

Council Regulation (EC) No 1698/2005 of 20 September
2005 on support for rural development by the European
Agricultural Fund for Rural Development (EAFRD) (repealed)

TITLE IV

RURAL DEVELOPMENT SUPPORT

CHAPTER I

AXES

SECTION 2

Axis 2

Improving the environment and the countryside

Article 36

Measures

Support under this section shall concern:

- (a) measures targeting the sustainable use of agricultural land through:
 - (i) natural handicap payments to farmers in mountain areas;
 - (ii) payments to farmers in areas with handicaps, other than mountain areas;
 - (iii) Natura 2000 payments and payments linked to Directive 2000/60/EC;
 - (iv) agri-environment payments;
 - (v) animal welfare payments;
 - (vi) support for non-productive investments;
- (b) measures targeting the sustainable use of forestry land through:
 - (i) first afforestation of agricultural land;
 - (ii) first establishment of agroforestry systems on agricultural land;
 - (iii) first afforestation of non-agricultural land;
 - (iv) Natura 2000 payments;
 - (v) forest-environment payments;
 - (vi) restoring forestry potential and introducing prevention actions;
 - (vii) support for non-productive investments.

Status: Point in time view as at 01/01/2009.

Changes to legislation: There are outstanding changes not yet made to Council Regulation (EC) No 1698/2005 (repealed). Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details)

Subsection 1

Conditions for measures targeting the sustainable use of agricultural land

Article 37

Natural handicap payments in mountain areas and payments in other areas with handicaps

1 Payments provided for in Article 36(a)(i) and (ii) shall be granted annually per hectare of utilised agricultural area (hereinafter UAA) within the meaning of Commission Decision 2000/115/EC of 24 November 1999 relating to the definitions of the characteristics, the list of agricultural products, the exceptions to the definitions and the regions and districts regarding the surveys on the structure of agricultural holdings⁽¹⁾.

Payments should compensate for farmers' additional costs and income forgone related to the handicap for agricultural production in the area concerned.

2 Payments shall be granted to farmers who undertake to pursue their farming activity in areas designated pursuant to Article 50(2) and (3) for at least five years from the first payment.

3 Payments shall be fixed between the minimum and maximum amount laid down in the [F1Annex I].

Payments higher than the maximum amount may be granted in duly justified cases provided that the average amount of all these payments granted at the Member State level concerned does not exceed this maximum amount.

4 Payments shall be degressive above a threshold level of area per holding, to be defined in the programme.

Textual Amendments

- F1** Substituted by [Council Regulation \(EC\) No 74/2009 of 19 January 2009 amending Regulation \(EC\) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development \(EAFRD\)](#).

Article 38

Natura 2000 payments and payments linked to Directive 2000/60/EC

1 Support provided for in Article 36(a)(iii), shall be granted annually and per hectare of UAA to farmers in order to compensate for costs incurred and income foregone resulting from disadvantages in the areas concerned related to the implementation of Directives 79/409/EEC, 92/43/EEC and 2000/60/EC.

2 Support shall be limited to the maximum amount laid down in the [F1Annex I]. For payments linked to Directive 2000/60/EC, detailed rules, including the maximum amount of support, shall be fixed in accordance with the procedure referred to in Article 90(2).

Status: Point in time view as at 01/01/2009.

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Textual Amendments

- F1** Substituted by Council Regulation (EC) No 74/2009 of 19 January 2009 amending Regulation (EC) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD).

Article 39

Agri-environment payments

1 Member States shall make available support provided for in Article 36(a)(iv) throughout their territories, in accordance with their specific needs.

2 Agri-environment payments shall be granted to farmers who make on a voluntary basis agri-environmental commitments. Where duly justified to achieve environmental objectives, agri-environment payments may be granted to other land managers.

3 Agri-environment payments cover only those commitments going beyond the relevant mandatory standards established pursuant to Articles 4 and 5 of and Annexes III and IV to Regulation (EC) No 1782/2003 as well as minimum requirements for fertiliser and plant protection product use and other relevant mandatory requirements established by national legislation and identified in the programme.

These commitments shall be undertaken as a general rule for a period between five and seven years. Where necessary and justified, a longer period shall be determined according to the procedure referred to in Article 90(2) for particular types of commitments.

[^{F2}Member States may put an end to such commitments, without obligation for the beneficiary concerned to reimburse support already received, provided that:

- a support under Regulation (EC) No 73/2009 is newly made available in the framework of which rules are applied which produce global agri-environmental effects equivalent to those of the agri-environmental measure which is closed;
- b such support is not financially less favourable for the beneficiary concerned;
- c the beneficiary concerned is informed of this possibility at the time he undertakes his commitments.]

4 The payments shall be granted annually and shall cover additional costs and income foregone resulting from the commitment made. Where necessary, they may cover also transaction cost.

Where appropriate, the beneficiaries may be selected on the basis of calls for tender, applying criteria of economic and environmental efficiency.

Support shall be limited to the maximum amount laid down in the [^{F1}Annex I].

5 Support may be provided for the conservation of genetic resources in agriculture for operations not covered by the provisions under paragraphs 1 to 4.

Status: Point in time view as at 01/01/2009.

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Textual Amendments

- F1** Substituted by Council Regulation (EC) No 74/2009 of 19 January 2009 amending Regulation (EC) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD).
- F2** Inserted by Council Regulation (EC) No 74/2009 of 19 January 2009 amending Regulation (EC) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD).

Article 40

Animal welfare payments

1 Animal welfare payments provided for in Article 36(a)(v) shall be granted to farmers who make on a voluntary basis animal welfare commitments.

2 Animal welfare payments cover only those commitments going beyond the relevant mandatory standards established pursuant to Article 4 of and Annex III to Regulation (EC) No 1782/2003 and other relevant mandatory requirements established by national legislation and identified in the programme.

These commitments shall be undertaken as a general rule for a period between five and seven years. Where necessary and justified, a longer period shall be determined according to the procedure referred to in Article 90(2) for particular types of commitments.

3 The payments shall be granted annually and shall cover additional costs and income foregone resulting from the commitment made. Where necessary, they may cover also transaction cost.

Support shall be limited to the maximum amount laid down in the ^{F1}Annex I].

Textual Amendments

- F1** Substituted by Council Regulation (EC) No 74/2009 of 19 January 2009 amending Regulation (EC) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD).

Article 41

Non-productive investments

Support provided in Article 36(a)(vi) shall be granted for:

- (a) investments linked to the achievement of commitments undertaken pursuant to the measure provided for in Article 36(a)(iv) or other agri-environmental objectives;
- (b) on-farm investments which enhance the public amenity value of a Natura 2000 area or other high nature value areas to be defined in the programme.

Status: Point in time view as at 01/01/2009.

Changes to legislation: There are outstanding changes not yet made to Council Regulation (EC) No 1698/2005 (repealed). Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details)

Subsection 2

Conditions for measures targeting the sustainable use of forestry land

Article 42

General conditions

1 Support under this subsection shall be granted only for forests and wooded areas owned by private owners or by their associations or by municipalities or their associations. This limitation does not apply to the tropical or subtropical forests and to the wooded areas of the territories of the Azores, Madeira, the Canary Islands, the smaller Aegean Islands within the meaning of Regulation (EEC) No 2019/93 and the French overseas departments.

This restriction shall not apply to the support provided for in Article 36(b)(i), (iii), (vi) and (vii).

2 Measures proposed under this subsection in areas classified as high or medium forest fire risk within the framework of the Community action on protection of forests against fires shall conform to the forest protection plans established by the Member States for those areas.

Article 43

First afforestation of agricultural land

1 Support provided for in Article 36(b)(i), shall cover only one or more of the following:

- a establishment costs;
- b an annual premium per hectare afforested to contribute to covering maintenance costs for a maximum of five years,
- c an annual premium per hectare to contribute to covering loss of income resulting from afforestation for a maximum of 15 years for farmers or associations thereof who worked the land before its afforestation or for any other natural person or private law body.

2 Support for the afforestation of agricultural land owned by public authorities shall cover only the cost of establishment. If the agricultural land to be afforested is rented by a natural person or private law body, the annual premiums referred to in paragraph 1 may be granted.

3 Support for the afforestation of agricultural land shall not be granted:

- a for farmers benefiting from early retirement support;
- b for the planting of Christmas trees.

In the case of fast-growing species for short-term cultivation, support for afforestation shall be granted for establishment costs only.

4 Support to farmers or other natural persons and private law bodies shall be limited to the maxima laid down in the ^{F1}Annex I].

Textual Amendments

- F1** Substituted by Council Regulation (EC) No 74/2009 of 19 January 2009 amending Regulation (EC) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD).

Status: Point in time view as at 01/01/2009.

Changes to legislation: There are outstanding changes not yet made to Council Regulation (EC) No 1698/2005 (repealed). Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details)

Article 44

First establishment of agroforestry systems on agricultural land

1 Support provided for in Article 36(b)(ii), shall be granted to farmers to create agroforestry systems combining extensive agriculture and forestry systems. Support shall cover the establishment costs.

2 Agroforestry systems refer to land use systems in which trees are grown in combination with agriculture on the same land.

3 Christmas trees and fast-growing species for short-term cultivation shall be excluded from support.

4 Support shall be limited to the maximum rate laid down in the [F1Annex I].

Textual Amendments

F1 Substituted by [Council Regulation \(EC\) No 74/2009 of 19 January 2009 amending Regulation \(EC\) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development \(EAFRD\)](#).

Article 45

First afforestation of non-agricultural land

1 Support provided for in Article 36(b)(iii) for afforestation of land not eligible under Article 36(b)(i) shall cover the establishment costs. In the case of abandoned farmland, support shall also cover the annual premium as referred to in Article 43(1)(b).

2 Support shall not be granted for the planting of Christmas trees.

3 When support covering establishment costs is granted to natural persons or private law bodies, it shall be limited to the maximum rate laid down in the [F1Annex I].

Textual Amendments

F1 Substituted by [Council Regulation \(EC\) No 74/2009 of 19 January 2009 amending Regulation \(EC\) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development \(EAFRD\)](#).

Article 46

Natura 2000 payments

Support provided for in Article 36(b)(iv), shall be granted annually and per hectare of forest to private forest owners or associations thereof in order to compensate for costs incurred and income foregone resulting from the restrictions on the use of forests and other wooded land due to the implementation of Directives 79/409/EEC and 92/43/

Status: Point in time view as at 01/01/2009.

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EEC in the area concerned. Support shall be fixed between the minimum and maximum amounts laid down in the ^[F1]Annex I].

Textual Amendments

- F1** Substituted by [Council Regulation \(EC\) No 74/2009 of 19 January 2009 amending Regulation \(EC\) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development \(EAFRD\)](#).

Article 47

Forest-environment payments

1 Forest-environment payments provided for in Article 36(b)(v), shall be granted per hectare of forest to beneficiaries who make forest-environmental commitments on a voluntary basis. These payments shall cover only those commitments going beyond the relevant mandatory requirements.

These commitments shall be undertaken as a general rule for a period between five and seven years. Where necessary and justified, a longer period shall be determined in accordance with the procedure referred to in Article 90(2) for particular types of commitments.

2 The payments shall cover additional costs and income foregone resulting from the commitment made. Support shall be fixed between the minimum and maximum amounts laid down in the ^[F1]Annex I].

Textual Amendments

- F1** Substituted by [Council Regulation \(EC\) No 74/2009 of 19 January 2009 amending Regulation \(EC\) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development \(EAFRD\)](#).

Article 48

Restoring forestry potential and introducing prevention actions

1 Support provided for in Article 36(b)(vi), shall be granted for restoring forestry potential in forests damaged by natural disasters and fire and for introducing appropriate prevention actions.

2 Preventive actions against fires shall concern forests classified by the Member States as high or medium forest fire risk according to their forest protection plans.

Article 49

Non-productive investments

Support provided in Article 36(b)(vii), shall be granted for investments in forests:

Status: Point in time view as at 01/01/2009.

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- (a) linked to the achievement of commitments undertaken pursuant to the measure provided for in Article 36(b)(v), or other environmental objectives;
- (b) which enhance the public amenity value of forest and wooded land of the area concerned.

Subsection 3

Designation of areas

Article 50

Eligible areas

1 Member States shall designate the areas eligible for payments provided for in Article 36(a)(i), (ii) and (iii) as well as in Article 36(b)(i), (iii), (iv) and (vi), taking into account paragraphs 2 to 5 of this Article.

2 In order to be eligible for payments provided for in Article 36(a)(i) mountain areas shall be characterised by a considerable limitation of the possibilities for using the land and an appreciable increase in the cost of working it due to:

- a the existence, because of altitude, of very difficult climatic conditions, the effect of which is substantially to shorten the growing season;
- b at a lower altitude, the presence over the greater part of the area in question of slopes too steep for the use of machinery or requiring the use of very expensive special equipment, or a combination of these two factors, where the handicap resulting from each taken separately is less acute but the combination of the two gives rise to an equivalent handicap.

Areas north of the 62nd parallel and certain adjacent areas shall be regarded as mountain areas.

3 In order to be eligible for payments provided for in Article 36(a)(ii), areas other than mountain areas referred to in paragraph 2 of this Article must be:

- a affected by significant natural handicaps, notably a low soil productivity or poor climate conditions and where maintaining extensive farming activity is important for the management of the land; or
- b affected by specific handicaps, and where land management should be continued in order to conserve or improve the environment, maintain the countryside and preserve the tourist potential of the area or in order to protect the coastline.

As concerns areas affected by specific handicaps referred to in point (b), they shall comprise farming areas which are homogeneous from the point of view of natural production conditions and their total extent shall not exceed 10 % of the area of the Member State concerned.

4 In the programmes, the Member States, according to specific provisions to be defined in accordance with the procedure referred to in Article 90(2), shall:

- confirm the existing delimitation pursuant to paragraphs 2 and 3(b) or amend it, or
- delimitate the areas referred to in paragraph 3(a).

Status: Point in time view as at 01/01/2009.

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5 Natura 2000 agricultural areas designated pursuant to Directives 79/409/EEC and 92/43/EEC and agricultural areas included in river basin management plans according to Directive 2000/60/EC shall be eligible for payments provided for in Article 36(a)(iii).

6 Areas apt for afforestation for environmental reasons such as protection against erosion or extension of forest resources contributing to climate change mitigation, shall be eligible for payments provided for in Article 36(b)(i) and (iii).

7 Natura 2000 forest areas designated pursuant to Directives 79/409/EEC and 92/43/EEC, shall be eligible for payments provided for in Article 36(b)(iv).

8 Forest areas with a medium to high forest fire risk shall be eligible for payments provided for in Article 36(b)(vi) relating to prevention actions against fires.

Subsection 4

Respect of standards

F² Article 50a

Main requirements

1 A beneficiary receiving payments under Article 36(a)(i) to (v) and Article 36(b)(i), (iv) and (v) shall respect, on the whole holding, the statutory management requirements and the good agricultural and environmental condition provided for in Articles 5 and 6 of, and in Annexes II and III to, Regulation (EC) No 73/2009.

The obligation to comply with the statutory management requirements and the good agricultural and environmental condition referred to in the first subparagraph shall not apply to non-agricultural activities on a holding and non-agricultural areas for which no support in accordance with Articles 36(b)(i), (iv) and (v) of this Regulation is claimed.

2 The competent national authority shall provide the beneficiary, *inter alia* by the use of electronic means, with the list of statutory management requirements and the good agricultural and environmental condition to be respected.]

Textual Amendments

- F2** Inserted by Council Regulation (EC) No 74/2009 of 19 January 2009 amending Regulation (EC) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD).

Article 51

Reduction or exclusion from payments

1 Where beneficiaries receiving payments under Article 36(a)(i) to (v) and Article 36(b)(i), (iv) and (v) do not respect on the whole holding, as a result of an action or omission directly attributable to them, the mandatory requirements provided for in Articles 4 and 5 of and in Annexes III and IV to Regulation (EC) No 1782/2003, the total amount of their payments to be granted in the calendar year in which the non-compliance occurs shall be reduced or cancelled.

Status: Point in time view as at 01/01/2009.

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The reduction or cancellation referred to in the first subparagraph shall also apply in cases where the beneficiaries receiving payments under Article 36(a)(iv) do not respect on the whole holding, as a result of an action or omission directly attributable to them, the minimum requirements for fertiliser and plant protection product use referred to in Article 39(3).

2 The reduction or cancellation of payments referred to in paragraph 1 shall not apply for standards for which a period of grace has been granted in accordance with Article 26(1)(b) during the period of grace.

3 By way of derogation from paragraph 1, for beneficiaries in Member States applying the single area payment scheme as provided for in Article 143b of Regulation (EC) No 1782/2003, the mandatory requirements to be respected are those provided for in Article 5 of and Annex IV to that Regulation.

[^{F3}The derogation provided for in the first subparagraph shall apply until 31 December 2008. As from 1 January 2009 a farmer receiving payments under the single area payment scheme shall respect the statutory management requirements referred to in Annex III to Regulation (EC) No 1782/2003 according to the following timetable:

- a requirements referred to in point A of Annex III shall apply from 1 January 2009;
- b requirements referred to in point B of Annex III shall apply from 1 January 2011;
- c requirements referred to in point C of Annex III shall apply from [^{F1}1 January 2013].

However, for Bulgaria and Romania, the application of Articles 3, 4, 6, 7 and 9 of Regulation (EC) No 1782/2003 shall be optional until 31 December 2011 insofar as those provisions relate to statutory management requirements. As from 1 January 2012 a farmer receiving payments under the single area payment scheme shall respect the statutory management requirements referred to in Annex III to Regulation (EC) No 1782/2003 according to the following timetable:

- a requirements referred to in point A of Annex III shall apply from 1 January 2012;
- b requirements referred to in point B of Annex III shall apply from 1 January 2014;
- c requirements referred to in point C of Annex III shall apply from [^{F1}1 January 2016].

The new Member States may also apply the option provided for in the second subparagraph where they decide to terminate the application of the single area payment scheme before the end of the period of application provided for in Article 143b(9) of Regulation (EC) No 1782/2003.]

4 Detailed rules for the reductions and exclusions shall be laid down in accordance with the procedure referred to in Article 90(2). In this context account shall be taken of the severity, extent, permanence and repetition of non-compliance.

5 Paragraphs 1 to 4 shall not apply to Article 39(5).

Textual Amendments

- F1** Substituted by [Council Regulation \(EC\) No 74/2009 of 19 January 2009 amending Regulation \(EC\) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development \(EAFRD\)](#).
- F3** Substituted by [Council Regulation \(EC\) No 146/2008 of 14 February 2008 amending Regulation \(EC\) No 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers and Regulation \(EC\) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development \(EAFRD\)](#).

Status: Point in time view as at 01/01/2009.

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- (1) [OJ L 38, 12.2.2000, p. 1](#). Decision as last amended by Regulation (EC) No 2139/2004 ([OJ L 369, 16.12.2004, p. 26](#)).

Status:

Point in time view as at 01/01/2009.

Changes to legislation:

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