

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amending Regulations (EC) No 1290/2005, (EC) No 247/2006, (EC) No 378/2007 and repealing Regulation (EC) No 1782/2003 (repealed)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

### IMPLEMENTING, TRANSITIONAL AND FINAL PROVISIONS

#### CHAPTER 1

#### **Implementing provisions**

##### *Article 137*

#### **Confirmation of payment entitlements**

- 1 Payment entitlements allocated to farmers before 1 January 2009 shall be deemed legal and regular as from 1 January 2010.
- 2 Paragraph 1 shall not apply to payment entitlements allocated to farmers on the basis of factually incorrect applications except in cases where the error could not reasonably have been detected by the farmer.
- 3 Paragraph 1 of this Article shall not prejudice the Commission's power to take decisions referred to in Article 31 of Regulation (EC) No 1290/2005 in relation to expenditure incurred for payments granted in respect of any calendar year up to 2009 included.

##### *Article 138*

#### **Application to the outermost regions**

Titles III and IV shall not apply to the French overseas departments, to the Azores and Madeira nor to the Canary Islands.

##### *Article 139*

#### **State aid**

By way of derogation from Article 180 of Regulation (EC) No 1234/2007 and Article 3 of Council Regulation (EC) No 1184/2006 of 24 July 2006 applying certain rules of competition to the production of, and trade in, agricultural products<sup>(1)</sup>, Articles 87, 88 and 89 of the Treaty shall not apply to payments made under Articles 41, 57, 64, 68, 69, 70 and 71, Article 82(2), Article 86, Article 98(4), Article 111(5), Article 120, Article 129(3) and Articles 131, 132 and 133 of this Regulation by Member States in conformity with this Regulation.

### *Article 140*

#### **Transmission of information to the Commission**

Member States shall inform the Commission in detail of the measures taken to implement this Regulation and, in particular, those relating to Articles 6, 12, 28, 41, 45, 46, 47, 48, 51, 57, 58, 68, 69, 70, 71, 72 and 131.

### *Article 141*

#### **Management Committee for Direct Payments**

1 The Commission shall be assisted by a Management Committee for Direct Payments.

2 Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply.

The period provided for in Article 4(3) of Decision 1999/468/EC shall be set at one month.

### *Article 142*

#### **Implementing rules**

In accordance with the procedure referred to in Article 141(2), detailed rules shall be adopted for the implementation of this Regulation. They shall include in particular:

- (a) detailed rules relating to the establishment of a farm advisory system;
- (b) detailed rules relating to the criteria for the allocation of amounts made available by the application of modulation;
- (c) detailed rules for the granting of aid provided for in this Regulation, including eligibility conditions, dates of application and payment and control provisions as well as for checking and establishing entitlement to the aids including any necessary exchange of data with the Member States, and for the establishment of the overrun of the base areas or maximum guaranteed areas as well as detailed rules concerning the determination of the retention period, the withdrawal and reallocation of unused premium rights established under Sections 10 and 11 of Chapter 1 of Title IV;
- (d) with regard to the single payment scheme, detailed rules relating in particular to the establishment of the national reserve, the transfer of payment entitlements, the definition of permanent crops, permanent pastures and grassland, the options provided for in Chapters 2 and 3 of Title III and the integration of coupled payments provided for in Chapter 4 of Title III;
- (e) detailed rules relating to the implementation of the provisions in Title V;
- (f) detailed rules relating to the inclusion of fruit and vegetables, ware potatoes and nurseries support into the single payment scheme, including the application procedure in the first year of implementation, and relating to the payments referred to in Sections 8 and 9 of Chapter 1 of Title IV;

- (g) detailed rules relating to the inclusion of wine support into the single payment scheme, including the application procedure in the first year of implementation, in accordance with Regulation (EC) No 479/2008;
- (h) with regard to hemp, detailed rules relating to the specific control measures and methods for determining tetrahydrocannabinol levels;
- (i) such amendments to Annex I as may become necessary, taking into account the criteria set out in Article 1;
- (j) such amendments to Annexes V and IX as may become necessary, taking into account in particular new Community legislation;
- (k) the basic features of the identification system for agricultural parcels and their definition;
- (l) any amendments which may be made to the aid application and exemption from the requirement to submit an aid application;
- (m) rules on the minimum amount of information to be included in the aid applications;
- (n) rules on the administrative controls, on the on-the-spot checks and on the checks by remote sensing;
- (o) rules on the application of reductions and exclusions from payments in the event of non-compliance with the obligations referred to in Articles 4 and 22, including cases of non-application of reductions and exclusions;
- (p) such amendments to Annex VI as may become necessary, taking into account the criteria set out in Article 26;
- (q) communications between the Member States and the Commission;
- (r) measures which are both necessary and duly justified to resolve, in an emergency, practical and specific problems, in particular those relating to the implementation of Chapter 4 of Title II and Chapters 2 and 3 of Title III; such measures may derogate from certain parts of this Regulation, but only to the extent, and for such a period as is, strictly necessary;
- (s) with regard to cotton, detailed rules in respect of:
  - (i) the calculation of the reduction in the aid provided for in Article 90(4);
  - (ii) the approved inter-branch organisations, in particular their financing and a control and sanction system.

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**Status:** This is the original version (as it was originally adopted).

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(1) [OJ L 214, 4.8.2006, p. 7.](#)