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**COMMISSION REGULATION (EEC) No 3887/92  
of 23 December 1992**

**laying down detailed rules for applying the integrated administration and control system for certain  
Community aid schemes**

(OJ L 391, 31.12.1992, p. 36)

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| ► <b><u>M1</u></b> | Commission Regulation (EC) No 229/95 of 3 February 1995 | L 27             | 3    | 4.2.1995  |
| ► <b><u>M2</u></b> | Commission Regulation (EC) No 1648/95 of 6 July 1995    | L 156            | 27   | 7.7.1995  |
| ► <b><u>M3</u></b> | Commission Regulation (EC) No 2015/95 of 21 August 1995 | L 197            | 2    | 22.8.1995 |
| ► <b><u>M4</u></b> | Commission Regulation (EC) No 1678/98 of 29 July 1998   | L 212            | 23   | 30.7.1998 |

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- **C1** Corrigendum, OJ L 230, 18.8.1998, p. 30 (3887/92)
- **C2** Corrigendum, OJ L 80, 25.3.1999, p. 34 (1648/95)

**COMMISSION REGULATION (EEC) No 3887/92****of 23 December 1992****laying down detailed rules for applying the integrated administration and control system for certain Community aid schemes**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 3508/92 of 27 November 1992 establishing an integrated administration and control system for certain Community aid schemes<sup>(1)</sup> (hereinafter called 'integrated system'), and in particular Article 12 thereof,

Whereas the purpose of the integrated system is, first and foremost, to enable the reform of the common agricultural policy to be implemented efficiently and in particular to solve the administrative problems caused by the reform having introduced several area-linked aid schemes; whereas certain clarifications necessary for applying the concepts of agricultural parcel and forage area should be made;

Whereas the agricultural holding is the reference unit for administering the abovementioned aid schemes; whereas to prevent the stabilizing effects of the reform on agricultural production from being evaded by the artificial splitting up of existing holdings or creation of holdings, Member States should be obliged to take the necessary measures to this effect, taking into account in particular the jurisprudence of the Court of Justice relating to the notion of a holding as well as the general principle of forbidding the abuse of rights;

Whereas, having regard to the existing identification system, the Member States should be authorized to set up their systems for identifying areas with the aid of units other than agricultural parcels; whereas, however, this possibility should be accompanied by certain obligations in order to ensure that the identification is reliable;

Whereas the compulsory content of the 'area' aid application should be specified, along with the conditions on which it may be amended after the deadline for its submission; whereas provision should also be made for the set-aside declaration and the declaration concerning non-food products to be submitted with the 'area' aid application; whereas farmers applying only for aid which is not linked to area should be exempted from the requirement to submit such an application and the administrative treatment of producer groups in the sheep and goat sector should be clarified; whereas, moreover, if there is to be effective monitoring each Member State should determine the minimum size of agricultural parcel which may be declared in the application;

Whereas, so as to simplify the work as much as possible for farmers, in certain cases it should be possible to submit the 'area' aid application together with a 'livestock' aid application provided that this does not reduce the possibility of control;

Whereas there should also be an across-the-board definition of the particulars to be included in 'livestock' aid applications, having regard to the requirements of administering the premium schemes concerned;

Whereas compliance with the provisions on Community aid must be effectively monitored; whereas to this end it is necessary to set out in detail the criteria and technical procedures for carrying out administrative and on-the-spot checks in respect of both 'livestock' and 'area' aid; whereas, in the light of experience with on-the-spot checks, risk analysis could be applied when determining minimum checking rates and

<sup>(1)</sup> OJ No L 355, 5. 12. 1992, p. 1.

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the factors to be taken into consideration should be specified; whereas, for monitoring purposes, there should be provision for a retention period in the case of the compensatory allowance also;

Whereas the conditions for the use of remote sensing for on-the-spot checks should be laid down and provision should be made for physical checks to be required in doubtful cases; whereas, in order to encourage Member States in their efforts to develop remote sensing and its practical application for monitoring purposes, there should be provision for the Community to make a financial contribution to the cost of photo interpretation and the conditions for such contribution should be laid down; whereas this financial contribution does not affect the part-financing provided for in Article 10 of Regulation (EEC) No 3508/92;

Whereas, in the light of experience and having regard to the principle of proportionality and the special problems linked to cases of *force majeure* and natural circumstances, provisions should be adopted to prevent and penalize irregularities and fraud effectively; whereas, to this end, having regard to the specific features of the 'area' schemes on the one hand and the 'livestock' schemes on the other, there should be sanctions graded according to the gravity of the irregularity committed, going as far as total exclusion from a scheme for the year in question and the year thereafter;

Whereas provision should be made for the beneficiary to repay with interest any amount wrongly paid; whereas the amounts recovered and the interest collected must be credited to the EAGGF in accordance with the principles set out in Article 8 (2) of Council Regulation (EEC) No 729/70 of 21 April 1970 on the financing of the common agricultural policy<sup>(1)</sup>, as last amended by Regulation (EEC) No 2048/88<sup>(2)</sup>;

Whereas the management of small amounts is by nature a burdensome task for the competent services of Member States the possibility not to pay amounts of aid which are smaller than a certain minimum limit and not to request reimbursement of wrongly paid amounts when the sums involved are minimal;

Whereas it is necessary to create an administrative framework for the part-financing provided for in Article 10 of Regulation (EEC) No 3508/92 and to lay down the procedural rules for the payment of advances, the definitive acceptance of the expenditure declared by Member States and the redistribution of amounts which are not used by the Member States and to which they are entitled;

Whereas the integrated system will not be applicable in its entirety until 1 January 1996 at the latest; whereas, without prejudice to the obligations arising from Article 8 (1) of Regulation (EEC) No 729/70, it is therefore indispensable to oblige the Member States to avoid any lack of administration or control meanwhile by adopting the necessary measures at national level; whereas Member States must inform the Commission regularly of the measures taken to implement the integrated system and the results obtained;

Whereas, taking into account the date of entry into force of this Regulation it would be appropriate to exclude the premium for ewes and for goats and the compensatory allowance from the application of the integrated system during 1993;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Fund Committee,

<sup>(1)</sup> OJ No L 94, 28. 4. 1970, p. 13.

<sup>(2)</sup> OJ No L 185, 15. 7. 1988, p. 1.



HAS ADOPTED THIS REGULATION:

TITLE 1

**GENERAL**

*Article 1*

This Regulation lays down detailed rules for applying the integrated administration and control system introduced by Regulation (EEC) No 3508/92. It shall be without prejudice to specific provisions adopted in the Regulations covering the individual aid schemes.

*Article 2*

1. For the purposes of this Regulation:
  - (a) a parcel that both contains trees and is used for crop production covered by Article 1 of Regulation (EEC) No 3508/92 shall be considered an agricultural parcel provided that the production envisaged can be carried out in a similar way as on parcels without trees in the same area;
  - (b) where a forage area is used in common, the competent authorities shall assign it between the individual farmers in proportion to their use or right of use of it;
  - (c) each forage area must be available for rearing animals for a minimum period of seven months, starting on a date to be determined by the Member State, which must be between 1 January and 31 March.
2. Member States shall take the measures necessary to avoid that the conversion of existing holdings or the creation of holdings after 30 June 1992 leads to the patently improper avoidance of the provisions relating to the individual limits on eligibility for premiums or land set-aside requirements imposed under the schemes indicated in Article 1 of ►**C1** Regulation (EEC) No 3508/92 ◀.
3. For the purposes of the integrated system, if a forage area is situated in a Member State other than that in which the principal place of business of the farmer using it is situated, that area shall be deemed at the request of the applicant to be part of the holding of that farmer provided:
  - it is situated in the immediate vicinity of the holding, and
  - a major part of all the agricultural land used by that farmer is situated in the Member State in which he has his principal place of business.
4. An aid shall not be granted if the amount per aid application does not exceed 50 ECU.



5. A Member State may decide to exclude from the application of certain elements of the Integrated System the specific measures established by Regulation (EEC) No 2328/91 which concern the compensatory allowances for producers in small areas as defined in Article 3 (5) of Council Directive 75/268/EEC<sup>(1)</sup>, and which are implemented by way of contracts drawn up in conjunction with agri-environmental measures established in accordance with the provisions of Council Regulation (EEC) No 2078/92<sup>(2)</sup>.

<sup>(1)</sup> OJ No L 128, 19. 5. 1975, p. 1.

<sup>(2)</sup> OJ No L 215, 30. 7. 1992, p. 85.

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TITLE II  
IDENTIFICATION

*Article 3*

The identification system indicated in Article 4 of Regulation (EEC) No 3508/92 shall operate at agricultural parcel level. Member States may provide that another unit, such as the cadastral parcel or production block, be used instead of the agricultural parcel. In such cases Member States shall take the action required to ensure that agricultural parcels are reliably identified and in particular shall require that 'area' aid applications be furnished with particulars or accompanied by documents specified by the competent authority that will enable each agricultural parcel to be located and measured.

TITLE III  
AID APPLICATIONS

*Article 4*

1. Without prejudice to the requirements set out in regulations on individual aid schemes, 'area' aid application shall contain all necessary information, in particular:

- the identity of the farmer,
- particulars permitting identification of all the agricultural parcels on the holding, with their area, location, use and, where relevant, whether the parcels are irrigated, and the aid scheme concerned,
- a statement by the producer that he is aware of the requirements pertaining to the aids in question.

By 'use' is meant the type of crop or ground cover or the absence of a crop.

Member States may require that uses not falling within the scope of the integrated system be declared under an 'other uses' heading.

►**M3** However, the following uses shall be declared separately:

- production of forage intended for drying, whether artificially dehydrated or sundried, as referred to in Council Regulation (EC) No 603/95<sup>(1)</sup>,
- environmental set-aside and afforestation pursuant to Regulation (EEC) No 2078/92 or Regulation (EEC) No 2080/92 respectively, counted against the set-aside obligation, ◀

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- agricultural production compatible with the requirements of environmental protection and maintenance of the countryside as referred to in Regulation (EEC) No 2078/92,
- cotton, as referred to in Council Regulation (EC) No 1554/95<sup>(2)</sup>,
- hops, as referred to in Council Regulation (EEC) No 1696/71<sup>(3)</sup>,
- flax and hemp, as referred to in Council Regulation (EEC) No 1308/70<sup>(4)</sup>.

<sup>(1)</sup> OJ No L 63, 21. 3. 1995, p. 1.

<sup>(2)</sup> OJ L 148, 30. 6. 1995, p. 48.

<sup>(3)</sup> OJ L 175, 4. 8. 1971, p. 1.

<sup>(4)</sup> OJ L 146, 4. 7. 1970, p. 1.

**▼M1**

2. (a) After the time limit for its submission the 'area' aid application may be amended on condition that the competent authority receives the amendments not later than the dates specified in Articles 10, 11 and 12 of Council Regulation (EEC) No 1765/92<sup>(1)</sup>.

Where agricultural parcels are concerned, amendments may be made to the 'area' aid application only in particular cases that are properly documented, in particular death, marriage, purchase or sale, on conclusion of a tenancy contract. Member States shall determine the conditions applying thereto. However, a set-aside or forage area parcel may not be added to parcels already declared except in cases which are duly justified under the provisions concerned and on condition that the parcel has already been accounted for as set-aside or forage area in the aid application of another farmer, the latter application being corrected accordingly.

Changes of use or aid scheme shall be permitted in all cases. However, a parcel may not be added to parcels declared as set aside. ►**M2** By derogation from the second paragraph and even after the dates referred to in Articles 10, 11 and 12 of Regulation (EEC) No 1765/92 a Member State may authorize that an area be withdrawn from the Area Aid Application. The amendment must be notified in writing before any communication is made by the competent authority with regard either to the results of the administrative controls which affect the parcels in question or to the organization of an on-the-spot check of the holding concerned. ◀

- (b) When a farmer decides during the period within which changes may be introduced, to use a parcel for a crop which falls within the scope of the integrated system which had not been used for such a crop, an 'area' aid application may still be introduced within that period.

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3. If an 'area' aid application relates only to permanent pasture the Member State may provide that it may be submitted at the same time as the first 'livestock' aid application by the farmer in question lodged after the date laid down for the submission of the other 'area' aid applications in the Member State concerned, and not later than 1 July.

4. Set-aside declarations and crop declarations under the non-food product crop scheme shall be made along with the 'area' application or comprise part of it. However, for 1993 the Member States may set an earlier date for the submission of applications.

5. An 'area' aid application need not be submitted by farmers applying for only:

- the special premium for male bovine animals and/or the suckler cow premium who are exempted from the stocking rate requirement and do not apply for the supplement to these premiums,
- the deseasonalization premium,
- the ewe or she-goat premium.

6. The 'area' aid application of a producer who is a member of a producer group as defined at point 2 in Article 1 of Council Regulation (EEC) No 3493/90<sup>(2)</sup>, and who for the same calendar year applies for both the ewe or she-goat premium and for aid under another Community scheme shall include all the agricultural parcels used by the group. In such cases the forage area shall be assigned to the producers concerned in proportion to their individual limits as specified in Article 5a of Council Regulation (EEC) No 3013/89<sup>(3)</sup>, valid on 1 January of the year concerned.

(1) OJ No L 181, 1. 7. 1992, p. 12.

(2) OJ No L 337, 4. 12. 1990, p. 7.

(3) OJ No L 289, 7. 10. 1989, p. 1.

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7. For the sake of effective control each Member State shall determine the minimum size of agricultural parcel in respect of which an application may be made. However, the minimum size may not exceed 0,3 ha.

*Article 5*

1. Without prejudice to the requirements pertaining to application for aid under individual schemes the 'livestock' aid application shall contain all necessary information, in particular:

- the identity of the farmer,
- a reference to the 'area' aid application if this has already been submitted, except in cases covered by Article 4 (5),
- the number of animals of each species in respect of which any aid is applied for,
- where applicable, an undertaking by the applicant to keep these animals on his holding during the retention period and information on the location or locations where the animals will be held including, where applicable, the period or periods concerned and, for cattle, the identity numbers of the animals; when the location changes during that period the farmer is obliged to inform the competent authority in writing in advance,
- where applicable, the individual limit or individual ceiling for the animals concerned,
- where applicable, the individual milk reference quantity assigned to the farmer at the beginning of the 12-month period of application of the additional levy scheme which commences in the calendar year concerned; when the reference quantity is not known on the date on which the application is lodged, it shall be notified to the competent authority as soon as possible,
- a statement by the farmer that he is aware of the requirements pertaining to the aids in question.

The Member State may decide that some of this information need not be included in the aid application, where that information has already been communicated to the competent authority.

2. Applications for the compensatory allowance as specified in Article 19 (1) (a) of Council Regulation (EEC) No 2328/91 <sup>(1)</sup> shall be lodged by a date or during a period to be set out by the Member State.

**▼M1***Article 5a*

Without prejudice to the provisions contained in Articles 4 and 5, an aid application may be adjusted at any time after its submission, in cases of obvious error recognized by the competent authority.

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## TITLE IV

**CONTROL***Article 6*

1. Administrative and on-the-spot checks shall be made in such a way as to ensure effective verification of compliance with the terms under which aids and premiums are granted.

<sup>(1)</sup> OJ No L 218, 6. 8. 1991, p. 1.

**▼M4**

2. The administrative checks referred to in Article 8(1) of Regulation (EEC) No 3508/92 shall include in particular:

- (a) cross-checks on parcels and animals declared in order to ensure that aid is not granted twice in respect of the same calendar year without justification;
- (b) once the computerised database is fully operational in accordance with Article 5 of Council Regulation (EC) No 820/97<sup>(1)</sup>, cross-checks with a view to ensuring that Community aid is granted only for bovine animals for which the births, movements and deaths have been duly notified by the applicant for Community aid to the competent authority referred to in Article 7(1) of Council Regulation (EC) No 820/97.

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3. On-the-spot checks shall cover at least a significant percentage of applications. The significant percentage shall represent at least:

- 10 % of ‘livestock’ aid applications or participation declarations,
- 5 % of ‘area’ aid applications. However, this percentage shall be reduced to 3 % for area aid applications numbering more than 700 000 per Member State in the ►**C1** calendar year ◀.

Should on-the-spot checks reveal significant irregularities in a region or part of a region the competent authority shall make additional checks during the current year in that area and shall increase the percentage of applications to be checked in the following year.

4. Applications subjected to on-the-spot checking shall be selected by the competent authority on the basis of a risk analysis and an element of representativeness of the aid applications submitted. The risk analysis shall take account of:

- the amount of aid involved,
- the number of parcels and the area or number of animals for which aid is requested,
- changes from the previous year,
- the findings of checks made in past years,
- other factors to be defined by the Member State,

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— infringements of Regulation (EC) No 820/97.

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5. On-the-spot checks shall be unannounced and cover all the agricultural parcels and animals covered by one or more applications. Advance warning limited to the strict minimum necessary may however be given, although as a general rule, this should not exceed 48 hours.

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With the exception of male bovine animals for which a special premium is granted according to Article 8 of Commission Regulation (EEC) No 3886/92<sup>(2)</sup> at the time of slaughter or at the first placing on the market with a view to their slaughter, at least 50 % of the minimal checks on animals shall be made during the retention period. Checks may be effected outside that period only if the registers provided for in Article 4 of Directive 92/102/EEC or Article 3(d) of Regulation (EC) No 820/97 are available.

On-the-spot checks pursuant to this Regulation may be carried out in conjunction with any other inspection provided for by Community legislation.

6. On-the-spot checks of livestock for the aid scheme concerned shall include in particular:

- (a) a check that the total number of animals present on the holding, and eligible for the scheme concerned, corresponds to the number of such eligible animals entered in the register;

<sup>(1)</sup> OJ L 117, 7. 5. 1997, p. 1.

<sup>(2)</sup> OJ L 391, 31. 12. 1992, p. 20.



**▼M4**

- (b) a check on the basis of the register kept by the producer that all the animals for which aid applications were submitted in the 12 months prior to the on-the-spot check have been kept throughout the retention period;
- (c) a check of the register by sampling of supporting documents such as purchase and sales invoices, slaughter certificates, veterinary certificates and passports as provided for in Article 6 of Regulation (EC) No 820/97;
- (d) a check that all bovine animals present on the holding, for which aid applications have been lodged or which may be the subject of future aid applications, are identified by ear tags and passports and recorded in the register in accordance with Regulation (EC) No 820/97.

The check provided for in the first subparagraph, point (d), shall be made individually for all male bovines for which an application has been submitted for special beef premium. However, for all other bovine animals eligible for Community aid which are present on such holdings, the check on correct recording in the register may be made by sampling provided that a reliable and representative level of control is achieved.

Where sample checks reveal serious anomalies, the extent and scope of the check shall be increased to ensure an appropriate level of control.

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7. Agricultural parcel areas shall be determined by any appropriate means defined by the competent authority which ensure measurement of a precision at least equivalent to that required for official measurements under the national rules. The competent authority shall set a tolerance margin taking account of the measuring method used, the accuracy of the official documents available, local factors (such as slope, shape of parcel) and the provisions of the following subparagraph.

The total area of an agricultural parcel may be taken into account provided that it is fully utilized according to the customary standards of the Member State or region concerned. In other cases the area actually utilized shall be taken into account.

8. The eligibility of agricultural parcels shall be verified by any appropriate means. To this end additional proof shall be requested where necessary.

9. Every animal covered by an application for a compensatory allowance provided for under Regulation (EEC) No 2328/91 must be held by the applicant for a minimum period of two months from the day following submission of the application.

*Article 7*

1. Should a Member State decide to use remote sensing on all or part of the sample referred to in Article 6 (3) it shall:

- perform photo interpretation of satellite images or aerial photographs of all parcels to be checked with a view to recognizing the ground cover and measuring the area,
- check on the spot all applications for which photo interpretation does not verify the accuracy of the declaration to the satisfaction of the competent authority.

2. Without prejudice to the part-financing provided for in Article 10 of Regulation (EEC) No 3508/92, the Community may, within the limit of the appropriations allocated for that purpose, contribute to the cost of the operations provided for in the first indent of paragraph 1, provided that they are planned jointly with the Commission. The funds available will be assigned in the proportions specified in the Annex.

▼**B***Article 8*

1. Except in cases of *force majeure*, late lodgement of an aid application shall lead to a 1 % reduction per working day in the amounts affected by the application, to which the farmer would have been entitled if the application had been lodged within the deadline. If the delay amounts to more than ►**M2** 25 ◀ days the application shall be considered inadmissible and no aid shall be granted.

For the purposes of this Article, ‘application’ means an ‘area’ aid application, a ‘livestock’ aid application, an amendment to an ‘area’ aid application as referred to in Article 4 (2) and confirmation of sowing as referred to in Article 2 (2) of Commission Regulation (EEC) No 2294/92 (1).

2. Late submission of, or failure to submit, an application other than the ‘livestock’ aid application concerned shall not entail reductions or exclusion from the aid schemes referred to in Article 4 (5).

*Article 9*

1. If the area actually determined is found to be greater than that declared in the ‘area’ aid application, the area declared shall be used for calculation of the aid.

2. If the area actually determined is found to be less than that declared in an ‘area’ aid application, the area actually determined on inspection shall be used for calculation of the aid. However, except in cases of *force majeure*, the area actually determined on inspection shall be reduced ►**M2** by twice the difference found if this is more than 3 % or two hectares but not more than 20 % of the determined area. ◀

If the difference is more than 20 % of the determined area no area-linked aid shall be granted.

However, in the case of a false declaration made intentionally or as a result of serious negligence:

- the farmer in question shall be excluded from the aid scheme concerned for the calendar year in question, and
- in the case of a false declaration intentionally made, from any aid scheme referred to in Article 1 (1) of Regulation (EEC) No 3508/92 for the following calendar year, in respect of an area equal to that for which his aid application was rejected.

These reductions shall not be applied if the farmer can show that his determination of the area was accurately based on information recognized by the competent authority.

Where a farmer has not met all the obligations incumbent on him in regard to parcels fallowed for non-food production purposes these shall, on the occasion of inspection for the purposes of application of this Article, be considered not to have been found.

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For the purposes of this Article, ‘determined area’ means the area for which all of the conditions laid down in the rules have been met, including the following provisions:

- for rape seed: Article 4 of Commission Regulation (EC) No 658/96 (2),
- for sunflower: Article 4(5) of Regulation (EC) No 658/96,
- for linseed: Article 6a(4) of Regulation (EEC) No 1765/92,
- for durum wheat: Article 6(5) of Regulation (EC) No 658/96.

(1) OJ No L 221, 6. 8. 1992, p. 22.

(2) OJ L 91, 12. 4. 1996, p. 46.

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With regard to areas declared and actually sown in durum wheat, where a discrepancy is found between the minimum quantity of certified seed fixed by the Member State and the quantity actually used, 'determined area' shall mean the area calculated by dividing the total quantity of certified seed for which the producer has furnished proof of use by the minimum quantity per hectare laid down by the Member State for the region of the producer in question. The area thus determined is used, after application of paragraph 2, for the calculation of the right to the supplement or to the specific aid provided for at Article 4 of Regulation (EEC) No 1765/92.

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3. Forage areas, set-aside areas and each arable crop area for which a different aid rate is applicable shall be treated exclusively and separately for the purposes of applying paragraphs 1 and 2.

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4. ►**M2** (a) The areas established in accordance with the provisions of paragraphs 1 to 3 for the purpose of calculating the aid shall be used for the calculation of the limit of the premiums referred to in Articles 4 (g) and 4 (h) of the Regulation (EEC) No 805/68, as well as for the calculation of the compensatory allowance.

The calculation of the maximum eligible area for the compensatory payments to arable crop producers shall be made on the basis of the area of set-aside land actually determined and on a *pro rata* basis for each crop concerned. ◀

(b) Where the set-aside obligation is transferred, the calculations referred to in subparagraph (a) of the maximum area eligible for compensatory payments to arable crop producers shall be made as follows:

- on the basis of the determined area of the set aside minus the area of set aside transferred, for the farm where the transferred set aside obligation is performed,
- on the basis of the determined set-aside area including the set-aside area transferred, for the farm which has transferred the set-aside obligation.

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*Article 10*

1. Where an individual limit or individual ceiling is applicable, the number of animals shown in aid applications shall be reduced to the limit or ceiling set for the farmer concerned.

2. If the number of animals declared in an aid application exceeds that established during administrative or on-the-spot-checks carried out in accordance with Article 6(6), the aid shall be calculated on the number of eligible animals established. However, except in cases of *force majeure* and after paragraph 11 of this Article has been applied as regards natural circumstances, that aid shall be reduced pursuant to paragraph 3.

3. Where the application concerns a maximum of 20 animals, the amount of the aid shall be reduced:

- (a) by the percentage corresponding to the difference found if this is not more than two animals, or
- (b) by twice the percentage corresponding to the difference found if this is more than two but not more than four animals.

If the difference is greater than four animals, No premium shall be granted.

In other cases, the amount of the aid shall be reduced:

- (a) by the percentage corresponding to the difference found if this is not more than 5 %, or

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- (b) by twice the percentage corresponding to the difference found if this is more than 5 % but not more than 20 %.

If the difference found is more than 20 %, No aid shall be granted.

The percentages mentioned in points (a) and (b) of the first subparagraph shall be calculated on the basis of the number declared, and those mentioned in points (a) and (b) of the third subparagraph on the basis of the number found.

4. As regards bovine animals other than those covered by paragraphs 2 and 3, where on-the-spot checks reveal that the number of animals eligible for Community aids established on the holding does not correspond to the number of eligible animals entered in the register or to the number of passports of eligible animals held on the holding, and when such findings are revealed on at least two checks within a period of 24 months, the total amount of the aid granted to the applicant for the aid scheme concerned for the 12 months prior to the second on-the-spot check revealing such findings shall, except in cases of *force majeure*, be reduced proportionately.

However, as regards the special beef premium pursuant to Article 8 of Regulation (EEC) No 3886/92, a reduction in accordance with the first subparagraph shall apply after each on-the-spot check where such findings are established.

If the difference found during an on-the-spot check is greater than 20 % of the number of eligible animals established, or if a difference of at least 3 % and at least two animals are found during two checks in the same calendar year, No premium shall be granted for the 12 months prior to the on-the-spot check.

5. As regards bovine animals, an animal established within the meaning of paragraphs 2, 3 and 4 above at the time of an on-the-spot check is one which:

- (a) is individually identified by a passport in accordance with Article 6 of Regulation (EC) No 820/97, which indicates at least the date of birth, sex, movements and death within the meaning of the second indent of Article 7(1) of Council Regulation (EC) No 820/97;
- (b) is properly recorded in the register in accordance with the first indent of Article 7(1) of Council Regulation (EC) No 820/97;
- (c) is individually identified by eartags provided for by Article 4 of Council Regulation (EC) No 820/97;
- (d) in the case of an animal declared for Community aid, is found at the location notified by the applicant in accordance with the fourth indent of Article 5(1) of this Regulation.

However, a bovine animal which has lost one of the two eartags shall be regarded as being established providing that it is clearly and individually identified by all other relevant conditions mentioned in the first subparagraph. Furthermore, as regards bovine animals incorrectly entered in the register or for which passports issued are incorrectly completed due to reasons attributable to the applicant with regard to the date of birth, sex, movements and death, Community aid shall be reduced in accordance with paragraphs 2, 3 and 4 only if such omissions are established on at least two checks within a period of 24 months.

6. Where it is found that a false declaration in the aid application, register or passport was made as a result of serious negligence, the farmer in question shall be excluded from the aid scheme concerned for the calendar year in question. In the case of a false declaration made intentionally, he shall be excluded from the same aid scheme for the following calendar year as well.

7. If a farmer has been unable to comply with his retention undertaking as a result of *force majeure* he shall retain his right to aid in respect of the number of animals actually eligible at the time when the case of *force majeure* occurred.

**▼M4**

In No case may aid be granted on a greater number of animals than that shown in the aid application.

8. If the compensatory allowance provided for in Council Regulation (EC) No 950/97<sup>(1)</sup> is calculated on the basis of livestock units, the determining of the number present and the sanctions provided for in paragraphs 2 to 6 shall apply on the basis of the number of livestock units corresponding to the number of animals declared and established.

9. Bovine animals present on the holding shall not be counted unless identified in the aid application.

However, a suckler cow declared for the premium or a bovine declared for the compensatory allowance provided for in Regulation (EC) No 950/97 may be replaced by another suckler cow or bovine respectively provided that replacement occurs within 20 days of the animal's departure from the holding and that the replacement is entered in the register not later than three days after the day of replacement.

10. If the compensatory allowance provided for in Regulation (EC) No 950/97 is calculated on the basis of the number of livestock units without distinguishing between the species of animals concerned, animals declared can be replaced by other animals eligible for this allowance on condition that the corresponding number of livestock units does not decrease and that replacements take place according to the conditions provided for in paragraph 9.

11. In cases where, owing to the impact of natural circumstances on the herd, the farmer cannot meet his commitment to keep the animals notified for a premium throughout the compulsory retention period, he shall be entitled to the premium for the number of eligible animals actually kept throughout the period, provided that he has informed the competent authority in writing within 10 working days of finding any reduction in the number of animals.

12. For the purposes of paragraphs 1 to 11, animals eligible for different Community aids shall be treated separately.

**▼B***Article 11*

1. The penalties laid down in this Regulation shall be without prejudice to additional penalties laid down at national level.

**▼M4**

1a. The penalties applicable according to Articles 9 and 10 shall not be imposed in cases where the farmer, on finding that the application which he has lodged contains errors other than those made intentionally or by serious negligence incurring one or more of the said penalties, within 10 working days of finding these errors, informs the competent authority in writing, provided that the authority has not notified the farmer of its intention to carry out an on-the-spot control, the farmer has not been able to learn of this intention in any other way and the authority has not already informed the farmer of the irregularity in the application.

**▼B**

2. A case of *force majeure* with relevant evidence to the satisfaction of the competent authority must be lodged in writing with the authority within 10 working days of the date on which the farmer is in a position to do so.

3. Without prejudice to the actual circumstances to be taken into account in individual cases, the competent authorities may recognize, in particular, the following cases of *force majeure*:

- (a) the death of the farmer;
- (b) long-term professional incapacity of the farmer;
- (c) expropriation of a major part of the agricultural land managed by the farmer if such expropriation could not be anticipated on the day the application was lodged;

<sup>(1)</sup> OJ L 142, 2. 6. 1997, p. 1.

**▼B**

- (d) a severe natural disaster gravely affecting the holding's agricultural land;
- (e) the accidental destruction of livestock buildings on the holding;
- (f) an epizootic affecting part or all of the farmer's livestock.

The Member States shall notify the Commission of the cases which they recognize as *force majeure*.

**▼M4***Article 12*

Every on-the-spot check shall be the subject of a report setting out, in particular, the reasons for the visit, the aid schemes and applications checked, the persons present, the number of parcels visited, those measured, the measuring methods used, the number of animals of each species found and, where applicable, the eartag numbers and entries to the register subject to checks as well as the result of the checks and if appropriate particular findings relating to specific identification numbers. It shall be open to the farmer or his representative to sign the report. He may either merely attest his presence at the inspection or also add his observations.

Where Member States carry out on-the-spot checks pursuant to this Regulation in conjunction with inspections pursuant to Commission Regulation (EC) No 2630/97<sup>(1)</sup>, the report shall be supplemented by the report referred to in Article 2(5) of Regulation (EC) No 2630/97.

Where on-the-spot checks conducted in accordance with Article 6(5) of this Regulation reveal infringements of Regulation (EC) No 820/97, copies of the reports of the on-the-spot checks pursuant to this Regulation shall be sent without delay to the authorities which are competent for the implementation of Regulation (EC) No 2630/97.

**▼B***Article 13*

Except in cases of *force majeure*, if an on-the-spot check cannot be made through the fault of the farmer the application shall be rejected.

**▼M4***Article 14*

1. If undue payment is made, the farmer shall repay the amount in question plus interest calculated in accordance with paragraph 3.
2. Member States may decide that recovery of an undue payment shall be by deduction of the amount to be recovered from the first advance or first payment made to the farmer following the date of the decision to recover. However, the farmer may repay the amount without waiting for the deduction.
3. The interest shall be calculated for the period elapsing between payment and either repayment or deduction.

The rate of interest applicable shall be calculated according to the provisions of national law but shall not be lower than the interest rate applicable for the recovery of national amounts.

No interest shall be charged on undue payments made by error of the competent authority.

4. The repayment obligation referred to in paragraph 1 shall not apply if the payment was made by error of the competent authority itself or by error of another authority and if the error could not reasonably be detected by the farmer, who for his part acted in good faith and complied with all the rules in force.

<sup>(1)</sup> OJ L 354, 30. 12. 1997, p. 23.

**▼M4**

However, where the error relates to factual elements relevant for the calculation of the payment concerned, the first subparagraph shall only apply if the decision to recover was not communicated within 12 months of the payment.

For the purposes of the first and second subparagraphs, any third party whose acts are imputable to the farmer shall be treated as the farmer.

5. Paragraph 4 shall not apply in the case of advances and payments the return of which is claimed because a penalty has been imposed under Articles 8, 9 or 10 or any other Community or national provision.

6. Member States may decide not to claim return of amounts of ECU 100 or less, not including interest, per farmer and per aid application to which the claim applies, provided that their national law provides for non-recovery in such cases.

7. In the case of aid or premiums financed by the European Agricultural Guidance and Guarantee Fund (EAGGF), Guarantee Section, paying agencies shall deduct amounts recovered and interest paid from the expenditure of that Section, without prejudice to Article 7 of Regulation (EEC) No 595/91.

**▼B***Article 15*

Member States shall take all further measures required for application of this Regulation and shall give the mutual assistance needed for the purposes of checks required pursuant to this Regulation.

## TITLE V

## PART-FINANCING

*Article 16*

1. Each year before 31 January Member States shall inform the Commission whether or not they wish to take up the part-financing option provided by Article 11 of Regulation (EEC) No 3508/92 and before 31 March shall notify a detailed expenditure forecast for the year and an application for an advance payment. For 1993, the Member States shall make the latter notification by 31 May.

2. Within three months of receiving the forecast mentioned in paragraph 1 the Commission shall examine its content and on that basis make an advance payment to the Member State to be deducted from the final amount of the Community contribution.

The Commission shall indicate to Member States any of their expenditure that cannot be part-financed by the Community.

3. By 15 May each year at the latest each Member State shall transmit to the Commission a breakdown of expenditure incurred in the previous year.

4. Within six months of receiving the breakdown of expenditure the Commission shall take a decision on the expenditure to be financed by the Community. The relevant amount shall be paid to the Member State minus the advance payment indicated in paragraph 2. ►**M1** The amount taken as the basis for calculating the expenses to be borne by the Community budget shall not exceed the forecast of expenditure made by the Member State for the calendar year in question. ◀

5. If the advance payment made under paragraph 2 is greater than the total payment to be made by the Community the balance shall be repaid by the Member State either as a deduction from the advance payment for the following year or by reimbursement.



6. If a Member State has specifically informed the Commission under paragraph 1 that it does not want to take up the Community part-financing option the unused amount shall be allocated by the Commission in accordance with Article 10 of Regulation (EEC) No 3508/92 between those Member States that had stated their intention of taking up the option.

7. Member States shall retain for at least three years following the year to which they relate all payment files and supporting documents relating to expenditure incurred pursuant to Article 10 of Regulation (EEC) No 3508/92.

## TITLE VI

### TRANSITIONAL MEASURES

#### *Article 17*

1. In cases where by virtue of Article 13 of Regulation (EEC) No 3508/92 certain features of the integrated system are not yet in application each Member State shall take whatever administrative and control measures are necessary to ensure compliance with the terms on which the aids concerned are granted.

2. Until the integrated system has been put into full and definitive application each Member State shall inform the Commission each year before 31 January of:

- the measures taken under paragraph 1,
- its plans for bringing the integrated system into application for the calendar year concerned,
- the progress achieved in the previous calendar year.

For 1993, Member States shall make that communication by 31 March.

At the Commission's request Member States shall make any adjustments it deems necessary to the abovementioned measures or plans.

## TITLE VII

### NOTIFICATION

#### *Article 18*

1. Member States shall inform the Commission of national measures taken in application of this Regulation.

2. The computerized data base established as a part of the integrated system shall be used to support the information specified in the framework of sectorial regulations which Member States are obliged to send to the Commission.

## TITLE VIII

### FINAL PROVISIONS

#### *Article 19*

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

It shall apply from 1 February 1993.

However, as regards the ewe and she-goat premiums and the compensatory allowance provided for in Article 19 (1) (a) of Regulation (EEC) No 2328/91, the integrated system shall only apply with effect from applications submitted in respect of the marketing year and calendar year of 1994 respectively.



**▼B**

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

**▼B***ANNEX***The proportions (percentages) referred to in Article 7 (2)**

|                |      |
|----------------|------|
| Belgium        | 2,3  |
| Denmark        | 2,4  |
| Germany        | 10,1 |
| Greece         | 8,7  |
| Spain          | 18,1 |
| France         | 14,6 |
| Ireland        | 4,5  |
| Italy          | 20,1 |
| Luxembourg     | 0,6  |
| Netherlands    | 3,0  |
| Portugal       | 5,7  |
| United Kingdom | 9,9  |