

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(EC) 1868/94, (EC) No 1251/1999, (EC) No 1254/1999, (EC) No 1673/2000, (EEC) No 2358/71 and (EC) No 2529/2001 (repealed)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 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>F1</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**

**F1** 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*Status: Point in time view as at 01/01/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 1782/2003 (repealed), CHAPTER 2. (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>F25</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 01/01/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 1782/2003 (repealed), CHAPTER 2. (See end of Document for details)*

### **Textual Amendments**

- F2** 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 [F<sup>2</sup>15 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).

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- (1) [<sup>F2</sup>OJ L 215, 30.7.1992, p. 85.  
(2) OJ L 157, 30.5.1998, p. 7.]

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- F2** 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.

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