

Council Regulation (EC) No 73/2009 of 19 January 2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers, amending Regulations (EC) No 1290/2005, (EC) No 247/2006, (EC) No 378/2007 and repealing Regulation (EC) No 1782/2003 (repealed)

TITLE III

SINGLE PAYMENT SCHEME

CHAPTER 3

Implementation in the new Member States having applied the single area payment scheme

Article 55

Introduction of the single payment scheme in the Member States having applied the single area payment scheme

1 Save as otherwise provided for in this Chapter, this Title shall apply to the new Member States having applied the single area payment scheme provided for in Chapter 2 of Title V.

Article 41 and Section 1 of Chapter 2 shall not apply.

2 Any new Member State having applied the single area payment scheme shall take the decisions referred to in Article 51(1) and Article 69(1) by 1 August of the year preceding that in respect of which it will apply the single payment scheme for the first time.

3 Except for Bulgaria and Romania, any new Member State having applied the single area payment scheme may provide that, in addition to the eligibility conditions established in Article 34(2), 'eligible hectare' shall mean any agricultural area of the holding which has been maintained in good agricultural condition on 30 June 2003, whether or not in production at that date.

Article 56

Application for support

1 Farmers shall apply for support under the single payment scheme by a date to be determined by the new Member States, but no later than 15 May.

2 Except in the case of *force majeure* or exceptional circumstances, payment entitlements shall be allocated only to those farmers who have applied for the single payment scheme by 15 May of the first year of application of the single payment scheme.

Article 57

National reserve

1 Each new Member State shall make a linear percentage reduction in its national ceiling referred to in Article 40 in order to constitute a national reserve.

2 The new Member States shall use the national reserve for the purpose of allocating, in accordance with objective criteria and in such a way as to ensure equal treatment between farmers and to avoid market and competition distortions, payment entitlements to farmers placed in a special situation to be defined by the Commission in accordance with the procedure referred to in Article 141(2).

3 During the first year of application of the single payment scheme, the new Member States may use the national reserve for the purpose of allocating, in accordance with objective criteria and in such a way as to ensure equal treatment between farmers and to avoid market and competition distortions, payment entitlements to farmers in specific sectors placed in a special situation as a result of the transition to the single payment scheme.

4 The new Member States may use the national reserve to allocate payment entitlements to farmers who have commenced their agricultural activity after 1 January of the first year of application of the single payment scheme and who have not received any direct payment in that year, in accordance with objective criteria and in such a way as to ensure equal treatment between farmers and to avoid market and competition distortions.

5 The new Member States not applying Article 68(1)(c) may use the national reserve for the purpose of allocating, in accordance with objective criteria and in such a way as to ensure equal treatment between farmers and to avoid market and competition distortions, payment entitlements to farmers in areas subject to restructuring and/or development programmes relating to one or the other form of public intervention in order to ensure against land being abandoned and to compensate farmers for specific disadvantages in those areas.

6 For the purposes of applying paragraphs 2 to 5, the new Member States may increase the unit value of the payment entitlements held by the farmer concerned, within the limit of EUR 5 000, or may allocate new payment entitlements to the farmer concerned.

7 The new Member States shall make linear reductions in the payment entitlements where their national reserve is not sufficient to cover the cases referred to in paragraphs 2, 3 and 4.

Article 58

Regional allocation of the national ceilings referred to in Article 40

1 The new Member States may apply the single payment scheme at regional level.

2 The new Member States shall define the regions in accordance with objective and non-discriminatory criteria.

3 Where applicable, the new Member State shall divide the national ceiling referred to in Article 40 after any reduction provided for in Article 57 between the regions in accordance with objective and non-discriminatory criteria.

Article 59

Allocation of payment entitlements

1 Farmers shall receive payment entitlements, the unit value of which shall be calculated by dividing the applicable national ceiling referred to in Article 40 after any reduction provided for in Article 57 by the number of payment entitlements established at national level in accordance with paragraph 2 of this Article.

2 Except in the case of *force majeure* or exceptional circumstances, the number of payment entitlements per farmer shall be equal to the number of hectares the farmer declares in accordance with Article 35(1) for the first year of application of the single payment scheme.

3 By way of derogation from paragraph 2, the new Member States may decide that, except in the case of *force majeure* or exceptional circumstances, the number of payment entitlements per farmer shall be equal to the average annual number of all hectares which during one or more years of a representative period to be fixed by the Member State but no later than 2008 conferred a right to the single area payment.

However, where a farmer has commenced agricultural activity in the representative period, the average number of hectares shall be based on the payments he was granted in the calendar year or years during which he exercised the agricultural activity.

Article 60

Farmers with no eligible hectares

A farmer acting in the beef and veal sector, dairy sector or sheepmeat and goatmeat sector who is entitled to receive payment entitlements in accordance with Article 57(3) and Article 59 for which he does not have eligible hectares in the first year of implementation of the single payment scheme shall be allocated special entitlements, not exceeding EUR 5 000 per entitlement, as referred to in Article 44.

Article 61

Grassland

The new Member States may also, in accordance with objective and non-discriminatory criteria, determine, within the regional ceiling established under Article 58 or part of it, different per unit values of the payment entitlements to be allocated to farmers referred to in Article 59(1):

- (a) for hectares of grassland as identified on 30 June 2008 and for any other eligible hectare; or
- (b) for hectares of permanent pasture as identified on 30 June 2008 and for any other eligible hectare.

Article 62

Conditions for payment entitlements

1 Payment entitlements established in accordance with this Chapter may be transferred only within the same region or between regions where the entitlements per hectare are the same.

2 The new Member States may, acting in compliance with the general principles of Community law, decide to approximate the value of the payment entitlements established in accordance with this Chapter. This decision shall be taken by 1 August of the year preceding the first year of application of the single payment scheme.

For the purpose of applying the first subparagraph, the payment entitlements shall be made subject to annual progressive modifications in accordance with objective and non-discriminatory criteria and in pre-established annual steps.

3 Except in the case of *force majeure* or exceptional circumstances, a farmer may transfer his payment entitlements without land only after he has activated, within the meaning of Article 34, at least 80 % of his payment entitlements during at least one calendar year or after he has surrendered voluntarily to the national reserve all the payment entitlements he has not used in the first year of application of the single payment scheme.