

Commission Regulation (EC) No 796/2004 of 21 April 2004 laying down detailed rules for the implementation of cross-compliance, modulation and the integrated administration and control system provided for in 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for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers (repealed)

PART I

SCOPE AND GENERAL PROVISIONS

Article 1

Scope

This Regulation lays down the detailed rules for the implementation of cross-compliance, modulation and the integrated administration and control system (hereinafter ‘the integrated system’) established by Title II of Regulation (EC) No 1782/2003. It shall be without prejudice to specific provisions laid down in the Regulations covering the individual aid schemes.

Article 2

Definitions

For the purposes of this Regulation, the following definitions shall apply:

- (1) ‘Arable land’: shall mean land cultivated for crop production and land under set-aside, or maintained in good agricultural and environmental condition in accordance with Article 5 of Regulation (EC) No 1782/2003 or land under greenhouses or under fixed or mobile cover;
- (2) ‘Permanent pasture’: shall mean land used to grow grasses or other herbaceous forage naturally (self-seeded) or through cultivation (sown) and that is not included in the crop rotation of the holding for five years or longer;
- (3) ‘System for the identification and registration of bovine animals’: shall mean the system for the identification and registration of bovine animals established by Regulation (EC) No 1760/2000 of the European Parliament and of the Council⁽¹⁾;
- (4) ‘Ear tag’: shall mean the ear tag to identify animals individually referred to in Articles 3(a) and 4 of Regulation (EC) No 1760/2000;
- (5) ‘Computerised database for bovine animals’: shall mean the computerised database referred to in Articles 3(b) and 5 of Regulation (EC) No 1760/2000;
- (6) ‘Animal passport’: shall mean the animal passport referred to in Articles 3(c) and 6 of Regulation (EC) No 1760/2000;
- (7) ‘Register’: shall mean the register kept by the keepers of animals in accordance with Article 4 of Council Directive 92/102/EEC⁽²⁾, with Article 5 of Council Regulation

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- (EC) No 21/2004⁽³⁾, or Articles 3(d) and 7 of Regulation (EC) No 1760/2000 respectively;
- (8) ‘Elements of the system for the identification and registration of bovine animals’: shall mean the elements referred to in Article 3 of Regulation (EC) No 1760/2000;
- (9) ‘Identification code’: shall mean the identification code referred to in Article 4(1) of Regulation (EC) No 1760/2000;
- (10) ‘Irregularities’: shall mean any non-respect of the relevant rules for the granting of the aid in question;
- (11) ‘Single application’: shall mean the application for direct payments in respect of the single payment scheme and other area-related aid schemes established under Titles III and IV of Regulation (EC) No 1782/2003;
- (12) ‘Area-related aid schemes’: shall mean the single payment scheme and all aid schemes established under Title IV of Regulation (EC) No 1782/2003, except those established under Chapters 7, 11 and 12 of that Title;
- (13) ‘Livestock aid application’: shall mean the applications for the payment of aid under the sheep and goat premiums scheme and the beef and veal payments scheme provided for in Chapters 11 and 12 of Title IV, respectively, of Regulation (EC) No 1782/2003;
- (14) ‘Dairy premium aid application’: shall mean the applications for the payment of aids under the dairy premium and additional payment scheme provided for in Chapter 7 of Title IV of Regulation (EC) No 1782/2003;
- (15) ‘Use’: shall mean the use of area in terms of the type of crop or ground cover or the absence of a crop;
- (16) ‘Bovine aid schemes’: shall mean the aid schemes referred to in Article 121 of Regulation (EC) No 1782/2003;
- (17) ‘Ovine/caprine aid scheme’: shall mean the aid scheme referred to in Article 111 of Regulation (EC) No 1782/2003;
- (18) ‘Claimed bovine animals’: shall mean bovine animals subject to a livestock aid application under the bovine aid schemes;
- (19) ‘Unclaimed bovine animals’: shall mean bovine animals not yet subject to a livestock aid application but potentially eligible for aid under the bovine aid schemes;
- (20) ‘Retention period’: shall mean the period during which an animal for which aid has been claimed has to be kept on the holding, as provided for in the following provisions:
- (a) Articles 5 and 9 of Commission Regulation (EC) No 2342/1999 of 28 October 1999 laying down detailed rules for the application of Council Regulation (EC) No 1254/1999 on the common organisation of the market in beef and veal as regards premium schemes⁽⁴⁾, in relation to the special premium for male bovines,
 - (b) Article 16 of Regulation (EC) No 2342/1999, in relation to the suckler cow premium,
 - (c) Article 37 of Regulation (EC) No 2342/1999, in relation to the slaughter premium,

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- (d) Article 2(3) of Commission Regulation (EC) No 2550/2001 of 21 December 2001 laying down detailed rules for the application of Council Regulation (EC) No 2529/2001 on the common organisation of the market in sheepmeat and goatmeat as regards premium schemes and amending Regulation (EC) No 2419/2001⁽⁵⁾ in relation to aids paid for ovines and caprines;
- (21) ‘Animal keeper’: shall mean any natural or legal person responsible for animals whether on a permanent or on a temporary basis, including during transportation or at a market;
- (22) ‘Area determined’: shall mean the area for which all conditions laid down in the rules for granting the aid have been met; in the case of the single payment scheme, the area declared may be deemed as being determined only if it is actually being accompanied by a corresponding number of payment entitlements;
- (23) ‘Animal determined’: shall mean an animal for which all conditions laid down in the rules for granting the aid have been met;
- (24) ‘Premium period’: shall mean the period to which aid applications refer irrespective of the moment of their submission;
- (25) ‘Geographical Information System’ (hereinafter referred to as ‘GIS’): shall mean the computerised geographical information system techniques referred to in Article 20 of Regulation (EC) No 1782/2003;
- (26) ‘Reference parcel’: shall mean a geographically delimited area retaining a unique identification as registered in the GIS in the Member State’s identification system referred to in Article 18 of Regulation (EC) No 1782/2003;
- (27) ‘Graphical material’: shall mean maps or other documents used to communicate the contents of the GIS between the aid applicants and the Member states;
- (28) ‘National geodetic system’: shall mean a coordinate reference system which permits standardised measurement and unique identification of agricultural parcels throughout the Member State concerned; where different coordinate systems are used, they shall be compatible within each Member State;
- (29) ‘Paying Agency’: shall mean the authorities and bodies referred to in Article 4 of Council Regulation (EC) No 1258/1999⁽⁶⁾;
- (30) ‘Cross-compliance’: shall mean the statutory management requirements and the good agricultural and environmental conditions in accordance with Articles 4 and 5 of Regulation (EC) No 1782/2003;
- (31) ‘Areas of cross-compliance’: shall mean the different areas of statutory management requirements within the meaning of Article 4(1) of Regulation (EC) No 1782/2003 and the good agricultural and environmental condition as stipulated in Annex IV to that Regulation;
- (32) ‘Act’: shall mean each of the individual Directives and Regulations listed in Annex III to Regulation (EC) No 1782/2003; however, the Directive and the Regulations listed in points 6, 7, 8 and 8a of Annex III to that Regulation shall establish one single act;
- (33) ‘Standard’: shall mean the standards as defined by the Member States in accordance with Article 5 and Annex IV of Regulation (EC) No 1782/2003;

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- (34) ‘Requirement’: where this term is used in the context of cross-compliance, it shall mean each individual statutory management requirement resulting from any of the Articles referred to in Annex III to Regulation (EC) No 1782/2003 within a given act, differing in substance from any other requirements of the same act;
- (35) ‘Non-compliance’: shall mean any non-compliance with the requirements, and standards; the non-compliance with the obligations set out in Article 4 of this Regulation shall equally constitute a case of non-compliance;
- (36) ‘Specialised bodies’: shall mean the national competent authorities responsible, in accordance with the first subparagraph of Article 25(2) of Regulation (EC) No 1782/2003, for ensuring compliance with the statutory management requirements and good agricultural and environmental condition;
- (37) ‘Individual reference quantity determined’: shall mean the individual reference quantities to which the farmer is entitled.

Article 3

Maintenance of land under permanent pasture at Member State level

1 Without prejudice to the exceptions provided for in the third subparagraph of Article 5(2) of Regulation (EC) No 1782/2003, the Member States shall, pursuant to the first paragraph thereof, ensure the maintenance of the ratio of the land under permanent pasture in relation to the total agricultural area as defined in Article 2 point (a) of Regulation (EC) No 796/2004. That obligation shall apply at national or regional level.

However, where the amount of land under permanent pasture in absolute terms established in accordance with paragraph 4, point (a) is maintained, the obligation set out in the first subparagraph of Article 5(2) of Regulation (EC) No 1782/2003 shall be considered as being complied with.

2 For the purpose of applying the second subparagraph of Article 5(2) of Regulation (EC) No 1782/2003, the Member States shall ensure that the ratio referred to in paragraph 1 shall not decrease to the detriment of land under permanent pasture by more than 10 % relatively to the ratio of reference for 2003.

3 The ratio referred to in paragraph 1 shall be established each year on the basis of the areas declared by the farmers for the year concerned.

4 The ratio of reference for 2003 referred to in paragraph 2 shall be established as follows:

- a the land under permanent pasture shall be the land under permanent pasture declared by the farmers in 2003, plus the land under permanent pasture declared in 2005 in accordance with Article 14 (1) of this Regulation and that has not been declared for any use other than grassland in 2003, unless the farmer can demonstrate that such land was not under permanent pasture in 2003.

Areas declared in 2005 as land under permanent pasture and that in 2003 were eligible for the arable crops area payment in accordance with Article 1(3) of Council Regulation (EC) No 1251/1999 of 17 May 1999 establishing a support system for producers of certain arable crops⁽⁷⁾ shall be discounted.

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Land that was under permanent pasture in 2003 and that has been afforested since 2003 or yet to be afforested in accordance with the third subparagraph of Article 5 (2) of Regulation (EC) No 1782/2003 shall be discounted.

- b the total agricultural area shall be the total agricultural area declared by the farmers in 2005.

Article 4

Maintenance of land under permanent pasture at individual level

1 Where it is established that the ratio referred to in Article 3(1) of this Regulation is decreasing the Member State concerned shall, at national or regional level, provide for the obligation of farmers applying for aid under any of the direct payment schemes listed in Annex I of Regulation (EC) No 1782/2003 not to convert land under permanent pasture without prior authorisation.

2 Where it is established that the obligation referred to in Article 3(2) of this Regulation cannot be ensured, the Member State concerned shall, further to the measures to be taken in accordance with paragraph 1, provide, at national or regional level, for the obligation of farmers applying for aid under any of the direct payment schemes listed in Annex I of Regulation (EC) No 1782/2003 to re-convert land into land under permanent pasture for those farmers who have land at their disposal which was converted from land under permanent pasture into land for other uses.

This obligation shall, in 2005, apply with regard to land converted into land for other uses since the date provided for the submission of the area aid applications for 2003. As of 2006, this obligation shall apply with regard to land thus converted since the start of the 12-months period preceding the last date at which the single applications had to be submitted at the latest in accordance with Article 11 in the Member State concerned.

In such case, farmers shall re-convert a percentage of that area into land under permanent pasture or establish such an amount of area as land under permanent pasture. That percentage shall be calculated on the basis of the amount of area thus converted by the farmer and the amount of area needed to re-establish the balance.

However, where such land was subject to a transfer after it had been converted into land for other uses, this obligation shall only apply if the transfer took place after the entry into force of this Regulation.

By way of derogation from Article 2, point 2, areas re-converted or established as land under permanent pasture shall, as of the first day of the re-conversion or establishment be considered as 'permanent pasture'.

3 However, the obligation for farmers set out in paragraphs 1 and 2 shall not apply where farmers created land under permanent pasture in the framework of programmes in accordance with Council Regulations (EEC) No 2078/92 of 30 June 1992 on agricultural production methods compatible with the requirements of the protection of the environment and the maintenance of the countryside⁽⁸⁾ and (EC) No 1257/1999 of 17 May 1999 on support for rural development from the European Agricultural Guidance and Guarantee Fund (EAGGF) and amending and repealing certain Regulations⁽⁹⁾ and Council Regulation (EC) No 1017/94 of 26 April 1994 concerning the conversion of land currently under arable crops to extensive livestock farming in Portugal⁽¹⁰⁾.

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- (1) OJ L 204, 11.8.2000, p. 1.
- (2) OJ L 355, 5.12.1992, p. 32.
- (3) OJ L 5, 9.1.2004, p. 8.
- (4) OJ L 281, 4.11.1999, p. 30. Regulation as last amended by Regulation (EC) No 1473/2003 (OJ L 211, 21.8.2003, p. 12).
- (5) OJ L 341, 22.12.2001, p. 105. Regulation as last amended by Regulation (EC) No 2307/2003 (OJ L 342, 30.12.2003, p. 11).
- (6) OJ L 160, 26.6.1999, p. 103
- (7) OJ L 160, 26.6.1999, p. 1
- (8) OJ L 215, 30/7/1992, p. 85
- (9) OJ L 160, 26/06/1999, p. 80
- (10) OJ L 112, 3.5.1994, p. 2.

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