



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

CONTENTS

Chapter 1	Scope and general provisions
Chapter 2	Specific quality premium for durum wheat
Chapter 3	Protein crop premium
Chapter 4	Crop-specific payment for rice
Chapter 5	Area payment for nuts
Chapter 6	Aid for starch potato
Chapter 7	Dairy premium and additional payments
Chapter 8	Aid for energy crops
	Section 1 Definitions
	Section 2 Use of raw material
	Section 3 Contract
	Section 4 Representative yields, delivery of raw materials and quantities to be delivered
	Section 5 Conditions of payment of the aid
	Section 6 Obligations on collectors and first processors
	Section 7 Special rules for the use of raw material on the holding
	Section 8 Optional system of approval
	Section 9 Checks
Chapter 9	Specific regional aid for arable crops
Chapter 10	Seed aid
Chapter 11	Arable crops area payment
	Section 1 General provisions for the eligibility for arable crops area payment
	Section 2 Special provisions covering certain arable crops
	Section 3 Base areas, reference yields and ceilings
	Section 4 Set aside
	Section 5 Communications
Chapter 12	Sheep and goat premiums
	Section 1 Direct payments
	Section 2 Limits, Reserves and Transfers
	Section 3 Additional payments
	Section 4 General provisions
Chapter 13	Beef and veal payments

▼B

	Section 1	Special premium (Article 123 of Regulation (EC) No 1782/2003)
	Section 2	Deseasonalisation premium (Article 124 of Regulation (EC) No 1782/2003)
	Section 3	Suckler cow premium (Articles 125 to 129 of Regulation (EC) No 1782/2003)
	Section 4	Provisions common to the special premium and the suckler cow premium
	Section 5	Slaughter premium (Article 130 of Regulation (EC) No 1782/2003)
	Section 6	Additional payments (Articles 133 to 136 of Regulation (EC) No 1782/2003)
	Section 7	General provisions
	Section 8	Transitional and final provisions
Chapter 14		Single area payment scheme
Chapter 15		Complementary national direct payments
Chapter 15a		Separate sugar payment
Chapter 16		Use of land set aside for the production of raw materials
	Section 1	Scope and definitions
	Section 2	Contract
	Section 3	Amendment and termination of contracts
	Section 4	Representative yields and quantities delivered
	Section 5	Conditions of payment of the aid
	Section 6	Obligations on collectors and applicants
	Section 7	Securities
	Section 8	Documents for sale in, transfer to, or delivery to another Member State or export
	Section 9	Checks
	Section 10	Exclusion from the scheme and notifications
Chapter 17		Hops area aid
Chapter 17a		Crop-specific payments for cotton
Chapter 17b		Aid for olive groves
Chapter 17c		Tobacco aid
Chapter 17d		Transitional fruit and vegetables payments and transitional soft fruit payment
Chapter 18		Final provisions

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Having regard to the Treaty establishing the European Community,

Having regard to the Act of Accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia, and in particular the first paragraph of Article 41 thereof,

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) 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 110 and Article 145(c), (d), (e) and (f) thereof,

Whereas:

- (1) Titles IV and IVa of Regulation (EC) No 1782/2003 establish certain support schemes for farmers. The implementing rules of some of these schemes have already been laid down by the following acts: Commission Regulation (EEC) No 1686/72 of 2 August 1972 on certain detailed rules for aid for seed⁽²⁾, Commission Regulation (EEC) No 1445/76 of 22 June 1976 specifying the different varieties of *Lolium perenne* L.⁽³⁾, Commission Regulation (EC) No 1644/96 of 30 July 1996 laying down detailed rules for the grant of aid for certain grain legumes⁽⁴⁾, Commission Regulation (EC) No 609/1999 of 19 March 1999 laying down detailed rules for granting aid to hop producers⁽⁵⁾; Commission Regulation (EC) No 2316/1999 of 22 October 1999 laying down detailed rules for the application of Council Regulation (EC) No 1251/1999 establishing a support system for producers of certain arable crops⁽⁶⁾, Commission Regulation (EC) No 2342/1999 of 28 October 1999 laying down detailed rules for the application of Council Regulation (EC) No 1254/1999 on the common organisation of the market in beef and veal as regards premium schemes⁽⁷⁾, Commission Regulation (EC) No 2461/1999 of 19 November 1999 laying down detailed rules for the application of Council Regulation (EC) No 1251/1999 as regards the use of land set aside for the production of raw materials⁽⁸⁾, Commission Regulation (EC) No 2550/2001 of 21 December 2001 laying down detailed rules for the application of Council Regulation (EC) No 2529/2001 on the common organisation of the market in sheepmeat and goatmeat as regards premium schemes and amending Regulation (EC) No 2419/2001⁽⁹⁾, Commission Regulation (EC) No 2199/2003 of 16 December 2003 laying down transitional measures for the application in respect of the year 2004 of Council Regulation (EC) No 1259/1999 as regards the single area payment scheme for the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia

⁽¹⁾ 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).

⁽²⁾ OJ L 177, 4.8.1972, p. 26. Regulation as last amended by Regulation (EC) No 323/2004 (OJ L 58, 26.2.2004, p. 14).

⁽³⁾ OJ L 161, 23.6.1976, p. 10. Regulation as last amended by Regulation (EC) No 1252/2001 (OJ L 173, 27.6.2001, p. 27).

⁽⁴⁾ OJ L 207, 17.8.1996, p. 1.

⁽⁵⁾ OJ L 75, 20.3.1999, p. 20.

⁽⁶⁾ OJ L 280, 30.10.1999, p. 43. Regulation as last amended by Regulation (EC) No 206/2004 (OJ L 34, 6.2.2004, p. 33).

⁽⁷⁾ OJ L 281, 4.11.1999, p. 30. Regulation as last amended by Regulation (EC) No 1777/2004 (OJ L 316, 15.10.2004, p. 66).

⁽⁸⁾ OJ L 299, 20.11.1999, p. 16. Regulation as last amended by Regulation (EC) No 345/2002 (OJ L 55, 26.2.2002, p. 10).

⁽⁹⁾ OJ L 341, 22.12.2001, p. 105. Regulation as last amended by Regulation (EC) No 920/2004 (OJ L 163, 30.4.2004, p. 92).

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and Slovakia ⁽¹⁾, Commission Regulation (EC) No 2237/2003 of 23 December 2003 laying down detailed rules for the application of the support schemes provided for in Title IV of 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 ⁽²⁾. In the interests of clarity of Community legislation, it is appropriate to repeal those acts and replace them by one Regulation laying down the implementing rules for all those schemes, applicable from 1 January 2005.

- (2) In order to ensure the efficient administration of those schemes, the area payments should be restricted to certain areas and conditions should be specified.
- (3) Malta has a very large number of small farms, less than 0.3 hectare in size. To avoid many farmers in Malta being disqualified from the area based direct payments, the minimum size of application to area based direct payments in Malta should be fixed at 0.1 ha and, for the years 2005 and 2006, Malta should be allowed to derogate from Article 107(9) of Regulation (EC) No 1782/2003.
- (4) The sowing of land for the sole purpose of qualifying for area payments should be prevented. Certain conditions relating to the sowing and cultivation of crops should be specified, in particular as regards durum wheat, protein plants and rice. Local standards should be respected in order to reflect the diversity of agricultural practice within the Community.
- (5) Only one application for an area payment should be permitted in respect of any parcel cultivated in a given year except in cases where the area payment is given as a supplement to the same crop or the aid concerns the production of seeds. Area payments may be granted on crops subsidised under a scheme falling within the Community's structural or environmental policies.
- (6) Supports schemes based on area aid provide that where the area for which aid is claimed exceeds the maximum guaranteed area or base areas or sub-base areas, the area per farmer for which aid is claimed is to be reduced proportionately in that year. It is therefore appropriate to establish the modalities and deadlines for the exchange of information between the Commission and the Member States in order to establish the coefficient of reduction and to inform the Commission of the areas for which the aid has been paid. The same provisions should apply for the reduction of the total amount of individual reference quantities in the event of application of Article 95(4) of Regulation (EC) No 1782/2003.
- (7) Under Article 73 of Regulation (EC) No 1782/2003, the granting of the specific quality premium for durum wheat is subject to the use of certain quantities of certified seeds of varieties recognised, in the production zone, as being of high quality for the production of semolina or pasta. In order to ensure that those requirements are respected, the criteria for the variety screening method in each Member State should be fixed and the procedure for the establishment of the eligible varieties list as well as the minimum quantity of certified seeds to be used should be fixed.
- (8) The short time between the adoption of Regulation (EC) No 1782/2003 and the entry into force of the specific quality premium for durum wheat makes it impossible to establish a list of eligible varieties for the granting of the aid in the year 2005 according to the envisaged screening method. It is therefore

⁽¹⁾ OJ L 328, 17.12.2003, p. 21. Regulation as last amended by Regulation (EC) No 1766/2004 (OJ L 315, 14.10.2004, p. 27)

⁽²⁾ OJ L 339, 24.12.2003, p. 52.

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necessary for Member States to establish a transitional list based on a selection of current varieties.

- (9) In some regions, the protein crops are traditionally sown in a mixture with cereals for agronomical reasons. The resulting crop principally consists of protein crops. For the purpose of granting the protein crop premium, the areas thus sown should therefore be considered as areas of protein crops.
- (10) Standards for sweet lupins and tests to determine whether or not a sample of lupins is sweet should be laid down.
- (11) In the interest of efficiency and good management of the aid scheme for nuts, the area aid granted should not be used to finance marginal plantations or isolated trees. A minimum plot size and a minimum tree density of a specialised orchard should therefore be defined. In order to facilitate the transition between the existing improvement plans which expire later than the introduction of the new aid scheme, it is appropriate to provide for transitional measures.
- (12) The terms of payment as well as the crop specific payment for rice calculation depend not only on the base area or areas fixed for each producing Member State fixed by Regulation (EC) No 1782/2003, but also on the possible subdivision of those base areas into sub-base areas and on the objective criteria chosen by each Member State to perform this subdivision, on conditions in which the cultivated parcels are put into cultivation and on the minimum size of the base areas. As a consequence, detailed rules should be laid down for the establishment, the management and the cultivation modalities applicable to base areas and sub-base areas.
- (13) The observation of a possible overrun of the base area referred to in Article 82 of Regulation (EC) No 1782/2003 implies a reduction of the crop-specific payment for rice. In order to set the calculation modalities for such a reduction, the criteria to be taken into consideration as well as applicable coefficients should be defined.
- (14) The follow-up of the payments of the crop specific payment for rice presumes that the Commission has been forwarded certain information related to the cultivation of base areas and sub-base areas. For that purpose, the detailed information that the Member States should communicate to the Commission as well as the deadlines for such communications should be determined.
- (15) Articles 93 and 94 of Regulation (EC) No 1782/2003 provide for an aid to farmers producing potatoes intended for the manufacture of potato starch subject to a cultivation contract and within the quota limit established by Council Regulation (EC) No 1868/94 of 27 July 1994 establishing a quota system in relation to the production of potato starch⁽¹⁾. The conditions for the granting of the aid should therefore be established and, where applicable, cross references should be made to the existing provisions concerning the quota system provided for in Regulation (EC) No 1868/94.
- (16) Articles 95 and 96 of Regulation (EC) No 1782/2003 provide that the dairy premium and additional payment are paid to producers. Council Regulation (EC) No 1788/2003 of 29 September 2003 establishing a levy in the milk and milk products sector⁽²⁾ provides for specific provisions in case of inactivity. It is therefore appropriate to provide, when a natural or legal person holding an individual reference quantity no longer meets the

⁽¹⁾ OJ L 197, 30.7.1994, p. 4. Regulation as last amended by Regulation (EC) No 1782/2003.

⁽²⁾ OJ L 270, 21.10.2003, p. 123.

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conditions referred to in Article 5(c) of Regulation (EC) No 1788/2003 during the twelve-month period preceding 31 March of the year concerned, for an exclusion from the benefit of the premium and payment.

- (17) Articles 88 to 92 of Regulation (EC) No 1782/2003 provide for a new aid scheme for energy crops to be granted to farmers. In line with Regulation (EC) No 2461/1999, which excludes sugarbeet from the aid, the cultivation of sugarbeet should be excluded from the aid scheme for energy crops.
- (18) The terms of eligibility for that aid should be laid down. For that purpose, it should be laid down that a contract must be concluded between the producer and the first processor with respect to the agricultural raw materials concerned. The conditions where processing is carried out by the farmer on the holding should also be defined.
- (19) To ensure that the raw material is processed into the specified energy product, first processors should lodge a security, despite the fact that the aid is granted not to first processors but to farmers. The security should be high enough to prevent any risk that the raw materials are ultimately diverted from their destination. In addition, in order to make the control system for the scheme effective, sales of raw materials and of semi-processed products should be limited to a maximum of two before final processing.
- (20) An explicit distinction should be made between the applicant's obligations, which end once the total quantity of raw material harvested is delivered, and the obligations incumbent on first processors, which commence on delivery and end with the final processing of the raw materials into energy products.
- (21) Certain transport operations within Community territory involving raw materials and products derived therefrom should be subject to controls entailing the use of T5 control copies to be issued in accordance with Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code⁽¹⁾. Provision should be made for alternative evidence should the T5 control copy be lost as a result of circumstances for which the first processor is not responsible.
- (22) Article 98 of Regulation (EC) No 1782/2003 provides for a reduction of the specific regional aid for arable crops when the total amount of aid claimed exceeds the fixed ceiling. The modalities for the calculation of the reduction coefficient should therefore be established.
- (23) Article 99 of Regulation (EC) No 1782/2003 provides for the possibility of direct aid being granted for the production of one or more seed species.
- (24) That aid may be granted only for the production of basic seed or certified seed and these products should be clearly defined by reference to the Directives on certification and marketing of seeds: Council Directive 66/401/EEC of 14 June 1966 on the marketing of fodder plant seed⁽²⁾, Council Directive 66/402/EEC of 14 June 1966 on the marketing of cereal seed⁽³⁾, and Council

⁽¹⁾ OJ L 253, 11.10.1993, p. 1. Regulation as last amended by Regulation (EC) No 2286/2003 (OJ L 343, 31.12.2003, p. 1).

⁽²⁾ OJ 125, 11.7.1966, p. 2298/66. Directive as last amended by Directive 2004/55/EC (OJ L 114, 21.4.2004, p. 18).

⁽³⁾ OJ 125, 11.7.1966, p. 2309/66. Directive as last amended by Directive 2003/61/EC (OJ L 165, 3.7.2003, p. 23).

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Directive 2002/57/EC of 13 June 2002 on the marketing of seed of oil and fibre plants ⁽¹⁾.

- (25) To make controls possible, basic seed and certified seed should be produced under growing contracts or growing declarations which will be joined to the single application and seed establishments and breeders should be officially approved or registered. The necessary measures should be laid down for cases where a seed establishment or a breeder from one Member State grows seed in another Member State.
- (26) For administrative reasons, aid should, in each Member State, be granted only in respect of products harvested on the territory of that Member State.
- (27) Under Annex XI to Regulation (EC) No 1782/2003, production aid is payable for basic and certified seed of varieties of *Cannabis sativa* L. with a tetrahydrocannabinol content not exceeding 0.2 %. In order to ensure uniform application throughout the Community of the rules for granting the aid, the list of the varieties of *Cannabis sativa* L. eligible for aid set up in Annex II to Commission Regulation (EC) No 796/2004 of 21 April 2004 laying down detailed rules for the implementation of cross-compliance, modulation and the integrated administration and control system provided for in of 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 ⁽²⁾ should be used for that purpose.
- (28) Article 108 of Regulation (EC) No 1782/2003 defines the land that is eligible for arable crops area payments. That Article authorises certain exceptions under the control of the Member States which do not undermine the effectiveness of the arrangements laid down in that Regulation. In order to avoid any such risk, suitable measures should be laid down to keep the total area of eligible land at the current level and to prevent any appreciable increase therein. Those measures may in certain cases involve deeming previously eligible areas ineligible as an offsetting measure.
- (29) Member States where maize is not a traditional crop may make silage grass eligible for the arable crops area payments. Accordingly, it is necessary to define what is meant by silage grass.
- (30) Article 106 of Regulation (EC) No 1782/2003 subjects the area payment for flax and hemp grown for fibre to the conclusion of a contract or to a commitment as referred to in Article 2(1) of Council Regulation (EC) No 1673/2000 of 27 July 2000 on the common organisation of the markets in flax and hemp grown for fibre ⁽³⁾. Provision should be made for a copy of the contract or the commitment to be sent to the competent authorities of the Member State responsible for the administration of payment applications. It should also be ensured that the varieties of flax and hemp grown for fibre are those listed in the Common Catalogue of Varieties of Agricultural Plant Species as fibre plants and, in the case of flax in particular, as 'fibre flax' Moreover, in the case of hemp, the tetrahydrocannabinol content of the authorised varieties may not exceed 0.2 %. A list of eligible varieties for flax should therefore be drawn up, the eligible varieties for hemp being listed in Annex II to Regulation

⁽¹⁾ OJ L 193, 20.7.2002, p. 74. Directive as last amended by Directive 2003/61/EC .

⁽²⁾ OJ L 141, 30.4.2004, p. 18.

⁽³⁾ OJ L 193, 29.7.2000, p. 16. Regulation as last amended by Regulation (EC) No 393/2004 (OJ L 65, 3.3.2004, p. 4).

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- (EC) No 796/2004. To provide firmer guarantees in the case of hemp, the use of certified seed should also be required.
- (31) Article 109 of Regulation (EC) No 1782/2003 requires producers of cereals, oilseeds and protein plants to complete sowing by 31 May at the latest. In certain cases, sowing may be put off until after 31 May because of the climate. The deadline for sowing and for submitting applications should be extended for certain crops in certain regions. However, such extensions should not adversely affect the effectiveness of the support system or undermine the control system introduced by Chapter 4 of Title II of Regulation (EC) No 1782/2003.
- (32) In order to ensure that the processing industry receives regular supplies of sweetcorn throughout the marketing year, producers should be able to spread their sowings over a longer period. The final date for sowing sweetcorn should therefore be deferred to 15 June.
- (33) It is appropriate to provide that a minimum quantity of certified durum wheat seed is to be used in the case of the durum wheat supplement and special aid. In view of the diversity of agricultural practice within the Member States and within regions thereof, the setting of the minimum quantity should be left to the Member States concerned.
- (34) For the purpose of Article 103 of Regulation (EC) No 1782/2003, what is meant by irrigation should be defined.
- (35) The areas to be taken into account with a view to assessing any overshoot in the base area and the rules for determining the extent of such overshoots should be specified. Where a separate base area is established for maize, irrigated areas or silage grass, special rules should be laid down as regards the areas to be taken into account with a view to calculating any overshoot in the base area in question. The rules for determining any overshoot in the base area should ensure that the base area is complied with in all cases. The way the overshoot is to be calculated in respect of the maximum guaranteed areas for durum wheat should also be specified. The procedure to be followed for establishing overshoot of the ceiling of the payments referred to in Article 102(2) of Regulation (EC) No 1782/2003 should also be specified.
- (36) In the event of application of Article 71 of Regulation (EC) No 1782/2003, eligibility for arable crops area payments is conditional on an obligation on the producers concerned to set aside part of the area on their holdings. Detailed implementing rules capable of ensuring that the scheme has the necessary effectiveness should be laid down. To that end, provision should be made for the areas counting as set-aside to be comparable with those counting for the purposes of calculating the regional base area. The legume crops referred to in the second indent of Article 107(3) of Regulation (EC) No 1782/2003 should be defined.
- (37) Under Article 107(6) and in the event of application of Article 66 of Regulation (EC) No 1782/2003, detailed rules should be established regarding land voluntarily set-aside. Those rules should be consistent with the overall system introduced by Regulation (EC) No 1782/2003.
- (38) The criteria for eligibility for sheep and goat premiums provided for in Chapter 11 of Title IV of Regulation (EC) No 1782/2003, and in particular the conditions required, need to be laid down.
- (39) Article 113(2) of Regulation (EC) No 1782/2003 provides for the granting of a premium to goatmeat farmers in certain areas of the Community. The areas in question should therefore be

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determined in accordance with the criteria laid down in that provision.

- (40) Under Article 114(1) of Regulation (EC) No 1782/2003 farmers whose holdings have at least 50 % of their area used for agriculture situated in less-favoured areas may qualify for a supplementary premium. Article 113(2) makes reference to the specific geographical zones where goatmeat farmers meet the necessary conditions to qualify for the goat premium. Provisions should be made for a declaration to be provided by farmers meeting those criteria to prove that at least half of the land they are using for agricultural production is located in less-favoured areas or in areas which qualify for the goat premium.
- (41) For the purpose of control on eligibility for the correct level of ewe premium, Member States should draw up an inventory of farmers marketing sheep's milk or sheep's milk products.
- (42) With a view to implementing the system of individual limits as introduced by Articles 116, 117 and 118 of Regulation (EC) No 1782/2003, the existing administrative rules may continue to be applied as regards, in particular, the use of rights granted free of charge, the use of normal rights including minimum use, the temporary leasing and transfer of rights, the notification of changes on individual ceiling and the transfer of rights through the national reserve. Some of those rules are specific provisions for exceptional and duly justified circumstances such as, regarding the use of rights, the small farmers and farmers participating in extensification programs and early retirement schemes, and, for the transfer purpose, the inheritance of premiums rights and the case of farmers using only publicly or collectively owned land for grazing.
- (43) The Commission is to monitor the new arrangements and as a result it needs to be properly provided by the Member States with the essential information regarding the implementation of the premium rules.
- (44) If applicable, detailed information on the national rules on, and the implementation of, the additional payments should be forwarded to the Commission.
- (45) Title IV Chapter 12 of Regulation (EC) No 1782/2003 provides for beef and veal payments. The criteria for eligibility, and in particular the conditions required for those payments, need to be laid down.
- (46) The objectives of the regional ceiling and of the stocking density dictate that the special premium may no longer be applied for in respect of the same age bracket for those animals affected by the application of these two measures. For the purposes of the deseasonalisation premium, those animals should be deemed to have qualified for the special premium.
- (47) Provision should be made for the administrative document laid down in Article 123(3)(b) of Regulation (EC) No 1782/2003 to be drawn up and issued at national level. In order to take account of particular administrative and control conditions in the Member States, different forms of administrative document should be allowed.
- (48) Article 123(3)(a) and Article 130(1) of Regulation (EC) No 1782/2003 lay down a retention period as a condition for granting the special premium and the slaughter premium. It is therefore necessary to define and quantify that period.
- (49) The arrangements for granting the special premium at the time of slaughter should be consistent with the arrangements for granting the slaughter premium. The types of documents which are to accompany the animal until slaughter dispatch or export should

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be specified. In order to take account of the specific features of the form of granting at the time of slaughter, the age conditions for steers and the method of presentation of the carcass for adult bovine animals should be laid down.

- (50) The conditions for granting the deseasonalisation premium should be laid down, in accordance with the arrangements for granting the slaughter premium. The Commission should determine, on the basis of available information, which Member States meet the conditions for applying this premium scheme.
- (51) The concept of suckler cow laid down in Article 125 of Regulation (EC) No 1782/2003 should be defined. In that respect, the same breeds should be kept as those under Regulation (EC) No 2342/1999. Moreover, the existing essential requirements may continue to be applied, in particular as regards the average milk yield and the additional national premium.
- (52) The existing administrative rules may continue to be applied as regards in particular the individual ceilings, the notifications on the individual ceilings and the national reserve, the rights obtained free of charge, the use of rights, the transfer and temporary leasing of rights, the transfers through the national reserve.
- (53) The Commission should determine, on the basis of available information, which Member States meet the conditions for applying the special scheme laid down in Article 129 of Regulation (EC) No 1782/2003. The special arrangements for granting the premium should be specified.
- (54) The method for calculating the stocking density should be determined. A date should be laid down for taking the milk reference quantity into consideration.
- (55) The stocking density for the extensification payment scheme should include all bovine animals aged six months and over present on the holding. Special rules are therefore required for counting animals and for the producer's statement of participation in the scheme. Provision should be made for using the computerised database referred to in Regulation (EC) No 1760/2000 of the European Parliament and of the Council of 17 July 2000 establishing a system for the identification and registration of bovine animals and regarding the labelling of beef and beef products and repealing Council Regulation (EC) No 820/97 ⁽¹⁾.
- (56) Steps should be taken to ensure that the extensification payment is not granted to farmers who artificially comply with the average stocking rates required for the grant of the extensification payment.
- (57) The procedures for determining, on the basis of available information, which Member States meet the conditions in Article 132(4) of Regulation (EC) No 1782/2003 for granting the extensification payment to dairy cows should be laid down. The special arrangements for granting the premium should be specified. A minimum retention period should be laid down.
- (58) Specific provisions should be laid down as regards the application of the rules on periods, dates and time limits to the retention period.
- (59) In the interests of simplification, the 'livestock' aid application provided for in the integrated system should be taken to represent application for the slaughter premium, provided that it contains all the elements needed to justify payment of the premium and

⁽¹⁾ OJ L 204, 11.8.2000, p. 1. Regulation as amended by the Act of Accession of 2003.

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that the animal is slaughtered in the same Member State or in another Member State, or exported.

- (60) It should be possible to use the computerised database referred to in Regulation (EC) No 1760/2000 to facilitate the management of the slaughter premium, on condition that the Member State concerned considers that the database offers adequate assurances as to the accuracy of the data it contains for the purposes of the payment of premiums.
- (61) The slaughter premium for calves is conditional on a maximum weight limit. A standard type of carcase presentation should therefore be laid down, to which this maximum weight applies.
- (62) Detailed information on the national rules on and implementation of the additional payments should be forwarded to the Commission.
- (63) To ensure that farmers receive payments as quickly as possible, provision should be made for granting advances. However, in view of the application of the national or regional ceilings, steps should be taken to ensure that the advance does not exceed the definitive payment. Provision should therefore be made to allow Member States to reduce the percentage of the advance for the premium schemes subject to those ceilings.
- (64) Regulation (EC) No 1782/2003 lays down penalties for the illegal use or holding of substances or products not authorised by the relevant veterinary legislation. In the case of repeated infringements, determination of the duration of penalties should be left to the Member States, which are better placed to judge the true gravity of the offence committed.
- (65) It is necessary to fix the date determining the elements to be taken into consideration for the application of the special premium and suckler cow premium schemes. In order to ensure sound and consistent administration, that date should, as a general rule, be the date of the submission of applications. However, with respect to the special premium paid on slaughter, special rules should be laid down in order to avoid carry-overs from one year to the next with a view to obtaining a higher premium. As regards the slaughter premium, the date of slaughter or of export is a better indication of whether the operations concerned have actually been carried out.
- (66) The exchange rate applicable on the date of the operative event for the premiums should be fixed in such a way as to ensure in principle that such premiums do not undergo any sharp fluctuations on conversion into national currency due to the exchange rate on a single date.
- (67) Provision should be made for the Member States to be subject to certain notification obligations. To facilitate the transmission and analysis of the data, a consistent format for submitting that data should be laid down.
- (68) In order to facilitate the change to the new scheme, transitional provisions are needed for the obligation to mark and identify animals.
- (69) Article 143b of Regulation (EC) No 1782/2003 allows the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia (the new Member States) to replace the direct payments with a single payment ('the single area payment scheme'). The Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Poland and Slovakia have made that choice. Therefore detailed rules for the application of the single area payment scheme should be laid down.

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- (70) In accordance with the second subparagraph of Article 143b(5) of Regulation (EC) No 1782/2003 and in order to avoid managing numerous applications that would entail payments per holding lower than EUR 50, the Czech Republic, Estonia, Latvia, Lithuania, Hungary, Poland and Slovakia have requested the authorisation to set the minimum size of eligible area per holding at a level higher than 0.3 ha.
- (71) The Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Poland and Slovakia have estimated the part of their utilised agricultural area which has been maintained in good agricultural condition on 30 June 2003 and have proposed to adjust it in accordance with the minimum size of eligible area per holding.
- (72) Article 143c of Regulation (EC) No 1782/2003 provides for the possibility in the new Member States of complementing direct aid paid to a farmer, subject to authorisation by the Commission. The general modalities for implementing this possibility should be established.
- (73) Article 55(b) and the first indent of Article 107(3) of Regulation (EC) No 1782/2003 provide for exemption from set-aside if the land is used for producing materials for the manufacture within the Community of products not primarily intended for human or animal consumption, provided that effective control systems are applied.
- (74) The cultivation of sugarbeet, Jerusalem artichokes or chicory roots on land set aside should not be ruled out under certain conditions. Such crops cannot qualify for area payments in view of the risk of affecting the market in sugar. Care should nonetheless be taken to ensure that such crops comply with the rules governing the use of set-aside land.
- (75) The terms of eligibility for this scheme must be laid down. To this end it should be laid down that a contract must be concluded between the producer and the collector or first processor with respect to the agricultural raw materials concerned. Conditions should also be laid down for cases where processing is carried out by the farmer on the holding.
- (76) To guarantee conformity with point 7 of the Memorandum of understanding on certain oil seeds between the European Economic Community and the United States of America within the framework of the GATT, approved by Council Decision 93/355/EC⁽¹⁾, detailed implementing rules must be laid down to reduce, where necessary, the quantity of by-products which may be produced for human or animal consumption if the total quantity of those by-products exceeds 1 million metric tonnes annually, expressed in soya bean meal equivalents.
- (77) To ensure that the raw material is processed into the specified end product, collectors or first processors must lodge a security, even though the aid is granted to farmers. In addition, to make the control system for the scheme effective, the number of processors should be limited.
- (78) A clear distinction must be made between the applicant's obligations, which end once the total quantity of raw material harvested is delivered, and the obligations, including the requirement concerning securities, incumbent on collectors and first processors, which commence on delivery and end with the final processing of the raw materials into end products.
- (79) Certain transport operations within Community territory involving raw materials and products derived therefrom should be subject to

⁽¹⁾ OJ L 147, 18.6.1993, p. 25.

▼B

controls entailing the use of declarations and T5 control copies to be issued in accordance with Regulation (EEC) No 2454/93. Provision should be made for alternative evidence if the T5 control copy is not returned to the competent authorities of the collectors or first processors as a result of circumstances for which they are not responsible. In the interest of efficiency and good management of the aid scheme, provisions should be laid down to govern checks.

- (80) Apart from the eligibility criteria laid down in Article 110o of Regulation (EC) No 1782/2003 for the hops area aid, some additional criteria should be established in order to ensure that the aid is granted to areas on which hops is cultivated under normal cultivation conditions. The concept of an area 'planted with hops' should be defined at Community level so as to ensure that the areas for which the additional payment is made are calculated in the same way. It is necessary to lay down the way in which the total sum per Member State available for the additional payments is distributed over the eligible areas.
- (81) A time limit should be set for committing the payment in respect of the measures listed in Article 7(1) (a) to (d) of Council Regulation (EEC) No 1696/71 of 26 July 1971 on the common organisation of the market in hops ⁽¹⁾ by the recognised hop producer groups and the Commission should be informed about the way the payment has been used. Any amount not committed within a certain time period should be paid back. It is necessary to lay down the way in which the total sum per Member State available for the payment to recognised hop producer groups is distributed.
- (82) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Direct Payments,

HAS ADOPTED THIS REGULATION:

CHAPTER 1

SCOPE AND GENERAL PROVISIONS

Article 1

Subject matter and scope

1. This Regulation lays down detailed rules for the implementation of the following supports schemes provided for in Titles IV and IVa of Regulation (EC) No 1782/2003:

- (a) specific quality premium for durum wheat provided for in Title IV Chapter 1 of that Regulation;
- (b) protein crop premium provided for in Title IV Chapter 2 of that Regulation;
- (c) crop-specific payment for rice provided for in Title IV Chapter 3 of that Regulation;
- (d) area payment for nuts provided for in Title IV Chapter 4 of that Regulation;
- (e) aid for energy crops provided for in Title IV Chapter 5 of that Regulation;
- (f) aid for starch potato provided for in Title IV Chapter 6 of that Regulation;

⁽¹⁾ OJ L 175, 4.8.1971, p. 1. Regulation as last amended by Regulation (EC) No 2320/2003 (OJ L 345, 31.12.2003, p. 18).

▼B

- (g) dairy premium and additional payments provided for in Title IV Chapter 7 of that Regulation;

▼M16

▼B

- (i) seed aid provided for in Title IV Chapter 9 of that Regulation;
- (j) arable crops area payment provided for in Title IV Chapter 10 of that Regulation;
- (k) sheep and goat premiums provided for in Title IV Chapter 11 of that Regulation;
- (l) beef and veal payments provided for in Title IV Chapter 12 of that Regulation;
- (m) grain legumes aid provided for in Title IV Chapter 13 of that Regulation;
- (n) single area payment scheme provided for in Article 143b of that Regulation;
- (o) complementary national direct payments provided for in Article 143c of that Regulation;
- (p) hops area aid provided for in Title IV Chapter 10d of that Regulation;

▼M4

- (q) crop specific payment for cotton provided for in Chapter 10a of Title IV of that Regulation;
- (r) aid for olive groves provided for in Chapter 10b of Title IV of that Regulation;
- (s) tobacco aid provided for in Chapter 10c of Title IV of that Regulation;

▼M13

- (t) transitional fruit and vegetable payments and transitional soft fruit payment provided for in Chapters 10g and 10h of Title IV of that Regulation.

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2. This Regulation lays down detailed rules as regards the use of land set aside for the production of raw materials under the single payment scheme provided for in Title III of Regulation (EC) No 1782/2003 and under arable crops area payment provided for in Title IV Chapter 10 of that Regulation.

*Article 2***Conditions for the payment****▼M13**

1. The direct payments referred to in Article 1(a), (b), (c), (e), **►M16** _____ ◀ (i), (j), (m), (p) and (t) shall be granted only for the areas, per each type of crop, which have been the subject of application in respect of at least 0,3 hectare, where each cultivated parcel exceeds the minimum size set by the Member State within the limit provided for in Article 14(4) of Regulation (EC) No 796/2004.

In the case of Malta, the direct payments referred to in Article 1(a), (b), (c), (e), **►M16** _____ ◀ (i), (j), (m) (p) and (t) shall be granted only for the areas, per each type of crop, which have been the subject of application in respect of at least 0,1 hectare, where each cultivated parcel exceeds the minimum size set by the Member State within the limit provided for in Article 14(4) of Regulation (EC) No 796/2004.

▼ M13

In the case of Greece, the transitional fruit and vegetable payments referred to in Article 1(t) shall be granted only for the areas, per each type of crop, which have been the subject of application in respect of at least 0,1 hectare, where each cultivated parcel exceeds the minimum size set by the Member State within the limit provided for in Article 14(4) of Regulation (EC) No 796/2004.

In the case of Bulgaria, Latvia, Hungary, and Poland, the soft fruit payment referred to in Article 1(t) shall be granted only for the areas, per each type of crop, which have been the subject of application in respect of at least 0,1 hectare, where each cultivated parcel exceeds the minimum size set by the Member State within the limit provided for in Article 14(4) of Regulation (EC) No 796/2004.

▼ B

2. ► **M13** The direct payment referred to in Article 1(a), (b), (c), (h) (j) and (t) shall be granted only for the areas entirely sown or planted and on which all normal cultivation conditions have been performed in accordance with local standards. ◀

However, in the case of the specific quality premium for durum wheat provided for in Title IV Chapter 1 of Regulation (EC) No 1782/2003 and of arable crops payment provided for in Title IV Chapter 10 of that Regulation, crops grown on areas which are fully sown and which are cultivated in accordance with local standards, but which do not attain the stage of flowering as a result of exceptional weather conditions recognised by the Member State concerned, shall remain eligible for aid provided that the areas in question are not used for any other purpose up to this growing stage.

3. In a given year, no more than one application for an area payment under a scheme financed pursuant to Article 1(2)(b) of Council Regulation (EC) No 1258/1999 ⁽¹⁾ may be made in respect of any cultivated parcel.

However:

- (a) any cultivated parcel which is covered in respect of the same year by an application for specific quality premium for durum wheat provided for in Title IV Chapter 1 of Regulation (EC) No 1782/2003 or protein crop premium provided for in Title IV Chapter 2 of that Regulation may be the subject of an application for arable crops payments provided for in Title IV Chapter 10 of Regulation (EC) No 1782/2003;
- (b) any cultivated parcel which is covered in respect of the same year by an application for crop-specific payment for rice provided for in Title IV Chapter 3 of Regulation (EC) No 1782/2003 or protein crop premium provided for in Title IV Chapter 2 of that Regulation may be the subject of an application for seed aid provided for in Title IV Chapter 9 of Regulation (EC) No 1782/2003;
- (c) any cultivated parcel which is covered in respect of the same year by an application for aid for energy crops provided for in Title IV Chapter 5 of Regulation (EC) No 1782/2003 may be the subject of an application for arable crops area payment provided for in Title IV Chapter 10 of Regulation (EC) No 1782/2003, without prejudice to the second subparagraph of Article 90 of Regulation (EC) No 1782/2003, or may be the subject of an application for crop specific payment for rice provided for in Title IV Chapter 3 of Regulation (EC) No 1782/2003;
- (d) any cultivated parcel which is covered in respect of the same year by an application for arable crops payments referred to in Title IV Chapter 10 of Regulation (EC) No 1782/2003 may be the subject of an application for seed aid provided for in Title IV Chapter 9 of Regulation (EC) No 1782/2003.

⁽¹⁾ OJ L 160, 26.6.1999, p. 103.

▼B

4. Land used to produce raw materials referred to in Article 55 (b) and in the first indent of Article 107 (3) of Regulation (EC) No 1782/2003 or cultivated under the energy crop aid provided for in Title IV Chapter 5 of that Regulation shall not be eligible for Community aid provided for in Title II Chapter VIII of Council Regulation (EC) No 1257/1999 ⁽¹⁾, with the exception of support granted in respect of the costs of planting fast-growing species as provided for in the second subparagraph of Article 31(3) of that Regulation.

Raw materials referred to in Article 55 point b) and 107 (3) first indent of Regulation (EC) No 1782/2003 grown on land set aside and intermediate products, end products, co-products and by-products derived therefrom shall not be eligible for any financing by the Guarantee Section of the European Agricultural Guidance and Guarantee Fund pursuant to Article 1(2) point a) and b) of Regulation (EC) No 1258/1999.

5. For the purpose of the protein crop premium provided for in Title IV Chapter 2 of Regulation (EC) No 1782/2003 and arable crops area payment provided for in Title IV Chapter 10 of that Regulation, 'sweet lupins' shall mean those varieties of lupins producing seed comprising not more than 5 % bitter seeds. The bitter seed content shall be calculated in accordance with the test set out in Annex I to this Regulation.

▼M8*Article 3***Communications**

1. The Member States shall communicate the following data to the Commission by electronic transmission:

- (a) by 1 September of the year concerned at the latest:
 - (i) the total area for which the aid has been claimed in the case of:
 - the specific quality premium for durum wheat provided for in Article 72 of Regulation (EC) No 1782/2003,
 - the protein crop premium provided for in Article 76 of Regulation (EC) No 1782/2003,
 - the crop-specific payment for rice provided for in Article 79 of Regulation (EC) No 1782/2003, broken down for the indica and japonica varieties,
 - the area payment for nuts provided for in Article 83 of Regulation (EC) No 1782/2003, expressed by categories of nut trees,
 - the aid for energy crops provided for in Article 88 of Regulation (EC) No 1782/2003,
 - the arable crops area payment provided for in Article 100 of Regulation (EC) No 1782/2003, by base area as referred to in Annex IV to this Regulation and in the standardised format described in Annex IX to this Regulation,
 - the crop-specific payment for cotton provided for in Article 110a of Regulation (EC) No 1782/2003,
 - the aid for olive groves provided for in Article 110g of Regulation (EC) No 1782/2003, by categories,
 - the hops area aid provided for in Article 110n of Regulation (EC) No 1782/2003,

⁽¹⁾ OJ L 160, 26.6.1999, p. 80.

▼M8

- the single area payment scheme (SAPS) provided for in Article 143b of Regulation (EC) No 1782/2003;
- (ii) the total quantity for which the aid has been claimed in the case of:
 - the dairy premium provided for in Article 95 of Regulation (EC) No 1782/2003,
 - the additional payments to producers of dairy products provided for in Article 96 of Regulation (EC) No 1782/2003;
- (iii) the total number of applications in the case of the sheep and goat premiums provided for in Article 111 of Regulation (EC) No 1782/2003, using the model form set out in Annex XI to this Regulation;
- (b) by 15 October of the year concerned at the latest, the total determined area in the case of:
 - the protein crop premium provided for in Article 76 of Regulation (EC) No 1782/2003,
 - the aid for energy crops provided for in Article 88 of Regulation (EC) No 1782/2003;

▼M10

- (b)a by 15 October following the end of the year in respect of which the aid is granted, all the information needed to evaluate the aid for energy crops and in particular:
 - the number of applications,
 - the areas corresponding to each species of raw material,
 - the quantities of each type of raw material and end product obtained;

▼M8

- (c) ► **M10** by 31 January of the following year at the latest: ◀
 - (i) the total determined area used for the calculation of the coefficient of reduction in the case of:
 - the specific quality premium for durum wheat provided for in Article 72 of Regulation (EC) No 1782/2003,
 - the crop-specific payment for rice provided for in Article 79 of Regulation (EC) No 1782/2003, broken down for the indica and japonica varieties, and also the detailed information by variety of rice and by base area and sub-base area using the model form set out in Annex III to this Regulation,
 - the area payment for nuts provided for in Article 83 of Regulation (EC) No 1782/2003, expressed by categories of nut trees,
 - the arable crops area payment provided for in Article 100 of Regulation (EC) No 1782/2003, by base area as referred to in Annex IV to this Regulation and in the standardised format described in Annex IX to this Regulation,
 - the crop-specific payment for cotton provided for in Article 110a of Regulation (EC) No 1782/2003,
 - the aid for olive groves provided for in Article 110g of Regulation (EC) No 1782/2003, by categories,
 - the hops area aid provided for in Article 110n of Regulation (EC) No 1782/2003,

▼M8

— the single area payment scheme (SAPS) provided for in Article 143b of Regulation (EC) No 1782/2003;

- (ii) the total determined quantity used for the calculation of the coefficient of reduction, in the case of the dairy premium provided for in Article 95 of Regulation (EC) No 1782/2003;

▼M10

- (iii) the total determined quantity in the case of the additional payments to producers of dairy products provided for in Article 96 of Regulation (EC) No 1782/2003;

▼M8

- (iv) the amount of aid per hectare to be granted for each category of olive groves in the case of the aid for olive groves provided for in Article 110g of Regulation (EC) No 1782/2003;

- (d) ►**M10** by 31 March of the harvest year at the latest, the indicative aid amount per kg in the case of the tobacco aid provided for in Article 110j of Regulation (EC) No 1782/2003, by group of tobacco varieties as listed in Annex XXV to this Regulation and, where applicable, per quality grade; ◀

- (e) by 31 July of the following year at the latest:

- (i) the total area for which the aid has actually been paid in the case of:
- the specific quality premium for durum wheat provided for in Article 72 of Regulation (EC) No 1782/2003,
 - the protein crop premium provided for in Article 76 of Regulation (EC) No 1782/2003,
 - the crop-specific payment for rice provided for in Article 79 of Regulation (EC) No 1782/2003, broken down for the indica and japonica varieties,
 - the area payment for nuts provided for in Article 83 of Regulation (EC) No 1782/2003, expressed by categories of nut trees,
 - the aid for energy crops provided for in Article 88 of Regulation (EC) No 1782/2003,
 - the arable crops area payment provided for in Article 100 of Regulation (EC) No 1782/2003, by base area as referred to in Annex IV to this Regulation and in the standardised format described in Annex IX to this Regulation,
 - the crop-specific payment for cotton provided for in Article 110a of Regulation (EC) No 1782/2003,
 - the aid for olive groves provided for in Article 110g of Regulation (EC) No 1782/2003, by categories,
 - the hops area aid provided for in Article 110n of Regulation (EC) No 1782/2003,
 - the single area payment scheme (SAPS) provided for in Article 143b of Regulation (EC) No 1782/2003;
- (ii) the total quantity for which the aid has actually been paid in the case of:
- the aid for starch potato (in starch-equivalent) provided for in Article 93 of Regulation (EC) No 1782/2003,
 - the dairy premium provided for in Article 95 of Regulation (EC) No 1782/2003,

▼M8

- the additional payments to producers of dairy products provided for in Article 96 of Regulation (EC) No 1782/2003,
 - the seed aid provided for in Article 99 of Regulation (EC) No 1782/2003, by seed species as listed in Annex XI to Regulation (EC) No 1782/2003,
 - the tobacco aid provided for in Article 110j of Regulation (EC) No 1782/2003, by tobacco varieties as listed in Annex XXV to this Regulation and by quality,
 - the transitional sugar payment provided for in Article 110p of Regulation (EC) No 1782/2003;
- (iii) the final aid amount per kg in the case of the tobacco aid provided for in Article 110j of Regulation (EC) No 1782/2003, by group of tobacco varieties as listed in Annex XXV to this Regulation and, where applicable, per quality grade;
- (iv) the total number of sheep and goat premiums paid in the case of the sheep and goat premiums provided for in Article 111 of Regulation (EC) No 1782/2003, using the model form set out in Annex XII to this Regulation;

▼M13

- (v) the total aid amount paid in the case of transitional fruit and vegetable payments and transitional soft fruit payment provided for in Chapters 10g and 10h of Title IV of Regulation (EC) No 1782/2003.

▼M8

2. In the communications provided for in paragraph 1, the areas shall be expressed in hectares to two decimal places, the quantities shall be expressed in tonnes to three decimal places, and the number of applications shall be expressed with no decimal places.
3. Where the information required under paragraph 1 changes, in particular as a result of the checks or corrections or improvements of previous figures, an update shall be communicated to the Commission within one month after the occurrence of the change.

▼M10*Article 4*

The coefficient of reduction of areas in the case referred to in Articles 75, 78(2), 82, 85, 89(2), ►**M16** ————— ◀ and 143 of Regulation (EC) No 1782/2003, or of quantities with the objective criteria in the case referred to in Article 95(4) of that Regulation, shall be fixed before the payments are granted to the farmers and at the latest by 31 January of the following year on the basis of the data communicated in accordance with ►**M12** Article 3(1)(b) and (c) ◀ of this Regulation.

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CHAPTER 2

SPECIFIC QUALITY PREMIUM FOR DURUM WHEAT

*Article 5***Variety screening**

1. Member States listed in Article 74(1) of Regulation (EC) No 1782/2003 shall establish the list of durum wheat varieties eligible for the special quality premium provided for in Article 72 of that Regulation in accordance with the variety screening method laid down in paragraphs 2 to 5 of this Article.

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2. Member States shall, at least every two years, identify at least two representative varieties. The representative varieties shall be the most certified durum wheat varieties.

3. Member States shall analyse durum wheat varieties according to the following quality parameters and assign to each parameter the relevant weighting:

- (a) protein content (40 %);
- (b) gluten quality (30 %);
- (c) yellow index (20 %);
- (d) specific weight or weight of one thousand kernels (10 %).

The sum of the averages of the quality parameters referred to in (a) to (d) of the first subparagraph, multiplied by the indicated value in percentage, shall constitute the quality index of the varieties.

Each Member State shall compare, over a period of at least two years, the quality indexes of the durum wheat varieties with those of the representative varieties at regional level. The varieties to be examined shall be those which are registered in the national catalogue of each Member State, with the exclusion of those varieties for which no analytical data are available for the last three years because they are not longer used or certified.

To that end, based on the average quality index of 100 attributed to the representative varieties, each Member State shall calculate, for each of the quality parameters provided for in points (a) to (d) of the first subparagraph, the percentage to be assigned to the other durum wheat varieties in comparison with the index of 100. Only durum wheat varieties with an index equal to or higher than 98 shall be eligible for the specific quality premium for durum wheat.

4. A Member State may exclude from the list of eligible varieties the varieties which have an average rate of loss of vitreous aspect of durum wheat (*'mitadinage'*) exceeding 27 %.

5. Varieties which are registered in the national catalogue of another Member State may also be examined for their eligibility.

Article 6

Analysis methods

1. The analysis methods of the protein content, specific weight and the rate of loss of vitreous aspect of durum wheat (*'mitadinage'*) shall be those laid down in Commission Regulation (EC) No 824/2000 ⁽¹⁾.

2. The yellow index shall be measured in accordance with the ICC 152 method or an equivalent recognised method.

3. The gluten quality shall be measured in accordance with the ICC 158 method or according to the ICC 151 method.

Article 7

Quantity of certified seeds

Member States shall fix, before 1 October of the year preceding the year in respect of which the specific quality premium for durum wheat is granted, the minimum quantity of seed, certified in accordance with Directive 66/402/EEC ⁽²⁾, to be used in accordance with the current agricultural practices in the production zone concerned.

⁽¹⁾ OJ L 100, 20.4.2000, p. 31.

⁽²⁾ OJ L 125, 11.7.1966, p. 2309.

▼B*Article 8***Publications and communications**

1. Member States shall publish the list of selected varieties which are eligible at national or regional level to the special quality premium for durum wheat, by 1 October at the latest for winter varieties, and by 31 December at the latest for spring varieties, of the year preceding the year in respect of which the premium is granted.
2. Member States shall communicate to the Commission, not later than one month after the dates provided for in paragraph 1, the list referred to in paragraph 1 as well as, if amended, the minimum quantity of certified seed to be used.

*Article 9***Validity**

1. The varieties included in the list referred to in Article 8(1) shall be eligible for the special quality premium for durum wheat for periods of five years starting from the date of their first inclusion in that list.
2. The eligibility of each variety may be extended for a period of five years, based on the results of the qualitative analyses carried out during the second and third year of the five-year eligibility period.

*Article 10***Transitional measures**

1. Member States shall publish the list of selected varieties which are eligible for the special quality premium for durum wheat in respect of the year 2005, by 1 October 2004 at the latest for winter varieties and by 31 December 2004 at the latest for spring varieties.
2. Member States shall establish the list referred to in paragraph 1 by eliminating from the list of varieties which are registered in the national catalogue the varieties which have not been certified in 2003 and 2004 and those which do not satisfy at least two of the four following parameters:
 - (a) a minimum protein content of 11.5 %;
 - (b) a minimum specific weight of 78 kg/hl or a minimum weight of one thousand kernels of 42 g;
 - (c) a maximum rate of loss of vitreous aspect of durum wheat ('*mitadinage*') of 27 %;
 - (d) a minimum gluten content of 10 %.
3. The lists of varieties which are eligible for the premium in 2005 and 2006 may include varieties which are in the list of selected varieties of another Member State on the basis of the results of the qualitative analyses carried out by that other Member State.

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4. Member States may opt to establish the list of selected varieties which are eligible for the special quality premium for durum wheat in respect of 2006 in accordance with the procedure referred to in paragraph 2, not later than 1 October 2005 as regards winter varieties and not later than 31 December 2005 as regards spring varieties.

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CHAPTER 3
PROTEIN CROP PREMIUM

Article 11

Mixture of cereals and protein crops

In regions where protein crops are traditionally sown in a mixture with cereals, the protein crop premium shall be paid at the request of the applicant provided that he proves, to the satisfaction of the competent authorities of the Member State concerned, that the protein crops are predominant in the mixture. The areas concerned shall not be eligible for the specific regional aid for arable crops provided for in Article 98 of Regulation (EC) No 1782/2003.

CHAPTER 4

CROP SPECIFIC PAYMENT FOR RICE

▼M16

Article 12

Dates for sowing

To be eligible for the crop-specific payment for rice, the declared area shall be sown at the latest:

- (a) on 30 June preceding the harvest in question, for Spain, France, Italy and Portugal;
- (b) on 31 May for the other producing Member States referred to in Article 80(2) of Regulation (EC) No 1782/2003.

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Article 13

Coefficient of reduction

The coefficient of reduction of the crop specific payment for rice referred to in Article 82 of Regulation (EC) No 1782/2003 shall be calculated in accordance with Annex II to this Regulation.

Article 14

Communications

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1. Member States shall communicate to the Commission by 1 September at the latest the list of the varieties registered in the national catalogue, classified according to the criteria defined in item 2 of Annex I to Council Regulation (EC) No 1785/2003 ⁽¹⁾ in case of amendments to that list.

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3. Member States may revise annually the subdivision of their base area or areas in sub-base areas and the objective criteria on which those subdivisions are based. They shall communicate that information to the Commission by 15 May preceding the harvest in question at the latest.

⁽¹⁾ OJ L 270, 21.10.2003, p. 96.

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CHAPTER 5

AREA PAYMENT FOR NUTS

▼M6*Article 15***Conditions of payment of Community aid**

1. Only agricultural parcels planted with nut trees and meeting the conditions provided for in paragraphs 2 and 3 of this Article at the date to be fixed in accordance with Article 11(2) of Regulation (EC) No 796/2004 shall be eligible for the area payment provided for in Article 83 of Regulation (EC) No 1782/2003.

In the case of a parcel planted with different species of nut trees and when the aid is differentiated by species, eligibility shall be conditional on compliance for at least one of the species of nuts with the minimum number of trees per hectare laid down in paragraph 3 of this Article.

2. The minimum size of the parcel eligible for the area payment provided for in Article 83 of Regulation (EC) No 1782/2003 shall be 0,10 hectare. However, Member States may fix a higher minimum parcel size on the basis of objective criteria and taking into account the specific characteristics of the areas concerned.

3. The number of nut trees per hectare may not be less than:

- (i) 125 for hazelnuts;
- (ii) 50 for almonds;
- (iii) 50 for walnuts;
- (iv) 50 for pistachios;
- (v) 30 for locust beans.

However, Member States may fix a higher tree density on the basis of objective criteria and taking into account the specific characteristics of the production concerned.

4. In the cases referred to in the second subparagraph of paragraph 1, the level of the aid to be granted is the level corresponding to the species for which the eligibility conditions are met and for which the amount is highest.

▼B*Article 16***Eligibility conditions for national aid**

Article 15 shall apply to the national aid provided for in Article 87 of Regulation (EC) No 1782/2003.

Without prejudice to Article 87 of Regulation (EC) No 1782/2003, a Member State may establish further eligibility criteria, provided that such criteria are consistent with the environmental, rural, social and economic objectives of the aid scheme and do not introduce discrimination between producers. Member States shall establish the necessary arrangements in order to control that those eligibility criteria are respected by farmers.

*Article 17***Communications**

1. Member States shall communicate to the Commission in any case before the date for lodging an application fixed by Member States in

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accordance with Article 11 of Regulation (EC) No 796/2004 and at the latest:

- (a) by 31 March, the higher levels and the criteria referred to in Article 15(4) and the additional criteria referred to in Article 16;
- (b) by 15 May, where a Member State differentiates the aid in accordance with Article 83(2) of Regulation (EC) No 1782/2003, the level of the area payment per products and/or the modified national guaranteed area ('the NGA').

2. Any modification of the information to be communicated to the Commission pursuant to paragraph 1 shall apply to the following year and shall be immediately communicated by the Member State concerned to the Commission accompanied by the objective criteria justifying any such modification.

*Article 18***Transitional measures**

1. Member States may determine whether and under what conditions the improvement plans referred to in Article 86(2) of Regulation (EC) No 1782/2003 may be ceased before their normal expiry and relative areas become eligible under the scheme provided for in Chapter 4 of Title IV of that Regulation.

2. When setting the conditions referred to in paragraph 1, the Member State shall ensure that:

- (a) the plan is not ceased before the complete implementation of an annual period;
- (b) the initial objectives of the plan have been reached to the satisfaction of the Member State.

CHAPTER 6

AID FOR STARCH POTATO*Article 19***Eligibility**

The aid for starch potato provided for in Article 93 of Regulation (EC) No 1782/2003 shall be granted for potatoes which are covered by a cultivation contract as provided for in Article 3 of Commission Regulation (EC) No 2236/2003 ⁽¹⁾, on the basis of the net weight of the potatoes determined by one of the methods described in Annex I to Commission Regulation (EC) No 2235/2003 ⁽²⁾ and the starch content of the potatoes delivered, in accordance with the rates fixed in Annex II to that Regulation.

No aid for starch potato shall be granted for potatoes whose starch content is less than 13 %, except where the second subparagraph of Article 5(3) of Regulation (EC) No 2236/2003 applies.

*Article 20***Minimum price**

The aid for starch potato shall be subject to the requirement that proof is provided that a price not less than that referred to in Article 4a of Regulation (EC) No 1868/94 has been paid at the delivered-to-factory

⁽¹⁾ OJ L 339, 24.12.2003, p. 45.

⁽²⁾ OJ L 339, 24.12.2003, p. 36.

▼B

stage in accordance with the rates fixed in Annex II to Regulation (EC) No 2235/2003.

Article 10(2) of Regulation (EC) No 2236/2003 shall apply.

*Article 21***Payment****▼M4**

1. Without prejudice to Article 28 of Regulation (EC) No 1782/2003, the aid for potato starch shall be paid, by the Member State on whose territory is situated the holding delivering the potatoes for the manufacturing of the potato starch, per farmer once all his quantities for the marketing year have been delivered to the starch-producing undertaking within four months from the date on which the proof referred to in Article 20 of this Regulation has been provided and the conditions referred to in Article 19 of this Regulation have been respected.

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2. Member States may grant advances, as from 1 December of the marketing year, based on the different parts of the quantity of starch potatoes by farmer delivered to the starch-producing undertaking for that marketing year. Each advance payment shall be granted for the quantity of starch potatoes delivered for which the proof referred to in Article 20 has been provided and the conditions referred to in Article 19 have been respected.

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CHAPTER 7

DAIRY PREMIUM AND ADDITIONAL PAYMENT*Article 22***Cases of inactivity**

1. When a natural or legal person holding an individual reference quantity does not come within the definition of producer provided for in Article 5(c) of Regulation (EC) No 1788/2003 during the twelve-month period ending on 31 March of the year concerned, no dairy premiums and additional payment shall be paid for the year concerned, unless he proves before the deadline for the application and to the satisfaction of the competent authority that production has been taken up.

2. Paragraph 1 shall not apply in cases of *force majeure* and in duly justified cases temporarily affecting the production capacity of the producers concerned and recognised by the competent authority.

▼ **M10**

CHAPTER 8

AID FOR ENERGY CROPS*SECTION 1***Definitions***Article 23***Definitions**

For the purposes of this Chapter:

- (a) ‘applicant’ means any farmer cultivating the areas referred to in Article 88 of Regulation (EC) No 1782/2003 with a view to obtaining the aid provided for in that Article;
- (b) ‘aid’ means the aid for energy crops provided for in Article 88 of Regulation (EC) No 1782/2003;
- (c) ‘energy product’ means one of the energy products referred to in the second paragraph of Article 88 of Regulation (EC) No 1782/2003;
- (d) ‘first processor’ means any user of agricultural raw materials, apart from applicants using raw materials on the holding, who undertakes the first processing thereof with a view to obtaining one or more of the products referred to in the second paragraph of Article 88 of Regulation (EC) No 1782/2003;
- (e) ‘collector’ means any person concluding a contract with an applicant as referred to in Article 25, who purchases on his own account raw materials referred to in Article 24(1) and intended for the uses provided for in the second paragraph of Article 88 of Regulation (EC) No 1782/2003.

*SECTION 2***Use of raw material***Article 24***Use of raw material**

1. Any agricultural raw material may be grown on the areas covered by the aid provided that they are intended primarily for use in the production of energy products under the conditions laid down in paragraphs 2 to 8.
2. Sugar beet may be grown on the areas referred to in the paragraph 1 provided that any intermediate product is used in the production of energy products and that any co-product or by-product containing sugar is used in accordance with Council Regulation (EC) No 318/2006 ⁽¹⁾.
3. For hemp, Article 29 of Commission Regulation (EC) No 795/2004 ⁽²⁾ and Article 33 of Regulation (EC) No 796/2004 shall apply.
4. The Member States may exclude any agricultural raw material from aid where such materials raise difficulties from the viewpoint of controls, public health, the environment, criminal law, or a reduced rate of final energy products.
5. For any raw material, the Member States may set a minimum cultivated area.

⁽¹⁾ OJ L 58, 28.5.2006, p. 1.

⁽²⁾ OJ L 141, 30.4.2004, p. 1.

▼M10

6. The economic value of the energy products obtained by processing raw materials shall be higher than that of all other products intended for other uses and obtained by such processing, as determined by the valuation method set out in Article 38(6) of this Regulation.

7. By way of derogation from paragraph 6, soya beans may be grown on the areas referred to in paragraph 1 provided that any intermediate product apart from soya bean meal is used in the production of energy products.

8. Energy products shall be obtained at the most by a third successive processor.

*SECTION 3****Contract****Article 25***Contract**

1. The production of raw materials referred to in Article 24 shall be covered by a contract in accordance with Article 90 of Regulation (EC) No 1782/2003 under the conditions laid down in this Chapter.

2. By way of derogation from paragraph 1, for the years prior to the first harvest of crops other than annual crops, applicants may undertake by way of a written declaration to plant during the year concerned and to use the raw materials to be harvested for the production of energy products. The declaration shall contain at least the following information:

- (a) the species of all raw materials concerned and the area planted with each species;
- (b) the indication of the year foreseen for the first harvest.

3. In support of the single application and by the date provided for in Article 11 of Regulation (EC) No 796/2004, applicants shall submit to their competent authorities a copy of the contract concluded with a collector or first processor or, where appropriate, the declaration referred to in paragraph 2.

Member States may decide that the contract may only be concluded between an applicant and a first processor.

Member States may require applicants to conclude a single contract for each raw material.

4. Applicants shall ensure that the contract specifies at least the following:

- (a) the names and addresses of the parties to the contract;
- (b) the duration of the contract;
- (c) the species of all raw materials concerned and the area planted with each species;
- (d) any conditions applicable to the delivery of the forecast quantities of raw materials;
- (e) an undertaking by the farmer to fulfil his obligation pursuant to Article 27(1);
- (f) an undertaking of the first processor or the collector to use the raw materials in accordance with this Chapter.

▼ **M10***SECTION 4****Representative yields, delivery of raw materials and quantities to be delivered****Article 26***Representative yields**

1. Member States shall establish each year and in due time, using an appropriate procedure, representative yields which must be attained for each species of raw materials, and shall inform the applicants concerned thereof.
2. By way of derogation from paragraph 1, Member States may decide to not establish representative yields for crops other than annual crops. In that case, where the controls provided for in the second subparagraph of Article 27(1) show a risk of non-compliance with the obligation to deliver all the raw material harvested, the Member States shall, using an appropriate procedure, establish representative yields for those crops concerned by that risk.

*Article 27***Delivery of raw materials and quantities to be delivered**

1. Applicants shall deliver to a collector or first processor:
 - (a) the quantities of raw material at least equal to the representative yield;
 - (b) all raw material derived from crops for which the Member States have decided to use the option provided for in Article 26(2).

Member States shall set up appropriate control measures in order to ensure that the obligation to deliver all the raw materials provided for in point (b) of the first subparagraph is complied with.

2. Applicants or collectors or first processors shall declare to the competent authority the delivery of raw materials by a written declaration signed by the collector or first processor and by the applicant. The declaration shall contain at least the following information:
 - (a) the date of the delivery;
 - (b) the quantities delivered for each species.
3. The collectors or first processors shall take delivery of the raw material as referred to in paragraph 1 and ensure that an equivalent quantity of such raw materials is used within the Community for the manufacture of one or more energy products.
4. Collectors shall deliver to the first processor(s) an equivalent quantity of all the raw materials taken over from the applicants.
5. The first processor may use an equivalent quantity of the raw material, intermediate products or by-products to manufacture one or more energy products.

In the case referred to in the first subparagraph, or where the collector sells an equivalent quantity of the raw material harvested, the first processor or the collector shall accordingly inform the competent authority with whom the security referred to in Article 31 is lodged or, in the event of application of Article 37, the competent authority responsible for the approval of the collector or first processor concerned. Where such equivalent quantity is used in a Member State other than the Member State in which the raw material is harvested, the competent authorities of the Member States concerned shall inform each other of the details of such transactions.

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6. In accordance with the national provisions governing contractual relations, the first processor may delegate to a third party the collection of the raw material from the farmer applying for the aid. The first processor remains solely responsible with regard to the obligations laid down by this Chapter.

*Article 28***Exceptional circumstances**

In case of exceptional circumstance or force majeure as provided for in Article 40(4) of Regulation (EC) No 1782/2003, an applicant may inform his competent authority following the procedure established in Article 72 of Regulation (EC) No 796/2004 that, owing to such circumstances, he is unable to deliver all or part of the raw materials specified in the contract referred to in Article 25. The competent authority may, after obtaining sufficient evidence of such exceptional circumstances, authorise amendments to the quantities to be delivered to the collector or first processor.

*SECTION 5****Conditions of payment of the aid****Article 29***Payment**

1. Without prejudice to the sanctions provided for in Article 51 of Regulation (EC) No 796/2004 and in Article 30 of this Regulation, the aid shall be paid only where:

- (a) a copy of the contract has been deposited to the competent authority in accordance with Article 25;
- (b) the security provided for in Article 31 has been lodged, save where Article 37 is applied;
- (c) the declaration provided for in Article 27(2) has been submitted to the competent authority;
- (d) the competent authority has checked that the conditions laid down in Articles 25 and 27 have been met in respect of each application.

2. By way of derogation from paragraph 1 and without prejudice to reductions and exclusions provided for in Article 51 of Regulation (EC) No 796/2004 and to sanctions provided for in Article 30 of this Regulation, the aid in respect of the years prior to the first harvest for crops other than annual crops shall be paid provided that the declaration referred to in Article 25(2) has been submitted to the competent authority and that the competent authority has checked the compliance with Article 25(2).

*Article 30***Sanctions in the case of false delivery declaration**

Where it is revealed during the controls that the delivery declaration as provided for in Article 27(2) is intentionally false, the applicant shall lose his eligibility for the aid. If the aid has already been paid, it shall be recovered in accordance with the provisions of Article 73 of Regulation (EC) No 796/2004. For crops other than annual crops, payments already made are subject to recovery until the last eligible payment.

▼ **M10***SECTION 6**Obligations on collectors and first processors**Article 31***Securities**

1. Collectors or first processors shall lodge a security as provided for in paragraph 2 with their competent authorities by the final date for the amendments to the payment applications for the year in question in the Member State concerned, as referred to in Article 15(2) of Regulation (EC) No 796/2004. However, Member States may waive the requirement of a security under the conditions set up in Article 5 of Commission Regulation (EEC) No 2220/85 ⁽¹⁾.
2. The securities to be lodged in respect of each raw material shall be calculated by multiplying the sum of all areas covered by a contract signed by the collector or first processor concerned and used to produce that raw material, by the rate of EUR 60 per hectare.
3. In case of the production of crops other than annual crops, however, securities shall be lodged in respect of the year of the first harvest only and shall remain valid for the consecutive years during the period of validity of the contract.
4. Where contracts are amended in accordance with Article 28, the securities lodged shall be adjusted accordingly.
5. Without prejudice to Articles 20 to 24 of Regulation (EEC) No 2220/85, where the security has been lodged by the collector, it shall be released once the raw material in question has been delivered to the first processor, provided that the collector's competent authority has evidence that the first processor has lodged an equivalent security with their competent authority. In case of first processing in a Member State applying the provisions of Article 37, the security lodged by the collector shall be released once the raw material in question has been delivered to an approved first processor.

*Article 32***Primary, secondary and subordinate requirements for collectors and processors**

1. The following obligations shall constitute primary requirement within the meaning of Article 20 of Regulation (EEC) No 2220/85:
 - (a) the obligation for collectors to deliver the total quantities of raw materials to the first processor provided for in Article 27(4);
 - (b) the obligation for first processors to process at least the quantities of raw materials determined in accordance with Article 27(1) into the end products specified in the contract;
 - (c) the obligation for first processors related to the economic value of the energy products obtained by processing raw materials referred to in Article 24(6).
2. The obligation for first processors to process raw materials by 31 July of the second year following that of harvest shall constitute a secondary requirement within the meaning of Article 20 of Regulation (EEC) No 2220/85.

▼ **M12**

3. The following obligations shall constitute subordinate requirements for collectors and first processors within the meaning of Article 20 of Regulation (EEC) No 2220/85:

⁽¹⁾ OJ L 205, 3.8.1985, p. 5.

▼ M12

- (a) the obligation to take delivery of the relevant quantities of raw materials, as delivered by applicants in accordance with Article 27(3);
- (b) the obligation to sign the declaration of delivery referred to in Article 27(2);
- (c) the obligation, where applicable, to lodge a security within the time limit set up in Article 31(1).

▼ M10

4. By way of derogation from Article 20(2) of Regulation (EEC) No 2220/85, the obligation for a collector or a first processor to accept or facilitate the on-the-spot checks to be performed by the competent authorities or to provide the records referred to in Article 38 of this Regulation shall constitute a primary requirement.

*SECTION 7**Special rules for the use of raw material on the holding**Article 33***Use of raw material on the holding**

1. Notwithstanding Article 25(1), Member States may permit applicants to:
 - (a) use short rotation forest trees covered by ex 0602 90 41 or all the cereals or the oilseeds covered by CN codes 1201 00 90, 1205 10 90, 1205 90 00, 1206 00 91 and 1206 00 99 harvested:
 - (i) as fuel for heating their agricultural holding;
 - (ii) for the production on the holding of power or biofuels;
 - (b) process into biogas covered by CN code 2711 29 00 on their holdings all raw materials harvested.

▼ M12

The Member State may decide to permit applicants to use defined agricultural raw materials other than those provided for in point (a) of the first subparagraph provided that all appropriate control measures are complied with.

▼ M10

2. Where paragraph 1 of this Article applies, Article 25 shall not apply. Applicants shall, by the date provided for in Article 11 of Regulation (EC) No 796/2004 and in support of the single application, submit to their competent authorities a written declaration which shall contain at least the following information:

- (a) the species of all raw materials concerned and the area planted with each species;
- (b) where appropriate, the indication of the year foreseen for the first harvest;
- (c) an undertaking by the applicant to use or process directly the raw material covered by the declaration in accordance with paragraph 1 of this Article and Article 24(1) and by a date to be fixed by the Member States which shall not be later than the 31 July of the second year following that of the harvest;
- (d) the intended end use of the raw material and the technical description of the envisaged transformation.

3. Save as otherwise provided in this Section, the provision of this Chapter shall apply to the concerned farmers.

▼ **M10***Article 34***Quantities of raw materials to be used on the holding**

1. Applicants shall use on the holding:
 - (a) a quantity of raw material at least equal to the representative yield referred to in Article 26; or
 - (b) for raw material for which no representative yield has been established, all the raw material harvested.

Member States shall introduce adequate control measures to ensure compliance with the obligation provided for in point (b) of the first subparagraph.

2. Applicants shall, by a date to be fixed by the Member States, submit to the competent authority a harvest declaration that shall contain at least the following information:
 - (a) the date of the harvest;
 - (b) the quantities of raw materials harvested.

3. In case of exceptional circumstance or force majeure as provided for in Article 40(4) of Regulation (EC) No 1782/2003, an applicant may, in accordance with Article 72 of Regulation (EC) No 796/2004, inform his competent authority that he will be unable to harvest or to use all or part of quantity of raw material referred to in paragraph 1 of this Article. The competent authority may, after obtaining sufficient evidence of such exceptional circumstances, authorise amendments to the quantities to be used on the holding.

*Article 35***Controls**

Without prejudice to the controls provided for in Articles 24 and 26 of Regulation (EC) No 796/2004 and Articles 37(4) to 37(6) of this Regulation, Member States applying Article 33(1) of this Regulation shall introduce adequate control measures to ensure that:

- (a) the relevant quantities of raw materials are harvested in accordance with Article 34.

Such control measures shall cover at least the following:

- (i) administrative control for the compliance with Article 34 concerning the quantities harvested;
 - (ii) on-the-spot checks on at least 10 % of the farms for checking the quantity harvested declared by the applicant in accordance with Article 34(2);
- (b) the raw materials referred to in point (a) are directly used on the holding or processed into biogas falling within CN code 2711 29 00.

*Article 36***Payments**

1. Without prejudice to the reductions and exclusions established in Article 51 of Regulation (EC) No 796/2004 and in paragraph 2 of this Article, the aid shall be paid to applicants provided that:

- (a) the requisite quantities of raw materials pursuant to Article 34 have been harvested;
- (b) the declarations provided for in Articles 33(2) and 34(2) have been submitted to the competent authority;

▼ M10

(c) The checks provided for in Article 35(a) have been completed by the Competent Authority.

2. Without prejudice to Article 40 of Regulation (EC) No 1782/2003, if it is revealed that an applicant has submitted intentionally a false harvest declaration referred to in Article 34(2) of this Regulation he shall not be eligible for the aid. If the aid has already been paid, it shall be recovered in accordance with Article 73 of Regulation (EC) No 796/2004.

If the raw materials have not been processed into energy products by the date referred to in Article 33(2)(c), the aid paid for the harvest in question shall be recovered in accordance with Article 73 of Regulation (EC) No 796/2004 and the farmer shall be excluded from the aid for energy crops for the following year.

Article 36a

Member States may decide to apply this Section as from 1 January 2008.

*SECTION 8****Optional system of approval****Article 37***Optional system of approval**

1. By way of derogation from Article 31, Member States may decide to set up a system of approval of the collectors and first processors (hereinafter referred to as approved operators).

Member States shall make available to public the decision referred to in the first subparagraph by 1 November of the year preceding its application. However, for 2007, Member States shall make their decision available to public by 1 March 2007.

Save as otherwise provided in this Section, the provisions of this Chapter shall apply to the Member States having decided to apply the first subparagraph.

2. Where a Member State has decided to apply paragraph 1, it shall adopt the necessary provisions and take the necessary measures to ensure that the provisions of this Chapter are complied with. In particular, Member States shall lay down conditions for approval of the operators ensuring that at least the following criteria are met:

- (a) for collectors:
 - (i) have the administrative capacities for operating as a collector and performing the record keeping referred to in Article 38;
 - (ii) have a contractual relationship with at least one processor for the delivery of raw materials or have carried on trading activities for a sufficient period;
- (b) for first processors:
 - (i) have the administrative capacities for operating as a first processor and the administrative capacities for performing the record keeping referred to in Article 38;
 - (ii) have the appropriate production capacities for the production of at least one energy product referred to in Article 24(1).

▼ M12

3. Member States shall set up a procedure of controls of the approval of the operators before the list referred to in paragraph 6 is published.

▼ M10

4. ► **M12** Where it is found that an approved operator fails to comply with the obligations laid down in this Chapter or with the national provisions adopted on its basis, or where a collector or first processor does not accept or facilitate the on-the-spot checks to be performed by the competent authorities and/or does not provide the information referred to in Article 38, Member States shall provide for the application of appropriate penalties. ◀ The rate of penalties shall be calculated in the light of the seriousness of the infringement and proportionally to the securities forfeited for non-compliance with the requirements as set up in Article 32.

▼ M12

5. If an approved operator, as a result of a serious negligence, fails to comply with the provisions of this Chapter or with the national provisions, a Member State may decide to withdraw its approval for a period to be determined by that Member State.

▼ M10

6. Before 15 December of the year prior to the year in respect of which the aid is granted, Member States shall make available to the public a list of approved collectors and first processors. However, for the aid to be granted in respect of the year 2007 the list of approved collectors and first processors shall be made available to the public by 15 April 2007 at the latest.

▼ M12

7. If a Member State decides to apply paragraph 1, the aid shall be paid only to applicants who have concluded contracts with approved collectors or processors provided those are also established in a Member State which has decided to apply paragraph 1.

▼ M10*SECTION 9**Checks**Article 38***Record keeping**

1. The competent authority of the Member State shall specify the records to be kept by collectors, processors or applicants referred to in Article 33(1) and the frequency of the update of those records, which shall be at least monthly.

2. For processors, such records shall comprise at least the following information:

- (a) the quantities of different raw materials purchased for processing;
- (b) the quantities of raw materials processed and the quantities and types of end products, co-products and by-products obtained there from;
- (c) wastage during processing;
- (d) the quantities destroyed and the reasons for such destruction;
- (e) the quantities and types of products sold or transferred by the processor and the prices obtained;
- (f) where applicable, the names and addresses of the subsequent processors.

3. For collectors, such records shall comprise at least the following information:

- (a) the quantities of all raw materials purchased and sold for processing under this scheme;
- (b) the names and addresses of the first processors.

▼M10

4. In the case of applicants referred to in Article 33(1), the records shall comprise at least a stock record allowing for the traceability of the harvests and processing on the holding.
5. The competent authority of the collector or first processor shall check that the contract submitted complies with the conditions referred to in Article 24(1). Where those conditions are not met, the applicants' competent authorities shall be notified.
6. With a view to calculating the economic value of the products referred to in Article 24(6), the competent authorities concerned shall, on the basis of the information referred to in paragraph 2, compare the sum of the values of all energy products with the sum of the values of all other products intended for other uses and obtained from the same processing operation. Each value shall equal the relevant quantity multiplied by the average of the ex-factory prices recorded during the previous marketing year. Where such prices are not available, the competent authorities shall determine the relevant prices, in particular on the basis of the information referred to in Article 39(1).

*Article 39***Controls of the processing**

1. First processors shall provide their competent authorities with the required information on the processing chain in question, in particular as regards prices and the technical processing coefficients to be used for determining the quantities of end products that may be obtained.
2. The competent authorities of the Member States in which collectors are located shall carry out checks on the premises of at least 25 % of the collectors established in their territory, selected on the basis of a risk analysis. Such checks shall comprise physical checks and inspections of commercial documents, with a view to verifying consistency between the purchases of raw materials and the corresponding deliveries and compliance with primary, secondary and subordinate requirements laid down in Article 32.
3. The competent authorities of the Member States in which processing takes place shall check compliance with Article 24(1) and primary, secondary and subordinate requirements laid down in ►**M12** Article 32 ◀ at the premises of at least 25 % of the processors located in their territory, selected on the basis of a risk analysis. Such checks shall involve at least:
 - (a) a comparison of the sum of the values of all the energy products with the sum of the values of all other products intended for other uses and obtained from the same processing operation;
 - (b) analysis of the processor's production system, comprising physical checks and inspections of commercial documents, with a view to verifying that deliveries of raw materials, end products, co-products and by-products tally.

For the purpose of the checks referred to in point (b) of the first subparagraph, the competent authorities shall base themselves in particular on the technical processing coefficients for the raw materials concerned. Where such coefficients exist for exports in Community legislation, they shall be applied. Where they do not, but other coefficients do exist in Community legislation, they shall be applied. In all other cases, inspection shall rely mainly on the coefficients generally accepted by the processing industry.

4. For the processing operations referred to in Article 33(1), checks shall be carried out on 10 % of applicants selected on the basis of a risk analysis taking account of:
 - (a) aid amounts;

▼ M10

- (b) type of production declared for the processing, in particular crops other than annual crops;
 - (c) the number of agricultural parcels;
 - (d) developments since the previous year;
 - (e) the findings of checks made in past years;
 - (f) other parameters to be defined by the Member States, based on the representativeness of the declarations submitted.
5. The checks referred to in paragraph 4 shall involve at least:
- (a) a comparison of the sum of the values of all the energy products with the sum of the values of all other products intended for other uses and obtained from the same processing operation;
 - (b) existence of facilities for using or processing the raw materials on the holding.
6. Where the checks referred to in paragraph 4 reveal irregularities, the competent authority shall carry out additional checks during the year and shall consequently increase the percentage of applicants to be subject to an on-the-spot check the following year, in accordance with Article 26(3) of Regulation (EC) No 796/2004.
7. If it has been provided that certain elements of the checks referred to in paragraphs 2, 3 and 4 may be carried out on the basis of a sample, that sample shall guarantee a reliable and representative level of inspection.
8. Every on-the-spot check shall be the subject of an inspection report signed by the inspector giving the details of the checks carried out. The report shall indicate in particular:
- (a) the date of the check;
 - (b) the persons present;
 - (c) the period checked;
 - (d) the checking techniques used including, where applicable, reference to sampling methods;
 - (e) results of the check.

*Article 40***Additional measures and mutual assistance**

1. The Member States shall take all further measures required for the proper application of this Chapter and shall give the mutual assistance needed for the purposes of checks required pursuant to this Chapter. Where this Chapter does not provide for appropriate reductions and exclusions, the Member States may apply appropriate national sanctions against market participants involved in the procedure for granting aid.
2. As far as necessary or as required by this Chapter, the Member States shall assist one another mutually to ensure effective controls, and enable the authenticity of documents submitted and the accuracy of the data exchanged to be verified.

▼ M16



CHAPTER 10

SEED AID*Article 46***Certified seeds**

In the event of application of Article 99 of Regulation (EC) No 1782/2003, the aid shall be granted for production of basic and officially certified seed as defined by Directives 66/401/EEC, 66/402/EEC and 2002/57/EC and complying with the standards and conditions laid down in those Directives, in accordance with Articles 47 to 50 of this Regulation.

*Article 47***Production of seeds**

1. The seed shall be produced:
 - (a) either under a growing contract concluded between a seed establishment or a breeder and a seed grower,
 - (b) or directly by the seed establishment or the breeder; such production being attested by a growing declaration.
2. The seed establishments and breeders referred to in paragraph 1 shall be approved or registered by Member States. Approval or registration by a Member State shall be valid throughout the Community.
3. A seed establishment or a breeder growing seed or having seed grown in a Member State other than that in which approval or registration referred to in paragraph 2 took place shall supply the competent authorities of that other Member State, on request, with all the information required for checking entitlement to aid.

*Article 48***Territorial eligibility**

Each Member State shall grant aid only in respect of seed harvested on its territory during the calendar year in which the marketing year for which the aid was fixed begins.

The aid shall be granted to all seed growers under conditions which ensure equal treatment for beneficiaries irrespective of the place of their establishment within the Community.

*Article 49***Marketing of seeds**

Aid shall be granted only on condition that the seed has in fact been marketed for sowing by the recipient by 15 June of the year following the harvest at the latest. 'Marketed' shall mean holding available or in stock, displaying for sale, offering for sale, sale or delivery to another person.

▼ M4*Article 49a***Advance payments**

Member States may grant advance payments to seed growers as from 1 December of the marketing year. Such payment shall be proportional to the quantity of seeds already marketed for sowing within the meaning of Article 49 provided that all the conditions of Chapter 10 are complied with.

▼ M15*Article 50****Cannabis sativa* L. varieties**

The varieties of *Cannabis sativa* L. eligible for aid under Article 99(4) of Regulation (EC) No 1782/2003 shall be those listed in 'Common Catalogue of Varieties of Agricultural Plant Species' on 15 March of the year in respect of which the payment is granted and published in accordance with Article 17 of Council Directive 2002/53/EC, with exception of the varieties Finola and Tiborszallasi.

▼ B

CHAPTER 11

ARABLE CROPS AREA PAYMENT*SECTION 1****General provisions for the eligibility for arable crops area payment****Article 51***Eligible land**

1. For the purposes of Chapter 10 of Regulation (EC) No 1782/2003:
 - (a) 'permanent pasture' shall mean 'permanent pasture' within the meaning of Article 2(2) of Regulation (EC) No 796/2004;
 - (b) 'permanent crops' shall mean 'permanent crops' within the meaning of Article 2(c) of Regulation (EC) No 795/2004.
2. For the purposes of the first paragraph of Article 108 of Regulation (EC) No 1782/2003, land under permanent pasture in 2003 shall be:
 - (a) land declared by a farmer in his aid application for 2003 as being under permanent pasture,
and
 - (b) land not declared by a farmer in his aid application for 2003, unless it can be shown that that land was not under permanent pasture in 2003.
3. Pursuant to the third paragraph of Article 108 of Regulation (EC) No 1782/2003, Member States may only derogate from the first paragraph of that Article only subject to the following conditions:
 - (a) for areas subject to a restructuring programme, defined as a 'change to the structure and/or eligible area of a holding imposed by the public authorities', Member States shall take action to prevent any significant increase in the total agricultural area eligible for arable area crops payment; this may in particular involve deeming previously eligible areas ineligible as an offsetting measure; areas newly declared eligible by the Member States under a restructuring programme shall not exceed the area newly declared ineligible under that programme by more than 5 %;

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- (b) in case of one or other form of public intervention, where such intervention results in a farmer growing crops on land previously regarded as ineligible for arable crops area payment in order to continue his normal agricultural activity and the intervention in question means that land originally eligible ceases to be so, Member States may not increase their total eligible agricultural area, either temporarily or permanently, by more than 0.1 % of their total base area;
- (c) where farmers are able to give relevant and objective reasons for exchanging land ineligible for arable crops area payment for eligible land on their holdings, Member States shall check that there are no valid reasons for refusing such exchanges, in particular from the viewpoint of environmental risks, and shall provide proof in a plan submitted to the Commission that the total amount of eligible land remains unchanged; under no circumstances may exchanges result in any increase in the total area of eligible arable land on the holding; the Member States shall provide for a system for the prior notification and approval of such exchanges.

*Article 52***Conditions for payment**

Without prejudice to Article 2, arable crops area payments shall be paid solely on areas:

- (a) located in regions climatically and agriculturally suitable for growing arable crops; the Member States shall have the power to decide that any region is not suitable for producing certain arable crops;
- (b) on which the crop is maintained until at least the beginning of flowering under conditions of normal growth.

As regards durum wheat, crops shall in addition be cultivated in accordance with local standards at least until 30 June in respect of which the payment is granted, unless they are harvested at full maturity before that date.

*Article 53***Regional amount**

1. Where a producer's areas eligible for arable crops area payment are located in more than one region of production, the amount payable shall be determined by the location of each area covered by his application.
2. Member States that treat maize separately in regions where maize is grown principally for silage shall be authorised to apply the yield for a feed grain in that region to all areas under maize in the regions in question.

*SECTION 2****Special provisions covering certain arable crops****Article 54***Silage grass**

1. For the purposes of Article 100(3) of Regulation (EC) No 1782/2003, 'silage grass' shall mean the crop grown on areas mainly sown to herbaceous grasses and harvested green at least once

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a year with a view to preservation in an enclosed environment by anaerobic fermentation.

Areas registered for growing grass seed certified in accordance with Directive 66/401/EEC during the marketing year in question shall not qualify for arable crops area payments.

2. The provisions of this Chapter, with the exception of the condition relating to flowering in point (b) of the first paragraph of Article 52, shall apply to silage grass.

3. In the Member States that make provision for a specific area for silage grass as set out in Annex IV, farmers shall be eligible for area payments in respect of silage grass.

*Article 55***Durum wheat**

1. Aid applications in respect of durum wheat supplement and special aid laid down in Article 105 of Regulation (EC) No 1782/2003 shall be valid only where:

- (a) an application for an area payment, as referred to in Article 101 of Regulation (EC) No 1782/2003, is submitted in respect of the same number of hectares under durum wheat;
- (b) a minimum quantity of seed certified in accordance with Directive 66/402/EEC is used.

2. The Member States shall, before 1 October of the year preceding the year in respect of which the aid is granted, fix and notify to the farmers the minimum quantity of certified seed to be used in accordance with agricultural practice in the Member State concerned.

*Article 56***Flax and hemp grown for fibre**

1. The area payment for flax and hemp grown for fibre is subject to the following conditions:

- (a) the submission of a copy of the contract or commitment referred to in the first paragraph of Article 106 of Regulation (EC) No 1782/2003 by 15 September of the year in respect of which the payment is granted at the latest or by an earlier date laid down by the Member State;

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- (b) for hemp grown for fibre, the use of the seed of the varieties listed in 'Common Catalogue of Varieties of Agricultural Plant Species' on 15 March of the year in respect of which the payment is granted and published in accordance with Article 17 of Council Directive 2002/53/EC, with exception of the varieties Finola and Tiborszallasi, and certified in accordance with Council Directive 2002/57/EC.

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2. For the purposes of granting the area payment for hemp grown for fibre, the Member States may fix the minimum sowing rate compatible with good hemp-growing practice.

*Article 57***Sowing date**

By way of derogation from Article 109 of Regulation (EC) No 1782/2003, the Member States may defer the final date for

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sowing to no later than 15 June for the crops listed in Annex VIII to this Regulation and in the zones, to be defined by the Member States concerned, located in the regions specified in that Annex.

*SECTION 3****Base areas, reference yields and ceilings****Article 58***Irrigated and non-irrigated land**

1. Where regionalisation plans referred to in Article 103 of Regulation (EC) No 1782/2003 provide for different yields for irrigated and non-irrigated land, the Member States shall lay down rules to determine whether or not areas are irrigated in the course of a marketing year. They shall in particular lay down:

- (a) a list of arable crops on which area payments may be granted at the rate for the irrigated yield;
- (b) a description of the irrigation equipment which the farmer must have at his disposal; such equipment must be commensurate with the area concerned and must allow for the supply of the water needed for the normal development of plants during their growth cycle;
- (c) the relevant irrigation period.

2. Paragraph 1 shall not apply to 'regadío' production regions in Spain or other regions where irrigation is a historical feature linked to the parcels and allows them to be distinguished and listed.

*Article 59***Base area overshoot**

1. For the purposes of determining any overshoots in regional base areas in accordance with Article 102 of Regulation (EC) No 1782/2003, the competent authority of the Member State concerned shall take account of:

- (a) the regional base area as set out in Annex IV to this Regulation;
- (b) the sum of areas covered by applications for area payments submitted in respect of each crop, including, in the event of application of Article 71 of Regulation (EC) No 1782/2003, the corresponding compulsory set-aside.

Any voluntary set-aside shall be included with areas other than irrigated, other than under maize and/or other than under silage grass.

2. The sum of the areas covered by aid applications submitted shall not include areas, or parts thereof, covered by applications that administrative checks show to be clearly unjustified.

Where applicable, the area actually determined during on-the-spot checks pursuant to Article 23 of Regulation (EC) No 1782/2003 shall be taken into account.

3. Areas sown to arable crops in accordance with Chapter 10 of Title IV of Regulation (EC) No 1782/2003 and used in support of aid applications under Chapter 12 of Title IV of that Regulation shall be added to the sum of the areas covered by applications submitted, adjusted in accordance with paragraph 2.

4. The base area overshoot shall be calculated in accordance with the table in Annex VI.

▼B*Article 60***Durum wheat limited area overshoot**

1. For the purposes of determining any overshoot in the limited area for durum wheat eligible for the supplement to the area payment laid down in Article 105(1) of Regulation (EC) No 1782/2003, the competent authorities of the Member States shall take account of the sum of the areas covered by applications for the supplement to area payments in respect of durum wheat, adjusted in accordance with Article 59(2) of this Regulation and, where applicable, reduced in accordance with Article 102 of Regulation (EC) No 1782/2003.

2. Paragraph 1 shall apply for the purposes of determining any overshoot in the limited areas eligible for the special aid for durum wheat set out in Article 105(3) of Regulation (EC) No 1782/2003.

*Article 61***Definitive rate of areas overshoot and coefficient of reduction****▼M10**

1. Where the areas referred to in Articles 59 and 60 are found to be exceeded, the Member State concerned shall determine the definitive rate of overshoot truncated to two decimal points, before the payments are granted to the farmers and by 31 January of the following year at the latest.

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2. The definitive rate of overshoot thus determined shall be used to calculate the proportional reduction in the area eligible for:

- (a) the arable crop area payment in accordance with Article 102(1) of Regulation (EC) No 1782/2003;
- (b) the supplement thereto and the special aid for durum wheat in accordance with Article 105 of Regulation (EC) No 1782/2003 and after Article 102(1) of that Regulation has been applied.

*Article 62***Sub-base areas****▼M8**

For the purposes of Article 102(5) of Regulation (EC) No 1782/2003, the Member States shall, by 1 September of the year in respect of which the area payment is applied for at the latest, determine the following:

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- (a) the national base area to be subdivided;
- (b) the criteria used by the Member State to establish the sub-base areas;
- (c) the sub-base areas (number, name and size);
- (d) the detailed rules for concentrating measures applicable in case of overshoot.

*Article 63***Ceiling of the sum of the payments**

For the purposes of determining any overshoot in the ceiling of the payments and the corresponding reduction coefficient provided for in Article 102(2) of Regulation (EC) No 1782/2003, the competent authorities of the Member States shall take account of the proportional

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reduction in the eligible areas provided for in Article 102(1) and Article 105(2) of that Regulation.

*SECTION 4****Set-aside*****▼M8***Article 64***Definition**

For the purposes of Article 107 of Regulation (EC) No 1782/2003, 'set-aside' shall mean leaving fallow an area eligible for area payments pursuant to Article 108 of that Regulation.

▼B*Article 65***Conditions**

1. Article 32 of Regulation (EC) No 795/2004 shall apply.
2. By way of derogation from Article 107(9) of Regulation (EC) No 1782/2003 and for the years 2005 and 2006, Malta may set the minimum size requirements for set aside areas at less than 0.1 ha in size and 10 metres wide.

*Article 66***Regional breakdown**

1. Aid applications referred to in Title II of Regulation (EC) No 1782/2003 shall be broken down by region in accordance with the regionalisation plan referred to in Article 103 of that Regulation.
2. For each area payment application in a given region of production, there shall be a corresponding set-aside declaration in respect of at least the corresponding number of hectares in the same region of production.
3. The Member State may provide for derogation from paragraph 2 in accordance with objective criteria.
4. By way of derogation from paragraph 2, the compulsory set-aside corresponding to an application for area payment submitted may be effected in whole or in part:
 - (a) in Spain, in the 'secano' region in the case of holdings situated in 'secano' and 'regadio' production regions;
 - (b) in another region of production, provided that the areas to be set aside are located in regions of production adjacent to those in which the cultivated areas are situated.
5. Where paragraphs 3 and 4 are applied, the area to be set aside shall be adjusted to take account of the difference between the yields used to calculate the payment in respect of set-aside in the regions concerned. However, the application of this paragraph shall not lead to fewer hectares being set aside than the obligation requires.

*Article 67***Legume crops**

1. For the purposes of applying the second indent of Article 107(3) of Regulation (EC) No 1782/2003, 'legume crops' shall mean areas sown with one or more species of the fodder legumes listed in Annex

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VII to this Regulation. Sowing in a mixture with cereals and/or grasses shall be allowed subject to the following conditions:

- (a) the area is sown mainly with fodder legumes;
- (b) they cannot be harvested separately.

Where specific regional environmental standards established by the Member States for organic crops set a ceiling on area sown with fodder legumes, the condition concerning areas sown mainly with fodder legumes laid down in (a) shall be met if at least 85 % of the limit fixed by the Member States is complied with.

2. Areas on which legume crops as referred to in paragraph 1 qualify between 15 January and 31 August under the aid scheme provided for in Council Regulation (EC) No 1786/2003 ⁽¹⁾ shall not qualify for area payments.

*Article 68***Payments on land voluntarily set-aside**

For the purposes of Article 107(6) of Regulation (EC) No 1782/2003 in the event of application of Article 66 of that Regulation, Member States shall allow farmers to set-aside up to at least 10 % of the area for which an arable crops area payment application is made and which is not used to give right to the payment of set-aside entitlements. Higher percentage may be set by a Member State taking into account specific situations and ensuring sufficient occupation of farmland.

The basic amount for voluntary set-aside shall be EUR 63.00/t from the marketing year 2005/2006. Where different yields are set for irrigated and non-irrigated land, the payments for set-aside for non-irrigated land shall apply.

The Member States shall apply suitable measures compatible with the specific situation of areas voluntarily set-aside in order to ensure they are maintained in good agricultural and environmental condition and the environment is protected.

*SECTION 5***Communications****▼M10***Article 69***Communications**

Where the areas referred to in Articles 59 and 60 are found to have been exceeded, the Member State concerned shall fix the definitive rate of the overshoot before the payments are granted to the farmers and by 31 January of the following year at the latest and shall communicate it to the Commission by 31 January of the following year at the latest. The data used to calculate the rate by which a base area is exceeded shall be communicated using the form set out in Annex VI.

⁽¹⁾ OJ L 270, 21.10.2003, p. 114.



CHAPTER 12

SHEEP AND GOAT PREMIUMS*SECTION 1****Direct Payments****Article 70***Applications and retention period**

1. In addition to the requirements under the integrated administration and control system provided for in Chapter 4 of Title II of Regulation (EC) No 1782/2003 ('the integrated system'), farmers shall indicate in their application for ewe and goat premiums and supplementary premiums whether or not they are marketing sheep's milk, or milk products based on sheep's milk, during the year in respect of which the premium is requested.

2. Applications for a premium in favour of farmers keeping ewes and/or she-goats shall be submitted to the competent authority, during a unique period fixed by the Member State concerned commencing not before 1 November and ending not later than 30 April, respectively, preceding and following the commencement of the year in respect of which the applications are submitted.

However, the United Kingdom may set a different period in respect of Northern Ireland from that set for Great Britain.

3. The period referred to in Article 115(1) of Regulation (EC) No 1782/2003 during which the farmer undertakes to keep on his holding the number of ewes and/or she-goats in respect of which the premium is requested ('the retention period') shall be 100 days starting on the first day following the last day of the period for the submission of applications referred to in paragraph 2.

*Article 71***Areas eligible for goat premium**

The criteria referred to in Article 113(2) of Regulation (EC) No 1782/2003 are met in the areas listed in Annex X.

However, Member States shall, on a regular basis, verify whether these criteria continue to be met in all the areas listed in Annex X falling within their respective territories. Following this evaluation, Member States shall notify the Commission of any need for amending Annex X before 31 July of the year preceding the year in respect of which the amendment shall apply. The notification shall, in particular, indicate the zones, or parts of zones, listed in Annex X that do not further meet the criteria referred to in Article 113(2) of Regulation (EC) No 1782/2003, as well as the eventual zones that meet these criteria but are not yet listed in Annex X. For these potential new zones, the Member States shall supply the Commission with a detailed justification of their proposal.

*Article 72***Application for supplementary premium and for the goat premium**

1. In order to benefit from the supplementary premium or the goat premium, a farmer whose holding has at least 50 % but less than 100 % of its area used for agriculture situated in areas referred to in Article 114(1) of Regulation (EC) No 1782/2003 or in areas listed in

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Annex X to this Regulation, shall submit a declaration or declarations indicating the location of his land, in accordance paragraphs 2 and 3 of this Article:

2. A farmer who is required to submit each year a declaration of the total utilised agricultural area of his holding, at the occasion of an aid application, as provided for in Article 22(1) of Regulation (EC) No 1782/2003, shall indicate in that declaration those parcels used for agriculture which are located in areas referred to in Article 114(1) of Regulation (EC) No 1782/2003 or in areas listed in Annex X to this Regulation as appropriate;

A farmer who is not required to submit the declaration referred to in the first paragraph shall submit each year a specific declaration using, where appropriate, the system for identifying agricultural parcels provided for under the integrated system.

That specific declaration shall indicate the location of all the land the farmer owns, rents or uses under whatever arrangements, indicating its area and detailing those parcels used for agriculture which are located in areas referred to in Article 114(1) of Regulation (EC) No 1782/2003 or in areas listed in Annex X of this Regulation as appropriate. Member States may provide for the specific declaration to be included in the application for the ewe and/or goat premium. Member States may also demand that the specific declaration be made by means of a 'single payment application' form.

3. The competent national authority may demand the presentation of a property deed, a rental contract or a written agreement between farmers and, where appropriate, an attestation from the local or regional authority which has made land used for agriculture available to the farmer concerned. The attestation shall indicate the area of land granted to the producer and the parcels located in areas referred to in Article 114(1) of Regulation (EC) No 1782/2003 or areas listed in to this Regulation as appropriate.

Article 73

Farmers practising transhumance

1. Premium applications submitted by farmers the registered addresses of whose farms are in one of the geographical areas referred to in Article 114(2)(b) of Regulation (EC) No 1782/2003 and who wish to qualify for the supplementary premium shall indicate:

- (a) the place or places where transhumance is to be carried out for the current year;
- (b) the period of at least 90 days referred to in Article 114(2)(a) of Regulation (EC) No 1782/2003 and laid down for the current year.

2. Premium applications from farmers referred to in paragraph 1 shall be accompanied by documents certifying that transhumance has actually been carried out, except in cases of *force majeure* or due to the impact of duly justified natural circumstances affecting the life of the flock, during the two previous years and in particular by an attestation from the local or regional authority at the place of transhumance certifying that it has actually taken place during at least 90 consecutive days.

When carrying out administrative checks on applications Member States shall ensure that the place of transhumance specified in the premium application is actually within an area referred to in Article 114(1) of Regulation (EC) No 1782/2003.

▼B*Article 74***Eligibility**

1. Premiums shall be paid to farmers on the basis of the number of ewes and/or she-goats kept on their holding throughout the retention period referred to in Article 70(3).
2. Animals satisfying the conditions provided for in the definitions referred to in Article 112 of Regulation (EC) No 1782/2003 on the final day of the retention period shall be considered eligible animals.

*Article 75***Inventory of farmers marketing sheep's milk or sheep's milk products**

For each year Member States shall draw up, no later than the thirtieth day of the retention period, an inventory of farmers marketing sheep's milk or sheep's milk products on the basis of the farmers' declarations referred to in Article 70(1).

When drawing up the inventory, Member States shall take account of the results of controls and any other source of information available to the competent authority, in particular information obtained from processors or distributors relating to the marketing of sheep's milk or sheep's milk products by farmers.

▼M8*Article 76***Notification**

Member States shall notify the Commission, by 31 October of each year at the latest, of any changes in the list of geographical areas practising transhumance referred to in Article 114(2) of Regulation (EC) No 1782/2003 and Article 73 of this Regulation.

▼B*SECTION 2****Limits, Reserves and Transfers****Article 77***Rights obtained free of charge**

Except in duly justified exceptional circumstances, where a farmer has obtained premium rights free of charge from the national reserve he shall not be authorised to transfer his rights or to lease them temporarily for a period of three years from the date he obtained those rights.

*Article 78***Use of rights**

1. A farmer holding rights may make use of them by availing himself of those rights and/or leasing those rights to another farmer.
2. Where a farmer has not made use of the minimum percentage of his rights provided for paragraph 4, during each year, the part not used shall be transferred to the national reserve, except in the following cases:
 - (a) in the case of farmers holding a maximum of 20 premium rights, where this farmer has not made use of the minimum percentage of

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his rights, during each of two consecutive calendar years, only the part not used during the last calendar year shall be transferred to the national reserve;

- (b) in the case of a farmer participating in an extensification programme recognised by the Commission;
- (c) in the case of a farmer participating in an early retirement scheme recognised by the Commission in which the transfer and/or temporary leasing of rights is not obligatory;
- (d) in exceptional and duly justified circumstances.

3. Temporary leasing shall be only in respect of whole years and shall involve at least the minimum number of animals provided for in Article 79(1). At the end of each period of temporary leasing, which may not exceed three consecutive years, a farmer shall, except in the event of a transfer of rights, recover all his rights for himself, for at least two consecutive years. If the farmer does not avail himself of at least the minimum percentage of his rights provided for paragraph 4 during each of the two years, the Member State shall, except in exceptional and duly justified cases, withdraw and return annually to the national reserve that part of the rights not used by the farmer.

However, in the case of farmers participating in early retirement schemes recognised by the Commission, Member States may provide for the total duration of the temporary leasing on the basis of such schemes to be increased.

Farmers who have undertaken to participate in an extensification programme in accordance with the measure referred to in Article 2(1)(c) of Council Regulation (EEC) No 2078/92 ⁽¹⁾ or in an extensification programme in accordance with Articles 22 and 23 of Regulation (EC) No 1257/1999 shall not be authorised to temporarily lease and/or to transfer their rights throughout the period of that participation. However, this provision shall not apply in cases where the programme permits the transfer and/or temporary leasing of rights to farmers whose participation in measures other than those referred to in this subparagraph requires the acquisition of rights.

4. The minimum percentage of use of rights to the premium shall be 70 %.

However, Member States may increase that percentage up to 100 %. They shall inform the Commission in advance of the percentage they intend to apply.

Article 79

Transfer of rights and temporary leasing

1. Member States may lay down, on the basis of their production structures, a minimum number of premium rights which may be the subject of a partial transfer not involving the transfer of a holding. This minimum may not exceed 10 premium rights.

2. Transfers of premium rights and temporary leasing of such rights shall be effective only after they have been notified to the competent authorities of the Member State by the farmer transferring and/or leasing the rights and by the farmer receiving the rights.

Such notification shall take place within a deadline set by the Member State and not later than the date on which the premium application period ends in that Member State, except in those cases where the transfer takes place through an inheritance. In those cases, the farmer who receives the rights shall be in a position to furnish appropriate legal

⁽¹⁾ OJ L 215, 30.7.1992, p. 85.

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documents to prove that he/she is the beneficiary of the deceased farmer.

3. In the case of a transfer without a transfer of the holding, the number of rights transferred without compensation to the national reserve may in no case be less than one.

*Article 80***Change of individual ceiling**

In the case of transfers or temporary leasing of premium rights, Member States shall set the new individual ceiling and shall notify the farmers concerned of the number of premium rights to which they are entitled not later than 60 days from the last day of the period during which the producer submitted his application.

The first paragraph shall not apply in the case where the transfer takes effect through an inheritance as referred to in Article 79(2).

*Article 81***Farmers who do not own the land they farm**

Farmers farming only publicly or collectively owned land who decide to stop using that land for grazing and to transfer all their rights to another farmer shall be treated in the same way as farmers selling or transferring their holdings. In all other cases such farmers shall be treated in the same way as farmers transferring their premium rights only.

*Article 82***Transfer through the national reserve**

Where Member States provide that the transfer of rights is to take place via the national reserve, they shall apply national provisions analogous to those in this Chapter. Moreover, in such cases:

- (a) Member States may provide for temporary leasing to be carried out via the national reserve;
- (b) in the event of the transfer of premium rights or temporary leasing pursuant to point (a), transfer to the reserve shall not become effective until after notification by the competent authorities of the Member State to the farmer transferring and/or leasing the rights, and transfers from the reserve to another farmer shall not become effective until after notification to that farmer by the authorities.

In addition, the national provisions referred to in the first paragraph shall ensure that the part of the rights not covered by the second subparagraph of Article 117(2) of Regulation (EC) No 1782/2003 must be offset by a payment by the Member State corresponding to the payment which would have resulted from a direct transfer between farmers, account being taken in particular of the trend in production in the Member State concerned. That payment shall be equal to the payment charged to a farmer who receives equivalent rights from the national reserve.

*Article 83***Calculation of individual limits**

Only whole numbers shall be used in the initial calculations and in subsequent adjustments to individual limits on premium rights.

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To that end, where the final result of the arithmetical calculations is not a whole number, the nearest whole number shall be used. However, where the result of the calculations falls exactly between whole numbers, the higher whole number shall be used.

*Article 84***Notification****▼M8**

1. Member States shall notify the Commission, before 1 January each year, of any amendment to the part of the premiums rights transferred which shall be surrendered to the national reserve in accordance with Article 117(2) of Regulation (EC) No 1782/2003 and, where applicable, of the measures taken under Article 117(3) of that Regulation.

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2. ►**M8** Using the table set out in III, Member States shall notify the Commission by 30 April at the latest for each year of: ◀

- (a) the number of premium rights returned without compensatory payment to the national reserve following transfers of rights without transfers of holdings during the preceding year;
- (b) the number of unused premium rights as referred to in Article 118(2) of Regulation (EC) No 1782/2003 transferred to the national reserve during the preceding year;
- (c) the number of rights granted under Article 118(3) of Regulation (EC) No 1782/2003 during the preceding year;
- (d) the number of premium rights granted to farmers in less-favoured areas from the national reserve during the preceding year.

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▼B*SECTION 3**Additional Payments**Article 85***Additional payments**

Member States applying Article 71 of Regulation (EC) No 1782/2003 shall provide information to the Commission on their national arrangements concerning the granting of the additional payments provided for under Article 119 of that Regulation. Where applicable that information shall include in particular:

- (a) as regards headage payments:
 - (i) indicative amounts per head and grant arrangements;
 - (ii) an indicative forecast of total expenditure and the number of animals concerned;
 - (iii) specific stocking density requirements;
 - (iv) other information on the rules of application;
- (b) as regards area payments, where necessary:
 - (i) calculation of regional base areas;
 - (ii) indicative amounts per hectare;

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- (iii) an indicative forecast of total expenditure and of the number of hectares concerned;
- (iv) other information on the rules of application;
- (c) details of other schemes that have been established to make additional payments.

Member States shall notify the Commission of any changes in their national arrangements within a period of one month from the date of any such changes.

*SECTION 4***General Provisions****▼M3****▼B**

CHAPTER 13

BEEF AND VEAL PAYMENTS*SECTION 1***Special premium**

(Article 123 of Regulation (EC) No 1782/2003)

*Article 87***Applications**

1. 1. In addition to the requirements under the integrated system, each application for direct payments as referred to in Article 22 of Regulation (EC) No 1782/2003 shall contain:

- (a) the breakdown of the number of animals by age bracket;
- (b) a reference to the passports or administrative documents accompanying the animals which are the subject of the application.

2. Applications may only be submitted in respect of animals which on the date of commencement of the retention period referred to in Article 90 are:

- (a) in the case of bulls, not less than seven months old;
- (b) in the case of steers:
 - (i) not less than seven months nor more than 19 months old in the case of the first age bracket;
 - (ii) at least 20 months old in the case of the second age bracket.

*Article 88***Grant of premium**

Animals which have not qualified for the special premium either on account of the application of the proportional reduction provided for in Article 123(4) of Regulation (EC) No 1782/2003 or of application of the stocking density provided for in Article 131 of that Regulation may no longer be the subject of an application for the same age bracket and shall be considered to have been the subject of payment of the premium.



Article 89

Passports and administrative documents

1. Where, under the conditions laid down in Article 6 of Regulation (EC) No 1760/2000, the passport is not available, it shall be replaced by a national administrative document as provided for in Article 123(3)(b) of Regulation (EC) No 1782/2003.
2. The competent authorities of the Member State shall ensure that passports or administrative documents ensure that only one premium is granted per animal and per age bracket. Member States shall assist one another, as necessary, to this end.
3. Member States may provide that the national administrative document referred to in paragraph 1 shall take the form of:
 - (a) a document accompanying each individual animal;
 - (b) a comprehensive list, held by the farmer, containing all the information required for the administrative document, on condition that the animals concerned remain, from the date on which the first application is made, with the same farmer until they are placed on the market for the purpose of being slaughtered;
 - (c) a comprehensive list, held by the central authorities, containing all the information required for the administrative document, on condition that the Member State or region of a Member State availing itself of this possibility carries out on-the-spot checks on all the animals covered by an application, checks the movements of those animals and makes a distinctive mark on each animal checked which the farmers shall be required to permit;
 - (d) a comprehensive list, held by the central authorities, containing all the information required for the administrative document, on condition that the Member State takes the measures necessary to ensure that the premium is not granted twice for the same age bracket and provides information as to the premium status of each animal immediately upon request.
4. Member States which decide to avail themselves of one or more of the possibilities provided for in paragraph 3 shall notify the Commission thereof in due time and forward to it the relevant implementing provisions.

For the purposes of point (c) of paragraph 3, Great Britain and Northern Ireland alone shall be considered to be regions of a Member State.

Article 90

Retention period

The duration of the retention period referred to in Article 123(3) (a) of Regulation (EC) No 1782/2003 shall be two months, starting on the day following that on which the application is submitted.

However, Member States may provide that other starting dates may be set by the farmer on condition that they do not begin more than two months following the day on which the application is submitted.

Article 91

Regional ceiling

1. Where the application of the proportional reduction provided for in Article 123(4) of Regulation (EC) No 1782/2003 gives a number of eligible animals which is less than a whole number, there shall be granted in respect of the decimal part a corresponding fraction of the

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unit amount of the premium. For this purpose, account shall be taken of the first decimal place only.

2. Where Member States decide to introduce different regions within the meaning of Article 122(a) of Regulation (EC) No 1782/2003, or to modify the existing regions within their territory, they shall inform the Commission of their decision before 1 January of the year concerned, giving a definition of the region and the ceiling set. Any subsequent modification shall be notified to the Commission before 1 January of the year concerned.

*Article 92***Limits on the number of animals per holding**

1. Where Member States decide to amend the limit of 90 heads of cattle per holding and per age bracket referred to in Article 123(1) of Regulation (EC) No 1782/2003, or to derogate from it, they shall inform the Commission before 1 January of the calendar year concerned.

Where, moreover, Member States fix a minimum number of animals per holding, below which the proportional reduction will not be applied, they shall inform the Commission before 1 January of the calendar year concerned.

2. Any subsequent amendment in the application of paragraph 1 shall be notified to the Commission before 1 January of the year concerned.

*Article 93***Granting at the time of slaughter**

1. Member States may grant the special premium at the time of slaughter as follows:

- (a) in the case of bulls, for the single age bracket;
- (b) in the case of steers, for the first or second age bracket or by combining the granting of the premiums for the two age brackets.

2. Member States which decide to grant the special premium at the time of slaughter in accordance with paragraph 1 shall provide that the premium is also to be granted when eligible animals are being dispatched to another Member State or being exported to a third country.

3. Where Member States decide to grant the special premium at the time of slaughter in accordance with paragraph 1, this Section and Article 120 and Article 121(1) and (2) shall apply *mutatis mutandis* to the grant of the premium.

4. In addition to the information referred to in Article 121(1), aid applications shall indicate whether the animal is a bull or a steer, and shall be accompanied by a document containing the details required for the purposes of Article 89(2). That document shall be one of the following, at the choice of the Member State:

- (a) the passport or a copy of the passport where the type used consists of several copies;
- (b) a copy of the passport where the type of passport used consists of one copy only which must be returned to the competent authority for the purposes of Article 6 of Regulation (EC) No 1760/2000; in that case the Member State shall take steps to ensure that the information contained in the copy corresponds to the original;
- (c) the national administrative document where the passport is not available, under the conditions laid down in Article 6 of Regulation (EC) No 1760/2000.

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Member States may suspend the application of the national administrative document. In that case they shall take the measures necessary to ensure that the premium is not granted twice for the same age bracket for animals which have been the subject of intra-Community trade.

Where the computerised databases as provided for in Article 3(b) of Regulation (EC) No 1760/2000 contain, to the satisfaction of the Member State, the information necessary to ensure that one premium only is granted for each animal and each age bracket, the aid application need not be accompanied by the document referred to in the first subparagraph of this paragraph.

By way of derogation from the first subparagraph of this paragraph, where Member States apply the option referred to in the first subparagraph of Article 121(2), they shall take the measures necessary to ensure that the farmer can determine the animals for which he is requesting a special premium.

5. In the case of bulls, proof of slaughter shall specify the carcass weight.

6. Where the animal is dispatched, proof of dispatch shall be provided by means of a statement by the consignor indicating the Member State of destination of the animal.

In that case, aid applications shall include:

- (a) the name and address of the consignor (or an equivalent code);
- (b) the identity number of the animal;
- (c) a statement that the animal is not less than nine months old.

Aid applications shall be submitted before the animal leaves the territory of the Member State concerned and proof of dispatch shall be submitted within three months from the date of the animals leaving the territory of the Member State concerned.

Article 94

Details of the grant system

1. By way of derogation from Article 90, the premium shall be paid to farmers who have kept animals for a minimum retention period of two months ending less than one month before the date of slaughter or consignment or ending less than two months before the date of export.

In the case of steers, payment of the premium shall be subject to the following rules:

- (a) the premium in respect of the first age bracket shall be paid only if the farmer has kept the animal for a period of not less than two months between the time when the animal was not less than seven months old and the time when it was less than 22 months old;
- (b) the premium in respect of the second age bracket may be paid only if the farmer has kept the animal aged not less than 20 months for a period of not less than two months;
- (c) the premiums in respect of the two age brackets may be paid together only if the farmer has kept the animal for not less than four consecutive months in compliance with the age requirements laid down in points (a) and (b);
- (d) the premium in respect of the second age bracket only may be paid if the animal was dispatched from another Member State when it had reached 19 months.

2. In the context of calculating the stocking density provided for in Article 131 of Regulation (EC) No 1782/2003, each animal which is the

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subject of a combined application for the two age brackets shall be taken into consideration twice.

3. The carcase weight shall be established on the basis of a carcase within the meaning of Article 2 of Council Regulation (EEC) No 1208/81 ⁽¹⁾.

Where the carcase presentation differs from that definition, the corrective factors set out in the Annex to Commission Regulation (EEC) No 563/82 ⁽²⁾ shall apply.

Where slaughter takes place in a slaughterhouse which is not subject to the application of the Community grading scale for carcasses of adult bovine animals, Member States may permit the weight to be established on the basis of the live weight of the slaughtered animal. In such cases the carcase weight shall be considered to be equal to or greater than 185 kilograms if the live weight of the slaughtered animal was equal to or greater than 340 kilograms.

*Article 95***Notification**

Member States shall notify the Commission before the start of the calendar year concerned of their decision, or any amendments thereto, concerning the application of Article 93 and the relevant procedures.

*SECTION 2****Deseasonalisation premium***

(Article 124 of Regulation (EC) No 1782/2003)

▼M16**▼B***SECTION 3****Suckler cow premium***

(Articles 125 to 129 of Regulation (EC) No 1782/2003)

*Article 99***Cows belonging to a meat breed**

For the purposes of Articles 122(d) and 129(2) of Regulation (EC) No 1782/2003, Cows belonging to the bovine breeds listed in V to this Regulation shall not be considered to be cows belonging to a meat breed.

*Article 100***Maximum individual reference quantity**

1. Where Member States decide to change the maximum individual reference quantity of 120 000 kilograms referred to in Article 125(2)(b) of Regulation (EC) No 1782/2003 or to derogate from it, they shall inform the Commission before 1 January of the calendar year concerned.

⁽¹⁾ OJ L 123, 7.5.1981, p. 3.

⁽²⁾ OJ L 67, 11.3.1982, p. 23.

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2. Any subsequent change in the application of paragraph 1 shall be notified to the Commission before 1 January of the year concerned.

*Article 101***Retention period**

The six-month retention period provided for in Article 125(2) of Regulation (EC) No 1782/2003 shall start on the day following that on which the application is submitted.

*Article 102***Applications**

1. Without prejudice to the requirements under the integrated system, where an application is made for the premium pursuant to Article 125(2)(b) of Regulation (EC) No 1782/2003, the application for direct payments provided for in Article 22 of Regulation (EC) No 1782/2003 shall contain:

- (a) a statement setting out the individual reference quantity of milk available to the producer on 31 March preceding the beginning of the 12-month period of application of the additional levy scheme starting in the calendar year concerned; where this quantity is unknown on the date on which the application is submitted, it shall be notified to the competent authority at the earliest opportunity;
- (b) an undertaking by the farmer not to increase his individual reference quantity above the quantitative limit laid down in Article 125(2)(b) of Regulation (EC) No 1782/2003 during the 12-month period starting on the date on which the application is submitted.

Point (b) shall not apply if the Member State has abolished the quantitative limit.

2. Applications shall be submitted within an overall period of six months during a calendar year, to be determined by the Member State.

Member States may provide for separate periods for submitting applications within that overall period.

*Article 103***Average milk yield**

The average milk yield shall be calculated on the basis of the average yields set out in VI. However, for that calculation, Member States may use a document recognised by them certifying the farmer's dairy herd's average yield.

*Article 104***Additional national premium**

1. An additional national suckler cow premium as provided for in Article 125(5) of Regulation (EC) No 1782/2003 may be granted only to a farmer who, in respect of the same calendar year, receives the suckler cow premium.

The additional national suckler cow premium shall be granted only within the limit of the number of animals qualifying for the suckler cow premium, if appropriate after application of the proportional reduction laid down in the second subparagraph of Article 129(1) of Regulation (EC) No 1782/2003.

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2. Member States may lay down additional conditions for the grant of the additional national suckler cow premium. They shall inform the Commission thereof in good time before those conditions are brought into effect.

3. The Commission shall decide by 1 September at the latest of each calendar year which Member States fulfil the conditions laid down in the third subparagraph of Article 125(5) of Regulation (EC) No 1782/2003.

*Article 105***Individual ceiling**

Member States shall determine an individual ceiling per farmer in accordance with Article 126(1) of Regulation (EC) No 1782/2003.

▼M8*Article 106***Notification**

1. Member States shall notify the Commission before 1 January each year:

- (a) of any change to the reduction referred to in the second subparagraph of Article 127(1) of Regulation (EC) No 1782/2003;
- (b) where applicable, of any amendments to the measures taken pursuant to Article 127(2)(a) of that Regulation.

2. Using the table set out in ►**M9** Part 7 of VIII ◀, Member States shall notify the Commission by 31 July at the latest for each calendar year of:

- (a) the number of premium rights returned without compensatory payment to the national reserve following transfers of rights without transfers of holdings during the preceding calendar year;
- (b) the number of unused premium rights as referred to in Article 109(2) transferred to the national reserve during the preceding calendar year;
- (c) the number of rights granted under Article 128(3) of Regulation (EC) No 1782/2003 during the preceding calendar year.

▼B*Article 107***Rights obtained free of charge**

Except in duly justified exceptional cases, where a farmer has obtained premium rights free of charge from the national reserve he shall not be authorised to transfer and/or temporarily lease his rights during the three following calendar years

*Article 108***Use of rights**

- 1. A farmer holding rights may make use of them by availing himself of those rights and/or leasing those rights to another producer.
- 2. Where a farmer has not made use of at least the minimum percentage of his rights, fixed in accordance with paragraph 4, during each calendar year, the part not used shall be transferred to the national reserve, except:

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- in the case of a farmer holding a maximum of seven premium rights, where this farmer has not made use of the minimum percentage of his rights, fixed in accordance with paragraph 4, during each of two consecutive calendar years, the part not used during the last calendar year shall be transferred to the national reserve,
 - in the case of a farmer participating in an extensification programme recognised by the Commission,
 - in the case of a farmer participating in an early retirement scheme recognised by the Commission in which the transfer and/or temporary leasing of rights is not obligatory,
- or
- in exceptional and duly justified cases.

3. Temporary leasing shall be only in respect of whole calendar years and shall involve at least the minimum number of animals provided for in Article 109(1). At the end of each period of temporary leasing, which may not exceed three consecutive years, a farmer shall, except in the event of a transfer of rights, recover all his rights for himself, for at least two consecutive calendar years. If the farmer does not avail himself of at least the minimum percentage of his rights, fixed in accordance with paragraph 4, during each of the two years, the Member State shall, except in exceptional and duly justified cases, withdraw and return annually to the national reserve that part of the rights not used by the farmer.

However, in the case of farmers participating in early retirement schemes recognised by the Commission, Member States may provide for the total duration of the temporary leasing on the basis of such schemes to be increased.

Farmers who have undertaken to participate in an extensification programme in accordance with the measure referred to in Article 2(1)(c) of Council Regulation (EEC) No 2078/92 ⁽¹⁾ or in an extensification programme in accordance with Articles 22 and 23 of Regulation (EC) No 1257/1999 ⁽²⁾ shall not be authorised to temporarily lease and/or to transfer their rights throughout the period of that participation. However, this provision shall not apply in cases where the programme permits the transfer and/or temporary leasing of rights to farmers whose participation in the measures other than those referred to in this subparagraph requires the acquisition of rights.

4. The minimum percentage of use of rights to the premium shall be 70 %. However, the Member States may raise this percentage up to 100 %.

The Member States shall inform the Commission in advance of the percentage that they intend to apply or of any change of this one.

Article 109

Transfer of rights and temporary leasing

1. Member States may lay down, on the basis of their production structures, a minimum number of premium rights which may be the subject of a partial transfer not involving the transfer of a holding. This minimum may not exceed five premium rights.

2. Transfers of premium rights and temporary leasing of such rights shall be effective only after they have been notified jointly to the competent authorities of the Member State by the farmer transferring and/or leasing the rights and by the farmer receiving the rights.

⁽¹⁾ OJ L 215, 30.7.1992, p. 85.

⁽²⁾ OJ L 160, 26.6.1999, p. 80.

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Such notification shall take place within a deadline set by the Member State and not later than the date on which the farmer receiving the rights submits his premium application, except in those cases where the transfer of rights takes effect through an inheritance. In that case, the farmer who receives the rights shall be in a position to furnish appropriate legal documents to prove that he or she is the beneficiary of the deceased farmer.

*Article 110***Change of individual ceiling**

In the case of transfers or temporary leasing of premium rights, Member States shall set the new individual ceiling and shall notify the farmers concerned of the number of premium rights to which they are entitled not later than 60 days from the last day of the period during which the farmer submitted his application.

The first paragraph shall not apply in the case where the transfer takes effect through an inheritance.

*Article 111***Farmers who do not own the land that they farm**

Farmers farming only public land or collectively owned land who decide to discontinue the farming of such land and to transfer all their rights to another farmer shall be treated in the same way as farmers selling or transferring their holdings. In all other cases such farmers shall be treated in the same way as farmers transferring their premium rights only.

*Article 112***Transfer through the national reserve**

Where Member States provide that the transfer of rights without transfer of the holding is to take place through the national reserve in accordance with Article 127(2)(b) of Regulation (EC) No 1782/2003, they shall apply national provisions analogous to those set out in Articles 109 to 111. In addition, in this event:

- Member States may provide that temporary leasing is to take place through the national reserve;
- when premium rights are transferred, or temporarily leased in cases where the first indent is applied, transfers to the reserve shall be effective only after they have been notified by the competent authorities of the Member State to the farmer transferring and/or leasing the rights, and transfers from the reserve to another farmer shall be effective only after they have been notified to that farmer by these authorities.

In addition, such provisions must ensure that a payment will be made by the Member State for that part of the rights other than the part referred to in the second subparagraph of Article 127(1) of Regulation (EC) No 1782/2003 corresponding to that which would have resulted from a direct transfer between farmers, account being taken in particular of the trend of production in the Member State concerned. This payment shall be equal to the payment which will be claimed from farmers receiving equivalent rights from the national reserve.

*Article 113***Partial rights**

1. Where calculations to be made pursuant to Articles 105 to 112 produce numbers which are not whole numbers, only the first decimal place shall be taken into account.
2. Where application of the provisions of this Section results in partial premium rights, either for farmers or the national reserve, these partial rights shall be added up.
3. Where a farmer holds a partial right, this partial right shall only confer entitlement to the corresponding fraction of the unit amount of the premium and, where applicable, of the additional national premium referred to in Article 104 and of the extensification payment referred to in Article 118.

*Article 114***Special scheme for heifers**

1. Member States wishing to make use of the possibility stipulated in Article 129(1) of Regulation (EC) No 1782/2003 shall inform the Commission thereof and, at the same time, notify the Commission of the relevant data allowing establishing whether the conditions laid down in Article 129(1) of that Regulation are met.

Member States concerned shall also, where applicable, communicate the specific ceiling that they have determined.

The Commission shall decide which Member States meet the conditions laid down in Article 129(1) of Regulation (EC) No 1782/2003.

The decisions in force at the time of the entry into force of this Regulation shall continue to apply.

2. Member States meeting the conditions laid down in Article 129(1) of Regulation (EC) No 1782/2003 shall notify the Commission, before 1 January of the year concerned, of any modification of the specific national ceiling that they have determined.
3. Member States applying the special scheme shall lay down criteria to ensure that the premium is paid to farmers whose herd of heifers is intended to restock cow herds. These criteria may include in particular an age limit and/or breed requirements. Member States shall inform the Commission before 1 January of the year concerned of the criteria adopted. Any subsequent modification shall be notified to the Commission before 1 January of the year concerned.
4. Where the application of the proportional reduction referred to in the second subparagraph of Article 129(1) of Regulation (EC) No 1782/2003 gives a number of eligible animals which is less than a whole number, there shall be granted in respect of the decimal part a corresponding fraction of the unit amount of the premium and, where applicable, of the additional national premium referred to in Article 104 and of the extensification payment referred to in Article 118. For this purpose account shall be taken of the first decimal place only.
5. In Member States applying the special scheme, the requirement laid down in Article 125(2) of Regulation (EC) No 1782/2003 concerning the minimum number of animals to be held shall be met in full either by suckler cows if the farmer has lodged an application for suckler cows or by heifers if the farmer has lodged an application for heifers.
6. The provisions of Articles 105 to 113 shall not apply within this special scheme.

▼B*Article 115***Rounding-off of animal numbers**

If the calculation of the maximum number of heifers as a percentage as laid down in the second subparagraph of Article 125(2) of Regulation (EC) No 1782/2003 produces a result which is not a whole number, that number shall be rounded down to the nearest whole number if it is less than 0.5 and up to the nearest whole number if it is 0.5 or more.

*SECTION 4****Provisions common to the special premium and the suckler cow premium***

Sub-section 1

General provisions*Article 116***Applications for the special premium and the suckler cow premium**

1. Member States may, for administrative reasons, provide that aid applications for direct payments referred to in Article 22 of Regulation (EC) No 1782/2003, as regards the special premium and the suckler cow premium, shall be for a minimum number of animals, provided that that number does not exceed three.

2. Without prejudice to Articles 102(2) and 118c(2), Member States may determine the periods and dates for submission of premium applications and the number of applications that farmers may submit per premium scheme and calendar year.

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Sub-section 2

Extensification payment scheme**(Article 132 of Regulation (EC) No 1782/2003)****▼M16****▼B***SECTION 5****Slaughter premium******(Article 130 of Regulation (EC) No 1782/2003)****Article 120*

Member States may provide that in order to qualify for the slaughter premium for a given calendar year each farmer shall, before or at the same time as making the first application for that calendar year, submit a statement of participation.

However, where the farmer makes no changes to the statement of participation, the Member State may accept that the previous statement remains valid.



Article 121

Applications

1. Aid applications shall include the information needed for payment of the slaughter premium, in particular the date of birth of the animal in the case of animals born after 1 January 1998.

Aid applications shall be submitted within a period to be determined by the Member State which may not exceed six months following slaughter of the animal or, where the animal is exported, after the date on which it leaves Community customs territory, and shall expire no later than the end of February of the following year except in exceptional cases to be decided by the Member State concerned where animals are dispatched or exported. Without prejudice to that time limit, the Member States may set periods and dates for the submission of aid applications and may determine the number of applications that each farmer may submit per calendar year.

Member States may permit applications to be submitted through a person other than the farmer. In such cases the application shall bear the name and address of the farmer who is liable to qualify for the slaughter premium.

In addition to the requirements introduced as part of the integrated system, each application shall contain:

- (a) in cases where the grant is made at the time of slaughter, a certificate from the slaughterhouse or any document produced or endorsed by the slaughterhouse containing at least the same information, showing:
 - (i) the name and address of the slaughterhouse (or an equivalent code),
 - (ii) the date of slaughter and the identity and slaughter numbers of the animal,
 - (iii) in the case of calves, the carcass weight, save where Article 122(4) applies;
- (b) in cases where the animal is exported to a third country:
 - (i) the name and address of the exporter (or an equivalent code),
 - (ii) the identity number of the animal,
 - (iii) the export declaration stating the age of the animal for animals born after 1 January 1998 and, in the case of calves, save where Article 122(4) applies, the live weight, which may not exceed 300 kilograms,
 - (iv) proof that the animal has left Community customs territory, shown in the same manner as for an export refund.

Member States may provide that the information referred to in points (a) and (b) of the fourth subparagraph shall be forwarded via a body or bodies approved by the Member State, which may use information technology.

Member States shall carry out regular, unannounced checks on the accuracy of the certificates or documents issued and, where appropriate, the information referred to in the fourth subparagraph.

2. By way of derogation from paragraph 1, Member States may provide that information on the slaughter of animals, entered in the computerised databases referred to in Article 3(b) of Regulation (EC) No 1760/2000, forwarded to the competent authority by slaughterhouses shall be regarded as applications for slaughter premiums on behalf of the farmers, on condition that those databases offer, to the satisfaction of the Member State, adequate assurances as to the accuracy of the data they contain for the purposes of the slaughter-premium scheme and,

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where applicable, the payment on slaughter of the special premium and/or the additional payments if these are paid on slaughter, and/or the deseasonalisation premium.

However, Member States may provide that applications shall be submitted. In such a case they may determine the type of information that shall accompany the application.

Member States choosing to apply this paragraph shall inform the Commission of any subsequent change before it is implemented.

Member States shall ensure that the data made available to the paying agency includes all the information needed to pay the slaughter premium, in particular:

- (a) the types and quantities of animals as referred to in Article 130(1) of Regulation (EC) No 1782/2003 slaughtered during the year concerned;
- (b) information regarding compliance with the age limits and carcass weight of the animals referred to in that Article and with the retention period referred to in Article 123 of this Regulation;
- (c) where applicable, the information needed to pay the special premium at the time of slaughter and/or the additional payments if these are paid on slaughter, and/or the deseasonalisation premium.

3. For animals which have been the subject of intra-Community trade after the retention period referred to in Article 123, even if the Member State where slaughter was carried out chose to apply the derogation laid down in paragraph 2 of this Article, the slaughterhouse shall issue the document referred to in point (a) of the fourth subparagraph of paragraph 1 of this Article.

However, where their data transfer systems are compatible, two Member States may agree to apply the system described in paragraph 2.

Member States shall assist one another to ensure effective controls on the authenticity of documents submitted and/or the accuracy of the data exchanged. To that end the Member State where payment is made shall forward regularly to the Member State where slaughter takes place a summary, grouped by slaughterhouse, of the slaughter certificates (or information in place thereof) received from the latter Member State.

Article 122

Weight and presentation of carcasses

1. For the purposes of Article 130(1)(b) of Regulation (EC) No 1782/2003, veal carcasses shall be presented after skinning, evisceration and bleeding, without the head or the feet but with the liver, kidneys and kidney fat.

2. The weight to be taken into consideration shall be the weight of the carcass after chilling, or the warm weight of the carcass established as soon as possible after slaughter, reduced by 2 %.

3. Where carcasses are presented without the liver, kidneys and/or kidney fat, their weight shall be increased by:

- (a) 3.5 kilograms for the liver;
- (b) 0.5 kilogram for the kidneys;
- (c) 3.5 kilograms for the kidney fat.

4. Member States may provide that where a calf is less than six months old at the time of slaughter or export, the weight requirement referred to in Article 130(1)(b) of Regulation (EC) No 1782/2003 shall be deemed to have been met.

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Where the carcase weight cannot be established in the slaughterhouse, the weight requirement referred to in Article 130(1)(b) of Regulation (EC) No 1782/2003 shall be deemed to have been met if the live weight does not exceed 300 kilograms.

*Article 123***Premium beneficiary**

1. The slaughter premium shall be paid to the farmer who has held the animal for a minimum retention period of two months ending less than one month before slaughter or ending less than two months before export.

2. In the case of calves slaughtered before the age of three months, the retention period shall be one month.

*Article 124***National ceilings**

1. The national ceilings referred to in Article 130(1) and (3) of Regulation (EC) No 1782/2003 are set out in VII to this Regulation.

2. Where the application of the proportional reduction provided for in Article 130(4) of Regulation (EC) No 1782/2003 gives a number of eligible animals which is less than a whole number, there shall be granted in respect of the decimal part a corresponding fraction of the unit amount of the slaughter premium. For this purpose account shall be taken of the first decimal place only.

*SECTION 6**Additional payments*

(Articles 133 to 136 of Regulation (EC) No 1782/2003)

▼M16**▼B***SECTION 7**General provisions**Article 126***Payment of advances**

1. In accordance with Article 28(3)(b) of Regulation (EC) No 1782/2003, on the basis of the results of administrative checks and on-the-spot checks, the competent authority shall pay to the farmer, for the number of animals deemed to be eligible, an advance equal to 60 % of the special premium, the suckler cow premium and the slaughter premium.

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In the case of the special premium, the special scheme for heifers referred to in Article 114 and the slaughter premium, the advance percentage may be reduced by the Member States but may not be less than 40 %.

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The advance may not be paid before 16 October of the calendar year in respect of which the premium is applied for.

2. The definitive payment of the premium shall be an amount equal to the difference between the advance payment and the amount of the premium to which the farmer is entitled.

▼ B*Article 127***Allocation year**

1. ► **M16** The date of submission of the application shall constitute the operative event for determining the year to which animals covered by the special premium and suckler cow premium schemes are allocated and the number of LUs to be used for calculating the stocking density. ◀

However, if the special premium is granted in accordance with Article 93, the amount of the premium applicable shall be that in force on 31 December of the year in which slaughter or export took place in the following cases:

- (a) where the animal was slaughtered or exported no later than 31 December;
- (b) where the premium application for that animal is submitted after that date.

2. As regards the slaughter premium, for the purposes of applying the rate of aid and calculating the proportional reduction in accordance with Article 124, the allocation year shall be the year of slaughter or export.

▼ M3**▼ B***Article 129***Penalties for the illegal use or holding of certain substances or products**

In the event of repeated infringements through the illegal use or holding of substances or products not authorised by the relevant Community regulations in the veterinary sector, Member States shall determine, in the light of the seriousness of the infringement, the length of the exclusion from the aid schemes pursuant to the second subparagraph of Article 140(1) of Regulation (EC) No 1782/2003.

▼ M16*Article 130***Determination of the individual quota for milk**

Up to the end of the seventh period laid down in Article 66 of Council Regulation (EC) No 1234/2007 ⁽¹⁾, by way of derogation from Article 102(1)(a) of this Regulation, a Member State may decide that in the case of milk farmers who release or take over all or part of

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.;

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individual reference quantities with effect on 31 March or 1 April respectively in accordance with Article 65(i) and (k) of Regulation (EC) No 1234/2007 or pursuant to national provisions adopted for the implementation of Articles 73, 74 and 75 of that Regulation, the maximum individual reference quantity of milk available to qualify for the suckler cow premium and the maximum number of suckler cows shall be determined on 1 April.

▼B*Article 130a***Determination of retention periods**

The last day of the retention periods referred to in Articles 90, 94(1), 101, 118c(2) and 123 shall be the day, whether a working day or not, preceding the day which bears the same number as the starting day for the period.

*Article 131***Notification**

1. In the event of application of Article 68(1) of Regulation (EC) No 1782/2003, the Member States shall notify the Commission:

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(a) by 1 March at the latest for information relating to the previous year, of the number of calves in respect of which the slaughter premium has been applied for and indicating whether the animals were slaughtered or exported;

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(b) by 31 July at the latest in each year and for the preceding calendar year of:

- (i) the number of calves for which the slaughter premium was actually granted and indicating whether the aid was granted on slaughter or on export, as well as the number of farmers concerned;
- (ii) the number of calves in respect of which the slaughter premium has not been granted in respect of the preceding calendar year due to the application of national ceilings.

2. In the event of application of Article 68(2)(a)(i) and (ii) of Regulation (EC) No 1782/2003, the Member States shall notify the Commission:

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(a) annually for information relating to the previous year:

- (i) by 1 February at the latest, the number of cows in respect of which the suckler cow premium has been applied for, broken down according to the schemes referred to in Article 125(2)(a) and (b) of Regulation (EC) No 1782/2003;
- (ii) by 1 March at the latest, the number of bovine animals other than calves in respect of which the slaughter premium has been applied for and indicating whether the animals were slaughtered or exported;

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(b) by 31 July at the latest in each year and for the preceding calendar year of:

- (i) the number of cows and heifers for which the suckler cow premium was actually granted, broken down according to the schemes referred to in Article 125(2)(a) and (b) of Regulation

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(EC) No 1782/2003, as well as the number of farmers concerned in the case of each scheme;

- (ii) where applicable, the number of animals for which the premium was not granted in respect of the preceding calendar year due to application of the specific national ceiling for heifers.
- (iii) where applicable, the grant of any national premium in addition to the suckler cow premium, indicating:
 - the conditions for granting the premium,
 - the amount granted per animal;
- (iv) the number of bovine animals other than calves for which the slaughter premium was actually granted and indicating whether the aid was granted on slaughter or on export, as well as the number of farmers concerned;
- (v) the number of bovine animals other than calves in respect of which the slaughter premium has not been granted in respect of the preceding calendar year due to the application of national ceilings.

3. In the event of application of Article 68(2)(b)(i) of Regulation (EC) No 1782/2003, the Member States shall notify the Commission:

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- (a) by 1 March at the latest for information relating to the previous year, of the number of bovine animals other than calves in respect of which the slaughter premium has been applied for and indicating whether the animals were slaughtered or exported;

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- (b) by 31 July at the latest in each year and for the preceding calendar year of:
 - (i) the number of bovine animals other than calves for which the slaughter premium was actually granted and indicating whether the animals were slaughtered or exported, as well as the number of farmers concerned;
 - (ii) the number of bovine animals other than calves in respect of which the slaughter premium has not been granted in respect of the preceding calendar year due to the application of national ceilings.

4. In the event of application of Article 68(2)(b)(ii) of Regulation (EC) No 1782/2003, the Member States shall notify the Commission:

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- (a) by 1 February at the latest for information relating to the previous year, of the number of male bovines in respect of which the special premium has been applied for, broken down by age bracket and type of animal (bull or steer);

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- (b) by 31 July at the latest in each year and for the preceding calendar year:
 - (i) of the number of male bovines for which the special premium was actually granted, broken down by age bracket and type of animal (bull or steer), and the number of farmers concerned;
 - (ii) of the number of animals broken down by age bracket for which the special premium was not granted in respect of the preceding calendar year due to the application of the regional ceiling.

5. Member States shall notify the Commission by 31 July at the latest in each year and for the preceding calendar year of the amounts of the premiums actually paid, according to the choice made as regards

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the partial implementation of the single payment scheme, after application of the reduction laid down in the second paragraph of Article 139 of Regulation (EC) No 1782/2003.

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7. Member States shall communicate the details specified in this Article using the tables set out in Annexes XVIII and XIX.

*SECTION 8****Transitional and final provisions****Article 132***Transitional provisions**

The requirement to identify and register animals laid down in Article 138 of Regulation (EC) No 1782/2003 shall apply, for animals born before 1 January 1998, in accordance with the procedure laid down in Council Directive 92/102/EEC ⁽¹⁾, save in the case of animals which are the subject of intra-Community trade.

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CHAPTER 14

Single Area Payment Scheme***(Article 143b of Regulation (EC) No 1782/2003)****Article 134***Minimum size of eligible area per holding**

The minimum size of eligible area per holding for which payments may be requested at a level higher than 0.3 ha, as provided for in Article 143b(5) of Regulation (EC) No 1782/2003, is set out in X.

*Article 135***Agricultural areas**

The agricultural areas under the single area payment scheme, as provided for in Article 143b(4) of Regulation (EC) No 1782/2003, are set out in XI.

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⁽¹⁾ OJ L 355, 5.12.1992, p. 32

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CHAPTER 15

COMPLEMENTARY NATIONAL DIRECT PAYMENTS

*(Article 143c of Regulation (EC) No 1782/2003)**Article 139***Coefficient of reduction**

Where in a given sector the complementary national direct payments would exceed the maximum level authorised by the Commission in accordance with Article 143c(7) of Regulation (EC) No 1782/2003, the rate of complementary national direct payments of the concerned sector shall be reduced proportionally by application of a coefficient of reduction.

▼M13*Article 139a***Eligibility conditions**

1. For the purposes of Article 143c of Regulation (EC) No 1782/2003, ‘corresponding direct payment then applicable to the Member States in the Community as constituted on 30 April 2004’ referred to in the fourth subparagraph of paragraph 2 of that Article shall mean any direct payment listed in Annex I to that Regulation granted in the year of application of the complementary national direct payments whose eligibility conditions are similar to that of the complementary national direct payment concerned.

2. In application of the second indent of Article 143c(7) of Regulation (EC) No 1782/2003, the Commission shall in particular take into account the (sub)sector specific financial envelopes referred to in Article 143c(5) of that Regulation and the eligibility conditions applicable to the corresponding direct payment then applicable to the Member States in the Community as constituted on 30 April 2004.

▼B*Article 140***Controls and sanctions****▼M16**

1. For 2009, Regulation (EC) No 796/2004 shall apply to the complementary national direct payment co-financed in Bulgaria and Romania in accordance with Section I point E of Annex VIII to the Act of Accession of Bulgaria and Romania.

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2. In case of no co-financing, new Member States concerned shall apply appropriate control measures in order to ensure that the conditions for the granting of the complementary national direct payments, defined by the Commission authorisation in accordance with Article 143c(7) of Regulation (EC) No 1782/2003, are complied with.

*Article 141***Communications**

New Member States shall submit a report providing information on the measures for the implementation of the complementary national direct payments before 30 June of the year following their implementation. The report shall cover at least the following:

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- (a) any changes in the situation affecting the complementary national direct payments;
- (b) for each complementary national direct payment, the numbers of beneficiaries, hectares or units of payment paid;
- (c) a report on controls and sanctions applied in accordance with Article 140.

*Article 142***State aid**

Complementary National Direct Payments paid not in conformity with the authorisation by the Commission referred to in Article 143c(6) of Regulation (EC) No 1782/2003 shall be considered as unlawful State aid within the meaning of Council Regulation (EC) No 659/1999 ⁽¹⁾.

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CHAPTER 15a

SEPARATE SUGAR PAYMENT*Article 142a***Application of Regulation (EC) No 796/2004**

As regards the separate sugar payment established in Article 143ba of Regulation (EC) No 1782/2003, Articles 5, 10, 18 to 22, 65, 66, 67, 70, 71a, 72 and 73 of Regulation (EC) No 796/2004 shall apply.

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CHAPTER 16

USE OF LAND SET ASIDE FOR THE PRODUCTION OF RAW MATERIALS*SECTION 1****Object and definitions****Article 143***Purpose****▼M16**

1. Land set aside in the context of Article 107 of Regulation (EC) No 1782/2003 may be used, in accordance with the first indent of Article 107(3) thereof, for producing raw materials for the manufacture within the Community of products not primarily intended for human or animal consumption, under the conditions laid down in this Chapter.

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2. Sugarbeet, Jerusalem artichokes or chicory roots may be grown on set-aside land provided that:

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(a) any sugarbeet intermediary product is used for the production of energy-products and that any co-product or by-product containing sugar is used in accordance with Regulation (EC) No 318/2006;

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(b) the chicory roots and Jerusalem artichokes do not undergo the process of hydrolysis as referred to in Regulation (EC) No

⁽¹⁾ OJ L 83, 27.3.1999, p. 1

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314/2002, either in their natural state or as an intermediate product such as inuline, or as a co-product such as oligofructose, or as any by-products.

▼B*Article 144***Definitions**

For the purposes of this Chapter:

- (a) ‘applicant’ means a farmer using the land set aside in accordance with Article 55(b) and the first indent of Article 107(3) of Regulation (EC) No 1782/2003;
- (b) ‘collector’ means any person signing a contract as provided for in Article 147 who purchases on his own account raw materials listed in Article 145 and intended for the uses provided for in XIII;

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- (c) ‘first processor’ means any user of agricultural raw materials, except applicants using raw materials on the holding, who undertakes the first processing thereof with a view to obtaining one or more of the products referred to in XIII to this Regulation.

▼B*SECTION 2***Contract***Article 145***Use of raw material**

1. ►**M16** Any agricultural raw material, excepted arable crops listed in Annex IX to Regulation (EC) No 1782/2003, may be grown on the areas set aside pursuant to the first indent of Article 107(3) of that Regulation. ◀

The economic value of the products used for non-food purposes referred to in XIII to this Regulation obtained by processing raw materials shall be higher than that of all other products intended for other uses and obtained by such processing, as determined by the valuation method set out in Article 163(3) of this Regulation.

2. The raw materials referred to in paragraph 1 shall be covered by a contract in accordance with Article 147 of this Regulation, without prejudice to Article 148.

3. Applicants shall deliver all raw materials harvested to a collector or first processor who shall take delivery of them and ensure that an equivalent quantity of such raw materials is used within the Community for the manufacture of one or more end products intended for non-food purposes as listed in XIII.

Where the first processor uses the raw material actually harvested to manufacture an intermediate product or a by-product, he may use an equivalent quantity of such intermediate products or by-products to manufacture one or more end products as referred to in the first subparagraph.

In the case referred to in the second subparagraph, or where the collector sells an equivalent quantity of the raw material harvested, the first processor or the collector shall so inform the competent authority with whom the security is lodged. Where such equivalent quantity is used in a Member State other than that in which the raw material is harvested, the competent authorities of the Member States concerned shall inform each other of the details of such transaction.

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4. In accordance with the national provisions governing contractual relations, the first processor may delegate to a third party the collection of the raw material from the farmer applying for the aid. The processor remains solely responsible with regard to the obligations laid down by this Chapter.

▼M12*Article 146***Derogations**

1. Notwithstanding Article 145(2) and (3), Member States may permit applicants to:

- (a) ►**M16** use defined agricultural raw materials, with exception of arable crops listed in Annex IX to Regulation (EC) No 1782/2003, providing that all appropriate control measures are complied with: ◀
- (i) as fuel for heating their agricultural holding;
 - (ii) for the production on the holding of power or biofuels;
- (b) process into biogas falling within CN code 2711 29 00, on their holdings, all raw materials harvested.

The Member State may decide to permit applicants to use defined agricultural raw materials other than those provided for in point (a) of the first subparagraph providing that all appropriate control measures are complied with.

2. In the cases referred to in paragraph 1, applicants shall undertake, by way of a declaration in place of the contract referred to in Article 147, to use or process directly the raw material covered by the declaration. Articles 147 to 164 shall apply *mutatis mutandis*.

3. Member States applying paragraph 1 shall introduce adequate control measures to ensure that the raw material is used directly on the holding or is processed into biogas falling within CN code 2711 29 00.

▼B*Article 147***Contract****▼M12**

1. In support of the single application and by the date provided for in Article 11 of Regulation (EC) No 796/2004, applicants shall submit to their competent authorities a copy of the contract concluded with a collector or first processor. However, Member States may decide that the contract may only be concluded between an applicant and a first processor.

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2. Applicants shall ensure that such contracts specify the following:

- (a) the names and addresses of the parties to the contract;
- (b) the duration of the contract;
- (c) the species of all raw materials concerned and the area planted with each species;
- (d) any conditions applicable to the delivery, and for oilseeds the forecast quantities, deemed representative by the competent authority, of the raw material in question;
- (e) an undertaking to fulfil their obligations pursuant to Article 145(3);

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- (f) the intended primary end uses for the raw material, each end use complying with the conditions laid down in Articles 145(1) and 163(3).

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4. For the purposes of control, Member States may require each applicant to conclude a single supply contract for each raw material.

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▼ B*Article 148***Raw materials which need not be covered by contracts**

By way of derogation from Article 147, the raw materials listed in XII need not necessarily be covered by contracts.

To qualify for payments, applicants wishing to use land set aside for growing these raw materials shall submit a written declaration with their payment applications to the competent authorities in their Member States, to the effect that the raw materials concerned will only be used or sold for purposes in accordance with XIII.

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▼ B*SECTION 3****Amendment and termination of contracts****Article 150***Amendment and termination of contracts**

Where the parties to a contract amend or terminate the contract after applicants have lodged an aid application, applicants may maintain such aid applications only on condition that, with a view to allowing the requisite inspections to be carried out, they inform their competent authorities of such amendment or termination, no later than the closing date set in the Member State concerned for amendment of the application.

*Article 151***Exceptional circumstances**

Without prejudice to Article 150, where applicants inform their competent authorities that, owing to exceptional circumstances, they will be unable to supply all or part of the raw materials specified in the contract, the competent authorities may, after obtaining sufficient evidence of such exceptional circumstances, authorise such amendments to contracts as appear justified, or may authorise their termination.

Where the land covered by a contract is reduced as a result of amendments thereto, or where a contract is terminated, then, in order to maintain their right to payments, applicants shall:

- (a) once more set aside the land in question by any means permitted by the competent authorities;

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- (b) abstain from selling, transferring or using raw materials grown on land struck out of the contracts.

*Article 152***Changes in end uses**

Without prejudice to Article 150, collectors or first processors may alter the intended primary end uses of raw materials, as referred to in Article 147(2)(f), once the raw materials under contract have been delivered to them and once the conditions laid down in Article 154(1) and the first subparagraph of Article 157(3) have been fulfilled.

Changes in end uses shall be made in compliance with the conditions laid down in the second subparagraph of Article 145(1) and Article 163(3).

The collectors or first processors shall give prior notice to their competent authorities with a view to the requisite controls.

*SECTION 4****Representative yields and quantities delivered****Article 153***Representative yields**

Each year the Member States shall establish, using an appropriate procedure, representative yields which must be attained, and shall inform the applicants concerned thereof.

However, the raw materials listed in XII may be exempt from the representative yields.

*Article 154***Quantities to be delivered**

1. Applicants shall declare the total quantity of raw materials harvested by species to their competent authorities and shall confirm the quantities of raw materials delivered and the parties to whom such deliveries are made.

2. The actual quantities to be delivered by the applicants to the collectors or first processors must at least correspond to the representative yield.

However, in duly justified cases, the Member States may, by way of an exception, accept a quantity up to 10 % below the representative yield.

Furthermore, where the competent authorities have authorised the amendment or termination of contracts in accordance with Article 151, they may, where it seems justified to do so, reduce the quantities that applicants are required to deliver under the first subparagraph.

▼B*SECTION 5**Conditions of payment of the aid**Article 155***Payment**

1. The aid may be paid to applicants before the raw material is processed. However, such payments shall only be made where the requisite quantities of raw materials pursuant to this Chapter have been delivered to the collector or first processor and where:

(a) the declaration provided for in Article 154(1) has been made;

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(b) a copy of the contract has been deposited with the applicant's competent authority in accordance with Article 147(1) and the conditions referred to in Article 145(1) have been fulfilled;

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(c) the competent authority has received proof that the full security provided for in Article 158(2) has been lodged;

(d) the competent authority responsible for the payment has checked that the conditions laid down in Article 147 have been met in respect of each application.

2. In the case of biennial crops, where the raw materials are harvested, and hence delivered, in the course of the second year of cultivation only, payment shall be made in each of the two years following the conclusion of the contract as provided for in Article 147, on condition that the competent authorities establish that:

(a) the obligations referred to in paragraph 1(b), (c) and (d) of this Article are fulfilled as from the first year of cultivation; and

(b) the obligations referred to in paragraph 1(a) are fulfilled, and the information referred to in the first subparagraph of Article 157(3) is communicated, in the second year of cultivation.

In respect of the first year of cultivation, payments shall be made only if the competent authorities have received proof that the security provided for in Article 158(2) has been lodged. In respect of the second year of cultivation, payment may be made without the security being lodged.

3. In the case of permanent or multiannual crops, the payment of the aid shall be made each year from the date of conclusion of the contract. The conditions laid down in paragraph 2 shall be applied *mutatis mutandis*.

*SECTION 6**Obligations on collectors and applicants**Article 156***Number of processors**

Non-food products shall be produced at the most by a third successive processor.

*Article 157***Obligations****▼M12**

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2. First processors shall provide their competent authorities with the requisite information on the processing chain in question, in particular as regards prices and the technical processing coefficients to be used for determining the quantities of end products that may be obtained as referred to in the second subparagraph of Article 164(2).

3. Collectors or first processors who have taken over the raw materials from applicants shall inform their competent authorities of the quantities of raw materials received, specifying the species, the name and address of the party to the contract who delivered the raw materials, the place of delivery and the contract reference, within a time limit to be set by the Member States that allows the payments to be made within the period specified in Article 28 of Regulation (EC) No 1782/2003.

Where the Member States of the collectors or first processors are not the same as the Member States in which the raw materials have been grown, the competent authorities concerned shall inform the competent authorities of the applicants of the total quantities of raw materials delivered within 40 working days of receipt of the information referred to in the first subparagraph.

*SECTION 7**Securities**Article 158***Securities lodged by collectors or first processors****▼ M12**

1. Collectors or first processors shall lodge a security as provided for in paragraph 2 of this Article with their competent authorities by the final date for the amendments to the payment applications for the year in question in the Member State concerned, as referred to in Article 15(2) of Regulation (EC) No 796/2004. However, Member States may waive the requirement of a security under the conditions set up in Article 5 of Regulation (EEC) No 2220/85.

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2. The securities to be lodged in respect of each raw material shall be calculated by multiplying the sum of all areas covered by a contract signed by the collector or first processor concerned and used to produce that raw material by the rate of EUR 250 per hectare.

3. Where contracts are amended or terminated in accordance with Articles 150 or 151, the securities lodged shall be adjusted accordingly.

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4. A percentage of the security shall be released for each raw material on condition that the competent authority of the collector or first processor concerned is in possession of proof that the quantity of raw material in question has been processed in accordance with the uses referred to in Article 147(2)(f), account being taken, where necessary, of any changes pursuant to Article 152.

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5. Without prejudice to paragraph 4, where the security has been lodged by the collector, it shall be released once the raw material in question has been delivered to the first processor, provided that the collector's competent authority has proof that the first processor has lodged an equivalent security with their competent authority.

▼ B*Article 159***Primary and subordinate requirements****▼ M16****▼ B**

2. The following obligations, incumbent on collectors or processors, shall constitute subordinate requirements within the meaning of Article 20 of Regulation (EEC) No 2220/85:

- (a) the obligation to take delivery of all raw materials delivered by applicants pursuant to Article 145(3) of this Regulation;

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- (c) the obligation to provide the information required in accordance with the first subparagraph of Article 157(3) of this Regulation;
- (d) the obligation to lodge a security in accordance with Article 158(1) of this Regulation.

▼ M12*SECTION 8****Optional system of approval****Article 160***Optional system of approval**

1. By way of derogation from Article 158, Member States may decide to set up a system of approval of collectors and first processors (hereinafter 'approved operators').

Member States shall make available to public the decision referred to in the first subparagraph by 1 November of the year preceding its application.

Save as otherwise provided in this Section, the provisions of this Chapter shall apply to the Member States having decided to apply the first subparagraph.

2. Where a Member State has decided to apply paragraph 1, it shall adopt the necessary provisions and take the necessary measures to ensure that the provisions of this Chapter are complied with. In particular, Member States shall lay down conditions for approval of the operators ensuring that at least the following criteria are met:

- (a) for collectors:
 - (i) have the administrative capacities for operating as a collector and performing the record keeping referred to in Article 163;
 - (ii) have a contractual relationship with at least one processor for the delivery of raw materials or have carried on trading activities for a sufficient period;
- (b) for first processors:
 - (i) have the administrative capacities for operating as a first processor and the administrative capacities for performing the record keeping referred to in Article 163;
 - (ii) have the appropriate production capacities for the production of at least one end-product intended for non-food purposes as listed in XIII.

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3. Member States shall set up a procedure of controls of the approval of the operators before the list referred to in paragraph 6 is published.
4. Where it is found that an approved operator fails to comply with the obligations laid down in this Chapter or with the national provisions adopted on its basis, or where a collector or first processor does not accept or facilitate the on-the-spot checks to be performed by the competent authorities and/or does not provide the information referred to in Article 163, Member States shall provide for the application of appropriate penalties. The amount of the penalties shall be calculated in the light of the seriousness of the infringement and proportionally to the securities forfeited for non-compliance with the requirements as set up in Article 159.
5. If an approved operator, as a result of a serious negligence, fails to comply with the provisions of this Chapter or with the national provisions, a Member State may decide to withdraw its approval for a period to be determined by that Member State.
6. Before 15 December of the year prior to the year in respect of which the aid is granted, each Member State shall make available to the public a list of approved collectors and first processors.
7. If a Member State decides to apply paragraph 1, the aid shall be paid only to applicants who have concluded contracts with approved collectors or processors provided those are also established in a Member State which has decided to apply paragraph 1.

▼ B*SECTION 9**Checks**Article 163***Record keeping**

1. The competent authority of the Member State shall specify the records to be kept by collectors or processors and the frequency thereof, which shall be at least monthly.

In the case of collectors, such records shall include at least the following information:

- (a) the quantities of all raw materials purchased and sold for processing under this scheme;
- (b) the names and addresses of the first processors.

In the case of processors, such records shall include at least the following information:

- (a) the quantities of different raw materials purchased for processing;
- (b) the quantities of raw materials processed and the quantities and types of end products, co-products and by-products obtained therefrom;
- (c) wastage during processing;
- (d) the quantities destroyed and the reasons for such destruction;
- (e) the quantities and types of products sold or transferred by the processor and the prices obtained;
- (f) where applicable, the names and addresses of the subsequent processors.

2. The competent authority of the collector or the first processor shall check that the contract submitted complies with the conditions laid

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down in Article 145(1). Where those conditions are not met, the applicant's competent authorities shall be notified.

3. With a view to calculating the economic value of the products referred to in Article 145(1), the competent authorities concerned shall, on the basis of the information referred to in Article 157(2), compare the sum of the values of all non-food products with the sum of the values of all other products intended for other uses and obtained from the same processing operation. Each value shall equal the relevant quantity multiplied by the average of the ex-factory prices recorded during the previous marketing year. Where such prices are not available, the competent authorities shall determine the relevant prices, in particular on the basis of the information referred to in Article 157(2).

*Article 164***Checks at the premises of collectors and processors**

1. The competent authorities of the Member States in which collectors are located shall carry out checks on the premises of at least 25 % of the collectors established in their territory, selected on the basis of a risk analysis. These shall comprise physical checks and inspections of commercial documents, with a view to verifying consistency between the purchases of raw materials and the corresponding deliveries.

2. The competent authorities of the Member States in which processing takes place shall verify compliance with Article 146(1) at the premises of at least 25 % of the processors located in their territory, selected on the basis of a risk analysis. Such checks shall involve at least:

- (a) a comparison of the sum of the values of all the non-food products with the sum of the values of all other products intended for other uses and obtained from the same processing operation;
- (b) analysis of the processor's production system, comprising physical checks and inspections of commercial documents, with a view to verifying, in the case of processors, that deliveries of raw materials, end products, co-products and by-products tally.

For the purpose of the checks referred to in point (b) of the first subparagraph, the competent authorities shall base themselves in particular on the technical processing coefficients for the raw materials concerned. Where such coefficients exist for exports in Community legislation, they shall be applied. Where they do not but other coefficients do exist in Community legislation, they shall be applied. In all other cases, inspection shall rely mainly on the coefficients generally accepted by the processing industry.

3. For the processing operations referred to in Article 146, checks shall be carried out on 10 % of applicants selected on the basis of a risk analysis taking account of:

- (a) aid amounts;
- (b) the number of agricultural parcels and the area covered by an aid application;
- (c) developments since the previous year;
- (d) the findings of checks made in past years;
- (e) other parameters to be defined by the Member States, based on the representativeness of the declarations submitted.

4. Where the checks referred to in paragraph 3 reveal irregularities in at least 3 % of cases, the competent authority shall carry out additional checks during the year and shall consequently increase the percentage of farmers to be subject to an on-the-spot check the following year.

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5. If it has been provided that certain elements of the checks referred to in paragraphs 1, 2 and 3 may be carried out on the basis of a sample, that sample must guarantee a reliable and representative level of inspection.

6. Every on-the-spot check shall be the subject of an inspection report signed by the inspector giving the details of the checks carried out. The reports shall indicate in particular:

- (a) the date of the check;
- (b) the persons present;
- (c) the period checked;
- (d) the checking techniques used including, where applicable, reference to sampling methods;
- (e) results of the check.

*Article 165***Production of hemp**

The provisions relating to hemp referred to in Article 29 of Regulation (EC) No 795/2004 and in Article 33 of Regulation (EC) No 796/2004 shall apply.

*Article 166***Additional measures and mutual assistance**

1. The Member States shall take all further measures required for the proper application of this Chapter and shall give the mutual assistance needed for the purposes of checks required pursuant to this Chapter. Where this Chapter does not provide for appropriate reductions and exclusions, the Member States may apply appropriate national sanctions against market participants involved in the procedure for granting aid.

2. As far as necessary or as required by this Chapter, the Member States shall assist one another mutually to ensure effective checks, and enable the authenticity of documents submitted and the accuracy of the data exchanged to be verified.

*SECTION 10****Exclusion from the scheme and notifications****Article 167***Exclusion of raw materials from the scheme**

The Member States may exclude any agricultural raw material from the scheme established by this Chapter where such materials raise difficulties from the viewpoint of controls, public health, the environment, criminal law, or a reduced rate of final non-food products.

*Article 168***Minimum area**

Member States may fix a minimum cultivated area for each raw material referred to in Article 145(1).

▼B*Article 169***Notifications**

The Member States shall forward to the Commission, before 15 October of the year following the end of the year in question, the following information:

- (a) the areas which result from the contracts referred to in Article 147 and the declarations referred to in Articles 146(2) and 148, for each raw material;
- (b) the quantities of each type of raw material and end product obtained.

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CHAPTER 17

HOPS AREA AID*Article 170***Additional payment to hop farmers**

1. The additional payment referred to in the second paragraph of Article 68a of Regulation (EC) No 1782/2003 shall be granted to farmers producing hops on a per hectare basis for the areas respecting the conditions laid down in Article 110o of that Regulation, provided that:

- a) they have been planted at a uniform density of at least 1 500 plants per hectare in the case of double stringing/wiring, or 2 000 plants per hectare in the case of single stringing/wiring;
- b) they have undergone normal tending operations.

2. An area 'planted with hops' as referred to in the second indent of Article 110o of Regulation (EC) No 1782/2003 shall mean the area bounded by a line joining the outer stays of the poles. Where there are hop plants on that line, an additional strip of a width corresponding to the average width of an alleyway within that parcel shall be added to each side of that area. The additional strip must not form part of a public right of way. The two headlands at the ends of the hop rows that are needed for manoeuvring agricultural machinery are included in the area, provided that the length of neither headland exceeds eight metres and they do not form part of a public right of way.

3. Areas planted with young hop plants grown chiefly as nursery products are not eligible for the additional payment.

4. The total sum available for additional payments shall be distributed evenly over the eligible areas planted with hops on the territory of the Member State concerned.

*Article 171***Payments to recognised hop producer groups**

1. Recognised producer groups shall apply for the payment referred to in the second paragraph of Article 68a of Regulation (EC) No 1782/2003 not later than 1 September of the year of the harvest.

2. The sum paid to the recognised producer group shall be committed for the measures laid down in Article 7(1)(a) to (d) of Regulation (EEC)

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No 1696/71 within 3 years from the date of payment. Any amount not committed within this period shall be paid back to the paying agency and deducted from the expenditure financed under the EAGGF Guarantee Section.

3. Aid withheld in respect of the harvests preceding the 2005 harvest in conformity with Article 12(5)(c) of Regulation (EEC) No 1696/71 shall be spent before 31 December 2008.

4. A Member State making payments to recognised producer groups shall send on an annual basis a report to the Commission on the use of the payment by the producer groups recognised by it, including a description of the measures laid down in Article 7(1)(a) to (d) of Regulation (EEC) No 1696/71 financed by means of the payment. The report shall be sent by 30 June of each year at the latest.

5. The total sum available in a given Member State as payments to recognised producer groups referred to in the second paragraph of Article 68a of Regulation (EC) No 1782/2003 shall be distributed to those groups in proportion to the areas respecting the conditions in Article 170 of this regulation for which their members have submitted an application pursuant to Title II of part II of Regulation (EC) No 796/2004.

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CHAPTER 17a

CROP SPECIFIC PAYMENTS FOR COTTON*Article 171a***Authorisation of agricultural land for cotton production**

The Member States shall establish objective criteria on the basis of which land is authorised for the crop-specific payment for cotton provided for in Article 110a of Regulation (EC) No 1782/2003.

These criteria shall be based on one or more of the following:

- (a) the agricultural economy of those regions where cotton is a major crop;
- (b) the soil and climate in the areas in question;
- (c) the management of irrigation water;
- (d) rotation systems and cultivation methods likely to respect the environment.

*Article 171aa***Approval of varieties for sowing**

The Member States shall approve the varieties registered in the 'Common Catalogue of Varieties of Agricultural Plant Species' that are adapted to market needs.

*Article 171ab***Eligibility requirements**

Sowing the areas referred to in Article 110b(1) of Regulation (EC) No 1782/2003 shall be done by achieving a minimum plant density, to be fixed by the Member State on the basis of the soil and weather conditions and specific regional characteristics, where appropriate.

▼ **M14***Article 171ac***Agronomic practices**

The Member States shall be authorised to establish specific rules on the agronomic practices needed to maintain and harvest the crops under normal growing conditions.

*Article 171ad***Approval of inter-branch organisations**

1. Before 31 December each year, Member States shall approve for the following year any inter-branch cotton-producing organisation that applies to plant cotton and which:

- (a) covers a total area of at least 4 000 ha as established by the Member State and meeting the authorisation criteria laid down in Article 171a, and which includes at least one ginning undertaking;
- (b) has adopted internal operating rules, in particular on membership conditions and fees, in accordance with national and Community rules and regulations.

However, for 2009, Member States shall approve the inter-branch cotton-producing organisations by 28 February 2009.

2. Where it is found that an approved inter-branch organisation does not respect the criteria for approval provided for in paragraph 1, the Member State shall withdraw the approval unless the non-respect of the criteria concerned is remedied within a reasonable period of time. Where it is planned to withdraw the approval, the Member State shall notify that intention to the inter-branch organisation, together with the reasons for the withdrawal. The Member State shall allow the inter-branch organisation to submit its observations within a specified period. In case of withdrawal, the Member States shall provide for the application of appropriate sanctions.

Farmers who are members of an approved inter-branch organisation whose approval is withdrawn in accordance with the first subparagraph of this paragraph shall lose their right to the increase of the aid provided for in Article 110e(2) of Regulation (EC) No 1782/2003.

*Article 171ae***The producers' obligations**

1. A producer shall not be a member of more than one inter-branch organisation.
2. A producer who is a member of an inter-branch organisation shall deliver his cotton to a ginner belonging to that same organisation.
3. The participation of producers in an approved inter-branch organisation must be the result of voluntary membership.

*Article 171af***Communications to the producers**

1. Before January 31 of the year in question, Member States shall notify cotton growers of:

- (a) the approved varieties; however, varieties approved in accordance with Article 171aa after that date must be notified to the growers before 15 March in the same year;
- (b) the criteria for authorising land;

▼M14

- (c) the minimum cotton plant density referred to in Article 171ab;
 - (d) the required agronomic practices.
2. Where approval for a variety is withdrawn, the Member States shall inform the growers no later than 31 January for the purposes of the following year's sowing season.

CHAPTER 17b

AID FOR OLIVE GROVES*Article 171b***Categories of olive groves**

1. The Member States shall identify the olive groves eligible for the aid laid down in Article 110g of Regulation (EC) No 1782/2003 and shall classify them in a maximum of five categories on the basis of criteria chosen from among the following:

- (a) environmental criteria:
 - (i) difficulty of access to the parcels;
 - (ii) risk of physical degradation of the land;
 - (iii) olive groves with special features: old trees, cultural value or value for the landscape, sloping land, traditional or rare varieties, or situated in protected natural areas;
- (b) social criteria:
 - (i) areas with a heavy economic dependence on olive-growing;
 - (ii) areas with a tradition of olive cultivation;
 - (iii) areas with negative economic indicators;
 - (iv) holdings at risk of abandoning olive groves;
 - (v) the size of olive groves on a holding;
 - (vi) areas with special features such as PDO or PGI production, organic or integrated farming.

2. Member States shall determine, for each farmer concerned, which of the categories listed in paragraph 1 each olive-growing parcel eligible for aid belongs to. This information shall be recorded in the olive GIS.

3. Member States may adjust the categories of olive groves identified under paragraph 1 once a year.

Where the adjustment of categories results in a reclassification of the olive groves, the new classification shall apply from the year following that in which the adjustment takes place.

*Article 171ba***Calculation of areas**

1. The Member States shall calculate for each producer the area eligible for the aid using the common methodology set out in XIV.

The areas shall be declared in olive GIS-ha to two decimal places.

2. Notwithstanding paragraph 1, the common methodology set out in XIV shall not apply when:

- (a) the olive-growing parcel is of a minimum size, to be determined by the Member State but not exceeding 0,1 hectare;

▼ **M4**

- (b) the olive-growing parcel is located in an administrative unit that does not appear in the olive-GIS's graphical reference database.

In this case, the Member State shall determine the olive-growing area on the basis of objective criteria and in a manner ensuring equal treatment of farmers.

*Article 171bb***Amount of aid**

1. The Member States shall establish before 31 January each year the indicative amount of aid per olive GIS-ha for each category of olive grove.
2. ► **M10** The Member States shall fix the amount of aid per olive GIS-ha for each category of olive grove, before the payments are granted to the farmers and by 31 January of the following year at the latest. ◀

This amount shall be calculated by multiplying the indicative amount referred to in paragraph 1 by a coefficient which corresponds to the maximum amount of aid laid down in Article 110i(3) of Regulation (EC) No 1782/2003, taking into account, where applicable, the reduction provided for in paragraph 4 of that Article, divided by the sum of the amounts produced by multiplying the indicative aid amount referred to in paragraph 1 of this Article, laid down for each category, by the corresponding area.

3. Member States may apply paragraphs 1 and 2 on a regional basis.

*Article 171bc***Establishing the basic data**

1. For the purpose of applying Article 110h(c) of Regulation (EC) No 1782/2003, the Member States shall use data from the olive GIS and of farmers' declarations to establish on 1 January 2005 the following information for each olive-growing parcel: number and location of eligible olive trees, number and location of ineligible olive trees, the olive-growing area and eligible area of the olive-growing parcel as well as the relevant category referred to in Article 171b.
2. In the case of areas planted with olive trees under new plantation programmes in France and Portugal, approved by the Commission under Article 4 of Council Regulation (EC) No 1638/98 ⁽¹⁾, and recorded in the olive GIS before 1 January 2007, the Member States shall establish the information referred to in paragraph 1, as at 1 January 2006 for parcels planted in 2005 and as at 1 January 2007 for parcels planted in 2006. This information shall be notified to farmers in the 2007 single application at the latest.

⁽¹⁾ OJ L 210, 28.7.1998, p. 32. Regulation repealed by Regulation (EC) No 865/2004 (OJ L 161, 30.4.2004, p. 97, as corrected by OJ L 206, 9.6.2004, p. 37).

▼ M8▼ M4

CHAPTER 17c

TOBACCO AID*Article 171c***Definitions**

For the purposes of this Chapter:

- (a) ‘delivery’ means any operation taking place on a given day which involves a farmer or a producer association handing over raw tobacco to a processing undertaking under a cultivation contract;
- (b) ‘control certificate’ means the document issued by the competent control body certifying that the quantity of tobacco concerned has been taken over by the first processor, that this quantity has been delivered under a registered contract and that the operations have been carried out in accordance with Articles 171cj and 171ck of this Regulation;
- (c) ‘first processor’ means any approved natural or legal person who carries out first processing of raw tobacco by operation, in his own name and on his own account, of one or more first tobacco processing establishments suitably equipped for that purpose;
- (d) ‘first processing’ means the processing of raw tobacco delivered by a farmer into a stable, storable product put up in uniform bales or packages of a quality meeting final user (manufacturer) requirements;
- (e) ‘producer association’ means an association representing farmers producing tobacco.

*Article 171ca***Raw tobacco variety groups**

Raw tobacco varieties shall be classified in the following groups:

- (a) flue-cured: tobacco dried in ovens with controlled air circulation, temperature and humidity;
- (b) light air-cured: tobacco dried in the air under cover;
- (c) dark air-cured: tobacco dried in the air under cover, fermented before being marketed;
- (d) fire-cured: tobacco dried by fire;
- (e) sun-cured: tobacco dried in the sun;
- (f) Basmas (sun-cured);
- (g) Katerini (sun-cured);
- (h) Kaba-Koulak (classic) and similar (sun-cured).

The varieties in each group are listed in XV.

*Article 171cb***First processors**

1. Member States shall approve first processors established on their territory and shall establish the appropriate conditions for such approval.

▼M4

An approved first processor is authorised to sign cultivation contracts, provided it sells at least 60 % of its marketed tobacco of Community origin to tobacco manufacturing undertakings either directly, or indirectly without further processing.

2. Approval shall be withdrawn by the Member State if the processor, deliberately or through serious negligence, fails to comply with the provisions concerning raw tobacco at Community or at national level.

*Article 171cc***Production areas**

For each group of varieties, the production areas referred to in Article 110k(a) of Regulation (EC) No 1782/2003 shall be those laid down in XVI to this Regulation.

Member States may specify more restricted production areas, especially in the interests of quality. Restricted production areas may not exceed the area of the administrative unit or, in France, the canton.

*Article 171cd***Cultivation contracts**

1. Cultivation contracts referred to in Article 110k(c) of Regulation (EC) No 1782/2003 shall be concluded between a first processor, on the one hand, and a farmer or a producer association representing him on the other hand, provided that the producer association is recognised by the Member State concerned.

2. Cultivation contracts shall be concluded by variety or group of varieties. They shall commit the first processor to taking delivery of the quantity of leaf tobacco provided for in the contract and the farmer or the producer association representing him to deliver that quantity to the first processor, to the extent that their actual production so allows.

3. For each harvest, cultivation contracts shall include at least the following details:

- (a) the names and addresses of the parties to the contract;
- (b) the variety and group of varieties of tobacco covered by the contract;
- (c) the maximum quantity to be delivered;
- (d) the exact location where the tobacco is produced: the production area as referred to in Article 171cc, province, municipality, identification of the parcel under the integrated control system;
- (e) the area of the parcel concerned, excluding service roads and enclosures;
- (f) the purchase price according to quality grade, excluding the aid, any service charges and taxes;
- (g) the minimum quality requirements agreed per quality grade, with a minimum of three grades per position on the stalk, and an undertaking by the farmer to deliver to the processor raw tobacco by quality grade meeting at least those quality requirements;
- (h) a commitment by the first processor to pay the farmer the purchase price according to quality grade;
- (i) the time-limit for payment of the purchase price, which may not exceed 30 days from the date of delivery;

▼ **M4**

- (j) an undertaking by the farmer to replant the tobacco on the parcel concerned by 20 June of the harvest year.
4. If replanting is delayed beyond the date of 20 June, the farmer shall inform the processor and the competent authority of the Member State thereof by registered letter before that date, giving the reason for the delay and giving details of any change of parcel.
5. The parties to a cultivation contract may, by means of a written amendment, increase the quantities initially specified in the contract. The amendment shall be submitted for registration to the competent authority not later than the 40th day following the deadline for concluding cultivation contracts referred to in Article 171ce(1).

*Article 171ce***Conclusion and registration of contracts**

1. Cultivation contracts shall be concluded, except in cases of *force majeure*, by 30 April of the harvest year. Member States may fix an earlier date.
2. Except in cases of *force majeure*, cultivation contracts once concluded shall be submitted for registration to the competent body no later than 15 days after the deadline for concluding them referred to in paragraph 1.

The competent body shall be that of the Member State in which processing is to take place.

Where processing is to take place in a Member State other than that in which the tobacco was grown, the competent body of the Member State in which processing is to take place shall immediately send a copy of the registered contract to the competent body of the producer Member State. If that body does not itself carry out checks on the aid system, it shall send a copy of the registered contract to the competent control body.

3. If the deadline for the conclusion of contracts referred to in paragraph 1 or for the submission of cultivation contracts provided for in paragraph 2 is exceeded by a maximum of 15 days, the aid to be paid shall be reduced by 20 %.

*Article 171cf***Contracts with a producer association**

1. Where a cultivation contract is concluded between a first processor and a producer association, it shall be accompanied by a list containing the names of the farmers concerned and their respective maximum quantity to be delivered, exact parcel location and the area of the parcels concerned, as referred to Article 171cd(3)(c), (d) and (e).

That list shall be submitted for registration to the competent body no later than 15 May of the harvest year.

2. Producer associations referred to in paragraph 1 may not carry out first processing of tobacco.
3. Farmers producing tobacco may not belong to more than one producer association.

*Article 171cg***Minimum quality requirements**

Tobacco delivered to processors shall be of sound, fair and merchantable quality and free from any of the characteristics listed in

▼ **M4**

XVII. Stricter quality requirements may be established by the Member State or may be agreed on by contracting parties.

*Article 171ch***Disputes**

The Member States may provide that disputes concerning the quality of tobacco delivered to the first processor shall be submitted to an arbitration body. The Member States shall lay down the rules governing the membership and the decision-making procedures of such bodies. Arbitration bodies must include one or more representatives of producers and processors, in equal numbers.

*Article 171ci***Aid level**

In application of Article 110k(d) of Regulation (EC) No 1782/2003, Member States shall fix the indicative aid amount per kg by tobacco variety or group of varieties before 15 March of the harvest year. Member States may differentiate the aid level depending on the quality of the tobacco delivered. For each variety or group of varieties, the aid level shall not exceed the premium amount by group of varieties fixed for the 2005 harvest by Council Regulation (EC) No 546/2002 ⁽¹⁾.

The Member States shall fix the final aid amount per kg by tobacco variety or group of varieties within 15 working days following the day on which all tobacco for the harvest concerned has been delivered. If the total amount of aid applied for in a Member State exceeds the national ceiling established in Article 110l of Regulation (EC) No 1782/2003, as adjusted in accordance with Article 110m of that Regulation, the Member State shall proceed to a linear reduction of the amounts paid to each farmer.

*Article 171ej***Calculation of the aid payment**

1. The aid to be paid to farmers shall be calculated on the basis of the weight of leaf tobacco of the variety or group of varieties concerned corresponding to the minimum quality required and taken over by the first processor.
2. Where the moisture content differs from the level laid down in XVIII for the variety concerned, the weight shall be adjusted for each percentage point of difference, within the tolerances laid down in that Annex.
3. The methods for determining moisture content, sampling levels and frequency and the method for calculating the adjusted weight shall be as set out in XIX.

*Article 171ck***Delivery**

1. Except in cases of *force majeure*, farmers shall deliver their entire production to the first processor by 30 April of the year following the year of harvest, failing which they shall lose their entitlement to the aid. Member States may fix an earlier date.

⁽¹⁾ OJ L 84, 28.3.2002, p. 4.

▼ **M4**

2. The delivery shall be made either directly to the place where the tobacco will be processed or, if the Member State so authorises, to an approved purchasing centre. The competent control body shall approve such purchasing centres, which shall have the appropriate facilities, weighing scales and premises.

3. If the unprocessed tobacco has not been delivered to the places referred to in paragraph 2, or the transporter conveying distinct quantities of tobacco from the purchasing centre to the processing plant does not have authorisation to effect transport, the first processing undertaking which received the tobacco concerned shall pay the Member State a sum of money equal to the aid for the quantity of tobacco in question. This amount shall be booked to the European Agricultural Guidance and Guarantee Fund (EAGGF).

*Article 171cl***Payment**

The Member State's competent body shall pay the aid to the farmer on the basis of a control certificate issued by the competent control body certifying that the tobacco has been delivered.

*Article 171cm***Advances**

1. By way of derogation from Article 10(1) of Regulation (EC) No 796/2004, Member States may apply a system of advances on tobacco aid for farmers.

2. Farmers' applications for an advance may be submitted after 16 September of the year of the harvest. They shall be accompanied by the following documents, save where a Member State provides otherwise on the grounds that they are already in its possession:

- (a) a copy of the cultivation contract or its registration number;
- (b) a written declaration from the farmer concerned specifying the quantities of tobacco he is in a position to deliver during the current harvest.

3. Payment of the advance, the maximum amount of which shall be equal to 50 % of the aid amount payable, based on the indicative aid level fixed in accordance with Article 171ci shall be subject to the lodging of a security equal to the amount of the advance plus 15 % of the amount of the advance.

The security shall be released when the total aid amount has been paid in accordance with Article 19 of Regulation (EEC) No 2220/85.

4. The advance shall be paid from 16 October of the year of the harvest and within 30 days of submission of the application referred to in paragraph 2 and of proof that the security referred to in paragraph 3 has been lodged.

The advance paid shall be deducted from the amount of the tobacco aid payable under Article 171cl .

5. Member States shall determine any further conditions governing the grant of advances, and in particular the final date for lodging applications. ► **M7** ◀

▼ **M4***Article 171cn***Cross-border processing**

1. Aid shall be paid or advanced by the Member State in which the tobacco was produced.
2. Where tobacco is processed in a Member State other than that in which it was produced, the processing Member State shall, after carrying out the necessary checks, provide the producer Member State with all the information needed to enable it to pay the aid or release the security.

*Article 171co***Notifications to the Commission**

1. Each Member State concerned shall notify the Commission by 31 January of each harvest year at the latest of:
 - (a) the names and addresses of the bodies responsible for the registration of cultivation contracts;
 - (b) the names and addresses of the approved first-processing undertakings.

The Commission shall publish the list of the bodies responsible for the registration of cultivation contracts and of approved first-processing undertakings in the 'C' series of the *Official Journal of the European Union*.

2. Each Member State concerned shall immediately notify the Commission of the national measures taken to apply this Chapter.

*Article 171cp***Transitional measure**

Without prejudice to any future amendments, producers whose tobacco production quotas were bought back during the 2002 and 2003 harvests in accordance with Article 14 of Regulation (EEC) No 2075/92 shall be entitled as from 1 January 2006, for the remainder of the five harvest years following the year in which their quota is bought back, to receive an amount equal to a percentage of the premium granted in respect of the 2005 harvest, as shown in the tables in XX. These amounts shall be paid before 31 May each year.

▼ **M13**

CHAPTER 17d

TRANSITIONAL FRUIT AND VEGETABLES PAYMENTS AND TRANSITIONAL SOFT FRUIT PAYMENT*Article 171d***Definitions**

For the purposes of this Chapter:

- (a) 'applicant' shall mean any farmer cultivating the areas referred to in Articles 110t and 110v of Regulation (EC) No 1782/2003 with a view to obtaining the aids provided for in those Articles;

▼ **M13**

- (b) ‘aid’ shall mean the transitional fruit and vegetables payment provided for in Article 110t of Regulation (EC) No 1782/2003 or the transitional soft fruit payment provided for in Article 110v of that Regulation;
- (c) ‘first processor’ shall mean any user of an agricultural raw material referred to in Articles 110t and 110v of Regulation (EC) No 1782/2003 who undertakes the first processing thereof with a view to obtaining one or more of the products listed in Article 1(2) of Council Regulation (EC) No 2201/96 ⁽¹⁾;
- (d) ‘collector’ shall mean any person concluding a contract with an applicant within the meaning of point (a) who purchases on his own account at least one of the products referred to respectively in the third subparagraph of Article 68b(2) or in Article 110v(1) of Regulation (EC) No 1782/2003;
- (e) ‘recognised producer organisation’ shall mean any legal entity or a clearly defined part of a legal entity which complies with the requirements of Article 3(1) of Regulation (EC) No 1182/2007 ⁽²⁾ and that is recognised by the concerned Member State in accordance with Article 4 of that Regulation and recognised producer groups in accordance with Article 7 of that Regulation.

*Article 171da***Contract**

1. Without prejudice of the application by Member States of the possibility provided for in Article 110u(4) of Regulation (EC) No 1782/2003, the contract for processing referred to in Articles 110u(3) and 110v(2) of that Regulation shall be concluded between, on the one hand, an approved first processor, within the meaning of Article 171db, and, on the other hand, an applicant or a recognised producer organisation representing him or an approved collector, within the meaning of Article 171db, representing the applicant.

Where the recognised producer organisation also acts as an approved first processor, the contract may take the form of a commitment to supply.

2. The contract or the commitment to supply shall specify at least the following:

- (a) the names and addresses of the parties to the contract or the commitment to supply;
- (b) the species concerned and the area planted with each species;
- (c) where appropriate, an undertaking by the applicant to deliver to the first processor the total quantity harvested or minimum quantities defined by Member States.

In the cases where the contract is concluded between an approved first processor and a recognised producer organisation or an approved collector representing the applicant, the contract shall specify also the names and addresses, referred to in point (a), of the applicants concerned, as well as the species and the area planted, referred to in point (b), for each applicant concerned.

⁽¹⁾ OJ L 297, 21.11.1996, p. 29.

⁽²⁾ OJ L 273, 17.10.2007, p. 1.

▼ **M13***Article 171db***Approval of the first processors and collectors**

1. For the purpose of this Chapter Member States shall set up a system of approval of the first processors and collectors located on their territory. They shall in particular lay down conditions for approval ensuring that at least:

- (a) the approved first processors and collectors have the administrative capacities for managing the contracts referred to in Article 171da;
- (b) the approved first processors have the appropriate production capacities.

2. Member States shall set up a procedure of controls of the approval.

Approvals granted pursuant to Regulation (EC) No 2201/96 and Regulation (EC) No 2202/96 shall remain valid for the purposes of this Chapter.

3. Where it is found that an approved first processor or collector fails to comply with the obligations laid down in this Chapter or with the national provisions adopted on its basis, or where an approved first processor or collector does not accept or facilitate the checks to be performed by the competent authorities in accordance with Regulation (EC) No 796/2004, Member States shall impose appropriate penalties. The rate of penalties shall be calculated in the light of the seriousness of the infringement.

4. Member States shall make available to the public a list of approved first processors and collectors at least two months before the date fixed in accordance with Article 11(2) or Article 13(13a) of Regulation (EC) No 796/2004.

*Article 171dc***Aid level for transitional fruit and vegetable payments**

1. In application of Article 110u(1) of Regulation (EC) No 1782/2003 and before 15 March of the year in respect of which the aid is claimed, Member States shall fix and make available to the public the indicative aid amount per hectare.

2. In application of Articles 110u(1) and 110u(2) of Regulation (EC) No 1782/2003, Member States shall fix the final aid amount per hectare on the basis of the determined area.

▼ **B**

CHAPTER 18

FINAL PROVISIONS*Article 172***Repeals**

1. Regulations (EEC) No 1686/72, (EEC) No 1445/76, (EC) No 1644/1996, (EC) No 2316/1999, (EC) No 2461/1999, (EC) No 2550/2001, (EC) No 2199/2003 and (EC) No 2237/2003 are repealed with effect from 1 January 2005.

However they shall continue to apply to aid applications relating to the 2004/2005 marketing year or premium period and previous marketing years or premium periods. In the event of application of Article 66 or Article 71 of Regulation (EC) No 1782/2003, Articles 20(2) to (5) of

▼B

Regulation (EC) No 2316/1999 shall remain applicable until the expiration of the farmers' undertakings.

2. Regulation (EC) No 2342/1999 is repealed with effect from 1 January 2005. It shall remain applicable to applications submitted in respect of the year 2004.

3. Regulation (EC) No 609/1999 is repealed with effect from 1 January 2005. However, it shall continue to apply to applications for direct payments in respect of the 2004 harvest and of the harvest 2005 in the event of application of Article 71(1) of Regulation (EC) No 1782/2003. ► **M7** It shall also continue to apply in Slovenia to applications for payments in respect of the 2006 harvest with regard to Regulation (EEC) No 1696/71 and until 31 December 2006 with regard to Council Regulation (EC) No 1098/98 ⁽¹⁾. ◀

▼M4

3a. Regulation (EC) No 1591/2001 is hereby repealed. However, it shall continue to apply to the 2005/06 marketing year.

3b. Regulations (EEC) No 85/93 and (EC) No 2848/98 are repealed with effect from 1 January 2006. However they shall continue to apply in respect of the 2005 harvest.

4. References to the repealed acts shall be construed as references to this Regulation except for Regulation (EEC) No 85/93.

▼B*Article 173*

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

It shall apply to aid applications relating to marketing years or premium period starting from 1 January 2005, with the exception of Article 10 which shall apply from the date of the entry into force of this Regulation.

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

⁽¹⁾ OJ L 157, 30.5.1998, p. 7.

*ANNEX I*

TEST FOR BITTER LUPINS REFERRED TO IN ARTICLE 2(5)

To be performed on a sample of 200 grains taken from a batch of 1 kg from each lot of 20 t maximum.

The test is intended solely to provide qualitative evidence of the presence of bitter grains in the sample. The homogeneity tolerance is 1 grain per 100. Use the Grain-Cut method according to Von Sengbusch (1942), Ivanov and Smirnova (1932) and Eggebrecht (1949). Cut the dry or swollen grains crosswise. Place the half-grains in a sieve and dip in an iodine solution for ten seconds, then rinse under water for five seconds. The cut surfaces of bitter grains turn brown while those low in alkaloids remain yellow.

To prepare the iodine solution, dissolve 14 g of potassium iodate in as little water as possible, add 10 g of iodine and dilute to 1 000 cm³. Leave the solution to stand for one week before use. Store in brown bottles. Dilute the stock solution to three to five times its initial volume before using.

*ANNEX II*

CROP-SPECIFIC PAYMENT FOR RICE

Calculation of the coefficient of reduction referred to in Article 13

1. For the observation of a possible overrun of the base area referred to in Article 82 of the Regulation (EC) No 1782/2003, the competent authority of the Member State shall take into account, on the one hand, the base areas or sub-base areas, fixed in Article 81 of that Regulation, and on the other hand, the total of the areas for which aid applications have been submitted for these base areas and sub-base areas.
2. In establishing the total area for which aid applications have been submitted, account shall not be taken of applications or parts of applications that a check has shown to be clearly unjustified.
3. If an overrun is observed for certain base areas or sub-base areas, the Member State shall establish for these, the percentage of overrun, calculated with two decimal places according to the deadline fixed in Article 18(2) of this Regulation. When an overrun can be foreseen, the Member State shall inform the producers forthwith.
4. The coefficient of reduction of the crop-specific payment for rice shall be calculated, in accordance with Article 82 of Regulation (EC) No 1782/2003, according to the following formula:

Reduction coefficient = reference area of the sub-base area divided by the total area for which aid applications have been submitted for this sub-base area.

The reduced crop-specific payment for rice shall be calculated according to the following formula:

Reduced crop-specific aid for rice = crop-specific aid for rice multiplied by the reduction coefficient.

This reduction coefficient and this reduced crop-specific payment for rice shall be calculated for each sub-base area, after application of the redistribution provided for in Article 82(2) of Regulation (EC) No 1782/2003. Redistribution shall be done to the profit of the sub-base areas for which limits have been exceeded. It shall be done proportionally to the overruns noted in the sub-base areas for which limits have been exceeded.

▼ **M8**

ANNEX III

CROP-SPECIFIC PAYMENT FOR RICE

referred to in Article 3(1)(c)(i)

TOTAL DETERMINED AREA, used for the calculation of the coefficient of reduction

▼ **M10**

▼ **M8**

CLAIMED YEAR:

MEMBER STATE:

(for France only) base area:

Sub-area	Reference area (in hectares) (*)	Variety	Total determined area (in hectares) (**)
Name of sub-area 1		Variety 1	
		Variety 2	
		Variety 3	
		...	
		Total	
Name of sub-area 2		Variety 1	
		Variety 2	
		Variety 3	
		...	
		Total	
Name of sub-area 3		Variety 1	
		Variety 2	
		Variety 3	
		...	
		Total	
...		Variety 1	
		Variety 2	
		Variety 3	
		...	
		Total	
Total			

(*) Article 81 of Regulation (EC) No 1782/2003.

(**) Article 80(1) of Regulation (EC) No 1782/2003.

▼ **M9**

ANNEX IV

referred to in Articles 54(3) and 59(1) and referred to in Article 3(1)(a)(i),
(c)(i) and (e)(i)

BASE AREAS

Region	<i>(ha)</i>		
	All crops	of which maize	of which silage grass
SPAIN			
Regadío	1 318 170	379 325	
Secano	7 256 618		
FRANCE			
Total	12 399 382		
Base area for maize		561 320 ⁽¹⁾	
Irrigated base area	1 094 138 ⁽¹⁾		
MALTA			
	4 565 ⁽²⁾		
PORTUGAL			
Azores			
	9 700		
Madeira			
— Regadío	310	290	
— Other	300		
SLOVENIA			
	125 171 ⁽²⁾		

⁽¹⁾ Including 256 816 ha irrigated maize.

⁽²⁾ In accordance with Article XIb of Regulation (EC) No 1782/2003.

▼ **M1**



ANNEX VII

Fodder legume referred to in Article 67

CN code	
0713 90	Vicia spp. excluding Vicia faba and Vicia sativa, harvested at full maturity Vicia sativa other than harvested at full maturity
ex 1209 29 50	Lupinus spp. other than sweet lupins
ex 1214 90 99	Medicago spp. <i>Trifolium</i> spp. Lathyrus spp. Melilotus spp. Onobrychis spp. Ornithopus sativus Hedysarum coronarium Lotus corniculatus Galega orientalis Trigonella foenum-graecum Vigna sinensis

*ANNEX VIII*

CROPS REFERRED TO IN ARTICLE 57

Crop	Member State	Region
All eligible crops	Estonia	Whole territory
	Finland	Whole territory
	Sweden	Whole territory
Sweetcorn Hemp grown for fibre	All Member States	Whole territory

▼ **M10***ANNEX IX***referred to in Article 3(1)(a)(i), (c)(i) and (e)(i)****ARABLE CROPS AREA PAYMENTS**

The information is to be presented in the form of a series of tables drawn up in accordance with the model described below:

— a set of tables giving information in respect of each base area region within the meaning of Annex IV to this Regulation;

— a single table summarising the information for each Member State.

The tables are to be sent in computerised form.

Notes:

Each table must quote the region in question.

Line 1 relates only to durum wheat eligible for the supplement to the area payment provided for in Article 105(1) of Regulation (EC) No 1782/2003.

The line 'Arable crops declared as fodder areas for premiums for bovine animals and sheep' corresponds to the areas referred to in Article 102(3) of Regulation (EC) No 1782/2003.

Model A: In case of a separate treatment of maize ⁽¹⁾:

Crop	Area (hectares)	Yield (tonnes/hectare)
Durum wheat, Article 105(1)		
Maize (separate base area), Article 104(2)		
Other crops: cereals, oilseeds, flax, hemp, Article 104(2)		
Protein crops, Article 104(2)		
Voluntary set-aside, Article 107(6)		
Arable crops declared as fodder areas for premiums for bovine animals and sheep		
Total		

Model B: In case maize is not treated separately ⁽²⁾:

Crop	Area (hectares)	Yield (tonnes/hectare)
Durum wheat, Article 105(1)		
Crops as listed in Annex IX of Council Regulation (EC) No 1782/2003, Article 104(1)		

⁽¹⁾ Following Article 104 of Council Regulation (EC) No 1782/2003, the 'maize' yield determined in the regionalisation plan for the region concerned is used for maize; the 'cereals other than maize' yield is used for cereals, oilseeds, linseed, and flax and hemp grown for fibre; the average cereal yield is used for protein crops.

⁽²⁾ Following Article 104 of Council Regulation (EC) No 1782/2003, the average cereal yield determined in the regionalisation plan for the region concerned is used for the crops.

▼M10

Crop	Area (hectares)	Yield (tonnes/hectare)
Voluntary set-aside, Article 107(6)		
Arable crops declared as fodder areas for premiums for bovine animals and sheep		
Total		

▼B*ANNEX X*

AREAS ELIGIBLE FOR RECEIVING THE GOAT PREMIUM

1. Germany: all mountain areas within the meaning of Article 18 of Regulation (EC) No 1257/99.
2. Greece: the whole country. (*)

▼M7

3. Spain: the autonomous regions of Andalusia, Aragon, Balearic Islands, Castile-La-Mancha, Castile-Leon, Catalonia, Extremadura, Galicia (excluding those areas in the provinces of A Coruña and Lugo that are not considered as less-favoured areas pursuant to Regulation (EC) No 1257/1999), Madrid, Murcia, La Rioja and Comunidad Valenciana and the Canary Islands (*), and all mountain areas within the meaning of Article 18 of Regulation (EC) No 1257/1999 situated outside these regions.

▼B

4. France: Corsica, the overseas departments (*) and all mountain areas within the meaning of Article 18 of Regulation (EC) No 1257/99 situated outside these regions.
5. Italy: Lazio, Abruzzo, Molise, Campania, Apulia, Basilicata, Calabria, Sicily and Sardinia and all mountain areas within the meaning of Article 18 of Regulation (EC) No 1257/99 situated outside these regions.
6. Cyprus: the whole country.
7. Austria: all mountain areas within the meaning of Article 18 of Regulation (EC) No 1257/99.
8. Portugal: the whole country, with the exception of the Azores (*).
9. Slovenia: the whole country.
10. Slovakia: all mountain areas within the meaning of Article 18 of Regulation (EC) No 1257/99.

(*) The French overseas departments, Madeira, the Canary and Aegean Islands shall be considered as excluded from this Annex in the event of application of the optional exclusion provided for in Article 70(1)(b) of Regulation (EC) No 1782/2003 by the interested Member State.

▼ **M8**

ANNEX XI

► **M9** referred to in Article 3(1)(a)(iii) ◀

APPLICATIONS FOR EWE AND SHE-GOAT PREMIUMS

TRANSMISSION DEADLINE: 1 SEPTEMBER EACH YEAR

CLAIMED YEAR:

MEMBER STATE:

	Type of female			Total females
	Non-milking ewes	Milking ewes	She-goats	
Number of premiums claimed (Article 113 of Regulation (EC) No 1782/2003)				
Number of supplementary premiums claimed ⁽¹⁾ (Article 114 of Regulation (EC) No 1782/2003)				

⁽¹⁾ In accordance with Articles 72 and 73 of this Regulation (Less favoured areas).

▼ **M8**

ANNEX XII

► **M9** referred to in Article 3(1)(e)(iv) ◀

PAYMENTS FOR EWE AND SHE-GOAT PREMIUMS

TRANSMISSION DEADLINE: 31 JULY EACH YEAR

CLAIMED YEAR:

MEMBER STATE:

		Type of female			Total females
		Non-milking ewes	Milking ewes	She-goats	
Number of premiums paid (Heads)	Number of additional payments per head (*)				
	Number of supplementary premiums (**)				
	Number of ewe or goat premiums				

(*) Where Article 71 of Regulation (EC) No 1782/2003 applies (transitional period).

(**) In accordance with Articles 72 and 73 of this Regulation (Less favoured areas).

▼ **B**

ANNEX XIII

OPERATION OF THE NATIONAL RESERVE

MEMBER STATE

YEAR

DATE

TRANSMISSION DEADLINE: 30 APRIL EACH YEAR

Transfers of rights during the year indicated above		Number of premium rights
(a) Balance of the national reserve at the beginning of the year (= end of the previous year)		
RETURNED WITHOUT COMPENSATORY PAYMENT TO THE NATIONAL RESERVE	(b) Following transfer of rights without transfer of holdings	
	(c) From unused premium rights (insufficient usage)	
	(d) TOTAL = (b) + (c)	
(e) Rights allocated		
(f) Rights granted to farmers in less favoured areas		
(g) Balance of the national reserve at the end of the year = (a) + (d) — (e)		

▼ **M8**

▼ C1

ANNEX XV

LIST OF BOVINE BREEDS REFERRED TO IN ARTICLE 99

- Angler Rotvieh (Angeln) — Rød dansk mælkerace (RMD) — *German Red*
— *Lithuanian Red*
- Ayrshire
- Armoricaine
- Bretonne pie noire
- Fries-Hollands (FH), Française frisonne pie noire (FFPN), Friesian-Holstein, Holstein, Black and White Friesian, Red and White Friesian, Frisona española, Frisona Italiana, Zwartbonten van België/pie noire de Belgique, Sortbroget dansk mælkerace (SDM), Deutsche Schwarzbunte, Schwarzbunte Milchrasse (SMR), *Czarno-biala*, *Czerwono-biala*, *Magyar Holstein-Friz*, *Dutch Black and White*, *Estonian Holstein*, *Estonian Native*, *Estonian Red*, *British Friesian*, *Crno-Bela*, *German Red and White*, *Holstein Black and White*, *Red Holstein*
- Groninger Blaarkop
- Guernsey
- Jersey
- Malkeborthorn
- Reggiana
- Valdostana Nera
- Itäsuomenkarja
- Länsisuomenkarja
- Pohjoissuomenkarja.

▼ C1

ANNEX XVI

AVERAGE MILK YIELD REFERRED TO IN ARTICLE 103

	<i>(kilograms)</i>
Belgium	5 450
Czech Republic	5 682
Denmark	6 800
Germany	5 800
Estonia	5 608
Greece	4 250
Spain	► <u>M16</u> 6 500 ◀
France	5 550
Ireland	4 100
Italy	5 150
Cyprus	6 559
Latvia	4 796
Lithuania	4 970
Luxembourg	5 700
Hungary	6 666
Malta	
Netherlands	6 800
Austria	4 650
Poland	3 913
Portugal	5 100
Slovenia	4 787
Slovakia	5 006
Finland	6 400
Sweden	7 150
United Kingdom	5 900



ANNEX XVII

**NATIONAL CEILINGS FOR THE SLAUGHTER PREMIUM REFERRED
TO IN ARTICLE 124(1) APPLICABLE FROM 1 JANUARY 2005**

	Adult bovines	Calves
Belgium	711 232	335 935
Denmark	711 589	54 700
Germany	4 357 713	652 132
Greece	235 060	80 324
Spain ⁽¹⁾	1 982 216	25 629
France ⁽²⁾	4 041 075	2 045 731
Ireland	1 776 668	0
Italy	3 426 835	1 321 236
Luxembourg	21 867	3 432
Netherlands	1 207 849	1 198 113
Austria	546 557	129 881
Portugal ⁽³⁾	325 093	70 911
Finland	382 536	10 090
Sweden	502 063	29 933
United Kingdom	3 266 212	26 271

⁽¹⁾ Without prejudice to Article 5 of Regulation (EC) No 1454/2001.

⁽²⁾ Without prejudice to Article 9 of Regulation (EC) No 1452/2001.

⁽³⁾ Without prejudice to Articles 13 and 22 of Regulation (EC) No 1453/2001.

▼ **M9**

ANNEX XVIII

referred to in Articles 106(2) and 131

BEEF AND VEAL PAYMENTS

CLAIMED YEAR:

MEMBER STATE:

1. SPECIAL PREMIUM

Number of animals

		Deadline for submission	Ref	Information required	General scheme			Slaughter scheme
					Single age bracket or first age bracket		Second age bracket	Both age brackets together
					Bulls	Steers	Steers	Steers
Article (4)(a)	131	1 February	1.2	Number of animals applied for (full year)				
Article (4)(b)(i)	131	31 July	1.3	Number of animals accepted (full year)				
Article (4)(b)(ii)	131	31 July	1.4	Number of animals not accepted on account of the application of the ceiling				

Number of producers

		Deadline for submission	Ref	Information required	General scheme			Slaughter scheme
					Single age bracket or first age bracket	Second age bracket	Both age brackets together	Both age brackets together only
Article (4)(b)(i)	131	31 July	1.5	Number of producers granted premium				

▼ **M16**

▼ **M9**

3. SUCKLER COW PREMIUM

	Deadline for submission	Ref	Information required	Pure suckler herds	Mixed herds
Article 131(2)-a(i)	1 February	3.2	Number of animals applied for (full year)		
Article 131(2)(b)(i)	31 July	3.3	Number of cows accepted (full year)		
Article 131(6)(b)(ii)		3.4	Number of heifers accepted (full year)		
		3.5	Number of producers granted premium (full year)		
				Amount per head	
Article 131(2)(b)(iii)	31 July	3.6	National premium		
Article 131(2)(b)(ii)	31 July	3.7	Number of animals not accepted on account of the application of the national ceiling for heifers		

▼ **M16**▼ **M9**

6. SLAUGHTER PREMIUM

Number of animals

	Deadline for submission	Ref	Information required	Slaughter		Export	
				Adults	Calves	Adults	Calves
Article 131(1)(a) Article 131(2)(a)(ii) Article 131(3)(a)	1 March	6.2	Number of animals applied for (full year)				
Article 131(1)(b)(i) Article 131(2)(b)(iv) Article 131(3)(b)(i)	31 July	6.3	Number of animals accepted (full year)				
Article 131(1)(b)(ii) Article 131(2)(b)(v) Article 131(3)(b)(ii)	31 July	6.4	Number of animals not accepted on account of the application of the ceiling				

Number of producers

	Deadline for submission	Ref	Information required	Slaughter		Export	
				Adults	Calves	Adults	Calves
Article 131(1)(b)(i) Article 131(2)(b)(iv) Article 131(3)(b)(i)	31 July	6.5	Number of producers granted premium				

▼ **M9**

7. SUCKLER COW QUOTA

	Deadline for submission	Ref	Balance of rights at start of year	Rights ceded to national reserve arising from		Rights obtained from national reserve	Balance of rights at end of year
				(a) Transfers without holding	(b) Insufficient use		
Article 106(3)	31 July	7.2					

▼B

ANNEX XIX

TABLE REFERRED TO IN ARTICLE 131, FOR THE APPLICATION OF PARAGRAPH 5 THEREOF

	Up to 100 % Slaughter premium (calves)	Up to 100 % Suckler cow premium	Up to 40 % Slaughter premium (bovine animals other than calves)	Up to 100 % Slaughter premium (bovine animals other than calves)	Up to 75 % Special premium
Reference in Regulation (EC) No 1782/ 2003	Article 68 (1)	Article 68 (2) (a)(i)	Article 68 (2)(a) (ii)	Article 68 (2)(b) (i)	Article 68 (2)(b) (ii)
Amount actually paid in EUR (after reduction laid down in Article 139)					

▼ **M12***ANNEX XX***MINIMUM SIZE OF ELIGIBLE AREA PER HOLDING UNDER THE SINGLE AREA PAYMENT SCHEME**

New Member States	Minimum size of eligible area per holding (ha)
Bulgaria	1 However, holdings with at least 0,5 ha of permanent crops may request payments
Cyprus	0,3
Czech Republic	1
Estonia	1
Hungary	1 However, holdings with more than 0,3 ha of orchards or vineyards may request payments
Latvia	1
Lithuania	1
Poland	1
Romania	1
Slovakia	1

▼ M12

ANNEX XXI

AGRICULTURAL AREA UNDER THE SINGLE AREA PAYMENT
SCHEME

New Member States	Agricultural area under the single area payment scheme referred to in Article 143b(4) of Regulation (EC) No 1782/2003 (thousands ha)
Bulgaria	3 805
Cyprus	140
Czech Republic	3 469
Estonia	800
Hungary	4 829
Latvia	1 475
Lithuania	2 574
Poland	14 337
Romania	8 716
Slovakia	► <u>M16</u> 1 880 ◀



ANNEX XXII

RAW MATERIALS REFERRED TO IN ARTICLE 148

CN code	Brief description of products
ex 0602 90 41	Short rotation forest trees with a harvest cycle of 20 years or less
ex 0602 90 49	Trees, shrubs and bushes, producing plant material covered by CN code 1211 and by Chapter 14 of the Combined Nomenclature, excluding all those which can be used for human or animal consumption
ex 0602 90 51	Outdoor multiannual plants (e.g. <i>Miscanthus sinensis</i>) other than those which can be used for human or animal consumption, in particular those producing plant material covered by CN code 1211, other than lavender, lavandin and sage, and by Chapter 14 of the Combined Nomenclature
ex 0602 90 59	<i>Euphorbia lathyris</i> , <i>Sylibum marianum</i> , <i>Polygonum tinctorium</i> and <i>Isatis tinctoria</i>
1211 90 95	<i>Digitalis lanata</i> , <i>Secale cornutum</i> and <i>Hypericum perforatum</i> , excluding plant material which can be used for human or animal consumption

▼B*ANNEX XXIII*

End-products that may be manufactured from raw materials listed in article 145:

- all products falling within Chapters 25 to 99 of the Combined Nomenclature,
- all products falling within Chapter 15 of the Combined Nomenclature and intended for uses other than human or animal consumption,
- products covered by CN code 2207 20 00 and intended for direct use in motor fuel or for processing for use in motor fuel,
- packaging material covered by CN codes ex 1904 10 and ex 1905 90 90, on condition that proof has been obtained that the products have been used for non-food purposes in accordance with Article 158(4) of this Regulation,
- mushroom spawn covered by CN code ►**C3** 0602 90 10 ◀,
- lac, natural gums, resins, gum-resins and balsams covered by CN code 1301,
- saps and extracts of opium covered by CN code 1302 11 00,
- saps and extracts of pyrethrum or of the roots of plants containing rotenone covered by CN Code 1302 14 00,
- other mucilages and thickeners covered by CN code 1302 39 00,

▼C2

- all agricultural products listed in Article 145(1) and products derived therefrom by an intermediate process and used as fuel for energy production,
- all products listed in Annex XXII and products derived therefrom and intended for energy purposes,

▼B

- *Miscanthus sinensis* falling within CN code 0602 90 51, shredded, intended for use as horse litter, mulch, additives to improve compost and litter for the drying and cleaning of plants, as well as this raw material or its fibber used as materials for construction
- all products referred to in Commission Regulation (EEC) No 1722/93 ⁽¹⁾, as last amended by Regulation (EC) No 216/2004 ⁽²⁾, on condition that they are not obtained from cereals or potatoes cultivated on land set aside and that they do not contain products derived from cereals or potatoes cultivated on land set aside,

▼M7

- all products referred to in Council Regulation (EC) No 318/2006 ⁽³⁾ on condition that they are not obtained from sugar beet cultivated on land set aside, and that they do not contain products derived from sugar beet cultivated on land set aside.

⁽¹⁾ OJ L 159, 1.7.1993, p. 112.

⁽²⁾ OJ L 36, 7.2.2004, p. 36.

⁽³⁾ OJ L 58, 28.2.2006, p. 1.

▼ **M4***ANNEX XXIV***Common methodology for the calculation of the olive area in olive GIS-ha**

The common methodology is based on an algorithm ⁽¹⁾ which derives the olive area from the position of olive trees using GIS-based automatic processing.

1. DEFINITIONS

For the purposes of this Annex:

- (a) 'olive-growing parcel' means a continuous tract of land covered by eligible olive trees in production each of which is less than a specified maximum distance from another eligible olive tree;
- (b) 'eligible olive tree' means an olive tree planted before 1 May 1998, or 31 December 2001 in the case of Cyprus and Malta, or a replacement olive tree or any olive tree planted under a programme approved by the Commission under Article 4 of Regulation (EC) No 1638/98 the existence of which is recorded in the geographical information system;

▼ **M11**

However, any planted olive tree is eligible for the calculation of the number of eligible hectares under Article 44 of Regulation (EC) No 1782/2003 (use of payment entitlements);

▼ **M4**

- (c) 'scattered eligible olive tree' means an olive tree in production which does not fulfil the conditions necessary to constitute a group of trees on an olive-growing parcel;
- (d) 'eligible olive tree in production' means a living eligible olive tree of a species classed as domestic, permanently established, irrespective of age or condition, possibly possessing several trunks separated from one another at the base by less than two metres.

2. STAGES OF THE ALGORITHM FOR THE AID FOR OLIVE GROVES

Stage 1: Neighbourhood analysis

The neighbourhood analysis parameter (P1) defines a maximum distance of proximity between eligible olive trees, stating whether they are scattered or belong to the same olive-growing parcel. P1 is the radius that originates from an eligible olive tree and defines a circle in which other eligible olive trees must fall to be considered as belonging to the same 'olive-growing perimeter'.

P1 is set at 20 metres, which corresponds to an agronomic maximum value in most regions. In certain extensively cultivated regions, to be identified by the Member States, where average planting distances are more than 20 metres, the Member State may decide to fix P1 as twice the regional average planting distance. In this case, the Member State must keep the documents justifying the application of this exception.

Eligible olive trees belonging to olive groves with planting distances greater than P1 are regarded as eligible scattered olive trees.

A first pass of the P1 parameter determines the proximity of eligible olive trees. A buffer is placed around all points (the olive tree barycentres), the polygons created as a result are merged, and a search on polygon size then determines the scattered eligible olive trees.

Stage 2: Attribution of a standard area to the scattered eligible olive trees

After applying P1, eligible olive trees are divided into two classes:

- eligible olive trees belonging to an olive-growing perimeter,
- scattered eligible olive trees.

The area attributed to a scattered eligible olive tree, P2, is set at 100 m², i.e. as a circle with radius of 5,64 m centred on the scattered eligible olive tree.

Stage 3: Application of the internal buffer P3

An area must be attributed to the olive-growing perimeter and a polygon, the shape of which represents the olive grove, must be determined.

⁽¹⁾ A method called OLIAREA, developed by the Joint Research Centre of the European Commission.

▼ **M4**

First, a network of lines is created linking all the eligible olive trees in the group whose distance from one tree to another is less than the distance P1.

Then an area defined as an 'internal buffer' is superimposed on each of these lines. The internal buffer is defined as the set of points whose distance from the network of lines is less than or equal to a value defined as the 'width of internal buffer'. In order to avoid the formation of islands which would be classified as 'non-olive grove' within a regularly planted olive grove, the width of the internal buffer must be one half the distance P1.

The combination of all internal buffers constitutes a preliminary approximation of the area to be attributed to the group of olive trees, i.e. the area of the olive grove.

Stage 4: Application of the external buffer P4

The final area of the olive grove and the final shape of the polygon that represents that area, are attributed by using a second buffer called the 'external buffer'.

An 'external buffer' is applied externally to the network of lines that link all the eligible olive trees bordering the olive grove. The external buffer is the set of points whose distance from a bordering line of the network is less than or equal to the value defined as the 'width of external buffer'. The external buffer is applied only to the outer side of each line bordering the network, while the internal buffer continues to be applied to the inner side.

The 'external' buffer is defined as half of the mean planting distance of the olive-growing parcel (δ), with a minimum threshold of 2,5 m.

The mean planting distance among eligible olive trees is calculated using the following formula:

$$\text{Mean planting distance } \delta = \sqrt{\frac{A}{N}}$$

where A = the area of the group of olive trees and N = the number of olive trees.

The mean planting distance will be calculated by means of successive iterations:

- the first mean planting distance δ_1 will be calculated using the area (A_1) obtained applying only P3 (internal buffer),
- a new area A^2 will be then calculated using as external buffer $\delta_2 = \delta_1/2$,
- A_n will be obtained in this way, when the difference between A_{n-1} and A_n is no longer considered significant.

P4 thus becomes:

$$P4 = \max [2,5 \text{ m}; 1/2 \delta_n]$$

$$\text{where } \delta_n = \sqrt{\frac{A}{N}}$$

Stage 5: Determination of the surface area

- **Stage 5a:** Determination of the Voronoi polygon

The external and internal buffers (P3 and P4) are combined to produce the final result. The output is a graphic layer, from which the olive-growing perimeter and the olive-growing area must be recorded in the olive GIS database.

Optionally, it may be converted to Voronoi polygons which attribute an area to each eligible olive tree. A Voronoi polygon is defined as 'a polygon whose interior consists of all points in the plane which are closer to a particular lattice point than to any other'.

- **Stage 5b:** Exclusion of areas falling outside the boundaries of the reference parcel

First the olive-growing perimeters must be superimposed on the reference parcel boundaries.

After that, the parts of olive-growing perimeters falling outside the reference parcel boundaries must be eliminated.

- **Stage 5c:** Incorporation of islands smaller than 100 m²

A tolerance must be applied by means of a threshold on the size of 'islands' (i.e. parts of the parcel which are not covered by eligible olive

▼ M4

trees, once the method has been applied), in order to avoid the formation of insignificant 'islands'. All 'islands' under 100 m² may be incorporated. The 'islands' to be considered are both:

- the 'internal islands' (within the olive-growing perimeter generated by OLIAREA) resulting from the application of the P1 and P3 parameters,
- the 'external islands' (inside the reference parcel but outside the olive-growing parcel) resulting from the application of P4 and the intersection between reference parcels and the olive-growing perimeters.

Stage 6: Exclusion of ineligible olive trees

Where ineligible olive trees are also present on the olive-growing parcel, the area obtained after stage 5 must be multiplied by the number of eligible olive trees and divided by the total number of olive trees on the olive-growing parcel. The area calculated in this way constitutes the olive-growing area eligible for the aid for olive groves.

3. STAGES OF THE ALGORITHM FOR THE SINGLE PAYMENT SCHEME

To determine the number of hectares to be taken into account for the purposes of Article 43(1) of and Annex VII(H) to Regulation (EC) No 1782/2003 (determination of the payment entitlements), stages 1 to 5 of the above algorithm shall apply, and stage 6 shall not apply. The area of the scattered olive trees referred to in stage 2 may not be considered, however.

In this case, at the end of stage 5, the Member States may decide to incorporate into the olive-growing area islands of agricultural land greater than 100 m² which have not produced any entitlement, during the reference period, to the direct payments listed in Annex VI to Regulation (EC) No 1782/2003, with the exclusion of areas under permanent crops and forests. If they decide to do this, this provision shall apply to all farmers in the Member State.

The Member States must keep a record of this derogation and of the checks carried out in the olive GIS.

▼ M11

The same approach shall be applied by the Member States which include the geographical information system for olive cultivation in the identification system for the agricultural parcels referred to in Article 20 of Regulation (EC) No 1782/2003 for the calculation of the number of eligible hectares under Article 44 of Regulation (EC) No 1782/2003 (use of payment entitlements).

▼ M4**4. IMPLEMENTATION**

The Member States shall implement this algorithm as a functionality of their olive GIS, adapted to their own system environment. The results of each stage of the algorithm must be recorded for each olive-growing parcel in the olive GIS.

▼ M7

ANNEX XXV

CLASSIFICATION OF TOBACCO VARIETIES

as referred to in Article 171ca

- I. FLUE-CURED
 - Virginia
 - Virginia D and hybrids thereof
 - Bright
 - Wiślica
 - Virginia SCR IUN
 - Wiktoria
 - Wiecha
 - Wika
 - Wala
 - Wisła
 - Wilia
 - Waleria
 - Watra
 - Wanda
 - Weneda
 - Wenus
 - DH 16
 - DH 17
 - Winta
 - Weronika
- II. LIGHT AIR-CURED
 - Burley
 - Badischer Burley and hybrids thereof
 - Maryland
 - Bursan
 - Bachus
 - Bożek
 - Boruta
 - Tennessee 90
 - Baca
 - Bocheński
 - Bonus
 - NC 3
 - Tennessee 86
 - Tennessee 97
 - Bazyl
 - Bms 3
- III. DARK AIR-CURED
 - Badischer Geudertheimer, Pereg, Korso

▼ M7

- Paraguay and hybrids thereof
- Dragon Vert and hybrids thereof
- Philippin
- Petit Grammont (Flobecq)
- Semois
- Appelterre
- Nijkerk
- Misionero and hybrids thereof
- Rio Grande and hybrids thereof
- Forchheimer Havanna IIc
- Nostrano del Brenta
- Resistente 142
- Goyano
- Hybrids of Geudertheimer
- Beneventano
- Brasile Selvaggio and similar varieties
- Fermented Burley
- Havanna
- Prezydent
- Mieszko
- Milenium
- Małopolanin
- Makar
- Mega
- IV. FIRE-CURED
 - Kentucky and hybrids
 - Moro di Cori
 - Salento
 - Kosmos
- V. SUN-CURED
 - Xanthi-Yaka
 - Perustitza
 - Samsun
 - Erzegovina and similar varieties
 - Myrodata Smyrnis, Trapezous and Phi I
 - Kaba Koulak (non-classic)
 - Tsebelia
 - Mavra
- VI. BASMAS
- VII. KATERINI AND SIMILAR VARIETIES
- VIII. KABA KOULAK (CLASSIC)
 - Elassona
 - Myrodata Agrinion
 - Zichnomyrodata

▼M4

ANNEX XXVI

RECOGNISED PRODUCTION AREAS

as referred to in Article 171cc

Group of varieties in accordance with Annex I	Member State	Production areas
I. Flue-cured	Germany	Schleswig-Holstein, Lower Saxony, Bavaria, Rheinland-Pfalz, Baden-Württemberg, Hessen, Saarland, Brandenburg, Mecklemburg-Pomerania, Saxony, Saxony-Anhalt, Thuringia
	Greece	
	France	Aquitaine, Midi-Pyrénées, Auvergne, Limousin, Champagne-Ardenne, Alsace, Lorraine, Rhône-Alpes, Franche-Comté, Provence-Alpes-Côte d'Azur, Pays-de-la-Loire, Centre, Poitou-Charentes, Brittany, Languedoc-Roussillon, Normandy, Burgundy, Nord-pas-de-Calais, Picardy, Île-de-France
	Italy	Friuli, Veneto, Lombardy, Piedmont, Tuscany, Marche, Umbria, Lazio, Abruzzi, Molise, Campania, Basilicata, Calabria
	Spain	Extremadura, Andalusia, Castile-Leon, Castile-La Mancha
	Portugal	Beiras, Ribatejo Oeste, Alentejo, Autonomous Region of the Azores
	Austria	
II. Light air-cured	Belgium	
	Germany	Rheinland-Pfalz, Baden-Württemberg, Hessen, Saarland, Bavaria, Brandenburg, Mecklemburg-Pomerania, Saxony, Saxony-Anhalt, Thuringia
	Greece	
	France	Aquitaine, Midi-Pyrénées, Languedoc-Roussillon, Auvergne, Limousin, Poitou-Charentes, Brittany, Pays-de-la-Loire, Centre, Rhône-Alpes, Provence-Alpes-Côte d'Azur, Franche-Comté, Alsace, Lorraine, Champagne-Ardenne, Picardy, Nord-Pas-de-Calais, Upper Normandy, Lower Normandy, Burgundy, Réunion, Île-de-France
	Italy	Veneto, Lombardy, Piedmont, Umbria, Emilia-Romagna, Lazio, Abruzzi, Molise, Campania, Basilicata, Sicily, Friuli, Tuscany, Marche
	Spain	Extremadura, Andalusia, Castile-Leon, Castile-La Mancha
	Portugal	Beiras, Ribatejo Oeste, Entre Douro e Minho, Trás-os-Montes, Autonomous Region of the Azores
Austria		

▼M4

Group of varieties in accordance with Annex I	Member State	Production areas
III. Dark air-cured	Belgium	
	Germany	Rheinland-Pfalz, Baden-Württemberg, Hessen, Saarland, Bavaria, Brandenburg, Mecklenburg-Pomerania, Saxony, Saxony-Anhalt, Thuringia
	France	Aquitaine, Midi-Pyrénées, Languedoc-Roussillon, Auvergne, Limousin, Poitou-Charentes, Brittany, Pays-de-la-Loire, Centre, Rhône-Alpes, Provence-Alpes-Côte d'Azur, Franche-Comté, Alsace, Lorraine, Champagne-Ardenne, Picardy, Nord-Pas-de-Calais, Upper Normandy, Lower Normandy, Burgundy, Réunion
	Italy	Friuli, Trentino, Veneto, Tuscany, Lazio, Molise, Campania, Sicily
	Spain	Extremadura, Andalusia, Castile-Leon, Castile-La Mancha, Valencia (Autonomous Community), Navarre, Rioja, Catalonia, Madrid, Galicia, Asturia, Cantabria, area of Compezo in the Basque Country, La Palma (Canary Islands)
IV. Fire-cured	Italy	Veneto, Tuscany, Umbria, Lazio, Campania, Marche
	Spain	Extremadura, Andalusia
V. Sun-cured	Greece	
	Italy	Lazio, Abruzzi, Molise, Campania, Basilicata, Sicily
VI. Basmás	Greece	
VII. Katerini and similar varieties	Greece	
	Italy	Lazio, Abruzzi, Campania, Basilicata
VIII. Kaba Koulak (classic) Ellassona, Myrodata Agrinion, Zichno-myrodata	Greece	

▼M4*ANNEX XXVII***MINIMUM QUALITY REQUIREMENTS****as referred to in Article 171cg**

Tobacco eligible for the premium referred to in Article 171ci must be of sound and fair merchantable quality having regard to the typical characteristics of the variety concerned and must not contain any of the following:

- (a) pieces of leaf;
- (b) leaf badly worn by hail;
- (c) leaf with serious damage on more than one third of the surface;
- (d) leaf diseased or attacked by insects on more than 25 % of the surface;
- (e) leaves marked by pesticides;
- (f) leaf which is unripe or distinctly green in colour;
- (g) leaf damaged by frost;
- (h) leaf attacked by mould or rot;
- (i) leaf with uncured veins, moist or attacked by rot or with pulpy or prominent stems;
- (j) leaf from suckers or side-shoots;
- (k) leaf having an unusual odour for the variety in question;
- (l) leaf with soil still adhering;
- (m) leaf with a moisture content exceeding the tolerances laid down in Annex XXVIII.

▼M8

ANNEX XXVIII

MOISTURE CONTENT
as referred to in Article 171cj

Group of varieties	Moisture content (%)	Tolerances (%)
I. Flue-cured	16	4
II. Light air-cured		
Germany, France, Belgium, Austria, Portugal — Autonomous Region of the Azores	22	4
Other Member States and other recognised production areas in Portugal	20	6
III. Dark air-cured		
Belgium, Germany, France, Austria	26	4
Other Member States	22	6
IV. Fire-cured	22	4
V. Sun-cured	16	4
VI. Basmás	16	4
VII. Katerini	16	4
VIII. Kaba Koulak (classic) Ellassona, Myrodata Agrinion, Zichnomyrodata	16	4

▼M4

ANNEX XXIX

COMMUNITY METHODS FOR THE DETERMINATION OF THE
MOISTURE CONTENT OF RAW TOBACCO

as referred to in Article 171ej

I. METHODS TO BE USED

A. **Beaudesson method**1. *Apparatus*

Beaudesson EM10 drying oven

A warm air electric dryer in which the air is passed over the sample to be dried by forced convection by means of a special ventilation fan. The moisture content is determined by weighing before and after drying, the balance being calibrated in such a way that the reading given by the 10 g quantity used corresponds directly to the moisture content value in %.

2. *Procedure*

A 10 g quantity is weighted out in a pan with a perforated base and then put into the drying column, where it is supported by a spiral ring. The oven is turned on for five minutes, during which time the warm air causes the sample to dry at a temperature of about 100 °C.

At the end of five minutes, an automatic timer stops the process. The temperature of the air at the end of the drying process is recorded from a built-in thermometer. The sample is weighed and its moisture content is read directly and corrected if necessary by the addition or subtraction of a 10th of a percentage according to the temperature reading, using the scale provided with the apparatus.

B. **Brabender method**1. *Apparatus*

Brabender oven

An electric dryer consisting of a thermostated cylindrical chamber, ventilated by forced convection, into which are simultaneously placed 10 metal pans, each containing 10 g of tobacco. These pans are put onto a table, which can be rotated by means of a central handwheel into 10 different positions, allowing each of the pans, after drying, to be placed in a position where it can be weighed within the apparatus: a system of levers allows each of the pans in turn to be placed on the arm of a built-in balance, without having to remove the samples from the chamber. The balance has an optical read-out scale, and gives a direct reading for the moisture content.

A second balance is attached to the apparatus, being used only to weigh out the initial quantities.

2. *Procedure*

The thermostat is set at 110 °C.

The chamber is set to preheat: minimum period 15 minutes.

10 quantities of 10 g are weighed out.

The oven is filled.

The samples are dried for 50 minutes.

Weights for determination of the gross moisture content are read.

C. **Other methods**

Member States may use other methods of measurement, based in particular on the determination of the electrical resistance or dielectric properties of the batch concerned, on condition that the results are calibrated on the basis of an examination of a representative sample using one of the methods referred to in A and B.

▼M4**II. SAMPLING**

The following is the procedure to be followed for the sampling of leaf tobacco for determination of its moisture content using one of the methods referred to in I.A and B:

1. Selection of samples

Select from each bale a number of leaves proportional to its weight. The number of leaves selected should be sufficient to be properly representative of the bale as a whole.

The sample must include equal quantities of leaf from the outside of the bale, leaf from the centre and leaf from a position intermediate to these.

2. Homogenisation

All the leaves selected are mixed together in a plastic bag and several kilograms of them are chopped up (cutting width 0,4 to 2 mm).

3. Sub-sampling

After chopping, mix the chopped leaves thoroughly and withdraw a representative sample.

4. Measurement

Measurement must be carried out on the whole of this reduced sample and precautions should be taken to ensure that:

- no variations in moisture content occur (air- and water-tight bag or container),
- the homogeneity of the sample is not affected by settling of waste.

III. SAMPLING LEVELS AND FREQUENCY AND THE METHOD FOR CALCULATING THE ADJUSTED WEIGHT

the number of samples to be taken to determine the moisture content of the raw tobacco must be equal to at least three per delivery for each group of varieties. Farmers and first processors may request on delivery for the number of samples taken to be increased,

the weight of the tobacco delivered per group of varieties in the course of the same day is to be adjusted according to the average moisture content measured. If the average moisture content is less than one point higher or lower than the reference moisture content, the weight of the tobacco eligible for the premium is not to be adjusted,

the adjusted weight is: the total net weight of the tobacco delivered per group of varieties in the course of the same day \times (100 – average moisture content)/(100 – reference moisture content for the variety in question). The average moisture content must be a whole number given by rounding down for decimals between 0,01 and 0,49 and rounding up for decimals between 0,50 and 0,99.

▼M4

ANNEX XXX

QUOTA BUY-BACKS FOR THE 2002 AND 2003 HARVESTS

as referred to in Article 171cp

Producers with a production quota of less than 10 tonnes					
Group of varieties	Year				
	1 st	2 nd	3 rd	4 th	5 th
Group I quotas	25 %	25 %	25 %	15 %	10 %
Group II quotas	25 %	25 %	25 %	15 %	10 %
Group III quotas					
— 2002 harvest	40 %	40 %	25 %	25 %	20 %
— 2003 harvest	75 %	75 %	50 %	25 %	25 %
Group IV quotas	25 %	25 %	25 %	15 %	10 %
Group V quotas	100 %	100 %	75 %	50 %	50 %
Group VI quotas	25 %	25 %	25 %	15 %	10 %
Group VII quotas	25 %	25 %	25 %	15 %	10 %
Group VIII quotas	25 %	25 %	25 %	15 %	10 %

Producers with a production quota of 10 tonnes or more up to 40 tonnes					
Group of varieties	Year				
	1 st	2 nd	3 rd	4 th	5 th
Group I quotas	25 %	25 %	20 %	10 %	10 %
Group II quotas	25 %	25 %	20 %	10 %	10 %
Group III quotas					
— 2002 harvest	35 %	35 %	20 %	20 %	20 %
— 2003 harvest	75 %	50 %	40 %	20 %	20 %
Group IV quotas	25 %	25 %	20 %	10 %	10 %
Group V quotas	90 %	90 %	50 %	50 %	50 %
Group VI quotas	25 %	25 %	20 %	10 %	10 %
Group VII quotas	25 %	25 %	20 %	10 %	10 %
Group VIII quotas	25 %	25 %	20 %	10 %	10 %

Producers with a production quota of 40 tonnes or more					
Group of varieties	Year				
	1 st	2 nd	3 rd	4 th	5 th
Group I quotas	20 %	20 %	20 %	10 %	10 %
Group II quotas	20 %	20 %	20 %	10 %	10 %
Group III quotas					
— 2002 harvest	30 %	30 %	20 %	15 %	15 %
— 2003 harvest	65 %	65 %	20 %	20 %	20 %
Group IV quotas	20 %	20 %	20 %	10 %	10 %
Group V quotas	75 %	75 %	40 %	40 %	40 %
Group VI quotas	20 %	20 %	20 %	10 %	10 %
Group VII quotas	20 %	20 %	20 %	10 %	10 %
Group VIII quotas	20 %	20 %	20 %	10 %	10 %