

Council Regulation (EC) No 378/2007 of 27 March 2007 laying down rules for voluntary modulation of direct payments provided for in Regulation (EC) No 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers, and amending Regulation (EC) No 1290/2005

## CHAPTER I

### VOLUNTARY MODULATION

#### *Article 1*

1 Without prejudice to Article 10 of Regulation (EC) No 1782/2003, Member States:

- a where at the entry into force of this Regulation the system of additional reductions of direct payments referred to in Article 1 of Regulation (EC) No 1655/2004 is applied; or
- b which were granted a derogation by virtue of Article 70(4a) of Regulation (EC) No 1698/2005 from the requirement to co-finance Community support,

may apply a reduction, hereinafter referred to as ‘voluntary modulation’, to all the amounts of direct payments within the meaning of Article 2(d) of Regulation (EC) No 1782/2003 to be granted in their territory in a given calendar year within the meaning of Article 2(e) of that Regulation, during the period 2007 to 2012.

2 The net amounts resulting from the application of voluntary modulation shall be available in the Member State where they were generated as Community support for measures under rural development programming financed by the European Agricultural Fund for Rural Development in accordance with Regulation (EC) No 1698/2005.

[<sup>F13</sup> Reductions under voluntary modulation shall be made on the same basis of calculation as that applicable to modulation pursuant to Article 7 of Council Regulation (EC) No 73/2009 of 19 January 2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers<sup>(1)</sup>.]

4 Each Member State shall apply a single rate of voluntary modulation per calendar year. The rate may be subject to progressive modifications according to pre-established steps. The maximum rate of reduction shall be 20 %.

[<sup>F25</sup> The modulation rates applicable to a farmer resulting from the application of Article 7 of Regulation (EC) No 73/2009 reduced by 5 percentage points shall be deducted from the rate of voluntary modulation applied by Member States pursuant to paragraph 4 of this Article. Both the percentage to be deducted and the final voluntary modulation rate shall be equal to or higher than 0.]

#### **Textual Amendments**

- F1** Substituted by [Council Regulation \(EC\) No 73/2009 of 19 January 2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers, amending Regulations \(EC\) No 1290/2005, \(EC\) No 247/2006, \(EC\) No 378/2007 and repealing Regulation \(EC\) No 1782/2003](#).
- F2** Inserted by [Council Regulation \(EC\) No 73/2009 of 19 January 2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain](#)

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support schemes for farmers, amending Regulations (EC) No 1290/2005, (EC) No 247/2006, (EC) No 378/2007 and repealing Regulation (EC) No 1782/2003.

### Article 2

1 Within two months of the entry into force of this Regulation, Member States shall decide on and communicate to the Commission the annual rate of voluntary modulation that will apply for the period 2007 to 2012.

2 Member States intending to apply voluntary modulation shall conduct an assessment in order to gauge the impact of the application of voluntary modulation, in particular on the economic situation of the farmers concerned, taking into account the need to avoid unjustified unequal treatment between farmers.

Member States intending to apply rates that are regionally differentiated according to Article 3(1) shall also gauge the impact of such differentiated rates, taking into account the need to avoid unjustified unequal treatment between farmers.

The Member States concerned shall transmit their impact assessments to the Commission together with the communication referred to in paragraph 1.

### Article 3

1 Any Member State where at the entry into force of this Regulation the system of additional reductions of direct payments referred to in Article 1 of Regulation (EC) No 1655/2004 is applied and the single payment scheme is applied at regional level as foreseen in Article 58 of Regulation (EC) No 1782/2003 may, for the period 2007 to 2012 choose:

- [<sup>F1</sup>a by derogation from Article 1(3) of this Regulation, to apply the reductions under modulation on the basis of calculation applicable to modulation pursuant to Article 7 of Regulation (EC) No 73/2009, without taking into account the exclusion of EUR 5 000 provided for in paragraph 1 of that Article; and/or]
- b by derogation from Article 1(4), to apply rates that are regionally differentiated according to objective criteria. The maximum rate for any of the regions of each Member State concerned shall be 20 %.

2 By derogation from Article 2(1), any Member State applying regionally differentiated rates of voluntary modulation as provided for in paragraph 1 of this Article shall submit to the Commission, within two months of the entry into force of this Regulation, for the period 2007 to 2012, the following information subject to examination by the Commission:

- a the annual rates of voluntary modulation for each region and for the whole territory;
- b the annual total amounts to be reduced under voluntary modulation;
- c where appropriate, the annual total additional amounts needed to cover the additional amount of aid referred to in the second subparagraph of Article 1(3);
- d statistical and other supportive data used to establish the amounts referred to in points (b) and (c).

3 If necessary, Member States shall submit to the Commission an update of the amounts referred to in paragraphs 2(b) and (c). That updated data shall be sent to the Commission before 31 December of the year preceding the calendar year to which the amounts refer to within the meaning of Article 2(e) of Regulation (EC) No 1782/2003.

4 If clarifications concerning the data submitted in accordance with paragraphs 2 and 3 are requested by the Commission, Member States shall reply to this request within one month.

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#### Textual Amendments

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#### Article 4

[<sup>F3</sup>1 The net amounts resulting from the application of voluntary modulation shall be fixed by the Commission, by means of implementing acts without the application of Article 6a, based on:]

- a a calculation in case of a single national rate of voluntary modulation;
- b in the case of Member States applying regionally differentiated rates, the amounts communicated by the Member States in their application as provided for in Article 3(2) or the updated amounts as provided for in Article 3(3).

Those net amounts shall be added to the annual breakdown by Member State referred to in Article 69(4) and (5) of Regulation (EC) No 1698/2005.

2 Member States may decide not to apply the ceilings referred to in Article 70(3) of Regulation (EC) No 1698/2005 to the net amounts added to the annual breakdown by Member State pursuant to paragraph 1 of this Article.

Article 25 of Regulation (EC) No 1290/2005 shall not apply to the net amounts added to the annual breakdown by Member State pursuant to paragraph 1 of this Article.

#### Textual Amendments

- F3** Substituted by [Regulation \(EU\) No 1231/2011 of the European Parliament and of the Council of 16 November 2011 amending Council Regulation \(EC\) No 378/2007 as regards the rules for the implementation of voluntary modulation of direct payments under the common agricultural policy.](#)

#### Article 5

The Member States applying voluntary modulation and the Commission shall monitor closely the impact of the implementation of voluntary modulation, in particular as regards the economic situation of the farms, taking into account the need to avoid unjustified unequal treatment between farmers. To this end, those Member States shall submit a report to the Commission by 30 September 2008.

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

1 The Commission shall, by means of implementing acts, adopt specific provisions for the integration of voluntary modulation in the rural development programming. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 6a(1).

2 The Commission shall, by means of implementing acts, adopt specific provisions for the financial management of voluntary modulation. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 6a(2).]

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#### Textual Amendments

- F3** Substituted by Regulation (EU) No 1231/2011 of the European Parliament and of the Council of 16 November 2011 amending Council Regulation (EC) No 378/2007 as regards the rules for the implementation of voluntary modulation of direct payments under the common agricultural policy.

#### *[<sup>F4</sup> Article 6a*

1 The Commission shall be assisted by the Rural Development Committee established by Regulation (EC) No 1698/2005. That committee is a committee within the meaning of Regulation (EU) No 182/2011<sup>(2)</sup>.

Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

2 The Commission shall be assisted by the Committee on the agricultural funds established by Regulation (EC) No 1290/2005. That committee is a committee within the meaning of Regulation (EU) No 182/2011.

Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.]

#### Textual Amendments

- F4** Inserted by Regulation (EU) No 1231/2011 of the European Parliament and of the Council of 16 November 2011 amending Council Regulation (EC) No 378/2007 as regards the rules for the implementation of voluntary modulation of direct payments under the common agricultural policy.

#### *Article 7*

Before 31 December 2008, the Commission shall submit to the European Parliament and to the Council a report on the application of voluntary modulation, accompanied, if needed, by appropriate proposals.

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- (1) [<sup>F1</sup>[OJ L 30, 31.1.2009, p. 16.](#)]
- (2) [<sup>F4</sup>[Regulation \(EU\) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers \(OJ L 55, 28.2.2011, p. 13\).](#)]

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- F1** Substituted by [Council Regulation \(EC\) No 73/2009 of 19 January 2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers, amending Regulations \(EC\) No 1290/2005, \(EC\) No 247/2006, \(EC\) No 378/2007 and repealing Regulation \(EC\) No 1782/2003.](#)
- F4** Inserted by [Regulation \(EU\) No 1231/2011 of the European Parliament and of the Council of 16 November 2011 amending Council Regulation \(EC\) No 378/2007 as regards the rules for the implementation of voluntary modulation of direct payments under the common agricultural policy.](#)

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**Changes and effects yet to be applied to :**

- Regulation partial repeal by [EUR 2013/1306](#) Regulation