

Commission Regulation (EC) No 1974/2006 of 15 December 2006
laying down detailed rules for the application of Council Regulation
(EC) No 1698/2005 on support for rural development by the European
Agricultural Fund for Rural Development (EAFRD) (repealed)

CHAPTER III

Rural development measures

Section 1

Rural development measures per axis

Sub-section 1

Axis 1

Article 13

1 The conditions for support for the setting up of young farmers provided for in Article 22(1) of Regulation (EC) No 1698/2005 shall be met at the time when the application for support is lodged.

However, a period not exceeding 36 months may be allowed from the date the individual decision to grant support is taken in order to meet the conditions relating to occupational skills and competence referred to in Article 22(1)(b) of Regulation (EC) No 1698/2005, if the young farmer needs a period of adaptation in which to set up or to restructure the holding, provided that the business plan referred to in point (c) of that paragraph provides for such a need.

2 The business plan referred to in Article 22(1)(c) of Regulation (EC) No 1698/2005 shall describe at least:

- a the initial situation of the agricultural holding and specific milestones and targets for the development of the activities of the new holding;
- b details of investments, training, advice or any other action required for the development of the activities of the agricultural holding.

3 Compliance with the business plan shall be assessed by the competent authority no later than five years from the date of the individual decision granting support. Member States shall, taking account of the circumstances in which the business plan is implemented, define the conditions for recovery of support already received if the young farmer fails to comply with the provisions of the business plan at the time of the assessment.

4 The individual decision to grant support for the setting up of young farmers shall be taken no later than 18 months after setting up as defined by the provisions in force in the Member States. In the case of support in the form of a single premium as set out in the Annex to Regulation (EC) No 1698/2005 and for the purpose of paragraph 3 of this Article, a Member State may divide its payment into up to five instalments.

Status: Point in time view as at 15/12/2006.

Changes to legislation: There are outstanding changes not yet made to Commission Regulation (EC) No 1974/2006 (repealed).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)

5 Member States may decide that where the business plan makes reference to the use of other rural development measures provided for in Regulation (EC) No 1698/2005, the approval of the young farmer's application by the competent authority also gives access to those other measures. In such case, the information to be supplied by the applicant must be sufficiently detailed to support an application for support under those other measures.

6 Specific conditions may be applied in a situation where a young farmer is not established as sole head of the agricultural holding. Those conditions must be equivalent to those required for a young farmer setting up as sole head of a holding.

Article 14

1 When a farm is transferred by several transferors, overall support for early retirement pursuant to Article 23 of Regulation (EC) No 1698/2005 shall be limited to the amount provided for one transferor.

2 Non-commercial farming activity continued by the transferor shall not be eligible for support under the Common Agricultural Policy.

3 A tenant farmer may transfer the released land to the owner provided that the lease is terminated and the requirements relating to the transferee laid down in Article 23(3) of Regulation (EC) No 1698/2005 are complied with.

4 Member States may make provision for released land to be taken in charge by a body which undertakes to reassign it at a later date to transferees who satisfy the conditions laid down in Article 23(3) of Regulation (EC) No 1698/2005.

Article 15

1 The advisory services to farmers for which support may be granted under Article 24 of Regulation (EC) No 1698/2005 shall be in accordance with Chapter 3 of Title II of Council Regulation (EC) No 1782/2003⁽¹⁾ and implementing provisions thereof.

2 The authorities and bodies selected to provide advisory services to farmers shall have appropriate resources in the form of qualified staff, administrative and technical facilities and advisory experience and reliability with respect to the requirements, conditions and standards referred to in points (a) and (b) of the second subparagraph of Article 24(1) of Regulation (EC) No 1698/2005.

Article 16

A degressive rate of support for setting-up of management, relief and advisory services as referred to in Article 25 of Regulation (EC) No 1698/2005 shall be established in the rural development programmes, providing for a reduction of support in equal amounts from the first year of support, in such a way that support is completely phased out in the sixth year at the latest from the setting up of those services.

Article 17

1 In the case of support for investments for the modernisation of agricultural holdings in order to comply with newly introduced Community standards as provided for in the second subparagraph of Article 26(1) of Regulation (EC) No 1698/2005, the relevant standards shall be met by the end of the period of grace provided for in that subparagraph.

2 Where investments are undertaken by young farmers receiving support as referred to in Article 22 of Regulation (EC) No 1698/2005 in order to comply with existing Community

Status: Point in time view as at 15/12/2006.

Changes to legislation: There are outstanding changes not yet made to Commission Regulation (EC) No 1974/2006 (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)

standards, the relevant standards shall be met by the end of the period of grace provided for in the third subparagraph of Article 26(1) of that Regulation.

Article 18

1 For the purpose of Article 27(2) of Regulation (EC) No 1698/2005 forest management plans appropriate to the size and use of the forest area shall be based on relevant national legislation as well as existing land use plans and they shall adequately cover the forest resources.

2 Operations for the improvement of the economic value of forests as referred to in Article 27 of Regulation (EC) No 1698/2005 shall concern investments at the level of the forestry holding, and may include investments for harvesting equipment.

Activities related to regeneration after final felling shall be excluded from support.

3 Forests referred to in Article 30(4) of this Regulation shall be excluded from the scope of the first sentence of Article 27(1) of Regulation (EC) No 1698/2005.

Article 19

1 In the case of support for investments for adding value to agricultural and forestry products in order to comply with newly introduced Community standards as provided for in the second subparagraph of Article 28(1)(c) of Regulation (EC) No 1698/2005, the relevant standards shall be met by the end of the period of grace provided for in that subparagraph.

2 In the case of support for investments for adding value to forestry products, investments related to the use of wood as a raw material shall be limited to all working operations prior to industrial processing.

Article 20

Costs for cooperation for the development of new products, processes and technologies in the agricultural and food sector and in the forestry sector, as referred to in Article 29(2) of Regulation (EC) No 1698/2005, shall concern preparatory operations, such as design, product, process or technology development and tests and tangible and/or intangible investments related to the cooperation, before the use of the newly developed products, processes and technologies for commercial purposes.

Article 21

1 The level of support for meeting standards based on Community legislation referred to in Article 31 of Regulation (EC) No 1698/2005 shall be modulated by the Member States per standard with regard to the level of obligations resulting from the application of the standard. Payment shall be phased out over the maximum period of five years referred to in paragraph 2 of that Article.

2 Costs related to investments shall not be taken into account when determining the level of annual support for meeting standards based on Community legislation referred to in Article 31 of Regulation (EC) No 1698/2005.

Article 22

1 Community quality schemes referred to in Article 32(1)(b) of Regulation (EC) No 1698/2005 shall be those established under the following Regulations and provisions:

- a Council Regulation (EEC) No 2092/91⁽²⁾;
- b Council Regulation (EC) No 509/2006⁽³⁾;
- c Council Regulation (EC) No 510/2006⁽⁴⁾;

Status: Point in time view as at 15/12/2006.

Changes to legislation: There are outstanding changes not yet made to Commission Regulation (EC) No 1974/2006 (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)

d Title VI of Council Regulation (EC) No 1493/1999⁽⁵⁾.

2 To be eligible for support, food quality schemes recognised by the Member States, as referred to in Article 32(1)(b) of Regulation (EC) No 1698/2005, shall comply with the following criteria:

- a the specificity of the final product under such schemes shall be derived from detailed obligations on farming methods that guarantee:
 - specific characteristics including the production process, or
 - a quality of the final product that goes significantly beyond the commercial commodity standards as regards public, animal or plant health, animal welfare or environmental protection;
- b the schemes involve binding product specifications and compliance with those specifications shall be verified by an independent inspection body;
- c the schemes shall be open to all producers;
- d the schemes shall be transparent and assure complete traceability of the products;
- e the schemes shall respond to current and foreseeable market opportunities.

3 Support may be granted to farmers participating in a food quality scheme only if the quality product or foodstuff has been officially recognised under the Regulations and provisions listed in paragraph 1, or in a food quality scheme recognised by a Member State as referred to in paragraph 2.

As regards the food quality schemes referred to in paragraph 1(b) and (c), support may only be granted in respect of products registered in a Community register.

4 Where a support for participation in a food quality scheme under Regulation (EEC) No 2092/91 for a specific product is included in a rural development programme, the fixed costs resulting from the participation in that quality scheme shall not be taken into account in calculating the amount of support in the framework of an agri-environment measure to support organic farming for the same product.

5 For the purpose of Article 32(1)(c) of Regulation (EC) No 1698/2005, ‘fixed costs’ shall mean the costs incurred for entering a supported food quality scheme and the annual contribution for participating in that scheme, including, where necessary, expenditure on checks required to verify compliance with the specifications of the scheme.

Article 23

1 For the purposes of Article 20(c)(iii) of Regulation (EC) No 1698/2005, ‘producer group’ shall mean an organisation, in whatever legal form, which brings together operators actively participating in a food quality scheme as referred to in Article 32 of that Regulation for a specific agricultural product or foodstuff. Professional and/or inter-professional organisations representing one or more sectors cannot qualify as ‘producer groups’.

2 The information and promotion activities eligible for support under Article 33 of Regulation (EC) No 1698/2005 shall be activities designed to induce consumers to buy the agricultural products or foodstuffs covered by food quality schemes included in the rural development programme under Article 32 of that Regulation.

Such activities shall draw attention to the specific features or advantages of the products concerned, notably the quality, specific production methods, high animal welfare standards and respect for the environment linked to the food quality scheme concerned, and may include the dissemination of scientific and technical knowledge about those products. Such activities shall include, in particular, the organisation of,

Status: Point in time view as at 15/12/2006.

Changes to legislation: There are outstanding changes not yet made to Commission Regulation (EC) No 1974/2006 (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)

and/or participation in, fairs and exhibitions, similar public relations exercises and advertising via the different channels of communication or at the points of sale.

3 Only information, promotion and advertising activities in the internal market shall be eligible for support pursuant to Article 20(c)(iii) of Regulation (EC) No 1698/2005.

Such activities shall not incite consumers to buy a product due to its particular origin, except for products covered by the quality scheme introduced by Regulation (EC) No 510/2006 and those under Regulation (EC) No 1493/1999. The origin of a product may nevertheless be indicated provided the mention of the origin is subordinate to the main message.

Activities related to the promotion of commercial brands shall not be eligible for support.

4 When activities referred to in paragraph 2 concern a product included in a food quality scheme referred to in Article 22(1)(a), (b) or (c), the Community logo provided for under those schemes shall appear on information, promotion and/or advertising material.

5 Information and promotion activities supported under Regulation (EC) No 2826/2000 shall not qualify for support pursuant to Article 20(c)(iii) of Regulation (EC) No 1698/2005.

6 The Member States shall ensure that all draft information, promotion and advertising materials drawn up in the context of a supported activity comply with Community legislation. To that end, beneficiaries shall transmit such draft materials to the competent authority of the Member State.

Article 24

1 The business plan referred to in Article 34 of Regulation (EC) No 1698/2005 shall comply with the following:

- a provide evidence that the farm can become economically viable, taking account, where applicable, of the complementarity of other sources of income of the farm household;
- b contain details of the investments required;
- c describe specific milestones and targets.

2 Where the business plan referred to in Article 34 of Regulation (EC) No 1698/2005 makes reference to the use of other rural development measures, it must be sufficiently detailed to support an application for assistance under those other measures.

3 For the purpose of Article 34(2) of Regulation (EC) No 1698/2005, the Member States, taking account of the circumstances in which the business plan is implemented, shall not make any further payment of support if the semi-subsistence farmer fails to comply with the provisions of the business plan at the time of the assessment.

Article 25

1 In the case of Malta, in order to set the minimum support for a sector of production where the total output is extremely small, in accordance with the Annex to Regulation (EC) No 1698/2005, only producer groups comprising a minimum percentage of the producers in the sector concerned and representing a minimum percentage of the production in that sector shall be eligible for that minimum support.

The minimum percentages of producers and production as well as the sectors concerned shall be determined in Malta's rural development programme.

Status: Point in time view as at 15/12/2006.

Changes to legislation: There are outstanding changes not yet made to Commission Regulation (EC) No 1974/2006 (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)

2 The minimum amount of support for producer groups in Malta, calculated on the basis of the costs necessary to form a small producer group, is set in Annex III.

Sub-section 2

Axis 2

Article 26

Beneficiaries of support pursuant to Article 38 of Regulation (EC) No 1698/2005 shall not be eligible for support pursuant to Article 31 of that Regulation, as regards the implementation of Council Directives 79/409/EEC⁽⁶⁾ and 92/43/EEC⁽⁷⁾.

Article 27

1 For the purpose of Article 39(1) to (4) and Article 40 of Regulation (EC) No 1698/2005, paragraphs 2 to 13 of this Article shall apply as relevant.

2 Any commitment to extensify livestock farming or manage livestock farming differently shall comply with at least the following conditions:

- a grassland management shall continue;
- b the whole of the grazed area per livestock unit shall be maintained, avoiding both over-grazing and under-utilisation;
- c livestock density shall be defined taking into account all grazing livestock kept on the farm or, in the case of a commitment to limit nutrient leaching, all animals kept on the farm which are relevant to the commitment in question.

3 Commitments to limit the use of fertilisers, plant protection products or other inputs shall be accepted only if such limitations can be assessed in a way that provides reasonable assurance about compliance with those commitments.

4 Support may relate to the following commitments:

- a to rear farm animals of local breeds indigenous to the area and in danger of being lost to farming;
- b to preserve plant genetic resources naturally adapted to the local and regional conditions and under threat of genetic erosion.

The eligible species of farm animals and the criteria for determining the threshold of loss to farming of local breeds are defined in Annex IV.

5 Agri-environment and/or animal welfare support for the same production shall not be precluded by environmental measures implemented under common market organisations or direct support schemes listed in Annex I, animal and plant health measures or rural development measures other than agri-environment and animal welfare support, provided that such support is additional and consistent with the measures concerned.

Various agri-environment and/or animal welfare commitments may be combined provided that they are complementary and compatible.

Where measures or commitments referred to in the first and second subparagraph are combined, the level of support shall take account of the specific income foregone and additional costs resulting from the combination.

Status: Point in time view as at 15/12/2006.

Changes to legislation: There are outstanding changes not yet made to Commission Regulation (EC) No 1974/2006 (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)

6 Agri-environment measures on land set aside under Article 54 or Article 107 of Regulation (EC) No 1782/2003 shall qualify for support only if the agri-environment commitments go beyond the main requirements laid down in Article 3(1) of that Regulation.

In the case of support for mountain areas, areas with other handicaps, Natura 2000 agricultural areas and agricultural areas included in river basin management plans pursuant to Directive 2000/60/EC of the European Parliament and of the Council⁽⁸⁾, agri-environment commitments shall, as appropriate, take account of the conditions laid down for support in the areas concerned.

7 Any animal welfare commitment as referred to in Article 40 of Regulation (EC) No 1698/2005 shall provide upgraded standards in at least one of the following areas:

- a water and feed closer to their natural needs;
- b housing conditions, such as space allowances, bedding, natural light;
- c outdoor access;
- d absence of systematic mutilations, isolation or permanent tethering;
- e prevention of pathologies mainly determined by farming practices or/and keeping conditions.

8 The reference level for calculating income foregone and additional costs resulting from the commitments given shall be the relevant standards and requirements referred to in Article 39(3) and Article 40(2) of Regulation (EC) No 1698/2005.

9 Where commitments are normally expressed in units other than those used in the Annex to Regulation (EC) No 1698/2005, Member States may calculate payments on the basis of those other units. In such cases, the Member States shall ensure that the maximum amounts per year eligible for Community support set out in that Annex are complied with. To this end the Member State may:

- a set a limit on the number of units per hectare of the farm to which the agri-environment commitments applies, or
- b determine the overall maximum amount for each participating farm and ensure that the payments for each farm are compatible with that limit.

10 Member States shall determine the need to provide compensation for transaction cost as provided for in Article 39(4) and Article 40(3) of Regulation (EC) No 1698/2005 on the basis of objective criteria.

For the purpose of Article 39(4) and Article 40(3) of Regulation (EC) No 1698/2005, 'transaction cost' shall mean cost related to letting the transaction take place and not directly attributable to the implementation cost of the commitment it relates to.

The transaction cost element shall be calculated over the length of the commitment period and shall not exceed 20 % of the income foregone and additional costs due to the commitment given.

11 Member States may authorise one commitment to be converted into another during the period of its operation, provided that all the following conditions are fulfilled:

- a any such conversion is of significant benefit to the environment or to animal welfare or to both;
- b the existing commitment is substantially reinforced;
- c the approved rural development programme includes the commitments concerned.

An agri-environment commitment may be converted into a commitment for first afforestation of agricultural land under Article 43 of Regulation (EC) No 1698/2005

Status: Point in time view as at 15/12/2006.

Changes to legislation: There are outstanding changes not yet made to Commission Regulation (EC) No 1974/2006 (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)

subject to the conditions set out in points (a) and (b) of the first subparagraph of this paragraph. The agri-environment commitment shall cease without reimbursement being required.

12 Member States may allow agri-environment or animal welfare commitments to be adjusted during the period for which they apply, provided that the approved rural development programme includes scope for such adjustment and that the adjustment is duly justified having regard to the objectives of the commitment.

Such adjustments may also take the form of an extension of the duration of the commitment.

13 The conversion rates of animals to livestock units (LU) are set out in Annex V. Member States may differentiate those rates within the limits set in that Annex for the relevant categories, according to objective criteria.

Article 28

1 Support under Article 39(5) of Regulation (EC) No 1698/2005 may cover operations carried out by other beneficiaries than those referred to in Article 39(2) of that Regulation.

2 Activities entering in agri-environmental commitments referred to in Article 27(4) of this Regulation shall not be eligible for support under Article 39(5) of Regulation (EC) No 1698/2005.

No support shall be granted under Article 39(5) of Regulation (EC) No 1698/2005 for activities eligible under the framework programme of the European Community for research, technological development and demonstration activities.

3 The operations for the conservation of genetic resources in agriculture eligible for support under Article 39(5) of Regulation (EC) No 1698/2005 shall include the following:

- a targeted actions: actions promoting the *ex situ* and *in situ* conservation, characterisation, collection and utilisation of genetic resources in agriculture, including web-based inventories of genetic resources currently conserved *in situ*, including *in situ*/on-farm conservation, and of *ex situ* collections (gene banks) and databases;
- b concerted actions: actions promoting the exchange of information for the conservation, characterisation, collection and utilisation of genetic resources in Community agriculture, among competent organisations in the Member States;
- c accompanying actions: information, dissemination and advisory actions involving non-governmental organisations and other relevant stakeholders, training courses and the preparation of technical reports.

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

- a ‘*in situ* conservation’ means the conservation of genetic material in ecosystems and natural habitats and the maintenance and recovery of viable population of species or feral breeds in their natural surroundings and, in the case of domesticated animal breeds or cultivated plant species, in the farmed environment where they have developed their distinctive properties;
- b ‘*in situ*/on-farm conservation’ means *in situ* conservation and development at farm level;
- c ‘*ex situ* conservation’ means the conservation of genetic material for agriculture outside their natural habitat;
- d ‘*ex situ* collection’ means a collection of genetic material for agriculture maintained outside their natural habitat.

Status: Point in time view as at 15/12/2006.

Changes to legislation: There are outstanding changes not yet made to Commission Regulation (EC) No 1974/2006 (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 29

For the purposes of Articles 41 and 49 of Regulation (EC) No 1698/2005, ‘non-productive investments’ shall mean investments that do not lead to any significant increase in the value or profitability of the agricultural or forestry holding.

Article 30

1 For the purpose of Article 42(1) of Regulation (EC) No 1698/2005, the definitions in paragraphs 2 and 3 of this Article shall apply, subject to exceptions to be duly justified in the rural development programmes.

2 ‘Forest’ means land spanning more than 0,5 hectare with trees higher than 5 metres and a canopy cover of more than 10 percent, or trees able to reach those thresholds *in situ*. It does not include land that is predominantly under agricultural or urban land use.

Areas under reforestation that have not yet reached but are expected to reach a canopy cover of 10 percent and a tree height of 5 metres are included, as are temporarily unstocked areas, resulting from human intervention or natural causes, which are expected to regenerate.

Forests include areas with bamboo and palms provided that height and canopy cover criteria are met.

Forests include forest roads, firebreaks and other small open areas, forests in national parks, nature reserves and other protected areas, such as those of specific scientific, historical, cultural or spiritual interest.

Forests include windbreaks, shelterbelts and corridors of trees with an area of more than 0,5 hectare and width of more than 20 metres.

Forests include plantations primarily for forestry protection purposes, such as rubberwood plantations and cork oak stands. Tree stands in agricultural production systems, such as those in fruit plantations, and agri-forestry systems are excluded from the definition of ‘forests’. Trees in urban parks and gardens are also excluded from that definition.

3 ‘Wooded areas’ means land not classified as ‘forest’, spanning more than 0,5 hectare, with trees higher than 5 metres and a canopy cover of 5-10 percent, or trees able to reach those thresholds *in situ*, or with a combined cover of shrubs, bushes and trees above 10 percent. The term does not include land that is predominantly under agricultural or urban use.

4 The following forests and wooded areas shall be excluded from the scope of the first sentence of Article 42(1) of Regulation (EC) No 1698/2005:

- a forest and other wooded land owned by central or regional governments, or by government-owned corporations;
- b forest and other wooded land owned by the Crown;
- c forests owned by legal persons at least 50 % of whose capital is held by one of the institutions referred to in points (a) and (b).

Article 31

1 Agricultural land eligible for support for first afforestation under Article 43 of Regulation (EC) No 1698/2005 shall be specified by the Member State and shall include land where farming takes place on a regular basis.

Status: Point in time view as at 15/12/2006.

Changes to legislation: There are outstanding changes not yet made to Commission Regulation (EC) No 1974/2006 (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)

First afforestation in a Natura 2000 site designated pursuant to Directives 79/409/EEC and 92/43/EEC shall be consistent with the management objectives of the site concerned.

2 For the purposes of Article 43(1)(a) of Regulation (EC) No 1698/2005, ‘establishment costs’ shall include the cost of the plantation material, the cost of the plantation and the cost directly linked to and necessary for the plantation.

3 For the purposes of Article 43(1)(c) of Regulation (EC) No 1698/2005, ‘farmers’ shall mean persons who devote an essential part of their working time to agricultural activities and derive from them a significant part of their income according to criteria to be determined by the Member State.

4 For the purposes of Article 43(3) and Article 44(3) of Regulation (EC) No 1698/2005, ‘fast-growing species for short-term cultivation’ shall mean species with a rotation time, namely the period between two harvest cuts on the same parcel, of less than 15 years.

Article 32

For the purpose of Article 44 of Regulation (EC) No 1698/2005 Member States, taking account of local conditions, forestry species and the need to ensure continuation of the agricultural use of the land, shall determine the maximum number of trees planted per hectare.

Article 33

1 Where support under Article 48 of Regulation (EC) No 1698/2005 covers the creation of forest firebreaks, eligible costs may comprise, beyond the cost of establishment, subsequent maintenance cost on the area concerned.

Support for maintaining forest firebreaks through agricultural activities shall not be granted for areas benefiting from agri-environment support.

2 Preventive actions against fire, as referred to in Article 48 of Regulation (EC) No 1698/2005, may cover the following:

- a establishment of protective infrastructures such as forest paths, tracks, water supply points, firebreaks, cleared and felled areas, launching of operations to maintain firebreaks and cleared and felled areas;
- b preventive forestry practices such as vegetation control, thinning, diversification of vegetation structure;
- c setting-up or improvement of fixed forest fire monitoring facilities and communication equipment.

Article 34

1 Agricultural areas referred to in Article 50(5) of Regulation (EC) No 1698/2005, which are included in river basin management plans in accordance with Directive 2000/60/EC, shall be eligible for payments pursuant to Article 38 of Regulation (EC) No 1698/2005, if a relevant river basin management plan is established and implemented in those areas.

2 Environmental reasons qualifying areas as apt for afforestation as referred to in Article 50(6) of Regulation (EC) No 1698/2005 may comprise prevention from erosion and/or desertification, the enhancing of biodiversity, protection of water resources, prevention of floods and climate change mitigation, provided that the latter will not harm biodiversity or cause other environmental damage.

Status: Point in time view as at 15/12/2006.

Changes to legislation: There are outstanding changes not yet made to Commission Regulation (EC) No 1974/2006 (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)

Sub-section 3

Axis 3

Article 35

For the purposes of Article 53 of Regulation (EC) No 1698/2005, a ‘member of the farm household’ shall mean a natural or legal person or a group of natural or legal persons, whatever legal status is granted to the group and its members by national law, with the exception of the farm workers. Where a member of the farm household is a legal person or a group of legal persons, that member must exercise an agricultural activity on the farm at the time of the support application.

Article 36

The public-private partnerships referred to in Article 59(e) of Regulation (EC) No 1698/2005 which receive support for implementing local development strategies shall respect the following conditions:

- (a) they shall establish area-based local development strategies at sub-regional level;
- (b) they shall be representative of the public and private-sector actors identified at the geographical level referred to in point (a) of this Article;
- (c) the running costs shall not exceed 15 % of the public expenditure relating to the local development strategy of each individual public-private partnership.

Sub-section 4

Axis 4

Article 37

1 For the implementation of Axis 4 as referred to in Section 4 of Chapter I of Title IV of Regulation (EC) No 1698/2005, Member States or regions may opt to cover either their whole territory or part of it by adapting accordingly the criteria for selecting the local action groups and the areas they represent.

The procedures for selecting the local action groups must be open to the rural areas concerned and ensure competition between the local action groups putting forward local development strategies.

2 Calls for proposals for the selection of rural areas for the implementation of local development strategies referred to in Article 62(1)(a) of Regulation (EC) No 1698/2005 shall be organised no later than two years after the approval of the programmes. However, Member States or regions may organise additional calls for proposals, especially where Leader is open to new areas, in which case a longer time period may be needed.

3 The population of each area referred to in Article 61(a) and Article 62(3) of Regulation (EC) No 1698/2005 must as a general rule be not less than 5 000 and not more than 150 000 inhabitants.

However, in properly justified cases, the limits of 5 000 and 150 000 inhabitants may be lowered or increased respectively.

Status: Point in time view as at 15/12/2006.

Changes to legislation: There are outstanding changes not yet made to Commission Regulation (EC) No 1974/2006 (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)

4 Member States of the Community as constituted at 30 April 2004 shall seek to ensure that a priority is given to the selection of local action groups which have integrated cooperation into their local development strategies pursuant to Article 62(4) of Regulation (EC) No 1698/2005.

Article 38

Running costs of local action groups as referred to in Article 63(c) of Regulation (EC) No 1698/2005 shall be eligible for Community support within a limit of 20 % of the total public expenditure of the local development strategy.

Article 39

1 Cooperation as referred to in Article 65 of Regulation (EC) No 1698/2005 shall involve at least one local action group selected under the Leader Axis. It shall be implemented under the responsibility of a coordinating local action group.

2 Cooperation shall be open to public-private partnerships as referred to in Article 59(e) of Regulation (EC) No 1698/2005 and to other rural areas organised with the following features:

- a presence of a local group in a geographical territory, which is active in rural development, with the capacity to draw up a development strategy for that territory;
- b the organisation of that local group is based on a partnership of local actors.

3 Cooperation shall include the implementation of a joint action.

Only expenditure for the joint action, for running any common structures and for preparatory technical support shall be eligible for support under Article 65 of Regulation (EC) No 1698/2005.

Expenditure on animation may be eligible in all the areas concerned by the cooperation.

4 The cooperation projects shall be selected by the competent authority of the Member State where such projects borne by the local action groups have not been integrated into their local development strategy pursuant to Article 62(4) of Regulation (EC) No 1698/2005. In that case, the cooperation projects may be submitted by the local action groups to the competent authority by 31 December 2013 at the latest.

5 Member States shall communicate to the Commission the approved transnational cooperation projects.

Sub-section 5

Technical assistance

Article 40

In case of rural development programmes covering both regions eligible under the Convergence Objective and regions not eligible under the Convergence Objective, the EAFRD contribution rate for technical assistance referred to in Article 70(3)(a) of Regulation (EC) No 1698/2005 may be determined taking into account the predominant type of regions, by their number, in the programme.

Article 41

1 The structure needed for running the national rural network provided for in Article 68 of Regulation (EC) No 1698/2005 may be established either within the competent national

Status: Point in time view as at 15/12/2006.

Changes to legislation: There are outstanding changes not yet made to Commission Regulation (EC) No 1974/2006 (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)

authorities or by selection through tendering procedures. That structure must be able to perform the tasks referred to in paragraph 2(b) of that Article.

2 Where a single rural development programme covers the whole territory of a Member State, the national rural network shall be part of the technical assistance component of the programme and a distinction shall be made between planned expenditure relating to elements covered by points (a) and (b) of Article 68(2) of Regulation (EC) No 1698/2005. However, expenditure related to the elements covered by that point (a) shall not exceed 25 % of the amount reserved for the national rural network.

3 Where Member States use the possibility provided for in the second subparagraph of Article 66(3) of Regulation (EC) No 1698/2005, the specific programme for the establishment and the operation of the national rural network shall be approved in accordance with Article 18(4) of that Regulation.

Article 4, Article 5(1) and (3), and Article 6 of this Regulation shall apply *mutatis-mutandis* for submission, approval, and changes of such specific programmes.

The specific programme and its financial table shall make a distinction between elements covered by points (a) and (b) of Article 68(2) of Regulation (EC) No 1698/2005. However, expenditure related to the elements covered by that point (a) shall not exceed 25 % of the total amount of that programme.

4 National rural networks shall be established by 31 December 2008 at the latest.

5 Detailed rules on the establishment and the organisation of the national rural networks are laid down in Annex II.

Section 2

Common provisions for several measures

Article 42

For the purposes of Article 70(7) of Regulation (EC) No 1698/2005, where integrated operations fall under more than one axis and/or measure, for each part of the operation clearly identified as falling within the scope of a particular rural development measure, the conditions of that measure shall apply.

Article 43

For investment measures, Member States shall ensure that support is targeted on clearly defined objectives reflecting identified structural and territorial needs and structural disadvantages.

Article 44

1 Where all or part of a holding of the beneficiary is transferred to another person during the period for which a commitment given as a condition for the grant of assistance runs, that other person may take over the commitment for the remainder of the period. If the commitment is not taken over, the beneficiary shall reimburse the assistance granted.

2 Member States may choose not to require the reimbursement referred to in paragraph 1 in the following cases:

Status: Point in time view as at 15/12/2006.

Changes to legislation: There are outstanding changes not yet made to Commission Regulation (EC) No 1974/2006 (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)

- a where a beneficiary who has already honoured a significant part of the commitment concerned definitively ceases agricultural activities and it is not feasible for a successor to take over the commitment;
- b where the transfer of a part of the holding of a beneficiary occurs during a period of extension of the commitment in accordance with the second subparagraph of Article 27(12) and the transfer does not concern more than 50 % of the area covered by the commitment before the extension.

3 In the event of minor changes to the situation of a holding, Member States may take specific measures to ensure that the application of paragraph 1 does not lead to inappropriate results as regards the commitment entered into.

Article 45

1 When a beneficiary increases the area of the holding during the period for which a commitment given as a condition for the grant of assistance runs, Member States may provide for the commitment to be extended to cover the additional area for the remainder of the period of the commitment in accordance with paragraph 2, or for the original commitment to be replaced by a new one in accordance with paragraph 3.

Provision may also be made for such replacement in cases where the area covered by a commitment within a holding is extended.

2 The extension referred to in paragraph 1 may be granted only under the following conditions:

- a it is of benefit to the measure concerned;
- b it is justified in terms of the nature of the commitment, the length of the remaining period and the size of the additional area;
- c it does not impede the effectiveness of checks to ensure compliance with the conditions for the grant of assistance.

3 The new commitment referred to in paragraph 1 shall cover the whole area concerned under terms at least as strict as those of the original commitment.

4 Where a beneficiary is unable to continue to comply with commitments given because the holding is reparcelled or is the subject of public land-consolidation measures or of land-consolidation measures approved by the competent public authorities, Member States shall take the measures necessary to allow the commitments to be adapted to the new situation of the holding. If such adaptation proves impossible, the commitment shall expire and reimbursement shall not be required in respect of the period in which the commitment was effective.

Article 46

A revision clause shall be provided for commitments undertaken pursuant to Articles 39, 40 and 47 of Regulation (EC) No 1698/2005 in order to ensure their adjustment in the case of amendments of the relevant mandatory standards or requirements referred to in Article 39(3), Article 40(2) and Article 47(1) of that Regulation, established pursuant to Articles 4 and 5 of Regulation (EC) No 1782/2003 and Annexes III and IV thereto, as well as of the minimum requirements for fertiliser and plant protection product use and of other relevant mandatory requirements established by national legislation, beyond which the commitments go as provided for in those Articles.

If such adjustment is not accepted by the beneficiary, the commitment shall expire and reimbursement shall not be required in respect of the period during which the commitment was effective.

Status: Point in time view as at 15/12/2006.

Changes to legislation: There are outstanding changes not yet made to Commission Regulation (EC) No 1974/2006 (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 47

1 Member States may recognise, in particular, the following categories of *force majeure* or exceptional circumstances in which they will not require the partial or full reimbursement of aid received by the beneficiary:

- a death of the beneficiary;
- b long-term professional incapacity of the beneficiary;
- c expropriation of a large part of the holding if that could not have been anticipated on the day on which the commitment was given;
- d a severe natural disaster seriously affecting land on the holding;
- e the accidental destruction of livestock buildings on the holding;
- f an epizootic disease affecting all or part of the farmer's livestock.

2 Cases of *force majeure* or exceptional circumstances shall be notified in writing by the beneficiary, or any person entitled through or under him to the competent authority, together with relevant evidence to the satisfaction of that authority, within 10 working days from the date on which the beneficiary, or the person entitled through or under him, is in a position to do so.

Status: Point in time view as at 15/12/2006.

Changes to legislation: There are outstanding changes not yet made to Commission Regulation (EC) No 1974/2006 (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)

- (1) OJ L 270, 21.10.2003, p. 1.
- (2) OJ L 198, 22.7.1991, p. 1.
- (3) OJ L 93, 31.3.2006, p. 1.
- (4) OJ L 93, 31.3.2006, p. 12.
- (5) OJ L 179, 14.7.1999, p. 1.
- (6) OJ L 103, 25.4.1979, p. 1.
- (7) OJ L 206, 22.7.1992, p. 7.
- (8) OJ L 327, 22.12.2000, p. 1.

Status:

Point in time view as at 15/12/2006.

Changes to legislation:

There are outstanding changes not yet made to Commission Regulation (EC) No 1974/2006 (repealed). Any changes that have already been made to the legislation appear in the content and are referenced with annotations.