

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Agricultural Fund for Rural Development (EAFRD) (repealed)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 I

Scope

Article 1

This Regulation lays down detailed rules for the application of Regulation (EC) No 1698/2005 as regards principles and general rules for rural development support, specific and common provisions for rural development measures, and eligibility and administrative provisions, except provisions on controls.

CHAPTER II

General rules

Section 1

Complementarity, consistency and conformity

Article 2

1 Consistency as referred to in Article 5 of Regulation (EC) No 1698/2005 shall be ensured:

- a between rural development support measures on the one hand, and measures implemented under other Community support instruments and in particular measures implemented under direct and other support schemes of the Common Agricultural Policy and animal and plant health measures, on the other hand;
- b between the different rural development support measures.

2 Where support under Regulation (EC) No 1698/2005 may exceptionally be granted in accordance with Article 5(6) of that Regulation, for measures falling within the scope of the support schemes listed in Annex I to this Regulation, Member States shall ensure that a beneficiary may receive support for a given operation only under one scheme.

To that end, Member States, when including measures containing such exceptions in their rural development programmes, shall describe in those programmes the criteria and administrative rules they will apply for the support schemes concerned.

3 Where a common market organisation, including direct support schemes financed by the European Agricultural Guarantee Fund (EAGF) places restrictions on production or limitations on Community support at the level of individual farmers, holdings or processing plants, no investment shall be supported under Regulation (EC) No 1698/2005 which would increase production beyond those restrictions or limitations.

Status: Point in time view as at 15/12/2006.

Changes to legislation: There are outstanding changes not yet made to Commission Regulation (EC) No 1974/2006 (repealed).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

Section 2

Strategy and programming

Article 3

1 National strategy plans may be updated in the programming period. For such updates one or both of the following elements shall be taken into account:

- a the update affects one or more of the elements listed in Article 11(3) of Regulation (EC) No 1698/2005 and/or one or more of the Community strategic guidelines referred to in Article 9 of that Regulation;
- b the update involves changes of one or more rural development programmes as referred to in Article 6(1) of this Regulation.

2 Article 12(1) of Regulation (EC) No 1698/2005 shall apply *mutatis mutandis* to updates of national strategy plans.

3 In order to allow sufficient time for rural development programme adaptations, the last update of a national strategy plan shall be forwarded to the Commission by 30 June 2013 at the latest.

4 The national strategy plans shall be confirmed or updated after approval of the rural development programmes notably in light of the quantification of the objectives and targets stemming from the ex-ante evaluation of those programmes.

Article 4

1 The Commission shall approve the rural development programmes submitted by the Member States within a maximum of six months from the date of receipt of the programmes by the Commission. In the case of rural development programmes submitted before the date of entry into force of this Regulation, the six month period shall start from that date.

In cases of application of the second subparagraph of Article 18(3) of Regulation (EC) No 1698/2005, the six-month period provided for in the first subparagraph of this paragraph shall start from the date the revised proposed programme is compliant with the first subparagraph of Article 18(3) of Regulation (EC) No 1698/2005.

2 The dates for determining the time periods provided for in paragraph 1 of this Article shall be fixed in accordance with Article 63(6) and (8), where applicable.

Article 5

1 The content of rural development programmes as referred to in Article 16 of Regulation (EC) No 1698/2005 shall be established in accordance with Annex II to this Regulation.

The ex-ante evaluation referred to in Article 85 of Regulation (EC) No 1698/2005 shall be annexed to each rural development programme.

2 National frameworks referred to in Article 15(3) of Regulation (EC) No 1698/2005 shall contain information common to several measures. For those measures, regional rural development programmes may only contain additional information, provided that information contained jointly under national frameworks and regional programmes complies with the requirements of Annex II to this Regulation.

3 Member States shall make available to the Commission an electronic version of their rural development programmes and national frameworks where applicable, updated following

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)

each change, including the standard tables set out in Annex II to this Regulation corresponding to information required in accordance with Article 16(d), (e) and (f) of Regulation (EC) No 1698/2005. Member States shall forward to the Commission requests for programme changes and national framework changes, where applicable, by electronic means, in accordance with Article 63 of this Regulation.

Section 3

Changes in rural development programmes

Article 6

- 1 Changes in rural development programmes shall fall under the following categories:
 - a revisions as referred to in Article 19(1) of Regulation (EC) No 1698/2005;
 - b revisions stemming from coordination procedures for the uptake of the financial resources as referred to in Article 77(3) of Regulation (EC) No 1698/2005;
 - c other changes not covered by points (a) and (b) of this paragraph.
- 2 Programme changes as referred to in points (a) and (b) of paragraph 1 may only be proposed from the second year of implementation of the programme.
- 3 Proposals for changes in rural development programmes shall be duly substantiated, in particular giving the following information:
 - a the reasons and any implementation problems justifying the change;
 - b the expected effects of the change;
 - c the relationship between the change and the national strategy plan.

Article 7

- 1 For programme revisions referred to in Article 6(1)(a) of this Regulation, a decision shall be adopted pursuant to the first sentence of Article 19(2) of Regulation (EC) No 1698/2005, on a request submitted by a Member State, where:
 - a the revision goes above the flexibility ceiling between axes referred to in Article 9(2) of this Regulation;
 - b the revision alters the Community co-financing rates referred to in Article 70 of Regulation (EC) No 1698/2005 as provided for in the approved rural development programme;
 - c the revision changes the total Community contribution for the entire programming period and/or its annual breakdown, without changing contributions for past years;
 - d the revision introduces changes relating to the exceptions referred to in Article 5(6) of Regulation (EC) No 1698/2005.

The decision shall be taken within six months from the date of receipt by the Commission of the Member State's request.

- 2 Except in cases of emergency measures due to natural disasters, requests for programme revisions referred to in Article 6(1)(a) shall not be submitted more than once per calendar year and per programme.

For revisions as referred to in paragraph 1(c), Member States shall forward requests by 30 September of each year at the latest.

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)

For the revisions referred to in paragraph 1, Member States shall forward their last requests for revisions to the Commission by 30 June 2013 at the latest.

Article 8

1 Member States with regionalised programming may submit programme revisions referred to in Article 6(1)(b) to transfer the contribution of the European Agricultural Fund for Rural Development (EAFRD) between regional programmes for particular years, where:

- a the total EAFRD contribution per programme for the entire programming period is not altered;
- b the total EAFRD allocation to the Member State concerned is not altered;
- c the annual breakdowns of the programme for the years preceding the year of the revision are not altered;
- d the annual EAFRD allocation to the Member State concerned is respected;
- e if appropriate, the budget for achieving the Convergence Objective mentioned in the national strategy plan in accordance with Article 11(3)(f) of Regulation (EC) No 1698/2005 is not reduced.

2 The financial tables of the programmes concerned shall be adapted to reflect the transfers referred to in paragraph 1.

The revised financial tables shall be forwarded to the Commission by 30 September at the latest of the calendar year in which a transfer takes place. The last year in which such revisions can be forwarded shall be 2012.

The Commission shall adopt a Decision approving the new financial tables within three months after receipt of the Member State's request. The procedure referred to in Article 90(2) of Regulation (EC) No 1698/2005 shall not apply.

3 Requests for programme revisions referred to in Article 6(1)(b) shall not be submitted more than once per calendar year.

Article 9

1 Changes in programmes by Member States as referred to in Article 6(1)(c) may involve changes of financial breakdowns by measure within an axis as well as non-financial changes concerning the introduction of new measures, the withdrawal of existing measures, or information on and description of existing measures in the programme.

2 Member States shall also be authorised to make changes as referred to in Article 6(1)(c) by transferring within a calendar year from and to any axis up to 1 % of the total EAFRD contribution to the programme for the entire programming period.

3 Programme changes referred to in paragraphs 1 and 2 may be made before 31 December 2015 at the latest, provided that Member States notify such changes by 31 August 2015 at the latest.

4 Except in cases of emergency measures due to natural disasters, changes referred to in paragraphs 1 and 2 shall be notified no more than three times per calendar year and per programme provided that the 1 % ceiling referred to in paragraph 2 is respected within the calendar year in which the three notifications are made.

5 Changes referred to in paragraphs 1 and 2 of this Article shall be compatible with the rates set in Article 17 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)

6 Changes referred to in paragraphs 1 and 2 shall be notified to the Commission. The Commission shall assess their:

- a compliance with Regulation (EC) No 1698/2005;
- b coherence with the relevant national strategy plan;
- c compliance with this Regulation.

The Commission shall inform the Member State of the results of that assessment within four months from the date of receipt by the Commission of the request of the programme change. If the changes fail to comply with one or more of the assessment parameters referred to in the first subparagraph, the four-month period shall be suspended until the Commission receives compliant programme changes.

If the Commission does not inform the Member State within the four-month period referred to in the second subparagraph the changes shall be deemed to be accepted and shall enter into force once the four-month period has expired.

Article 10

1 For the purpose of the second subparagraph of Article 71(1) of Regulation (EC) No 1698/2005, Member States shall bear the responsibility for expenditure between the date on which their request for programme revisions or changes as referred to in Article 6(1) of this Regulation is received by the Commission and the date of the Commission Decision pursuant to Articles 7 and 8 of this Regulation or that of the completion of the compliance assessment of the changes pursuant to Article 9 of this Regulation.

2 In cases of emergency measures due to natural disasters, eligibility of expenditure relating to programme changes as referred to in Article 6(1) may start from a date earlier than the date referred to in the second subparagraph of Article 71(1) of Regulation (EC) No 1698/2005.

Article 11

Changes of national frameworks referred to in Article 15(3) of Regulation (EC) No 1698/2005 shall fall within the scope of Article 6(1)(c) of this Regulation. Article 9(3) and (6) of this Regulation shall apply *mutatis mutandis* to such changes.

Article 12

Where Community legislation is adopted or amended, rural development programmes shall be changed in line with the new or amended legislation as necessary, in accordance with Article 6(1). Such changes shall not be taken into account for the yearly number of changes referred to in Article 7(2), Article 8(3) and Article 9(4). Article 6(2) shall not apply to such changes.

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)

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.

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.

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 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 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.

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)

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⁾;
- 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;

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)

- 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, 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.

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)

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.

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⁾.

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 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.

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;

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 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 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.

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 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.

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.

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)

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 rubber-wood 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.

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.

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 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.

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.

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 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.

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.

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 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 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.

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)

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:

- 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.

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 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 re-parcelled 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.

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;

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)

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.

CHAPTER IV

Eligibility and administrative provisions

Section 1

Verifiability and controllability of measures and eligibility rules

Sub-section 1

Verifiability and controllability of measures

Article 48

1 For the purposes of Article 74(1) of Regulation (EC) No 1698/2005 Member States shall ensure that all the rural development measures they intend to implement are verifiable and controllable. To this end, Member States shall define control arrangements that give them reasonable assurance that eligibility criteria and other commitments are respected.

2 In order to substantiate and confirm the adequacy and accuracy of the calculations of payments under Articles 31, 38, 39, 40 and 43 to 47 of Regulation (EC) No 1698/2005, Member States shall ensure that appropriate expertise is provided by bodies or services functionally independent from those responsible for those calculations. Provision of such expertise shall be evidenced in the rural development programme.

Sub-section 2

Interest rate subsidies

Article 49

Interest rate subsidies for loans may be co-financed by the EAFRD pursuant to Article 71(5) of Regulation (EC) No 1698/2005. When proposing interest rate subsidies, Member States shall indicate in their programmes the method of calculation of the interest rate subsidy to be used.

Member States may establish a system of capitalisation of the remaining annual instalments of the interest rate subsidy at any time during the period of the loan. Any remaining annual instalment after the final date for payments shall be capitalised and paid out by 31 December 2015 at the latest. For the purposes of claims for payment made to the Commission, the amounts paid out to the intermediary financial institution undertaking the payment of the discounted value of the subsidy shall be considered as expenditure actually incurred.

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)

For the purposes of the second paragraph, an agreement is needed between the Member States' paying agency and the intermediary financial institution undertaking the payment of the discounted value of the subsidy. Member States shall indicate in the programme the calculation method and future value hypotheses to be used in calculating the capitalised value of outstanding interest rate subsidy as well as the arrangements for continuing transmitting the aid to the beneficiaries.

Member States shall remain responsible for the management of the payment of the discounted value of the subsidy for the entire loan period to the financial intermediary and for any recovery of amounts unduly paid in accordance with Article 33 of Council Regulation (EC) No 1290/2005⁽⁹⁾.

Sub-section 3

Other financial engineering actions

Article 50

Pursuant to Article 71(5) of Regulation (EC) No 1698/2005, as part of a rural development programme, the EAFRD may co-finance expenditure in respect of an operation comprising contributions to support venture capital funds, guarantee funds and loan funds (hereinafter 'the funds'), in accordance with Articles 51 and 52 of this Regulation.

Article 51

1 Those part-financing the funds or their sponsors shall submit a business plan to the managing authority specifying, *inter alia*, the targeted market or guarantee portfolio, the criteria, terms and conditions of financing, the operational budget of the fund, the ownership and part-financing partners, the requirements as to the professionalism, competence and independence of the management, the fund's by-laws, the justification and intended utilisation of the EAFRD contribution, the investment exit policy, and the winding-up provisions of the fund, including the re-utilisation of returns attributable to the EAFRD contribution. The business plan shall be appraised and its implementation monitored by or under the responsibility of the managing authority.

2 The funds shall be set up as independent legal entities governed by agreements between the shareholders or as separate block of finance within an existing financial institution. In the latter case, the fund shall be subject to specific implementing rules, providing in particular for the keeping of separate accounts distinguishing the new resources invested in the fund, including those contributed by the EAFRD, from those initially available in the financial institution. The Commission shall not become a partner or shareholder in the fund.

3 The funds shall invest in or provide guarantees to enterprises on their establishment, during their early stages or expansion and only in activities that the fund managers consider potentially viable. The assessment of the economic viability shall take into account all sources of income of the enterprises in question. Funds shall not invest in or provide guarantees for firms in difficulty within the meaning of the Community Guidelines on State aid for rescuing and restructuring firms in difficulty⁽¹⁰⁾.

4 Precautions shall be taken by managing authorities and funds to minimise distortion of competition in the venture capital or lending market. In particular, returns from equity investments and loans, less a pro rata share of the management costs, may be preferentially allocated to the private sector shareholders up to the level of remuneration laid down in

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)

the shareholder agreement, and after that, they shall be allocated proportionally between all shareholders and the EAFRD.

5 Management costs of funds shall not exceed 3 % of the paid-up capital, or 2 % in the case of guarantee funds, on a yearly average for the duration of the programme unless, after a competitive tender, a higher percentage proves necessary.

6 The terms and conditions for contributions to funds from rural development programmes, including deliverables, investment strategy and planning, monitoring implementation, investment exit policy and winding up provisions, shall be established in a funding agreement to be concluded between the fund on the one hand, and the Member State or the managing authority, on the other.

7 Contributions to funds from the EAFRD and other public sources and investments made by the funds in or guarantees provided to individual undertakings shall be subject to the rules in Regulation (EC) No 1698/2005 or to the Community rules on State aid.

Article 52

1 As regards financial engineering actions referred to in Article 51 of this Regulation, the expenditure declared to the Commission in accordance with Article 26(3)(a) of Regulation (EC) No 1290/2005 shall be the total expenditure paid in establishing or contributing to such funds.

However, when paying the balance and closing the rural development programme in accordance with Article 28 of Regulation (EC) No 1290/2005, the eligible expenditure shall be the total of:

- a any payment for investment in enterprises out of each of the funds concerned, or any guarantees provided including amounts committed as guarantees by guarantee funds;
- b eligible management costs.

The difference between the EAFRD contribution actually paid under financial engineering actions and the eligible expenditure under points (a) or (b) of the second subparagraph shall be cleared in the context of the annual accounts of the last year of implementation of the programme.

2 Interest generated by payments from rural development programmes to funds shall be used to finance financial engineering actions for individual undertakings.

3 Resources returned to the operation from investments undertaken by funds or left over after all guarantees have been honoured shall be reused by the competent authorities of the Member States concerned for the benefit of individual undertakings.

Sub-section 4

Standard costs and assumptions of income foregone, contributions in kind

Article 53

1 Where appropriate Member States may fix the level of support provided for in Articles 31, 37 to 41, and 43 to 49 of Regulation (EC) No 1698/2005 on the basis of standard costs and standard assumptions of income foregone.

2 Member States shall ensure that the calculations and the corresponding support referred to in paragraph 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. (See end of Document for details)

- a contain only elements that are verifiable;
- b are based on figures established by appropriate expertise;
- c indicate clearly the source of the figures;
- d are differentiated to take into account regional or local site conditions and actual land use as appropriate;
- e in the case of measures pursuant to Articles 31, 37 to 40 and 43 to 47 of Regulation (EC) No 1698/2005, do not contain elements linked to fixed investment costs.

Article 54

1 For measures involving investments in kind, contributions of a public or private beneficiary, namely the provision of goods or services for which no cash payment supported by invoices or equivalent documents is made, may be eligible expenditure provided that the following conditions are fulfilled:

- a the contributions consist in the provision of land or real estate, equipment or raw materials, research or professional work or unpaid voluntary work;
- b the contributions are not made in respect of financial engineering actions referred to in Article 50;
- c the value of the contributions can be independently assessed and verified.

In the case of provision of land or real estate, the value shall be certified by an independent qualified expert or duly authorised official body.

In the case of unpaid voluntary work, the value of that work shall be determined taking into account the time spent and the hourly and daily rate of remuneration for equivalent work, where relevant on the basis of ex-ante established system of standard costing, provided that the control system provides reasonable assurance that the work has been carried out.

2 Public expenditure co-financed by the EARDF, contributing to an operation which includes contributions in kind shall not exceed the total eligible expenditure, excluding contributions in kind, at the end of the operation.

Sub-section 5

Investments

Article 55

- 1 In the case of investments, eligible expenditure shall be limited to:
 - a the construction, acquisition, including leasing, or improvement of immovable property;
 - b the purchase or lease-purchase of new machinery and equipment, including computer software up to the market value of the asset. Other costs connected with the leasing contract, such as lessor's margin, interest refinancing costs, overheads and insurance charges, shall not be eligible expenditure;
 - c general costs linked to expenditure referred to in points (a) and (b), such as fees of architects and engineers and consultation fees, feasibility studies, the acquisition of patent rights and licences.

By way of derogation from point (b) of the first subparagraph, and only for micro, small and medium-sized enterprises within the meaning of Commission Recommendation 2003/361/EC⁽¹¹⁾, Member States may, in duly substantiated cases, establish the

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)

conditions under which the purchase of second-hand equipment may be regarded as eligible expenditure.

2 In the case of agricultural investments the purchase of agricultural production rights, animals, annual plants and their planting shall not be eligible for investment support.

However, in cases of restoration of agricultural potential damaged by natural disasters pursuant to Article 20(b)(vi) of Regulation (EC) No 1698/2005, expenditure for the purchase of animals may be eligible expenditure.

Simple replacement investments shall not be eligible expenditure.

Sub-section 6

Payment of advances for investment support

Article 56

1 By way of derogation from Article 26(5) of Commission Regulation (EC) No 1975/2006⁽¹²⁾, beneficiaries of investment support may request the payment of an advance from the competent paying agencies if this option is included in the rural development programme. As regards public beneficiaries, such an advance may be paid only to municipalities and associations thereof and to public law bodies.

2 The amount of the advances shall not exceed 20 % of the public aid related to the investment, and its payment shall be subject to the establishment of a bank guarantee or an equivalent guarantee corresponding to 110 % of the amount of the advance.

However, in the case of the public beneficiaries referred to in paragraph 1, the paying agency may accept a written guarantee from their authority, in accordance with provisions applied in the Member States, covering an amount equal to the percentage specified in the first subparagraph, provided that the authority undertakes to pay the amount covered by that guarantee should entitlement to the advance paid not be established.

3 The guarantee shall be released when the competent paying agency establishes that the amount of actual expenditure corresponding to the public aid related to the investment exceeds the amount of the advance.

Section 2

State aid

Article 57

1 Rural development programmes may cover State aid intended to provide additional national funding in accordance with Article 89 of Regulation (EC) No 1698/2005 in favour of measures or operations falling within the scope of Article 36 of the Treaty only if the State aid is identified in accordance with point 9.A of Annex II to this Regulation.

2 Rural development programmes may cover State aid intended to provide financial contributions provided by Member States as counterpart of Community support in accordance with Article 88 of Regulation (EC) No 1698/2005 in favour of measures pursuant to Articles 25 and 52 of that Regulation and of operations under measures pursuant to Articles 28 and 29 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)

that Regulation or additional national funding in accordance with Article 89 of that Regulation in favour of the measures pursuant to Articles 25, 27 and 52 of that Regulation and of operations under measures pursuant to Articles 28 and 29 of that Regulation, falling outside the scope of Article 36 of the Treaty, only if the State aid is identified in accordance with point 9.B of Annex II to this Regulation.

3 Expenditure incurred for the measures and operations referred to in paragraph 2 of this Article shall be eligible only if the underlying aid does not constitute unlawful aid within the meaning of Article 1(f) of Council Regulation (EC) No 659/1999⁽¹³⁾ at the time the aid is granted.

The managing authority or any other competent authority in the Member State shall ensure that where aid is to be granted to operations under the measures referred to in paragraph 2 of this Article on the basis of existing aid schemes within the meaning of Article 1(b) and (d) of Regulation (EC) No 659/1999, any applicable notification requirements for individual aid within the meaning of Article 1(e) of that Regulation are respected, and that such operations are selected only after notification of the underlying aid and approval by the Commission pursuant to Article 88(3) of the Treaty.

Section 3

Information and publicity

Article 58

1 The rural development programme shall include a communication plan which shall set out:

- a the aims and target groups;
- b the content and strategy of the communication and information measures, stating the measures to be taken;
- c its indicative budget;
- d the administrative departments or bodies responsible for implementation;
- e the criteria to be used to evaluate the impact of the information and publicity measures in terms of transparency, awareness of the rural development programmes and the role played by the Community.

2 The amount allocated for information and publicity may be part of the technical assistance component of the rural development programme.

3 Detailed rules on information and publicity are laid down in Annex VI.

Article 59

At the meetings of the Monitoring Committee set up in accordance with Article 77 of Regulation (EC) No 1698/2005, the Chairman shall report on progress in implementing the information and publicity measures and provide the Committee members with examples of such measures.

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)

Section 4

Monitoring and evaluation

Article 60

The structure and the elements of the annual progress reports provided for in Article 82 of Regulation (EC) No 1698/2005 are set out in Annex VII to this Regulation.

Article 61

Mid-term and ex-post evaluations in accordance with Article 86(4) and (5) of Regulation (EC) No 1698/2005 shall be submitted to the Commission respectively by 31 December 2010 and 31 December 2015 at the latest.

If Member States fail to submit the mid-term and ex-post evaluation reports by the dates referred to in the first paragraph of this Article the Commission may apply the procedure of temporary suspension of intermediate payments referred to in Article 27(3) of Regulation (EC) No 1290/2005 until it receives those evaluation reports.

Article 62

1 The common set of baseline, output, result, and impact indicators for the rural development programmes are listed in Annex VIII to this Regulation. That list of indicators shall form the Common Monitoring and Evaluation Framework (CMEF) referred to in Article 80 of Regulation (EC) No 1698/2005.

Where relevant, those indicators shall be broken down by age and gender of beneficiaries, as well as according to whether the measures are implemented in less-favoured areas or in areas covered by the Convergence Objective.

2 Progress on the output and result indicators shall be part of the annual progress report. That report shall include both common and additional indicators.

To measure progress in meeting the objectives of the rural development programme, indicative targets for output, result and impact indicators shall be set for the period of implementation of the programme, including additional national financing referred to in Article 89 of Regulation (EC) No 1698/2005.

3 Guidance on the CMEF shall be drawn up by the Commission through a common approach with the Member States. That guidance shall cover at least the following:

- a monitoring requirements;
- b the organisation of the ex-ante, mid-term and ex-post evaluation and common evaluation questions for each rural development measure;
- c guidance on the reporting system for assessing progress with respect to indicators;
- d information sheets for each measure containing the intervention logic and the different indicators;
- e information sheets describing baseline, output, result and impact indicators.

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)

Section 5

Electronic exchange of information and documents

Article 63

1 The Commission, in collaboration with the Member States, shall establish an information system (hereinafter ‘the System’) to permit the secure exchange of data of common interest between the Commission and each Member State. Those data shall cover both administrative/operational and financial aspects, the latter covered by Article 18 of Commission Regulation (EC) No 883/2006⁽¹⁴⁾.

The System shall be set up and updated by the Commission through a common approach with the Member States.

2 As regards the administrative/operational management, the System shall contain the documentary aspects of common interest enabling monitoring to be carried out, and in particular: the national strategy plans and their updates, the summary reports, the programmes and their modifications, the Commission Decisions, the annual progress reports, including codification of measures in accordance with the table in Point 7 of Annex II, and the monitoring and evaluation indicators in Annex VIII.

3 The managing authority and the Commission shall input into the System and update the documents for which they are responsible in the format required.

4 The System shall be accessible to the Member States and the Commission either directly or via an interface for automatic synchronisation and inputting of data with national and regional computer management systems.

Member States shall submit requests for access rights to the System to the Commission in a centralised manner.

5 Exchanges of data shall be signed electronically in accordance with Article 5 of Directive 1999/93/EC of the European Parliament and of the Council⁽¹⁵⁾. The Member States and the Commission shall recognise the legal effectiveness and admissibility as evidence in legal proceedings of the electronic signature used in the System.

6 The date to take into account for the forwarding of documents to the Commission shall be the date on which the Member State transmits the documents, after inputting them into the System.

A document shall be regarded as having been sent to the Commission once it is no longer possible for the Member State to amend it or remove it from the System.

7 The cost of developing and updating the common elements of the System shall be financed by the Community budget in accordance with Article 66(1) of Regulation (EC) No 1698/2005.

Any costs of an interface between national and local systems, on the one hand, and the System, on the other hand, and any costs of adapting national and local systems may be eligible under Article 66(2) of that Regulation.

8 In cases of *force majeure* or exceptional circumstances, and in particular of malfunctioning of the System or a lack of a lasting connection, the Member State may submit the documents to the Commission in hard copy. Such submission of hard copies shall require the prior and formal agreement of the Commission.

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)

Once the cause of *force majeure* or exceptional circumstance preventing use of the System ceases, the Member State shall input the documents concerned into the System. In this event, the date of sending shall be deemed to be the date of submission of the documents in hard copy.

CHAPTER V

Final provisions

Article 64

Regulation (EC) No 817/2004 is repealed as from 1 January 2007.

It shall continue to apply to measures approved before 1 January 2007 under Regulation (EC) No 1257/1999.

Article 11 of Regulation (EC) No 817/2004 and points 9.3.V.A(1) and 9.3.V.B(1), (2) and (3) and the second indent of point 9.3.V.B. of Annex II thereto shall continue to apply until 31 December 2009 pursuant to the third paragraph of Article 94 of Regulation (EC) No 1698/2005.

Article 65

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

It shall apply to Community support concerning the programming period starting on 1 January 2007.

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

Done at Brussels, 15 December 2006.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

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.
- (9) OJ L 209, 11.8.2005, p. 1.
- (10) OJ C 244, 1.10.2004, p. 2.
- (11) OJ L 124, 20.5.2003, p. 36.
- (12) See page 74 of this Official Journal.
- (13) OJ L 83, 27.3.1999, p. 1.
- (14) OJ L 171, 23.6.2006, p. 1.
- (15) OJ L 13, 19.1.2000, p. 12.

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.