

## 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**

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<sup>(1)</sup>, and in particular Article 155 thereof,

Whereas:

(1) Regulation (EC) No 1782/2003 has repealed and replaced Council Regulation (EC) No 1259/1999<sup>(2)</sup> as from 1 May 2004. Member States may continue to apply the voluntary modulation provided for in Article 4 of Regulation (EC) No 1259/1999 until 31 December 2004. A system of compulsory modulation introduced under the new scheme starts to apply in 2005.

(2) The rate of compulsory modulation under Article 10 of Regulation (EC) No 1782/2003 will, at the initial stage, be lower than the rate of optional modulation under Article 4 of Regulation (EC) No 1259/1999 for certain Member States. This could create a deficit as regards the funding of accompanying measures under national or regional rural development programmes which are being financed by additional Community support as presently provided for in Article 5(2) of Regulation (EC) No 1259/1999.

(3) The Member States concerned should thus be allowed to continue to apply optional modulation after 31 December 2004, in so far as this is necessary to cover the financial needs arising from accompanying measures approved before 1 January 2006.

<sup>(1)</sup> OJ L 270, 21.10.2003, p. 1. Regulation as last amended by Regulation (EC) No 864/2004 (OJ L 161, 30.4.2004, p. 48).

<sup>(2)</sup> OJ L 160, 26.6.1999, p. 113. Regulation as last amended by Regulation (EC) No 41/2004 (OJ L 6, 10.1.2004, p. 19).

(4) Transitional rules are therefore required to facilitate the transition from optional to compulsory modulation.

(5) For the purpose of a harmonious transition between programming periods, the time limits for the availability of amounts resulting from optional modulation should be extended to the end of the fourth financial year following that during which the amounts are withheld. In this context it is appropriate, for reasons of legal clarity, to amend Article 1(1) of Commission Regulation (EC) No 963/2001 of 17 May 2001 on detailed rules for the application of Council Regulation (EC) No 1259/1999 as regards the additional Community support and the transmission of information to the Commission<sup>(3)</sup>.

(6) Taking into account the amendment to Article 1(1) of Regulation (EC) No 963/2001, it is also necessary to amend Article 6 of Commission Regulation (EC) No 296/96<sup>(4)</sup> concerning data to be transmitted by the Member States and the monthly booking of expenditure financed under the Guarantee Section of the EAGGF, in order to ensure the full application of this Article to funds resulting from optional modulation.

(7) Regulations (EC) No 963/2001 and (EC) No 296/96 should therefore be amended accordingly.

(8) To ensure traceability, the financing source of each multi-annual action should remain the same until the action expires. However, where the funds resulting from optional modulation are exhausted, the Member State must be allowed to finance multiannual actions which are still running by other funds.

(9) In order to ensure that the funds resulting from optional modulation are properly managed and supervised, the Member States should keep a separate account for the amounts withheld and their use, in accordance with Regulation (EC) No 296/96.

(10) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Direct Payments,

<sup>(3)</sup> OJ L 136, 18.5.2001, p. 4.

<sup>(4)</sup> OJ L 39, 17.2.1996, p. 5. Regulation as last amended by Regulation (EC) 2035/2003 (OJ L 302, 20.11.2003, p. 6).

HAS ADOPTED THIS REGULATION:

#### Article 1

1. The Member States which have applied reductions of direct payments as provided for in Article 4 of Regulation (EC) No 1259/1999 may, in addition to the reductions under Article 10 of Regulation (EC) No 1782/2003, apply an additional reduction up to the rate estimated each year to be required to cover the difference between the amount available as a result of the reductions under that Article 10 of Regulation (EC) No 1782/2003 and the amount necessary to finance the expenditure for accompanying measures under Council Regulation (EC) No 1257/1999<sup>(1)</sup>, for which the allocation and use of additional Community support have been approved until 31 December 2005.

2. The overall reduction of support to a farmer in respect of a given calendar year, resulting from the application of paragraph 1, shall not exceed 20% of the total amount which would, but for that paragraph and Article 10 of Regulation (EC) No 1782/2003, be granted to the farmer in respect of the calendar year concerned.

3. The accompanying measures referred to in paragraph 1 shall be measures under Articles 10 to 12 (early retirement), Articles 13 to 21 (less-favoured areas and areas with environmental restrictions), Articles 21a to 21d (meeting standards), Articles 22 to 24 (agri-environment and animal welfare), Articles 24a to 24d (food quality) and Article 31 (afforestation) of Regulation (EC) No 1257/1999.

4. The additional reduction provided for in paragraph 1 may be applied at regional level.

5. The provisions set out in Article 48(2) of Commission Regulation (EC) No 817/2004<sup>(2)</sup> shall apply, *mutatis mutandis*, for the approval of the allocation and use of amounts withheld in accordance with paragraph 1.

#### Article 2

Without prejudice to Article 77 of Commission Regulation (EC) No 796/2004<sup>(3)</sup>, the amount of the additional reduction provided for in Article 1 shall be calculated on the basis of the amounts of direct payments to which a farmer would be entitled before any reductions or exclusions are applied under Articles 6 and 24 of Regulation (EC) No 1782/2003 or, in the case of aid schemes listed in Annex I of that Regulation but not falling under titles III and IV of that Regulation, under the specific legislation applicable thereto.

#### Article 3

1. Amounts withheld in accordance with Article 1 of this Regulation and Article 4 of Regulation (EC) No 1259/1999 shall be used for the payment of additional Community

support at the latest by the end of the fourth financial year following that during which they are withheld.

2. The percentage of Community contribution to measures financed by amounts withheld in accordance with Article 1 shall be the same as that provided in the rural development programming document for the measure concerned.

3. A multiannual action shall not be alternately funded one year by the Community support referred to in Article 48(1)(a) of Regulation (EC) No 817/2004 and another year by funds resulting from the additional reduction under this Regulation.

However, where the funds resulting from reduction under this Regulation are exhausted, the Member State may finance the multiannual action until it expires under the EAGGF 'Guarantee' Section according to Regulation (EC) No 1257/1999.

#### Article 4

The provisions laid down in Articles 2 and 3(6a)(b) of Regulation (EC) No 296/96 shall apply, *mutatis mutandis*, to the accounting of amounts withheld and expenditure generated under this Regulation.

#### Article 5

Member States shall, by 30 September each year, submit to the Commission an update of the allocation of amounts withheld in accordance with Article 1 together with the statement of expenditure referred to in Article 55 of Regulation (EC) No 817/2004.

#### Article 6

Article 1(1) of Regulation (EC) No 963/2001 is replaced by the following

'1. Amounts withheld in accordance with Article 3(2) of Regulation (EC) No 1259/1999 shall be used for the payment of additional Community support provided for in Article 5(2) of that Regulation at the latest by the end of the third financial year following that during which they are withheld.'

#### Article 7

Article 6 of Regulation (EC) No 296/96 is replaced by the following:

#### 'Article 6

Amounts withheld in accordance with Articles 3 and 4 of Regulation (EC) No 1259/1999 or Article 1 of Commission Regulation (EC) No 1655/2004<sup>(\*)</sup> and the possible interest thereon which have not been paid pursuant to Article 1 of Regulation (EC) No 963/2001 or Article 3(1) of Regulation (EC) No 1655/2004 shall be deducted from the advances related to the expenditure of October of the financial year concerned.

(\*) OJ L 298, 23.9.2004, p. 3.'

<sup>(1)</sup> OJ L 160, 26.6.1999, p. 80. Regulation as last amended by Regulation (EC) No 583/2004 (OJ L 91, 30.3.2004, p. 1).

<sup>(2)</sup> OJ L 153, 30.4.2004, p. 30.

<sup>(3)</sup> OJ L 141, 30.4.2004, p. 18.

*Article 8*

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

It shall apply from 1 January 2005. However, Articles 3(1) and 6 shall apply from 15 October 2004.

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

Done at Brussels, 22 September 2004.

*For the Commission*  
Franz FISCHLER  
*Member of the Commission*

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