

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support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers (repealed)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 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.

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.

#### *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<sup>(1)</sup>.

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.

#### *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**

#### *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 '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<sup>(2)</sup>, with exception of the varieties Finola and Tiborszallasi. The seed shall be certified in accordance with Council Directive 2002/57/EC<sup>(3)</sup>.

#### *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, 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.

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.

*Status: This is the original version (as it was originally adopted).*

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.

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<sup>(4)</sup> 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.

## 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.

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.

#### *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 Article 22 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 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.

### *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.

#### *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.

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.

- (1) See page 65 of this Official Journal.
- (2) [OJ L 193, 20.7.2002, p. 1.](#)
- (3) [OJ L 193, 20.7.2002, p. 74.](#)
- (4) [OJ L 204, 11.8.2000, p. 1.](#)