest date for lodging an application under the basic payment scheme following the date of the court ruling or the administrative act, taking into account the application of Articles 32 and 33.

10 When applying paragraph 6, points (a) and (b) of paragraph 7 and paragraph 9, Member States may either allocate new entitlements or increase the unit value of all of the existing entitlements of a farmer up to the national or regional average value.

11 For the purposes of this Article, the following definitions shall apply:

- a 'young farmers' means farmers fulfilling the conditions laid down in Article 50(2) and, where relevant, the conditions referred to in Article 50(3) and (11);

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- b 'farmers commencing their agricultural activity' means natural or legal persons who, in the five years preceding the start of the agricultural activity, did not have any agricultural activity in their own name and at their own risk or did not have the control of a legal person exercising an agricultural activity. In the case of a legal person, the natural person or persons in control of the legal person must not have had any agricultural activity in their own name and at their own risk or must not have had the control of a legal person exercising an agricultural activity in the five years preceding the start of the agricultural activity by the legal person; Member States may establish their own additional objective and non-discriminative eligibility criteria for this category of farmers as regards appropriate skills, experience or education.

### *Article 31*

#### **Replenishment of the national reserve or regional reserves**

1 The national reserve or regional reserves shall be replenished by amounts resulting from:

- a payment entitlements not giving right to payments during two consecutive years due to the application of:
  - (i) Article 9,
  - (ii) Article 10(1), or
  - (iii) Article 11(4) of this Regulation;
- b a number of payment entitlements equivalent to the total number of payment entitlements which have not been activated by farmers in accordance with Article 32 of this Regulation for a period of two consecutive years, except where their activation has been prevented by force majeure or exceptional circumstances; when establishing the owned or leased-in payment entitlements held by a farmer that shall revert to the national reserve or regional reserves, priority shall be given to those entitlements which have the lowest value;
- c payment entitlements voluntarily returned by farmers;
- d the application of Article 28 of this Regulation;
- e unduly allocated payment entitlements in accordance with Article 63 of Regulation (EU) No 1306/2013;
- f a linear reduction of the value of payment entitlements under the basic payment scheme at national or regional level where the national reserve or regional reserves are not sufficient to cover the cases referred to in Article 30(9) of this Regulation;
- [<sup>F3</sup>g where Member States consider it necessary, a linear reduction of the value of payment entitlements under the basic payment scheme at national or regional level to cover cases referred to in Article 30(6) of this Regulation. In addition, Member States already making use of that linear reduction may in the same year also apply a linear reduction of the value of payment entitlements under the basic payment scheme at national or regional level to cover cases referred to in points (a) and (b) of the first subparagraph of Article 30(7) of this Regulation;]
- h the application of Article 34(4) of this Regulation.

2 The Commission shall adopt implementing acts laying down necessary measures regarding the reversion of non-activated payment entitlements to the national reserve or regional reserves. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 71(2).

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### Textual Amendments

- F3** Substituted by [Regulation \(EU\) 2017/2393 of the European Parliament and of the Council of 13 December 2017 amending Regulations \(EU\) No 1305/2013 on support for rural development by the European Agricultural Fund for Rural Development \(EAFRD\), \(EU\) No 1306/2013 on the financing, management and monitoring of the common agricultural policy, \(EU\) No 1307/2013 establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy, \(EU\) No 1308/2013 establishing a common organisation of the markets in agricultural products and \(EU\) No 652/2014 laying down provisions for the management of expenditure relating to the food chain, animal health and animal welfare, and relating to plant health and plant reproductive material.](#)

## Section 3

### *Implementation of the basic payment scheme*

#### Article 32

#### **Activation of payment entitlements**

1 Support under the basic payment scheme shall be granted to farmers, by means of declaration in accordance with Article 33(1), upon activation of a payment entitlement per eligible hectare in the Member State where it has been allocated. Activated payment entitlements shall give a right to the annual payment of the amounts fixed therein, without prejudice to the application of financial discipline, of reduction of payments in accordance with Article 11 and of linear reductions in accordance with Article 7, Article 51(2) and point (c) of Article 65(2) of this Regulation, and to the application of Article 63 of Regulation (EU) No 1306/2013.

- 2 For the purposes of this Title, 'eligible hectare' means:
- a any agricultural area of the holding, including areas that were not in good agricultural condition on 30 June 2003 in Member States acceding to the Union on 1 May 2004 that opted upon accession to apply the single area payment scheme, that is used for an agricultural activity or, where the area is also used for non-agricultural activities, is predominantly used for agricultural activities; or
  - b any area which gave a right to payments in 2008 under the single payment scheme or the single area payment scheme laid down, respectively, in Titles III and IVA of Regulation (EC) No 1782/2003, and which:
    - (i) no longer complies with the definition of 'eligible hectare' under point (a) as a result of the implementation of Directive 92/43/EEC, Directive 2000/60/EC and Directive 2009/147/EC;
    - (ii) for the duration of the relevant commitment by the individual farmer, is afforested pursuant to Article 31 of Regulation (EC) No 1257/1999 or to Article 43 of Regulation (EC) No 1698/2005 or to Article 22 of Regulation (EU) No 1305/2013 or under a national scheme the conditions of which comply with Article 43(1), (2) and (3) of Regulation (EC) No 1698/2005 or Article 22 of Regulation (EU) No 1305/2013; or
    - (iii) for the duration of the relevant commitment of the individual farmer, is set aside pursuant to Articles 22, 23 and 24 of Regulation (EC) No 1257/1999,

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to Article 39 of Regulation (EC) No 1698/2005 or to Article 28 of Regulation (EU) No 1305/2013.

- 3 For the purposes of point (a) of paragraph 2:
- a where an agricultural area of a holding is also used for non-agricultural activities, that area shall be considered to be used predominantly for agricultural activities provided that those agricultural activities can be exercised without being significantly hampered by the intensity, nature, duration and timing of the non-agricultural activities;
  - b Member States may draw up a list of areas which are predominantly used for non-agricultural activities.

Member States shall establish criteria for the implementation of this paragraph on their territory.

4 Areas shall be considered to be eligible hectares only if they comply with the definition of eligible hectare throughout the calendar year, except in the case of force majeure or exceptional circumstances.

5 For the purposes of determining 'eligible hectare', Member States having taken the decision referred to in the second subparagraph of Article 4(2) may apply a reduction coefficient to convert the hectares concerned into 'eligible hectares'.

6 Areas used for the production of hemp shall only be eligible hectares if the varieties used have a tetrahydrocannabinol content not exceeding 0,2 %.

### *Article 33*

#### **Declaration of eligible hectares**

1 For the purposes of the activation of payment entitlements provided for in Article 32(1), the farmer shall declare the parcels corresponding to the eligible hectares accompanying any payment entitlement. Except in the case of force majeure or exceptional circumstances, the parcels declared shall be at the farmer's disposal on a date fixed by the Member State, which shall be no later than the date fixed in that Member State for amending the aid application as referred to in Article 72(1) of Regulation (EU) No 1306/2013.

2 Member States may, in duly justified circumstances, authorise the farmer to modify his declaration provided that he maintains at least the number of hectares corresponding to his payment entitlements and respects the conditions for granting the payment under the basic payment scheme for the area concerned.

### *Article 34*

#### **Transfer of payment entitlements**

1 Payment entitlements may be transferred only to a farmer entitled to be granted direct payments in accordance with Article 9 established in the same Member State, except in the case of transfer by actual or anticipated inheritance.

Payment entitlements, including in the case of actual or anticipated inheritance, may be activated only in the Member State where they were allocated.

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2 Where Member States exercise the option in Article 23(1), payment entitlements may be transferred or activated only within the same region, except in the case of actual or anticipated inheritance.

Payment entitlements, including in the case of actual or anticipated inheritance, may be activated only in the region where they were allocated.

3 Member States not exercising the option in Article 23(1) may decide that payment entitlements may be transferred or activated only within the same region, except in the case of actual or anticipated inheritance.

Such regions shall be defined at the appropriate territorial level in accordance with objective criteria and in a way that ensures the equal treatment of farmers and avoids distortions of the market and of competition.

4 Where payment entitlements are transferred without land, Member States may, acting in compliance with the general principles of Union law, decide that a part of the payment entitlements transferred are to revert to the national reserve or regional reserves or that their unit value is to be reduced in favour of the national reserve or regional reserves. Such reduction may be applied to one or more types of transfer.

5 The Commission shall adopt implementing acts laying down detailed rules governing the notification by farmers of transfer of payment entitlements to the national authorities and the deadlines within which such notification is to take place. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 71(2).

#### Article 35

### Delegated powers

1 In order to ensure legal certainty and to clarify the specific situations that may arise in the application of the basic payment scheme, the Commission shall be empowered to adopt delegated acts in accordance with Article 70 concerning:

- a rules on eligibility and access in respect of the basic payment scheme of farmers in the case of inheritance and anticipated inheritance, inheritance under a lease, change of legal status or denomination, transfer of payment entitlements, merger or scission of the holding, and the application of the contract clause referred to in Article 24(8);
- b rules on the calculation of the value and number or on the increase or reduction in the value of payment entitlements in relation to the allocation of payment entitlements under any provision of this Title, including rules:
  - (i) on the possibility of a provisional value and number or of a provisional increase of payment entitlements allocated on the basis of the application from the farmer,
  - (ii) on the conditions for establishing the provisional and definitive value and number of the payment entitlements,
  - (iii) on the cases where a sale or lease contract may affect the allocation of payment entitlements;
- c rules on the establishment and calculation of the value and number of payment entitlements received from the national reserve or regional reserves;

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- d rules on the modification of the unit value of payment entitlements in the case of fractions of payment entitlements and in the case of transfer of payment entitlements referred to in Article 34(4);
- e criteria for applying options under points (a), (b) and (c) of the third subparagraph of Article 24(1);
- f criteria for applying limitations on the number of payment entitlements to be allocated in accordance with Article 24(4) to (7);
- g criteria for the allocation of payment entitlements pursuant to Article 30(6) and (7);
- h criteria for setting the reduction coefficient referred to in Article 32(5).

2 In order to ensure the proper management of payment entitlements, the Commission shall be empowered to adopt delegated acts in accordance with Article 70 laying down rules on the content of the declaration and the requirements for the activation of payment entitlements.

3 In order to preserve public health, the Commission shall be empowered to adopt delegated acts in accordance with Article 70 laying down rules making the granting of payments conditional upon the use of certified seeds of certain hemp varieties and the procedure for the determination of hemp varieties and the verification of their tetrahydrocannabinol content referred to in Article 32(6).

#### *Section 4*

### ***Single area payment scheme***

#### *Article 36*

### **Single area payment scheme**

1 Member States applying in 2014 the single area payment scheme laid down in Chapter 2 of Title V of Regulation (EC) No 73/2009 may, under the conditions set out in this Regulation, decide to continue to apply that scheme until 31 December 2020 at the latest. They shall notify the Commission of their decision and of the end date of the application of that scheme by 1 August 2014.

During the period of application of the single area payment scheme, Sections 1, 2 and 3 of this Chapter shall not apply to those Member States, with the exception of the second subparagraph of Article 23(1), Article 23(6) as well as Article 32(2) to (6).

2 The single area payment shall be granted on an annual basis for each eligible hectare declared by the farmer in accordance with point (a) of the first subparagraph of Article 72(1) of Regulation (EU) No 1306/2013. It shall be calculated each year by dividing the annual financial envelope established in accordance with paragraph 4 of this Article by the total number of eligible hectares declared in the Member State concerned in accordance with point (a) of the first subparagraph of Article 72(1) of Regulation (EU) No 1306/2013.

3 By way of derogation from paragraph 2 of this Article, Member States that decide to apply Article 38 of this Regulation from 1 January 2018 at the latest may use, for the period during which they apply this Article, up to 20 % of the annual financial envelope referred to in paragraph 2 of this Article to differentiate the single area payment per hectare.

When doing so, they shall take into account the support granted for calendar year 2014 under one or more of the schemes pursuant to points (a), (b) and (c) of Article 68(1) and Articles 126, 127 and 129 of Regulation (EC) No 73/2009.



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Cyprus may differentiate the aid taking into account the sector-specific financial envelopes set out in Annex XVIIa of Regulation (EC) No 73/2009, reduced by any aid granted to the same sector pursuant to Article 37 of this Regulation.

[<sup>F2</sup>In order to differentiate the single area payment scheme, and provided that the redistributive payment pursuant to Article 41 is not applied, Member States shall fully take into account the support granted for calendar year 2014 under Article 125a of Regulation (EC) No 73/2009.]

4 The Commission shall adopt implementing acts setting, for each Member State, the annual national ceiling for the single area payment scheme by deducting from the annual national ceiling set out in Annex II the ceilings fixed in accordance with Articles 42, 47, 49, 51 and 53. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 71(2).

[<sup>F4</sup>For each Member State, the amount calculated in accordance with the first subparagraph of this paragraph may be increased by a maximum of 3 % of the relevant annual national ceiling set out in Annex II after deduction of the amount resulting from the application of Article 47(1) for the relevant year. When a Member State applies such an increase, that increase shall be taken into account by the Commission when setting the annual national ceiling for the single area payment scheme pursuant to the first subparagraph of this paragraph. For that purpose, Member States shall notify the Commission by 31 January 2018 of the annual percentages by which the amount calculated pursuant to paragraph 1 of this Article is to be increased each calendar year from 2018.

Member States may review their decision referred to in the second subparagraph of this paragraph on an annual basis and shall notify the Commission of any decision based on such review by 1 August of the year preceding its application.]

5 Except in the case of force majeure or exceptional circumstances, the hectares referred to in paragraph 2 shall be at the farmer's disposal on a date fixed by the Member State, which shall be no later than the date fixed in that Member State for amendment of the aid application referred to in Article 72(1) of Regulation (EU) No 1306/2013.

6 The Commission shall be empowered to adopt delegated acts in accordance with Article 70 concerning rules on eligibility and the access of farmers to the single area payment scheme.

#### Textual Amendments

- F2** Inserted by Regulation (EU) No 1310/2013 of the European Parliament and of the Council of 17 December 2013 laying down certain transitional provisions on support for rural development by the European Agricultural Fund for Rural Development (EAFRD), amending Regulation (EU) No 1305/2013 of the European Parliament and of the Council as regards resources and their distribution in respect of the year 2014 and amending Council Regulation (EC) No 73/2009 and Regulations (EU) No 1307/2013, (EU) No 1306/2013 and (EU) No 1308/2013 of the European Parliament and of the Council as regards their application in the year 2014.
- F4** Inserted by Regulation (EU) 2017/2393 of the European Parliament and of the Council of 13 December 2017 amending Regulations (EU) No 1305/2013 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD), (EU) No 1306/2013 on the financing, management and monitoring of the common agricultural policy, (EU) No 1307/2013 establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy, (EU) No 1308/2013 establishing a common organisation of the markets in agricultural products and (EU) No 652/2014 laying down provisions for the management

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of expenditure relating to the food chain, animal health and animal welfare, and relating to plant health and plant reproductive material.

### Article 37

#### **Transitional national aid**

1 Member States applying the single area payment scheme in accordance with Article 36 may decide to grant transitional national aid in the period 2015-2020.

2 Transitional national aid may be granted to farmers in sectors in respect of which this aid or, in the case of Bulgaria and Romania, complementary national direct payments were granted in 2013.

3 The conditions for granting transitional national aid shall be identical to those authorised for the granting of payments pursuant to Article 132(7) or Article 133a of Regulation (EC) No 73/2009 in respect of 2013, with the exception of the reduction of the payments resulting from the application of Article 132(2) in conjunction with Articles 7 and 10 of that Regulation.

4 The total amount of transitional national aid that may be granted to farmers in any of the sectors referred to in paragraph 2 shall be limited to the following percentage of the sector-specific financial envelopes authorised by the Commission in accordance with Article 132(7) or Article 133a(5) of Regulation (EC) No 73/2009 in 2013:

- 75 % in 2015,
- 70 % in 2016,
- 65 % in 2017,
- 60 % in 2018,
- 55 % in 2019,
- 50 % in 2020.

For Cyprus, the percentage shall be calculated on the basis of the sector-specific financial envelopes set out in Annex XVIIa to Regulation (EC) No 73/2009.

5 Paragraphs 2 and 3 shall not apply to Cyprus.

6 Member States shall notify any decision referred to in paragraph 1 to the Commission by 31 March of each year. The notification shall include the following information:

- a the sector-specific financial envelope;
- b the maximum rate of transitional national aid, where appropriate.

7 Member States may decide, on the basis of objective criteria and within the limits set out in paragraph 4, on the amounts of transitional national aid to be granted.

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## Section 5

### **Implementation of the basic payment scheme in the member states having applied the single area payment scheme**

#### Article 38

### **Introduction of the basic payment scheme in the Member States having applied the single area payment scheme**

Save as otherwise provided for in this Section, this Title shall apply to the Member States having applied the single area payment scheme provided for in Section 4 of this Chapter.

Articles 24 to 29 shall not apply to those Member States.

#### Article 39

### **First allocation of payment entitlements**

1 Payment entitlements shall be allocated to farmers who are entitled to be granted direct payments in accordance with Article 9 of this Regulation provided that:

- a they apply for allocation of payment entitlements under the basic payment scheme by a final date for submission of applications to be set in accordance with point (b) of the first subparagraph of Article 78 of Regulation (EU) No 1306/2013 in the first year of implementation of the basic payment scheme, except in case of force majeure or exceptional circumstances; and
- b they were entitled to receive payments, before any reduction or exclusion provided for in Chapter 4 of Title II of Regulation (EC) No 73/2009, in respect of an aid application for direct payments, for transitional national aid or for complementary national direct payments in accordance with Regulation (EC) No 73/2009 for 2013.

Member States may allocate payment entitlements to farmers who are entitled to be granted direct payments in accordance with Article 9 of this Regulation, who fulfil the condition provided for in point (a) of the first subparagraph, who did not receive payments for 2013 in respect of an aid application referred to in point (b) of the first subparagraph of this paragraph and who, on the date fixed by the Member State concerned in accordance with Article 11(2) of Regulation (EC) No 1122/2009 for the claim year 2013, had only agricultural land that was not in good agricultural condition on the 30 June 2003, as provided for in Article 124(1) of Regulation (EC) No 73/2009.

2 Except in the case of force majeure or exceptional circumstances, the number of payment entitlements allocated per farmer in the first year of implementation of the basic payment scheme shall be equal to the number of eligible hectares which the farmer declares in his aid application in accordance with point (a) of the first subparagraph of Article 72(1) of Regulation (EU) No 1306/2013 for the first year of implementation of the basic payment scheme and which are at his disposal on a date fixed by the Member State. That date shall be no later than the date fixed in that Member State for amending such aid application.

3 The Commission shall be empowered to adopt delegated acts in accordance with Article 70 laying down further rules on the introduction of the basic payment scheme in Member States having applied the single area payment scheme.

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4 The Commission shall adopt implementing acts laying down rules on applications for the allocation of payment entitlements submitted in the year of allocation of payment entitlements where those payment entitlements may not yet be definitively established and where that allocation is affected by specific circumstances.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 71(2).

#### Article 40

### Value of payment entitlements

1 In the first year of implementation of the basic payment scheme, Member States shall calculate the unit value of payment entitlements by dividing a fixed percentage of the national ceiling set out in Annex II for each relevant year by the number of payment entitlements in the first year of implementation of the basic payment scheme, excluding those allocated from the national reserve or regional reserves.

The fixed percentage referred to in the first subparagraph shall be calculated by dividing the national or regional ceiling for the basic payment scheme to be set in accordance with, respectively, Article 22(1) or Article 23(2) of this Regulation for the first year of implementation of the basic payment scheme, after applying the linear reduction provided for in paragraph 1 or, where applicable, paragraph 2 of Article 30 by the national ceiling set out in Annex II for the first year of implementation of the basic payment scheme. The payment entitlements shall be expressed in a number that corresponds to a number of hectares.

2 By way of derogation from the calculation method referred to in paragraph 1, Member States may decide to differentiate the value of payment entitlements in the first year of implementation of the basic payment scheme, excluding those allocated from the national reserve or regional reserves for each relevant year, on the basis of their initial unit value.

3 The initial unit value of payment entitlements referred to in paragraph 2 shall be set by dividing a fixed percentage of the total value of aid, excluding aid pursuant to Articles 41, 43, 48 and 50 and Title IV of this Regulation, received by a farmer in accordance with this Regulation for the calendar year preceding the implementation of the basic payment scheme, before the application of Article 63 of Regulation (EU) No 1306/2013, by the number of payment entitlements allocated to that farmer in the first year of implementation of the basic payment scheme, excluding those allocated from the national reserve or regional reserves.

That fixed percentage shall be calculated by dividing the national or regional ceiling for the basic payment scheme to be set in accordance with, respectively, Article 22(1) or Article 23(2) of this Regulation for the first year of implementation of the basic payment scheme, after applying the linear reduction provided for in paragraph 1 or, where applicable, paragraph 2 of Article 30, by the total value of aid, excluding aid pursuant to Articles 41, 43, 48 and 50 and Title IV of this Regulation, granted for the calendar year preceding the implementation of the basic payment scheme within the Member State or region concerned, before the application of Article 63 of Regulation (EU) No 1306/2013.

4 When applying paragraph 2, Member States, acting in compliance with the general principles of Union law, shall move towards approximating the value of the payment entitlements at national or regional level. To this end, Member States shall fix the steps to be taken and the method of calculation to be used and shall notify them to the Commission by 1

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August of the year preceding the implementation of the basic payment scheme. Those steps shall include annual progressive modifications of the initial value of payment entitlements referred to in paragraph 3 in accordance with objective and non-discriminatory criteria, starting from the first year of implementation of the basic payment scheme.

In the first year of implementation of the basic payment scheme, Member States shall inform the farmers of the value of their entitlements, calculated in accordance with this Article, for each year of the period covered by this Regulation.

5 For the purposes of paragraph 3, a Member State may, on the basis of objective criteria, provide that, in cases of sale or grant or expiry of all or part of a lease of agricultural areas after the date fixed pursuant to Article 36(5) and before the date fixed pursuant to Article 33(1), the increase, or a part thereof, in the value of payment entitlements that would be allocated to the farmer concerned is to revert to the national reserve or regional reserves where the increase would lead to a windfall profit for the farmer concerned.

Those objective criteria shall be established in such a way as to ensure the equal treatment of farmers and to avoid distortions of the market and of competition and shall include, at least, the following:

- a a minimum duration for the lease;
- b the proportion of the payment received which is to revert to the national reserve or regional reserves.

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- (1) Commission Regulation (EC) No 1122/2009 of 30 November 2009 laying down detailed rules for the implementation of Council Regulation (EC) No 73/2009 as regards cross-compliance, modulation and the integrated administration and control system, under the direct support schemes for farmers provided for that Regulation, as well as for the implementation of Council Regulation (EC) No 1234/2007 as regards cross-compliance under the support scheme provided for the wine sector ([OJ L 316, 2.12.2009, p. 65](#)).

### Changes to legislation:

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#### Changes and effects yet to be applied to :

- rt. 52(9) substituted by [S.R. 2021/42 reg. 19\(2\)\(c\)](#)
- Regulation coming into force by [2020 c. 2 s. 14](#) (Regulation (except Art. 13) as it has effect for the claim year 2020 brought into domestic law on exit day by virtue of Direct Payments to Farmers (Legislative Continuity) Act 2020 (c. 2), ss. 1, 4, 9(3))
- Regulation power to modify conferred by [2023 asc 4 s. 16](#)
- Regulation power to modify conferred by [2020 c. 21 s. 9](#)
- Regulation power to modify conferred by [2020 c. 21 s. 10](#)
- Regulation power to modify conferred by [2020 c. 21 Sch. 5 para. 2](#)
- Regulation power to modify conferred by [2020 c. 21 Sch. 5 para. 3](#)
- Regulation power to modify conferred by [2020 c. 21 Sch. 6 para. 2](#)
- Regulation power to modify conferred by [2020 c. 21 Sch. 6 para. 3](#)
- Regulation power to modify conferred by [2020 c. 21 Sch. 6 para. 4](#)
- Regulation power to modify conferred (temp.) by [2020 asp 17 s. 2](#)
- Regulation power to modify conferred (temp.) by [2020 asp 17 s. 3](#)
- Regulation power to modify conferred (temp.) by [2020 asp 17 s. 4](#)
- Regulation revoked by [S.I. 2023/1430 Sch. 3 para. 1 Table 1](#)

#### Changes and effects yet to be applied to the whole legislation item and associated provisions

- Title 3 Ch. 3 omitted by [S.I. 2020/1387 reg. 5\(6\)](#)
- Signature words omitted by [S.I. 2020/91 reg. 7\(5\)](#)
- Annex 1 words omitted by [S.S.I. 2020/460 reg. 2\(18\)](#)
- Annex 1 words omitted by [S.I. 2019/207 reg. 8\(1\)](#)
- Annex 1 words omitted by [S.I. 2020/1387 reg. 5\(8\)](#)
- Annex 1 words omitted by [S.I. 2020/1513 reg. 2\(23\)](#)
- Annex 1 words omitted by [S.I. 2020/91 reg. 8\(1\)](#)
- Art. 1(b)(i) words omitted by [S.I. 2019/207 reg. 3\(1\)\(a\)](#)
- Art. 1(b)(i) words omitted by [S.I. 2020/91 reg. 3\(1\)\(a\)](#)
- Art. 1(b)(v) omitted by [S.I. 2019/207 reg. 3\(1\)\(b\)](#)
- Art. 1(b)(v) omitted by [S.I. 2020/91 reg. 3\(1\)\(b\)](#)
- Art. 1(b)(x) omitted by [S.I. 2019/207 reg. 3\(1\)\(b\)](#)
- Art. 1(b)(x) omitted by [S.I. 2020/91 reg. 3\(1\)\(b\)](#)
- Art. 1(b)(iii) omitted by [S.S.I. 2020/460 reg. 2\(2\)](#)
- Art. 1(b)(iii) omitted by [S.I. 2020/1513 reg. 2\(2\)\(a\)](#)
- Art. 1(b)(vii) omitted by [S.I. 2020/1513 reg. 2\(2\)\(b\)](#)
- Art. 1(b)(viii) omitted by [S.I. 2019/207 reg. 3\(1\)\(b\)](#)
- Art. 1(b)(viii) omitted by [S.I. 2020/91 reg. 3\(1\)\(b\)](#)
- Art. 1(b)(ii) omitted by [S.I. 2019/207 reg. 3\(1\)\(b\)](#)
- Art. 1(b)(ii) omitted by [S.I. 2020/91 reg. 3\(1\)\(b\)](#)
- art. 1(b)(iv) omitted by [S.R. 2021/42 reg. 4\(2\)](#)
- Art. 1(b)(iv) omitted by [S.I. 2020/1387 reg. 5\(2\)](#)
- Art. 1(b)(iv) omitted by [S.I. 2020/1556 reg. 7\(2\)](#)
- Art. 1(b)(ix) omitted by [S.I. 2019/207 reg. 3\(1\)\(b\)](#)
- Art. 1(b)(ix) omitted by [S.I. 2020/91 reg. 3\(1\)\(b\)](#)
- Annex 2 substituted by [S.I. 2019/207 reg. 8\(2\)](#)
- Annex 2 substituted by [S.I. 2020/91 reg. 8\(2\)](#)
- Annex 2 sum substituted by [S.I. 2020/760 reg. 2\(2\)](#)
- Annex 3 omitted by [S.S.I. 2020/460 reg. 2\(19\)](#)

- Annex 3 omitted by S.I. 2020/1513 reg. 2(24)
- Annex 3 substituted by S.I. 2019/207 reg. 8(3)
- Annex 3 substituted by S.I. 2020/91 reg. 8(3)
- Annex 3 sum substituted by S.I. 2020/760 reg. 2(3)
- Annex 4-8 omitted by S.I. 2019/207 reg. 8(4)
- Annex 4-8 omitted by S.I. 2020/91 reg. 8(4)
- Art. 4(1)(a) word substituted by S.S.I. 2020/349 reg. 2(2)
- Art. 4(1)(a) word substituted by S.I. 2020/1387 reg. 5(3)(a)
- Art. 4(1)(a) word substituted by S.I. 2020/1556 reg. 7(3)(a)(i)
- Art. 4(1)(a) words omitted by S.I. 2019/207 reg. 3(3)(a)(i)
- Art. 4(1)(a) words omitted by S.I. 2020/91 reg. 3(4)(a)(i)
- art. 4(1)(a) words substituted by S.R. 2021/42 reg. 13(2)(a)
- Art. 4(1)(a) words substituted by S.I. 2019/207 reg. 3(3)(a)(ii)
- Art. 4(1)(a) words substituted by S.I. 2020/91 reg. 3(4)(a)(ii)
- Art. 4(1)(b) word substituted by S.S.I. 2020/349 reg. 2(2)
- Art. 4(1)(b) word substituted by S.I. 2020/1387 reg. 5(3)(b)
- Art. 4(1)(b) word substituted by S.I. 2020/1556 reg. 7(3)(a)(i)
- art. 4(1)(b) words substituted by S.R. 2021/42 reg. 13(2)(b)
- Art. 4(1)(b) words substituted by S.I. 2019/207 reg. 3(3)(b)
- Art. 4(1)(b) words substituted by S.I. 2020/91 reg. 3(4)(b)
- art. 4(1)(c)(i) word inserted by S.R. 2021/40 reg. 2(2)(a)(i)(aa)
- Art. 4(1)(c)(i) word inserted by S.I. 2020/1513 reg. 2(3)(a)(i)(aa)
- art. 4(1)(c)(iii) omitted by S.R. 2021/40 reg. 2(2)(a)(i)(cc)
- Art. 4(1)(c)(iii) omitted by S.I. 2020/1513 reg. 2(3)(a)(i)(cc)
- Art. 4(1)(c)(iii) words substituted by S.I. 2019/207 reg. 3(3)(c)(ii)
- Art. 4(1)(c)(iii) words substituted by S.I. 2020/91 reg. 3(4)(c)(ii)
- art. 4(1)(c)(ii) words omitted by S.R. 2021/40 reg. 2(2)(a)(i)(bb)
- Art. 4(1)(c)(ii) words omitted by S.I. 2020/1513 reg. 2(3)(a)(i)(bb)
- Art. 4(1)(c)(ii) words substituted by S.I. 2019/207 reg. 3(3)(c)(i)
- Art. 4(1)(c)(ii) words substituted by S.I. 2020/91 reg. 3(4)(c)(i)
- Art. 4(1)(d) words omitted by S.I. 2019/207 reg. 3(3)(d)
- Art. 4(1)(d) words omitted by S.I. 2020/91 reg. 3(4)(d)
- Art. 4(1)(e) words omitted by S.I. 2020/1556 reg. 7(3)(a)(ii)
- Art. 4(1)(g) word substituted by S.I. 2020/1556 reg. 7(3)(a)(iii)(bb)
- Art. 4(1)(g) words omitted by S.I. 2020/1556 reg. 7(3)(a)(iii)(aa)
- Art. 4(1)(h) words substituted by S.I. 2019/207 reg. 3(3)(e)(i)
- Art. 4(1)(h) words substituted by S.I. 2019/207 reg. 3(3)(e)(ii)
- Art. 4(1)(h) words substituted by S.I. 2019/207 reg. 3(3)(e)(iii)
- Art. 4(1)(h) words substituted by S.I. 2020/91 reg. 3(4)(e)(i)
- Art. 4(1)(h) words substituted by S.I. 2020/91 reg. 3(4)(e)(ii)
- Art. 4(1)(h) words substituted by S.I. 2020/91 reg. 3(4)(e)(iii)
- Art. 4(1)(h) words substituted by S.I. 2020/1556 reg. 7(3)(a)(iv)
- Art. 4(1)(i) word substituted by S.I. 2020/1556 reg. 7(3)(a)(i)
- Art. 4(1)(i) words substituted by S.I. 2019/207 reg. 3(3)(f)
- Art. 4(1)(i) words substituted by S.I. 2020/91 reg. 3(4)(f)
- Art. 4(1)(k) words omitted by S.I. 2019/207 reg. 3(3)(g)(i)
- Art. 4(1)(k) words omitted by S.I. 2019/207 reg. 3(3)(g)(ii)
- Art. 4(1)(k) words omitted by S.I. 2020/91 reg. 3(4)(g)(i)
- Art. 4(1)(k) words omitted by S.I. 2020/91 reg. 3(4)(g)(ii)
- Art. 4(1)(k) words substituted by S.I. 2019/207 reg. 3(3)(g)(iii)
- Art. 4(1)(k) words substituted by S.I. 2019/207 reg. 3(3)(g)(iv)
- Art. 4(1)(k) words substituted by S.I. 2020/91 reg. 3(4)(g)(iii)
- Art. 4(1)(k) words substituted by S.I. 2020/91 reg. 3(4)(g)(iv)
- Art. 4(1)(o)-(r) inserted by S.I. 2019/207 reg. 3(3)(h)
- Art. 4(1)(o)-(s) inserted by S.I. 2020/91 reg. 3(4)(h)
- Art. 4(1)(s) inserted by S.I. 2019/748 reg. 32(a) (This amendment not applied to legislation.gov.uk. Pt. 3 omitted immediately before IP completion day by S.I. 2020/1445, reg. 10(11))



- Art. 4(1)(s) substituted by S.I. 2020/1556 reg. 7(3)(a)(v)
- art. 4(1)(t) inserted by S.R. 2021/40 reg. 2(2)(a)(ii)
- Art. 4(1)(t) inserted by S.S.I. 2020/460 reg. 2(3)
- Art. 4(1)(t) inserted by S.I. 2020/1513 reg. 2(3)(a)(ii)
- Art. 4(1)(t) inserted by S.I. 2020/1556 reg. 7(3)(a)(vi)
- art. 4(2)(b) omitted by S.R. 2021/40 reg. 2(2)(b)
- Art. 4(2)(b) omitted by S.I. 2020/1513 reg. 2(3)(b)
- art. 5A inserted by S.R. 2021/40 reg. 2(3)
- Art. 5A inserted by S.S.I. 2020/460 reg. 2(4)
- Art. 5A inserted by S.I. 2020/1513 reg. 2(4)
- Art. 5A inserted by S.I. 2020/1556 reg. 7(4)
- art. 5A(4) words substituted by S.R. 2021/42 reg. 21(2)
- Art. 6(3)-(5) substituted for Art. 6(3) by S.I. 2019/748 reg. 33 (This amendment not applied to legislation.gov.uk. Pt. 3 omitted immediately before IP completion day by S.I. 2020/1445, reg. 10(11))
- Art. 6(4)(5) inserted by S.I. 2020/91 reg. 4(4)
- Art. 7(2)(2A) substituted for Art. 7(2) by S.I. 2020/91 reg. 4(6)
- Art. 7(3)-(5) substituted for Art. 7(3) by S.I. 2019/748 reg. 34 (This amendment not applied to legislation.gov.uk. Pt. 3 omitted immediately before IP completion day by S.I. 2020/1445, reg. 10(11))
- Art. 7(4)(5) inserted by S.I. 2020/91 reg. 4(8)
- Art. 7A inserted by 2020 c. 2 s. 5(4)
- art. 7A omitted by S.R. 2021/40 reg. 2(4)
- Art. 7A omitted by S.S.I. 2020/460 reg. 2(5)
- Art. 7A omitted by S.I. 2020/1513 reg. 2(5)
- Art. 7A omitted by S.I. 2020/1556 reg. 7(5)
- Annex 9 s. 1 para. 1 excluded by S.I. 2020/470 reg. 2(a)(iii)
- Annex 9 omitted by S.I. 2020/1387 reg. 5(9)
- Art. 9(5)(b) omitted by S.I. 2020/1556 reg. 7(6)(b)
- Art. 9(5)(c) omitted by S.I. 2020/1556 reg. 7(6)(b)
- Art. 9(5)(c) words omitted by S.I. 2019/748 reg. 36(b) (This amendment not applied to legislation.gov.uk. Pt. 3 omitted immediately before IP completion day by S.I. 2020/1445, reg. 10(11))
- Art. 9(5)(c) words omitted by S.I. 2020/91 reg. 4(10)(e)(ii)
- Art. 9(5)(d) omitted by S.I. 2020/1556 reg. 7(6)(b)
- Annex 10 omitted by S.I. 2020/1387 reg. 5(10)
- Art. 11(4A)(4B) inserted by S.S.I. 2020/460 reg. 2(6)(b)
- Art. 11A inserted by S.I. 2021/407 reg. 3(3)
- Art. 11A substituted by S.I. 2022/407 reg. 2
- Art. 11A substituted by S.I. 2023/456 reg. 3
- Art. 14(3) inserted in earlier amending provision S.I. 2019/207, reg. 4(8) by S.I. 2019/812 reg. 2(2)(b)
- art. 21(b) words omitted by S.R. 2021/40 reg. 2(8)
- Art. 21(b) words omitted by S.I. 2020/1513 reg. 2(10)
- Art. 24(1)(a)(i) word substituted by S.I. 2019/207 reg. 5(4)(b)(iii)(bb)
- Art. 24(1)(a)(i) words inserted by S.I. 2019/207 reg. 5(4)(b)(iii)(cc)
- Art. 24(1)(a)(i) words substituted by S.I. 2019/207 reg. 5(4)(b)(iii)(aa)
- Art. 24(1)(a)(ii) omitted by S.I. 2019/207 reg. 5(4)(b)(iv)
- Art. 24(1)(b) omitted by S.I. 2019/207 reg. 5(4)(b)(v)
- Art. 24(1)(c) words substituted by S.I. 2019/207 reg. 5(4)(b)(vi)
- Art. 30(7)(a)(b) omitted by S.I. 2020/1556 reg. 7(12)(a)(i)
- Art. 30(7)(d) omitted by S.I. 2019/207 reg. 5(13)(d)(ii)
- Art. 30(7)(e) words substituted by S.I. 2019/207 reg. 5(13)(d)(iii)
- Art. 30(7)(e) words substituted by S.I. 2020/91 reg. 5(6)(d)(ii)
- Art. 30(7)(e) words substituted by S.I. 2020/1556 reg. 7(12)(a)(ii)
- art. 30(7)(f) words omitted by S.R. 2021/40 reg. 2(12)(d)
- Art. 30(7)(f) words omitted by S.S.I. 2020/460 reg. 2(11)(c)
- Art. 30(7)(f) words omitted by S.I. 2020/1513 reg. 2(14)(d)

- Art. 30(7)(f) words omitted by S.I. 2020/1556 reg. 7(12)(a)(iii)
- art. 30(10a) inserted by S.R. 2021/42 reg. 10(2)
- art. 30(10b) inserted by S.R. 2022/1 reg. 3(2)
- Art. 30(11)(a) words omitted by S.I. 2020/1556 reg. 7(12)(c)
- art. 30(12) inserted by S.R. 2022/1 reg. 2(2)
- Art. 31(1)(a) omitted by S.S.I. 2023/308 reg. 2
- Art. 31(1)(a) omitted by S.I. 2020/1387 reg. 5(5)
- art. 31(1)(a)(i) omitted by S.R. 2021/40 reg. 2(13)
- Art. 31(1)(b) omitted by S.S.I. 2023/308 reg. 2
- Art. 31(1)(b) omitted by S.I. 2020/1387 reg. 5(5)
- Art. 31(1)(d) omitted by S.I. 2019/207 reg. 5(14)(a)
- Art. 31(1)(d) omitted by S.I. 2020/91 reg. 5(7)(a)(i)
- Art. 31(1)(g) words substituted by S.I. 2019/207 reg. 5(14)(b)(i)
- Art. 31(1)(g) words substituted by S.I. 2019/207 reg. 5(14)(b)(ii)
- Art. 31(1)(g) words substituted by S.I. 2020/91 reg. 5(7)(a)(ii)(aa)
- Art. 31(1)(g) words substituted by S.I. 2020/91 reg. 5(7)(a)(ii)(bb)
- Art. 31(1)(h) omitted by S.I. 2020/1556 reg. 7(13)
- Art. 32(2)(a) words omitted by S.I. 2019/207 reg. 5(15)(b)(i)
- Art. 32(2)(a) words omitted by S.I. 2020/91 reg. 5(8)(b)(i)
- Art. 32(2)(b)(ia) inserted by S.I. 2023/718 reg. 2(2)(b)
- Art. 32(2)(b) words substituted by S.I. 2019/207 reg. 5(15)(b)(ii)
- Art. 32(2)(b) words substituted by S.I. 2020/91 reg. 5(8)(b)(ii)
- Art. 32(2)(b)(ii) word omitted by S.I. 2022/706 reg. 3(a)(i)
- Art. 32(2)(b)(ii) words omitted by S.I. 2023/718 reg. 2(2)(a)
- Art. 32(2)(b)(iv)(v) inserted by S.I. 2022/706 reg. 3(a)(ii)
- Art. 32(3)(b) words substituted by S.I. 2019/207 reg. 5(15)(c)(i)
- Art. 32(3)(b) words substituted by S.I. 2019/207 reg. 5(15)(c)(ii)
- Art. 32(3)(b) words substituted by S.I. 2020/91 reg. 5(8)(c)(i)
- art. 32A inserted by S.R. 2021/42 reg. 4(4)
- Art. 35(1)(a) word inserted by S.I. 2020/91 reg. 5(11)(a)(ii)(aa)
- Art. 35(1)(a) words omitted by S.I. 2020/91 reg. 5(11)(a)(ii)(bb)
- Art. 35(1)(e) omitted by S.I. 2019/748 reg. 40(a)(ii) (This amendment not applied to legislation.gov.uk. Pt. 3 omitted immediately before IP completion day by S.I. 2020/1445, reg. 10(11))
- Art. 35(1)(e)(f) omitted by S.I. 2020/91 reg. 5(11)(a)(iii)
- Art. 35(1)(f) omitted by S.I. 2019/748 reg. 40(a)(ii) (This amendment not applied to legislation.gov.uk. Pt. 3 omitted immediately before IP completion day by S.I. 2020/1445, reg. 10(11))
- Art. 35(1)(g) words omitted by S.I. 2020/1556 reg. 7(16)(a)
- art. 35(1)(h) omitted by S.R. 2021/40 reg. 2(16)
- Art. 35(1)(h) omitted by S.I. 2020/1513 reg. 2(17)
- Art. 35(1)(h) omitted by S.I. 2020/1556 reg. 7(16)(b)
- Art. 43(2)(a) excluded by S.S.I. 2020/135 reg. 2
- Art. 43(2)(a) excluded by S.I. 2020/475 reg. 2
- Art. 43(2)(a) excluded by S.I. 2020/470 reg. 2(a)(i)
- Art. 43(2)(a) omitted by S.S.I. 2020/349 reg. 2(3)(a)
- Art. 44(3)(d) omitted by S.I. 2019/207 reg. 5(22)
- Art. 44(3)(d) omitted by S.I. 2020/91 reg. 5(16)(a)
- Art. 45(2)(a) words omitted by S.I. 2019/207 reg. 5(23)(b)(iii)
- Art. 45(2)(a) words omitted by S.I. 2020/91 reg. 5(17)(b)(iii)(aa)
- Art. 45(2)(a) words omitted by S.I. 2020/91 reg. 5(17)(b)(iii)(bb)
- Art. 46(2)(h) substituted by S.S.I. 2022/279 reg. 2(2)(a)
- Art. 46(9)(c) words substituted by S.I. 2019/748 reg. 44(b) (This amendment not applied to legislation.gov.uk. Pt. 3 omitted immediately before IP completion day by S.I. 2020/1445, reg. 10(11))
- Art. 46(9)(c) words substituted by S.I. 2020/91 reg. 5(18)(g)(ii)

- Art. 46(9)(e) omitted by [S.I. 2019/748 reg. 44\(c\)](#) (This amendment not applied to legislation.gov.uk. Pt. 3 omitted immediately before IP completion day by S.I. 2020/1445, reg. 10(11))
- Art. 46(9)(e)(f) omitted by [S.I. 2020/91 reg. 5\(18\)\(g\)\(iii\)](#)
- Art. 46(9)(f) omitted by [S.I. 2019/748 reg. 44\(c\)](#) (This amendment not applied to legislation.gov.uk. Pt. 3 omitted immediately before IP completion day by S.I. 2020/1445, reg. 10(11))
- art. 50(2a) inserted by [S.R. 2021/42 reg. 10\(3\)](#)
- Art. 50(6)(a) word substituted by [S.I. 2020/1387 reg. 5\(7\)](#)
- Art. 50(10A) inserted by [S.I. 2019/207 reg. 5\(27\)\(j\)](#)
- Art. 50(10A) inserted by [S.I. 2020/91 reg. 5\(21\)\(j\)](#)
- Art. 50(10A) omitted by [S.I. 2020/1556 reg. 7\(20\)\(d\)](#)
- Art. 52(11) inserted by [S.I. 2019/748 reg. 46\(c\)](#) (This amendment not applied to legislation.gov.uk. Pt. 3 omitted immediately before IP completion day by S.I. 2020/1445, reg. 10(11))
- Art. 52(11) inserted by [S.I. 2020/91 reg. 6\(1\)\(h\)](#)
- art. 52(11) omitted by [S.R. 2021/42 reg. 19\(2\)\(e\)](#)
- Art. 70-71C substituted for Arts. 70, 71 by [S.I. 2020/91 reg. 7\(3\)](#)
- Art. 71-71C substituted for Art. 70 71 by [S.I. 2019/748 reg. 48](#) (This amendment not applied to legislation.gov.uk. Pt. 3 omitted immediately before IP completion day by S.I. 2020/1445, reg. 10(11))
- Art. 71A(1) words substituted by [S.I. 2020/1556 reg. 7\(23\)\(a\)](#)
- Art. 71A(2) omitted by [S.I. 2020/1556 reg. 7\(23\)\(b\)](#)