

Council Regulation (EC) No 1290/2005 of 21 June 2005 on
the financing of the common agricultural policy (repealed)

TITLE V

TRANSITIONAL AND FINAL PROVISIONS

Article 38

Expenditure under the EAGGF Guarantee Section other than on rural development

- 1 The Guarantee Section of the EAGGF shall finance the expenditure incurred by Member States in accordance with Article 2 and Article 3(2) and (3) of Regulation (EC) No 1258/1999 until 15 October 2006.
- 2 Expenditure by Member States from 16 October 2006 shall follow the rules laid down in this Regulation.

Article 39

Expenditure on rural development under the EAGGF Guarantee Section

- 1 For Member States belonging to the European Union before 1 May 2004, the following rules shall apply to rural development programmes for the period 2000 to 2006, which are financed by the EAGGF Guarantee Section in accordance with Article 3(1) of Regulation (EC) No 1258/1999.
 - a Payments to beneficiaries shall cease no later than 15 October 2006 and related expenditure by the Member States shall be reimbursed to them by the Commission no later than under the declaration concerning expenditure for October 2006. However, the Commission may in justified cases and in accordance with the procedure referred to in Article 41(2) authorise payments until 31 December 2006, subject to reimbursement of identical amounts to the EAGF of the advances made to the Member States for the period of implementation of these programmes under the second subparagraph of Article 5(1) of Regulation (EC) No 1258/1999.
 - b Advances made to the Member States for the period of implementation of these programmes under the second subparagraph of Article 5(1) of Regulation (EC) No 1258/1999 shall be deducted by them from expenditure financed by the EAGF at the latest with the declaration of expenditure for December 2006.
 - c At the request of the Member States, expenditure incurred by accredited paying agencies between 16 October and 31 December 2006 with the exception of expenditure authorised in accordance with the second sentence of point (a) of this Article shall be taken over by the EAFRD budget under the programming of rural development for 2007 to 2013.
 - d The financial resources available in a Member State on 1 January 2007 following reductions in or cancellations of the amounts of payments which that State has made voluntarily or by way of a penalty, under Articles 3, 4 and 5 of Regulation (EC) No 1259/1999, shall be used by that Member State to finance the rural development measures referred to in Article 4 of this Regulation.

- e If Member States do not use the financial resources referred to in paragraph (d) within a period to be determined in accordance with the procedure laid down in Article 41(2), the corresponding amounts shall be repaid to the EAGF budget.

2 For Member States joining the European Union on 1 May 2004, amounts committed to finance rural development measures in accordance with Article 3(1) under a Commission decision taken between 1 January 2004 and 31 December 2006, in respect of which the documents required for closure of the assistance have not been sent to the Commission by the end of the time allowed for transmission of the final report, shall be automatically decommitted by the Commission no later than 31 December 2010 and shall result in the reimbursement by the Member States of amounts wrongly received.

3 Amounts relating to operations or programmes which are the subject of legal proceedings or an administrative appeal which, under the legislation of the Member State, has a suspensory effect shall be excluded from the calculation of the amount to be automatically decommitted, as provided for in paragraphs 1 and 2.

Article 40

Expenditure under the EAGGF Guidance Section

1 Amounts committed to finance rural development measures from the EAGGF Guidance Section under a Commission decision adopted between 1 January 2000 and 31 December 2006, in respect of which the documents required for closure of the assistance have not been sent to the Commission by the end of the time allowed for transmission of the final report, shall be automatically decommitted by the Commission no later than 31 December 2010 and shall result in the reimbursement by the Member States of amounts wrongly received. The documents required for closure of the assistance shall be the declaration of expenditure relating to payment of the balance, the final implementing report and the declaration provided for in Article 38(1)(f) of Council Regulation (EC) No 1260/99 of 21 June 1999 laying down general provisions on the Structural Funds⁽¹⁾.

2 Amounts relating to operations or programmes which are the subject of legal proceedings or an administrative appeal which, under the legislation of the Member State, has a suspensory effect shall be excluded from the calculation of the amount to be automatically decommitted, as provided for in paragraph 1.

Article 41

Committee on the Funds

1 The Commission shall be assisted by a Committee on the Agricultural Funds (hereinafter referred to as the 'Committee').

2 Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply.

The period laid down in Article 4(3) of Decision 1999/468/EC shall be set at one month.

3 Where reference is made to this paragraph, Articles 3 and 7 of Decision 1999/468/EC shall apply.

4 The Committee shall adopt its Rules of Procedure.

Article 42

Scope

Detailed rules for the application of this Regulation shall be adopted by the Commission in accordance with the procedure provided for in Article 41(2). Pursuant to this Regulation and in particular Articles 6, 7, 8, 9, 16, 26, 28, 31, 32, 33, 34, 37 and 48 thereof, the Commission shall adopt:

1. the conditions applicable to the accreditation of paying agencies and certification bodies as well as the specific accreditation of coordinating bodies; their respective functions, the information required and the arrangements for it to be made available or transmitted to the Commission;
2. the conditions under which the tasks of the paying agencies may be delegated;
3. the admissible standards for certification, the nature of certification, its scope, and the time-limits in which certification must take place;
4. the implementing rules for the procedures for automatic decommitment, conformity clearance and the clearance of accounts;
5. arrangements for receiving and assigning revenue from the Member States;
6. the general rules applicable to on-the-spot checks;
7. the form, content, timing, deadlines and arrangements for transmitting or making available to the Commission:
 - declarations of expenditure and estimates of expenditure and their updates,
 - the statement of assurance and annual accounts of the paying agencies,
 - the account certification reports,
 - the names and particulars of accredited paying agencies, accredited coordinating bodies and certification bodies,
 - arrangements for taking account of and paying expenditure financed by the EAGF and the EAFRD,
 - notifications of financial adjustments made by Member States in connection with rural development operations or programmes, and summary reports on the recovery procedures undertaken by the Member States in response to irregularities,
 - information on the measures taken pursuant to Article 9,
8. rules on the conservation of documents and information;
9. the transitional measures necessary for this Regulation to be implemented.

Article 43

Annual financial report

By 1 September of each year following the budget year, the Commission shall draw up a financial report on the administration of the EAGF and the EAFRD during the previous financial year and shall submit it to the European Parliament and the Council.

Article 44

Confidentiality

Member States and the Commission shall take all necessary steps to ensure the confidentiality of the information communicated or obtained under inspection and clearance of accounts measures implemented under this Regulation.

The principles mentioned in Article 8 of Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities⁽²⁾ shall apply to that information.

Article 45

Use of the euro

1 The amounts given in the Commission decisions adopting rural development programmes, the amounts of commitments and payments by the Commission and the amounts of expenditure attested or certified and amounts in declarations of expenditure by the Member States shall be expressed and paid in euro.

2 Where a direct payment as provided for in Regulation (EC) No 1782/2003 is made to a beneficiary in a currency other than the euro, Member States shall convert the amount of aid expressed in euro into the national currency on the basis of the most recent exchange rate set by the European Central Bank prior to 1 October of the year for which the aid is granted.

3 Where paragraph 2 applies, reimbursements to Member States of the amounts paid to beneficiaries shall be made by the Commission on the basis of declarations of expenditure by the Member States. When drawing up those declarations of expenditure, Member States shall use the same conversion rate as that used for payment to the beneficiary.

Article 46

Amendment to Regulation (EEC) No 595/91

Regulation (EEC) No 595/91 is hereby amended as follows:

1. Article 5(2) shall be deleted;
2. Article 7(1) shall be deleted.

Article 47

Repeal

1 Regulation No 25, Regulation (EC) No 723/97 and Regulation (EC) No 1258/1999 are hereby repealed.

However, Regulation (EC) No 1258/1999 shall continue to apply until 15 October 2006 to expenditure incurred by Member States and until 31 December 2006 for expenditure incurred by the Commission.

2 References to the Regulations repealed shall be construed as references to this Regulation and shall be read in accordance with the correlation table in the Annex.

Article 48

Transitional measures

For the implementation of this Regulation, the Commission shall adopt the measures which are both necessary and duly justified to resolve, in cases of urgency, practical and specific problems, in particular those relating to the transition between the provisions of Regulations No 25, (EC) No 723/97 and (EC) No 1258/1999 and this Regulation. These measures may derogate from certain parts of this Regulation, but only to the extent and for the time strictly necessary.

Article 49

Entry into force

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 from 1 January 2007, except for Article 18(4), which shall apply as soon as it enters into force, without prejudice to the provisions of Article 47.

However, the following provisions shall apply from 16 October 2006:

- Articles 30 and 31, as regards expenditure incurred from 16 October 2006,
- Article 32, as regards cases notified under Article 3 of Regulation (EEC) No 595/91 and for which full recovery has not yet taken place by 16 October 2006,
- Articles 38, 39, 41, 44 and 45 for expenditure declared in 2006 under the 2007 budget year.

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

Status: This is the original version (as it was originally adopted).

- (1) OJ L 161, 26.6.1999, p. 1. Regulation as last amended by Regulation (EC) No 173/2005 (OJ L 29, 2.2.2005, p. 3).
- (2) OJ L 292, 15.11.1996, p. 2.