

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amending Regulations (EC) No 1290/2005, (EC) No 247/2006, (EC) No 378/2007 and repealing Regulation (EC) No 1782/2003 (repealed)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 V

IMPLEMENTATION OF DIRECT PAYMENTS IN THE NEW MEMBER STATES

CHAPTER 3

Separate payments and specific support

Article 126

Separate sugar payment

1 Where a new Member State has made use of the option provided for by Article 143ba of Regulation (EC) No 1782/2003, it shall grant a separate sugar payment to farmers eligible under the single area payment scheme. This payment shall be granted on the basis of the criteria adopted by the relevant Member States in 2006 and 2007.

2 The separate sugar payment shall be granted within the limits of the ceilings set out in Annex XV.

3 By way of derogation from paragraph 2, each new Member State concerned may decide, by 31 March of the year in respect of which the separate sugar payment is granted and on the basis of objective criteria, to apply for the separate sugar payment a ceiling lower than that listed in Annex XV. Where the sum of the amounts determined in accordance with paragraph 1 exceeds the ceiling decided by the new Member State concerned, the annual amount to be granted to the farmers shall be reduced proportionally.

Article 127

Separate fruit and vegetables payment

1 Where a new Member State has made use of the option provided for in Article 143bb of Regulation (EC) No 1782/2003, it shall grant a separate fruit and vegetables payment to farmers eligible under the single area payment scheme. This payment shall be granted in accordance with the criteria adopted by the Member State in 2007.

2 The separate fruit and vegetables payment shall be granted within the limits of the component of the national ceiling referred to in Article 40 of this Regulation corresponding to fruit and vegetables or, where a new Member State made use of the option provided for in Article 143bb(3) of Regulation (EC) No 1782/2003, at a lower ceiling.

Article 128

Separate transitional fruit and vegetables payment

1 Where a new Member State has made use of the option provided for in Article 143bc(1) of Regulation (EC) No 1782/2003, it may retain, up to 31 December 2011, up to 50 % of the component of national ceilings referred to in Article 40 of this Regulation corresponding to tomatoes falling within CN code 0702 00 00 in accordance with its decision of 2007.

In this case and within the limit of the ceiling fixed in accordance with the procedure referred to in Article 141(2) of this Regulation, the Member State concerned shall make, on a yearly basis, an additional payment to farmers.

The additional payment shall be granted to farmers producing tomatoes under the conditions provided for in Section 8 of Chapter 1 of Title IV of this Regulation.

2 Where a new Member State has made use of the option provided for in Article 143bc(2) of Regulation (EC) No 1782/2003, it may retain, in accordance with its decision of 2007:

- a up to 31 December 2010, up to 100 % of the component of national ceilings referred to in Article 40 of this Regulation corresponding to the fruit and vegetable crops other than annual crops listed in the third subparagraph of Article 54(2) of this Regulation;
- b from 1 January 2011 up to 31 December 2012, up to 75 % of the component of national ceilings referred to in Article 40 of this Regulation corresponding to fruit and vegetable crops other than annual crops listed in the third subparagraph of Article 54(2) of this Regulation.

In this case and within the limit of the ceiling fixed in accordance with the procedure referred to in Article 141(2) of this Regulation, the Member State concerned shall make, on a yearly basis, an additional payment to farmers.

The additional payment shall be granted to farmers producing one or more of the fruit and vegetables products, as determined by the Member State concerned, listed in the third subparagraph of Article 54(2) of this Regulation.

3 The new Member States having made use of the options provided for in Article 143bc of Regulation (EC) No 1782/2003 may decide, by 1 August 2009, to review the decision taken in 2007 with a view either:

- a to integrate all or part of those payments into the single area payment scheme. In this case, by way of derogation from Article 130 of this Regulation, the amounts concerned shall be included in the annual financial envelope referred to in Article 123(1) of this Regulation; or
- b to integrate all or part of those payments into the separate fruit and vegetable payment referred to in Article 127 of this Regulation. In this case, the new payment shall be granted on the basis of objective and non-discriminatory criteria such as those set out in paragraph 2 of point A of Annex IX to this Regulation and in respect of a representative period ending in 2008.

Article 129

Separate soft fruit payment

1 By way of derogation from Article 122, the new Member States applying the single area payment scheme may decide, by 1 August 2011, to grant from 2012 a separate soft fruit payment. It shall be granted on the basis of objective and non-discriminatory criteria such as the payments received under the transitional soft fruit payment provided for in Article 98 and in respect of a representative period to be fixed by that Member State but no later than 2008.

2 The separate soft fruit payment shall be granted within the limits of the amounts referred to in Annex XII corresponding to the soft fruit payment.

3 In 2012, Member States applying this Article may grant national aid in addition to the separate soft fruit payment. The total amount of Community and national aid shall not exceed the following ceilings:

- Bulgaria: EUR 960 000,
- Latvia: EUR 160 000,
- Lithuania: EUR 240 000,
- Hungary: EUR 680 000,
- Poland: EUR 19 200 000.

Article 130

Common provisions for the separate payments

1 The funds made available for granting the payment referred to in Articles 126, 127, 128 and 129 shall not be included in the annual financial envelope referred to in Article 123(1). However, where Article 126(3) is applied, the differential between the ceiling listed in Annex XV and that actually applied shall be included in the annual financial envelope referred to in Article 123(1).

2 Article 132 shall not apply to the separate payments referred to in Articles 127, 128 and 129. Except in the case of Bulgaria and Romania, Article 132 shall not apply to the separate payments referred to in Article 126.

3 In the event of actual or anticipated inheritance, the separate sugar payment referred to in Article 126, the separate fruit and vegetables payment referred to in Article 127 and the separate soft fruit payment referred to in Article 129 shall be granted to the farmer who inherited the holding, on condition that this farmer is eligible under the single area payment scheme.

Article 131

Specific support

1 The new Member States applying the single area payment scheme may decide, by 1 August 2009, 1 August 2010 or 1 August 2011, to use, from the year following that decision, up to 10 % of their national ceilings referred to in Article 40 to grant support to farmers as set out in Article 68(1) and in accordance with Chapter 5 of Title III, as applicable to them.

2 By way of derogation from Article 68(4)(c), support for measures referred to in Article 68(1)(c) shall take the form of an increase in the per hectare amounts granted under the single area payment scheme.

The second subparagraph of Article 68(3) shall not apply to the new Member States applying the single area payment scheme.

3 By way of derogation from Article 69(6), new Member States applying the single area payment scheme referred to in Article 122 shall raise the funds needed to cover the support referred to in paragraph 1 of this Article by:

- a reducing their annual financial envelope referred to in Article 123; and/or
- b making a linear reduction in the direct payments other than the single area payment scheme.

4 The amounts referred to in paragraph 1 of this Article shall be set by the Commission in accordance with the procedure referred to in Article 141(2).

These amounts shall be deducted from the annual financial envelopes referred to in Article 123(1) of the new Member States concerned.