

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amending Regulations (EC) No 1290/2005, (EC) No 247/2006, (EC) No 378/2007 and repealing Regulation (EC) No 1782/2003 (repealed)

### TITLE III

## SINGLE PAYMENT SCHEME

### CHAPTER 4

#### **Integration of coupled support into the single payment scheme**

#### *Article 63*

#### **Integration of coupled support into the single payment scheme**

1 As from 2010, Member States shall integrate the support available under the coupled support schemes referred to in Annex XI into the single payment scheme in accordance with the rules laid down in Articles 64, 65, 66 and 67.

2 By way of derogation from paragraph 1:

- a the Member States having introduced the single payment scheme in accordance with Chapters 1 to 4 of Title III of Regulation (EC) No 1782/2003 may decide to use all or part of the support referred to in paragraph 1 to establish payment entitlements or to increase the value of the payment entitlements on the basis of the type of agricultural activities exercised by farmers during one or more years in the period 2005 to 2008 and in accordance with objective and non-discriminatory criteria such as the agricultural potential or environmental criteria;
- b the Member States having introduced the single payment scheme in accordance with Section 1 of Chapter 5 or Chapter 6 of Title III of Regulation (EC) No 1782/2003 or making use of the option provided for in Article 47 of this Regulation may decide to use all or part of the support referred to in paragraph 1 to increase the value of all payment entitlements by a supplementary amount corresponding to the increase of the regional ceiling divided by the total number of payment entitlements.

Member States may also differentiate the increase in value of the payment entitlements by taking into account the criteria referred to in Article 64(1) of this Regulation or on the basis of the type of agricultural activities exercised by farmers during one or more years in the period 2005 to 2008 and in accordance with objective and non-discriminatory criteria such as the agricultural potential or environmental criteria.

3 Where a Member State makes use of the derogation provided for in paragraph 2(a), it shall take adequate measures to ensure that farmers having benefited from the support referred to in paragraph 1 are not excluded from the single payment scheme. In particular, it shall make sure that the overall support the farmer will receive after the integration of the coupled support schemes referred to paragraph 1 into the single payment scheme does not fall below 75 % of the

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average annual support the farmer received under all the direct payments during the relevant reference periods referred to in Articles 64, 65 and 66.

#### Article 64

### Integration of coupled support excluded from the single payment scheme

1 The amounts referred to in Annex XII that were available for coupled support under the schemes referred to in points 1 and 2 of Annex XI shall be distributed by the Member States amongst the farmers in the sectors concerned in accordance with objective and non-discriminatory criteria, taking account, in particular, of support that those farmers received, directly or indirectly, under the relevant support schemes during one or more years in the period 2005 to 2008. In the case of the potato starch schemes referred to in points 1 and 2 of Annex XI, Member States may distribute the amounts available under those schemes taking into account the quantities of potato covered by cultivation contracts between the potato producer and the starch manufacturer within the limit of the quota allocated to that manufacturer, as referred to in Article 84a of Regulation (EC) No 1234/2007, in a given year.

2 Member States shall increase the value of the payment entitlements held by the farmers concerned on the basis of the amounts resulting from the application of paragraph 1.

The increase in value per payment entitlement per farmer shall be calculated by dividing the amounts referred to in the first subparagraph by the number of payment entitlements of each farmer concerned.

However, where a farmer in a sector concerned does not hold any payment entitlement, he shall be allocated payment entitlements:

- a the number of which shall be equal to the number of hectares he declares in accordance with Article 35(1) in respect of the year of integration of the coupled support scheme into the single payment scheme;
- b the value of which shall be established by dividing the amount resulting from the application of paragraph 1 by the number established in accordance with point (a) of this subparagraph.

[<sup>F1</sup>By way of derogation from the third subparagraph, where a farmer of the sector concerned does not hold any payment entitlement but declares a number of leased payment entitlements in the first year of integration of the coupled support, he shall be allocated a number of payment entitlements corresponding to the difference between the number of eligible hectares he declares and the number of leased payment entitlements he declares. The value of the entitlements allocated shall be established by dividing the amount resulting from the application of paragraph 1 by the number of entitlements to be allocated. However, the value of each entitlement allocated shall not exceed EUR 5 000.

In order to ensure the full allocation of the amount resulting from the application of paragraph 1 after application of the fourth subparagraph of this paragraph, the farmer of the sector concerned shall be allocated payment entitlements of a maximum value per entitlement of EUR 5 000. By way of derogation from Article 35, these payment entitlements shall give right to an annual support under the single payment scheme without declaration of the corresponding hectares. However, the number of payment entitlements activated by use of this derogation shall in a given year not exceed the number of payment entitlements activated by the farmer in accordance with Article 35. This derogation shall cease to apply from the first year where, and to the extent to which, the farmer of the sector concerned declares sufficient eligible hectares for activation of the payment entitlements or part thereof in accordance with Article 35. Those payment

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entitlements shall be activated on the available eligible hectares before any payment entitlements are transferred to the farmer, after the allocation of payment entitlement in accordance with the first sentence of this subparagraph.

In the case of transfer of the payment entitlements resulting from the fifth subparagraph of this paragraph, other than by actual or anticipated inheritance or as a consequence to change in legal status, Article 35 shall apply where the transferee activates those payment entitlements.]

3 However, where the amount per aid scheme is lower than EUR 250 000, the Member State concerned may decide not to distribute the amounts and add them to the national reserve.

#### **Textual Amendments**

- F1** Inserted by [Council Regulation \(EC\) No 1250/2009 of 30 November 2009 amending Regulation \(EC\) No 73/2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers.](#)

#### *Article 65*

##### **Integration of coupled support partially excluded from the single payment scheme**

The amounts that were available for coupled support under the schemes referred to in point 3 of Annex XI shall be distributed by the Member States amongst the farmers in the sectors concerned in proportion to the support that those farmers received under the relevant support schemes during the relevant reference periods referred to in Regulation (EC) No 1782/2003.

Member States may, however, choose a more recent representative period in accordance with objective and non-discriminatory criteria and, where a Member State introduced the single payment scheme in accordance with Section 1 of Chapter 5 or Chapter 6 of Title III of Regulation (EC) No 1782/2003 or where it makes use of the option provided in Article 47 of this Regulation, in accordance with Article 63(2)(b) of this Regulation.

Member States shall increase the value of the payment entitlements of the farmers concerned or allocate payment entitlements in accordance with Article 64(2) of this Regulation.

Where a farmer that received payments under Articles 67 and 68 of Regulation (EC) No 1782/2003 would be entitled to receive payment entitlements in accordance with this Article for which he does not have eligible hectares in the year of integration of the coupled support scheme into the single payment scheme or where his payment entitlement per hectare results in an amount higher than EUR 5 000, he shall be allocated special entitlements as referred to in Article 44, not exceeding EUR 5 000 per entitlement.

#### *Article 66*

##### **Optional integration of coupled support partially excluded from the single payment scheme**

Where a Member State:

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- (a) does not take the decision referred to in the first subparagraph of Article 51(1);
- (b) decides not to grant the beef and veal payments referred to in Article 53(2) from 2011, in application of the second subparagraph of Article 51(1); or
- (c) decides not to grant the fruit and vegetable payments in application of the third subparagraph of Article 51(1),

the amounts that were available for coupled support under the schemes referred to in point 4 of Annex XI shall be integrated into the single payment scheme in accordance with Article 65.

### *Article 67*

#### **Advanced integration of coupled support into the single payment scheme**

[<sup>F1</sup>1.] Member States may decide, by 1 August 2009, to integrate the seed aid referred to in Section 5 of Title IV and the schemes referred to in point 1 of Annex XI, with the exception of the specific quality premium for durum wheat, into the single payment scheme in 2010 or 2011. In this case, the Commission, in accordance with the procedure referred to in Article 141(2), shall adjust the national ceilings referred to in Article 40 by adding the amounts from Annex XII for the aid scheme concerned.

[<sup>F1</sup>2] Member States having made use only in some parts of their territory of the option provided for in Section 1 of Chapter 5 of Title III of Regulation (EC) No 1782/2003 to apply the single payment scheme at regional level may apply this Article at the same regional level.

Any Member State applying the possibility provided for in the first subparagraph shall submit the following information to the Commission, by 1 December 2009:

- a the breakdown per region of the amounts foreseen for the measure or measures concerned for the years 2010 to 2012 according to objective criteria;
- b the statistical and other supporting data used to establish the amounts referred to in point (a).

Member States shall reply to any request from the Commission for further clarifications on the information submitted within one month.

The Commission shall use the amounts referred to in point (a) of the second subparagraph of this paragraph as a basis for adjusting the national ceilings referred to in Article 40 for the Member States concerned as provided for in this Article.]

#### **Textual Amendments**

- F1** Inserted by [Council Regulation \(EC\) No 1250/2009 of 30 November 2009 amending Regulation \(EC\) No 73/2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers.](#)

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