

## II

*(Acts whose publication is not obligatory)*

## COUNCIL

## COUNCIL DIRECTIVE

of 28 April 1975

on mountain and hill farming and farming in certain less-favoured areas

(75/268/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 42 and 43 thereof;

Having regard to the proposal from the Commission;

Having regard to the Opinion of the European Parliament <sup>(1)</sup>;

Having regard to the Opinion of the Economic and Social Committee <sup>(2)</sup>;

Whereas Article 39 (2) (a) of the Treaty provides that account shall be taken of the social structure of agriculture and of the structural and natural disparities between the various agricultural regions in working out the common agricultural policy;

Whereas, in order to attain the objectives of the common agricultural policy set out in Article 39 (1) (a) and (b), special provisions should be adopted at Community level which are suited to those agricultural areas in which natural production conditions are least favourable;

Whereas the statement made by the Community concerning hill farming <sup>(3)</sup> annexed to the Treaty of Accession declares that special conditions obtain in hill farming areas as compared with other areas of the United Kingdom and that differences, at times very marked, exist between areas in the Member States of the original Community, and also that the special conditions obtaining in certain areas of the enlarged Community may require action with a view to attempting to resolve the problems raised by these special conditions, and in particular to maintain reasonable incomes for farmers in such areas;

Whereas it is necessary that steps be taken to ensure the continued conservation of the countryside in mountain areas and in certain other less-favoured areas; whereas the Member States have already taken or plan to take positive measures for this purpose and these efforts should be encouraged; whereas farming performs a fundamental function in this respect;

Whereas the steady decline in agricultural incomes in these areas as compared with other regions of the Community, and the particularly poor working conditions prevalent in such areas are causing large-scale depopulation of farming and rural areas, which will eventually lead to the abandonment of land which was previously maintained, and moreover jeopardizing the viability and continued habitation of those areas the population of which is predominantly dependent on an agricultural economy;

<sup>(1)</sup> OJ No C 37, 4. 6. 1973, p. 55 and OJ No C 32, 11. 2. 1975, p. 30.

<sup>(2)</sup> OJ No C 100, 22. 11. 1973, p. 20 and OJ No C 62, 15. 3. 1975, p. 19.

<sup>(3)</sup> OJ No L 73, 27. 3. 1972, p. 201.

Whereas, in adopting provisions allowing Member States to apply for the assistance of farming in the less-favoured areas, all or some of the measures making up a particular system of aids designed to meet the particular needs of these areas, the Community would be supporting the efforts made by the Member States to maintain a farming industry in such areas;

Whereas the permanent natural handicaps existing in such areas, which are due chiefly to the poor quality of the soil, the degree of slope of the land and the short growing season, and which can be overcome only by operations the cost of which would be exorbitant, lead to high production costs and prevent farms from achieving a level of income similar to that enjoyed by farms of a comparable type in other regions;

Whereas, furthermore, farms in the less-favoured areas, as a result of handicaps and because in certain cases farming is associated with tourist and craft activities which are particularly well suited to such areas, are inadequately covered by Council Directive No 72/159/EEC<sup>(1)</sup> of 17 April 1972 on the modernization of farms (hereinafter referred to as 'Directive No 72/159/EEC'); whereas farmers who operate in such areas might find themselves ineligible to receive the investment aids provided for, primarily because it is difficult for them to attain the required level of income, a level which is in any case essential if farming is to be maintained in the long term;

Whereas it is for the Member States to notify to the Commission the boundaries of the less-favoured areas in which they propose to apply all or some of the special system of aids, and all information relating thereto;

Whereas in view of the nature and scope of the aforesaid system, provision should be made for the list of less-favoured farming areas satisfying specific conditions to be drawn up in accordance with Article 43 of the Treaty;

Whereas it may be essential, if the objectives assigned to farming in the less-favoured areas are to be attained, that farmers permanently engaged in agriculture in such areas be paid annual compensatory allowances; whereas it should be left to the Member States to fix the amount of such allowances according to the severity of the handicaps involved within the limits and conditions fixed for the different types of areas, both as to the amounts which may be paid and the types of production which may be covered;

Whereas the objectives of Directive No 72/159/EEC should also be pursued in the less-favoured areas, though the shortage of capital and the high cost of investment by farms in such areas justifies more favourable financing terms;

Whereas the same reasons justify an improvement in the system of incentives provided for in Article 10 of Directive No 72/159/EEC to encourage farms to concentrate on the production of beef, veal, mutton and lamb, although without this resulting in assistance which is excessive in relation to livestock numbers;

Whereas the compensatory allowances may be regarded as forming an integral part of farm incomes; whereas, having regard to Article 2 (2) of Directive No 72/159/EEC, a farmer submitting a development plan should consequently be allowed to include the amount of such allowances in his calculation of the earned income to be attained upon completion of the plan;

Whereas in view, in particular, of the special problems of less-favoured farming areas, it is desirable to make it easier for farmers in such areas to achieve comparable incomes by permitting them to include in their calculation of future income a larger proportion of income from non-agricultural sources than is allowed under Directive No 72/159/EEC; whereas for the same reason it is desirable that in those less-favoured farming areas which are suitable for the development of a tourist or craft industry the incentives to investment under the development plan should also be available in respect of limited investments for tourism or craft industry purposes;

Whereas the rationalization of farms and the need to conserve the countryside necessitate the granting of aids for joint investment schemes in respect of fodder production, for land improvement and jointly-owned capital equipment for pasture and hill grazing;

Whereas the criteria used to define areas eligible for Community aid may also be used to define areas in which Member States may grant special investment aid to farms which do not present a development plan; whereas, in order not to interfere with the implementation of the farm modernization programme, the arrangements for which have been adjusted, such aid should be limited;

<sup>(1)</sup> OJ No L 96, 23. 4. 1972, p. 1.

Whereas, as a result of the foregoing recitals, the measures envisaged constitute the adaptations and the complements to the measures provided for in Directive No 72/159/EEC, which are essential for the achievement of the objectives of that Directive in the areas concerned; whereas, the financial and general provisions of that Directive must therefore be applied, account being taken of any necessary modifications;

Whereas the Directive should be adopted taking into account certain amendments made to a previous text adopted by the Council on 21 January 1974,

HAS ADOPTED THIS DIRECTIVE:

#### TITLE I

#### Introduction of a special system of aids to assist the less-favoured farming areas

##### Article 1

In order to ensure the continuation of farming, thereby maintaining a minimum population level or conserving the countryside in certain less-favoured areas the list of which is determined in accordance with the procedure laid down in Article 2, Member States are authorized to introduce the special system of aids provided for in Article 4 to encourage farming and to raise farm incomes in these areas.

The application of the measures provided for in this system should take into account the situation and development objectives particular to each region.

##### Article 2

1. Member States shall communicate to the Commission the boundaries of the areas in which they propose to apply the special system of aids provided for in Article 4, and which, in the light of the characteristics specified in Article 3, are eligible for inclusion in the Community list of less-favoured farming areas. Member States shall at the same time submit all relevant information concerning the characteristics of these areas and the measures which they propose to apply in those areas under the special system of aids.

2. The Council, acting in accordance with the procedure laid down in Article 43 of the Treaty, shall adopt the Community list of less-favoured farming areas within the meaning of Article 3 in which Member States are authorized to introduce the special system of aids provided for in Article 4.

3. However, at the request of a Member State, submitted in accordance with paragraph 1, amendments may be made to the limits of the areas in accordance with the procedure laid down in Article 18 of Directive No 72/159/EEC. These amendments may not have the effect of increasing the effective amount of agricultural land of all the areas in the Member States concerned by more than 0.5% of the total affective agricultural area of that State.

##### Article 3

1. The less-favoured farming areas shall include mountain areas, in which farming is necessary to protect the countryside, particularly for reasons of protection against erosion or in order to meet leisure needs; they shall also include other areas where the maintenance of a minimum population or the conservation of the countryside are not assured.

2. These areas must have adequate infrastructures, including access roads to farms, electricity and drinking water and, in tourist and recreation areas, disposal of sewage. Should such amenities be lacking, their provision should be envisaged in the near future in public amenity programmes.

3. Mountain areas shall be made up of local government districts or parts thereof characterized by a considerable limitation of the possibilities for using the land and an appreciable increase in the cost of working it, due:

- either to the existence, because of the altitude, of very difficult climatic conditions the effect of which is substantially to shorten the growing season,
- or, at a lower altitude, to the presence, over the greater part of the district in question, of slopes too steep for the use of machinery or requiring the use of very expensive special equipment,
- or to the combination of these two factors, where the handicap resulting from each taken separately is less acute, provided that this combination gives rise to a handicap equivalent to that caused by the situation referred to in the first two indents.

4. Less-favoured areas in danger of depopulation and where the conservation of the countryside is necessary, shall be made up of farming areas which are homogeneous from the point of view of natural production conditions and must simultaneously exhibit all the following characteristics:

- (a) the presence of infertile land, unsuitable for cultivation or intensification, with a limited potential which cannot be increased except at excessive cost, and mainly suitable for extensive livestock farming;
- (b) because of this low productivity of the environment, results which are appreciably lower than the mean as regards the main indices characterizing the economic situation in agriculture;
- (c) either a low or dwindling population predominantly dependent on agricultural activity, and the accelerated decline of which would jeopardize the viability of the area concerned and its continued habitation.

5. Less-favoured areas within the meaning of this Article may include: small areas affected by specific handicaps and in which farming must be continued in order to conserve the countryside and to preserve the tourist potential of the area or in order to protect the coastline. The total extent of such areas may not in any Member State exceed 2.5% of the area of the State concerned.

#### Article 4

1. The special system of aids referred to in Article 1 includes the following measures:

- the granting, under the conditions laid down in Title II, of an allowance to compensate for permanent natural handicaps;
- the granting, under the conditions laid down in Title III, of the aids referred to in Articles 8 and 10 of Directive No 72/159/EEC to farms suitable for development,
- the granting of the aids to joint investment provided for in Article 11;
- the granting, under the terms laid down in Article 12, of national aids to farms for the purpose of attaining the objectives set out in Article 1.

2. Member States shall be free to apply only some of the measures specified in paragraph 1.

## TITLE II

### Compensatory allowance

#### Article 5

Member States may, within the limits and subject to the conditions laid down in Articles 6 and 7, grant an annual compensatory allowance for the permanent natural handicaps to assist farming activities specified in Article 3.

The granting of such a compensatory allowance which exceeds those limits or which fails to satisfy those conditions, shall be prohibited in the areas appearing on the list adopted in accordance with the procedure laid down in Article 2 (2).

#### Article 6

1. Where Member States grant a compensatory allowance, farmers with at least three hectares of utilized agricultural area who undertake to pursue a farming activity in accordance with the aims of this Directive for at least five years shall be eligible for such an allowance. However, where a farmer gives up agriculture in accordance with Article 2 (1) of Council Directive No 72/160/EEC<sup>(1)</sup> of 17 April 1972 concerning measures to encourage the cessation of farming and the reallocation of utilized agricultural areas for the purpose of structural improvement, in cases of *force majeure* or, for example where his property is subject to compulsory purchase or is purchased in the public interest, he shall be released from such undertaking.

Farmers in receipt of a retirement pension shall be released from the undertaking referred to in the preceding paragraph.

2. Member States may lay down additional or restrictive conditions for granting the compensatory allowance.

#### Article 7

1. Member States shall fix the amounts of the compensatory allowance according to the severity of the permanent natural handicaps affecting farming activities and having regard to the limits set out below. No allowance may be less than 15 units of account per livestock unit or, where appropriate, in the areas referred to in Article 3 (3), per hectare:

<sup>(1)</sup> OJ No L 96, 23. 4. 1972, p. 9.

(a) in the case of cattle, sheep and goats, the allowance shall be calculated in relation to livestock numbers. The allowance may not exceed 50 units of account per livestock unit. The total amount of the allowance granted may not exceed 50 units of account per hectare of the total forage area of the farm. A conversion table for expressing cattle, sheep and goats as livestock units appears in the Annex.

Cows whose milk is intended for marketing may only be taken into consideration for the calculation of the compensatory allowance in the areas defined in Article 3 (3) and in the areas defined in Article 3 (4) and (5) where dairy products form an important part of farming activity.

When Member States exercise this right in the areas defined in Article 3 (4) and (5), the compensatory allowance may not exceed 80% of the unit amount of the compensatory allowance granted to other livestock units in the area, and the number of dairy cows per eligible farmer to be taken into consideration for the calculation of the compensatory allowance may not amount to more than 10 livestock units.

(b) in the case of production other than of cattle, sheep and goats in the areas referred to in Article 3 (3), the allowance shall be calculated in relation to the area farmed, less the area required for feeding livestock, that given over to wheat growing and any area above 50 ares per farm comprising fully planted apple, pear or peach orchards. The allowance may not exceed 50 units of account per hectare.

2. Member States are entitled not to grant the compensatory allowance for some or all of the products which may benefit under the provisions of paragraph 1 (b).

3. Member States shall, when fixing rules for the implementation of this Article, provide themselves with the means of effectively controlling the bases for calculating the allowances paid to the recipients.

### TITLE III

#### Special measures for farms suitable for development

##### Article 8

Where Member States implement the measure laid down in the second indent of Article 4 (1), Articles 9 and 10 shall apply.

##### Article 9

1. The minimum charge borne by the recipient of the incentives provided for in Article 8 of Directive No 72/159/EEC for farmers submitting development plans complying with Articles 2 and 4 of that Directive shall be reduced in relation to the minimum charge applied in the other regions. It may not, however, be less than 2%.

The interest rate subsidy, or the equivalent in the form of a capital grant or deferred repayment terms, shall be increased in relation to that applied in the other regions. It may not, however, exceed 7%.

2. The amount of the guidance premium provided for in Article 10 of Directive No 72/159/EEC and the ceilings per farm laid down in Council Directive No 73/131/EEC<sup>(1)</sup> of 15 May 1973 on the guidance premium provided for in Article 10 of the Directive of 17 April 1972 on the modernization of farms, may be increased by one third. Such increase shall apply only to farms with more than 0.5 livestock units per hectare of forage area.

3. The recipient of a compensatory allowance paid under Article 5 may include the compensatory allowance in the level of earned income, within the meaning of Article 4 (1) of Directive No 72/159/EEC, to be attained upon completion of his development plan.

##### Article 10

1. The system of incentives provided for in Articles 8 and 10 of Directive No 72/159/EEC, and adapted by Article 9 (1) and (2) of this Directive, shall also apply where the development plan does not satisfy the condition imposed by Article 4 (4) (b) of that Directive, which limits the percentage of income from non-agricultural activities to 20%; such percentage may not, however, exceed 50%.

Furthermore, as regards the areas referred to in Article 3 (3) the system of incentives laid down in Articles 8 and 10 of Directive No 72/159/EEC, and adapted by Article 9 (1) and (2) of this Directive, shall also apply when the development plan does not satisfy the conditions imposed by Article 4 (4) (b) of that Directive to the effect that the earned income from agricultural activities must correspond at least to the comparable earned income for one

<sup>(1)</sup> OJ No L 153, 9. 6. 1973, p. 24.

man-work unit; in this case, however, the income from agricultural activities must equal at least 70% of the comparable earned income for one man-work unit.

2. In less-favoured farming areas which are suitable for the development of a tourist or craft industry, the system of incentives provided for in Article 8 of Directive No 72/159/EEC, and adapted by Article 9 (1) of this Directive, may also be applied to investment on farms, for tourist or craft industry purposes, of a total amount not exceeding 10 000 units of account per farm.

#### TITLE IV

##### Other measures to aid investment

###### Article 11

Member States may grant aids to joint investment schemes for fodder production and to improvement and equipment schemes for pasture and hill grazing land which is farmed jointly.

###### Article 12

1. Without prejudice to the provisions of Article 14 of Directive No 72/159/EEC other than those of paragraph 2 (b), Member States may grant investment aids to farms which are not capable of attaining the level of earned income laid down under Article 4 of that Directive, as adapted by Articles 9 (3) and 10 (1) of this Directive.

2. The aids referred to in paragraph 1 may not be granted on conditions more favourable than those granted by the Member State outside the areas specified in Article 3 to farms fulfilling the conditions of Articles 2 and 4 of Directive No 72/159/EEC. However, the selective character of the modernization incentive within the areas specified in Article 3 must be ensured.

In the case of investments for land improvement, aid may not be granted on conditions more favourable than those granted by the Member State in respect of investments having the same aim, to farms in the same area fulfilling the conditions of Articles 2 and 4 of Directive No 72/159/EEC, as adapted by Articles 9 (3) and 10 (1) of this Directive.

3. When a Member State applies the system of aids referred to in paragraph 1 in a less favoured area, it must apply the provisions of Article 9 (1).

#### TITLE V

##### Financial and general provisions

###### Article 13

The series of measures provided for by this Directive forms part of the common measures according to Article 15 of Directive No 72/159/EEC, the financial and general provisions of which apply to this Directive, taking into account the following provisions.

###### Article 14

The estimated total cost of the common measures referred to in Article 15 of Directive No 72/159/EEC shall be increased to 254.4 million units of account for the first three years.

###### Article 15

Expenditure by Member States in respect of measures taken under Articles 5 to 11 shall be eligible for assistance from the Guidance Section of the EAGGF, as provided for in Article 19 of Directive No 72/159/EEC. The Guidance Section of the EAGGF shall reimburse to Member States 25% of eligible expenditure for the compensatory allowance referred to under Title II. However, this expenditure shall not be eligible for reimbursement where the farmer receives a retirement pension.

The Community contribution towards eligible expenditure for the aid provided for in Article 11 may not exceed 20 000 units of account per joint investment scheme and 100 units of account per hectare of pasture or mountain land improved or provided with equipment.

###### Article 16

1. The authorization referred to in Article 1 shall take effect from 1 October 1974.

2. However, the financial contribution of the Community towards eligible expenditure for aids provided

for under Articles 5 and 11 shall only be incurred for the aids granted during 1975 and thereafter.

*Article 17*

Member States shall take the necessary measures to conform to the provisions of this Directive within one year from the date of its notification.

*Article 18*

This Directive is addressed to the Member States.

Done at Brussels, 28 April 1975.

*For the Council*

*The President*

M. A. CLINTON

ANNEX

Table for converting bovine, ovine and capric animals into livestock units referred to in Article 7 (1) (a)

|   |      |
|---|------|
| Bulls, cows and other bovine animals over two years | 1.0  |
| Bovine animals from six months to two years         | 0.69 |
| Sheep   | 0.15 |
| Goats   | 0.15 |

The coefficients relating to sheep and goats shall apply to the maximum and minimum amounts per livestock unit as defined in Article 7 (1).