

Council Regulation (EC) No 1782/2003 of 29 September 2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers and amending Regulations (EEC) No 2019/93, (EC) No 1452/2001, (EC) No 1453/2001, (EC) No 1454/2001, (EC) 1868/94, (EC) No 1251/1999, (EC) No 1254/1999, (EC) No 1673/2000, (EEC) No 2358/71 and (EC) No 2529/2001 (repealed)

### TITLE III

## SINGLE PAYMENT SCHEME

### CHAPTER 1

## GENERAL PROVISIONS

### *Article 33*

#### **Eligibility**

- 1 Farmers shall have access to the single payment scheme if:
  - a they have been granted a payment in the reference period referred to in Article 38 under at least one of the support schemes referred to in Annex VI, or
  - b they have received the holding or part of the holding, by way of actual or anticipated inheritance, by a farmer who met the conditions referred to in point (a), or
  - c they have received a payment entitlement from the national reserve or by transfer.

2 In case the farmer who has been granted a direct payment in the reference period changes his legal status or denomination in that period or not later than 31 December of the year preceding the year of application of the single payment scheme, he shall have access to the single payment scheme under the same conditions as the farmer originally managing the holding.

3 In case of mergers during the reference period or not later than 31 December of the year preceding the year of application of the single payment scheme, the farmer managing the new holding shall have access to the single payment scheme under the same conditions as the farmers managing the original holdings.

In case of scissions during the reference period or not later than 31 December of the year preceding the year of application of the single payment scheme, the farmers managing the holdings shall have access, pro rata, to the single payment scheme under the same conditions as the farmer managing the original holding.

### *Article 34*

#### **Application**

- 1 The first year of application of the single payment scheme, the competent authority of the Member State shall send an application form to the farmers referred to in Article 33(1) (a) indicating:

*Status: Point in time view as at 15/02/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 1782/2003 (repealed), TITLE III. (See end of Document for details)*

- a the amount referred to in Chapter 2 (hereinafter referred to as the 'reference amount');
- b the number of hectares referred to in Article 43;
- c the number and value of payment entitlements as defined in Chapter 3.

2 Farmers shall apply to the single payment scheme by a date, to be fixed by Member States, but not later than 15 May.

However, the Commission, in accordance with the procedure referred to in Article 144(2), may allow the date of 15 May to be postponed in certain zones where exceptional climatic conditions render the normal dates inapplicable.

3 Except in case of force majeure and exceptional circumstances within the meaning of Article 40(4), no entitlements shall be allocated to farmers referred to in Article 33(1)(a) and (b) and to those who receive payment entitlements from the national reserve, if they do not apply to the single payment scheme by 15 May of the first year of application of the single payment scheme.

The amounts corresponding to those entitlements not allocated shall revert to the national reserve referred to in Article 42 and shall be available for reallocation by a date to be fixed by the Member State but not later than 15 August of the first year of application of the single payment scheme.

### *[<sup>F1</sup>Article 35*

#### **Double claims**

1 The area corresponding to the number of eligible hectares as defined in Article 44(2) in respect of which a single payment application is submitted may be the subject of an application for any other direct payment as well as for any other aid not covered by this Regulation, save as otherwise provided.

2 Farmers who have participated in the tobacco quota buy-back scheme according to Regulation (EEC) No 2075/92 shall be entitled to either the single payment or the quota buy-back price. However, where the quota buy-back price is higher than the amount calculated for tobacco to be included in the reference amount, the farmer shall still be entitled, in addition to the single payment, to a part of the buy-back price corresponding to the difference between the price amount and the amount calculated in accordance with point I of Annex VII to this Regulation.]

#### **Textual Amendments**

- F1** Substituted by [Council Regulation \(EC\) No 864/2004 of 29 April 2004 amending Regulation \(EC\) No 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers, and adapting it by reason of the accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia to the European Union.](#)

*Status: Point in time view as at 15/02/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 1782/2003 (repealed), TITLE III. (See end of Document for details)*

## Article 36

### Payment

1 Aid under the single payment scheme shall be paid in respect of payment entitlements as defined in Chapter 3, accompanied by an equal number of eligible hectares as defined in Article 44(2).

2 Member States may decide to combine payments under the single payment scheme with payments under any other support scheme.

## CHAPTER 2

### ESTABLISHMENT OF THE AMOUNT

## Article 37

### Calculation of the reference amount

1 The reference amount shall be the three-year average of the total amounts of payments, which a farmer was granted under the support schemes referred to in Annex VI, calculated and adjusted according to Annex VII, in each calendar year of the reference period referred to in Article 38.

[<sup>F2</sup>However, for olive oil the reference amount shall be the four-year average of the total amounts of payments which a farmer was granted under the olive oil support scheme referred to in Annex VI, calculated and adjusted according to Annex VII, during the marketing years 1999/2000, 2000/01, 2001/02 and 2002/03.]

2 By way of derogation from paragraph 1, when a farmer commences an agricultural activity in the reference period, the average shall be based on the payments he was granted in the calendar year or years during which he exercised the agricultural activity.

#### Textual Amendments

- F2** Inserted by [Council Regulation \(EC\) No 864/2004 of 29 April 2004 amending Regulation \(EC\) No 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers, and adapting it by reason of the accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia to the European Union.](#)

## Article 38

### Reference period

The reference period shall comprise the calendar years 2000, 2001 and 2002.

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*Status: Point in time view as at 15/02/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 1782/2003 (repealed), TITLE III. (See end of Document for details)*

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### Article 39

#### **Application of modulation and cross-compliance laid down under Regulation (EC) No 1259/1999**

In case of application of Articles 3 and 4 of Regulation (EC) No 1259/1999 during the reference period, the amounts referred to in Annex VII shall be those that would have been granted before application of the said Articles.

### Article 40

#### **Hardship cases**

1 By way of derogation from Article 37, a farmer whose production was adversely affected during the reference period by a case of force majeure or exceptional circumstances occurring before or during that reference period shall be entitled to request that the reference amount be calculated on the basis of the calendar year or years in the reference period not affected by the case of force majeure or exceptional circumstances.

2 If the whole reference period was affected by the case of force majeure or exceptional circumstances, the Member State shall calculate the reference amount on the basis of the 1997 to 1999 period. In this case, paragraph 1 shall apply *mutatis mutandis*.

3 A case of force majeure or exceptional circumstances, with relevant evidence to the satisfaction of the competent authority, shall be notified by the farmer concerned in writing to the authority within a deadline to be fixed by each Member State.

4 Force majeure or exceptional circumstances shall be recognised by the competent authority in cases such as, for example:

- a the death of the farmer;
- b long-term professional incapacity of the farmer;
- c a severe natural disaster gravely affecting the holding's agricultural land;
- d the accidental destruction of livestock buildings on the holding;
- e an epizootic affecting part or all of the farmer's livestock.

[<sup>F15</sup> Paragraphs 1, 2 and 3 of this Article shall apply, *mutatis mutandis*, to farmers who, during the reference period, were under agri-environmental commitments in accordance with Regulations (EEC) No 2078/92<sup>(1)</sup> and (EC) No 1257/1999, to hop farmers who, during the same period, were under a grubbing-up commitment in accordance with Regulation (EC) No 1098/98<sup>(2)</sup>, as well as to tobacco farmers who have participated in the quota buy-back programme in accordance with Regulation (EEC) No 2075/92.

In the case where the measures referred to in the first subparagraph covered both the reference period and the period referred to in paragraph 2, Member States shall establish, according to objective criteria and in such a way as to ensure equal treatment between farmers and to avoid market and competition distortions, a reference amount in accordance with the detailed rules to be laid down by the Commission in accordance with the procedure referred to in Article 144(2).]

*Status: Point in time view as at 15/02/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 1782/2003 (repealed), TITLE III. (See end of Document for details)*

### Textual Amendments

- F1** Substituted by Council Regulation (EC) No 864/2004 of 29 April 2004 amending Regulation (EC) No 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers, and adapting it by reason of the accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia to the European Union.

### Article 41

#### Ceiling

- 1 For each Member State, the sum of the reference amounts shall not be higher than the national ceiling referred to in Annex VIII.
- 2 Where necessary, a Member State shall proceed to a linear percentage reduction of the reference amounts in order to ensure respect of its ceiling.

### Article 42

#### National reserve

- 1 Member States shall, after any possible reduction under Article 41(2), proceed to a linear percentage reduction of the reference amounts in order to constitute a national reserve. This reduction shall not be higher than 3 %.
- 2 The national reserve shall further include the difference between the ceiling referred to in Annex VIII and the sum of the reference amounts to be granted to farmers under the single payment scheme, before the reduction referred to in paragraph 1 second sentence.
- 3 Member States may use the national reserve to grant, in priority, reference amounts to farmers who commence their agricultural activity after 31 December 2002, or in 2002 but without receiving any direct payment in that year, according to objective criteria and in such a way as to ensure equal treatment between farmers and to avoid market and competition distortions.
- 4 Member States shall use the national reserve for the purpose of establishing, according to objective criteria and in such a way as to ensure equal treatment between farmers and to avoid market and competition distortions, reference amounts for farmers finding themselves in a special situation, to be defined by the Commission in accordance with the procedure referred to in Article 144(2).
- 5 Member States may use the national reserve for the purpose of establishing, according to objective criteria and in such a way as to ensure equal treatment between farmers and to avoid market and competition distortions, reference amounts for farmers in areas subject to restructuring and/or development programs relating to one or the other form of public intervention in order to avoid abandoning of land and/or in order to compensate specific disadvantages for farmers in those areas.
- 6 In application of paragraphs 3 to 5 Member States may increase the unit value, within the limit of the regional average of the value of entitlements, and/or the number of entitlements allocated to farmers.

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7 Member States shall proceed to linear reductions of the entitlements in case their national reserve is not sufficient to cover the cases referred to in paragraphs 3 and 4.

8 Except in case of transfer by actual or anticipated inheritance and by way of derogation from Article 46, the entitlements established using the national reserve shall not be transferred for a period of five years starting from their allocation.

By way of derogation from Article 45(1), any entitlement which has not been used during each year of the five year period shall revert immediately to the national reserve.

9 By way of derogation from Articles 33 and 43, in case of sale or lease for six or more years of the holding or part of it or premium rights in the reference period or not later than [F15 May 2004], part of the entitlements to be allocated to the seller or the lessor may revert to the national reserve under conditions to be defined by the Commission, in accordance with the procedure referred to in Article 144(2).

#### **Textual Amendments**

- F1** Substituted by [Council Regulation \(EC\) No 864/2004 of 29 April 2004 amending Regulation \(EC\) No 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers, and adapting it by reason of the accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia to the European Union.](#)

## CHAPTER 3

### PAYMENT ENTITLEMENTS

#### Section 1

#### Payment entitlements based on areas

#### *Article 43*

#### **Determination of the payment entitlements**

1 Without prejudice to Article 48, a farmer shall receive a payment entitlement per hectare which is calculated by dividing the reference amount by the three-year average number of all hectares which in the reference period gave right to direct payments listed in Annex VI.

The total number of payment entitlements shall be equal to the above mentioned average number of hectares.

However, in the case referred to in Article 37(2), the total number of payment entitlements shall be equal to the average number of hectares of the same period used for the establishment of the reference amounts [X1 and Article 42(8) shall apply to these payment entitlements.]

2 The number of hectares referred to in paragraph 1 shall further include:

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[<sup>F1</sup>a in case of potato starch, dried fodder, seed, olive groves and tobacco aids listed in Annex VII, the number of hectares whose production has been granted the aid in the reference period as calculated in points B, D, F, H and I of Annex VII;]

b all forage area in the reference period.

3 For the purpose of paragraph 2(b) of this Article, ‘forage area’ shall mean the area of the holding that was available throughout the calendar year, in accordance with Article 5 of Commission Regulation (EC) No 2419/2001<sup>(3)</sup>, for rearing animals including areas in shared use and areas which were subject to mixed cultivation. The forage area shall not include:

- buildings, woods, ponds, paths,
- areas used for other crops eligible for Community aid or for permanent crops or horticultural crops,
- areas qualifying for the support system laid down for the producers of certain arable crops, used for the aid scheme for dried fodder or subject to a national or Community set-aside scheme.

4 The payment entitlements per hectare shall not be modified save as otherwise provided.

#### **Editorial Information**

**X1** Substituted by [Corrigendum to Council Regulation \(EC\) No 1782/2003 of 29 September 2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers and amending Regulations \(EEC\) No 2019/93, \(EC\) No 1452/2001, \(EC\) No 1453/2001, \(EC\) No 1454/2001, \(EC\) No 1868/94, \(EC\) No 1251/1999, \(EC\) No 1254/1999, \(EC\) No 1673/2000, \(EEC\) No 2358/71 and \(EC\) No 2529/2001 \(Official Journal of the European Union L 270 of 21 October 2003\).](#)

#### **Textual Amendments**

**F1** Substituted by [Council Regulation \(EC\) No 864/2004 of 29 April 2004 amending Regulation \(EC\) No 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers, and adapting it by reason of the accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia to the European Union.](#)

### *Article 44*

#### **Use of payment entitlements**

1 Any payment entitlement accompanied by an eligible hectare shall give right to the payment of the amount fixed by the payment entitlement.

2 ‘Eligible hectare’ shall mean any agricultural area of the holding taken up by arable land and permanent pasture except areas under permanent crops, forests or used for non agricultural activities.

[<sup>F2</sup>‘Eligible hectare’ shall also mean areas planted with hops or being under a temporary resting obligation, or areas as calculated in the second subparagraph of point H of Annex VII under olive trees planted before 1 May 1998, except for Cyprus and Malta, for which the date shall be 31 December 2001, or new olive trees replacing existing olive trees or olive trees within approved planting schemes and registered into a geographic information system.]

*Status: Point in time view as at 15/02/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 1782/2003 (repealed), TITLE III. (See end of Document for details)*

3 The farmer shall declare the parcels corresponding to the eligible hectare accompanying any payment entitlement. Except in case of force majeure or exceptional circumstances, these parcels shall be at the farmer's disposal for a period of at least 10-months, starting from a date to be fixed by the Member State, but not earlier than 1 September of the calendar year preceding the year of lodging the application for participation in the single payment scheme.

4 Member States may, in duly justified circumstances, authorise the farmer to modify his declaration on condition that he respects the number of hectares corresponding to his payment entitlements and the conditions for granting the single payment for the area concerned.

#### **Textual Amendments**

**F2** Inserted by [Council Regulation \(EC\) No 864/2004 of 29 April 2004 amending Regulation \(EC\) No 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers, and adapting it by reason of the accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia to the European Union.](#)

### *Article 45*

#### **Unused payment entitlements**

1 Any payment entitlement which has not been used for a period of 3 years shall be allocated to the national reserve.

2 However, unused payment entitlements shall not revert to the national reserve in case of force majeure and exceptional circumstances within the meaning of Article 40(4).

### *Article 46*

#### **Transfer of payment entitlements**

1 Payment entitlements may only be transferred to another farmer established within the same Member State except in case of transfer by actual or anticipated inheritance.

However, even in the case of actual or anticipated inheritance, payment entitlements may only be used in the Member State where the payment entitlements were established.

A Member State may decide that payment entitlements may only be transferred or used within one and the same region.

2 Payment entitlements may be transferred by sale or any other definitive transfer with or without land. In contrast, lease or similar types of transactions shall be allowed only if the payment entitlements transferred are accompanied by the transfer of an equivalent number of eligible hectares.

Except in case of force majeure or exceptional circumstances as referred to in Article 40(4), a farmer may transfer his payment entitlements without land only after he has used, within the meaning of Article 44, at least 80 % of his payment entitlements during at least one calendar year or, after he has given up voluntarily to the national reserve all the payment entitlements he has not used in the first year of application of the single payment scheme.



*Status: Point in time view as at 15/02/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 1782/2003 (repealed), TITLE III. (See end of Document for details)*

3 In case of sale of payment entitlements, with or without land, Member States may<sup>[X1]</sup>, acting in compliance with the general principles of Community law,] decide that part of the payment entitlements sold revert to the national reserve or that their unit value is reduced in favour of the national reserve, according to criteria to be fixed by the Commission in accordance with the procedure referred to in Article 144(2).

#### **Editorial Information**

**X1** Substituted by [Corrigendum to Council Regulation \(EC\) No 1782/2003 of 29 September 2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers and amending Regulations \(EEC\) No 2019/93, \(EC\) No 1452/2001, \(EC\) No 1453/2001, \(EC\) No 1454/2001, \(EC\) No 1868/94, \(EC\) No 1251/1999, \(EC\) No 1254/1999, \(EC\) No 1673/2000, \(EEC\) No 2358/71 and \(EC\) No 2529/2001 \(Official Journal of the European Union L 270 of 21 October 2003\).](#)

## Section 2

### **Payment entitlements subject to special conditions**

#### *Article 47*

#### **Payments giving right to payment entitlements subject to special conditions**

1 By way of derogation from Articles 43 and 44, the following amounts resulting from payments granted in the reference period shall be included in the reference amount under the conditions provided for in Article 48 and point C of Annex VII:

- a the deseasonalisation premium provided for in Article 5 of Regulation (EC) No 1254/1999;
- b the slaughter premium provided for in Article 11 of Regulation (EC) No 1254/1999;
- c the special premium for male bovine animals and the suckler cow premium, where the farmer was exempted from the stocking rate requirement pursuant to Article 12(1) of Regulation (EC) No 1254/1999, provided that the farmer did not apply for the extensification payment provided for in Article 13 of that Regulation;
- d additional payments provided for in Article 14 of Regulation (EC) No 1254/1999 where paid in addition to aid provided for under (a), (b) and (c) of this paragraph;
- e the aids provided for under the sheep and goats aid scheme:
  - in the calendar years 2000 and 2001, in Article 5 of Regulation (EC) No 2467/98 and in Article 1 of Regulation (EEC) No 1323/90<sup>(4)</sup>,
  - in the calendar year 2002, in Articles 4, 5 and 11(1) and in the first, second and fourth indent of Article 11(2) of Regulation (EC) No 2529/2001.

2 Starting from 2007 and by way of derogation from Articles 33, 43 and 44, the amounts resulting from dairy premium and additional payments, provided for in Articles 95 and 96 and to be granted in 2007 shall be included in the single payment scheme under the conditions provided for in Articles 48 to 50.

*Status: Point in time view as at 15/02/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 1782/2003 (repealed), TITLE III. (See end of Document for details)*

## Article 48

### **Determination of the payment entitlements subject to special conditions**

When farmer was granted payments referred to in Article 47, but had no hectares as referred to in Article 43 in the reference period, or the entitlement per hectare results in an amount higher than EUR 5 000, the farmer shall have right, respectively, to a payment entitlement:

- (a) equal to the reference amount corresponding to the direct payments he was granted in the three-year average period;
- (b) for each EUR 5000 or fraction of the reference amount corresponding to the direct payments he was granted in the three-year average period.

## Article 49

### **Conditions**

1 Save as otherwise provided for in this section, the other provisions of this Title shall apply to the payment entitlements subject to special conditions.

2 By way of derogation from Articles 36(1) and 44(1), a farmer who has such payment entitlements for which he did not have hectares in the reference period, shall be authorised by the Member State to derogate from the obligation to provide a number of eligible hectares equivalent to the number of entitlements on the condition he maintains at least 50 % of the agricultural activity exercised in the reference period expressed in livestock units (LU).

In case of a transfer of the payment entitlements, the transferee may benefit from this derogation only if all the payment entitlements subject to the derogation are transferred.

3 The payment entitlements determined according to Article 48 shall not be modified.

## Article 50

### **Dairy premium and additional payments**

1 Without prejudice to Article 48 and by way of derogation from Articles 37 and 43, a farmer shall receive a supplementary amount per entitlement resulting by dividing the amounts to be granted under Articles 95 and 96 by the number of entitlements he owns in 2007 except set-aside entitlements.

The unit value of each payment entitlement he owns in 2007 shall be increased by this supplementary amount.

2 In cases where he does not own any entitlement, Articles 48 and 49 shall apply *mutatis mutandis*. In this case, for the purpose of applying Article 48, the term 'hectares' shall mean the eligible hectares the farmer owns in 2007.

*Status: Point in time view as at 15/02/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 1782/2003 (repealed), TITLE III. (See end of Document for details)*

## CHAPTER 4

### LAND USE UNDER THE SINGLE PAYMENT SCHEME

#### Section 1

#### Use of the land

#### *[<sup>F1</sup>Article 51*

#### **Agricultural use of the land**

Farmers may use the parcels declared in accordance with Article 44(3) for any agricultural activity except for:

- (a) permanent crops, apart from olive trees planted before 1 May 1998, except for Cyprus and Malta, for which the date shall be 31 December 2001, or new olive trees replacing existing olive trees or olive trees within approved planting schemes and registered into a geographic information system or hops;
- (b) the production of the products referred to in Article 1(2) of Regulation (EC) No 2200/96<sup>(5)</sup> and in Article 1(2) of Regulation (EC) No 2201/96<sup>(6)</sup>.

However, Member States may decide to allow secondary crops to be cultivated on the eligible hectares during a period of maximum three months starting each year on 15 August; however, at the request of a Member State, this date is modified in accordance with the procedure laid down in Article 144(2) for regions where cereals are normally harvested earlier for climatic reasons;

- (c) potatoes other than those intended for the manufacture of potato starch for which aid is granted under Article 93.]

#### **Textual Amendments**

- F1** Substituted by Council Regulation (EC) No 864/2004 of 29 April 2004 amending Regulation (EC) No 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers, and adapting it by reason of the accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia to the European Union.

#### *Article 52*

#### **Production of hemp**

1 In case of production of hemp falling within CN Code 5302 10 00, the varieties used shall have a tetrahydrocannabinol content not exceeding 0,2 % and the production shall be covered by a contract or commitment as referred to in Article 2(1) of Regulation (EC) No 1673/2000. Member States shall establish a system for verifying the tetrahydrocannabinol content of the crops grown on at least 30 % of the areas on hemp grown for fibre for which the contract is concluded or the commitment made. However, if a Member State introduces a system of prior approval for such cultivation, the minimum shall be 20 %.

*Status: Point in time view as at 15/02/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 1782/2003 (repealed), TITLE III. (See end of Document for details)*

2 In accordance with the procedure referred to in Article 144(2), the granting of payments shall be made subject to the use of certified seeds of certain varieties and to a declaration of areas on hemp grown for fibre.

## Section 2

### Set-aside entitlements

#### Article 53

##### Determination of the set-aside entitlements

1 By way of derogation from Articles 37 and 43 of this Regulation, where in the reference period a farmer was subject to the obligation to set aside part of the land of his holding pursuant to Article 6(1) of Regulation (EC) No 1251/1999, the three-year average amount corresponding to the compulsory set-aside payment calculated and adjusted according to Annex VII and the three-year average number of compulsory set-aside hectares shall not be included in the determination of the entitlements referred to in Article 43 of this Regulation.

2 In the case referred to in paragraph 1, the farmer shall receive an entitlement per hectare (hereinafter referred to as 'set-aside entitlement') which is calculated by dividing the three-year set-aside average amount by the three-year average number of hectares set-aside, as referred to in paragraph 1.

The total number of set-aside entitlements shall be equal to the average number of compulsory set-aside hectares.

#### Article 54

##### Use of set-aside entitlements

1 Any set-aside entitlement accompanied by a hectare eligible for set-aside entitlement shall give right to the payment of the amount fixed by the set-aside entitlement.

2 By way of derogation from Article 44(2), 'hectare eligible for set-aside entitlement' shall mean any agricultural area of the holding taken up by arable land, except areas which at the date provided for the area aid applications for 2003 were under permanent crops, forests or used for non agricultural activities or under permanent pasture.<sup>[F3]</sup>For the new Member States, the reference to the date provided for the area aid applications for 2003 shall be construed as a reference to 30 June 2003.]

However, the following areas may be counted as being set aside, as a result of an application made after 28 June 1995:

- areas set aside pursuant to Articles 22 to 24 of Regulation (EC) No 1257/1999, which are neither put to any agricultural use nor used for any lucrative purposes other than those accepted for other land set aside under this Regulation, or
- areas afforested pursuant to Article 31 of Regulation (EC) No 1257/1999.

3 Farmers shall set aside from production the hectares eligible for set-aside entitlements.

*Status: Point in time view as at 15/02/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 1782/2003 (repealed), TITLE III. (See end of Document for details)*

4 Set aside areas shall not be less than 0,1 ha in size and 10 metres wide. For duly justified environmental reasons, Member States may accept areas at least 5 metres wide and 0,05 ha in size.

5 Member States may, on terms to be determined in accordance with the procedure referred to in Article 144(2), derogate from first subparagraph of paragraph 2 of this Article, provided that they take action to prevent any significant increase in the total agricultural area eligible to set-aside entitlements.

6 By way of derogation from Articles 36(1) and 44(1), set-aside entitlements shall be claimed before any other entitlement.

7 The set aside obligation shall continue to apply in respect of the set-aside entitlements which are transferred.

#### **Textual Amendments**

**F3** Inserted by [Council Regulation \(EC\) No 583/2004 of 22 March 2004 amending Regulations \(EC\) No 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers, \(EC\) No 1786/2003 on the common organisation of the market in dried fodder and \(EC\) No 1257/1999 on support for rural development from the European Agricultural Guidance and Guarantee Fund \(EAGGF\) by reason of the accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia to the European Union.](#)

#### *Article 55*

#### **Exemption from set-aside**

A farmer shall not be subject to the obligation referred to in Article 54 if:

- (a) his entire holding is managed for the totality of its production in compliance with the obligations laid down in Council Regulation (EEC) No 2092/91 of 24 June 1991 on organic production of agricultural products and indications referring thereto on agricultural products and foodstuffs<sup>(7)</sup>;
- (b) the land set-aside is used for the provision of materials for the manufacture within the Community of products not primarily intended for human or animal consumption, provided that effective control systems are applied.

#### *Article 56*

#### **Use of the set aside land**

1 The land set aside shall be maintained in good agricultural and environmental condition as established under Article 5.

Without prejudice to Article 55, it shall not be used for agricultural purposes and shall not produce any crop for commercial purposes.

2 It may be subject to rotation.

3 If the quantity of by-products for feed or food uses likely to be made available as a result of the cultivation of oilseeds on land set-aside under Article 55(b), will, on the basis of the

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*Status: Point in time view as at 15/02/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 1782/2003 (repealed), TITLE III. (See end of Document for details)*

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forecast quantities covered by contracts made with farmers, exceed 1 million tonnes annually expressed in soya bean meal equivalents, in order to limit such quantity to 1 million tonnes, the amount of the forecast quantity under each contract, which may be used of feed or food uses, shall be reduced.

4 Member States shall be authorised to pay national aid up to 50 % of the costs associated with establishing multiannual crops intended for bio-mass production on set-aside land.

#### *Article 57*

### **Application of other provisions**

Save as otherwise provided for in this section, the other provisions of this Title shall apply to the set-aside entitlements.

## CHAPTER 5

### **REGIONAL AND OPTIONAL IMPLEMENTATION**

#### Section 1

### **Regional implementation**

#### *Article 58*

### **Regional allocation of the ceiling referred to in Article 41**

1 A Member State may decide, by 1 August 2004 at the latest, to apply the single payment scheme provided for in Chapters 1 to 4 at regional level under the conditions laid down in this Section.

2 Member States shall define the regions according to objective criteria.

Member States with less than three million eligible hectares may be considered as one single region.

3 The Member State shall subdivide the ceiling referred to in Article 41 between the regions according to objective criteria.

#### *Article 59*

### **Regionalisation of the single payment scheme**

1 In duly justified cases and according to objective criteria the Member State may divide the total amount of the regional ceiling established under Article 58 or part of it between all the farmers whose holdings are located in the region concerned, including those who do not meet the eligibility criterion referred to in Article 33.

2 In this case of division of the total amount of the regional ceiling, farmers shall receive entitlements, whose unit value is calculated by dividing the regional ceiling established under

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*Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 1782/2003 (repealed), TITLE III. (See end of Document for details)*

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Article 58 by the number of eligible hectares, within the meaning of Article 44(2), established at regional level.

3 In case of partial division of the total amount of the regional ceiling, farmers shall receive entitlements whose unit value is calculated by dividing the corresponding part of the regional ceiling established under Article 58 by the number of eligible hectares, within the meaning of Article 44(2), established at regional level.

In case the farmer is also entitled to receive entitlements calculated on the remaining part of the regional ceiling, the regional unit value of each of his entitlements, except for set-aside entitlements, shall be increased by an amount corresponding to the reference amount divided by the number his entitlements established in accordance with paragraph 4.

Articles 48 and 49 shall apply *mutatis mutandis*.

4 The number of entitlements per farmer shall be equal to the number of hectares he declares in accordance with Article 44(2) the first year of application of the single payment scheme, except in case of force majeure or exceptional circumstances within the meaning of Article 40(4).

#### *Article 60*

#### **Use of the land**

[<sup>F1</sup> Where a Member State makes use of the option provided for in Article 59, farmers may, by way of derogation from Article 51 and in accordance with this Article, also use the parcels declared according to Article 44(3) for the production of products referred to in Article 1(2) of Regulation (EC) No 2200/96 or in Article 1(2) of Regulation (EC) No 2201/96 and of potatoes other than those intended for the manufacture of potato starch for which aid is granted under Article 93 of this Regulation, except permanent crops, apart from hops or olive trees planted before 1 May 1998 or new olive trees replacing existing olive trees or olive trees within approved planting schemes and registered into a geographic information system.]

2 The Member State shall establish the number of hectares that may be used according to paragraph 1 of this Article by subdividing, according to objective criteria, the average of the number of hectares that were used for the production of the products referred to in paragraph 1 at national level during the three-year period 2000-2002 amongst the regions defined pursuant to Article 58(2). The average number of hectares at national level and the number of hectares at regional level shall be fixed by the Commission in accordance with the procedure referred to in Article 144(2) on the basis of the data communicated by the Member State.

3 Within the limit established according to paragraph 2 for the region concerned, a farmer shall be allowed to make use of the option referred to in paragraph 1:

- a within the limit of the number of hectares that he used for the production of the products referred to in paragraph 1 in 2003;
- b in case of application, *mutatis mutandis*, of Articles 40 and 42(4), within the limit of a number of hectares to be established according to objective criteria and in such a way as to ensure equal treatment between farmers and to avoid market and competition distortions.

4 Within the limit of the number of hectares that remain available after application of paragraph 3, farmers shall be allowed to produce the products referred to in paragraph 1 on a number of hectares other than the number of hectares falling under paragraph 3 within the limit

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*Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 1782/2003 (repealed), TITLE III. (See end of Document for details)*

of a number of hectares used for the production of the products referred to in paragraph 1 in 2004 and/or 2005, whereby priority shall be given to the farmers who produced the products already in 2004 within the limit of the number of hectares used in 2004.

In case of application of Article 71, 2004 and 2005 shall be replaced by, respectively, the year previous to the year of application of the single payment scheme and the year of application itself.

5 In order to establish the individual limits referred to in paragraphs 3 and 4, the Members State shall use the farmer's individual data, where available, or any other evidence at its satisfaction provided by the farmer.

6 The number of hectares for which the authorisation has been established according to paragraphs 3 and 4 of this Article, shall in no case exceed the number of eligible hectares as defined in Article 44(2) declared in the first year of application of the single payment scheme.

7 The authorisation shall be used, within the region concerned, with the corresponding payment entitlement.

8 By at the latest 2007, the Commission shall submit a report to the Council, accompanied, if necessary, by appropriate proposals, on the possible consequences, in terms of market and structural developments, of the implementation by Member States of this Article.

#### **Textual Amendments**

- F1** Substituted by [Council Regulation \(EC\) No 864/2004 of 29 April 2004 amending Regulation \(EC\) No 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers, and adapting it by reason of the accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia to the European Union.](#)

### *Article 61*

#### **Grassland**

In case of application of Article 59, Member States may also, according to objective criteria, fix, within the regional ceiling or part of it, different per unit values of entitlements to be allocated to farmers referred to in Article 59(1), for hectares under grassland at the date provided for the area aid applications for 2003 and for any other eligible hectare or alternatively for hectares under permanent pasture at the date provided for the area aid applications for 2003 and for any other eligible hectare.

### *Article 62*

#### **Dairy premium and additional payments**

By way of derogation from Article 47(2), Member State may decide that the amounts resulting from dairy premiums and additional payments, provided for in Articles 95 and 96<sup>X1</sup>, shall be included at national or regional level, in part or in full, in the single payment scheme] starting from 2005. Entitlements established under this paragraph shall be modified accordingly.



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*Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 1782/2003 (repealed), TITLE III. (See end of Document for details)*

The reference amount for those payments shall be equal to the amounts to be granted according to Articles 95 and 96 calculated on the basis of the individual reference quantity for milk available on the holding on 31 March of the year of inclusion, in part or in full, of those payments in the single payment scheme.

Articles 48 to 50 shall apply mutatis mutandis.

#### **Editorial Information**

**X1** Substituted by Corrigendum to Council Regulation (EC) No 1782/2003 of 29 September 2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers and amending Regulations (EEC) No 2019/93, (EC) No 1452/2001, (EC) No 1453/2001, (EC) No 1454/2001, (EC) No 1868/94, (EC) No 1251/1999, (EC) No 1254/1999, (EC) No 1673/2000, (EEC) No 2358/71 and (EC) No 2529/2001 (Official Journal of the European Union L 270 of 21 October 2003).

### *Article 63*

#### **Conditions for the entitlements established under this section**

1 In case of application of Article 59, entitlements established under this section may only be transferred or used within the same region or between regions where the entitlements per hectare are the same.

2 In case of application of Article 59, by way of derogation from Article 53, any farmer in the region concerned shall receive set-aside entitlements.

The number of set-aside entitlements is established by multiplying a farmer's eligible land within the meaning of Article 54(2) declared in the first year of application of the single payment scheme with a set-aside rate.

The set aside rate is calculated by multiplying the basic rate of compulsory set-aside of 10 % by the proportion, in the region concerned, between the land for which arable crops area payments referred to in Annex VI have been granted in the reference period and the eligible land within the meaning of Article 54(2) in the reference period.

The value of the set-aside entitlements shall be the regional value for payment entitlements as established according to Article 59(2) or, as the case may be, Article 59(3) first subparagraph.

Those farmers shall not receive set-aside entitlements who declare less than a number of hectares within the meaning of Article 54(2) which would be needed to produce a number of tonnes equal to 92 tonnes of cereals as defined in Annex IX on the basis of the yields determined according to the regionalisation plan applicable in the region concerned in the year before the year of application of the single payment scheme divided by the proportion referred to in the third subparagraph of paragraph 2 of this Article.

3 By way of derogation from Articles 43(4) and 49(3), Member States may also decide, by 1 August 2004 at the latest, and [X<sup>1</sup>acting in compliance with the general principles of Community law,] that entitlements established under this section shall be subject to progressive modifications according to pre-established steps and objective criteria.

*Status: Point in time view as at 15/02/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 1782/2003 (repealed), TITLE III. (See end of Document for details)*

4 Save as otherwise provided for in this Section, the other provisions of this Title shall apply.

#### **Editorial Information**

**X1** Substituted by [Corrigendum to Council Regulation \(EC\) No 1782/2003 of 29 September 2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers and amending Regulations \(EEC\) No 2019/93, \(EC\) No 1452/2001, \(EC\) No 1453/2001, \(EC\) No 1454/2001, \(EC\) No 1868/94, \(EC\) No 1251/1999, \(EC\) No 1254/1999, \(EC\) No 1673/2000, \(EEC\) No 2358/71 and \(EC\) No 2529/2001 \(Official Journal of the European Union L 270 of 21 October 2003\)](#).

## Section 2

### Partial implementation

#### *Article 64*

#### General provisions

1 A Member State may decide, by 1 August 2004 at the latest, to apply, at national or regional level, the single payment scheme provided for in Chapters 1 to 4 under the conditions laid down in this Section.

2 According to the choice made by each Member State, the Commission shall fix, in accordance with the procedure referred to in Article 144(2), a ceiling for each of the direct payments referred to, respectively, in [F1Articles 66, 67, 68, 68a and 69].

This ceiling shall be equal to the component of each type of direct payment in the national ceilings referred to in Article 41, multiplied by the percentages of reduction applied by Member States in accordance with [F1Articles 66, 67, 68, 68a and 69].

The total amount of the fixed ceilings shall be deducted from the national ceilings referred to in Article 41 in accordance with the procedure referred to in Article 144(2).

3 By at the latest two years after the implementation of the single payment scheme by all Member States or at the latest by 31 December 2009, the Commission shall submit a report to the Council, accompanied, if necessary, by appropriate proposals, on the possible consequences, in terms of market and structural developments, of the implementation by Member States of the options provided for in Sections 2 and 3.

#### **Textual Amendments**

**F1** Substituted by [Council Regulation \(EC\) No 864/2004 of 29 April 2004 amending Regulation \(EC\) No 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers, and adapting it by reason of the accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia to the European Union](#).

*Status: Point in time view as at 15/02/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 1782/2003 (repealed), TITLE III. (See end of Document for details)*

## Article 65

### Establishment of the entitlements under this section

1 For the entitlements to be allocated to farmers, after any possible reduction under Article 41, the component of the reference amount which results from each of the direct payments referred to, respectively, in <sup>F1</sup>Articles 66, 67, 68, 68a and 69 shall be reduced by the percentage to be fixed by Member States within the limit fixed in Articles 66, 67, 68, 68a and 69].

2 Save as otherwise provided for in this Section, the other provisions of this Title shall apply to the entitlements established on the remaining part of the reference amount.

#### Textual Amendments

- F1** Substituted by Council Regulation (EC) No 864/2004 of 29 April 2004 amending Regulation (EC) No 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers, and adapting it by reason of the accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia to the European Union.

## Article 66

### Arable crops payments

In case of arable crops payments, Member States may:

- (a) retain up to 25 % of the component of national ceilings referred to in Article 41 corresponding to the arable crops area payments referred to in Annex VI, except compulsory set-aside payment.

In this case and within the limit of the ceiling fixed in accordance with Article 64(2), the Member State concerned shall make, on a yearly basis, an additional payment to farmers.

The additional payment shall be granted to farmers producing arable crops listed in Annex IX and, in Member States where maize is not a traditional crop, grass silage on a per hectare basis, at a maximum level up to 25 % of the per hectare payments referred to in Annex VI to be granted under the conditions provided for in Chapter 10 of Title IV.

or, alternatively

- (b) retain up to 40 % of the component of national ceilings referred to in Article 41 corresponding to the durum wheat supplement payment referred to in Annex VI.

In this case and within the limit of the ceiling fixed in accordance with Article 64(2), the Member State concerned shall make, on a yearly basis, an additional payment to farmers.

The additional payment shall be granted to farmers producing durum wheat listed in Annex IX on a per hectare basis, at a maximum level up to 40 % of per hectare

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*Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 1782/2003 (repealed), TITLE III. (See end of Document for details)*

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supplement payment for durum wheat referred to in Annex VI granted or to be granted under conditions provided for in Chapter 10 of Title IV.

#### *Article 67*

### **Sheep and goat payments**

Member States may retain up to 50 % of the component of national ceilings referred to in Article 41 corresponding to the sheep and goat payments listed in Annex VI.

In this case and within the limit of the ceiling fixed in accordance with Article 64(2), the Member State concerned shall make, on a yearly basis, an additional payment to farmers.

The additional payment shall be granted to farmers rearing sheep and goats, at a maximum level up to 50 % of sheep and goat payments listed in Annex VI to be granted under conditions provided for in Chapter 11 of Title IV.

#### *Article 68*

### **Beef and veal payments**

1 In case of beef and veal payments, Member States may retain up to 100 % of the component of national ceilings referred to in Article 41 corresponding to the slaughtering premium referred to in Annex VI for calves.

In this case and within the limit of the ceiling fixed in accordance with Article 64(2), the Member State concerned shall make, on a yearly basis, an additional payment to farmers.

The additional payment shall be granted on slaughtering of calves at a maximum level up to 100 % of the slaughtering premium for calves referred to in Annex VI to be granted under conditions provided for in Chapter 12 of Title IV.

2 Member States may also:

- a (i) retain up to 100 % of the component of national ceilings referred to in Article 41 corresponding to the suckler cow premium referred to in Annex VI.

In this case and within the limit of the ceiling fixed in accordance with Article 64(2), the Member State concerned shall make, on a yearly basis, an additional payment to farmers.

The additional payment shall be granted for maintaining suckler cows, at a maximum level up to 100 % of suckler cow premium referred to in Annex VI to be granted under conditions provided for in Chapter 12 of Title IV;

and

- (ii) retain up to 40 % of the component of national ceilings referred to in Article 41 corresponding to the slaughter premium referred to in Annex VI for bovine animals other than for calves.

In this case and within the limit of the ceiling fixed in accordance with Article 64(2), the Member State concerned shall make, on a yearly basis, an additional payment to farmers.

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*Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 1782/2003 (repealed), TITLE III. (See end of Document for details)*

The additional payment shall be granted on slaughtering of bovine animals other than calves at a maximum level up to 40 % of the slaughtering premium referred to in Annex VI for bovine animals other than for calves to be granted under conditions provided for in Chapter 12 of Title IV;

or alternatively,

- b (i) retain up to 100 % of the component of national ceilings referred to in Article 41 corresponding to the slaughter premium referred to in Annex VI for bovine animals other than for calves.

In this case and within the limit of the ceiling fixed in accordance with Article 64(2), the Member State concerned shall make, on a yearly basis, an additional payment to farmers.

The additional payment shall be granted on slaughtering of bovine animals other than for calves at a maximum level up to 100 % of the slaughtering premium referred to in Annex VI for bovine animals other than for calves to be granted under conditions provided for in Chapter 12 of Title IV;

or, alternatively,

- (ii) retain up to 75 % of the component of national ceilings referred to in Article 41 corresponding to the special male premium referred to in Annex VI.

In this case and within the limit of the ceiling fixed in accordance with Article 64(2), the Member State concerned shall make, on a yearly basis, an additional payment to farmers.

The additional payment shall be granted at a maximum level up to 75 % of the special male premium referred to in Annex VI to be granted under conditions provided for in Chapter 12 of Title IV.

#### *f<sup>2</sup>Article 68a*

#### **Hops payments**

In the case of hops payments, Member States may retain up to 25 % of the component of national ceilings referred to in Article 41 corresponding to the hops area payments and the temporary resting aid referred to in Annex VI.

In this case and within the limit of the ceiling fixed in accordance with Article 64(2), the Member State concerned shall make, on a yearly basis, an additional payment to farmers and/or a payment to producer groups recognised in accordance with Article 7(3) of Regulation (EEC) No 1696/71.

The additional payment shall be granted to farmers producing hops on a per hectare basis, at a maximum level of 25 % of the per hectare payments referred to in Annex VI to be granted under the conditions provided for in Chapter 10d of Title IV.

The payment to recognised producer groups shall be granted to finance the activities referred to in Article 7(1)(a) to (d) of Regulation (EEC) No 1696/71.]

*Status: Point in time view as at 15/02/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 1782/2003 (repealed), TITLE III. (See end of Document for details)*

### Textual Amendments

- F2** Inserted by Council Regulation (EC) No 864/2004 of 29 April 2004 amending Regulation (EC) No 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers, and adapting it by reason of the accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia to the European Union.

### *Article 69*

#### **Optional implementation for specific types of farming and quality production**

Member States may retain up to 10 % of the component of national ceilings referred to in Article 41 corresponding to each sector referred to in Annex VI. In the case of the arable crops, beef and veal and sheep and goat sectors, this retention shall be taken into account for the purpose of application of the maximum percentages fixed, respectively, in Articles 66, 67 and 68.

In this case and within the limit of the ceiling fixed in accordance with Article 64(2), the Member State concerned shall make, on a yearly basis, an additional payment to farmers in the sector or sectors concerned by the retention.

The additional payment shall be granted for specific types of farming which are important for the protection or enhancement of the environment or for improving the quality and marketing of agricultural products under conditions to be defined by the Commission in accordance with the procedure referred to in Article 144(2).

### Section 3

#### **Optional exclusions**

### *Article 70*

#### **Optional exclusion of some direct payments**

1 A Member State may decide, by 1 August 2004 at the latest, to exclude from the single payment scheme:

- a one or more of the direct payments granted in the reference period under:
  - Article 4(4) of Regulation (EC) No 1251/1999,
  - Article 3 of Regulation (EC) No 2358/71.

In this case, Articles 64 and 65 shall apply *mutatis mutandis*;

- [<sup>F4</sup>b all other direct payments listed in Annex VI granted to farmers in the reference period in the French overseas departments, the Azores and Madeira, the Canary Islands and the Aegean Islands and the direct payments granted in the reference period under Article 6 of Regulation (EEC) No 2019/93.]

[<sup>F4</sup>2 Without prejudice to Article 6(2) of Regulation (EEC) No 2019/93, Member States shall grant the direct payments referred to in paragraph 1 of this Article, within the limit of the ceilings fixed in accordance with Article 64(2) of this Regulation, under the conditions

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*Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 1782/2003 (repealed), TITLE III. (See end of Document for details)*

established in Title IV, Chapters 3, 6 and 7 to 13, of this Regulation and in Article 6 of Regulation (EEC) No 2019/93 respectively.]

The total amount of the fixed ceilings shall be deducted from the national ceilings referred to in Article 41 in accordance with the procedure referred to in Article 144(2).

#### **Textual Amendments**

- F4** Substituted by [Council Regulation \(EC\) No 247/2006 of 30 January 2006 laying down specific measures for agriculture in the outermost regions of the Union.](#)

### Section 4

#### **Optional transition**

##### *Article 71*

#### **Optional transitional period**

1 Where specific agricultural conditions so warrant, a Member State may decide, by 1 August 2004 at the latest, to apply the single payment scheme after a transitional period which shall expire either on 31 December 2005 or on 31 December 2006.

In the case where the Member State concerned decides to apply the single payment scheme before the end of the transitional period, it shall decide by 1 August at the latest of the calendar year preceding the calendar year in respect of which the single payment scheme will apply.

[<sup>F2</sup>For hops, the transitional period referred to in the first subparagraph shall expire on 31 December 2005. The transitional period referred to in the first subparagraph shall not apply in respect of cotton, olive oil and table olives and tobacco.]

[<sup>F42</sup> Without prejudice to Article 70(2) of this Regulation, in the transitional period the Member State concerned shall effect each of the direct payments referred to in Annex VI under the conditions established in Title IV, Chapters 3, 6 and 7 to 13, of this Regulation and in Article 6 of Regulation (EEC) No 2019/93 respectively, within the limit of budgetary ceilings corresponding to the component of these direct payments in the national ceiling referred to in Article 41 of this Regulation, fixed in accordance with the procedure referred to in Article 144(2) of this Regulation.]

In the case of dried fodder payment, Member States shall grant an aid under conditions to be defined in accordance with the procedure referred to in Article 144(2), within the aforementioned budgetary limits.

3 The single payment scheme shall apply on 1 January of the calendar year following the calendar year of expiry of the transitional period.

In this case, the Member State concerned shall take the decisions referred to in Articles 58(1), 63(3), 64(1) and 70 by 1 August 2005 or alternatively 2006 according to the deadline decided under paragraph 1 of this Article.

4 The Commission in accordance with the procedure referred to in Article 144(2) shall take the necessary measures in case the application of this transitional period causes severe

*Status: Point in time view as at 15/02/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 1782/2003 (repealed), TITLE III. (See end of Document for details)*

distortion of competition in the Community market and in order to ensure the respect of the Community international obligations.

#### **Textual Amendments**

- F2** Inserted by Council Regulation (EC) No 864/2004 of 29 April 2004 amending Regulation (EC) No 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers, and adapting it by reason of the accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia to the European Union.
- F4** Substituted by Council Regulation (EC) No 247/2006 of 30 January 2006 laying down specific measures for agriculture in the outermost regions of the Union.

## [<sup>F3</sup>CHAPTER 6

### **IMPLEMENTATION IN THE NEW MEMBER STATES**

#### *Article 71a*

1 Save as otherwise provided for in this Chapter, the provisions of this Title shall apply to the new Member States.

Articles 33, 34, 37, 38, 39, 40(1), (2), (3) and (5), 41, 42, 43, 47 to 50, 53 and 58 to 63 shall not apply.

2 Any new Member State applying the single area payment scheme shall take the decisions referred to in Articles 64(1) and 71(1) by 1 August of the year preceding that in respect of which it will apply the single payment scheme for the first time.

#### *Article 71b*

#### **Application for support**

1 Farmers shall apply for support under the single payment scheme by a date, to be fixed by the new Member States, but not later than 15 May.

2 Except in case of *force majeure* and exceptional circumstances within the meaning of Article 40(4), no entitlements shall be allocated to farmers if they do not apply for the single payment scheme by 15 May of the first year of application of the single payment scheme.

3 The amounts corresponding to entitlements not allocated shall revert to the national reserve referred to in Article 71d and shall be available for reallocation.

#### *Article 71c*

#### **Ceiling**

The national ceilings of the new Member States shall be those listed in Annex VIIIa.



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*Status: Point in time view as at 15/02/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 1782/2003 (repealed), TITLE III. (See end of Document for details)*

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### *Article 71d*

#### **National reserve**

1 Each new Member State shall proceed to a linear percentage reduction of its national ceiling in order to constitute a national reserve. This reduction shall not be greater than 3 %, without prejudice to the application of Article 71b(3).

2 The new Member States shall use the national reserve for the purpose of allocating, according to objective criteria and in such a way as to ensure equal treatment between farmers and to avoid market and competition distortions, payment entitlements to farmers finding themselves in a special situation, to be defined by the Commission in accordance with the procedure referred to in Article 144(2).

3 During the first year of application of the single payment scheme, the new Member States may use the national reserve for the purpose of allocating payment entitlements, according to objective criteria and in such a way as to ensure equal treatment between farmers and to avoid market and competition distortions, to farmers in specific sectors, finding themselves in a special situation as a result of the transition to the single payment scheme. Such payment entitlements shall be distributed according to rules to be defined by the Commission in accordance with the procedure referred to in Article 144(2).

4 In application of paragraphs 2 and 3, new Member States may increase the unit value of entitlements within the limit of EUR 5 000, and/or the number of entitlements allocated to farmers.

5 The new Member States shall proceed to linear reductions of the entitlements where their national reserve is not sufficient to cover the cases referred to in paragraphs 2 and 3.

6 Except in case of transfer by actual or anticipated inheritance and by way of derogation from Article 46, the entitlements established using the national reserve shall not be transferred for a period of five years starting from their allocation.

By way of derogation from Article 45(1), any entitlement which has not been used during each year of the five-year period shall revert immediately to the national reserve.

### *Article 71e*

#### **Regional allocation of the ceiling referred to in Article 71c**

1 The new Member States shall apply the single payment scheme at regional level.

2 The new Member States shall define the regions according to objective criteria.

New Member States with less than three million eligible hectares may be considered as one single region.

3 Each new Member State shall subdivide its national ceiling referred to in Article 71c after any reduction according to Article 71d between the regions according to objective criteria.

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*Status: Point in time view as at 15/02/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 1782/2003 (repealed), TITLE III. (See end of Document for details)*

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### Article 71f

#### Regionalisation of the single payment scheme

1 All farmers whose holdings are located in a given region shall receive entitlements, whose unit value is calculated by dividing the regional ceiling established pursuant to Article 71e by the number of eligible hectares within the meaning of Article 44(2), established at regional level.

2 The number of entitlements per farmer shall be equal to the number of hectares he/she declares in accordance with Article 44(2) for the first year of application of the single payment scheme, except in case of *force majeure* or exceptional circumstances within the meaning of Article 40(4).

3 The payment entitlements per hectare shall not be modified save as otherwise provided.

### Article 71g

#### Use of the land

[<sup>F11</sup> Farmers may, by way of derogation from Article 51 and in accordance with the provisions of this Article, also use the parcels declared according to Article 44(3) for the production referred to in Article 1(2) of Regulation (EC) No 2200/96, in Article 1(2) of Regulation (EC) No 2201/96 and potatoes other than those intended for the manufacture of potato starch for which aid is granted under Article 93 of this Regulation, except permanent crops, apart from hops or olive trees planted before 1 May 1998 and, in Cyprus and Malta, before 31 December 2001, or new olive trees replacing existing olive trees or olive trees within approved planting schemes and registered into a geographic information system.]

2 The new Member States shall establish the number of hectares that may be used according to paragraph 1 by subdividing, according to objective criteria, the average of the number of hectares that were used for the production of the products referred to in paragraph 1 at national level during the three-year period 2000 to 2002 amongst the regions defined pursuant to Article 71e(2). The average number of hectares at national level and the number of hectares at regional level shall be fixed by the Commission in accordance with the procedure referred to in Article 144(2) on the basis of the data communicated by the new Member State.

3 Within the limit established according to paragraph 2 for the region concerned, a farmer shall be allowed to make use of the option referred to in paragraph 1:

- a within the limit of the number of hectares that he/she used for the production of the products referred to in paragraph 1 in 2003;
- b by way of derogation from Article 71a(1), second subparagraph, in case of application, *mutatis mutandis*, of Articles 40 and 42(4), within the limit of a number of hectares to be established according to objective criteria and in such a way as to ensure equal treatment between farmers and to avoid market and competition distortions.

4 Within the limit of the number of hectares that remain available after application of paragraph 3, farmers shall be allowed to produce the products referred to in paragraph 1 on a number of hectares other than the number of hectares falling under paragraph 3 within the limit of a number of hectares used for the production of the products referred to in paragraph 1 in

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2004 and/or 2005, whereby priority shall be given to the farmers who produced the products already in 2004 within the limit of the number of hectares used in 2004.

In case of application of Article 71 or Article 143b, 2004 and 2005 shall be replaced by, respectively, the year previous to the year of application of the single payment scheme and the year of application itself.

5 In order to establish the individual limits referred to in paragraphs 3 and 4, new Member States shall use the farmer's individual data, where available, or any other evidence provided by the farmer to their satisfaction.

6 The number of hectares for which the authorisation has been established according to paragraphs 3 and 4 shall in no case exceed the number of eligible hectares as defined in Article 44(2) declared in the first year of application of the single payment scheme.

7 The authorisation shall be used, within the region concerned, with the corresponding payment entitlement.

8 The report referred to in Article 60 shall also concern implementation by the new Member States.

#### **Textual Amendments**

- F1** Substituted by [Council Regulation \(EC\) No 864/2004 of 29 April 2004 amending Regulation \(EC\) No 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers, and adapting it by reason of the accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia to the European Union.](#)

#### *Article 71h*

#### **Grassland**

The new Member States may also, according to objective criteria, fix, within the regional ceiling or part of it, different per unit values of entitlements to be allocated to farmers referred to in Article 71f(1), for hectares of grassland as identified on 30 June 2003 and for any other eligible hectare or alternatively for hectares of permanent pasture as identified on 30 June 2003 and for any other eligible hectare.

#### *Article 71i*

#### **Dairy premium and additional payments**

Starting from 2007, the amounts resulting from dairy premium and additional payments provided for in Articles 95 and 96 and to be granted in 2007 shall be included in the single payment scheme.

However, new Member States may decide that the amounts resulting from dairy premiums and additional payments, provided for in Articles 95 and 96, shall be included, in part or in full, in the single payment scheme starting from 2005. Entitlements established according to this paragraph shall be modified accordingly.

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The amount used for the establishment of entitlements in respect of those payments shall be equal to the amounts to be granted according to Articles 95 and 96, calculated on the basis of the individual reference quantity for milk available on the holding on 31 March of the year of inclusion, in part or in full, of those payments in the single payment scheme.

By way of derogation from Article 71a(1), Articles 48, 49 and 50 shall apply *mutatis mutandis*.

#### *Article 71j*

### **Set-aside entitlements**

1 Farmers shall receive part of their payment entitlements in the form of set-aside entitlements.

2 The number of set-aside entitlements shall be established by multiplying the farmer's eligible land within the meaning of Article 54(2) declared in the first year of application of the single payment scheme with the applicable set-aside rate.

The set-aside rate shall be calculated by multiplying the basic rate of compulsory set-aside of 10 % by the proportion, in the region concerned, between the regional base area or areas referred to in the third paragraph of Article 101 and the eligible land within the meaning of Article 54(2).

3 The value of the set-aside entitlements shall be the regional value for payment entitlements as established according to Article 71f(1).

4 Paragraphs 1 to 3 shall not apply to farmers who declare less than a number of hectares within the meaning of Article 54(2) which would be needed to produce a number of tonnes equal to 92 tonnes of cereals as defined in Annex IX on the basis of the reference yield referred to in Annex XIb applicable to the new Member State where the holding is located, divided by the proportion referred to in the second subparagraph of paragraph 2.

#### *Article 71k*

### **Conditions for the entitlements**

1 By way of derogation from Article 46(1), entitlements established in accordance with this chapter may only be transferred within the same region or between regions where the entitlements per hectare are the same.

2 New Member States may also decide, by 1 August of the year preceding the first year of application of the single payment scheme at the latest, and acting in compliance with the general principle of Community law, that entitlements established in accordance with this chapter shall be subject to progressive modifications according to pre-established steps and objective criteria.

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**Changes to legislation:** *There are currently no known outstanding effects for the Council Regulation (EC) No 1782/2003 (repealed), TITLE III. (See end of Document for details)*

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## *Article 71I*

### **Optional implementation**

1 Sections 2, 3 and 4 of Chapter 5 shall apply to the new Member States under the conditions laid down in this Article. However, Section 4 shall not apply to new Member States applying the single area payment scheme referred to in Article 143b.

2 Any reference in Sections 2 and 3 of Chapter 5 to Article 41, in particular with regard to the national ceiling(s), shall be construed as a reference to Article 71c.

3 The report referred to in Article 64(3) shall include the options laid down in this chapter.]

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**Changes to legislation:** There are currently no known outstanding effects for the Council Regulation (EC) No 1782/2003 (repealed), TITLE III. (See end of Document for details)

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- (1) [<sup>F1</sup>OJ L 215, 30.7.1992, p. 85.
- (2) OJ L 157, 30.5.1998, p. 7.]
- (3) Commission Regulation (EC) No 2419/2001 of 11 December 2001 laying down detailed rules for applying the integrated administration and control system for certain Community aid schemes established by Council Regulation (EEC) No 3508/92 (OJ L 327, 12.12.2001, p. 11). Regulation as amended by Commission Regulation (EC) No 2550/2001 (OJ L 341, 22.12.2001, p. 105).
- (4) OJ L 132, 23.5.1990, p. 17. Regulation repealed by Regulation (EC) No 2529/2001 (OJ 341, 22.12.2001, p. 3).
- (5) [<sup>F1</sup>OJ L 297, 21.11.1996, p. 1.
- (6) OJ L 297, 21.11.1996, p. 29.]
- (7) OJ L 198, 22.7.1991, p. 1. Regulation as last amended by Commission Regulation (EC) No 806/2003 (OJ L 122, 16.5.2003, p. 1).

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#### Textual Amendments

- F1** Substituted by Council Regulation (EC) No 864/2004 of 29 April 2004 amending Regulation (EC) No 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers, and adapting it by reason of the accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia to the European Union.

**Status:**

Point in time view as at 15/02/2006.

**Changes to legislation:**

There are currently no known outstanding effects for the Council Regulation (EC) No 1782/2003 (repealed), TITLE III.