

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(EC) 1868/94, (EC) No 1251/1999, (EC) No 1254/1999, (EC) No 1673/2000, (EEC) No 2358/71 and (EC) No 2529/2001 (repealed)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 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 [<sup>X1</sup>and Article 42(8) shall apply to these payment entitlements.]

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

- [<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>(1)</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,

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- 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.]

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.

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- 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.

- 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).

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## 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>(2)</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.

#### *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:

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- (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.

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- (1) 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](#)).
- (2) [OJ L 132, 23.5.1990, p. 17](#). Regulation repealed by Regulation (EC) No 2529/2001 ([OJ 341, 22.12.2001, p. 3](#)).

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