

Commission Regulation (EC) No 1973/2004 of 29 October 2004 laying down detailed rules for the application of Council Regulation (EC) No 1782/2003 as regards the support schemes provided for in Titles IV and IVa of that Regulation and the use of land set aside for the production of raw materials (repealed)

CHAPTER 1

SCOPE AND GENERAL PROVISIONS

Article 1

Subject matter and scope

1 This Regulation lays down detailed rules for the implementation of the following supports schemes provided for in Titles IV and IVa of Regulation (EC) No 1782/2003:

- a specific quality premium for durum wheat provided for in Title IV Chapter 1 of that Regulation;
- b protein crop premium provided for in Title IV Chapter 2 of that Regulation;
- c crop-specific payment for rice provided for in Title IV Chapter 3 of that Regulation;
- d area payment for nuts provided for in Title IV Chapter 4 of that Regulation;
- e aid for energy crops provided for in Title IV Chapter 5 of that Regulation;
- f aid for starch potato provided for in Title IV Chapter 6 of that Regulation;
- g dairy premium and additional payments provided for in Title IV Chapter 7 of that Regulation;
- h specific regional aid for arable crops provided for in Title IV Chapter 8 of that Regulation;
- i seed aid provided for in Title IV Chapter 9 of that Regulation;
- j arable crops area payment provided for in Title IV Chapter 10 of that Regulation;
- k sheep and goat premiums provided for in Title IV Chapter 11 of that Regulation;
- l beef and veal payments provided for in Title IV Chapter 12 of that Regulation;
- m grain legumes aid provided for in Title IV Chapter 13 of that Regulation;
- n single area payment scheme provided for in Article 143b of that Regulation;
- o complementary national direct payments provided for in Article 143c of that Regulation;
- p hops area aid provided for in Title IV Chapter 10d of that Regulation^{[F1];}
- ^[F2]q crop specific payment for cotton provided for in Chapter 10a of Title IV of that Regulation;
- r aid for olive groves provided for in Chapter 10b of Title IV of that Regulation;
- s tobacco aid provided for in Chapter 10c of Title IV of that Regulation.]

2 This Regulation lays down detailed rules as regards the use of land set aside for the production of raw materials under the single payment scheme provided for in Title III of Regulation (EC) No 1782/2003 and under arable crops area payment provided for in Title IV Chapter 10 of that Regulation.

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Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1973/2004 (repealed). (See end of Document for details)

Textual Amendments

- F1** Substituted by Commission Regulation (EC) No 2182/2005 of 22 December 2005 amending Regulation (EC) No 1973/2004 laying down detailed rules for the application of Council Regulation (EC) No 1782/2003 as regards the support schemes provided for in Titles IV and IVa of that Regulation and the use of land set aside for the production of raw materials.
- F2** Inserted by Commission Regulation (EC) No 2182/2005 of 22 December 2005 amending Regulation (EC) No 1973/2004 laying down detailed rules for the application of Council Regulation (EC) No 1782/2003 as regards the support schemes provided for in Titles IV and IVa of that Regulation and the use of land set aside for the production of raw materials.

Article 2

Conditions for the payment

1 The direct payments referred to in Article 1(a), (b), (c), (e), (h), (i), (j), (m) and (p) shall be granted only for the areas, per each type of crop, which have been the subject of application in respect of at least 0.3 hectare, where each cultivated parcel exceeds the minimum size set by the Member State within the limit provided for in Article 14(4) of Regulation (EC) No 796/2004.

In the case of Malta, the direct payments referred to in Article 1(a), (b), (c), (e), (h), (i), (j), (m) and (p) shall be granted only for the areas, per each type of crop, which have been the subject of application in respect of at least 0.1 hectare, where each cultivated parcel exceeds the minimum size set by the Member State within the limit provided for in Article 14(4) of Regulation (EC) No 796/2004.

2 The direct payment referred to in Article 1(a), (b), (c), (h) and (j) shall be granted only for the areas entirely sown and on which all normal cultivation conditions have been performed in accordance with local standards.

However, in the case of the specific quality premium for durum wheat provided for in Title IV Chapter 1 of Regulation (EC) No 1782/2003 and of arable crops payment provided for in Title IV Chapter 10 of that Regulation, crops grown on areas which are fully sown and which are cultivated in accordance with local standards, but which do not attain the stage of flowering as a result of exceptional weather conditions recognised by the Member State concerned, shall remain eligible for aid provided that the areas in question are not used for any other purpose up to this growing stage.

3 In a given year, no more than one application for an area payment under a scheme financed pursuant to Article 1(2)(b) of Council Regulation (EC) No 1258/1999⁽¹⁾ may be made in respect of any cultivated parcel.

However:

- a any cultivated parcel which is covered in respect of the same year by an application for specific quality premium for durum wheat provided for in Title IV Chapter 1 of Regulation (EC) No 1782/2003 or protein crop premium provided for in Title IV Chapter 2 of that Regulation may be the subject of an application for arable crops payments provided for in Title IV Chapter 10 of Regulation (EC) No 1782/2003;
- b any cultivated parcel which is covered in respect of the same year by an application for crop-specific payment for rice provided for in Title IV Chapter 3 of Regulation (EC) No 1782/2003 or protein crop premium provided for in Title IV Chapter 2 of that

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Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1973/2004 (repealed). (See end of Document for details)

Regulation may be the subject of an application for seed aid provided for in Title IV Chapter 9 of Regulation (EC) No 1782/2003;

- c any cultivated parcel which is covered in respect of the same year by an application for aid for energy crops provided for in Title IV Chapter 5 of Regulation (EC) No 1782/2003 may be the subject of an application for arable crops area payment provided for in Title IV Chapter 10 of Regulation (EC) No 1782/2003, without prejudice to the second subparagraph of Article 90 of Regulation (EC) No 1782/2003, or may be the subject of an application for crop specific payment for rice provided for in Title IV Chapter 3 of Regulation (EC) No 1782/2003;
- d any cultivated parcel which is covered in respect of the same year by an application for arable crops payments referred to in Title IV Chapter 10 of Regulation (EC) No 1782/2003 may be the subject of an application for seed aid provided for in Title IV Chapter 9 of Regulation (EC) No 1782/2003.

4 Land used to produce raw materials referred to in Article 55 (b) and in the first indent of Article 107 (3) of Regulation (EC) No 1782/2003 or cultivated under the energy crop aid provided for in Title IV Chapter 5 of that Regulation shall not be eligible for Community aid provided for in Title II Chapter VIII of Council Regulation (EC) No 1257/1999⁽²⁾, with the exception of support granted in respect of the costs of planting fast-growing species as provided for in the second subparagraph of Article 31(3) of that Regulation.

Raw materials referred to in Article 55 point b) and 107 (3) first indent of Regulation (EC) No 1782/2003 grown on land set aside and intermediate products, end products, co-products and by-products derived therefrom shall not be eligible for any financing by the Guarantee Section of the European Agricultural Guidance and Guarantee Fund pursuant to Article 1(2) point a) and b) of Regulation (EC) No 1258/1999.

5 For the purpose of the protein crop premium provided for in Title IV Chapter 2 of Regulation (EC) No 1782/2003 and arable crops area payment provided for in Title IV Chapter 10 of that Regulation, 'sweet lupins' shall mean those varieties of lupins producing seed comprising not more than 5 % bitter seeds. The bitter seed content shall be calculated in accordance with the test set out in Annex I to this Regulation.

Article 3

Communications

The Member States shall communicate the following data to the Commission by electronic transmission:

- (a) [F¹by 15 September of the year concerned at the latest: the available data on the areas, or the quantities in the case of the dairy premium, additional payment, seeds and tobacco, provided for in Articles 95, 96, 99 and 110k of Regulation (EC) No 1782/2003, for which the aid has been claimed for that calendar year, where the case may be subdivided by sub-base area;]
- (b) by 31 October of the year concerned at the latest: definitive data on the areas or quantities referred in point (a), taking into account checks already carried out;
- (c) by 31 July of the following year at the latest: the final data corresponding to the areas or quantities for which the aid has actually been paid for the year concerned, after, where applicable, the deduction of the reductions in area provided for in Title IV Chapter 1 of Regulation (EC) No 796/2004.

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Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1973/2004 (repealed). (See end of Document for details)

The areas shall be expressed in hectares to two decimal places. The quantities shall be expressed in tonnes to three decimal places.

Textual Amendments

- F1** Substituted by [Commission Regulation \(EC\) No 2182/2005 of 22 December 2005 amending Regulation \(EC\) No 1973/2004 laying down detailed rules for the application of Council Regulation \(EC\) No 1782/2003 as regards the support schemes provided for in Titles IV and IVa of that Regulation and the use of land set aside for the production of raw materials.](#)

Article 4

Coefficient of reduction

1 The coefficient of reduction of area in the case referred to in Articles 75, 78(2), 82, 85, 89(2), 98, 143 and 143b(7) of Regulation (EC) No 1782/2003 or of the quantities and the objective criteria in the case referred to in Article 95(4) of that Regulation shall be fixed at the latest by 15 November of the year concerned on the basis of the data communicated in accordance with Article 3(b) of this Regulation.

2 In the cases referred to in Article 75, Article 82, Article 85, Article 95(4), Article 98, Article 143 and Article 143b(7) of Regulation (EC) No 1782/2003, the Member States shall communicate to the Commission, by 1 December of the year concerned at the latest, the coefficient of reduction applied and, in the case referred to in Article 95(4) of that Regulation, the objective criteria applied.

CHAPTER 2

SPECIFIC QUALITY PREMIUM FOR DURUM WHEAT

Article 5

Variety screening

1 Member States listed in Article 74(1) of Regulation (EC) No 1782/2003 shall establish the list of durum wheat varieties eligible for the special quality premium provided for in Article 72 of that Regulation in accordance with the variety screening method laid down in paragraphs 2 to 5 of this Article.

2 Member States shall, at least every two years, identify at least two representative varieties. The representative varieties shall be the most certified durum wheat varieties.

3 Member States shall analyse durum wheat varieties according to the following quality parameters and assign to each parameter the relevant weighting:

- a protein content (40 %);
- b gluten quality (30 %);
- c yellow index (20 %);
- d specific weight or weight of one thousand kernels (10 %).

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Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1973/2004 (repealed). (See end of Document for details)

The sum of the averages of the quality parameters referred to in (a) to (d) of the first subparagraph, multiplied by the indicated value in percentage, shall constitute the quality index of the varieties.

Each Member State shall compare, over a period of at least two years, the quality indexes of the durum wheat varieties with those of the representative varieties at regional level. The varieties to be examined shall be those which are registered in the national catalogue of each Member State, with the exclusion of those varieties for which no analytical data are available for the last three years because they are not longer used or certified.

To that end, based on the average quality index of 100 attributed to the representative varieties, each Member State shall calculate, for each of the quality parameters provided for in points (a) to (d) of the first subparagraph, the percentage to be assigned to the other durum wheat varieties in comparison with the index of 100. Only durum wheat varieties with an index equal to or higher than 98 shall be eligible for the specific quality premium for durum wheat.

4 A Member State may exclude from the list of eligible varieties the varieties which have an average rate of loss of vitreous aspect of durum wheat (*'mitadinage'*) exceeding 27 %.

5 Varieties which are registered in the national catalogue of another Member State may also be examined for their eligibility.

Article 6

Analysis methods

1 The analysis methods of the protein content, specific weight and the rate of loss of vitreous aspect of durum wheat (*'mitadinage'*) shall be those laid down in Commission Regulation (EC) No 824/2000⁽³⁾.

2 The yellow index shall be measured in accordance with the ICC 152 method or an equivalent recognised method.

3 The gluten quality shall be measured in accordance with the ICC 158 method or according to the ICC 151 method.

Article 7

Quantity of certified seeds

Member States shall fix, before 1 October of the year preceding the year in respect of which the specific quality premium for durum wheat is granted, the minimum quantity of seed, certified in accordance with Directive 66/402/EEC⁽⁴⁾, to be used in accordance with the current agricultural practices in the production zone concerned.

Article 8

Publications and communications

1 Member States shall publish the list of selected varieties which are eligible at national or regional level to the special quality premium for durum wheat, by 1 October at the latest for

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winter varieties, and by 31 December at the latest for spring varieties, of the year preceding the year in respect of which the premium is granted.

2 Member States shall communicate to the Commission, not later than one month after the dates provided for in paragraph 1, the list referred to in paragraph 1 as well as, if amended, the minimum quantity of certified seed to be used.

Article 9

Validity

1 The varieties included in the list referred to in Article 8(1) shall be eligible for the special quality premium for durum wheat for periods of five years starting from the date of their first inclusion in that list.

2 The eligibility of each variety may be extended for a period of five years, based on the results of the qualitative analyses carried out during the second and third year of the five-year eligibility period.

Article 10

Transitional measures

1 Member States shall publish the list of selected varieties which are eligible for the special quality premium for durum wheat in respect of the year 2005, by 1 October 2004 at the latest for winter varieties and by 31 December 2004 at the latest for spring varieties.

2 Member States shall establish the list referred to in paragraph 1 by eliminating from the list of varieties which are registered in the national catalogue the varieties which have not been certified in 2003 and 2004 and those which do not satisfy at least two of the four following parameters:

- a a minimum protein content of 11.5 %;
- b a minimum specific weight of 78 kg/hl or a minimum weight of one thousand kernels of 42 g;
- c a maximum rate of loss of vitreous aspect of durum wheat ('*mitadinage*') of 27 %;
- d a minimum gluten content of 10 %.

3 The lists of varieties which are eligible for the premium in 2005 and 2006 may include varieties which are in the list of selected varieties of another Member State on the basis of the results of the qualitative analyses carried out by that other Member State.

[^{F3} Member States may opt to establish the list of selected varieties which are eligible for the special quality premium for durum wheat in respect of 2006 in accordance with the procedure referred to in paragraph 2, not later than 1 October 2005 as regards winter varieties and not later than 31 December 2005 as regards spring varieties.]

Textual Amendments

- F3** Inserted by [Commission Regulation \(EC\) No 794/2005 of 26 May 2005 amending Regulation \(EC\) No 1973/2004 laying down detailed rules for the application of Council Regulation \(EC\) No 1782/2003 as regards the support schemes provided for in Titles IV and IVa of that Regulation and the use of land set aside for the production of raw materials.](#)

CHAPTER 3

PROTEIN CROP PREMIUM

Article 11

Mixture of cereals and protein crops

In regions where protein crops are traditionally sown in a mixture with cereals, the protein crop premium shall be paid at the request of the applicant provided that he proves, to the satisfaction of the competent authorities of the Member State concerned, that the protein crops are predominant in the mixture. The areas concerned shall not be eligible for the specific regional aid for arable crops provided for in Article 98 of Regulation (EC) No 1782/2003.

CHAPTER 4

CROP SPECIFIC PAYMENT FOR RICE

Article 12

Dates for sowings

To be eligible for the crop specific payment for rice, the declared area shall be sown at the latest:

- (a) on 30 June preceding the harvest in question, for Spain and Portugal,
- (b) on 31 May for the other producing Member States referred to in Article 80(2) of Regulation (EC) No 1782/2003.

However, in French Guiana, the areas shall be sown respectively for each of the two sowing cycles, at the latest on 31 December and 30 June preceding each of them and the crop specific payment for rice shall be granted on the basis of the average of the areas sown for each of the two sowing cycles

Article 13

Coefficient of reduction

The coefficient of reduction of the crop specific payment for rice referred to in Article 82 of Regulation (EC) No 1782/2003 shall be calculated in accordance with Annex II to this Regulation.

Article 14

Communications

1 Member States shall communicate to the Commission, in accordance with Article 3, the following information:

- a by 15 September at the latest:

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- (i) the list of the varieties registered in the national catalogue, classified according to the criteria defined in item 2 of Annex I to Council Regulation (EC) No 1785/2003⁽⁵⁾,
 - (ii) the sown areas for which applications for crop-specific payment for rice have been submitted, by variety of rice and by base area and sub-base area, using the model set out in Annex III(A) to this Regulation, including the overruns of the base areas and sub-base areas;
- b by 31 October at the latest, the modifications with regard to the sown areas for which applications for the crop-specific payment for rice have been submitted, communicated in accordance with subparagraph (a) and using the model form set out in Annex III(B);
 - c by 31 July at the latest, the information concerning the sown areas for which the crop-specific payment for rice has actually been paid for the past marketing year, in accordance with the calculation method defined in Annex II and using the model form set out in Annex III(C).
- 2 For French Guiana, the information concerning the sown areas shall be communicated on the basis of the average of the areas sown during the two sowing cycles.
- 3 Member States may revise annually the subdivision of their base area or areas in sub-base areas and the objective criteria on which those subdivisions are based. They shall communicate that information to the Commission by 15 May preceding the harvest in question at the latest.

CHAPTER 5

AREA PAYMENT FOR NUTS

Article 15

Eligibility conditions for Community aid

1 For the purposes of this Chapter, an orchard shall mean a homogeneous and cohesive area planted with nut trees which is not intersected by other crops or plantations and which is geographically continuous. Isolated trees or a single row of nut trees planted alongside roads or other crops shall not be considered an orchard.

[^{F4}By way of derogation from the first subparagraph, and without prejudice to paragraph 4, Member States may allow the presence in an orchard of trees other than nut trees within a limit corresponding to 10 % of the minimum number of trees laid down in paragraph 3 or the number of nut trees actually planted per hectare of orchard, at the choice of the Member State. Moreover, Member States may allow the presence of chestnut trees if the number of trees laid down in paragraph 3 is respected as regards the eligible nut trees.]

2 Only orchards producing nuts and meeting the conditions provided for in paragraphs 3 and 4 of this Article at the date to be fixed in accordance with Article 11 of Regulation (EC) No 796/2004 shall be eligible for the area payment provided for in Article 83 of Regulation (EC) No 1782/2003.

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Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1973/2004 (repealed). (See end of Document for details)

In the case of an orchard where different types of nuts are grown and when the aid is differentiated in function of the products, the eligibility conditions and the level of the aid specific to the nut type which is predominant shall apply.

3 The minimum plot size of orchards may not be less than a surface area of 0.10 hectare.

The number of nut trees per hectare of orchards may not be less than:

- (i) 125 for hazelnuts;
- (ii) 50 for almonds;
- (iii) 50 for walnuts;
- (iv) 50 for pistachios;
- (v) 30 for locust beans.

4 Member States may fix the minimum plot size and tree density at a higher level than that laid down in paragraph 3 in accordance with objective criteria and in order to take into account the specific characteristic of the areas and productions concerned.

Textual Amendments

- F4** Substituted by [Commission Regulation \(EC\) No 794/2005 of 26 May 2005 amending Regulation \(EC\) No 1973/2004 laying down detailed rules for the application of Council Regulation \(EC\) No 1782/2003 as regards the support schemes provided for in Titles IV and IVa of that Regulation and the use of land set aside for the production of raw materials.](#)

Article 16

Eligibility conditions for national aid

Article 15 shall apply to the national aid provided for in Article 87 of Regulation (EC) No 1782/2003.

Without prejudice to Article 87 of Regulation (EC) No 1782/2003, a Member State may establish further eligibility criteria, provided that such criteria are consistent with the environmental, rural, social and economic objectives of the aid scheme and do not introduce discrimination between producers. Member States shall establish the necessary arrangements in order to control that those eligibility criteria are respected by farmers.

Article 17

Communications

1 Member States shall communicate to the Commission in any case before the date for lodging an application fixed by Member States in accordance with Article 11 of Regulation (EC) No 796/2004 and at the latest:

- a by 31 March, the higher levels and the criteria referred to in Article 15(4) and the additional criteria referred to in Article 16;

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Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1973/2004 (repealed). (See end of Document for details)

- b by 15 May, where a Member State differentiates the aid in accordance with Article 83(2) of Regulation (EC) No 1782/2003, the level of the area payment per products and/or the modified national guaranteed area ('the NGA').

2 Any modification of the information to be communicated to the Commission pursuant to paragraph 1 shall apply to the following year and shall be immediately communicated by the Member State concerned to the Commission accompanied by the objective criteria justifying any such modification.

Article 18

Transitional measures

1 Member States may determine whether and under what conditions the improvement plans referred to in Article 86(2) of Regulation (EC) No 1782/2003 may be ceased before their normal expiry and relative areas become eligible under the scheme provided for in Chapter 4 of Title IV of that Regulation.

2 When setting the conditions referred to in paragraph 1, the Member State shall ensure that:

- a the plan is not ceased before the complete implementation of an annual period;
- b the initial objectives of the plan have been reached to the satisfaction of the Member State.

CHAPTER 6

AID FOR STARCH POTATO

Article 19

Eligibility

The aid for starch potato provided for in Article 93 of Regulation (EC) No 1782/2003 shall be granted for potatoes which are covered by a cultivation contract as provided for in Article 3 of Commission Regulation (EC) No 2236/2003⁽⁶⁾, on the basis of the net weight of the potatoes determined by one of the methods described in Annex I to Commission Regulation (EC) No 2235/2003⁽⁷⁾ and the starch content of the potatoes delivered, in accordance with the rates fixed in Annex II to that Regulation.

No aid for starch potato shall be granted for potatoes whose starch content is less than 13 %, except where the second subparagraph of Article 5(3) of Regulation (EC) No 2236/2003 applies.

Article 20

Minimum price

The aid for starch potato shall be subject to the requirement that proof is provided that a price not less than that referred to in Article 4a of Regulation (EC) No 1868/94 has been paid at the delivered-to-factory stage in accordance with the rates fixed in Annex II to Regulation (EC) No 2235/2003.

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Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1973/2004 (repealed). (See end of Document for details)

Article 10(2) of Regulation (EC) No 2236/2003 shall apply.

Article 21

Payment

[^{F1} Without prejudice to Article 28 of Regulation (EC) No 1782/2003, the aid for potato starch shall be paid, by the Member State on whose territory is situated the holding delivering the potatoes for the manufacturing of the potato starch, per farmer once all his quantities for the marketing year have been delivered to the starch-producing undertaking within four months from the date on which the proof referred to in Article 20 of this Regulation has been provided and the conditions referred to in Article 19 of this Regulation have been respected.]

2 Member States may grant advances, as from 1 December of the marketing year, based on the different parts of the quantity of starch potatoes by farmer delivered to the starch-producing undertaking for that marketing year. Each advance payment shall be granted for the quantity of starch potatoes delivered for which the proof referred to in Article 20 has been provided and the conditions referred to in Article 19 have been respected.

^{F53}

Textual Amendments

- F1** Substituted by [Commission Regulation \(EC\) No 2182/2005 of 22 December 2005 amending Regulation \(EC\) No 1973/2004 laying down detailed rules for the application of Council Regulation \(EC\) No 1782/2003 as regards the support schemes provided for in Titles IV and IVa of that Regulation and the use of land set aside for the production of raw materials.](#)
- F5** Deleted by [Commission Regulation \(EC\) No 1044/2005 of 4 July 2005 amending Regulation \(EC\) No 2808/98 as regards the operative event for the exchange rate for aid under Regulation \(EC\) No 1782/2003 and amending Regulation \(EC\) No 1973/2004.](#)

CHAPTER 7

DAIRY PREMIUM AND ADDITIONAL PAYMENT

Article 22

Cases of inactivity

1 When a natural or legal person holding an individual reference quantity does not come within the definition of producer provided for in Article 5(c) of Regulation (EC) No 1788/2003 during the twelve-month period ending on 31 March of the year concerned, no dairy premiums and additional payment shall be paid for the year concerned, unless he proves before the deadline for the application and to the satisfaction of the competent authority that production has been taken up.

2 Paragraph 1 shall not apply in cases of *force majeure* and in duly justified cases temporarily affecting the production capacity of the producers concerned and recognised by the competent authority.

Status: Point in time view as at 06/01/2006.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1973/2004 (repealed). (See end of Document for details)

CHAPTER 8

AID FOR ENERGY CROPS

SECTION 1

Definitions

Article 23

Definitions

For the purposes of this Chapter:

- (a) ‘applicant’ means any farmer cultivating the areas referred to in Article 88 of Regulation (EC) No 1782/2003 with a view to obtaining the aid provided for in that Article;
- (b) ‘first processor’ means any user of agricultural raw materials who undertakes the first processing thereof with a view to obtaining one or more of the products referred to in the second paragraph of Article 88 of Regulation (EC) No 1782/2003.

SECTION 2

Contract

Article 24

Use of raw material

1 Any agricultural raw material with the exception of sugarbeet may be grown on the areas covered by the aid provided for in Article 88 of Regulation (EC) No 1782/2003 provided that they are intended primarily for use in the production of the energy products referred to in the second paragraph of that Article.

The economic value of the energy products obtained by processing raw materials shall be higher than that of all other products intended for other uses and obtained by such processing, as determined by the valuation method set out in Article 39(3).

2 The raw materials referred to in paragraph 1 shall be covered by a contract in accordance with Article 90 of Regulation (EC) No 1782/2003 under the conditions laid down in this Section.

3 Applicants shall deliver all raw materials harvested to a first processor who shall take delivery of them and ensure that an equivalent quantity of such raw materials is used within the Community for the manufacture of one or more energy products as referred to in the second paragraph of Article 88 of Regulation (EC) No 1782/2003.

Where the first processor uses the raw material actually harvested to manufacture an intermediate product or a by-product, he may use an equivalent quantity of such intermediate products or by-products to manufacture one or more end products as referred to in the first subparagraph.

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Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1973/2004 (repealed). (See end of Document for details)

In the case referred to in the second subparagraph, the first processor shall so inform the competent authority with whom the security is lodged. Where such equivalent quantity is used in a Member State other than that in which the raw material is harvested, the competent authorities of the Member States concerned shall inform each other of the details of such transaction.

4 In accordance with the national provisions governing contractual relations, the first processor may delegate to a third party the collection of the raw material from the farmer applying for the aid. The delegate shall act in the name and on behalf of the processor who remains solely responsible with regard to the obligations laid down by this Chapter.

Article 25

Derogations

- 1 Notwithstanding Article 24(2) and (3), Member States may permit applicants to:
 - a use short rotation forest trees covered by ex 0602 90 41 or all the cereals or the oilseeds covered by CN codes 1201 00 90, 1205 10 90, 1205 90 00, 1206 00 91 and 1206 00 99 harvested:
 - (i) as fuel for heating their agricultural holding,
 - (ii) for the production on the holding of power or biofuels;
 - b process into biogas covered by CN code 2711 29 00 on their holdings all raw materials harvested.
- 2 In the cases referred to in paragraph 1, applicants shall:
 - a undertake, by way of a declaration in place of the contract referred to in Article 26, to use or process directly the raw material covered by the declaration; Articles 26 to 40 shall apply *mutatis mutandis* to those cases.
 - b have all the raw material harvested weighed by a body or an undertaking designated by the Member State and keep separate accounts for the raw material used and the products and by-products resulting from its processing; however, in the case of cereals and oilseeds, and of straw, and where the entire plant is used, weighing may be replaced by volumetric measurement of the raw material.
- 3 Member States applying paragraph 1 shall introduce adequate control measures to ensure that the raw material is directly used on the holding or is processed into biogas falling within CN code 2711 29 00.
- 4 Cereals and oilseeds used in accordance with paragraph 1(a) shall be denatured in accordance with the method laid down by the Member State. The Member States may authorise the oil produced by processing oilseeds in accordance with paragraph 1(a)(ii) to be denatured instead of the oilseeds themselves, provided that such denaturing takes place immediately after the seeds are processed into oil and that the use to which the seeds are put is checked.

Article 26

Contract

- 1 In support of their aid applications, applicants shall submit to their competent authorities the contracts they have concluded with a first processor.

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Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1973/2004 (repealed). (See end of Document for details)

- 2 Applicants shall ensure that the contracts specify the following:
- a the names and addresses of the parties to the contract;
 - b the duration of the contract;
 - c the species of all raw materials concerned and the area planted with each species;
 - d any conditions applicable to the delivery of the forecast quantities of raw materials;
 - e an undertaking to fulfil their obligations pursuant to Article 24(3);
 - f the intended primary end uses for the raw material, each end use complying with the conditions laid down in Articles 24(1) and 39(3).
- 3 Applicants shall ensure that the contracts are concluded in time to allow the first processor to deposit a copy with the competent authority of the applicant within the time limits laid down in Article 34(1).
- 4 For the purposes of control, Member States may require each applicant to conclude a single supply contract for each raw material.

SECTION 3

Amendment and termination of contracts

Article 27

Amendment and termination of contracts

Where the parties to a contract amend or terminate the contract after the applicant has lodged an aid application, the applicant may maintain such aid application only on condition that, with a view to allowing the requisite inspections to be carried out, he informs the competent authority of such amendment or termination, no later than the closing date set in the Member State concerned for amendment of the application.

Article 28

Exceptional circumstances

Without prejudice to Article 27, where an applicant informs his competent authority that, owing to exceptional circumstances, he will be unable to supply all or part of the raw materials specified in the contract, the competent authority may, after obtaining sufficient evidence of such exceptional circumstances, authorise such amendments to the contract as appear justified, or may authorise its termination.

Where the land covered by a contract is reduced as a result of amendments thereto or where a contract is terminated, the applicant shall forfeit his right to the aid referred to in this Chapter for the areas withdrawn from the contract.

Article 29

Changes in end uses

Without prejudice to Article 27, first processors may alter the intended primary end uses of raw materials, as referred to in Article 26(2)(f), once the raw materials under contract

Status: Point in time view as at 06/01/2006.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1973/2004 (repealed). (See end of Document for details)

have been delivered to them and once the conditions laid down in Article 31(1) and in the first subparagraph of Article 34(3) have been fulfilled.

Changes in end uses shall be made in compliance with the conditions laid down in the second subparagraph of Article 24(1) and in Article 39(3).

The first processors shall give prior notice to their competent authorities with a view to the requisite controls.

SECTION 4

Representative yields and quantities delivered

Article 30

Representative yields

Each year the Member States shall establish, using an appropriate procedure, representative yields which must be attained, and shall inform the applicants concerned thereof.

Article 31

Quantities to be delivered

1 Applicants shall declare the total quantity of raw materials harvested by species to their competent authorities and shall confirm the quantities of raw materials delivered and the parties to whom such deliveries are made.

2 The actual quantities to be delivered by the applicants to the first processors shall at least correspond to the representative yield.

However, in duly justified cases, the Member States may, by way of an exception, accept a quantity up to 10 % below the representative yield.

Furthermore, where the competent authorities have authorised the amendment or termination of contracts in accordance with Article 28, they may, where it seems justified to do so, reduce the quantities that applicants are required to deliver under the first subparagraph of this paragraph.

SECTION 5

Conditions of payment of the aid

Article 32

Payment

1 The aid may be paid to applicants before the raw material is processed. However, such payments shall be made only where the requisite quantities of raw materials pursuant to this Chapter have been delivered to the first processor and where:

Status: Point in time view as at 06/01/2006.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1973/2004 (repealed). (See end of Document for details)

- a the declaration provided for in Article 31(1) has been made;
- b a copy of the contract has been deposited with the first processor's competent authority in accordance with Article 34(1) and the conditions provided for in Article 24(1) have been fulfilled;
- c the competent authority has received proof that the full security provided for in Article 35(2) has been lodged;
- d the competent authority responsible for the payment has checked that the conditions laid down in Article 26 have been met in respect of each application.

2 In the case of biennial crops, where the raw materials are harvested, and hence delivered, in the course of the second year of cultivation only, payment shall be made in each of the two years following the date of conclusion of the contract as provided for in Article 26, on condition that the competent authorities establish that:

- a the obligations referred to in paragraph 1(b), (c) and (d) of this Article are fulfilled as from the first year of cultivation;
- b the obligations referred to in paragraph 1(a) of this Article are fulfilled, and the information referred to in the first subparagraph of Article 34(3) is communicated, in the second year of cultivation.

In respect of the first year of cultivation, payments shall be made only if the competent authorities have received proof that the security provided for in Article 35(2) has been lodged. In respect of the second year of cultivation, payment may be made without security being lodged.

3 In the case of permanent or multi-annual crops, the payment of the aid shall be made each year from the date of conclusion of the contract. The conditions laid down in paragraph 2 shall be applied *mutatis mutandis*.

SECTION 6

Contract and obligations on applicants and first processors

Article 33

Number of processors

Energy products shall be obtained at the most by a second successive processor.

Article 34

Contract and obligations on applicants and first processors

1 First processors shall deposit a copy of the contract with their competent authorities under a timetable to be established by the Member State concerned and no later than the closing date for the submission of aid applications for the year in question in the Member State concerned.

Where applicants and first processors amend or terminate contracts prior to the date referred to in Article 27 in a given year, the first processors shall deposit with their competent authorities a copy of the amended or terminated contract, no later than that date.

Status: Point in time view as at 06/01/2006.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1973/2004 (repealed). (See end of Document for details)

2 First processors shall provide their competent authorities with the requisite information on the processing chain in question, in particular as regards prices and the technical processing coefficients to be used for determining the quantities of end products that may be obtained, as referred to in the second subparagraph of Article 40(1).

3 First processors who have taken over the raw materials from applicants shall inform their competent authorities of the quantities of raw materials received, specifying the species, the name and address of the party to the contract who delivered the raw materials, the place of delivery and the contract reference, within a time limit to be set by the Member States that allows the payments to be made within the period specified in Article 28 of Regulation (EC) No 1782/2003.

Where the Member State of the first processor is not the same Member State in which the raw materials have been grown, the competent authority of the first processor shall inform the competent authority of the applicant of the total quantities of raw materials delivered, within 40 working days of receipt of the information referred to in the first subparagraph.

SECTION 7

Securities

Article 35

First processors

1 First processors shall lodge a full security as provided for in paragraph 2 with their competent authorities by the closing date for submission of payment applications for the year in question in the Member State concerned.

2 The securities to be lodged in respect of each raw material shall be calculated by multiplying the sum of all areas covered by a contract signed by the first processor concerned and used to produce that raw material, by the rate of EUR 60 per hectare.

3 Where contracts are amended or terminated in accordance with Articles 27 or 28, the securities lodged shall be adjusted accordingly.

4 A percentage of the security shall be released for each raw material on condition that the competent authority of the first processor concerned is in possession of proof that the quantity of raw material in question has been processed in compliance with the requirement laid down in Article 26(2)(f), account being taken, where necessary, of any changes pursuant to the Article 29.

Article 36

Primary and subordinate requirements

1 The following obligations shall constitute primary requirements within the meaning of Article 20 of Commission Regulation (EEC) No 2220/85⁽⁸⁾:

- a the obligation to process the quantities of raw materials principally into the end products specified in the contract. The raw materials shall be processed by 31 July of the second year following that of harvest;

Status: Point in time view as at 06/01/2006.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1973/2004 (repealed). (See end of Document for details)

- b the obligation that products be accompanied by a T5 control copy in accordance with Articles 37 and 38 of this Regulation.

2 The following obligations, incumbent on first processors, shall constitute subordinate requirements within the meaning of Article 20 of Regulation (EEC) No 2220/85:

- a the obligation to take delivery of all raw materials delivered by applicants pursuant to Article 24(3) of this Regulation;
- b the obligation to deposit copies of contracts in accordance with Article 34(1) of this Regulation;
- c the obligation to provide the information required in accordance with the first subparagraph of Article 34(3) of this Regulation;
- d the obligation to lodge a security in accordance with Article 35(1) of this Regulation.

SECTION 8

Documents for sale in, transfer to or delivery to another Member State or export

Article 37

T5 control copy

Where first processors sell or transfer to second processors in other Member States intermediate products covered by contracts as provided for in Article 26, the products shall be accompanied by T5 control copies issued in accordance with Regulation (EEC) No 2454/93.

One of the following shall be entered under the heading 'Other' in box 104 of the T5 control copies:

- Producto destinado a su transformación o entrega de acuerdo con lo establecido en el artículo 26 del Reglamento (CE) nº 1973/2004 de la Comisión;
- Použito pro zpracování nebo dodávku v souladu s článkem 26 nařízení Komise (ES) 1973/2004
- Skal anvendes til forarbejdning eller levering i overensstemmelse med artikel 26 i Kommissionens forordning (EF) nr. 1973/2004
- Zur Verarbeitung oder Lieferung gemäß Artikel 26 der Verordnung (EG) Nr. 1973/2004 der Kommission zu verwenden
- Προς χρήση για μεταποίηση ή παράδοση σύμφωνα με το άρθρο 26 του κανονισμού (ΕΚ) αριθ. 1973/2004 της Επιτροπής
- To be used for processing or delivery in accordance with Article 26 of Commission Regulation (EC) No 1973/2004
- Kasutamiseks töötlemisel või tarnimisel vastavalt komisjoni määruse (EÜ) nr 1973/2004 artiklile 26
- À utiliser pour transformation ou livraison conformément aux dispositions de l'article 26 du règlement (CE) nº 1973/2004 de la Commission
- Da consegnare o trasformare conformemente all'articolo 26 del regolamento (CE) n. 1973/2004 della Commissione
- Izmantot pārstrādei vai piegādei saskaņā ar Komisijas Regulas (EK) Nr. 1973/2004 26. panta nosacījumiem

Status: Point in time view as at 06/01/2006.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1973/2004 (repealed). (See end of Document for details)

- Naudoti perdirbimui arba pristatymui pagal Komisijos reglamento (EB) Nr. 1973/2004 26 straipsnio nuostatas
- A Bizottság 2004/1973/EK rendelete szerint feldolgozásra, vagy átadásra használandó
- Te gebruiken voor verwerking of aflevering overeenkomstig artikel 26 van Verordening (EG) nr. 1973/2004 van de Commissie
- Do wykorzystania w procesie przetwórstwa bądź do dostawy zgodnie z postanowieniami zawartymi w art. 26 rozporządzenia Komisji (WE) nr 1973/2004
- A utilizar para transformação ou entrega em conformidade com o artigo 26 do Regulamento (CE) n.º 1973/2004 da Comissão
- Na spracovanie alebo dodávku v súlade s článkom 26 nariadenia Komisie (ES) č. 1973/2004
- Se uporablja za predelavo ali dostavo v skladu s členom 26 Uredbe Komisije (ES) št. 1973/2004
- Käytetään jalostamiseen tai toimittamiseen komission asetuksen (EY) N:o 1973/2004 26 artiklan mukaisesti
- Används till bearbetning eller leverans i enlighet med artikel 26 i kommissionens förordning (EG) nr 1973/2004.

Article 38

Alternatives to the T5 control copy

If the T5 control copy is not returned to the office of departure of the body responsible for control in the Member State in which the first processor is established two months after expiry of the deadline for the processing of raw materials provided for in Article 36(1)(a), as a result of circumstances for which the first processor is not responsible, the following documents may be accepted as alternatives to the T5 control copy:

- (a) purchase invoices for the intermediate products;
- (b) statements by the second processor verifying the final processing of the raw materials into energy products as referred to in Article 88 of Regulation (EC) No 1782/2003;
- (c) certified photocopies from the second processor of accounting documents proving that processing has been carried out.

SECTION 9

Checks

Article 39

Record keeping

1 The competent authority of the Member State shall specify the records to be kept by processors and the frequency thereof, which shall be at least monthly.

Such records shall comprise at least the following information:

- a the quantities of different raw materials purchased for processing;

Status: Point in time view as at 06/01/2006.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1973/2004 (repealed). (See end of Document for details)

- b the quantities of raw materials processed and the quantities and types of end products, co-products and by-products obtained therefrom;
- c wastage during processing;
- d the quantities destroyed and the reasons for such destruction;
- e the quantities and types of products sold or transferred by the processor and the prices obtained;
- f where applicable, the names and addresses of the subsequent processors.

2 The competent authority of the first processor shall check that the contract submitted complies with the conditions laid down in Article 24(1). Where those conditions are not met, the applicants' competent authorities shall be notified.

3 With a view to calculating the economic value of the products referred to in Article 24(1), the competent authorities concerned shall, on the basis of the information referred to in Article 34(2), compare the sum of the values of all energy products with the sum of the values of all other products intended for other uses and obtained from the same processing operation. Each value shall equal the relevant quantity multiplied by the average of the ex-factory prices recorded during the previous marketing year. Where such prices are not available, the competent authorities shall determine the relevant prices, in particular on the basis of the information referred to in Article 34(2).

Article 40

Checks at the premises of processors

1 The competent authorities of the Member States in which processing takes place shall verify compliance with Article 24(1) at the premises of at least 25 % of the processors located in their territory, selected on the basis of a risk analysis. Such checks shall involve at least:

- a a comparison of the sum of the values of all the energy products with the sum of the values of all other products intended for other uses and obtained from the same processing operation;
- b analysis of the processor's production system, comprising physical checks and inspections of commercial documents, with a view to verifying, in the case of processors, that deliveries of raw materials, end products, co-products and by-products tally.

For the purpose of the checks referred to in point (b) of the first subparagraph, the competent authorities shall base themselves in particular on the technical processing coefficients for the raw materials concerned. Where such coefficients exist for exports in Community legislation, they shall be applied. Where they do not but other coefficients do exist in Community legislation, they shall be applied. In all other cases, inspection shall rely mainly on the coefficients generally accepted by the processing industry.

2 For the processing operations referred to in Article 25, checks shall be carried out on 10 % of applicants selected on the basis of a risk analysis taking account of:

- a aid amounts;
- b the number of agricultural parcels and the area covered by an aid application;
- c developments since the previous year;
- d the findings of checks made in past years;
- e other parameters to be defined by the Member States, based on the representativeness of the declarations submitted.

Status: Point in time view as at 06/01/2006.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1973/2004 (repealed). (See end of Document for details)

3 Where the checks referred to in paragraph 2 reveal irregularities in at least 3 % of cases, the competent authority shall carry out additional checks during the year and shall consequently increase the percentage of farmers to be subject to an on-the-spot check the following year.

4 If it has been provided that certain elements of the checks referred to in paragraphs 1 and 2 may be carried out on the basis of a sample, that sample shall guarantee a reliable and representative level of inspection.

5 Every on-the-spot check shall be the subject of an inspection report signed by the inspector giving the details of the checks carried out. The report shall indicate in particular:

- a the date of the check;
- b the persons present;
- c the period checked;
- d the checking techniques used including, where applicable, reference to sampling methods;
- e results of the check.

Article 41

Hemp production

The provisions relating to hemp referred to in Article 29 of Commission Regulation (EC) No 795/2004⁽⁹⁾ and in Article 33 of Regulation (EC) No 796/2004 shall apply.

Article 42

Additional measures and mutual assistance

1 The Member States shall take all further measures required for the proper application of this Chapter and shall give the mutual assistance needed for the purposes of checks required pursuant to this Chapter. Where this Chapter does not provide for appropriate reductions and exclusions, the Member States may apply appropriate national sanctions against market participants involved in the procedure for granting aid.

2 As far as necessary or as required by this Chapter, the Member States shall assist one another mutually to ensure effective controls, and enable the authenticity of documents submitted and the accuracy of the data exchanged to be verified.

SECTION 10

Exclusion from the aid for energy crops and evaluation

Article 43

Exclusion of raw materials from aid for energy crops and minimal cultivated area

1 The Member States may exclude any agricultural raw material from aid for energy crops where such materials raise difficulties from the viewpoint of controls, public health, the environment, criminal law, or a reduced rate of final energy products.

Status: Point in time view as at 06/01/2006.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1973/2004 (repealed). (See end of Document for details)

2 For any raw material referred to in Article 24, the Member States may set a minimum cultivated area.

Article 44

Evaluation

Before 15 October following the end of the year in respect of which the aid is granted, the Member States shall forward to the Commission all the information needed to evaluate the aid for energy crops.

Such information shall include, in particular:

- (a) the areas corresponding to each species of raw material;
- (b) the quantities of each type of raw material, end product, by-product and co-product obtained, with details of the type of raw material used;
- (c) the measures taken under Article 25;
- (d) the raw materials excluded from the aid for energy crops pursuant to Article 43(1) and the minimal cultivated areas referred to in Article 43(2).

CHAPTER 9

SPECIFIC REGIONAL AID FOR ARABLE CROPS

Article 45

Sowing date

To be eligible for the special regional aid for arable crops provided for in Article 98 of Regulation (EC) No 1782/2003, the declared area shall be sown by a date to be fixed by the Member States which shall not be later than 15 June.

CHAPTER 10

SEED AID

Article 46

Certified seeds

In the event of application of Article 99 of Regulation (EC) No 1782/2003, the aid shall be granted for production of basic and officially certified seed as defined by Directives 66/401/EEC, 66/402/EEC and 2002/57/EC and complying with the standards and conditions laid down in those Directives, in accordance with Articles 47 to 50 of this Regulation.

Status: Point in time view as at 06/01/2006.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1973/2004 (repealed). (See end of Document for details)

Article 47

Production of seeds

- 1 The seed shall be produced:
 - a either under a growing contract concluded between a seed establishment or a breeder and a seed grower,
 - b or directly by the seed establishment or the breeder; such production being attested by a growing declaration.
- 2 The seed establishments and breeders referred to in paragraph 1 shall be approved or registered by Member States. Approval or registration by a Member State shall be valid throughout the Community.
- 3 A seed establishment or a breeder growing seed or having seed grown in a Member State other than that in which approval or registration referred to in paragraph 2 took place shall supply the competent authorities of that other Member State, on request, with all the information required for checking entitlement to aid.

Article 48

Territorial eligibility

Each Member State shall grant aid only in respect of seed harvested on its territory during the calendar year in which the marketing year for which the aid was fixed begins.

The aid shall be granted to all seed growers under conditions which ensure equal treatment for beneficiaries irrespective of the place of their establishment within the Community.

Article 49

Marketing of seeds

Aid shall be granted only on condition that the seed has in fact been marketed for sowing by the recipient by 15 June of the year following the harvest at the latest. 'Marketed' shall mean holding available or in stock, displaying for sale, offering for sale, sale or delivery to another person.

[^{F2}Article 49a

Advance payments

Member States may grant advance payments to seed growers as from 1 December of the marketing year. Such payment shall be proportional to the quantity of seeds already marketed for sowing within the meaning of Article 49 provided that all the conditions of Chapter 10 are complied with.]

Status: Point in time view as at 06/01/2006.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1973/2004 (repealed). (See end of Document for details)

Textual Amendments

- F2** Inserted by [Commission Regulation \(EC\) No 2182/2005 of 22 December 2005 amending Regulation \(EC\) No 1973/2004 laying down detailed rules for the application of Council Regulation \(EC\) No 1782/2003 as regards the support schemes provided for in Titles IV and IVa of that Regulation and the use of land set aside for the production of raw materials.](#)

Article 50

Cannabis sativa L. varieties

The varieties of *Cannabis sativa* L. eligible for aid under Article 99(4) of Regulation (EC) No 1782/2003 shall be those listed in Annex II to Regulation (EC) No 796/2004.

CHAPTER 11

ARABLE CROPS AREA PAYMENT

SECTION 1

General provisions for the eligibility for arable crops area payment

Article 51

Eligible land

- 1 For the purposes of Chapter 10 of Regulation (EC) No 1782/2003:
 - a 'permanent pasture' shall mean 'permanent pasture' within the meaning of Article 2(2) of Regulation (EC) No 796/2004;
 - b 'permanent crops' shall mean 'permanent crops' within the meaning of Article 2(c) of Regulation (EC) No 795/2004.
- 2 For the purposes of the first paragraph of Article 108 of Regulation (EC) No 1782/2003, land under permanent pasture in 2003 shall be:
 - a land declared by a farmer in his aid application for 2003 as being under permanent pasture,
 - and
 - b land not declared by a farmer in his aid application for 2003, unless it can be shown that that land was not under permanent pasture in 2003.
- 3 Pursuant to the third paragraph of Article 108 of Regulation (EC) No 1782/2003, Member States may only derogate from the first paragraph of that Article only subject to the following conditions:
 - a for areas subject to a restructuring programme, defined as a 'change to the structure and/or eligible area of a holding imposed by the public authorities', Member States shall take action to prevent any significant increase in the total agricultural area eligible for arable area crops payment; this may in particular involve deeming previously eligible areas ineligible as an offsetting measure; areas newly declared eligible by the Member States

Status: Point in time view as at 06/01/2006.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1973/2004 (repealed). (See end of Document for details)

- under a restructuring programme shall not exceed the area newly declared ineligible under that programme by more than 5 %;
- b in case of one or other form of public intervention, where such intervention results in a farmer growing crops on land previously regarded as ineligible for arable crops area payment in order to continue his normal agricultural activity and the intervention in question means that land originally eligible ceases to be so, Member States may not increase their total eligible agricultural area, either temporarily or permanently, by more than 0.1 % of their total base area;
 - c where farmers are able to give relevant and objective reasons for exchanging land ineligible for arable crops area payment for eligible land on their holdings, Member States shall check that there are no valid reasons for refusing such exchanges, in particular from the viewpoint of environmental risks, and shall provide proof in a plan submitted to the Commission that the total amount of eligible land remains unchanged; under no circumstances may exchanges result in any increase in the total area of eligible arable land on the holding; the Member States shall provide for a system for the prior notification and approval of such exchanges.

Article 52

Conditions for payment

Without prejudice to Article 2, arable crops area payments shall be paid solely on areas:

- (a) located in regions climatically and agriculturally suitable for growing arable crops; the Member States shall have the power to decide that any region is not suitable for producing certain arable crops;
- (b) on which the crop is maintained until at least the beginning of flowering under conditions of normal growth.

As regards durum wheat, crops shall in addition be cultivated in accordance with local standards at least until 30 June in respect of which the payment is granted, unless they are harvested at full maturity before that date.

Article 53

Regional amount

1 Where a producer's areas eligible for arable crops area payment are located in more than one region of production, the amount payable shall be determined by the location of each area covered by his application.

2 Member States that treat maize separately in regions where maize is grown principally for silage shall be authorised to apply the yield for a feed grain in that region to all areas under maize in the regions in question.

Status: Point in time view as at 06/01/2006.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1973/2004 (repealed). (See end of Document for details)

SECTION 2

Special provisions covering certain arable crops

Article 54

Silage grass

1 For the purposes of Article 100(3) of Regulation (EC) No 1782/2003, ‘silage grass’ shall mean the crop grown on areas mainly sown to herbaceous grasses and harvested green at least once a year with a view to preservation in an enclosed environment by anaerobic fermentation.

Areas registered for growing grass seed certified in accordance with Directive 66/401/EEC during the marketing year in question shall not qualify for arable crops area payments.

2 The provisions of this Chapter, with the exception of the condition relating to flowering in point (b) of the first paragraph of Article 52, shall apply to silage grass.

3 In the Member States that make provision for a specific area for silage grass as set out in Annex IV, farmers shall be eligible for area payments in respect of silage grass.

Article 55

Durum wheat

1 Aid applications in respect of durum wheat supplement and special aid laid down in Article 105 of Regulation (EC) No 1782/2003 shall be valid only where:

- a an application for an area payment, as referred to in Article 101 of Regulation (EC) No 1782/2003, is submitted in respect of the same number of hectares under durum wheat;
- b a minimum quantity of seed certified in accordance with Directive 66/402/EEC is used.

2 The Member States shall, before 1 October of the year preceding the year in respect of which the aid is granted, fix and notify to the farmers the minimum quantity of certified seed to be used in accordance with agricultural practice in the Member State concerned.

Article 56

Flax and hemp grown for fibre

1 The area payment for flax and hemp grown for fibre is subject to the following conditions:

- a the submission of a copy of the contract or commitment referred to in the first paragraph of Article 106 of Regulation (EC) No 1782/2003 by 15 September of the year in respect of which the payment is granted at the latest or by an earlier date laid down by the Member State;
- b the use of seed of the following varieties:

- (i) [F6]

Status: Point in time view as at 06/01/2006.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1973/2004 (repealed). (See end of Document for details)

- (ii) for hemp grown for fibre, varieties listed in Annex II to Regulation (EC) No 1973/2004 on 15 May of the year in respect of which the payment is granted and certified in accordance with Directive 2002/57/EEC⁽¹⁰⁾.

2 For the purposes of granting the area payment for hemp grown for fibre, the Member States may fix the minimum sowing rate compatible with good hemp-growing practice.

Textual Amendments

- F6** Deleted by Commission Regulation(EC) No 681/2005 of 29 April 2005 amending Regulation (EC) No 1973/2004, as regards the conditions for receiving area payments for flax grown for fibre.

Article 57

Sowing date

By way of derogation from Article 109 of Regulation (EC) No 1782/2003, the Member States may defer the final date for sowing to no later than 15 June for the crops listed in Annex VIII to this Regulation and in the zones, to be defined by the Member States concerned, located in the regions specified in that Annex.

SECTION 3

Base areas, reference yields and ceilings

Article 58

Irrigated and non-irrigated land

1 Where regionalisation plans referred to in Article 103 of Regulation (EC) No 1782/2003 provide for different yields for irrigated and non-irrigated land, the Member States shall lay down rules to determine whether or not areas are irrigated in the course of a marketing year. They shall in particular lay down:

- a a list of arable crops on which area payments may be granted at the rate for the irrigated yield;
- b a description of the irrigation equipment which the farmer must have at his disposal; such equipment must be commensurate with the area concerned and must allow for the supply of the water needed for the normal development of plants during their growth cycle;
- c the relevant irrigation period.

2 Paragraph 1 shall not apply to 'regadío' production regions in Spain or other regions where irrigation is a historical feature linked to the parcels and allows them to be distinguished and listed.

Status: Point in time view as at 06/01/2006.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1973/2004 (repealed). (See end of Document for details)

Article 59

Base area overshoot

1 For the purposes of determining any overshoots in regional base areas in accordance with Article 102 of Regulation (EC) No 1782/2003, the competent authority of the Member State concerned shall take account of:

- a the regional base area as set out in Annex IV to this Regulation;
- b the sum of areas covered by applications for area payments submitted in respect of each crop, including, in the event of application of Article 71 of Regulation (EC) No 1782/2003, the corresponding compulsory set-aside.

Any voluntary set-aside shall be included with areas other than irrigated, other than under maize and/or other than under silage grass.

2 The sum of the areas covered by aid applications submitted shall not include areas, or parts thereof, covered by applications that administrative checks show to be clearly unjustified.

Where applicable, the area actually determined during on-the-spot checks pursuant to Article 23 of Regulation (EC) No 1782/2003 shall be taken into account.

3 Areas sown to arable crops in accordance with Chapter 10 of Title IV of Regulation (EC) No 1782/2003 and used in support of aid applications under Chapter 12 of Title IV of that Regulation shall be added to the sum of the areas covered by applications submitted, adjusted in accordance with paragraph 2.

4 The base area overshoot shall be calculated in accordance with the table in Annex VI.

Article 60

Durum wheat limited area overshoot

1 For the purposes of determining any overshoot in the limited area for durum wheat eligible for the supplement to the area payment laid down in Article 105(1) of Regulation (EC) No 1782/2003, the competent authorities of the Member States shall take account of the sum of the areas covered by applications for the supplement to area payments in respect of durum wheat, adjusted in accordance with Article 59(2) of this Regulation and, where applicable, reduced in accordance with Article 102 of Regulation (EC) No 1782/2003.

2 Paragraph 1 shall apply for the purposes of determining any overshoot in the limited areas eligible for the special aid for durum wheat set out in Article 105(3) of Regulation (EC) No 1782/2003.

Article 61

Definitive rate of areas overshoot and coefficient of reduction

1 Where the areas referred to in Articles 59 and 60 are found to be exceeded, the Member State concerned shall, by 31 October of the year concerned at the latest, determine the definitive rate of overshoot truncated to two decimal points.

Status: Point in time view as at 06/01/2006.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1973/2004 (repealed). (See end of Document for details)

2 The definitive rate of overshoot thus determined shall be used to calculate the proportional reduction in the area eligible for:

- a the arable crop area payment in accordance with Article 102(1) of Regulation (EC) No 1782/2003;
- b the supplement thereto and the special aid for durum wheat in accordance with Article 105 of Regulation (EC) No 1782/2003 and after Article 102(1) of that Regulation has been applied.

Article 62

Sub-base areas

For the purposes of Article 102(5) of Regulation (EC) No 1782/2003, the Member States shall, by 15 September of the year in respect of which the area payment is applied for at the latest, determine the following and shall notify the Commission thereof:

- (a) the national base area to be subdivided;
- (b) the criteria used by the Member State to establish the sub-base areas;
- (c) the sub-base areas (number, name and size);
- (d) the detailed rules for concentrating measures applicable in case of overshoot.

Article 63

Ceiling of the sum of the payments

For the purposes of determining any overshoot in the ceiling of the payments and the corresponding reduction coefficient provided for in Article 102(2) of Regulation (EC) No 1782/2003, the competent authorities of the Member States shall take account of the proportional reduction in the eligible areas provided for in Article 102(1) and Article 105(2) of that Regulation.

SECTION 4

Set-aside

Article 64

Definition

For the purposes of Article 107(1) of Regulation (EC) No 1782/2003, 'set-aside' shall mean leaving fallow an area eligible for area payments pursuant to Article 108 of Regulation (EC) No 1782/2003.

Article 65

Conditions

1 Article 32 of Regulation (EC) No 795/2004 shall apply.

Status: Point in time view as at 06/01/2006.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1973/2004 (repealed). (See end of Document for details)

2 By way of derogation from Article 107(9) of Regulation (EC) No 1782/2003 and for the years 2005 and 2006, Malta may set the minimum size requirements for set aside areas at less than 0.1 ha in size and 10 metres wide.

Article 66

Regional breakdown

1 Aid applications referred to in Title II of Regulation (EC) No 1782/2003 shall be broken down by region in accordance with the regionalisation plan referred to in Article 103 of that Regulation.

2 For each area payment application in a given region of production, there shall be a corresponding set-aside declaration in respect of at least the corresponding number of hectares in the same region of production.

3 The Member State may provide for derogation from paragraph 2 in accordance with objective criteria.

4 By way of derogation from paragraph 2, the compulsory set-aside corresponding to an application for area payment submitted may be effected in whole or in part:

- a in Spain, in the ‘secano’ region in the case of holdings situated in ‘secano’ and ‘regadio’ production regions;
- b in another region of production, provided that the areas to be set aside are located in regions of production adjacent to those in which the cultivated areas are situated.

5 Where paragraphs 3 and 4 are applied, the area to be set aside shall be adjusted to take account of the difference between the yields used to calculate the payment in respect of set-aside in the regions concerned. However, the application of this paragraph shall not lead to fewer hectares being set aside than the obligation requires.

Article 67

Legume crops

1 For the purposes of applying the second indent of Article 107(3) of Regulation (EC) No 1782/2003, ‘legume crops’ shall mean areas sown with one or more species of the fodder legumes listed in Annex VII to this Regulation. Sowing in a mixture with cereals and/or grasses shall be allowed subject to the following conditions:

- a the area is sown mainly with fodder legumes;
- b they cannot be harvested separately.

Where specific regional environmental standards established by the Member States for organic crops set a ceiling on area sown with fodder legumes, the condition concerning areas sown mainly with fodder legumes laid down in (a) shall be met if at least 85 % of the limit fixed by the Member States is complied with.

2 Areas on which legume crops as referred to in paragraph 1 qualify between 15 January and 31 August under the aid scheme provided for in Council Regulation (EC) No 1786/2003⁽¹⁾ shall not qualify for area payments.

Status: Point in time view as at 06/01/2006.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1973/2004 (repealed). (See end of Document for details)

Article 68

Payments on land voluntarily set-aside

For the purposes of Article 107(6) of Regulation (EC) No 1782/2003 in the event of application of Article 66 of that Regulation, Member States shall allow farmers to set-aside up to at least 10 % of the area for which an arable crops area payment application is made and which is not used to give right to the payment of set-aside entitlements. Higher percentage may be set by a Member State taking into account specific situations and ensuring sufficient occupation of farmland.

The basic amount for voluntary set-aside shall be EUR 63.00/t from the marketing year 2005/2006. Where different yields are set for irrigated and non-irrigated land, the payments for set-aside for non-irrigated land shall apply.

The Member States shall apply suitable measures compatible with the specific situation of areas voluntarily set-aside in order to ensure they are maintained in good agricultural and environmental condition and the environment is protected.

SECTION 5

Communications

Article 69

Communications

1 The Member States shall send the Commission the information referred to in Annex IX in the standardised format described therein, by production region, base area and country, in accordance with the timetable set out in Article 3.

2 Where the areas referred to in Articles 59 and 60 are found to have been exceeded, the Member State concerned shall fix the definitive rate of the overshoot immediately and by 15 November of the year concerned at the latest and shall communicate it to the Commission by 1 December of the year concerned at the latest. The data used to calculate the rate by which a base area is exceeded shall be forwarded using the form set out in Annex VI.

3 Where the rate of overshoot is distributed in accordance with Articles 102(5) and 105(2) of Regulation (EC) No 1782/2003, the Member State concerned shall notify the Commission of such distribution by 15 November at the latest.

4 In the event of application of Article 63, the Member State concerned shall notify the Commission of the definitive coefficient of reduction by 1 December of the year concerned at the latest.

Status: Point in time view as at 06/01/2006.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1973/2004 (repealed). (See end of Document for details)

CHAPTER 12

SHEEP AND GOAT PREMIUMS

SECTION 1

Direct Payments

Article 70

Applications and retention period

1 In addition to the requirements under the integrated administration and control system provided for in Chapter 4 of Title II of Regulation (EC) No 1782/2003 ('the integrated system'), farmers shall indicate in their application for ewe and goat premiums and supplementary premiums whether or not they are marketing sheep's milk, or milk products based on sheep's milk, during the year in respect of which the premium is requested.

2 Applications for a premium in favour of farmers keeping ewes and/or she-goats shall be submitted to the competent authority, during a unique period fixed by the Member State concerned commencing not before 1 November and ending not later than 30 April, respectively, preceding and following the commencement of the year in respect of which the applications are submitted.

However, the United Kingdom may set a different period in respect of Northern Ireland from that set for Great Britain.

3 The period referred to in Article 115(1) of Regulation (EC) No 1782/2003 during which the farmer undertakes to keep on his holding the number of ewes and/or she-goats in respect of which the premium is requested ('the retention period') shall be 100 days starting on the first day following the last day of the period for the submission of applications referred to in paragraph 2.

Article 71

Areas eligible for goat premium

The criteria referred to in Article 113(2) of Regulation (EC) No 1782/2003 are met in the areas listed in Annex X.

However, Member States shall, on a regular basis, verify whether these criteria continue to be met in all the areas listed in Annex X falling within their respective territories. Following this evaluation, Member States shall notify the Commission of any need for amending Annex X before 31 July of the year preceding the year in respect of which the amendment shall apply. The notification shall, in particular, indicate the zones, or parts of zones, listed in Annex X that do not further meet the criteria referred to in Article 113(2) of Regulation (EC) No 1782/2003, as well as the eventual zones that meet these criteria but are not yet listed in Annex X. For these potential new zones, the Member States shall supply the Commission with a detailed justification of their proposal.

Status: Point in time view as at 06/01/2006.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1973/2004 (repealed). (See end of Document for details)

Article 72

Application for supplementary premium and for the goat premium

1 In order to benefit from the supplementary premium or the goat premium, a farmer whose holding has at least 50 % but less than 100 % of its area used for agriculture situated in areas referred to in Article 114(1) of Regulation (EC) No 1782/2003 or in areas listed in Annex X to this Regulation, shall submit a declaration or declarations indicating the location of his land, in accordance paragraphs 2 and 3 of this Article:

2 A farmer who is required to submit each year a declaration of the total utilised agricultural area of his holding, at the occasion of an aid application, as provided for in Article 22(1) of Regulation (EC) No 1782/2003, shall indicate in that declaration those parcels used for agriculture which are located in areas referred to in Article 114(1) of Regulation (EC) No 1782/2003 or in areas listed in Annex X to this Regulation as appropriate;

A farmer who is not required to submit the declaration referred to in the first paragraph shall submit each year a specific declaration using, where appropriate, the system for identifying agricultural parcels provided for under the integrated system.

That specific declaration shall indicate the location of all the land the farmer owns, rents or uses under whatever arrangements, indicating its area and detailing those parcels used for agriculture which are located in areas referred to in Article 114(1) of Regulation (EC) No 1782/2003 or in areas listed in Annex X of this Regulation as appropriate. Member States may provide for the specific declaration to be included in the application for the ewe and/or goat premium. Member States may also demand that the specific declaration be made by means of a 'single payment application' form.

3 The competent national authority may demand the presentation of a property deed, a rental contract or a written agreement between farmers and, where appropriate, an attestation from the local or regional authority which has made land used for agriculture available to the farmer concerned. The attestation shall indicate the area of land granted to the producer and the parcels located in areas referred to in Article 114(1) of Regulation (EC) No 1782/2003 or areas listed in Annex X to this Regulation as appropriate.

Article 73

Farmers practising transhumance

1 Premium applications submitted by farmers the registered addresses of whose farms are in one of the geographical areas referred to in Article 114(2)(b) of Regulation (EC) No 1782/2003 and who wish to qualify for the supplementary premium shall indicate:

- a the place or places where transhumance is to be carried out for the current year;
- b the period of at least 90 days referred to in Article 114(2)(a) of Regulation (EC) No 1782/2003 and laid down for the current year.

2 Premium applications from farmers referred to in paragraph 1 shall be accompanied by documents certifying that transhumance has actually been carried out, except in cases of *force majeure* or due to the impact of duly justified natural circumstances affecting the life of the flock, during the two previous years and in particular by an attestation from the local or regional authority at the place of transhumance certifying that it has actually taken place during at least 90 consecutive days.

Status: Point in time view as at 06/01/2006.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1973/2004 (repealed). (See end of Document for details)

When carrying out administrative checks on applications Member States shall ensure that the place of transhumance specified in the premium application is actually within an area referred to in Article 114(1) of Regulation (EC) No 1782/2003.

Article 74

Eligibility

1 Premiums shall be paid to farmers on the basis of the number of ewes and/or she-goats kept on their holding throughout the retention period referred to in Article 70(3).

2 Animals satisfying the conditions provided for in the definitions referred to in Article 112 of Regulation (EC) No 1782/2003 on the final day of the retention period shall be considered eligible animals.

Article 75

Inventory of farmers marketing sheep's milk or sheep's milk products

For each year Member States shall draw up, no later than the thirtieth day of the retention period, an inventory of farmers marketing sheep's milk or sheep's milk products on the basis of the farmers' declarations referred to in Article 70(1).

When drawing up the inventory, Member States shall take account of the results of controls and any other source of information available to the competent authority, in particular information obtained from processors or distributors relating to the marketing of sheep's milk or sheep's milk products by farmers.

Article 76

Notification

- 1 Member States shall notify the Commission:
 - a by 31 July of each year at the latest, of the information relating to premium applications submitted for the current year, using the model form set out in Annex XI;
 - b by 31 July of each year at the latest, of the number and amount of premiums paid the previous year after application of the reduction of aid provided for in Article 120 of Regulation (EC) No 1782/2003 if appropriate, using the model form set out in Annex XII to this Regulation;
 - c by 31 October of each year at the latest, of any changes in the list of geographical areas practising transhumance referred to in Article 114(2) of Regulation (EC) No 1782/2003 and Article 73 of this Regulation.

The information required under the first subparagraph shall be made available to the national bodies responsible for drawing up official statistics in the sheepmeat and goatmeat sector, at their request.

2 Where the information required under paragraph 1 changes, in particular as a result of the checks or corrections or improvements of previous figures, an update shall be communicated to the Commission within one month after the occurrence of the change.

Status: Point in time view as at 06/01/2006.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1973/2004 (repealed). (See end of Document for details)

SECTION 2

Limits, Reserves and Transfers

Article 77

Rights obtained free of charge

Except in duly justified exceptional circumstances, where a farmer has obtained premium rights free of charge from the national reserve he shall not be authorised to transfer his rights or to lease them temporarily for a period of three years from the date he obtained those rights.

Article 78

Use of rights

1 A farmer holding rights may make use of them by availing himself of those rights and/or leasing those rights to another farmer.

2 Where a farmer has not made use of the minimum percentage of his rights provided for paragraph 4, during each year, the part not used shall be transferred to the national reserve, except in the following cases:

- a in the case of farmers holding a maximum of 20 premium rights, where this farmer has not made use of the minimum percentage of his rights, during each of two consecutive calendar years, only the part not used during the last calendar year shall be transferred to the national reserve;
- b in the case of a farmer participating in an extensification programme recognised by the Commission;
- c in the case of a farmer participating in an early retirement scheme recognised by the Commission in which the transfer and/or temporary leasing of rights is not obligatory;
- d in exceptional and duly justified circumstances.

3 Temporary leasing shall be only in respect of whole years and shall involve at least the minimum number of animals provided for in Article 79(1). At the end of each period of temporary leasing, which may not exceed three consecutive years, a farmer shall, except in the event of a transfer of rights, recover all his rights for himself, for at least two consecutive years. If the farmer does not avail himself of at least the minimum percentage of his rights provided for paragraph 4 during each of the two years, the Member State shall, except in exceptional and duly justified cases, withdraw and return annually to the national reserve that part of the rights not used by the farmer.

However, in the case of farmers participating in early retirement schemes recognised by the Commission, Member States may provide for the total duration of the temporary leasing on the basis of such schemes to be increased.

Farmers who have undertaken to participate in an extensification programme in accordance with the measure referred to in Article 2(1)(c) of Council Regulation (EEC) No 2078/92⁽¹²⁾ or in an extensification programme in accordance with Articles 22 and 23 of Regulation (EC) No 1257/1999 shall not be authorised to temporarily lease and/or to transfer their rights throughout the period of that participation. However, this provision shall not apply in cases where the programme permits the transfer and/or temporary

Status: Point in time view as at 06/01/2006.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1973/2004 (repealed). (See end of Document for details)

leasing of rights to farmers whose participation in measures other than those referred to in this subparagraph requires the acquisition of rights.

4 The minimum percentage of use of rights to the premium shall be 70 %.

However, Member States may increase that percentage up to 100 %. They shall inform the Commission in advance of the percentage they intend to apply.

Article 79

Transfer of rights and temporary leasing

1 Member States may lay down, on the basis of their production structures, a minimum number of premium rights which may be the subject of a partial transfer not involving the transfer of a holding. This minimum may not exceed 10 premium rights.

2 Transfers of premium rights and temporary leasing of such rights shall be effective only after they have been notified to the competent authorities of the Member State by the farmer transferring and/or leasing the rights and by the farmer receiving the rights.

Such notification shall take place within a deadline set by the Member State and not later than the date on which the premium application period ends in that Member State, except in those cases where the transfer takes place through an inheritance. In those cases, the farmer who receives the rights shall be in a position to furnish appropriate legal documents to prove that he/she is the beneficiary of the deceased farmer.

3 In the case of a transfer without a transfer of the holding, the number of rights transferred without compensation to the national reserve may in no case be less than one.

Article 80

Change of individual ceiling

In the case of transfers or temporary leasing of premium rights, Member States shall set the new individual ceiling and shall notify the farmers concerned of the number of premium rights to which they are entitled not later than 60 days from the last day of the period during which the producer submitted his application.

The first paragraph shall not apply in the case where the transfer takes effect through an inheritance as referred to in Article 79(2).

Article 81

Farmers who do not own the land they farm

Farmers farming only publicly or collectively owned land who decide to stop using that land for grazing and to transfer all their rights to another farmer shall be treated in the same way as farmers selling or transferring their holdings. In all other cases such farmers shall be treated in the same way as farmers transferring their premium rights only.

Status: Point in time view as at 06/01/2006.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1973/2004 (repealed). (See end of Document for details)

Article 82

Transfer through the national reserve

Where Member States provide that the transfer of rights is to take place via the national reserve, they shall apply national provisions analogous to those in this Chapter. Moreover, in such cases:

- (a) Member States may provide for temporary leasing to be carried out via the national reserve;
- (b) in the event of the transfer of premium rights or temporary leasing pursuant to point (a), transfer to the reserve shall not become effective until after notification by the competent authorities of the Member State to the farmer transferring and/or leasing the rights, and transfers from the reserve to another farmer shall not become effective until after notification to that farmer by the authorities.

In addition, the national provisions referred to in the first paragraph shall ensure that the part of the rights not covered by the second subparagraph of Article 117(2) of Regulation (EC) No 1782/2003 must be offset by a payment by the Member State corresponding to the payment which would have resulted from a direct transfer between farmers, account being taken in particular of the trend in production in the Member State concerned. That payment shall be equal to the payment charged to a farmer who receives equivalent rights from the national reserve.

Article 83

Calculation of individual limits

Only whole numbers shall be used in the initial calculations and in subsequent adjustments to individual limits on premium rights.

To that end, where the final result of the arithmetical calculations is not a whole number, the nearest whole number shall be used. However, where the result of the calculations falls exactly between whole numbers, the higher whole number shall be used.

Article 84

Notification

1 Member States shall notify the Commission by 1 March 2005 at the latest of the part of the premiums rights transferred which shall be surrendered to the national reserve in accordance Article 117(2) of Regulation (EC) No 1782/2003 and where applicable of the measures taken under Article 117(3) of that Regulation and, before 1 January each year, of any amendments thereto.

2 Using the table set out in Annexes XIII and XIV, Member States shall notify the Commission by 30 April at the latest for each year of:

- a the number of premium rights returned without compensatory payment to the national reserve following transfers of rights without transfers of holdings during the preceding year;

Status: Point in time view as at 06/01/2006.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1973/2004 (repealed). (See end of Document for details)

- b the number of unused premium rights as referred to in Article 118(2) of Regulation (EC) No 1782/2003 transferred to the national reserve during the preceding year;
- c the number of rights granted under Article 118(3) of Regulation (EC) No 1782/2003 during the preceding year;
- d the number of premium rights granted to farmers in less-favoured areas from the national reserve during the preceding year;
- e the dates concerning the periods and deadlines related to the transfers of rights and to the applications for the premium.

SECTION 3

Additional Payments

Article 85

Additional payments

Member States applying Article 71 of Regulation (EC) No 1782/2003 shall provide information to the Commission on their national arrangements concerning the granting of the additional payments provided for under Article 119 of that Regulation. Where applicable that information shall include in particular:

- (a) as regards headage payments:
 - (i) indicative amounts per head and grant arrangements;
 - (ii) an indicative forecast of total expenditure and the number of animals concerned;
 - (iii) specific stocking density requirements;
 - (iv) other information on the rules of application;
- (b) as regards area payments, where necessary:
 - (i) calculation of regional base areas;
 - (ii) indicative amounts per hectare;
 - (iii) an indicative forecast of total expenditure and of the number of hectares concerned;
 - (iv) other information on the rules of application;
- (c) details of other schemes that have been established to make additional payments.

Member States shall notify the Commission of any changes in their national arrangements within a period of one month from the date of any such changes.

Status: Point in time view as at 06/01/2006.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1973/2004 (repealed). (See end of Document for details)

SECTION 4

General Provisions

^{F5}Article 86

[^{F5}Conversion into national currency]

Textual Amendments

- F5** Deleted by [Commission Regulation \(EC\) No 1044/2005 of 4 July 2005 amending Regulation \(EC\) No 2808/98 as regards the operative event for the exchange rate for aid under Regulation \(EC\) No 1782/2003 and amending Regulation \(EC\) No 1973/2004.](#)

CHAPTER 13

BEEF AND VEAL PAYMENTS

SECTION 1

Special premium

(Article 123 of Regulation (EC) No 1782/2003)

Article 87

Applications

1. In addition to the requirements under the integrated system, each application for direct payments as referred to in Article 22 of Regulation (EC) No 1782/2003 shall contain:

- a the breakdown of the number of animals by age bracket;
- b a reference to the passports or administrative documents accompanying the animals which are the subject of the application.

2. Applications may only be submitted in respect of animals which on the date of commencement of the retention period referred to in Article 90 are:

- a in the case of bulls, not less than seven months old;
- b in the case of steers:
 - (i) not less than seven months nor more than 19 months old in the case of the first age bracket;
 - (ii) at least 20 months old in the case of the second age bracket.

Status: Point in time view as at 06/01/2006.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1973/2004 (repealed). (See end of Document for details)

Article 88

Grant of premium

Animals which have not qualified for the special premium either on account of the application of the proportional reduction provided for in Article 123(4) of Regulation (EC) No 1782/2003 or of application of the stocking density provided for in Article 131 of that Regulation may no longer be the subject of an application for the same age bracket and shall be considered to have been the subject of payment of the premium.

Article 89

Passports and administrative documents

1 Where, under the conditions laid down in Article 6 of Regulation (EC) No 1760/2000, the passport is not available, it shall be replaced by a national administrative document as provided for in Article 123(3)(b) of Regulation (EC) No 1782/2003.

2 The competent authorities of the Member State shall ensure that passports or administrative documents ensure that only one premium is granted per animal and per age bracket. Member States shall assist one another, as necessary, to this end.

3 Member States may provide that the national administrative document referred to in paragraph 1 shall take the form of:

- a a document accompanying each individual animal;
- b a comprehensive list, held by the farmer, containing all the information required for the administrative document, on condition that the animals concerned remain, from the date on which the first application is made, with the same farmer until they are placed on the market for the purpose of being slaughtered;
- c a comprehensive list, held by the central authorities, containing all the information required for the administrative document, on condition that the Member State or region of a Member State availing itself of this possibility carries out on-the-spot checks on all the animals covered by an application, checks the movements of those animals and makes a distinctive mark on each animal checked which the farmers shall be required to permit;
- d a comprehensive list, held by the central authorities, containing all the information required for the administrative document, on condition that the Member State takes the measures necessary to ensure that the premium is not granted twice for the same age bracket and provides information as to the premium status of each animal immediately upon request.

4 Member States which decide to avail themselves of one or more of the possibilities provided for in paragraph 3 shall notify the Commission thereof in due time and forward to it the relevant implementing provisions.

For the purposes of point (c) of paragraph 3, Great Britain and Northern Ireland alone shall be considered to be regions of a Member State.

Status: Point in time view as at 06/01/2006.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1973/2004 (repealed). (See end of Document for details)

Article 90

Retention period

The duration of the retention period referred to in Article 123(3) (a) of Regulation (EC) No 1782/2003 shall be two months, starting on the day following that on which the application is submitted.

However, Member States may provide that other starting dates may be set by the farmer on condition that they do not begin more than two months following the day on which the application is submitted.

Article 91

Regional ceiling

1 Where the application of the proportional reduction provided for in Article 123(4) of Regulation (EC) No 1782/2003 gives a number of eligible animals which is less than a whole number, there shall be granted in respect of the decimal part a corresponding fraction of the unit amount of the premium. For this purpose, account shall be taken of the first decimal place only.

2 Where Member States decide to introduce different regions within the meaning of Article 122(a) of Regulation (EC) No 1782/2003, or to modify the existing regions within their territory, they shall inform the Commission of their decision before 1 January of the year concerned, giving a definition of the region and the ceiling set. Any subsequent modification shall be notified to the Commission before 1 January of the year concerned.

Article 92

Limits on the number of animals per holding

1 Where Member States decide to amend the limit of 90 heads of cattle per holding and per age bracket referred to in Article 123(1) of Regulation (EC) No 1782/2003, or to derogate from it, they shall inform the Commission before 1 January of the calendar year concerned.

Where, moreover, Member States fix a minimum number of animals per holding, below which the proportional reduction will not be applied, they shall inform the Commission before 1 January of the calendar year concerned.

2 Any subsequent amendment in the application of paragraph 1 shall be notified to the Commission before 1 January of the year concerned.

Article 93

Granting at the time of slaughter

1 Member States may grant the special premium at the time of slaughter as follows:

- a in the case of bulls, for the single age bracket;
- b in the case of steers, for the first or second age bracket or by combining the granting of the premiums for the two age brackets.

Status: Point in time view as at 06/01/2006.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1973/2004 (repealed). (See end of Document for details)

2 Member States which decide to grant the special premium at the time of slaughter in accordance with paragraph 1 shall provide that the premium is also to be granted when eligible animals are being dispatched to another Member State or being exported to a third country.

3 Where Member States decide to grant the special premium at the time of slaughter in accordance with paragraph 1, this Section and Article 120 and Article 121(1) and (2) shall apply *mutatis mutandis* to the grant of the premium.

4 In addition to the information referred to in Article 121(1), aid applications shall indicate whether the animal is a bull or a steer, and shall be accompanied by a document containing the details required for the purposes of Article 89(2). That document shall be one of the following, at the choice of the Member State:

- a the passport or a copy of the passport where the type used consists of several copies;
- b a copy of the passport where the type of passport used consists of one copy only which must be returned to the competent authority for the purposes of Article 6 of Regulation (EC) No 1760/2000; in that case the Member State shall take steps to ensure that the information contained in the copy corresponds to the original;
- c the national administrative document where the passport is not available, under the conditions laid down in Article 6 of Regulation (EC) No 1760/2000.

Member States may suspend the application of the national administrative document. In that case they shall take the measures necessary to ensure that the premium is not granted twice for the same age bracket for animals which have been the subject of intra-Community trade.

Where the computerised databases as provided for in Article 3(b) of Regulation (EC) No 1760/2000 contain, to the satisfaction of the Member State, the information necessary to ensure that one premium only is granted for each animal and each age bracket, the aid application need not be accompanied by the document referred to in the first subparagraph of this paragraph.

By way of derogation from the first subparagraph of this paragraph, where Member States apply the option referred to in the first subparagraph of Article 121(2), they shall take the measures necessary to ensure that the farmer can determine the animals for which he is requesting a special premium.

5 In the case of bulls, proof of slaughter shall specify the carcase weight.

6 Where the animal is dispatched, proof of dispatch shall be provided by means of a statement by the consignor indicating the Member State of destination of the animal.

In that case, aid applications shall include:

- a the name and address of the consignor (or an equivalent code);
- b the identity number of the animal;
- c a statement that the animal is not less than nine months old.

Aid applications shall be submitted before the animal leaves the territory of the Member State concerned and proof of dispatch shall be submitted within three months from the date of the animals leaving the territory of the Member State concerned.

Status: Point in time view as at 06/01/2006.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1973/2004 (repealed). (See end of Document for details)

Article 94

Details of the grant system

1 By way of derogation from Article 90, the premium shall be paid to farmers who have kept animals for a minimum retention period of two months ending less than one month before the date of slaughter or consignment or ending less than two months before the date of export.

In the case of steers, payment of the premium shall be subject to the following rules:

- a the premium in respect of the first age bracket shall be paid only if the farmer has kept the animal for a period of not less than two months between the time when the animal was not less than seven months old and the time when it was less than 22 months old;
- b the premium in respect of the second age bracket may be paid only if the farmer has kept the animal aged not less than 20 months for a period of not less than two months;
- c the premiums in respect of the two age brackets may be paid together only if the farmer has kept the animal for not less than four consecutive months in compliance with the age requirements laid down in points (a) and (b);
- d the premium in respect of the second age bracket only may be paid if the animal was dispatched from another Member State when it had reached 19 months.

2 In the context of calculating the stocking density provided for in Article 131 of Regulation (EC) No 1782/2003, each animal which is the subject of a combined application for the two age brackets shall be taken into consideration twice.

3 The carcase weight shall be established on the basis of a carcase within the meaning of Article 2 of Council Regulation (EEC) No 1208/81⁽¹³⁾.

Where the carcase presentation differs from that definition, the corrective factors set out in the Annex to Commission Regulation (EEC) No 563/82⁽¹⁴⁾ shall apply.

Where slaughter takes place in a slaughterhouse which is not subject to the application of the Community grading scale for carcasses of adult bovine animals, Member States may permit the weight to be established on the basis of the live weight of the slaughtered animal. In such cases the carcase weight shall be considered to be equal to or greater than 185 kilograms if the live weight of the slaughtered animal was equal to or greater than 340 kilograms.

Article 95

Notification

Member States shall notify the Commission before the start of the calendar year concerned of their decision, or any amendments thereto, concerning the application of Article 93 and the relevant procedures.

Status: Point in time view as at 06/01/2006.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1973/2004 (repealed). (See end of Document for details)

SECTION 2

Deseasonalisation premium

(Article 124 of Regulation (EC) No 1782/2003)

Article 96

Application of the premium

The Commission shall decide, by 1 September of each calendar year at the latest, in which Member States the deseasonalisation premium may be granted for the following calendar year.

Member States shall inform the Commission by 1 January of the calendar year in which the premium is granted at the latest if they decide to apply Article 124(3) of Regulation (EC) No 1782/2003.

Article 97

Entitlement to the premium

1 The deseasonalisation premium may be granted in respect only of steers which have already received the special premium, or are considered to have received the special premium pursuant to Article 88, in a Member State applying the deseasonalisation premium and which are slaughtered in a Member State applying the deseasonalisation premium.

2 The deseasonalisation premium may be granted only to the farmer who last held the animal prior to slaughter.

Article 98

Applications

1 The farmer shall submit an application to the competent authority of the Member State in whose territory the holding is situated.

2 The application shall be drawn up in accordance with Articles 93(4) and 121, applied *mutatis mutandis*.

Member States shall take the measures necessary to verify that the special premium has been granted and shall carry out regular, unannounced checks on the accuracy of the certificates provided for in Article 121.

Status: Point in time view as at 06/01/2006.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1973/2004 (repealed). (See end of Document for details)

SECTION 3

Suckler cow premium

(Articles 125 to 129 of Regulation (EC) No 1782/2003)

Article 99

Cows belonging to a meat breed

For the purposes of Articles 122(d) and 129(2) of Regulation (EC) No 1782/2003, Cows belonging to the bovine breeds listed in Annex XV to this Regulation shall not be considered to be cows belonging to a meat breed.

Article 100

Maximum individual reference quantity

1 Where Member States decide to change the maximum individual reference quantity of 120 000 kilograms referred to in Article 125(2)(b) of Regulation (EC) No 1782/2003 or to derogate from it, they shall inform the Commission before 1 January of the calendar year concerned.

2 Any subsequent change in the application of paragraph 1 shall be notified to the Commission before 1 January of the year concerned.

Article 101

Retention period

The six-month retention period provided for in Article 125(2) of Regulation (EC) No 1782/2003 shall start on the day following that on which the application is submitted.

Article 102

Applications

1 Without prejudice to the requirements under the integrated system, where an application is made for the premium pursuant to Article 125(2)(b) of Regulation (EC) No 1782/2003, the application for direct payments provided for in Article 22 of Regulation (EC) No 1782/2003 shall contain:

- a a statement setting out the individual reference quantity of milk available to the producer on 31 March preceding the beginning of the 12-month period of application of the additional levy scheme starting in the calendar year concerned; where this quantity is unknown on the date on which the application is submitted, it shall be notified to the competent authority at the earliest opportunity;
- b an undertaking by the farmer not to increase his individual reference quantity above the quantitative limit laid down in Article 125(2)(b) of Regulation (EC) No 1782/2003 during the 12-month period starting on the date on which the application is submitted.

Point (b) shall not apply if the Member State has abolished the quantitative limit.

Status: Point in time view as at 06/01/2006.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1973/2004 (repealed). (See end of Document for details)

2 Applications shall be submitted within an overall period of six months during a calendar year, to be determined by the Member State.

Member States may provide for separate periods for submitting applications within that overall period.

Article 103

Average milk yield

The average milk yield shall be calculated on the basis of the average yields set out in Annex XVI. However, for that calculation, Member States may use a document recognised by them certifying the farmer's dairy herd's average yield.

Article 104

Additional national premium

1 An additional national suckler cow premium as provided for in Article 125(5) of Regulation (EC) No 1782/2003 may be granted only to a farmer who, in respect of the same calendar year, receives the suckler cow premium.

The additional national suckler cow premium shall be granted only within the limit of the number of animals qualifying for the suckler cow premium, if appropriate after application of the proportional reduction laid down in the second subparagraph of Article 129(1) of Regulation (EC) No 1782/2003.

2 Member States may lay down additional conditions for the grant of the additional national suckler cow premium. They shall inform the Commission thereof in good time before those conditions are brought into effect.

3 The Commission shall decide by 1 September at the latest of each calendar year which Member States fulfil the conditions laid down in the third subparagraph of Article 125(5) of Regulation (EC) No 1782/2003.

Article 105

Individual ceiling

Member States shall determine an individual ceiling per farmer in accordance with Article 126(1) of Regulation (EC) No 1782/2003.

Article 106

Notification

1 Member States shall notify the Commission by 1 March 2005 at the latest of any change of the procedures used to implement the reduction of individual ceilings in accordance with Article 126(3) of Regulation (EC) No 1782/2003.

2 Member States shall notify the Commission:

Status: Point in time view as at 06/01/2006.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1973/2004 (repealed). (See end of Document for details)

- a by 1 March 2005 at the latest of any change to the method of calculating the reduction provided for in the second subparagraph of Article 127(1) of Regulation (EC) No 1782/2003;
 - b before 1 January each year, where applicable, of any amendments to the measures taken under Article 127(2)(a) of that Regulation.
- 3 Using the table set out in Part 3 of Annex XVIII, Member States shall notify the Commission by 1 March at the latest, provisionally, and by 31 July at the latest, definitively, for each calendar year of:
- a the number of premium rights returned without compensatory payment to the national reserve following transfers of rights without transfers of holdings during the preceding calendar year;
 - b the number of unused premium rights as referred to in Article 109(2) transferred to the national reserve during the preceding calendar year;
 - c the number of rights granted under Article 128(3) of Regulation (EC) No 1782/2003 during the preceding calendar year.

Article 107

Rights obtained free of charge

Except in duly justified exceptional cases, where a farmer has obtained premium rights free of charge from the national reserve he shall not be authorised to transfer and/or temporarily lease his rights during the three following calendar years

Article 108

Use of rights

- 1 A farmer holding rights may make use of them by availing himself of those rights and/or leasing those rights to another producer.
- 2 Where a farmer has not made use of at least the minimum percentage of his rights, fixed in accordance with paragraph 4, during each calendar year, the part not used shall be transferred to the national reserve, except:
 - in the case of a farmer holding a maximum of seven premium rights, where this farmer has not made use of the minimum percentage of his rights, fixed in accordance with paragraph 4, during each of two consecutive calendar years, the part not used during the last calendar year shall be transferred to the national reserve,
 - in the case of a farmer participating in an extensification programme recognised by the Commission,
 - in the case of a farmer participating in an early retirement scheme recognised by the Commission in which the transfer and/or temporary leasing of rights is not obligatory,or
 - in exceptional and duly justified cases.
- 3 Temporary leasing shall be only in respect of whole calendar years and shall involve at least the minimum number of animals provided for in Article 109(1). At the end of each period of temporary leasing, which may not exceed three consecutive years, a farmer shall, except in the event of a transfer of rights, recover all his rights for himself, for at least two consecutive calendar years. If the farmer does not avail himself of at least the minimum percentage of his

Status: Point in time view as at 06/01/2006.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1973/2004 (repealed). (See end of Document for details)

rights, fixed in accordance with paragraph 4, during each of the two years, the Member State shall, except in exceptional and duly justified cases, withdraw and return annually to the national reserve that part of the rights not used by the farmer.

However, in the case of farmers participating in early retirement schemes recognised by the Commission, Member States may provide for the total duration of the temporary leasing on the basis of such schemes to be increased.

Farmers who have undertaken to participate in an extensification programme in accordance with the measure referred to in Article 2(1)(c) of Council Regulation (EEC) No 2078/92⁽¹⁵⁾ or in an extensification programme in accordance with Articles 22 and 23 of Regulation (EC) No 1257/1999⁽¹⁶⁾ shall not be authorised to temporarily lease and/or to transfer their rights throughout the period of that participation. However, this provision shall not apply in cases where the programme permits the transfer and/or temporary leasing of rights to farmers whose participation in the measures other than those referred to in this subparagraph requires the acquisition of rights.

4 The minimum percentage of use of rights to the premium shall be 70 %. However, the Member States may raise this percentage up to 100 %.

The Member States shall inform the Commission in advance of the percentage that they intend to apply or of any change of this one.

Article 109

Transfer of rights and temporary leasing

1 Member States may lay down, on the basis of their production structures, a minimum number of premium rights which may be the subject of a partial transfer not involving the transfer of a holding. This minimum may not exceed five premium rights.

2 Transfers of premium rights and temporary leasing of such rights shall be effective only after they have been notified jointly to the competent authorities of the Member State by the farmer transferring and/or leasing the rights and by the farmer receiving the rights.

Such notification shall take place within a deadline set by the Member State and not later than the date on which the farmer receiving the rights submits his premium application, except in those cases where the transfer of rights takes effect through an inheritance. In that case, the farmer who receives the rights shall be in a position to furnish appropriate legal documents to prove that he or she is the beneficiary of the deceased farmer.

Article 110

Change of individual ceiling

In the case of transfers or temporary leasing of premium rights, Member States shall set the new individual ceiling and shall notify the farmers concerned of the number of premium rights to which they are entitled not later than 60 days from the last day of the period during which the farmer submitted his application.

The first paragraph shall not apply in the case where the transfer takes effect through an inheritance.

Status: Point in time view as at 06/01/2006.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1973/2004 (repealed). (See end of Document for details)

Article 111

Farmers who do not own the land that they farm

Farmers farming only public land or collectively owned land who decide to discontinue the farming of such land and to transfer all their rights to another farmer shall be treated in the same way as farmers selling or transferring their holdings. In all other cases such farmers shall be treated in the same way as farmers transferring their premium rights only.

Article 112

Transfer through the national reserve

Where Member States provide that the transfer of rights without transfer of the holding is to take place through the national reserve in accordance with Article 127(2)(b) of Regulation (EC) No 1782/2003, they shall apply national provisions analogous to those set out in Articles 109 to 111. In addition, in this event:

- Member States may provide that temporary leasing is to take place through the national reserve;
- when premium rights are transferred, or temporarily leased in cases where the first indent is applied, transfers to the reserve shall be effective only after they have been notified by the competent authorities of the Member State to the farmer transferring and/or leasing the rights, and transfers from the reserve to another farmer shall be effective only after they have been notified to that farmer by these authorities.

In addition, such provisions must ensure that a payment will be made by the Member State for that part of the rights other than the part referred to in the second subparagraph of Article 127(1) of Regulation (EC) No 1782/2003 corresponding to that which would have resulted from a direct transfer between farmers, account being taken in particular of the trend of production in the Member State concerned. This payment shall be equal to the payment which will be claimed from farmers receiving equivalent rights from the national reserve.

Article 113

Partial rights

- 1 Where calculations to be made pursuant to Articles 105 to 112 produce numbers which are not whole numbers, only the first decimal place shall be taken into account.
- 2 Where application of the provisions of this Section results in partial premium rights, either for farmers or the national reserve, these partial rights shall be added up.
- 3 Where a farmer holds a partial right, this partial right shall only confer entitlement to the corresponding fraction of the unit amount of the premium and, where applicable, of the additional national premium referred to in Article 104 and of the extensification payment referred to in Article 118.

Status: Point in time view as at 06/01/2006.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1973/2004 (repealed). (See end of Document for details)

Article 114

Special scheme for heifers

1 Member States wishing to make use of the possibility stipulated in Article 129(1) of Regulation (EC) No 1782/2003 shall inform the Commission thereof and, at the same time, notify the Commission of the relevant data allowing establishing whether the conditions laid down in Article 129(1) of that Regulation are met.

Member States concerned shall also, where applicable, communicate the specific ceiling that they have determined.

The Commission shall decide which Member States meet the conditions laid down in Article 129(1) of Regulation (EC) No 1782/2003.

The decisions in force at the time of the entry into force of this Regulation shall continue to apply.

2 Member States meeting the conditions laid down in Article 129(1) of Regulation (EC) No 1782/2003 shall notify the Commission, before 1 January of the year concerned, of any modification of the specific national ceiling that they have determined.

3 Member States applying the special scheme shall lay down criteria to ensure that the premium is paid to farmers whose herd of heifers is intended to restock cow herds. These criteria may include in particular an age limit and/or breed requirements. Member States shall inform the Commission before 1 January of the year concerned of the criteria adopted. Any subsequent modification shall be notified to the Commission before 1 January of the year concerned.

4 Where the application of the proportional reduction referred to in the second subparagraph of Article 129(1) of Regulation (EC) No 1782/2003 gives a number of eligible animals which is less than a whole number, there shall be granted in respect of the decimal part a corresponding fraction of the unit amount of the premium and, where applicable, of the additional national premium referred to in Article 104 and of the extensification payment referred to in Article 118. For this purpose account shall be taken of the first decimal place only.

5 In Member States applying the special scheme, the requirement laid down in Article 125(2) of Regulation (EC) No 1782/2003 concerning the minimum number of animals to be held shall be met in full either by suckler cows if the farmer has lodged an application for suckler cows or by heifers if the farmer has lodged an application for heifers.

6 The provisions of Articles 105 to 113 shall not apply within this special scheme.

Article 115

Rounding-off of animal numbers

If the calculation of the maximum number of heifers as a percentage as laid down in the second subparagraph of Article 125(2) of Regulation (EC) No 1782/2003 produces a result which is not a whole number, that number shall be rounded down to the nearest whole number if it is less than 0.5 and up to the nearest whole number if it is 0.5 or more.

Status: Point in time view as at 06/01/2006.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1973/2004 (repealed). (See end of Document for details)

SECTION 4

Provisions common to the special premium and the suckler cow premium

Sub-section 1

General provisions

Article 116

Applications for the special premium and the suckler cow premium

- 1 Member States may, for administrative reasons, provide that aid applications for direct payments referred to in Article 22 of Regulation (EC) No 1782/2003, as regards the special premium and the suckler cow premium, shall be for a minimum number of animals, provided that that number does not exceed three.
- 2 Without prejudice to Articles 102(2) and 118c(2), Member States may determine the periods and dates for submission of premium applications and the number of applications that farmers may submit per premium scheme and calendar year.

Article 117

Stocking density

- 1 For each farmer who, in respect of the same calendar year, submits an application for direct payments referred to in Article 22 of Regulation (EC) No 1782/2003 for a special premium or a suckler cow premium, the competent authorities shall establish the number of LUs (livestock units) corresponding to the number of animals for which a special premium or suckler cow premium may be granted, taking account of the forage area of his holding.
- 2 In establishing the stocking density referred to in Article 131 of Regulation (EC) No 1782/2003, the following procedure shall apply:
 - a account shall be taken of the individual reference quantity of milk available to the farmer on 31 March preceding the beginning of the period of 12 months of application of the additional levy scheme beginning in the calendar year concerned;
 - b the number of dairy cows needed to produce that reference quantity shall be calculated in accordance with Article 103 of this Regulation.
- 3 In determining the number of animals eligible for a premium:
 - a the number of hectares determined in accordance with the rules laid down in the integrated system shall be multiplied by the stocking density referred to in Article 131 of Regulation (EC) No 1782/2003;
 - b the number of LUs corresponding to the number of dairy cows needed to produce the reference quantity of milk available to the farmer shall be deducted from the figure thus obtained;
 - c the number of LUs corresponding to the number of sheep and/or goats for which a premium application is submitted shall be deducted from the figure thus obtained.

The final figure thus obtained shall correspond to the maximum number of LUs for which the special premium and the suckler cow premium may be granted.

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Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1973/2004 (repealed). (See end of Document for details)

4 The Member States shall inform each farmer concerned of the stocking density established for him and of the resultant number of LUs for which a premium may be granted.

Sub-section 2

Extensification payment scheme

(Article 132 of Regulation (EC) No 1782/2003)

Article 118

Participation in the extensification payment scheme

1 To qualify for the extensification payment, farmers shall indicate on the application for direct payments referred to in Article 22 of Regulation (EC) No 1782/2003 that they wish to participate in the extensification payment scheme.

2 Animals which are considered to have received the special premium within the meaning of Article 88 shall not qualify for the extensification payment.

Article 118a

Determination of stocking density by way of census

1 In order to check that the total number of animals calculated in accordance with Article 132(3)(a) of Regulation (EC) No 1782/2003 meets the stocking density requirements laid down in Article 132(2) of that Regulation, Member States shall determine each year at least five census dates for the animals and shall inform the Commission thereof.

Except in those cases where Member States decide that the census dates may be any day of the year, the census dates shall be distributed at random in such a way as to be representative of the entire year, being changed annually, and each census date shall be determined a posteriori and notified to the farmer at the earliest two weeks after it has been determined.

2 On census dates the animals shall be counted in accordance with one of the following methods, at the choice of the Member State:

- a Member States may ask each farmer to declare, on the basis of his farm register, prior to a date to be determined by the Member State, the number of LUs or the number of animals of each of the two categories of bovine animals referred to in the conversion table laid down in Article 131(2)(a) of Regulation (EC) No 1782/2003;
- b Member States may use the computerised databases referred to in Article 3(b) of Regulation (EC) No 1760/2000 to determine the number of LUs on condition that those databases offer, to the satisfaction of the Member State concerned, adequate assurances as to the accuracy of the data they contain for the purposes of the extensification payment scheme.

3 The number of LUs used to determine whether the farmer is complying with the stocking density requirements laid down in Article 132(2) of Regulation (EC) No 1782/2003 shall be the arithmetic average of the numbers of LUs counted on the census dates plus the number of LUs corresponding to the sheep and goats for which premium applications have been submitted for the same calendar year.

Status: Point in time view as at 06/01/2006.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1973/2004 (repealed). (See end of Document for details)

However, where Member States decide that the census dates may be any day of the year, they may provide that the numbers referred to in paragraph 2(a) and (b) shall be calculated pro rata temporis for the period on which the animals are present on the holding.

4 Member States shall take the measures necessary to apply Article 29 of Regulation (EC) No 1782/2003 in the case of farmers who, by means of abnormally low stocking rates during part of the year, artificially create the conditions required by Article 132 of that Regulation.

Article 118b

Simplified determination of stocking density

1 By way of derogation from Article 118a, Member States may give farmers the option of choosing a simplified scheme for calculating the stocking density.

In that case, the farmer shall include in the aid application:

- a a declaration that he has complied each day with the maximum stocking density laid down in Article 132 of Regulation (EC) No 1782/2003 up to the date of his aid application;
- b an undertaking to comply each day with that stocking density between the date of his aid application and the following 31 December.

Where the Member State concerned has chosen to apply the second subparagraph of Article 132(2) of Regulation (EC) No 1782/2003, the farmer shall specify on his application which of the two maximum stocking densities he is observing. The farmer may alter that choice before the announcement of an on-the-spot check on the number of his animals.

The farmer may notify the competent authority of the cancellation of the undertaking referred to in point (b) of the second subparagraph before the announcement of an on-the-spot check on the number of his animals. In that case he shall not qualify for the extensification payment.

The declaration and undertaking provided for in the second subparagraph shall be subject to the control and penalty provisions provided for under the integrated system.

2 Where Member States choose to apply, or to cease to apply, the option laid down in the second subparagraph of Article 132(2) of Regulation (EC) No 1782/2003, they shall inform the Commission of their decision before 1 January of the calendar year concerned.

Article 118c

Farmers in mountain areas

1 Member States wishing to make use of the possibility stipulated in Article 132(4) of Regulation (EC) No 1782/2003 shall inform the Commission thereof and, at the same time, notify the Commission of the relevant data allowing establishing whether the conditions laid down in this Article are met.

For the purposes of Article 132(4) of Regulation (EC) No 1782/2003, ‘farmer in mountain area’ means one of the following:

- a a farmer whose farm is situated in a mountain area;

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Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1973/2004 (repealed). (See end of Document for details)

b a farmer whose at least 50 % of his forage area is situated in a mountain area.

The Commission shall decide which Member States meet the conditions laid down in Article 132(4) of Regulation (EC) No 1782/2003.

The Decisions in force at the time of the entry into force of this Regulation shall continue to apply.

2 Without prejudice to Article 118(1), farmers who wish to qualify for the extensification payment under paragraph 1 of this Article shall state on the aid application that they are applying for the extensification payment. Farmers shall keep, for at least six consecutive months starting on the date on which the application referred to in Article 118 is submitted, a number of dairy cows at least equal to the number of dairy cows for which the extensification payment has been applied for. That six-month retention period shall start on the day following that on which the application is submitted.

Applications shall be submitted within an overall period of six months during a calendar year, to be determined by the Member State.

Member States may provide for separate submission periods within that overall period.

Article 118d

Maximum number of dairy cows eligible for payment

The number of dairy cows for which the extensification payment is granted to a farmer may not exceed either of the following two figures:

- (a) the number of dairy cows needed to produce the individual reference quantity of milk available to the farmer on 31 March preceding the beginning of the 12-month period of application of the additional levy scheme beginning in the calendar year concerned; that number of cows shall be calculated using the average milk yield defined in Annex XVI;
- (b) the total number of cows on the holding, determined in accordance with Article 118a, less the number of suckler cows corresponding to the individual ceiling.

Article 119

General provisions

1 Member States shall notify the Commission of any amendment to the definition of 'pasture land' used for the purposes of Article 132(3)(c) of Regulation (EC) No 1782/2003 before 1 January of the year concerned.

2 For the purpose of calculating the stocking density pursuant to this Sub-section, account shall be taken of the first two decimal places only.

3 In the event that the competent veterinary authorities decide that no animal may leave the production unit except for the purpose of slaughter, the number of livestock units recorded on the holding shall be multiplied by the coefficient 0.8 for the purpose of applying this Sub-section.

That measure shall be restricted to the period, plus 20 days, within which the decision referred to in the first subparagraph applies, provided that the farmer has informed the

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competent authority, by writing within 10 working days of the decision, of the presence of the animals concerned and has taken all the measures necessary to prevent and/or limit the occurrence of the epizootic.

SECTION 5

Slaughter premium

(Article 130 of Regulation (EC) No 1782/2003)

Article 120

Member States may provide that in order to qualify for the slaughter premium for a given calendar year each farmer shall, before or at the same time as making the first application for that calendar year, submit a statement of participation.

However, where the farmer makes no changes to the statement of participation, the Member State may accept that the previous statement remains valid.

Article 121

Applications

1 Aid applications shall include the information needed for payment of the slaughter premium, in particular the date of birth of the animal in the case of animals born after 1 January 1998.

Aid applications shall be submitted within a period to be determined by the Member State which may not exceed six months following slaughter of the animal or, where the animal is exported, after the date on which it leaves Community customs territory, and shall expire no later than the end of February of the following year except in exceptional cases to be decided by the Member State concerned where animals are dispatched or exported. Without prejudice to that time limit, the Member States may set periods and dates for the submission of aid applications and may determine the number of applications that each farmer may submit per calendar year.

Member States may permit applications to be submitted through a person other than the farmer. In such cases the application shall bear the name and address of the farmer who is liable to qualify for the slaughter premium.

In addition to the requirements introduced as part of the integrated system, each application shall contain:

- a in cases where the grant is made at the time of slaughter, a certificate from the slaughterhouse or any document produced or endorsed by the slaughterhouse containing at least the same information, showing:
 - (i) the name and address of the slaughterhouse (or an equivalent code),
 - (ii) the date of slaughter and the identity and slaughter numbers of the animal,
 - (iii) in the case of calves, the carcass weight, save where Article 122(4) applies;
- b in cases where the animal is exported to a third country:
 - (i) the name and address of the exporter (or an equivalent code),

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Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1973/2004 (repealed). (See end of Document for details)

- (ii) the identity number of the animal,
- (iii) the export declaration stating the age of the animal for animals born after 1 January 1998 and, in the case of calves, save where Article 122(4) applies, the live weight, which may not exceed 300 kilograms,
- (iv) proof that the animal has left Community customs territory, shown in the same manner as for an export refund.

Member States may provide that the information referred to in points (a) and (b) of the fourth subparagraph shall be forwarded via a body or bodies approved by the Member State, which may use information technology.

Member States shall carry out regular, unannounced checks on the accuracy of the certificates or documents issued and, where appropriate, the information referred to in the fourth subparagraph.

2 By way of derogation from paragraph 1, Member States may provide that information on the slaughter of animals, entered in the computerised databases referred to in Article 3(b) of Regulation (EC) No 1760/2000, forwarded to the competent authority by slaughterhouses shall be regarded as applications for slaughter premiums on behalf of the farmers, on condition that those databases offer, to the satisfaction of the Member State, adequate assurances as to the accuracy of the data they contain for the purposes of the slaughter-premium scheme and, where applicable, the payment on slaughter of the special premium and/or the additional payments if these are paid on slaughter, and/or the deseasonalisation premium.

However, Member States may provide that applications shall be submitted. In such a case they may determine the type of information that shall accompany the application.

Member States choosing to apply this paragraph shall inform the Commission of any subsequent change before it is implemented.

Member States shall ensure that the data made available to the paying agency includes all the information needed to pay the slaughter premium, in particular:

- a the types and quantities of animals as referred to in Article 130(1) of Regulation (EC) No 1782/2003 slaughtered during the year concerned;
- b information regarding compliance with the age limits and carcase weight of the animals referred to in that Article and with the retention period referred to in Article 123 of this Regulation;
- c where applicable, the information needed to pay the special premium at the time of slaughter and/or the additional payments if these are paid on slaughter, and/or the deseasonalisation premium.

3 For animals which have been the subject of intra-Community trade after the retention period referred to in Article 123, even if the Member State where slaughter was carried out chose to apply the derogation laid down in paragraph 2 of this Article, the slaughterhouse shall issue the document referred to in point (a) of the fourth subparagraph of paragraph 1 of this Article.

However, where their data transfer systems are compatible, two Member States may agree to apply the system described in paragraph 2.

Member States shall assist one another to ensure effective controls on the authenticity of documents submitted and/or the accuracy of the data exchanged. To that end the Member State where payment is made shall forward regularly to the Member State

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where slaughter takes place a summary, grouped by slaughterhouse, of the slaughter certificates (or information in place thereof) received from the latter Member State.

Article 122

Weight and presentation of carcasses

1 For the purposes of Article 130(1)(b) of Regulation (EC) No 1782/2003, veal carcasses shall be presented after skinning, evisceration and bleeding, without the head or the feet but with the liver, kidneys and kidney fat.

2 The weight to be taken into consideration shall be the weight of the carcase after chilling, or the warm weight of the carcase established as soon as possible after slaughter, reduced by 2 %.

3 Where carcasses are presented without the liver, kidneys and/or kidney fat, their weight shall be increased by:

- a 3.5 kilograms for the liver;
- b 0.5 kilogram for the kidneys;
- c 3.5 kilograms for the kidney fat.

4 Member States may provide that where a calf is less than six months old at the time of slaughter or export, the weight requirement referred to in Article 130(1)(b) of Regulation (EC) No 1782/2003 shall be deemed to have been met.

Where the carcase weight cannot be established in the slaughterhouse, the weight requirement referred to in Article 130(1)(b) of Regulation (EC) No 1782/2003 shall be deemed to have been met if the live weight does not exceed 300 kilograms.

Article 123

Premium beneficiary

1 The slaughter premium shall be paid to the farmer who has held the animal for a minimum retention period of two months ending less than one month before slaughter or ending less than two months before export.

2 In the case of calves slaughtered before the age of three months, the retention period shall be one month.

Article 124

National ceilings

1 The national ceilings referred to in Article 130(1) and (3) of Regulation (EC) No 1782/2003 are set out in Annex XVII to this Regulation.

2 Where the application of the proportional reduction provided for in Article 130(4) of Regulation (EC) No 1782/2003 gives a number of eligible animals which is less than a whole number, there shall be granted in respect of the decimal part a corresponding fraction of the unit amount of the slaughter premium. For this purpose account shall be taken of the first decimal place only.

Status: Point in time view as at 06/01/2006.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1973/2004 (repealed). (See end of Document for details)

SECTION 6

Additional payments

(Articles 133 to 136 of Regulation (EC) No 1782/2003)

Article 125

National arrangements

The detailed information about national arrangements referred to in Article 137 of Regulation (EC) No 1782/2003 shall include the following:

- (1) For headage payments, where applicable:
 - (a) indicative amounts per head for each category of animal, and grant arrangements;
 - (b) an indicative forecast of total expenditure for each category of animal, specifying whether those payments will be made in the form of a supplement to the slaughter premium, and of the number of animals concerned;
 - (c) specific stocking density requirements, save in the case of payments in the form of a supplement to the slaughter premium;
 - (d) the headage limit on male bovines per holding, where applicable;
 - (e) other information on the rules of application.

The categories of animal referred to in points (a) and (b) are bulls, steers, suckler cows, dairy cows, heifers qualifying for the suckler cow premium, and other heifers, or any subgroup of animals determined by the Member State and included in those categories;

- (2) For area payments, where necessary:
 - (a) calculation of regional base areas;
 - (b) indicative amounts per hectare;
 - (c) an indicative forecast of total expenditure and of the number of hectares concerned;
 - (d) other information on the rules of application.

SECTION 7

General provisions

Article 126

Payment of advances

1 In accordance with Article 28(3)(b) of Regulation (EC) No 1782/2003, on the basis of the results of administrative checks and on-the-spot checks, the competent authority shall pay

Status: Point in time view as at 06/01/2006.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1973/2004 (repealed). (See end of Document for details)

to the farmer, for the number of animals deemed to be eligible, an advance equal to 60 % of the special premium, the suckler cow premium and the slaughter premium.

In the case of the special premium, the special scheme for heifers referred to in Article 114 and the slaughter premium, the advance percentage may be reduced by the Member States but may not be less than 40 %.

In addition, on the basis of administrative and on-the-spot checks, Member States may decide to pay farmers an advance of a maximum 60 % on the amount of the additional payments referred to in Article 133 of Regulation (EC) No 1782/2003.

The advance may not be paid before 16 October of the calendar year in respect of which the premium is applied for or the additional payment is granted.

2 The definitive payment of the premium or the additional payment shall be an amount equal to the difference between the advance payment and the amount of the premium or the additional payment to which the farmer is entitled.

Article 127

Allocation year

1 The date of submission of the application shall constitute the operative event for determining the year to which animals covered by the special premium, suckler cow premium, deseasonalisation premium and extensification payment schemes are allocated and the number of LUs to be used for calculating the stocking density.

However, if the special premium is granted in accordance with Article 93, the amount of the premium applicable shall be that in force on 31 December of the year in which slaughter or export took place in the following cases:

- a where the animal was slaughtered or exported no later than 31 December;
- b where the premium application for that animal is submitted after that date.

2 As regards the slaughter premium, for the purposes of applying the rate of aid and calculating the proportional reduction in accordance with Article 124, the allocation year shall be the year of slaughter or export.

^{F5} Article 128

[^{F5}Conversion into national currency]

.....

Textual Amendments

- F5** Deleted by Commission Regulation (EC) No 1044/2005 of 4 July 2005 amending Regulation (EC) No 2808/98 as regards the operative event for the exchange rate for aid under Regulation (EC) No 1782/2003 and amending Regulation (EC) No 1973/2004.

Status: Point in time view as at 06/01/2006.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1973/2004 (repealed). (See end of Document for details)

Article 129

Penalties for the illegal use or holding of certain substances or products

In the event of repeated infringements through the illegal use or holding of substances or products not authorised by the relevant Community regulations in the veterinary sector, Member States shall determine, in the light of the seriousness of the infringement, the length of the exclusion from the aid schemes pursuant to the second subparagraph of Article 140(1) of Regulation (EC) No 1782/2003.

Article 130

Determination of the individual reference quantity of milk

Up to the end of the 11th period laid down in Article 1 of Regulation (EC) No 1788/2003, by way of derogation from Articles 102(1)(a), 117(2)(a) and 118d(a) of this Regulation, a Member State may decide that in the case of milk farmers who release or take over all or part of individual reference quantities with effect on 31 March or 1 April respectively in accordance with Article 5(j) and (k) of Regulation (EC) No 1788/2003 or pursuant to national provisions adopted for the implementation of Articles 16, 17 and 18 of that Regulation, the following shall be determined on 1 April:

- (a) the maximum individual reference quantity of milk available to qualify for the suckler cow premium and the maximum number of suckler cows;
- (b) grants of additional payments per head for dairy cows;
- (c) the number of dairy cows with a view to the granting of the extensification payment for dairy cows kept on holdings located in mountain areas;
- (d) the stocking density.

Article 130a

Determination of retention periods

The last day of the retention periods referred to in Articles 90, 94(1), 101, 118c(2) and 123 shall be the day, whether a working day or not, preceding the day which bears the same number as the starting day for the period.

Article 131

Notification

1 In the event of application of Article 68(1) of Regulation (EC) No 1782/2003, the Member States shall notify the Commission:

- a annually by 15 September at the latest for information relating to the first six months of the current year, and 1 March for information relating to the second six months of the previous year, of the number of calves in respect of which the slaughter premium has been applied for and indicating whether the animals were slaughtered or exported;
- b by 31 July at the latest in each year and for the preceding calendar year of:

Status: Point in time view as at 06/01/2006.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1973/2004 (repealed). (See end of Document for details)

- (i) the number of calves for which the slaughter premium was actually granted and indicating whether the aid was granted on slaughter or on export, as well as the number of farmers concerned;
- (ii) the number of calves in respect of which the slaughter premium has not been granted in respect of the preceding calendar year due to the application of national ceilings.

2 In the event of application of Article 68(2)(a)(i) and (ii) of Regulation (EC) No 1782/2003, the Member States shall notify the Commission:

a annually by 15 September at the latest for information relating to the first six months of the current year, and 1 March for information relating to the second six months of the previous year, of:

- (i) the number of cows in respect of which the suckler cow premium has been applied for, broken down according to the schemes referred to in Article 125(2)(a) and (b) of Regulation (EC) No 1782/2003;
- (ii) the number of bovine animals other than calves in respect of which the slaughter premium has been applied for and indicating whether the animals were slaughtered or exported;

b by 31 July at the latest in each year and for the preceding calendar year of:

- (i) the number of cows and heifers for which the suckler cow premium was actually granted, broken down according to the schemes referred to in Article 125(2)(a) and (b) of Regulation (EC) No 1782/2003, as well as the number of farmers concerned in the case of each scheme;
- (ii) where applicable, the number of animals for which the premium was not granted in respect of the preceding calendar year due to application of the specific national ceiling for heifers.
- (iii) where applicable, the grant of any national premium in addition to the suckler cow premium, indicating:
 - the conditions for granting the premium,
 - the amount granted per animal;
- (iv) the number of bovine animals other than calves for which the slaughter premium was actually granted and indicating whether the aid was granted on slaughter or on export, as well as the number of farmers concerned;
- (v) the number of bovine animals other than calves in respect of which the slaughter premium has not been granted in respect of the preceding calendar year due to the application of national ceilings.

3 In the event of application of Article 68(2)(b)(i) of Regulation (EC) No 1782/2003, the Member States shall notify the Commission:

a annually by 15 September at the latest for information relating to the first six months of the current year, and 1 March for information relating to the second six months of the previous year, of the number of bovine animals other than calves in respect of which the slaughter premium has been applied for and indicating whether the animals were slaughtered or exported.

b by 31 July at the latest in each year and for the preceding calendar year of:

Status: Point in time view as at 06/01/2006.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1973/2004 (repealed). (See end of Document for details)

- (i) the number of bovine animals other than calves for which the slaughter premium was actually granted and indicating whether the animals were slaughtered or exported, as well as the number of farmers concerned;
- (ii) the number of bovine animals other than calves in respect of which the slaughter premium has not been granted in respect of the preceding calendar year due to the application of national ceilings.

4 In the event of application of Article 68(2)(b)(ii) of Regulation (EC) No 1782/2003, the Member States shall notify the Commission:

- a annually by 15 September at the latest for information relating to the first six months of the current year, and 1 March for information relating to the second six months of the previous year, of the number of male bovines in respect of which the special premium has been applied for, broken down by age bracket and type of animal (bull or steer);
- b by 31 July at the latest in each year and for the preceding calendar year:
 - (i) of the number of male bovines for which the special premium was actually granted, broken down by age bracket and type of animal (bull or steer), and the number of farmers concerned;
 - (ii) of the number of animals broken down by age bracket for which the special premium was not granted in respect of the preceding calendar year due to the application of the regional ceiling.

5 Member States shall notify the Commission by 31 July at the latest in each year and for the preceding calendar year of the amounts of the premiums actually paid, according to the choice made as regards the partial implementation of the single payment scheme, after application of the reduction laid down in the second paragraph of Article 139 of Regulation (EC) No 1782/2003.

6 In the event of application of Article 71 of Regulation (EC) No 1782/2003, the Member States shall notify the Commission:

- a where applicable, annually by 15 September at the latest for information relating to the first six months of the current year, and 1 March for information relating to the second six months of the previous year, of the number of animals for which the deseasonalisation premium was actually granted, broken down according to whether they benefited from the first or second tranche of the special premium, and the number of farmers corresponding to each of the two age brackets;
- b by 31 July at the latest in each year and for the preceding calendar year of:
 - (i) the number of male bovines, broken down according to the limits laid down in Article 132(2) of Regulation (EC) No 1782/2003, for which the extensification payment was actually granted, as well as the number of farmers concerned, shown separately in accordance with those limits;
 - (ii) the number of cows and heifers, broken down according to the limits laid down in Article 132(2) of Regulation (EC) No 1782/2003 for which the extensification payment was actually granted, as well as the number of farmers, shown separately according to those limits;
 - (iii) the number of dairy cows for which the extensification payment was actually granted;
 - (iv) the number of animals for which the premium not affected by stocking density was actually granted, and the number of farmers concerned.

Status: Point in time view as at 06/01/2006.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1973/2004 (repealed). (See end of Document for details)

7 Member States shall communicate the details specified in this Article using the tables set out in Annexes XVIII and XIX.

SECTION 8

Transitional and final provisions

Article 132

Transitional provisions

The requirement to identify and register animals laid down in Article 138 of Regulation (EC) No 1782/2003 shall apply, for animals born before 1 January 1998, in accordance with the procedure laid down in Council Directive 92/102/EEC⁽¹⁷⁾, save in the case of animals which are the subject of intra-Community trade.

Article 133

Provisions applicable in the transitional period referred to in Article 71 of Regulation (EC) No 1782/2003

Without prejudice of the other Articles of this Chapter, Articles 96, 97, 98, 117 to 119 and 125 shall apply in the calendar years 2005 and 2006 as far as Member States decide to make use of the possibility provided for in Article 71 of Regulation (EC) No 1782/2003.

CHAPTER 14

Single Area Payment Scheme

(Article 143b of Regulation (EC) No 1782/2003)

Article 134

Minimum size of eligible area per holding

The minimum size of eligible area per holding for which payments may be requested at a level higher than 0.3 ha, as provided for in Article 143b(5) of Regulation (EC) No 1782/2003, is set out in Annex XX.

Article 135

Agricultural areas

The agricultural areas under the single area payment scheme, as provided for in Article 143b(4) of Regulation (EC) No 1782/2003, are set out in Annex XXI.

Status: Point in time view as at 06/01/2006.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1973/2004 (repealed). (See end of Document for details)

Article 136

Application of Regulation (EC) No 796/2004

Without prejudice to the third subparagraph of Article 143b (6) of Regulation (EC) No 1782/2003, Regulation (EC) No 796/2004 shall apply to the single area payment scheme except for Article 6(3), Article 7, Article 8(2)(b) and (c), Article 12(1)(c) and (2), Article 13(2) to (8), Article 14 (2) and (3), Articles 16 and 17, Article 21(3), Article 24(1)(b), (d) and (e), Article 26(1)(a), (b) and (c) and (2)(b), (c) and (d), Article 27(2) (g), (h), (i) and (j), Article 28(1)(d), Article 30(3), Article 31, Articles 34 to 40, Article 49(2) and (3), Article 50(2), (4), (5) and (6), Articles 51 to 64, Article 69 and Article 71(1) thereof.

Article 137

Single area payment application

1 The single area payment application shall be treated as a single application within the meaning of Article 2 (11) of Regulation (EC) No 796/2004 for the purposes of applying that Regulation.

2 The single area payment application shall indicate the areas eligible in accordance with the conditions referred to in Article 143b(5) of Regulation (EC) No 1782/2003.

Article 138

Reductions and exclusions in respect of eligibility conditions

1 Except in cases of *force majeure* or exceptional circumstances as defined in Article 72 of Regulation (EC) No 796/2004, where, as a result of an administrative or on-the-spot check, it is found that the established difference between the area declared and the area determined, within the meaning of point (22) of Article 2 of Regulation (EC) No 796/2004, is more than 3 % but no more than 30 % of the area determined, the amount to be granted under the single area payment scheme shall be reduced, for the year in question, by twice the difference found.

If the difference is more than 30 % of the area determined, no aid shall be granted for the year in question.

If the difference is more than 50 %, the farmer shall be excluded once again from receiving aid up to an amount which corresponds to the difference between the area declared and the area determined. That amount shall be off-set against aid payments to which the farmer is entitled in the context of applications he lodges in the course of the three calendar years following the calendar year of the finding.

2 Where differences between the area declared and the area determined result from irregularities committed intentionally, the aid to which the farmer would have been entitled shall not be granted for the calendar year in question.

Moreover, where that difference is more than 20 % of the area determined, the farmer shall be excluded once again from receiving aid up to an amount which corresponds to the difference between the area declared and the area determined. That amount shall be off-set against aid payments to which the farmer is entitled in the context of applications

Status: Point in time view as at 06/01/2006.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1973/2004 (repealed). (See end of Document for details)

he lodges in the course of the three calendar years following the calendar year of the finding.

3 For the purpose of establishing the area determined within the meaning of point (22) of Article 2 of Regulation (EC) No 796/2004, Article 143b(5) and the first subparagraph of Article 143b(6) of Regulation (EC) No 1782/2003 and Article 137 of this Regulation shall apply.

CHAPTER 15

COMPLEMENTARY NATIONAL DIRECT PAYMENTS

(Article 143c of Regulation (EC) No 1782/2003)

Article 139

Coefficient of reduction

Where in a given sector the complementary national direct payments would exceed the maximum level authorised by the Commission in accordance with Article 143c(7) of Regulation (EC) No 1782/2003, the rate of complementary national direct payments of the concerned sector shall be reduced proportionally by application of a coefficient of reduction.

Article 140

Controls and sanctions

1 Regulation (EC) No 796/2004 shall apply to the complementary national direct payment co-financed in accordance with Article 33h of Regulation (EC) No 1257/1999.

2 In case of no co-financing, new Member States concerned shall apply appropriate control measures in order to ensure that the conditions for the granting of the complementary national direct payments, defined by the Commission authorisation in accordance with Article 143c(7) of Regulation (EC) No 1782/2003, are complied with.

Article 141

Communications

New Member States shall submit a report providing information on the measures for the implementation of the complementary national direct payments before 30 June of the year following their implementation. The report shall cover at least the following:

- (a) any changes in the situation affecting the complementary national direct payments;
- (b) for each complementary national direct payment, the numbers of beneficiaries, hectares or units of payment paid;
- (c) a report on controls and sanctions applied in accordance with Article 140.

Status: Point in time view as at 06/01/2006.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1973/2004 (repealed). (See end of Document for details)

Article 142

State aid

Complementary National Direct Payments paid not in conformity with the authorisation by the Commission referred to in Article 143c(6) of Regulation (EC) No 1782/2003 shall be considered as unlawful State aid within the meaning of Council Regulation (EC) No 659/1999⁽¹⁸⁾.

CHAPTER 16

USE OF LAND SET ASIDE FOR THE PRODUCTION OF RAW MATERIALS

SECTION 1

Object and definitions

Article 143

Purpose

1 Land set aside in the context of the direct support schemes provided for in Regulation (EC) No 1782/2003 may be used, in accordance with Article 55(b) and the first indent of Article 107(3) thereof, for producing raw materials for the manufacture within the Community of products not primarily intended for human or animal consumption, under the conditions laid down in this Chapter.

2 No payment shall be made in respect of set-aside land on which sugarbeet, Jerusalem artichokes or chicory roots are grown. However, all the provisions of this Chapter shall apply to these crops grown on land set aside in the same way as if such a payment were made.

These raw materials may be grown on set-aside land provided that:

- a the sugarbeet does not serve for the production of sugar, as defined by Commission Regulation (EC) No 314/2002⁽¹⁹⁾, either as an intermediate product, co-product or by-product;
- b the chicory roots and Jerusalem artichokes do not undergo the process known as hydrolysis as defined by Regulation (EEC) No 314/2002, either in their natural state or as an intermediate product such as inuline, or as a co-product such as oligofructose, or as any by-products.

Article 144

Definitions

For the purposes of this Chapter:

- (a) ‘applicant’ means a farmer using the land set aside in accordance with Article 55(b) and the first indent of Article 107(3) of Regulation (EC) No 1782/2003;

Status: Point in time view as at 06/01/2006.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1973/2004 (repealed). (See end of Document for details)

- (b) 'collector' means any person signing a contract as provided for in Article 147 who purchases on his own account raw materials listed in Article 145 and intended for the uses provided for in Annex XXIII;
- (c) 'first processor' means any user of agricultural raw materials who undertakes the first processing thereof with a view to obtaining one or more of the products referred to in Annex XXIII to this Regulation.

SECTION 2

Contract

Article 145

Use of raw material

1 Any agricultural raw material may be grown on the areas set aside pursuant to Article 55(b) and the first indent of Article 107(3) of Regulation (EC) No 1782/2003.

The economic value of the products used for non-food purposes referred to in Annex XXIII to this Regulation obtained by processing raw materials shall be higher than that of all other products intended for other uses and obtained by such processing, as determined by the valuation method set out in Article 163(3) of this Regulation.

2 The raw materials referred to in paragraph 1 shall be covered by a contract in accordance with Article 147 of this Regulation, without prejudice to Article 148.

3 Applicants shall deliver all raw materials harvested to a collector or first processor who shall take delivery of them and ensure that an equivalent quantity of such raw materials is used within the Community for the manufacture of one or more end products intended for non-food purposes as listed in Annex XXIII.

Where the first processor uses the raw material actually harvested to manufacture an intermediate product or a by-product, he may use an equivalent quantity of such intermediate products or by-products to manufacture one or more end products as referred to in the first subparagraph.

In the case referred to in the second subparagraph, or where the collector sells an equivalent quantity of the raw material harvested, the first processor or the collector shall so inform the competent authority with whom the security is lodged. Where such equivalent quantity is used in a Member State other than that in which the raw material is harvested, the competent authorities of the Member States concerned shall inform each other of the details of such transaction.

4 In accordance with the national provisions governing contractual relations, the first processor may delegate to a third party the collection of the raw material from the farmer applying for the aid. The processor remains solely responsible with regard to the obligations laid down by this Chapter.

Status: Point in time view as at 06/01/2006.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1973/2004 (repealed). (See end of Document for details)

Article 146

Derogations

- 1 Notwithstanding Article 145(2) and (3), Member States may permit applicants to:
 - a use all the cereals or oilseeds covered by CN codes 1201 00 90, 1205 10 90, 1205 90 00, 1206 00 911206 00 91 and 1206 00 99 harvested:
 - (i) as fuel for heating their agricultural holding;
 - (ii) for the production on the holding of power or biofuels;
 - b process into biogas falling within CN code 2711 29 00, on their holdings, all raw materials harvested.
- 2 In the cases referred to in paragraph 1, applicants shall:
 - a undertake, by way of a declaration in place of the contract referred to in Article 147, to use or process directly the raw material covered by the declaration; Articles 147 to 164 shall apply *mutatis mutandis*;
 - b have all the raw material harvested weighed by a body or an undertaking designated by the Member State and keep separate accounts for the raw material used and the products and by-products resulting from its processing; however, in the case of cereals and oilseeds, and of straw, and where the entire plant is used, weighing may be replaced by volumetric measurement of the raw material.
- 3 Member States applying paragraph 1 shall introduce adequate control measures to ensure that the raw material is used directly on the holding or is processed into biogas falling within CN code 2711 29 00.
- 4 Cereals and oilseeds used in accordance with paragraph 1(a) shall be denatured in accordance with the method laid down by the Member State. The Member States may, however, authorise the oil produced by processing oilseeds in accordance with paragraph 1(a)(ii) to be denatured instead of the oilseeds themselves, provided that such denaturing takes place immediately after the seeds are processed into oil and that the use to which the seeds are put is checked.

Article 147

Contract

- 1 In support of their aid applications, applicants shall submit to their competent authorities the contracts they have concluded with a collector or a first processor. However, Member States may decide that the contract may only be concluded between an applicant and a first processor.
- 2 Applicants shall ensure that such contracts specify the following:
 - a the names and addresses of the parties to the contract;
 - b the duration of the contract;
 - c the species of all raw materials concerned and the area planted with each species;
 - d any conditions applicable to the delivery, and for oilseeds the forecast quantities, deemed representative by the competent authority, of the raw material in question;
 - e an undertaking to fulfil their obligations pursuant to Article 145(3);

Status: Point in time view as at 06/01/2006.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1973/2004 (repealed). (See end of Document for details)

f the intended primary end uses for the raw material, each end use complying with the conditions laid down in Articles 145(1) and 163(3).

3 Applicants shall ensure that the contracts are concluded in time to allow collectors or first processors to deposit a copy with their competent authorities within the time limits laid down in Article 157(1).

4 For the purposes of control, Member States may require each applicant to conclude a single supply contract for each raw material.

5 Where contracts relate to rapeseed, colza seed, sunflower seed or soya beans covered by CN codes 1205 10 90, 1205 90 00, 1206 00 91, 1206 00 99 or 1201 00 90, applicants shall ensure that, in addition to the information required under paragraph 2, they specify the total forecast quantity of by-products intended for uses other than human or animal consumption, expressed by species in both cases.

The quantities shall be calculated on the basis of the following ratios:

- a 100 kilograms of rapeseed and/or colza seed covered by CN code 1205 10 90 or 1205 90 00 shall be deemed equivalent to 56 kilograms of by-products;
- b 100 kilograms of sunflower seed covered by CN codes 1206 00 91 or 1206 00 99 shall be deemed equivalent to 56 kilograms of by-products;
- c 100 kg of soya beans covered by CN code 1201 00 90 shall be deemed equivalent to 78 kg of by-products.

Article 148

Raw materials which need not be covered by contracts

By way of derogation from Article 147, the raw materials listed in Annex XXII need not necessarily be covered by contracts.

To qualify for payments, applicants wishing to use land set aside for growing these raw materials shall submit a written declaration with their payment applications to the competent authorities in their Member States, to the effect that the raw materials concerned will only be used or sold for purposes in accordance with Annex XXIII.

Article 149

Soya bean meal equivalents for oleaginous by-products

1 The competent authorities concerned shall inform the Commission, as soon as possible and not later than 30 June of the year in which the raw materials are to be harvested, of the total quantity, by species, of by-products intended for human or animal consumption and resulting from the contracts as referred to in Article 147, covering rapeseed, colza seed, sunflower seeds and soya beans falling within CN codes 1205 10 90, 1205 90 00, 1206 00 91, 1206 00 99 or 1201 00 90, and the area by species of these oilseeds.

2 On the basis of the information provided pursuant to paragraph 1, the Commission shall calculate the forecast total quantity of by-products for human or animal consumption, expressed in terms of soya bean meal equivalent applying the following coefficients:

- soya cake: 48 %
- colza cake: 32 %
- sunflower cake: 28 %.

Status: Point in time view as at 06/01/2006.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1973/2004 (repealed). (See end of Document for details)

If, as a result of the calculation made pursuant to the first subparagraph, the Commission finds that there is an overrun of the 1 million tonnes ceiling for by-products intended for human or animal consumption, it shall fix, as soon as possible and not later than 31 July of the year in which the raw materials are to be harvested, the percentage reduction to be applied to each contract, for the purpose of calculating the maximum quantity of by-products for human or animal consumption.

SECTION 3

Amendment and termination of contracts

Article 150

Amendment and termination of contracts

Where the parties to a contract amend or terminate the contract after applicants have lodged an aid application, applicants may maintain such aid applications only on condition that, with a view to allowing the requisite inspections to be carried out, they inform their competent authorities of such amendment or termination, no later than the closing date set in the Member State concerned for amendment of the application.

Article 151

Exceptional circumstances

Without prejudice to Article 150, where applicants inform their competent authorities that, owing to exceptional circumstances, they will be unable to supply all or part of the raw materials specified in the contract, the competent authorities may, after obtaining sufficient evidence of such exceptional circumstances, authorise such amendments to contracts as appear justified, or may authorise their termination.

Where the land covered by a contract is reduced as a result of amendments thereto, or where a contract is terminated, then, in order to maintain their right to payments, applicants shall:

- (a) once more set aside the land in question by any means permitted by the competent authorities;
- (b) abstain from selling, transferring or using raw materials grown on land struck out of the contracts.

Article 152

Changes in end uses

Without prejudice to Article 150, collectors or first processors may alter the intended primary end uses of raw materials, as referred to in Article 147(2)(f), once the raw materials under contract have been delivered to them and once the conditions laid down in Article 154(1) and the first subparagraph of Article 157(3) have been fulfilled.

Changes in end uses shall be made in compliance with the conditions laid down in the second subparagraph of Article 145(1) and Article 163(3).

Status: Point in time view as at 06/01/2006.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1973/2004 (repealed). (See end of Document for details)

The collectors or first processors shall give prior notice to their competent authorities with a view to the requisite controls.

SECTION 4

Representative yields and quantities delivered

Article 153

Representative yields

Each year the Member States shall establish, using an appropriate procedure, representative yields which must be attained, and shall inform the applicants concerned thereof.

However, the raw materials listed in Annex XXII may be exempt from the representative yields.

Article 154

Quantities to be delivered

1 Applicants shall declare the total quantity of raw materials harvested by species to their competent authorities and shall confirm the quantities of raw materials delivered and the parties to whom such deliveries are made.

2 The actual quantities to be delivered by the applicants to the collectors or first processors must at least correspond to the representative yield.

However, in duly justified cases, the Member States may, by way of an exception, accept a quantity up to 10 % below the representative yield.

Furthermore, where the competent authorities have authorised the amendment or termination of contracts in accordance with Article 151, they may, where it seems justified to do so, reduce the quantities that applicants are required to deliver under the first subparagraph.

SECTION 5

Conditions of payment of the aid

Article 155

Payment

1 The aid may be paid to applicants before the raw material is processed. However, such payments shall only be made where the requisite quantities of raw materials pursuant to this Chapter have been delivered to the collector or first processor and where:

- a the declaration provided for in Article 154(1) has been made;

Status: Point in time view as at 06/01/2006.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1973/2004 (repealed). (See end of Document for details)

- b a copy of the contract has been deposited with the collector's or first processor's competent authority in accordance with Article 158(1) and the conditions referred to in Article 145(1) have been fulfilled;
- c the competent authority has received proof that the full security provided for in Article 158(2) has been lodged;
- d the competent authority responsible for the payment has checked that the conditions laid down in Article 147 have been met in respect of each application.

2 In the case of biennial crops, where the raw materials are harvested, and hence delivered, in the course of the second year of cultivation only, payment shall be made in each of the two years following the conclusion of the contract as provided for in Article 147, on condition that the competent authorities establish that:

- a the obligations referred to in paragraph 1(b), (c) and (d) of this Article are fulfilled as from the first year of cultivation; and
- b the obligations referred to in paragraph 1(a) are fulfilled, and the information referred to in the first subparagraph of Article 157(3) is communicated, in the second year of cultivation.

In respect of the first year of cultivation, payments shall be made only if the competent authorities have received proof that the security provided for in Article 158(2) has been lodged. In respect of the second year of cultivation, payment may be made without the security being lodged.

3 In the case of permanent or multiannual crops, the payment of the aid shall be made each year from the date of conclusion of the contract. The conditions laid down in paragraph 2 shall be applied *mutatis mutandis*.

SECTION 6

Obligations on collectors and applicants

Article 156

Number of processors

Non-food products shall be produced at the most by a third successive processor.

Article 157

Obligations

1 Collectors or first processors shall deposit a copy of the contract with their competent authorities under a timetable to be established by the Member State concerned and no later than the closing date for the submission of aid applications for the year in question in the Member State concerned.

Where applicants and collectors or first processors amend or terminate contracts prior to the date referred to in Article 150 in a given year, the collectors or first processors shall deposit with their competent authorities a copy of the amended or terminated contract, no later than that date.

Status: Point in time view as at 06/01/2006.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1973/2004 (repealed). (See end of Document for details)

2 First processors shall provide their competent authorities with the requisite information on the processing chain in question, in particular as regards prices and the technical processing coefficients to be used for determining the quantities of end products that may be obtained as referred to in the second subparagraph of Article 164(2).

3 Collectors or first processors who have taken over the raw materials from applicants shall inform their competent authorities of the quantities of raw materials received, specifying the species, the name and address of the party to the contract who delivered the raw materials, the place of delivery and the contract reference, within a time limit to be set by the Member States that allows the payments to be made within the period specified in Article 28 of Regulation (EC) No 1782/2003.

Where the Member States of the collectors or first processors are not the same as the Member States in which the raw materials have been grown, the competent authorities concerned shall inform the competent authorities of the applicants of the total quantities of raw materials delivered within 40 working days of receipt of the information referred to in the first subparagraph.

SECTION 7

Securities

Article 158

Securities lodged by collectors or first processors

1 Collectors or first processors shall lodge a full security as provided for in paragraph 2 with their competent authorities by the closing date for submission of payment applications for the year in question in the Member State concerned.

2 The securities to be lodged in respect of each raw material shall be calculated by multiplying the sum of all areas covered by a contract signed by the collector or first processor concerned and used to produce that raw material by the rate of EUR 250 per hectare.

3 Where contracts are amended or terminated in accordance with Articles 150 or 151, the securities lodged shall be adjusted accordingly.

4 A percentage of the security shall be released for each raw material on condition that the competent authority of the collector or first processor concerned is in possession of proof:

- a that the quantity of raw material in question has been processed in accordance with the uses referred to in Article 147(2)(f), account being taken, where necessary, of any changes pursuant to Article 152; and
- b where contracts relate to rapeseed, colza seed, sunflower seed or soya beans covered by CN codes 1205 00 90, 1206 00 91, 1206 00 99 or 1201 00 90 and the procedure laid down in the second subparagraph of Article 149(2) applies, that the quantity of by-products in excess of the maximum quantity for human or animal consumption has found outlets other than the feed or foodstuffs markets.

5 Without prejudice to paragraph 4, where the security has been lodged by the collector, it shall be released once the raw material in question has been delivered to the first processor, provided that the collector's competent authority has proof that the first processor has lodged an equivalent security with their competent authority.

Status: Point in time view as at 06/01/2006.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1973/2004 (repealed). (See end of Document for details)

Article 159

Primary and subordinate requirements

1 The following obligations shall constitute primary requirements within the meaning of Article 20 of Regulation (EEC) No 2220/85:

- a the obligation to process the quantities of raw materials principally into the end products specified in the contract. The raw materials shall be processed by 31 July of the second year following that of harvest;
- b the obligation to find, before the date referred to in point (a), outlets other than the feed or foodstuffs markets for the quantities of by-products in excess of the maximum quantity for human or animal consumption, where the procedure provided for in the second subparagraph of Article 149(2) of this Regulation applies;
- c the obligation that products be accompanied by a T5 control copy in accordance with Articles 160 and 161 of this Regulation.

2 The following obligations, incumbent on collectors or processors, shall constitute subordinate requirements within the meaning of Article 20 of Regulation (EEC) No 2220/85:

- a the obligation to take delivery of all raw materials delivered by applicants pursuant to Article 145(3) of this Regulation;
- b the obligation to deposit copies of contracts in accordance with Article 157(1) of this Regulation;
- c the obligation to provide the information required in accordance with the first subparagraph of Article 157(3) of this Regulation;
- d the obligation to lodge a security in accordance with Article 158(1) of this Regulation.

SECTION 8

Documents for sale in, transfer to, or delivery to another Member State or export

Article 160

T5 control copy

1 Where processors sell or transfer to processors in other Member States intermediate products covered by contracts as provided for in Article 147, the products shall be accompanied by T5 control copies issued in accordance with Regulation (EEC) No 2454/93.

Where collectors sell or transfer to first processors established in other Member States raw materials covered by contracts, the first subparagraph shall apply.

- 2 One of the following shall be entered under 'Other' in box 104 of the T5 control copy:
- Producto destinado a su transformación o entrega de acuerdo con lo establecido en el artículo 147 del Reglamento (CE) nº 1973/2004 de la Comisión;
 - Použito pro zpracování nebo dodávku v souladu s článkem 147 nařízení Rady (ES) 1973/2004
 - Skal anvendes til forarbejdning eller levering i overensstemmelse med artikel 147 i Kommissionens forordning (EF) nr. 1973/2004

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Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1973/2004 (repealed). (See end of Document for details)

- Zur Verarbeitung oder Lieferung gemäß Artikel 147 der Verordnung (EG) Nr. 1973/2004 der Kommission zu verwenden
- Προς χρήση για μεταποίηση ή παράδοση σύμφωνα με το άρθρο 147 του κανονισμού (ΕΚ) αριθ. 1973/2004 της Επιτροπής
- To be used for processing or delivery in accordance with Article 147 of Commission Regulation (EC) No 1973/2004
- Kasutamiseks töötlemisel või tarnimisel vastavalt komisjoni määruse (EÜ) nr 1973/2004 artiklile 147
- À utiliser pour transformation ou livraison conformément aux dispositions de l'article 147 du règlement (CE) n° 1973/2004 de la Commission
- Da consegnare o trasformare conformemente all'articolo 147 del regolamento (CE) n. 1973/2004 della Commissione
- Izmantot pārstrādei vai piegādei saskaņā ar Komisijas Regulas (EK) Nr. 1973/2004 147. panta nosacījumiem
- Naudoti perdirbimui arba pristatymui pagal Komisijos reglamento (EB) Nr. 1973/2004 147 straipsnio nuostatas
- A Bizottság 2004/1973/EK rendelete szerint feldolgozásra, vagy átadásra használandó
- Te gebruiken voor verwerking of aflevering overeenkomstig artikel 147 van Verordening (EG) nr. 1973/2004 van de Commissie
- Do wykorzystania w procesie przetwórstwa bądź do dostawy zgodnie z postanowieniami zawartymi w art. 147 rozporządzenia Komisji (WE) nr 1973/2004
- A utilizar para transformação ou entrega em conformidade com o artigo 147 do Regulamento (CE) n.º 1973/2004 da Comissão
- Na spracovanie alebo dodávku v súlade s článkom 147 nariadenia Komisie (ES) č. 1973/2004
- Se uporablja za predelavo ali dostavo v skladu s členom 147 Uredbe Komisije (ES) št. 1973/2004
- Käytetään jalostamiseen tai toimittamiseen komission asetuksen (EY) N:o 1973/2004 147 artiklan mukaisesti
- Används till bearbetning eller leverans i enlighet med artikel 147 i kommissionens förordning (EG) nr 1973/2004.

Article 161

T5 control copy for export

Where one or more end products, intermediate products, co-products or by-products covered by contracts as provided for in Article 147 are intended for export to third countries, a T5 control copy shall be drawn up by the competent authority of the Member State in which those products are obtained to cover their transport within the Community.

One of the following shall be entered under 'Other' in box 104 of the T5 control copy:

- Este producto no podrá acogerse a ninguna de las medidas previstas en el apartado 2 del artículo 1 del Reglamento (CE) n° 1258/1999 del Consejo
- Pro tento produkt nemůže být poskytnuto financování podle čl. 1 odst. 2 nařízení (ES) č. 1258/1999 Rady
- De finansieringsforanstaltninger, der er omhandlet i artikel 1, stk. 2, i Rådets forordning (EF) nr. 1258/1999, kan ikke anvendes på dette produkt

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Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1973/2004 (repealed). (See end of Document for details)

- Dieses Erzeugnis kommt für keine Finanzierungen gemäß Artikel 1 Absatz 2 der Verordnung (EG) Nr. 1258/1999 des Rates in Betracht
- Το προϊόν αυτό δεν μπορεί να τύχει καμιάς από τις χρηματοδοτήσεις που προβλέπονται στο άρθρο 1 παράγραφος 2 του κανονισμού (ΕΚ) αριθ. 1258/1999 του Συμβουλίου
- This product shall not qualify for any benefit pursuant to Article 1(2) of Council Regulation (EC) No 1258/1999
- Kõnealuse toote puhul nõukogu määruse (EÜ) nr 1258/1999 artikli 1 lõikele 2 vastavaid soodustusi ei anta.
- Ce produit ne peut pas bénéficier des financements prévus à l'article 1^{er}, paragraphe 2, du règlement (CE) n° 1258/1999 du Conseil
- Questo prodotto non può beneficiare delle misure di cui all'articolo 1, paragrafo 2 del regolamento (CE) n. 1258/1999 del Consiglio
- Šis produkts nevar saņemt Padomes Regulas (EK) Nr. 1258/1999 1. panta 2. punktā noteikto finansējumu
- Šiam produktui netaikoma jokia išmoka pagal Tarybos reglamento (EB) Nr. 1258/1999 1 straipsnio 2 punktą.
- Ez a termék nem jogosult az 1258/1999/EK tanácsi rendelet 1. cikkének (2) bekezdése szerinti semmilyen ellátásra
- Dit product komt niet in aanmerking voor financieringen zoals bedoeld in artikel 1, lid 2, van Verordening (EG) nr. 1258/1999 van de Raad
- Ten produkt nie kwalifikuje się do finansowania przewidzianego w art. 1 ust. 2 rozporządzenia Rady (WE) nr 1258/1999
- O presente produto não pode beneficiar de medidas ao abrigo do n.º 2 do artigo 1.º do Regulamento (CE) n.º 1258/1999 do Conselho
- Tento produkt nie je oprávnený na financovanie uvedené v odseku 2 článku 1 nariadenia Rady (ES) č. 1258/1999
- Ta proizvod ni upravičen do financiranja iz člena 1(2) Uredbe Sveta (ES) št. 1258/1999
- Tähän tuotteeseen ei sovelleta neuvoston asetuksen (EY) N:o 1258/1999 1 artiklan 2 kohdan mukaisia toimenpiteitä
- De åtgärder som avses i artikel 1.2 i rådets förordning (EG) nr 1258/1999 kan inte användas för denna produkt.

The first and second subparagraphs shall apply only where end products listed in Annex XXIII, intermediate products, co-products or by-products covered by contracts as provided for in Article 147 would attract export refunds if they were obtained from raw materials grown otherwise than under this scheme.

Article 162

Alternatives to the T5 control copy

Notwithstanding Article 159(1)(b), if the T5 control copy is not returned to the office of departure of the body responsible for control in the Member State in which the collector or the first processor is established two months after expiry of the deadline provided for in Article 159(1)(a), as a result of circumstances for which the first processor is not responsible, the following documents may be accepted as alternatives to the T5 control copy:

- (a) purchase invoices for the intermediate products;

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Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1973/2004 (repealed). (See end of Document for details)

- (b) statements by the final processor verifying final processing into non-food products;
- (c) certified photocopies from the final processor of accounting documents proving that processing has been carried out.

SECTION 9

Checks

Article 163

Record keeping

1 The competent authority of the Member State shall specify the records to be kept by collectors or processors and the frequency thereof, which shall be at least monthly.

In the case of collectors, such records shall include at least the following information:

- a the quantities of all raw materials purchased and sold for processing under this scheme;
- b the names and addresses of the first processors.

In the case of processors, such records shall include at least the following information:

- a the quantities of different raw materials purchased for processing;
- b the quantities of raw materials processed and the quantities and types of end products, co-products and by-products obtained therefrom;
- c wastage during processing;
- d the quantities destroyed and the reasons for such destruction;
- e the quantities and types of products sold or transferred by the processor and the prices obtained;
- f where applicable, the names and addresses of the subsequent processors.

2 The competent authority of the collector or the first processor shall check that the contract submitted complies with the conditions laid down in Article 145(1). Where those conditions are not met, the applicant's competent authorities shall be notified.

3 With a view to calculating the economic value of the products referred to in Article 145(1), the competent authorities concerned shall, on the basis of the information referred to in Article 157(2), compare the sum of the values of all non-food products with the sum of the values of all other products intended for other uses and obtained from the same processing operation. Each value shall equal the relevant quantity multiplied by the average of the ex-factory prices recorded during the previous marketing year. Where such prices are not available, the competent authorities shall determine the relevant prices, in particular on the basis of the information referred to in Article 157(2).

Article 164

Checks at the premises of collectors and processors

1 The competent authorities of the Member States in which collectors are located shall carry out checks on the premises of at least 25 % of the collectors established in their territory, selected on the basis of a risk analysis. These shall comprise physical checks and inspections

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Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1973/2004 (repealed). (See end of Document for details)

of commercial documents, with a view to verifying consistency between the purchases of raw materials and the corresponding deliveries.

2 The competent authorities of the Member States in which processing takes place shall verify compliance with Article 146(1) at the premises of at least 25 % of the processors located in their territory, selected on the basis of a risk analysis. Such checks shall involve at least:

- a a comparison of the sum of the values of all the non-food products with the sum of the values of all other products intended for other uses and obtained from the same processing operation;
- b analysis of the processor's production system, comprising physical checks and inspections of commercial documents, with a view to verifying, in the case of processors, that deliveries of raw materials, end products, co-products and by-products tally.

For the purpose of the checks referred to in point (b) of the first subparagraph, the competent authorities shall base themselves in particular on the technical processing coefficients for the raw materials concerned. Where such coefficients exist for exports in Community legislation, they shall be applied. Where they do not but other coefficients do exist in Community legislation, they shall be applied. In all other cases, inspection shall rely mainly on the coefficients generally accepted by the processing industry.

3 For the processing operations referred to in Article 146, checks shall be carried out on 10 % of applicants selected on the basis of a risk analysis taking account of:

- a aid amounts;
- b the number of agricultural parcels and the area covered by an aid application;
- c developments since the previous year;
- d the findings of checks made in past years;
- e other parameters to be defined by the Member States, based on the representativeness of the declarations submitted.

4 Where the checks referred to in paragraph 3 reveal irregularities in at least 3 % of cases, the competent authority shall carry out additional checks during the year and shall consequently increase the percentage of farmers to be subject to an on-the-spot check the following year.

5 If it has been provided that certain elements of the checks referred to in paragraphs 1, 2 and 3 may be carried out on the basis of a sample, that sample must guarantee a reliable and representative level of inspection.

6 Every on-the-spot check shall be the subject of an inspection report signed by the inspector giving the details of the checks carried out. The reports shall indicate in particular:

- a the date of the check;
- b the persons present;
- c the period checked;
- d the checking techniques used including, where applicable, reference to sampling methods;
- e results of the check.

Status: Point in time view as at 06/01/2006.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1973/2004 (repealed). (See end of Document for details)

Article 165

Production of hemp

The provisions relating to hemp referred to in Article 29 of Regulation (EC) No 795/2004 and in Article 33 of Regulation (EC) No 796/2004 shall apply.

Article 166

Additional measures and mutual assistance

1 The Member States shall take all further measures required for the proper application of this Chapter and shall give the mutual assistance needed for the purposes of checks required pursuant to this Chapter. Where this Chapter does not provide for appropriate reductions and exclusions, the Member States may apply appropriate national sanctions against market participants involved in the procedure for granting aid.

2 As far as necessary or as required by this Chapter, the Member States shall assist one another mutually to ensure effective checks, and enable the authenticity of documents submitted and the accuracy of the data exchanged to be verified.

SECTION 10

Exclusion from the scheme and notifications

Article 167

Exclusion of raw materials from the scheme

The Member States may exclude any agricultural raw material from the scheme established by this Chapter where such materials raise difficulties from the viewpoint of controls, public health, the environment, criminal law, or a reduced rate of final non-food products.

Article 168

Minimum area

Member States may fix a minimum cultivated area for each raw material referred to in Article 145(1).

Article 169

Notifications

The Member States shall forward to the Commission, before 15 October of the year following the end of the year in question, the following information:

Status: Point in time view as at 06/01/2006.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1973/2004 (repealed). (See end of Document for details)

- (a) the areas which result from the contracts referred to in Article 147 and the declarations referred to in Articles 146(2) and 148, for each raw material;
- (b) the quantities of each type of raw material, end product, by-product and co-product obtained, with details of the type of raw material used;
- (c) the measures taken under Article 146;
- (d) the raw materials excluded from the scheme under Article 167;
- (e) the minimum areas fixed in accordance with Article 168.

CHAPTER 17

HOPS AREA AID

Article 170

Additional payment to hop farmers

1 The additional payment referred to in the second paragraph of Article 68a of Regulation (EC) No 1782/2003 shall be granted to farmers producing hops on a per hectare basis for the areas respecting the conditions laid down in Article 110o of that Regulation, provided that:

- a) they have been planted at a uniform density of at least 1 500 plants per hectare in the case of double stringing/wiring, or 2 000 plants per hectare in the case of single stringing/wiring;
- b) they have undergone normal tending operations.

2 An area 'planted with hops' as referred to in the second indent of Article 110o of Regulation (EC) No 1782/2003 shall mean the area bounded by a line joining the outer stays of the poles. Where there are hop plants on that line, an additional strip of a width corresponding to the average width of an alleyway within that parcel shall be added to each side of that area. The additional strip must not form part of a public right of way. The two headlands at the ends of the hop rows that are needed for manoeuvring agricultural machinery are included in the area, provided that the length of neither headland exceeds eight metres and they do not form part of a public right of way.

3 Areas planted with young hop plants grown chiefly as nursery products are not eligible for the additional payment.

4 The total sum available for additional payments shall be distributed evenly over the eligible areas planted with hops on the territory of the Member State concerned.

Article 171

Payments to recognised hop producer groups

1 Recognised producer groups shall apply for the payment referred to in the second paragraph of Article 68a of Regulation (EC) No 1782/2003 not later than 1 September of the year of the harvest.

Status: Point in time view as at 06/01/2006.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1973/2004 (repealed). (See end of Document for details)

2 The sum paid to the recognised producer group shall be committed for the measures laid down in Article 7(1)(a) to (d) of Regulation (EEC) No 1696/71 within 3 years from the date of payment. Any amount not committed within this period shall be paid back to the paying agency and deducted from the expenditure financed under the EAGGF Guarantee Section.

3 Aid withheld in respect of the harvests preceding the 2005 harvest in conformity with Article 12(5)(c) of Regulation (EEC) No 1696/71 shall be spent before 31 December 2008.

4 A Member State making payments to recognised producer groups shall send on an annual basis a report to the Commission on the use of the payment by the producer groups recognised by it, including a description of the measures laid down in Article 7(1)(a) to (d) of Regulation (EEC) No 1696/71 financed by means of the payment. The report shall be sent by 30 June of each year at the latest.

5 The total sum available in a given Member State as payments to recognised producer groups referred to in the second paragraph of Article 68a of Regulation (EC) No 1782/2003 shall be distributed to those groups in proportion to the areas respecting the conditions in Article 170 of this regulation for which their members have submitted an application pursuant to Title II of part II of Regulation (EC) No 796/2004.

[^{F2}CHAPTER 17a

CROP-SPECIFIC PAYMENTS FOR COTTON

Article 171a

Authorisation of agricultural land for cotton production

The Member States shall establish objective criteria on the basis of which land is authorised for the crop-specific payment for cotton provided for in Article 110a of Regulation (EC) No 1782/2003.

These criteria shall be based on one or more of the following:

- (a) the agricultural economy of those regions where cotton is a major crop;
- (b) the soil and climate in the areas in question;
- (c) the management of irrigation water;
- (d) rotation systems and cultivation methods likely to respect the environment.

Article 171aa

Authorisation of varieties for sowing

The Member States shall authorise the varieties registered in the Community catalogue that are adapted to market needs.

Status: Point in time view as at 06/01/2006.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1973/2004 (repealed). (See end of Document for details)

Article 171ab

Eligibility requirements

Sowing the areas referred to in Article 110b(1) of Regulation (EC) No 1782/2003 shall be done by achieving a minimum plant density, to be fixed by the Member State on the basis of the soil and weather conditions and specific regional characteristics, where appropriate.

Article 171ac

Agronomic practices

The Member States shall be authorised to establish specific rules on the agronomic practices needed to maintain the crops under normal growing conditions, with the exception of harvesting operations.

Article 171ad

Calculating the amount of aid per eligible hectare

1 Notwithstanding Article 171ag of this Regulation, in the case of Spain and Portugal, if the area under cotton eligible for the aid payment exceeds the national base area fixed in Article 110c(1) of Regulation (EC) No 1782/2003, the amount of aid laid down in paragraph 2 of that Article shall be multiplied by a reduction coefficient, obtained by dividing the base area by the eligible area.

2 Notwithstanding Article 171ag of this Regulation, in the case of Greece, if the area under cotton eligible for the aid payment exceeds 300 000 hectares, the amount of aid payable per hectare shall be obtained by multiplying EUR 594 by 300 000 hectares, adding an additional amount multiplied by the area exceeding 300 000 and then dividing that sum by the total area eligible.

The additional amount referred to in the first paragraph shall be:

- EUR 342,85 if the eligible area exceeds 300 000 but is equal to or less than 370 000 hectares,
- EUR 342,85 multiplied by a reduction coefficient equal to 70 000 divided by the number of eligible hectares exceeding 300 000, if the eligible area exceeds 370 000 hectares.

f⁷ Article 171ae

Authorisation of inter-branch organisations

1 Before 31 December each year, Member States shall authorise for the following year any inter-branch cotton-producing organisation that applies to plant cotton and which:

- a covers a total area of at least 10 000 ha as established by the Member State and meeting the authorisation criteria laid down in Article 171a, and which includes at least one ginning undertaking;
- b conducts clearly identified measure geared in particular towards:

Status: Point in time view as at 06/01/2006.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1973/2004 (repealed). (See end of Document for details)

- improving the commercial value of the unginned cotton produced,
 - improving the quality of unginned cotton meeting the ginner's needs,
 - using environmentally-sensitive production methods;
- c has adopted internal operating rules, in particular on:
- membership conditions and fees, in accordance with national and Community rules and regulations;
 - where appropriate, a scale differentiating the aid by parcel category, established in particular on the basis of the quality of the unginned cotton to be supplied.

However, for 2006, Member States shall authorise the inter-branch cotton-producing organisations by 28 February 2006.

2 Where it is found that an approved inter-branch organisation does not respect the criteria for approval provided for in paragraph 1, the Member State shall withdraw the approval unless the non-respect of the criteria concerned is remedied within a reasonable period of time. Where it is planned to withdraw the approval, the Member State shall notify that intention to the inter-branch organisation, together with the reasons for the withdrawal. The Member State shall allow the inter-branch organisation to submit its observations within a specified period. In case of withdrawal, the Member States shall provide for the application of appropriate sanctions.

Farmers who are members of an approved inter-branch organisation whose approval is withdrawn in accordance with the first subparagraph shall lose their right to the increase of the aid provided for in Article 110f (2) of Regulation (EC) No 1782/2003.]

Textual Amendments

- F7** Substituted by [Commission Regulation \(EC\) No 2184/2005 of 23 December 2005 amending Regulations \(EC\) No 796/2004 and \(EC\) No 1973/2004 laying down detailed rules for the application of Council Regulation \(EC\) No 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers.](#)

Article 171af

The producers' obligations

- 1 A producer shall not be a member of more than one inter-branch organisation.
- 2 A producer who is a member of an inter-branch organisation shall deliver his cotton to a ginner belonging to that same organisation.
- 3 The participation of producers in an approved inter-branch organisation must be the result of voluntary membership.

Article 171ag

Aid differentiation

- 1 By including the increase provided for in Article 110f(2) of Regulation (EC) No 1782/2003, the scale referred to in Article 110e of that Regulation (hereinafter the scale) shall establish:

Status: Point in time view as at 06/01/2006.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1973/2004 (repealed). (See end of Document for details)

- a the aid amounts per eligible hectare that a member producer is eligible to receive based on the classification of his parcels in the established categories referred to in paragraph 2;
- b the method for each parcel category, in accordance with paragraph 2, of allocating the entire sum reserved for differentiating the aid.

For the purposes of applying point (a) the basic amount shall be at least equal to the non-differentiated part of the eligible aid per hectare laid down in Article 110c(2) of Regulation (EC) No 1782/2003, adapted, if appropriate, in accordance with paragraph 3 of that Article.

The calculation referred to in point (a) shall also apply in cases where no cotton is delivered to the ginner. In that case the minimum aid per eligible hectare that the member producer is to receive shall be at least equal to the non-differentiated part of the aid per eligible hectare laid down in Article 110c(2) of Regulation (EC) No 1782/2003, adapted, if appropriate, in accordance with paragraph 3 of that Article.

2 The parcels shall be classified into several categories, established by the inter-branch organisations on the basis of at least one of the following quality criteria:

- a length of the cotton fibre produced;
- b the cotton's moisture content;
- c the cotton's average impurity content.

The scale shall lay down the procedures for evaluating each parcel against the criteria and for classifying it in one of the established categories.

In no case shall the scale include criteria associated with an increase in production or the cotton's placement on the market.

In order to apply the scale, all the parcels belonging to a single producer may be considered as being of the same average parcel category and producing the same quality cotton.

3 If necessary, in order to classify unginned cotton within the scale by parcel category, it shall be analysed on the basis of representative samples upon its delivery to the ginning undertaking, in the presence of all the parties concerned.

4 The inter-branch organisation shall notify the paying agency of the amount to be paid to each of its producers, based on the application of the scale. The paying agency shall make payment once it has checked the conformity and eligibility of the aid amounts in question.

Article 171ah

Approval and amendment of the scale

1 The scale shall be notified for the first time to the Member State in question, with a view to its approval by 28 February 2006 for the 2006 sowing season.

The Member State may decide to approve or reject the scale within one month of its transmission.

2 Before 31 January, approved inter-branch organisations shall notify the Member State concerned of amendments made to the scale for sowings in the current year.

Status: Point in time view as at 06/01/2006.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1973/2004 (repealed). (See end of Document for details)

The amendments made to the scale shall be deemed approved, unless the Member State receives objections within one month of the date laid down in the first paragraph.

Should the amendments made to the scale not be approved, the aid payable shall be that calculated on the basis of the scale actually approved, with no account being taken of the unapproved amendments.

3 If the inter-branch organisation decides to suspend application of the scale, it shall inform the Member State accordingly. The suspension shall take effect for the following year's sowing season.

Article 171ai

Communications to the producers and Commission

1 Before January 31 of the year in question, Member States shall notify cotton growers and the Commission of:

- a the approved varieties; however, varieties approved in accordance with Article 171aa after that date must be notified to the growers before 15 March in the same year;
- b the criteria for approving land;
- c the minimum cotton plant density referred to in Article 171ab;
- d the required agronomic practices.

2 Where approval for a variety is withdrawn, the Member States shall inform the growers no later than 31 January for the purposes of the following year's sowing season.

3 The Member States shall send the Commission the following information:

- a no later than 30 April of the year concerned, the names of the approved inter-branch organisations and their main features as regards their land area, production potential, number of growers, number of ginners and ginning potential;
- b no later than 15 September of the year concerned, the area planted to cotton for which applications for the crop-specific cotton payment have been lodged;
- c no later than 31 July of the following year, the final data corresponding to the areas or quantities planted for which the specific cotton aid has actually been paid for the year concerned, after, where applicable, the deduction of the reductions in area provided for in Part II, Title IV, Chapter 1 of Regulation (EC) No 796/2004.]

[F²CHAPTER 17b

AID FOR OLIVE GROVES

Article 171b

Categories of olive groves

1 The Member States shall identify the olive groves eligible for the aid laid down in Article 110g of Regulation (EC) No 1782/2003 and shall classify them in a maximum of five categories on the basis of criteria chosen from among the following:

- a environmental criteria:
 - (i) difficulty of access to the parcels;

Status: Point in time view as at 06/01/2006.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1973/2004 (repealed). (See end of Document for details)

- (ii) risk of physical degradation of the land;
 - (iii) olive groves with special features: old trees, cultural value or value for the landscape, sloping land, traditional or rare varieties, or situated in protected natural areas;
 - b social criteria:
 - (i) areas with a heavy economic dependence on olive-growing;
 - (ii) areas with a tradition of olive cultivation;
 - (iii) areas with negative economic indicators;
 - (iv) holdings at risk of abandoning olive groves;
 - (v) the size of olive groves on a holding;
 - (vi) areas with special features such a PDO or PGI production, organic or integrated farming.
- 2 Member States shall determine, for each farmer concerned, which of the categories listed in paragraph 1 each olive-growing parcel eligible for aid belongs to. This information shall be recorded in the olive GIS.

3 Member States may adjust the categories of olive groves identified under paragraph 1 once a year.

Where the adjustment of categories results in a reclassification of the olive groves, the new classification shall apply from the year following that in which the adjustment takes place.

Article 171ba

Calculation of areas

1 The Member States shall calculate for each producer the area eligible for the aid using the common methodology set out in Annex XXIV.

The areas shall be declared in olive GIS-ha to two decimal places.

2 Notwithstanding paragraph 1, the common methodology set out in Annex XXIV shall not apply when:

- a the olive-growing parcel is of a minimum size, to be determined by the Member State but not exceeding 0,1 hectare;
- b the olive-growing parcel is located in an administrative unit that does not appear in the olive-GIS's graphical reference database.

In this case, the Member State shall determine the olive-growing area on the basis of objective criteria and in a manner ensuring equal treatment of farmers.

Status: Point in time view as at 06/01/2006.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1973/2004 (repealed). (See end of Document for details)

Article 171bb

Amount of aid

1 The Member States shall establish before 31 January each year the indicative amount of aid per olive GIS-ha for each category of olive grove.

2 The Member States shall fix, before 31 October of the year in question, the amount of aid per olive GIS-ha for each category of olive grove.

This amount shall be calculated by multiplying the indicative amount referred to in paragraph 1 by a coefficient which corresponds to the maximum amount of aid laid down in Article 110i(3) of Regulation (EC) No 1782/2003, taking into account, where applicable, the reduction provided for in paragraph 4 of that Article, divided by the sum of the amounts produced by multiplying the indicative aid amount referred to in paragraph 1 of this Article, laid down for each category, by the corresponding area.

3 Member States may apply paragraphs 1 and 2 on a regional basis.

Article 171bc

Establishing the basic data

1 For the purpose of applying Article 110h(c) of Regulation (EC) No 1782/2003, the Member States shall use data from the olive GIS and of farmers' declarations to establish on 1 January 2005 the following information for each olive-growing parcel: number and location of eligible olive trees, number and location of ineligible olive trees, the olive-growing area and eligible area of the olive-growing parcel as well as the relevant category referred to in Article 171b.

2 In the case of areas planted with olive trees under new plantation programmes in France and Portugal, approved by the Commission under Article 4 of Council Regulation (EC) No 1638/98⁽²⁰⁾, and recorded in the olive GIS before 1 January 2007, the Member States shall establish the information referred to in paragraph 1, as at 1 January 2006 for parcels planted in 2005 and as at 1 January 2007 for parcels planted in 2006. This information shall be notified to farmers in the 2007 single application at the latest.

Article 171bd

Communications

Member States shall communicate to the Commission each year:

- (a) not later than 15 September: information on the olive-growing areas for which aid has been applied for in the current year, by category;
- (b) not later than 31 October:
 - (i) information on the areas referred to in point (a) considered eligible for aid, taking into account the reductions or corrections provided for in Article 51 of Regulation (EC) No 796/2004;
 - (ii) the amount of aid to be granted for each category of olive groves;

Status: Point in time view as at 06/01/2006.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1973/2004 (repealed). (See end of Document for details)

- (c) not later than 31 July: the final data on the olive-growing areas for which aid was actually paid in the previous year, by category.]

[^{F2}CHAPTER 17c

TOBACCO AID

Article 171c

Definitions

For the purposes of this Chapter:

- (a) ‘delivery’ means any operation taking place on a given day which involves a farmer or a producer association handing over raw tobacco to a processing undertaking under a cultivation contract;
- (b) ‘control certificate’ means the document issued by the competent control body certifying that the quantity of tobacco concerned has been taken over by the first processor, that this quantity has been delivered under a registered contract and that the operations have been carried out in accordance with Articles 171cj and 171ck of this Regulation;
- (c) ‘first processor’ means any approved natural or legal person who carries out first processing of raw tobacco by operation, in his own name and on his own account, of one or more first tobacco processing establishments suitably equipped for that purpose;
- (d) ‘first processing’ means the processing of raw tobacco delivered by a farmer into a stable, storable product put up in uniform bales or packages of a quality meeting final user (manufacturer) requirements;
- (e) ‘producer association’ means an association representing farmers producing tobacco.

Article 171ca

Raw tobacco variety groups

Raw tobacco varieties shall be classified in the following groups:

- (a) flue-cured: tobacco dried in ovens with controlled air circulation, temperature and humidity;
- (b) light air-cured: tobacco dried in the air under cover;
- (c) dark air-cured: tobacco dried in the air under cover, fermented before being marketed;
- (d) fire-cured: tobacco dried by fire;
- (e) sun-cured: tobacco dried in the sun;
- (f) Basmas (sun-cured);
- (g) Katerini (sun-cured);

Status: Point in time view as at 06/01/2006.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1973/2004 (repealed). (See end of Document for details)

(h) Kaba-Koulak (classic) and similar (sun-cured).

The varieties in each group are listed in Annex XXV.

Article 171cb

First processors

1 Member States shall approve first processors established on their territory and shall establish the appropriate conditions for such approval.

An approved first processor is authorised to sign cultivation contracts, provided it sells at least 60 % of its marketed tobacco of Community origin to tobacco manufacturing undertakings either directly, or indirectly without further processing.

2 Approval shall be withdrawn by the Member State if the processor, deliberately or through serious negligence, fails to comply with the provisions concerning raw tobacco at Community or at national level.

Article 171cc

Production areas

For each group of varieties, the production areas referred to in Article 110k(a) of Regulation (EC) No 1782/2003 shall be those laid down in Annex XXVI to this Regulation.

Member States may specify more restricted production areas, especially in the interests of quality. Restricted production areas may not exceed the area of the administrative unit or, in France, the canton.

Article 171cd

Cultivation contracts

1 Cultivation contracts referred to in Article 110k(c) of Regulation (EC) No 1782/2003 shall be concluded between a first processor, on the one hand, and a farmer or a producer association representing him on the other hand, provided that the producer association is recognised by the Member State concerned.

2 Cultivation contracts shall be concluded by variety or group of varieties. They shall commit the first processor to taking delivery of the quantity of leaf tobacco provided for in the contract and the farmer or the producer association representing him to deliver that quantity to the first processor, to the extent that their actual production so allows.

3 For each harvest, cultivation contracts shall include at least the following details:

- a the names and addresses of the parties to the contract;
- b the variety and group of varieties of tobacco covered by the contract;
- c the maximum quantity to be delivered;
- d the exact location where the tobacco is produced: the production area as referred to in Article 171cc, province, municipality, identification of the parcel under the integrated control system;

Status: Point in time view as at 06/01/2006.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1973/2004 (repealed). (See end of Document for details)

- e the area of the parcel concerned, excluding service roads and enclosures;
- f the purchase price according to quality grade, excluding the aid, any service charges and taxes;
- g the minimum quality requirements agreed per quality grade, with a minimum of three grades per position on the stalk, and an undertaking by the farmer to deliver to the processor raw tobacco by quality grade meeting at least those quality requirements;
- h a commitment by the first processor to pay the farmer the purchase price according to quality grade;
- i the time-limit for payment of the purchase price, which may not exceed 30 days from the date of delivery;
- j an undertaking by the farmer to replant the tobacco on the parcel concerned by 20 June of the harvest year.

4 If replanting is delayed beyond the date of 20 June, the farmer shall inform the processor and the competent authority of the Member State thereof by registered letter before that date, giving the reason for the delay and giving details of any change of parcel.

5 The parties to a cultivation contract may, by means of a written amendment, increase the quantities initially specified in the contract. The amendment shall be submitted for registration to the competent authority not later than the 40th day following the deadline for concluding cultivation contracts referred to in Article 171ce(1).

Article 171ce

Conclusion and registration of contracts

1 Cultivation contracts shall be concluded, except in cases of *force majeure*, by 30 April of the harvest year. Member States may fix an earlier date.

2 Except in cases of *force majeure*, cultivation contracts once concluded shall be submitted for registration to the competent body no later than 15 days after the deadline for concluding them referred to in paragraph 1.

The competent body shall be that of the Member State in which processing is to take place.

Where processing is to take place in a Member State other than that in which the tobacco was grown, the competent body of the Member State in which processing is to take place shall immediately send a copy of the registered contract to the competent body of the producer Member State. If that body does not itself carry out checks on the aid system, it shall send a copy of the registered contract to the competent control body.

3 If the deadline for the conclusion of contracts referred to in paragraph 1 or for the submission of cultivation contracts provided for in paragraph 2 is exceeded by a maximum of 15 days, the aid to be paid shall be reduced by 20 %.

Article 171cf

Contracts with a producer association

1 Where a cultivation contract is concluded between a first processor and a producer association, it shall be accompanied by a list containing the names of the farmers concerned

Status: Point in time view as at 06/01/2006.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1973/2004 (repealed). (See end of Document for details)

and their respective maximum quantity to be delivered, exact parcel location and the area of the parcels concerned, as referred to Article 171cd(3)(c), (d) and (e).

That list shall be submitted for registration to the competent body no later than 15 May of the harvest year.

2 Producer associations referred to in paragraph 1 may not carry out first processing of tobacco.

3 Farmers producing tobacco may not belong to more than one producer association.

Article 171cg

Minimum quality requirements

Tobacco delivered to processors shall be of sound, fair and merchantable quality and free from any of the characteristics listed in Annex XXVII. Stricter quality requirements may be established by the Member State or may be agreed on by contracting parties.

Article 171ch

Disputes

The Member States may provide that disputes concerning the quality of tobacco delivered to the first processor shall be submitted to an arbitration body. The Member States shall lay down the rules governing the membership and the decision-making procedures of such bodies. Arbitration bodies must include one or more representatives of producers and processors, in equal numbers.

Article 171ci

Aid level

In application of Article 110k(d) of Regulation (EC) No 1782/2003, Member States shall fix the indicative aid amount per kg by tobacco variety or group of varieties before 15 March of the harvest year. Member States may differentiate the aid level depending on the quality of the tobacco delivered. For each variety or group of varieties, the aid level shall not exceed the premium amount by group of varieties fixed for the 2005 harvest by Council Regulation (EC) No 546/2002⁽²¹⁾.

The Member States shall fix the final aid amount per kg by tobacco variety or group of varieties within 15 working days following the day on which all tobacco for the harvest concerned has been delivered. If the total amount of aid applied for in a Member State exceeds the national ceiling established in Article 110l of Regulation (EC) No 1782/2003, as adjusted in accordance with Article 110m of that Regulation, the Member State shall proceed to a linear reduction of the amounts paid to each farmer.

Status: Point in time view as at 06/01/2006.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1973/2004 (repealed). (See end of Document for details)

Article 171cj

Calculation of the aid payment

1 The aid to be paid to farmers shall be calculated on the basis of the weight of leaf tobacco of the variety or group of varieties concerned corresponding to the minimum quality required and taken over by the first processor.

2 Where the moisture content differs from the level laid down in Annex XXVIII for the variety concerned, the weight shall be adjusted for each percentage point of difference, within the tolerances laid down in that Annex.

3 The methods for determining moisture content, sampling levels and frequency and the method for calculating the adjusted weight shall be as set out in Annex XXIX.

Article 171ck

Delivery

1 Except in cases of *force majeure*, farmers shall deliver their entire production to the first processor by 30 April of the year following the year of harvest, failing which they shall lose their entitlement to the aid. Member States may fix an earlier date.

2 The delivery shall be made either directly to the place where the tobacco will be processed or, if the Member State so authorises, to an approved purchasing centre. The competent control body shall approve such purchasing centres, which shall have the appropriate facilities, weighing scales and premises.

3 If the unprocessed tobacco has not been delivered to the places referred to in paragraph 2, or the transporter conveying distinct quantities of tobacco from the purchasing centre to the processing plant does not have authorisation to effect transport, the first processing undertaking which received the tobacco concerned shall pay the Member State a sum of money equal to the aid for the quantity of tobacco in question. This amount shall be booked to the European Agricultural Guidance and Guarantee Fund (EAGGF).

Article 171cl

Payment

The Member State's competent body shall pay the aid to the farmer on the basis of a control certificate issued by the competent control body certifying that the tobacco has been delivered.

Article 171cm

Advances

1 By way of derogation from Article 10(1) of Regulation (EC) No 796/2004, Member States may apply a system of advances on tobacco aid for farmers.

Status: Point in time view as at 06/01/2006.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1973/2004 (repealed). (See end of Document for details)

2 Farmers' applications for an advance may be submitted after 16 September of the year of the harvest. They shall be accompanied by the following documents, save where a Member State provides otherwise on the grounds that they are already in its possession:

- a a copy of the cultivation contract or its registration number;
- b a written declaration from the farmer concerned specifying the quantities of tobacco he is in a position to deliver during the current harvest.

3 Payment of the advance, the maximum amount of which shall be equal to 50 % of the aid amount payable, based on the indicative aid level fixed in accordance with Article 171ci shall be subject to the lodging of a security equal to the amount of the advance plus 15 % of the amount of the advance.

The security shall be released when the total aid amount has been paid in accordance with Article 19 of Regulation (EEC) No 2220/85.

4 The advance shall be paid from 16 October of the year of the harvest and within 30 days of submission of the application referred to in paragraph 2 and of proof that the security referred to in paragraph 3 has been lodged.

The advance paid shall be deducted from the amount of the tobacco aid payable under Article 171cl .

5 Member States shall determine any further conditions governing the grant of advances, and in particular the final date for lodging applications. Farmers may not lodge an application for an advance once they have begun making deliveries.

Article 171cn

Cross-border processing

1 Aid shall be paid or advanced by the Member State in which the tobacco was produced.

2 Where tobacco is processed in a Member State other than that in which it was produced, the processing Member State shall, after carrying out the necessary checks, provide the producer Member State with all the information needed to enable it to pay the aid or release the security.

Article 171co

Notifications to the Commission

1 Each Member State concerned shall notify the Commission by 31 January of each harvest year at the latest of:

- a the names and addresses of the bodies responsible for the registration of cultivation contracts;
- b the names and addresses of the approved first-processing undertakings.

The Commission shall publish the list of the bodies responsible for the registration of cultivation contracts and of approved first-processing undertakings in the 'C' series of the *Official Journal of the European Union*.

2 Each Member State concerned shall immediately notify the Commission of the national measures taken to apply this Chapter.

Status: Point in time view as at 06/01/2006.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1973/2004 (repealed). (See end of Document for details)

Article 171cp

Transitional measure

Without prejudice to any future amendments, producers whose tobacco production quotas were bought back during the 2002 and 2003 harvests in accordance with Article 14 of Regulation (EEC) No 2075/92 shall be entitled as from 1 January 2006, for the remainder of the five harvest years following the year in which their quota is bought back, to receive an amount equal to a percentage of the premium granted in respect of the 2005 harvest, as shown in the tables in Annex XXX. These amounts shall be paid before 31 May each year.]

CHAPTER 18

FINAL PROVISIONS

Article 172

Repeals

1 Regulations (EEC) No 1686/72, (EEC) No 1445/76, (EC) No 1644/1996, (EC) No 2316/1999, (EC) No 2461/1999, (EC) No 2550/2001, (EC) No 2199/2003 and (EC) No 2237/2003 are repealed with effect from 1 January 2005.

However they shall continue to apply to aid applications relating to the 2004/2005 marketing year or premium period and previous marketing years or premium periods. In the event of application of Article 66 or Article 71 of Regulation (EC) No 1782/2003, Articles 20(2) to (5) of Regulation (EC) No 2316/1999 shall remain applicable until the expiration of the farmers' undertakings.

2 Regulation (EC) No 2342/1999 is repealed with effect from 1 January 2005. It shall remain applicable to applications submitted in respect of the year 2004.

3 Regulation (EC) No 609/1999 is repealed with effect from 1 January 2005. However, it shall continue to apply to applications for direct payments in respect of the 2004 harvest and of the harvest 2005 in the event of application of Article 71(1) of Regulation (EC) No 1782/2003.

[^{F23a} Regulation (EC) No 1591/2001 is hereby repealed. However, it shall continue to apply to the 2005/06 marketing year.

3b Regulations (EEC) No 85/93 and (EC) No 2848/98 are repealed with effect from 1 January 2006. However they shall continue to apply in respect of the 2005 harvest.]

[^{F14} References to the repealed acts shall be construed as references to this Regulation except for Regulation (EEC) No 85/93.]

Textual Amendments

- F1** Substituted by [Commission Regulation \(EC\) No 2182/2005 of 22 December 2005 amending Regulation \(EC\) No 1973/2004 laying down detailed rules for the application of Council Regulation \(EC\) No 1782/2003 as regards the support schemes provided for in Titles IV and IVa of that Regulation and the use of land set aside for the production of raw materials.](#)

Status: Point in time view as at 06/01/2006.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1973/2004 (repealed). (See end of Document for details)

F2 Inserted by Commission Regulation (EC) No 2182/2005 of 22 December 2005 amending Regulation (EC) No 1973/2004 laying down detailed rules for the application of Council Regulation (EC) No 1782/2003 as regards the support schemes provided for in Titles IV and IVa of that Regulation and the use of land set aside for the production of raw materials.

Article 173

This Regulation shall enter into force on the seventh day following that of its publication in the *Official Journal of the European Union*.

It shall apply to aid applications relating to marketing years or premium period starting from 1 January 2005, with the exception of Article 10 which shall apply from the date of the entry into force of this Regulation.

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

Status: Point in time view as at 06/01/2006.

Changes to legislation: There are currently no known outstanding effects for the
Commission Regulation (EC) No 1973/2004 (repealed). (See end of Document for details)

- (1) OJ L 160, 26.6.1999, p. 103.
- (2) OJ L 160, 26.6.1999, p. 80.
- (3) OJ L 100, 20.4.2000, p. 31.
- (4) OJ L 125, 11.7.1966, p. 2309.
- (5) OJ L 270, 21.10.2003, p. 96.
- (6) OJ L 339, 24.12.2003, p. 45.
- (7) OJ L 339, 24.12.2003, p. 36.
- (8) OJ L 205, 3.8.1985, p. 96.
- (9) OJ L 141, 30.4.2004, p. 1.
- (10) OJ L 193, 20.7.2002, p. 74.
- (11) OJ L 270, 21.10.2003, p. 114.
- (12) OJ L 215, 30.7.1992, p. 85.
- (13) OJ L 123, 7.5.1981, p. 3.
- (14) OJ L 67, 11.3.1982, p. 23.
- (15) OJ L 215, 30.7.1992, p. 85.
- (16) OJ L 160, 26.6.1999, p. 80.
- (17) OJ L 355, 5.12.1992, p. 32
- (18) OJ L 83, 27.3.1999, p. 1
- (19) OJ L 50, 21.2.2002, p. 40
- (20) [^{F2}OJ L 210, 28.7.1998, p. 32. Regulation repealed by Regulation (EC) No 865/2004 (OJ L 161, 30.4.2004, p. 97, as corrected by OJ L 206, 9.6.2004, p. 37).]
- (21) [^{F2}OJ L 84, 28.3.2002, p. 4.]

Textual Amendments

- F2** Inserted by Commission Regulation (EC) No 2182/2005 of 22 December 2005 amending Regulation (EC) No 1973/2004 laying down detailed rules for the application of Council Regulation (EC) No 1782/2003 as regards the support schemes provided for in Titles IV and IVa of that Regulation and the use of land set aside for the production of raw materials.

Status:

Point in time view as at 06/01/2006.

Changes to legislation:

There are currently no known outstanding effects for the Commission Regulation (EC) No 1973/2004 (repealed).