

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amending Regulations (EC) No 1290/2005, (EC) No 247/2006, (EC) No 378/2007 and repealing Regulation (EC) No 1782/2003 (repealed)

TITLE V

IMPLEMENTATION OF DIRECT PAYMENTS IN THE NEW MEMBER STATES

CHAPTER 2

Single area payment scheme

Article 122

Single area payment scheme

1 The new Member States having decided to replace the direct payments, with the exception, for 2009, 2010 and 2011, of the transitional soft fruit payment established in Section 9 of Chapter 1 of Title IV of this Regulation, and, for 2009, of the energy crops payment referred to in Chapter 5 of Title IV of Regulation (EC) No 1782/2003, with a single area payment scheme shall grant aid to farmers in accordance with this Article.

2 The single area payment shall be granted on an annual basis. It shall be calculated by dividing the annual financial envelope established in accordance with Article 123 by the agricultural area of each new Member State established in accordance with Article 124.

3 The single area payment scheme shall be available until 31 December 2013. The new Member States shall notify the Commission of their intention to terminate the application of the scheme by 1 August of the last year of application.

4 After the end of the period of application of the single area payment scheme, the direct payments shall be applied in accordance with the relevant Community rules and on the basis of the quantitative parameters, such as base area, premium ceilings and maximum guaranteed quantities, specified in the 2003 and 2005 Acts of Accession and subsequent Community legislation for each direct payment. The percentage rates set out in Article 121 of this Regulation for the relevant years shall subsequently apply.

Article 123

Annual financial envelope

1 For any new Member State, the Commission shall establish an annual financial envelope as the sum of the funds that would be available in respect of the calendar year concerned for granting direct payments in the new Member State.

The annual financial envelope shall be established according to the relevant Community rules and on the basis of the quantitative parameters, such as base areas, premium

ceilings and maximum guaranteed quantities, specified in the 2003 and 2005 Acts of Accession and subsequent Community legislation for each direct payment.

The annual financial envelope shall be adjusted using the relevant percentage specified in Article 121 for the gradual introduction of direct payments, except for the amounts available in accordance with Annex XV or in accordance with the differential between these amounts or the amounts corresponding to the fruit and vegetable sector and those actually applied as referred to in Article 130(1).

2 Where in a given year the single area payments in a new Member State would exceed its annual financial envelope, the national amount per hectare applicable in that new Member State shall be reduced proportionately by applying a reduction coefficient.

Article 124

Area under the single area payment scheme

1 The agricultural area of a new Member State other than Bulgaria and Romania under the single area payment scheme shall be the part of its utilised agricultural area which was maintained in good agricultural condition on 30 June 2003, whether or not in production at that date, and, where appropriate, adjusted in accordance with the objective and non-discriminatory criteria to be set by that new Member State after approval by the Commission.

For the purposes of this Title, 'utilised agricultural area' shall mean the total area taken up by arable land, permanent grassland, permanent crops and kitchen gardens as established by the Commission for its statistical purposes.

For Bulgaria and Romania, the agricultural area under the single area payment scheme shall be the part of its utilised agricultural area which is maintained in good agricultural condition, whether or not in production, where appropriate adjusted in accordance with the objective and non-discriminatory criteria to be set by Bulgaria or Romania after approval by the Commission.

2 For the purpose of granting payments under the single area payment scheme, all agricultural parcels corresponding to the criteria provided for in paragraph 1, as well as agricultural parcels planted with short rotation coppice (CN code ex 0602 90 41) which were maintained in good agricultural condition on 30 June 2003, shall be eligible. However, for Bulgaria and Romania, all agricultural parcels corresponding to the criteria provided for in paragraph 1, as well as agricultural parcels planted with short rotation coppice (CN code ex 0602 90 41), shall be eligible.

Except in the case of *force majeure* or exceptional circumstances, the parcels referred to in the first subparagraph shall be at the farmer's disposal on the date fixed by the Member State which shall be no later than the date fixed in that Member State for amendment of the aid application.

The minimum size of eligible area per holding for which payments may be requested shall be 0,3 ha. However, any new Member State may decide, on the basis of objective criteria and after approval by the Commission, to set the minimum size at a higher level not exceeding 1 ha.

3 There shall be no obligation to produce or to employ the factors of production. However, farmers may use the land referred to in paragraph 4 of this Article for any agricultural purpose. In the case of the production of hemp, Article 39 shall apply.

4 Any land benefiting from payments under the single area payment scheme shall be maintained in good agricultural and environmental condition in accordance with Article 6.

5 Any farmer receiving support under the single area payment scheme shall respect the statutory management requirements referred to in Annex II in accordance with the following timetable:

- a requirements referred to in Point A of Annex II shall apply from 1 January 2009;
- b requirements referred to in Point B of Annex II shall apply from 1 January 2011;
- c requirements referred to in Point C of Annex II shall apply from 1 January 2013.

6 For Bulgaria and Romania, the application of Articles 4, 5, 23, 24 and 25 shall be optional until 31 December 2011 insofar as those provisions relate to statutory management requirements. As from 1 January 2012 a farmer receiving payments under the single area payment scheme in those Member States shall fulfil the statutory management requirements referred to in Annex II in accordance with the following timetable:

- a requirements referred to in Point A of Annex II shall apply from 1 January 2012;
- b requirements referred to in Point B of Annex II shall apply from 1 January 2014;
- c requirements referred to in Point C of Annex II shall apply from 1 January 2016.

7 The new Member States may also apply the options provided for in paragraphs 5 and 6 where they decide to terminate the application of the single area payment scheme before the end of the period of application provided for in Article 122(3).

8 The application of the single area payment scheme shall in no way affect the obligation of any new Member State with regard to the implementation of Community rules on the identification and registration of animals as provided for by Regulation (EC) No 1760/2000 and Regulation (EC) No 21/2004.

Article 125

Communication

The new Member States shall inform the Commission in detail of the measures taken to implement this Chapter, and in particular the measures taken pursuant to Article 123(2).