

Commission Regulation (EC) No 1120/2009 of 29 October 2009 laying down detailed rules for the implementation of the single payment scheme provided for in Title III of Council Regulation (EC) No 73/2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers (repealed)

TITLE I

SCOPE AND DEFINITIONS

Article 1

Subject matter and scope

This Regulation lays down detailed rules for the implementation of the single payment scheme provided for in Title III of Regulation (EC) No 73/2009.

Article 2

Definitions

For the purposes of Title III of Regulation (EC) No 73/2009 and of this Regulation, the following definitions shall apply:

- (a) ‘arable land’ means land cultivated for crop production or maintained in good agricultural and environmental condition in accordance with Article 6 of Regulation (EC) No 73/2009, irrespective of whether or not that land is under greenhouses or under fixed or mobile cover;
- (b) ‘permanent crops’ means non-rotational crops other than permanent pasture that occupy the land for five years or longer and yield repeated harvests, including nurseries, and short rotation coppice;
- (c) ‘permanent pasture’ means land used to grow grasses or other herbaceous forage naturally (self-seeded) or through cultivation (sown) and that has not been included in the crop rotation of the holding for five years or longer, excluding areas set aside in accordance with Council Regulation (EEC) No 2078/92⁽¹⁾, areas set aside in accordance with Articles 22, 23 and 24 of Council Regulation (EC) No 1257/1999⁽²⁾ and areas set aside in accordance with Article 39 of Council Regulation (EC) No 1698/2005⁽³⁾; and to this end, ‘grasses or other herbaceous forage’ means all herbaceous plants traditionally found in natural pastures or normally included in mixtures of seeds for pastures or meadows in the Member State (whether or not used for grazing animals). Member States may include arable crops listed in Annex I;
- (d) ‘grassland’ means arable land used for grass production (sown or natural); for the purposes of Article 49 of Regulation (EC) No 73/2009 grassland shall include permanent pasture;
- (e) ‘sale’ means the sale or any other definitive transfer of ownership of land or payment entitlements; it shall not include the sale of land where land is transferred to public

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authorities and/or for use in the public interest and in either case the transfer is carried out for non-agricultural purposes;

- (f) ‘lease’ means lease or similar types of temporary transactions;
- (g) ‘transfer, sale or lease of payment entitlements with land’ means, without prejudice to Article 27(1) of this Regulation, the sale or lease of payment entitlements with, respectively, the sale or lease for the same period of time of a corresponding number of eligible hectares within the meaning of Article 34 of Regulation (EC) No 73/2009 held by the transferor. The transfer of all the special entitlements within the meaning of Article 44 of Regulation (EC) No 73/2009 held by a farmer shall be considered as a transfer of payment entitlements with land;
- (h) ‘merger’ means the merger of two or more separate farmers within the meaning of Article 2(a) of Regulation (EC) No 73/2009 into one new farmer within the meaning of that Article controlled in terms of management, benefits and financial risks by the farmers originally managing the holdings or one of them;
- (i) ‘scission’ means:
- (i) the scission of one farmer within the meaning of Article 2(a) of Regulation (EC) No 73/2009 into at least two new separate farmers within the meaning of that Article of which at least one remains controlled, in terms of management, benefits and financial risks, by at least one of the legal or natural persons originally managing the holding; or
 - (ii) the scission of one farmer within the meaning of Article 2(a) of Regulation (EC) No 73/2009 into at least one new separate farmer within the meaning of that Article 2(a) the other one remaining controlled, in terms of management, benefits and financial risks, by the farmer originally managing the holding;
- (j) ‘production unit’ means at least one area which gave right to direct payments in the relevant reference period, including forage area, or one animal which would have given right to direct payments in the reference period, accompanied, where the case may be, by a corresponding premium right;
- (k) ‘forage area’ means the area of the holding that was available throughout the calendar year for rearing animals including areas in shared use and areas which were subject to mixed cultivation; it shall not include:
- buildings, woods, ponds, paths,
 - areas used for other crops eligible for Community aid or for permanent crops or horticultural crops,
 - areas qualifying for the support system laid down for the producers of certain arable crops used for the aid scheme for dried fodder or subject to a national set-aside scheme;
- (l) for the purposes of Article 41(2) of Regulation (EC) No 73/2009, ‘farmers who commence their agricultural activity’ means a natural or legal person that did not have any agricultural activity in his own name and at his own risk or did not have the control of a legal person exercising an agricultural activity in the 5 years preceding the start of the new agricultural activity.

In case of a legal person, the natural person(s) who has the control of the legal person must not have had any agricultural activity in his own name and at his own risk or must not have had the control of a legal person exercising an agricultural activity in the 5 years preceding the start of the agricultural activity by the legal person;

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- (m) 'nurseries' means the nurseries as defined in point G/5 of Annex I to Commission Decision 2000/115/EC⁽⁴⁾;
- (n) 'short rotation coppice' means areas planted with those tree species of CN code 0602 90 41 that consist of woody, perennial crops, the rootstock or stools remaining in the ground after harvesting, with new shoots emerging in the following season and that are contained in a list to be drawn up by Members States from 2010 of the species which are appropriate for use as short rotation coppice and their maximum harvest cycle;
- (o) 'specific support measures' means measures implementing the specific support provided for in Article 68(1) of Regulation (EC) No 73/2009;
- (p) 'other Community support instruments' means:
 - (i) measures provided for in Council Regulations (EC) No 1698/2005, (EC) No 509/2006⁽⁵⁾, (EC) No 510/2006⁽⁶⁾, (EC) No 834/2007⁽⁷⁾, (EC) No 1234/2007⁽⁸⁾ and (EC) No 3/2008; and
 - (ii) measures financed by the European Agricultural Guarantee Fund under Article 3 of Council Regulation (EC) No 1290/2005⁽⁹⁾ including veterinary and plant health measures.

TITLE II

IMPLEMENTATION

CHAPTER 1

General provisions

Section 1

Activation of entitlements and eligibility of land

Article 3

Inheritance and anticipated inheritance

1 Where inheritance or anticipated inheritance would affect the allocation of payment entitlements, the farmer who has received the holding or part of the holding shall claim, in his name, the payment entitlements to be calculated for the holding or part of the holding received.

The reference amount shall be established on the basis of the production units inherited.

2 In cases of revocable anticipated inheritance, the access to the single payment scheme shall be given only once to the designated inheritant by the date for lodging an application for the payment under the single payment scheme.

Succession under a contract lease or inheritance or anticipated inheritance from a farmer who is a natural person and who was a lessee of a holding or part of it, in the relevant reference period, which would give right to payment entitlements or increase of the value of payment entitlements, shall be treated as the inheritance of a holding.

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3 In cases where a farmer referred to in paragraph 1 is already entitled to payment entitlements or an increase of the value of payment entitlements, the reference amount shall be established on the basis of, respectively, the sum of the reference amounts relating to his original holding and the inherited production units.

4 For the purposes of this Regulation, the definition in the national legislation for 'inheritance' and 'anticipated inheritance' shall be used.

Article 4

Changes in legal status or denomination

In the case of changes of legal status or denomination, the farmer shall have access to the single payment scheme under the same conditions as the farmer originally managing the holding within the limit of the payment entitlements held by the original holding, or in the case of allocation of entitlements or increase of the value of payment entitlements within the limits applicable for allocations to the original holding.

In the case of changes of the legal status of a legal person or from a natural person to a legal person or from a legal person to a natural person, the farmer managing the new holding shall be the farmer who was in control of the original holding in terms of management, benefits and financial risks.

Article 5

Mergers and scissions

Where a case of merger or scission would affect the allocation of payment entitlements or increase of the value of payment entitlements, the farmer or farmers managing the new holding or holdings shall have access to the single payment scheme under the same condition as the farmer or farmers managing the original holding or holdings.

The reference amount shall be established on the basis of the production units relating to the original holding or holdings.

Article 6

Minimum requirements

For the purposes of Article 28(1) of Regulation (EC) No 73/2009, farmers receiving the premiums for sheep and goat referred to in Title IV, Chapter 1, Section 10 of that Regulation or the beef and veal payment referred to in Title IV, Chapter 1, Section 11 of that Regulation, who hold fewer hectares than the threshold selected by a Member State shall be treated in the same way as farmers holding special entitlements referred to in Article 44(1) of that Regulation.

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Article 7

Calculation of the unit value of payment entitlements

1 Payment entitlements shall be calculated up to three decimals and rounded up or down to the nearest second decimal. If the calculation gives a result which is exactly half-way, the sum shall be rounded up to the nearest second decimal.

2 Where the size of a parcel which is transferred with an entitlement in accordance with Article 43 of Regulation (EC) No 73/2009 amounts to a fraction of a hectare, the farmer may transfer the part of the entitlement concerned with the land at a value calculated to the extent of the same fraction. The remaining part of the entitlement shall remain at the disposal of the farmer at a value calculated correspondingly.

Without prejudice to Article 43(2) of that Regulation, if a farmer transfers a fraction of an entitlement without land the value of the two fractions shall be calculated proportionally.

3 Member States may modify payment entitlements by merging fractions of entitlements of the same type owned by a farmer. Paragraph 1 shall apply to the result of such a merger.

Article 8

Declaration and use of payment entitlements

1 Payment entitlements may only be declared for payment once per year by the farmer who holds them at the latest date for lodging the single application in accordance with Article 11 of Commission Regulation (EC) No 1122/2009⁽¹⁰⁾.

However, where a farmer makes use of the possibility to amend the single application in accordance with Article 14 of that Regulation, he may also declare payment entitlements which he holds at the date of his notification of the amendments to the competent authority provided that the payment entitlements concerned are not declared by another farmer in respect of the same year.

Where the farmer acquires the payment entitlements concerned by way of a transfer from another farmer and where that other farmer had already declared those payment entitlements, the additional declaration of those payment entitlements shall only be admissible if the transferor has already informed the competent authority of the transfer in accordance with Article 12 of this Regulation and withdraws those payment entitlements from his own single application, within the applicable time-limits set out in Article 14 of Regulation (EC) No 1122/2009.

2 Where a farmer, after having declared parcels corresponding to all his available whole payment entitlements under Article 35(1) of Regulation (EC) No 73/2009, still disposes of a parcel which amounts to a fraction of a hectare, he may declare a further whole payment entitlement which shall give right to a payment calculated pro rata to the size of the parcel. However, the payment entitlement shall be deemed as fully used for the purposes of Article 42 of that Regulation.

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Article 9

Predominantly agricultural use

For the purposes of Article 34(2)(a) of Regulation (EC) No 73/2009, where an agricultural area of a holding is used as well for non-agricultural activities that area shall be considered as being used predominantly for agricultural activities, if the agricultural activity can be exercised without being significantly hampered by the intensity, nature, duration and timing of the non-agricultural activity.

Member States shall establish criteria for the implementation of the first subparagraph on their territory.

Section 2

Specific eligibility criteria

[^{F1}Article 10

Production of hemp

For the purposes of Article 39 of Regulation (EC) No 73/2009, the payment of the entitlements for areas on hemp shall be subject to the use of seed of the varieties listed in the ‘Common Catalogue of Varieties of Agricultural Plant Species’ on 15 March of the year in respect of which the payment is granted and published in accordance with Article 17 of Council Directive 2002/53/EC⁽¹¹⁾. However, areas using the variety Finola shall be eligible only in Finland and areas using the variety Tiborszallási shall be eligible only in Hungary. The seed shall be certified in accordance with Council Directive 2002/57/EC⁽¹²⁾.]

Textual Amendments

- F1** Substituted by Commission Regulation (EU) No 331/2011 of 6 April 2011 amending Regulation (EC) No 1120/2009 as regards the use of land for the production of hemp within the framework of the implementation of the single payment scheme provided for in Council Regulation (EC) No 73/2009.

Article 11

Deferred integration of fruit and vegetables into the single payment scheme

1 Until 31 December 2010 Member States having made use of one of the options as set out in the third subparagraph of Article 51(1) of Regulation (EC) No 73/2009 may allow secondary crops to be cultivated on the eligible hectares during a period of maximum three months starting each year on 15 August or on the date laid down in Annex II for the Member State and region concerned.

2 Where a Member State has made use of one of the options as set out in the third subparagraph of Article 51(1) of Regulation (EC) No 73/2009, it may, where necessary,

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revise the decision taken pursuant to Article 51, second subparagraph of Regulation (EC) No 1782/2003 within two weeks of the entry into force of this Regulation.

Section 3

Transfer of entitlements

Article 12

Transfer of payment entitlements

- 1 Payment entitlements may be transferred at any time of the year.
 - 2 The transferor shall inform the competent authority of the Member State where the transfer will operate within a period to be established by that Member State.
 - 3 A Member State may require that the transferor shall communicate the transfer to the competent authority of the Member State where the transfer will operate, within a time period to be established by that Member State but not earlier than six weeks before the transfer takes place and taking into account the last date for lodging an application under the single payment scheme. The transfer shall take place as foreseen in the communication unless the competent authority objects to the transfer and notifies the transferor thereof within that time period.
- The competent authority may only object to a transfer where the latter is not in accordance with provisions of Regulation (EC) No 73/2009 and of this Regulation.
- 4 For the purposes of Article 62(3) of Regulation (EC) No 73/2009, the percentage of the payment entitlements the farmer has used shall be calculated on the number of payment entitlements allocated to him in the first year of application of the single payment scheme, with the exception of payment entitlements sold with land, and must be used during one calendar year.

Article 13

Regional limitation

- 1 Without prejudice to Articles 50(1) and 62(1) of Regulation (EC) No 73/2009, where a Member State makes use of the option provided for in the third subparagraph of Article 43(1) of that Regulation, Member States shall define the region at the appropriate territorial level in accordance with objective criteria and in such a way as to ensure equal treatment between farmers and to avoid market and competition distortion.
 - 2 The Member State shall define the region referred to in paragraph 1 at the latest one month before the date fixed by the Member State pursuant to Article 35 of Regulation (EC) No 73/2009 in the first year of application of the option provided for in the third subparagraph of Article 43(1) of that Regulation.
- A farmer, whose holding is situated in the region concerned, may not transfer or use outside that region his payment entitlements corresponding to the number of hectares which he declared in the first year of application of the option provided for in the third subparagraph of Article 46(1) of Regulation (EC) No 1782/2003 or which he declares in the first year of application of the option provided for in Article 43(1) of Regulation (EC) No 73/2009.

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A farmer, whose holding is partly situated in the region concerned, may not transfer or use outside that region his payment entitlements corresponding to the number of hectares, situated in that region, which he declares in the first year of application of the option.

3 The limitation to the transfer of payment entitlements referred to in the third subparagraph of Article 43(1) of Regulation (EC) No 73/2009 shall not apply in case of actual or anticipated inheritance of payment entitlements without an equivalent number of eligible hectares.

Section 4

Special entitlements

Article 14

Calculation of livestock units for special entitlements

1 For the purposes of Article 44(2)(a) of Regulation (EC) No 73/2009, the agricultural activity carried out in the reference period expressed in livestock units (LU) shall be the one which was calculated in accordance with Article 30 of Regulation (EC) No 795/2004.

2 For the purposes of Article 65 of Regulation (EC) No 73/2009 and of calculating the agricultural activity carried out during the application of Articles 67 and 68 of Regulation (EC) No 1782/2003 expressed in LU referred to in Article 44(2)(c) of Regulation (EC) No 73/2009, the following conversion table shall apply to the average number of animals determined for the granting of a direct payment referred to in Articles 67 and 68 of Regulation (EC) No 1782/2003 in the relevant reference period:

Male bovine animals and heifers older than 24 months, suckler cows, dairy cows	1,0 LU
Male bovine animals and heifers from six months to 24 months	0,6 LU
Male, female bovine animals of less than six months	0,2 LU
Sheep	0,15 LU
Goat	0,15 LU

In case of slaughter premium, where the necessary data regarding the age of the animals are not available, a Member State may convert bulls, steers, cows and heifers in LU by using the coefficient 0,7 and calves by using the coefficient 0,25.

Where the same animal benefited from several premiums, the coefficient applicable shall be the average of the coefficient applicable to the different premiums.

3 The number of LU referred to in paragraphs 1 and 2 shall be calculated pro rata to the payment entitlements for which the farmer does not have hectares in the year of integration of the coupled support scheme into the single payment scheme or of implementation of the single payment scheme and for which the farmer requests the allocation of entitlements subject to special conditions. It shall apply starting from the payment entitlements at the lowest value.

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This request shall be made only in the first year of integration of the coupled support scheme into the single payment scheme or of implementation of the single payment scheme. Member States shall fix the date for the request. It may be renewed in the following years for the same number of special entitlements referred to in Article 44 of Regulation (EC) No 73/2009 in the previous year or, in case of transfer of some of those payment entitlements, or in case of declaration of some of those payment entitlements with a corresponding number of hectares, for the remaining of those payment entitlements.

In these cases, the number of LU shall be recalculated pro rata to the remaining payment entitlements for which the farmer requests the special conditions.

No request to re-establish the conditions referred to in Article 44 of Regulation (EC) No 73/2009 may be introduced for those payment entitlements once they have been declared with an equivalent number of hectares or they have been transferred, without prejudice to Article 44(3) of Regulation (EC) No 73/2009.

4 In order to check that the minimum agricultural activity expressed in LUs is respected, Member States shall use the conversion table provided for in paragraph 2 and determine the number of animals in accordance with one of the following methods:

- a Member States shall ask each producer to declare, on the basis of his farm register, prior to a date to be determined by the Member State but not later than the date of payment, the number of LUs; and/or
- b Member States shall use the computerised database set up in accordance with Regulation (EC) No 1760/2000 of the European Parliament and of the Council⁽¹³⁾ to determine the number of LUs on condition that the database offers, to the satisfaction of the Member State, adequate assurances as to the accuracy of the data it contains for the purposes of the single payment scheme.

5 The minimum agricultural activity requirement shall be deemed to be respected when the number of LUs reaches 50 % during a period or at certain dates to be determined by the Member States. All the animals sold or slaughtered during the calendar year concerned shall be taken into account.

6 Member States shall take the measures necessary to apply Article 30 of Regulation (EC) No 73/2009 in the case of producers who, by means of abnormally high numbers of LUs during part of the year, artificially create the conditions required to respect the minimum agricultural activity.

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CHAPTER 2

National reserve

Section 1

Reversion to the national reserve

Article 15

Unused payment entitlements

1 Except in cases of *force majeure* or exceptional circumstances, unused payment entitlements shall be deemed to have reverted to the national reserve on the day following the last day for modifying the application under the single payment scheme in the calendar year in which the period referred to in Articles 28(3) and 42 of Regulation (EC) No 73/2009 expires.

A payment entitlement shall be considered to be unused where no payment has been granted for that entitlement during the period referred to in the first subparagraph. Payment entitlements for which an application is made and accompanying an area determined within the meaning of Article 2(23) of Regulation (EC) No 1122/2009 shall be deemed to have been used.

Where the area determined for the purposes of the single payment scheme is less than the area declared, the following shall apply to determine which of the payment entitlements have to be returned to the national reserve in accordance with Article 42 of Regulation (EC) No 73/2009:

- a the area determined shall be taken into account starting with the payment entitlements having the highest value;
- b the payment entitlements with the highest value shall be attributed to that area first, followed by those with the next lower value.

2 Farmers may give up payment entitlements to the national reserve voluntarily.

Article 16

Retention on sale of payment entitlements

1 Where a Member State makes use of the option provided for in Article 43(3) of Regulation (EC) No 73/2009, the Member State may decide that it shall revert to the national reserve:

- a in case of sale of payment entitlements without land, up to 30 % of the value of each payment entitlement or the equivalent amount expressed in number of payment entitlements. However during the first 3 years of application of the single payment scheme, the percentage of 30 % may be replaced by 50 %; and/or
- b in case of sale of payment entitlements with land, up to 10 % of the value of each payment entitlement or the equivalent amount expressed in number of payment entitlements; and/or
- c in case of sale of payment entitlements with an entire holding, up to 5 % of the value of each payment entitlement and/or the equivalent amount expressed in number of payment entitlements.

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In case of sale of payment entitlements with or without land to a farmer who commences his agricultural activity and in case of actual or anticipated inheritance of payment entitlements no retention shall apply.

2 When fixing the percentages referred to in paragraph 1, a Member State may differentiate the percentage within any of the cases referred to in points (a), (b) and (c) of paragraph 1 in accordance with objective criteria and in such a way as to ensure equal treatment between farmers and to avoid market and competition distortion.

3 Where a Member State having regionalised the single payment scheme in accordance with Article 59(1) of Regulation (EC) No 1782/2003 or making use of the option provided for in Article 48(1) of Regulation (EC) No 73/2009, decides to make use of the option provided for in Article 43(3) of Regulation (EC) No 73/2009, the percentages of reduction provided for in paragraphs 1 and 2 of this Article shall apply after deduction from the value of the payment entitlements of a franchise equal to the regional unit value calculated in accordance with Article 59(2) or (3) of Regulation (EC) No 1782/2003 or with Article 46(2) and (3) of Regulation (EC) No 73/2009.

Section 2

Allocation of payment entitlements from the national reserve

Article 17

Establishment of payment entitlements

1 Where a Member State makes use of the options provided for in Article 41(2) and (3) of Regulation (EC) No 73/2009, farmers may receive, in accordance with the conditions laid down in this Section and in accordance with the objective criteria laid down by the Member State concerned, payment entitlements from the national reserve.

2 When a farmer who does not own any payment entitlement applies for payment entitlements from the national reserve, he may receive a number of payment entitlements not higher than the number of hectares he holds (owned or leased) at that time.

3 When a farmer who owns payment entitlements applies for payment entitlements from the national reserve, he may receive a number of payment entitlements not higher than the number of hectares he holds for which he does not own any payment entitlement.

The unit value of each payment entitlement he already owns may be increased.

4 The value of each payment entitlement received in accordance with paragraph 2 or 3, except the second subparagraph of paragraph 3, shall be calculated by dividing a reference amount, established by the Member State, in accordance with objective criteria and in such a way as to ensure equal treatment between farmers and to avoid market and competition distortion, by the number of entitlements to be allocated.

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Article 18

Application of Article 41(3) of Regulation (EC) No 73/2009 in the case of fewer hectares than payment entitlements

1 Where a Member State makes use of the option provided for in Article 41(3) of Regulation (EC) No 73/2009, it may in particular allocate, upon request, in accordance with this Article, payment entitlements to farmers, in the areas concerned, who declare fewer hectares than the number corresponding to payment entitlements they had been allocated in accordance with Articles 43 and 59 of Regulation (EC) No 1782/2003.

In that case, the farmer shall give up to the national reserve all the payment entitlement he owns or should have been allocated, except payment entitlements subject to conditions referred to in Article 44 of Regulation (EC) No 73/2009.

For the purposes of this Article, ‘payment entitlements’ shall mean only the payment entitlements allocated by the Member State in the first year of application of the single payment scheme including any year of integration of coupled support.

2 The number of payment entitlements allocated from the national reserve shall be equal to the number of hectares the farmer declares in the year of the request.

3 The unit value of the payment entitlements allocated from the national reserve shall be calculated by dividing the farmer’s reference amount by the number of hectares he declares.

4 Paragraphs 1, 2, and 3 shall not apply to a farmer who declares less than 50 % of the total number of hectares, which he held (leased and owned) in the reference period.

5 For the purposes of paragraphs 1, 2, and 3, hectares transferred by sale or by lease, and not replaced by a corresponding number of hectares, shall be included in the number of hectares which the farmer declares.

6 The farmer concerned shall declare all the hectares he holds at the time of the request.

Article 19

General provisions for farmers in a special situation

1 For the purposes of Article 41(4) of Regulation (EC) No 73/2009, ‘farmers in a special situation’ shall mean the farmers referred to in Articles 20 to 23 of this Regulation.

2 In cases where a farmer in a special situation meets the condition for applying two or more of Articles 20, 21 and 22, he shall receive a number of payment entitlements established in accordance with Article 17(2) and (3) and whose value shall be the highest value he may obtain by applying separately each of the Articles for which he meets the conditions.

In the case where a farmer also benefits from allocation of entitlements under [F²Article 17] the total number of entitlements to be allocated shall not exceed the number fixed in accordance with that Article.

3 In cases where the lease referred to in Articles 20 and 22 expires after the last date for lodging an application under the single payment scheme in its first year of application, the farmer concerned may apply for the establishment of his payment entitlements, after the expiry

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of the lease, by a date to be fixed by the Member State but not later than the latest date fixed for amending the aid application in the following year.

4 Where, in accordance with their national law or well-established usual practice, the definition of long term lease also includes lease for five years, Member States may decide to apply Articles 20, 21 and 22 to those leases.

Textual Amendments

F2 Substituted by Commission Regulation (EU) No 730/2010 of 13 August 2010 correcting Regulation (EC) No 1120/2009 laying down detailed rules for the implementation of the single payment scheme provided for in Title III of Council Regulation (EC) No 73/2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers.

Article 20

Transfer of leased land

1 A farmer who received, by transfer, either by sale or by lease for six or more years, free of charge or at a symbolic price or by way of actual or anticipated inheritance, a holding or part of a holding, that was leased to a third person during the reference period, from a farmer who retired from agricultural activity or died before the date for lodging an application under the single payment scheme in its first year of application, may receive payment entitlements calculated by dividing a reference amount, established by the Member State, in accordance with objective criteria and in such a way as to ensure equal treatment between farmers and to avoid market and competition distortion, by a number of hectares not higher than the number of hectares of the holding or part of the holding he received.

2 Farmers referred to in paragraph 1 shall be any person who may receive the holding or part or the holding referred to in paragraph 1, by way of actual or anticipated inheritance.

Article 21

Investments

1 Member States may increase the value or allocate payment entitlements to farmers having invested in a sector which is subject to integration into the single payment scheme under Chapter 4 of Title III of Regulation (EC) No 73/2009, in accordance with objective criteria and in such a way as to ensure equal treatment between farmers and to avoid market and competition distortion.

When establishing the criteria referred to in the first subparagraph, Member States shall take into account reference period and/or other criteria used for integration of the relevant sector.

2 Paragraph 1 shall apply *mutatis mutandis* in the case of the termination of application of the single area payments scheme under Article 122 of Regulation (EC) No 73/2009.

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Article 22

Lease and purchase of leased land

1 A farmer who leased, either between the end of the relevant reference period for the introduction of the single payment scheme and 15 May 2004 as regards the introduction of the single payment scheme before 2009, or before 31 January 2009 in case of application of Chapter 3 of Title III of Regulation (EC) No 73/2009, for six or more years a holding or part of it whose lease conditions may not be adjusted, may receive payment entitlements calculated by dividing a reference amount, established by the Member State, in accordance with objective criteria and in such a way as to ensure equal treatment between farmers and to avoid market and competition distortion, by a number of hectares not higher than the number of hectares he leased.

When establishing the criteria referred to in the first subparagraph, Member States shall take into account, in particular, situations where farmers do not have at their disposal hectares other than leased hectares.

2 Paragraph 1 shall apply to a farmer who bought, as regards the introduction of the single payment scheme before 2009 either in the reference period for its introduction or before 15 May 2004, or, in case of application of Chapter 3 of Title III of Regulation (EC) No 73/2009, before 31 January 2009, a holding or part of it whose land was under a lease during the relevant reference period, and who is commencing or expanding his agricultural activity within one year after the expiry of the lease.

For the purposes of the first subparagraph, 'land under a lease' shall mean land which was, at the time of, or after the purchase under a lease which has never been renewed except when the renewal was imposed by a legal obligation.

Article 23

Administrative acts and court's rulings

Where a farmer should be entitled to receive payment entitlements or increase the value of the existing ones by virtue of a definitive court's ruling or by virtue of a definitive administrative act of the competent authority of a Member State, the farmer shall receive the number and value of payment entitlements established in that ruling or act at a date to be fixed by the Member State but not later than the latest date for lodging an application under the single payment scheme following the date of the ruling or the act and taking into account the application of Article 34 and/or Article 35 of Regulation (EC) No 73/2009.

Section 3

Regional administration

Article 24

Regional reserves

1 Member States may administer the national reserve at regional level.

Status: Point in time view as at 16/08/2012.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1120/2009 (repealed). (See end of Document for details)

In that case, Member States shall allocate, in full or in part, the amounts available at national level to the regional level in accordance with objective and non-discriminatory criteria and in such a way as to ensure equal treatment between farmers and to avoid market and competition distortion.

2 The amounts allocated to each regional level may be considered available for allocation within the region concerned only, except in cases referred to in Article 41(4) of Regulation (EC) No 73/2009 or, according to the Member State's choice, in the case of application of Article 41(2) of that Regulation.

TITLE III

ALLOCATION OF PAYMENT ENTITLEMENTS

CHAPTER 1

General provisions

Article 25

Applications

1 The value and number or increase of payment entitlements allocated on the basis of the application from the farmer may be provisional. The definitive value and number shall be established by the 1 April of the year following the first year of application of the single payment scheme or of integration of coupled support at the latest, after relevant checks made pursuant to Article 20 of Regulation (EC) No 73/2009 are carried out.

2 Farmers may introduce, subject to the definitive establishment of entitlements, applications under the single payment scheme on the basis of provisional entitlements or if a Member State makes use of the option provided for in Articles 26 and 27, entitlements acquired under the private contract clauses referred to in those Articles.

3 The applicant shall prove to the satisfaction of the Member State that, at the date of application for the payment entitlements, he is a farmer within the meaning of Article 2(a) of Regulation (EC) No 73/2009.

4 A Member State may decide to fix a minimum size per holding in terms of agricultural area for which the establishment of payment entitlements may be requested. However, the minimum size shall not be higher than the limits set in accordance with Article 28(1)(b) of Regulation (EC) No 73/2009.

No minimum size shall be fixed for the establishment of the special entitlements referred to in Article 60 or 65 of Regulation (EC) No 73/2009 as provided for by Article 28(1) of that Regulation.

Status: Point in time view as at 16/08/2012.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1120/2009 (repealed). (See end of Document for details)

Article 26

Private contract clause in case of sale

1 Where a sales contract concluded or modified no later than the date for lodging an application for allocation of entitlements either in the first year of application of the single payment scheme or in the year of integration of coupled support stipulates that all or part of the holding is sold, in full or in part, together with the payment entitlements or the increase of the value of payment entitlements to be allocated in respect of the hectares or the part of the holding transferred, the Member State may consider the sales contract as a transfer of the payment entitlements with land.

2 The seller shall apply for the allocation or increase of the payment entitlements, adding to his application a copy of the sale contract and indicating the production units and the number of hectares for which he intends to transfer the payment entitlements.

3 A Member State may allow the buyer to apply on behalf of the seller and with the explicit authorisation of the seller for the allocation of the payment entitlements. In this case the Member State shall verify that the seller fulfils at the date of the transfer the eligibility criteria and in particular the condition referred to in Article 25(3). The buyer shall apply for payment under the single payment scheme, adding to his application a copy of the sales contract.

4 A Member State may require that the applications of the buyer and of the seller are lodged together or that the second application contains a reference to the first one.

Article 27

Private contract clause in case of lease

1 A clause in a lease contract providing for the transfer of a number of entitlements not higher than the number of hectares leased may be considered as a lease of the payment entitlements with land within the meaning of Article 43(2) of Regulation (EC) No 73/2009, in cases where:

- a a farmer has leased to another farmer his holding or part of it no later than the date for lodging an application under the single payment scheme in its first year of application or in the year of integration of coupled support;
- b the lease contract expires later than the last date for lodging an application under the single payment scheme; and
- c he decides to lease his payment entitlements to the farmer to whom he leased the holding or part of it.

2 The lessor shall apply for the allocation or increase of the payment entitlements, adding to the application a copy of the lease contract and indicating the number of hectares for which he intends to lease the payment entitlements.

3 The lessee shall apply for payment under the single payment scheme, adding to the application a copy of the lease contract.

4 A Member State may require that the applications of the lessee and of the lessor are lodged together or that the second application contains a reference to the first one.

Status: Point in time view as at 16/08/2012.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1120/2009 (repealed). (See end of Document for details)

CHAPTER 2

Implementation of the single payment scheme in the new Member States having applied the single area payment scheme

Article 28

General provisions

- 1 Save as otherwise provided for in this Chapter, this Regulation shall apply to the new Member States having applied the single area payment scheme.
- 2 Any reference in this Regulation to Article 41 of Regulation (EC) No 73/2009 shall be construed as a reference to Article 57 of that Regulation.
- 3 For the purposes of Article 57(3) of Regulation (EC) No 73/2009 the new Member State may set a representative period which is preceding the first year of application of the single payment scheme.
- 4 Any references in this Regulation to the ‘reference period’ shall be construed as a reference to the first year of application of the single payment scheme or to the reference period set under Article 59(3) of Regulation (EC) No 73/2009.

Article 29

Initial allocation of payment entitlements

- 1 Without prejudice to Article 59(3) of Regulation (EC) No 73/2009, for the purposes of Article 59(2) of that Regulation, new Member States shall establish the number of eligible hectares referred to in that paragraph by using the number of hectares declared for the establishment of the payment entitlements in the first year of application of the single payment scheme.
- 2 By way of derogation from paragraph 1, new Member States may establish the number of eligible hectares referred to in Article 59(2) of Regulation (EC) No 73/2009 by using the number of hectares declared for the year preceding the first year of application of the single payment scheme.

In cases where the number of eligible hectares declared by farmers in the first year of application of the single payment scheme is lower than the number of eligible hectares established in accordance with the first subparagraph, a new Member State may re-allocate, in part or in full, the amounts corresponding to the hectares which have not been declared as a supplement to each payment entitlement allocated in the first year of application of the single payment scheme. The supplement shall be calculated by dividing the amount concerned by the number of payment entitlements allocated.

- 3 Where a Member State makes use of the option provided for in Article 59(3) of Regulation (EC) No 73/2009 it may, starting from the calendar year preceding the first year of application of the single payment scheme, proceed to the identification of the eligible farmers and the provisional establishment of the number of hectares referred to in that paragraph and to a preliminary verification of the conditions referred to in Article 25(3) of this Regulation.

Status: Point in time view as at 16/08/2012.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1120/2009 (repealed). (See end of Document for details)

Without prejudice to Article 61 of Regulation (EC) No 73/2009, the value of the entitlements shall be calculated by dividing the amount referred to in Article 59(1) of that Regulation with the total number of entitlements allocated under this paragraph.

4 The farmer shall be informed about the provisional entitlements at least one month before the deadline for application determined in accordance with Article 56(1) of Regulation (EC) No 73/2009.

For the purpose of calculating the agricultural activity expressed in livestock units (LU) referred to in Article 44(2)(b) of Regulation (EC) No 73/2009, the number of animals held by the farmer in a period set by the Member State shall be converted to LU by reference to the conversion table provided for in Article 14(2). For the purpose of checking the minimum agricultural activity in new Member States under Article 44(2) (b) of Regulation (EC) No 73/2009, Article 14(4), (5) and (6) shall apply.

CHAPTER 3

Integration of coupled support

Section 1

Integration of the fruit and vegetable sector in the single payment scheme

Article 30

General rules

1 For the purpose of the establishment of the amount and the determination of payment entitlements in the framework of the integration of the fruit and vegetable sector in the single payment scheme, Section A of Annex IX to Regulation (EC) No 73/2009 shall apply subject to Article 31 of this Regulation and, if the Member State made use of the option provided for in Article 59 of Regulation (EC) No 1782/2003, subject to Article 32 of this Regulation.

2 As the case may be, Article 40 of Regulation (EC) No 73/2009 shall apply to the value of all the payment entitlements existing before the integration of fruit and vegetable support and to the reference amounts calculated for fruit and vegetables support.

3 For the purposes of this Regulation in relation to the fruit and vegetables sector, the first year of application of the single payment scheme shall be the year of the determination by the Member State of the amounts and eligible hectares as referred to in Section A of Annex IX to Regulation (EC) No 73/2009, taking account of the optional transitional three year period referred to in the second subparagraph of point 2 of that point.

Article 31

Specific rules

1 If the farmer does not own payment entitlements or only owns special entitlements by the last date for applying for the establishment of payment entitlements, he shall receive payment entitlements calculated in accordance with Section A of Annex IX to Regulation (EC) No 73/2009 for fruit and vegetables.

Status: Point in time view as at 16/08/2012.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1120/2009 (repealed). (See end of Document for details)

The first subparagraph shall also apply when the farmer has leased in payment entitlements between the first year of the application of the single payment scheme and the year of the integration of the fruit and vegetable sector.

2 If the farmer has been allocated or has bought or received payment entitlements by the last date for applying for the establishment of payment entitlements, the value and number of the payment entitlements he owns shall be recalculated as follows:

- a the number of payment entitlements shall be equal to the number of payment entitlements he owns, increased by the number of hectares established in accordance with point 3 of Section A of Annex IX to Regulation (EC) No 73/2009 for fruit and vegetables, ware potatoes and nurseries;
- b the value shall be obtained by dividing the sum of the value of the payment entitlements he owns and the reference amount calculated in accordance with point 2 of Section A of Annex IX to Regulation (EC) No 73/2009 for fruit and vegetables by the number established in accordance with point (a) of this paragraph.

Special entitlements shall not be taken into account in the calculation referred to in this paragraph.

3 Payment entitlements leased out before the date for lodging an application under the single payment scheme shall be taken into account in the calculation referred to in paragraph 2. However, payment entitlements leased out via a contractual clause as referred to in Article 27 shall be taken into account in the calculation referred to in paragraph 2 of this Article only if the lease conditions may be adjusted.

Article 32

Regional implementation

1 Where a Member State has made use of the option provided for in Article 59(1) of Regulation (EC) No 1782/2003, farmers shall receive a number of payment entitlements equal to the number of new eligible hectares under fruit and vegetables, ware potatoes and nurseries declared in his single application in 2008.

The value of the entitlements shall be calculated on the basis of objective and non-discriminatory criteria.

2 By way of derogation from the first subparagraph of paragraph 1, Member States may establish the additional number of entitlements per farmer on the basis of objective criteria in accordance with Section A of Annex IX to Regulation (EC) No 73/2009 for fruit and vegetables, ware potatoes and nurseries.

Status: Point in time view as at 16/08/2012.

*Changes to legislation: There are currently no known outstanding effects for the
Commission Regulation (EC) No 1120/2009 (repealed). (See end of Document for details)*

Section 2

Wine

Subsection 1

Transfer from wine support programmes into the single payment scheme

Article 33

General rules

1 For the purpose of the establishment of the amount and the determination of payment entitlements in the framework of the transfer from the wine support programmes into the single payment scheme, Section C of Annex IX to Regulation (EC) No 73/2009 shall apply subject to Article 34 of this Regulation and, in case the Member State has made use of the option provided for in Article 59 or 71f of Regulation (EC) No 1782/2003 or of Article 47 or 58 of Regulation (EC) No 73/2009, subject to Article 35 of this Regulation.

2 Member States may proceed to the identification of the eligible farmers as from 1 January 2009 for allocating payment entitlements deriving from the transfer from wine support programmes into the single payment scheme.

3 For the purposes of Article 18 of this Regulation in relation to the wine sector, the first year of application of the single payment scheme shall be the year of the determination by the Member State of the amounts and eligible hectares as referred to in Section C of Annex IX to Regulation (EC) No 73/2009.

Article 34

Specific rules

1 If the farmer does not own payment entitlements or only special entitlements by the last date for applying for the establishment of payment entitlements fixed in accordance with this Regulation, he shall receive payment entitlements for wine calculated in accordance with Section C of Annex IX to Regulation (EC) No 73/2009.

The first subparagraph shall also apply when the farmer has leased in payment entitlements between the first year of the application of the single payment scheme and the year of the transfer from support programmes.

2 If the farmer has been allocated or has bought or received payment entitlements by the last date for applying for the establishment of payment entitlements fixed in accordance with this Regulation, the value and number of the payment entitlements he owns shall be recalculated as follows:

- a the number of payment entitlements shall be equal to the number of payment entitlements he owns, increased by the number of hectares established in accordance with Section C of Annex IX to Regulation (EC) No 73/2009;
- b the value shall be obtained by dividing the sum of the value of the payment entitlements he owns and the reference amount calculated in accordance with Section C of Annex IX to Regulation (EC) No 73/2009 by the number established in accordance with point (a) of this paragraph.

Status: Point in time view as at 16/08/2012.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1120/2009 (repealed). (See end of Document for details)

Special entitlements shall not be taken into account in the calculation referred to in this paragraph.

3 Payment entitlements leased out before the date for lodging an application under the single payment scheme fixed in accordance with this Regulation shall be taken into account in the calculation referred to in paragraph 2.

Article 35

Regional implementation

1 Where a Member State has made use of the option provided for in Article 59 or Article 71f of Regulation (EC) No 1782/2003 or of Article 47 or 58 of Regulation (EC) No 73/2009, farmers shall receive a number of payment entitlements equal to the number of new eligible hectares under vineyards declared in his single application in 2009.

The value of the payment entitlements is calculated on the basis of objective and non-discriminatory criteria.

2 By way of derogation from paragraph 1, Member States may establish the number of entitlements per farmer on the basis of objective criteria in accordance with Section C of Annex IX to Regulation (EC) No 73/2009.

Subsection 2

Grubbing up

Article 36

Regional average

For the purpose of determining the value of payment entitlements in application of Section B of Annex IX to Regulation (EC) No 73/2009, the regional average shall be established by Member States at the appropriate territorial level. It shall be established at a date to be fixed by the Member State. It may be reviewed annually. It shall be based on the value of the payment entitlements allocated to the farmers in the region concerned. It shall not be differentiated per sector of production.

Status: Point in time view as at 16/08/2012.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1120/2009 (repealed). (See end of Document for details)

TITLE IV

SPECIFIC SUPPORT

CHAPTER 1

General rules

Article 37

Eligibility for specific support measures

1 Member States shall lay down eligibility criteria for specific support measures in compliance with the framework set out in Regulation (EC) No 73/2009 and the conditions laid down in this Title.

2 Member States shall implement this Title, and in particular paragraph 1, in accordance with objective criteria and in such a way to ensure equal treatment among farmers and to avoid market and competition distortions.

Article 38

Consistency and cumulation of support

1 Member States shall ensure consistency between:

- a specific support measures and measures implemented under other Community support instruments;
- b different specific support measures;
- c specific support measures and measures funded by State aids.

Member States shall in particular ensure that specific support measures do not interfere with the proper functioning of measures implemented under other Community support instruments or measures funded by State aids.

2 Where support under a specific support measure may also be granted under a measure implemented under other Community support instruments, or under another specific support measure, Member States shall ensure that a farmer may receive support for a given operation under only one such measure.

Article 39

Conditions for support measures

1 Specific support measures shall not compensate for the respect of mandatory obligations and, in particular, of the statutory management requirements and standards for good agricultural and environmental condition set out respectively in Annexes II and III to Regulation (EC) No 73/2009 or the other requirements referred to in the first subparagraph of Article 39(3) of Regulation (EC) No 1698/2005.

2 Specific support measures shall not finance taxes.

Status: Point in time view as at 16/08/2012.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1120/2009 (repealed). (See end of Document for details)

3 Member States shall ensure that the specific support measures they implement are verifiable and controllable.

CHAPTER 2

Specific rules

Article 40

Specific types of farming which are important for the protection or enhancement of the environment

Member States shall define the specific types of farming which are important for the protection or enhancement of the environment for which an annual additional payment is provided for in Article 68(1)(a)(i) of Regulation (EC) No 73/2009. Those specific types of farming shall provide non-negligible and measurable environmental benefits.

Article 41

Improving the quality of agricultural products

The annual additional payment for improving the quality of agricultural products provided for in Article 68(1)(a)(ii) of Regulation (EC) No 73/2009 may in particular enable farmers to:

- (a) meet the conditions necessary in order to join Community food quality schemes as set out in the acts listed in Article 68(2)(b) of Regulation (EC) No 73/2009 and in Commission Regulations (EC) No 1898/2006⁽¹⁴⁾, (EC) No 1216/2007⁽¹⁵⁾, (EC) No 889/2008⁽¹⁶⁾ and (EC) No 114/2009⁽¹⁷⁾; or
- (b) join private or national food quality certification schemes.

If the specific support measures are granted for the purposes of point (b) of the first paragraph, the requirements of Article 22(2) of Commission Regulation (EC) No 1974/2006⁽¹⁸⁾ shall apply *mutatis mutandis*.

Article 42

Improving the marketing of agricultural products

1 The annual additional payment for farmers for improving the marketing of agricultural products provided for in Article 68(1)(a)(iii) of Regulation (EC) No 73/2009 shall encourage farmers to improve the marketing of their agricultural products by ensuring the provision of better information about and/or promotion of the quality or characteristics of the products or their production methods.

2 Articles 4, 5 and 6 and Annexes I and II to Regulation (EC) No 501/2008 shall apply *mutatis mutandis*.

Status: Point in time view as at 16/08/2012.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1120/2009 (repealed). (See end of Document for details)

Article 43

Practising enhanced animal welfare standards

1 When establishing eligibility conditions for the specific support for farmers practising enhanced animal welfare practices provided for in Article 68(1)(a)(iv) of Regulation (EC) No 73/2009, Member States shall, where appropriate, take account of:

- a the type of farming;
- b the size of the farm in terms of density or number of animals and manpower; and
- c the farm management system applicable.

2 Enhanced animal welfare practices shall be those which go beyond the minimum requirements laid down in the applicable Community and national legislation, in particular, the acts referred to in point C of Annex II to Regulation (EC) No 73/2009. Those practices may include the upgraded standards referred to in Article 27(7) of Regulation (EC) No 1974/2006.

Article 44

Specific agricultural activities entailing additional agri-environment benefits

1 When establishing eligibility conditions for the specific support for farmers exercising specific agricultural activities entailing additional agri-environment benefits provided for in Article 68(1)(a)(v) of Regulation (EC) No 73/2009, Member States shall in particular take account of:

- a environmental objectives in the region where the measure is to be applied; and
- b any support granted already under other Community support instruments or other specific support measures or measures funded by State aids.

2 Article 27(2) to (6), (8), (9) and (13), Article 48 and Article 53 of Regulation (EC) No 1974/2006 shall apply *mutatis mutandis* to specific support for farmers exercising specific agricultural activities entailing additional agri-environment benefits.

3 The Commission shall assess the proposed specific support measures for farmers exercising specific agricultural activities entailing additional agri-environment benefits notified to it by the Member States for compliance with Regulation (EC) No 73/2009 and this Regulation.

Where the Commission considers that the proposed measures so comply, it shall approve the measures pursuant to Article 68(2)(a)(ii) of Regulation (EC) No 73/2009 within four months of receipt of the information provided in accordance with Article 50(3) of this Regulation.

Where the Commission considers that the proposed measures do not so comply, it shall request the Member State to revise the proposed measures accordingly and notify them to the Commission. It shall approve the measures if it considers that they have been appropriately revised.

Status: Point in time view as at 16/08/2012.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1120/2009 (repealed). (See end of Document for details)

Article 45

Specific disadvantages affecting farmers in the dairy, beef and veal, sheepmeat and goatmeat and rice sectors

1 When establishing eligibility conditions for specific support to address specific disadvantages affecting farmers in the dairy, beef and veal, sheepmeat and goatmeat and rice sectors in economically vulnerable or environmentally sensitive areas, or, in the same sectors, for economically vulnerable types of farming under Article 68(1)(b) of Regulation (EC) No 73/2009, Member States shall define the economically vulnerable and/or environmentally sensitive areas and/or the economically vulnerable types of farming eligible for the support, taking into account in particular, the relevant production structures and conditions.

2 The specific support shall not be based on fluctuations of market prices or be equivalent to a deficiency payments system.

Article 46

Areas subject to restructuring and/or development programmes

1 The eligibility conditions for the specific support measures in areas subject to restructuring and/or development programmes in order to ensure against land being abandoned and/or to address specific disadvantages for farmers in those areas provided for in Article 68(1)(c) of Regulation (EC) No 73/2009 shall in particular:

- a set out how individual reference amounts for eligible farmers are to be fixed; and
- b set out the restructuring and/or development programmes and/or the conditions for their approval.

2 Where a farmer who does not own any payment entitlement applies for the support referred to in paragraph 1, he may receive a number of payment entitlements not higher than the number of hectares he holds (owned or leased) at that time.

Where a farmer who owns payment entitlement applies for the support referred to in paragraph 1, he may receive a number of payment entitlements not higher than the number of hectares he holds for which he does not own any payment entitlement.

The unit value of each payment entitlement the farmer already owns may be increased.

The value of each payment entitlement received in accordance with this paragraph, except the third subparagraph, shall be calculated by dividing the individual reference amount established by the Member State by the number of entitlements referred to in the second subparagraph.

3 The increase of the per hectare amount under the single area payment scheme referred to in Article 131(2) of Regulation (EC) No 73/2009 shall be established by dividing the reference amount of the farmer by the number of eligible hectares he declares for payment under the single area payment scheme.

4 Member States shall ensure that the specific disadvantages for farmers in areas affected by restructuring and/or development programmes, for which the specific support is granted, are not compensated under any other provision of such programmes for the same purpose.

Status: Point in time view as at 16/08/2012.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1120/2009 (repealed). (See end of Document for details)

Article 47

Crop, animal and plant insurance

1 Member States shall lay down conditions for contracts to be eligible for the specific support by way of contributions to crop, animal and plant insurance premiums as referred to in Article 68(1)(d) of Regulation (EC) No 73/2009.

2 Contracts shall set out:

- a the particular risks insured against;
- b the particular economic losses covered; and
- c the premium paid, excluding taxes.

3 Contracts shall not cover more than one year's production. Where a contract's term covers parts of two calendar years, Member States shall ensure that compensation is not granted twice in respect of the same contract.

4 Member States shall adopt rules to be used for establishing the calculation of the destruction of the average annual production of a farmer in accordance with Article 70(2) of Regulation (EC) No 73/2009.

5 The farmer shall inform the Member State every year of the number of his insurance policy and provide a copy of the contract and proof of payment of the premium.

Article 48

Mutual funds for animal and plant diseases and environmental incidents

1 The rules defined by Member States in accordance with Article 71(9) of Regulation (EC) No 73/2009 for mutual funds eligible for financial contributions for animal and plant diseases and environmental incidents as referred to in Article 68(1)(e) of that Regulation shall in particular include:

- a the conditions for financing the mutual fund;
- b the outbreaks of animal or plant disease or environmental incidents which may give rise to compensation to be paid to farmers, including geographical scope where appropriate;
- c the criteria for assessing whether a given event shall give rise to the payment of compensation to farmers;
- d the methods for calculating of the additional costs which constitute economic losses under Article 71(2)(b) of Regulation (EC) No 73/2009;
- e the calculation of the administrative costs referred to in Article 71(6) of Regulation (EC) No 73/2009;
- f any limits to the costs that are eligible for a financial contribution applied under the second subparagraph of Article 71(7) of Regulation (EC) No 73/2009;
- g a procedure for the accreditation of a given mutual fund under national law;
- h procedural rules; and
- i the compliance and clearance audits that the mutual fund shall be subjected to following its accreditation.

Status: Point in time view as at 16/08/2012.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1120/2009 (repealed). (See end of Document for details)

2 Where the source of the financial compensation to be paid by the mutual fund is a commercial loan, its minimum and maximum duration shall be between 1 and 5 years respectively.

3 Member States shall ensure that their farming communities are made aware of:

- a all mutual funds accredited;
- b the conditions for affiliation to a particular mutual fund; and
- c the financing arrangements of the mutual funds.

Article 49

Financial provisions for specific support measures

1 The amounts referred to in Article 69(6)(a) of Regulation (EC) No 73/2009 are set out in Annex III to this Regulation.

2 For the purposes of the fourth subparagraph of Article 69(7) of Regulation (EC) No 73/2009, Member States may request by 1 August in any given calendar year from 2010 a revision of the amounts referred to in paragraph 1 of this Article where the amount resulting from application of the calculation set out in the first subparagraph of Article 69(7) of Regulation (EC) No 73/2009 for the financial year in question differs by more than 20 % from the amount fixed in Annex III to this Regulation.

Any revised amount provided for by the Commission shall be applicable from the calendar year following that of the request.

TITLE V

NOTIFICATIONS AND FINAL PROVISIONS

CHAPTER 1

Notifications

Article 50

Notification of decisions

1 Where a Member State makes use of the options provided for in Articles 28(1) and (2), 38, 41(2) to (5), 45(1) and (3), 46(1) and (3), 47(1) to (4), 48, 49, 51(1) and 67 of Regulation (EC) No 73/2009 and Article 11(2) of this Regulation, it shall notify the Commission of the details of the decision taken and the justification and objective criteria on the basis of which the decision of applying the option concerned has been chosen:

- a for decisions applying for 2010, within two weeks of:
 - (i) the date of entry into force of this Regulation; or
 - (ii) the date on which the decision was taken if later than the date of entry into force of this Regulation; and
- b by 1 August 2010 in other cases.

Status: Point in time view as at 16/08/2012.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1120/2009 (repealed). (See end of Document for details)

Where a Member State takes a new decision as regards the use of the options provided for in Article 41(2) to (5) of Regulation (EC) No 73/2009, it shall notify the Commission of the details of the decision taken and the justification and objective criteria on the basis of which the decision of applying the option concerned has been chosen within two weeks of the date on which the decision is taken.

2 Where a new Member State intends to terminate the application of the single area payment scheme in accordance with Article 122(3) of Regulation (EC) No 73/2009, it shall communicate to the Commission by 1 August of the year preceding the first year of application of the single payment scheme at the latest, the details of the implementation of the single payment scheme, including the options according to Articles 55(3), 57(3) to (6), 59(3) and 61 of that Regulation as well as the objective criteria on the basis of which the decisions have been taken.

3 Member States shall inform the Commission of the specific support measures they intend to apply by 1 August of the year preceding the first year of application of that measure.

The content of the information shall be provided in accordance with Part A of Annex IV, except for specific support measures for specific agricultural activities entailing additional agri-environmental benefits, which shall be provided in accordance with Part B of that Annex.

Article 51

Statistics and reports

The Member States shall notify the Commission of the following information by electronic means using the form made available to them by the Commission:

1. by 1 September of the year concerned at the latest:
 - (a) the total number of applications claimed under the single payment scheme for the current year, together with the corresponding total amount of the payment entitlements and the total number of accompanying eligible hectares; those data shall be broken down by regions in case of regional implementation of the single payment scheme. For the first year of application of the single payment scheme, the information shall be based on the provisional payment entitlements;
 - (b) in case of application of measures under Article 68 of Regulation (EC) No 73/2009, Member States shall communicate the total amount of support claimed for the current year for each of the measures and, where applicable, sectors concerned;
2. by 1 May of the following year at the latest, for the first year of application of the single payment scheme, the same information as referred to in point 1(a), but based on the definitive payment entitlements;
3. by 15 September of the following year at the latest:
 - (a) the total value of existing payment entitlements activated or not in the given year and the number of hectares required for activation. The information shall be broken down by type of entitlements and by regions in case of regional implementation of the single payment scheme;

Status: Point in time view as at 16/08/2012.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1120/2009 (repealed). (See end of Document for details)

- (b) definitive data on the total number of applications under the single payment scheme accepted for the preceding year and the corresponding total amount of the payments which have been granted, after application, as the case may be, of the measures referred to in Articles 7, 9, 11(1) and (2), 21, 22 and 23 of Regulation (EC) No 73/2009 as well as the total sum of the amounts remaining in the national reserve by the 31 December of the preceding year and the total number of accompanying eligible hectares; those data shall be broken down by regions, were applicable in case of regional implementation of the single payment scheme;
 - (c) as regards Article 68 of Regulation (EC) No 73/2009, for the preceding year, the total number of beneficiaries and the amount of the payments which have been granted per measure and where applicable for each of the sectors concerned; and
 - (d) the annual report to be sent to the Commission by Member States on the implementation of Article 71 of Regulation (EC) No 73/2009 which shall contain the information listed in Annex V to this Regulation;
4. by 1 October 2012 at the latest, a report on the specific support measures implemented in 2009, 2010 and 2011, their impact on their objectives and any problems encountered.

F³Article 51a

The notifications referred to in this Regulation, with the exception of Article 51(4) shall be made in accordance with Commission Regulation (EC) No 792/2009⁽¹⁹⁾.

The notifications referred to in Article 51(3) shall be made in accordance with Regulation (EC) No 792/2009 only as from 1 January 2013.]

Textual Amendments

F3 Inserted by [Commission Implementing Regulation \(EU\) No 666/2012 of 20 July 2012 amending Regulations \(EC\) No 2092/2004, \(EC\) No 793/2006, \(EC\) No 1914/2006, \(EC\) No 1120/2009, \(EC\) No 1121/2009, \(EC\) No 1122/2009, \(EU\) No 817/2010 and \(EU\) No 1255/2010 as regards the notification obligations within the common organisation of agricultural markets and the direct support schemes for farmers.](#)

CHAPTER 2

Final provisions

Article 52

Repeal

Regulations (EC) No 795/2004 and (EC) No 639/2009 are repealed.

However, they shall continue to apply in respect of aid applications relating to premium periods starting before 1 January 2010.

Status: Point in time view as at 16/08/2012.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1120/2009 (repealed). (See end of Document for details)

Article 53

Entry into force and application

This Regulation shall enter into force on the 7th day following its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2010 except for Articles 11(2) and 50(1)(a), which shall apply from the date of 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 16/08/2012.

*Changes to legislation: There are currently no known outstanding effects for the
Commission Regulation (EC) No 1120/2009 (repealed). (See end of Document for details)*

- (1) OJ L 215, 30.7.1992, p. 85.
- (2) OJ L 160, 26.6.1999, p. 80.
- (3) OJ L 277, 21.10.2005, p. 1.
- (4) OJ L 38, 12.2.2000, p. 1.
- (5) OJ L 93, 31.3.2006, p. 1.
- (6) OJ L 93, 31.3.2006, p. 12.
- (7) OJ L 189, 20.7.2007, p. 1.
- (8) OJ L 299, 16.11.2007, p. 1.
- (9) OJ L 209, 11.8.2005, p. 1.
- (10) See page 65 of this Official Journal.
- (11) [^{F1}OJ L 193, 20.7.2002, p. 1.
- (12) OJ L 193, 20.7.2002, p. 74.]
- (13) OJ L 204, 11.8.2000, p. 1.
- (14) OJ L 369, 23.12.2006, p. 1.
- (15) OJ L 275, 19.10.2007, p. 3.
- (16) OJ L 250, 18.9.2008, p. 1.
- (17) OJ L 38, 7.2.2009, p. 26.
- (18) OJ L 368, 23.12.2006, p. 15.
- (19) [^{F3}OJ L 228, 1.9.2009, p. 3.]

Textual Amendments

- F1** Substituted by Commission Regulation (EU) No 331/2011 of 6 April 2011 amending Regulation (EC) No 1120/2009 as regards the use of land for the production of hemp within the framework of the implementation of the single payment scheme provided for in Council Regulation (EC) No 73/2009.
- F3** Inserted by Commission Implementing Regulation (EU) No 666/2012 of 20 July 2012 amending Regulations (EC) No 2092/2004, (EC) No 793/2006, (EC) No 1914/2006, (EC) No 1120/2009, (EC) No 1121/2009, (EC) No 1122/2009, (EU) No 817/2010 and (EU) No 1255/2010 as regards the notification obligations within the common organisation of agricultural markets and the direct support schemes for farmers.

Status:

Point in time view as at 16/08/2012.

Changes to legislation:

There are currently no known outstanding effects for the Commission Regulation (EC) No 1120/2009 (repealed).