

Commission Regulation (EC) No 1121/2009 of 29 October 2009 laying down detailed rules for the application of Council Regulation (EC) No 73/2009 as regards the support schemes for farmers provided for in Titles IV and V thereof (repealed)

COMMISSION REGULATION (EC) No 1121/2009

of 29 October 2009

laying down detailed rules for the application of Council Regulation (EC) No 73/2009 as regards the support schemes for farmers provided for in Titles IV and V thereof (repealed)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 73/2009 of 19 January 2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers, amending Regulations (EC) No 1290/2005, (EC) No 247/2006, (EC) No 378/2007 and repealing Regulation (EC) No 1782/2003<sup>(1)</sup>, and in particular Article 29(4)(a), Article 87(4), Article 89(2), Article 91(2), the second subparagraph of Article 101(2), Article 103(1), Article 142(c), (e), (q) and (s) and Article 147 thereof,

Whereas:

- (1) Regulation (EC) No 73/2009 repeals and replaces Council Regulation (EC) No 1782/2003 of 29 September 2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers and amending Regulations (EEC) No 2019/93, (EC) No 1452/2001, (EC) No 1453/2001, (EC) No 1454/2001, (EC) No 1868/94, (EC) No 1251/1999, (EC) No 1254/1999, (EC) No 1673/2000, (EEC) No 2358/71 and (EC) No 2529/2001<sup>(2)</sup>. The implementing rules for the application of the support schemes provided for in Titles IV and IVa of Regulation (EC) No 1782/2003 were laid down in Commission Regulation (EC) No 1973/2004 of 29 October 2004 laying down detailed rules for the application of Council Regulation (EC) No 1782/2003 as regards the support schemes provided for in Titles IV and IVa of that Regulation and the use of land set aside for the production of raw materials<sup>(3)</sup>. Regulation (EC) No 1973/2004 needs to be adapted to the changes introduced by Regulation (EC) No 73/2009, notably those provided for in Title IV and in Chapters 2 and 4 of Title V thereof. In the interest of clarity and simplification Regulation (EC) No 1973/2004 should be repealed and replaced by a new Regulation.
- (2) In order to ensure the efficient administration of the schemes provided for in Title IV of Regulation (EC) No 73/2009, the payments to be granted under some of those schemes should be restricted to minimum size of the areas (area payment). The minimum area size should be fixed taking into account the particular size of farms in some Member States or the specific conditions for some productions.
- (3) The sowing of land for the sole purpose of qualifying for area payments should be prevented. Certain conditions relating to the sowing and cultivation of crops should be

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specified, in particular as regards protein plants and rice and fruit and vegetables. Local standards should be respected in order to reflect the diversity of agricultural practice within the Community.

- (4) Only one application for an area payment should be permitted in respect of any parcel cultivated in a given year except in cases where the aid concerns the production of seeds. Area payments may be granted on crops subsidised under a scheme falling within the Community's structural or environmental policies.
- (5) Supports schemes provide that where the area, the quantity or the number of animals for which aid is claimed exceeds maximum limits, the area or quantity or number for which aid is claimed is to be reduced proportionately in that year. It is therefore appropriate to establish the modalities and deadlines for the exchange of information between the Commission and the Member States in order to inform the Commission of the areas or quantities or numbers for which the aid has been paid.
- (6) The terms of payment as well as the crop-specific payment for rice calculation depend not only on the base area or areas fixed for each producing Member State in Article 75 of Regulation (EC) No 73/2009, but also on the possible subdivision of those base areas into sub-base areas and on the objective criteria chosen by each Member State to perform this subdivision, on conditions in which the cultivated parcels are put into cultivation and on the minimum size of the areas. As a consequence, detailed rules should be laid down for the establishment, the management and the cultivation modalities applicable to base areas and sub-base areas.
- (7) The observation of a possible overrun of the base area referred to in Article 76 of Regulation (EC) No 73/2009 implies a reduction of the crop-specific payment for rice. In order to set the calculation modalities for such a reduction, the criteria to be taken into consideration as well as applicable coefficients should be defined.
- (8) The follow-up of the payments of the crop-specific payment for rice presumes that the Commission has been forwarded certain information related to the cultivation of base areas and sub-base areas. For that purpose, the detailed information that the Member States should communicate to the Commission as well as the deadlines for such communications should be determined.
- (9) Articles 77 and 78 of Regulation (EC) No 73/2009 provide for an aid to farmers producing potatoes intended for the manufacture of potato starch subject to a cultivation contract and within the quota limit established by Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (the single CMO Regulation)<sup>(4)</sup>. The conditions for the granting of the aid should therefore be established and, where applicable, cross references should be made to the existing provisions concerning the quota system provided for in Regulation (EC) No 1234/2007.
- (10) Standards for sweet lupins and tests to determine whether or not a sample of lupins is sweet should be laid down.
- (11) In some regions, the protein crops are traditionally sown in a mixture with cereals for agronomical reasons. The resulting crop principally consists of protein crops. For the

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purpose of granting the protein crop premium, the areas thus sown should therefore be considered as areas of protein crops.

- (12) In the interest of efficiency and good management of the aid scheme for nuts, the area aid granted should not be used to finance marginal plantations or isolated trees. A minimum plot size and a minimum tree density of a specialised orchard should therefore be defined.
- (13) Article 87 of Regulation (EC) No 73/2009 provides for the possibility of direct aid being granted for the production of one or more seed species. That aid may be granted only for the production of basic seed or certified seed and these products should be clearly defined by reference to the Directives on certification and marketing of seeds: Council Directive 66/401/EEC of 14 June 1966 on the marketing of fodder plant seed<sup>(5)</sup>, Council Directive 66/402/EEC of 14 June 1966 on the marketing of cereal seed<sup>(6)</sup>, and Council Directive 2002/57/EC of 13 June 2002 on the marketing of seed of oil and fibre plants<sup>(7)</sup>.
- (14) To make checks possible, basic seed and certified seed should be produced under growing contracts or growing declarations which will be joined to the single application and seed establishments and breeders should be officially approved or registered.
- (15) Under Annex XIII to Regulation (EC) No 73/2009, production aid is payable for basic and certified seed of varieties of *Cannabis sativa* L. with a tetrahydrocannabinol content not exceeding 0,2 %. In order to ensure uniform application throughout the Community of the rules for granting the aid, the eligible varieties of *Cannabis sativa* L. should be those defined as eligible for direct payments in accordance with Article 39 of Regulation (EC) No 73/2009.
- (16) Section 6 of Chapter 1 of Title IV of Regulation (EC) No 73/2009 provides for a crop-specific payment for cotton. Detailed rules should be laid down for the application of this scheme. These rules should cover the authorisation of land suitable for cotton production and the approval of varieties. Furthermore a criterion defining 'sowing' should be established. The Member States' fixing of the minimum planting density on these lands based on soil and climate conditions and specific regional features must be an objective criterion for establishing whether sowing has been conducted properly or not.
- (17) The Member States should approve inter-branch cotton producing organisations on the basis of objective criteria relating to their scale and internal organisation. The scale of an inter-branch organisation should be fixed, taking into account the requirement on the member ginning undertaking to be able to take delivery of sufficient quantities of unginned cotton.
- (18) In order to avoid complications in managing the aid scheme, a producer may not be a member of more than one inter-branch organisation. For that same reason, where a producer belonging to an inter-branch organisation undertakes to supply the cotton he has produced, he should supply it only to a ginning undertaking belonging to that same organisation.
- (19) The cotton aid scheme requires Member States to send their producers certain information on cotton growing, such as approved varieties, the objective criteria for

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authorising land and the minimum plant density. In order to inform the farmers in good time, the Member State should send them this information by a specific date.

- (20) Sections 8 and 9 of Chapter 1 of Title IV of Regulation (EC) No 73/2009 provides that the aids for fruit and vegetable are granted on the condition that a processing contract is concluded. For that purpose, it is appropriate to require that a contract must be concluded with respect to the agricultural raw materials concerned, between, on the one hand, an approved first processor, and, on the other hand, a producer or a recognised producer organisation representing him or, in the case of the transitional fruit and vegetables payments and the transitional soft fruit payment, an approved collector representing the producer.
- (21) To ensure that the raw material benefiting from the transitional fruit and vegetable payments and the transitional soft fruit payment is finally processed, it appears appropriate to set up a system of approval of first processors and collectors. Such authorised operators would have to comply with minimum requirements and would be sanctioned in case of non-compliance with their obligations, according to detailed rules to be set up at national level by the competent authorities.
- (22) In order to be able to manage the financial envelope for transitional fruit and vegetable payments appropriately, Member States should fix early in the year an indicative aid amount per hectare and, before the time period for payments, a final aid amount per hectare.
- (23) The criteria for eligibility for sheep and goat premiums provided for in Section 10 of Chapter 1 of Title IV of Regulation (EC) No 73/2009, and in particular the conditions required, need to be laid down.
- (24) Article 101(2) of Regulation (EC) No 73/2009 provides for the granting of a premium to goat meat farmers in certain areas of the Community. The areas in question should therefore be determined in accordance with the criteria laid down in that provision.
- (25) Under Article 102(1) of Regulation (EC) No 73/2009 farmers whose holdings have at least 50 % of their area used for agriculture situated in less-favoured areas may qualify for a supplementary premium. Article 101(2) makes reference to the specific geographical zones where goat meat farmers meet the necessary conditions to qualify for the goat premium. Provisions should be made for a declaration to be provided by farmers meeting those criteria to prove that at least half of the land they are using for agricultural production is located in less-favoured areas or in areas which qualify for the goat premium.
- (26) For the purpose of control on eligibility for the correct level of ewe premium, Member States should draw up an inventory of farmers marketing sheep's milk or sheep's milk products.
- (27) With a view to implementing the system of individual limits as introduced by Articles 104, 105 and 106 of Regulation (EC) No 73/2009, the existing administrative rules may continue to be applied as regards, in particular, the use of rights granted free of charge, the use of normal rights including minimum use, the temporary leasing and transfer of rights, the notification of changes on individual ceiling and the transfer

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of rights through the national reserve. Some of those rules are specific provisions for exceptional and duly justified circumstances such as, regarding the use of rights, the small farmers and farmers participating in extensification programmes and early retirement schemes, and, for the transfer purpose, the inheritance of premiums rights and the case of farmers using only publicly or collectively owned land for grazing.

- (28) The Commission is to monitor the new arrangements and as a result it needs to be properly provided by the Member States with the essential information regarding the implementation of the premium rules.
- (29) If applicable, detailed information on the national rules on, and the implementation of, the additional payments should be forwarded to the Commission.
- (30) Section 11 of Chapter 1 of Title IV of Regulation (EC) No 73/2009 provides for beef and veal payments. The criteria for eligibility, and in particular the conditions required for those payments, need to be laid down.
- (31) Provision should be made for the administrative document laid down in Article 110(3) (b) of Regulation (EC) No 73/2009 to be drawn up and issued at national level. In order to take account of particular administrative and control conditions in the Member States, different forms of administrative document should be allowed.
- (32) Article 110(3)(a) and Article 116(1) of Regulation (EC) No 73/2009 lay down a retention period as a condition for granting the special premium and the slaughter premium. It is therefore necessary to define and quantify that period.
- (33) The arrangements for granting the special premium at the time of slaughter should be consistent with the arrangements for granting the slaughter premium. The types of documents which are to accompany the animal until slaughter, dispatch or export should be specified. In order to take account of the specific features of the form of granting at the time of slaughter, the age conditions for steers and the method of presentation of the carcase for adult bovine animals should be laid down.
- (34) The concept of suckler cow laid down in Article 111 of Regulation (EC) No 73/2009 should be defined. In that respect, the same breeds should be kept as those under Commission Regulation (EC) No 2342/1999 of 28 October 1999 laying down detailed rules for the application of Council Regulation (EC) No 1254/1999 on the common organisation of the market in beef and veal as regards premium schemes<sup>(8)</sup>. Moreover, the existing essential requirements may continue to be applied, in particular as regards the average milk yield and the additional national premium.
- (35) The existing administrative rules may continue to be applied as regards in particular the individual ceilings, the notifications on the individual ceilings and the national reserve, the rights obtained free of charge, the use of rights, the transfer and temporary leasing of rights, the transfers through the national reserve.
- (36) The Commission should determine, on the basis of available information, which Member States meet the conditions for applying the special scheme laid down in Article 115 of Regulation (EC) No 73/2009. The special arrangements for granting the premium should be specified.

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- (37) Specific provisions should be laid down as regards the application of the rules on periods, dates and time limits to the retention period.
- (38) In the interests of simplification, the 'livestock' aid application provided for in the integrated system should be taken to represent application for the slaughter premium, provided that it contains all the elements needed to justify payment of the premium and that the animal is slaughtered in the same Member State or in another Member State, or exported.
- (39) It should be possible to use the computerised database referred to in Regulation (EC) No 1760/2000 of the European Parliament and of the Council of 17 July 2000 establishing a system for the identification and registration of bovine animals and regarding the labelling of beef and beef products and repealing Council Regulation (EC) No 820/97<sup>(9)</sup> to facilitate the management of the slaughter premium, on condition that the Member State concerned considers that the database offers adequate assurances as to the accuracy of the data it contains for the purposes of the payment of premiums.
- (40) The slaughter premium for calves is conditional on a maximum weight limit. A standard type of carcass presentation should therefore be laid down, to which this maximum weight applies.
- (41) To ensure that farmers receive payments as quickly as possible, provision should be made for granting advances. However, in view of the application of the national or regional ceilings, steps should be taken to ensure that the advance does not exceed the definitive payment. Provision should therefore be made to allow Member States to reduce the percentage of the advance for the premium schemes subject to those ceilings.
- (42) It is necessary to fix the date determining the elements to be taken into consideration for the application of the special premium and suckler cow premium schemes. In order to ensure sound and consistent administration, that date should, as a general rule, be the date of the submission of applications. However, with respect to the special premium paid on slaughter, special rules should be laid down in order to avoid carry-overs from one year to the next with a view to obtaining a higher premium. As regards the slaughter premium, the date of slaughter or of export is a better indication of whether the operations concerned have actually been carried out.
- (43) In accordance with the third subparagraph of Article 124(2) of Regulation (EC) No 73/2009 and in order to avoid managing numerous applications that would entail very low payments per holding, Bulgaria, the Czech Republic, Estonia, Latvia, Lithuania, Hungary, Poland, Romania and Slovakia have requested the authorisation to set the minimum size of eligible area per holding at levels higher than 0,3 ha.
- (44) The new Member States, within the meaning of Article 2(g) of Regulation (EC) No 73/2009, applying the Single Area payment Scheme have estimated the part of their utilised agricultural area which has been maintained in good agricultural condition on 30 June 2003 and have proposed to adjust it in accordance with the minimum size of eligible area per holding.

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- (45) Article 132 of Regulation (EC) No 73/2009 provides for the possibility in the new Member States of complementing direct aid paid to a farmer, subject to authorisation by the Commission. The general modalities for implementing this possibility should be established.
- (46) Taking into account specific provisions of the aid for energy crops provided for in Chapter 5 and set-aside scheme provided for in Chapter 10 of Title IV of Regulation (EC) No 1782/2003, notably for multiannual crops, and in order to relieve farmers and processors from unnecessary administrative burden after abolition of this aid, it is appropriate to define certain transitional rules for its smooth abolition and release of the securities lodged by the collectors and processors.
- (47) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Direct Payments,

HAS ADOPTED THIS REGULATION:

## TITLE I

### SCOPE AND GENERAL PROVISIONS

#### *Article 1*

##### **Subject matter and scope**

- 1 This Regulation lays down detailed rules for the implementation of the following support schemes provided for in Chapter 1 of Title IV of Regulation (EC) No 73/2009:
- a crop-specific payment for rice provided for in Section 1 thereof;
  - b aid for starch potato growers provided for in Section 2 thereof;
  - c protein crop premium provided for in Section 3 thereof;
  - d area payment for nuts provided for in Section 4 thereof;
  - e seed aid provided for in Section 5 thereof;
  - f crop-specific payment for cotton provided for in Section 6 thereof;
  - g transitional fruit and vegetable payments and transitional soft fruit payment provided for in Sections 8 and 9 thereof;
  - h premiums in the sheepmeat and goatmeat sector provided for in Section 10 thereof;
  - i beef and veal payments provided for in Section 11 thereof.
- 2 This Regulation lays down detailed rules for the implementation of the following support schemes provided for in Title V of Regulation (EC) No 73/2009:
- a single area payment scheme (SAPS) provided for in Chapter 2 thereof;
  - b complementary national direct payments provided for in Chapter 4 thereof.

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## Article 2

### Definitions

For the purposes of this Regulation, the definitions laid down in Article 2 of Regulation (EC) No 73/2009, in Article 2 of Commission Regulation (EC) No 1120/2009<sup>(10)</sup> and in Article 2 of Commission Regulation (EC) No 1122/2009<sup>(11)</sup> shall apply.

In particular the definition of short rotation coppice in Article 2(n) of Regulation (EC) No 1120/2009 shall apply *mutatis mutandis* in relation to SAPS.

## Article 3

### Cumulation of area payments

In a given year, no more than one application for an area payment listed in Annex I to Regulation (EC) No 73/2009 may be made in respect of any cultivated parcel.

## Article 4

### Notifications on farmers' applications and payments

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

- a by 1 September of the year concerned at the latest:
  - (i) the total area for which the aid has been claimed in the case of:
    - the crop-specific payment for rice provided for in Article 73 of Regulation (EC) No 73/2009,
    - the protein crop premium provided for in Article 79 of Regulation (EC) No 73/2009,
    - the area payment for nuts provided for in Article 82 of Regulation (EC) No 73/2009, by categories of nut trees,
    - the crop-specific payment for cotton provided for in Article 88 of Regulation (EC) No 73/2009,
    - the single area payment scheme (SAPS) provided for in Article 122 of Regulation (EC) No 73/2009;
  - (ii) the total number of applications in the case of the sheep and goat premiums provided for in Article 99 of Regulation (EC) No 73/2009, by type of female and type of premiums;
- b by 15 October of the year concerned at the latest, the total determined area in the case of the protein crop premium provided for in Article 79 of Regulation (EC) No 73/2009;
- c by 31 January of the following year at the latest:
  - (i) the total determined area used for the calculation of the coefficient of reduction in the case of:
    - the crop-specific payment for rice provided for in Article 73 of Regulation (EC) No 73/2009, broken down for by base area and sub-base area,



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- the area payment for nuts provided for in Article 82 of Regulation (EC) No 73/2009, by categories of nut trees,
  - the crop-specific payment for cotton provided for in Article 88 of Regulation (EC) No 73/2009,
  - the single area payment scheme (SAPS) provided for in Article 122 of Regulation (EC) No 73/2009;
- (ii) the total number of male bovines in respect of which the special premium, provided for in Article 110 of Regulation (EC) No 73/2009, has been applied for, broken down by age bracket and type of animal (bull or steer);
- (iii) the total number of cows in respect of which the suckler cow premium, provided for in Article 111 of Regulation (EC) No 73/2009, has been applied for, broken down according to the schemes referred to in Article 111(2)(a) and (b);
- d by 1 March of the following year at the latest, the total number of animals in respect of which the slaughter premium, provided for in Article 116 of Regulation (EC) No 73/2009, has been applied for and indicating whether the animals were slaughtered or exported, broken down by type of animal (calves, adults);
- e by 31 July of the following year at the latest the total quantity for which the aid has actually been paid in the case of the seed aid provided for in Article 87 of Regulation (EC) No 73/2009, by seed species as listed in Annex XIII to Regulation (EC) No 73/2009.

2 In the notifications provided for in paragraph 1, the areas shall be expressed in hectares to two decimal places; the quantities shall be expressed in tonnes to three decimal places.

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

## TITLE II

### **SPECIFIC RULES CONCERNING TITLE IV OF REGULATION (EC) No 73/2009**

#### CHAPTER 1

##### **General provisions**

###### *Article 5*

##### **Specific requirements on minimum areas and sowing and cultivation**

1 The crop-specific payment for rice, the protein crop premium, the seed aid and the fruit and vegetable payments referred to in Article 1(1)(a), (c), (e) and (g) shall be granted only for the areas, per each type of crop, which have been the subject of an aid application in respect of at least 0,3 hectares. Furthermore, each cultivated parcel shall exceed the minimum size set by the Member State within the limit provided for in Article 13(9) of Regulation (EC) No 1122/2009.

In the case of Malta, the direct payments referred to in Article 1(1)(a), (c), (e) and (g) shall be granted only for the areas, per each type of crop, which have been the subject

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of application in respect of at least 0,1 hectares, where each cultivated parcel exceeds the minimum size set by the Member State within the limit provided for in Article 13(9) of Regulation (EC) No 1122/2009.

In the case of Greece, the transitional fruit and vegetable payments referred to in Article 1(1)(g) shall be granted only for the areas, per each type of crop, which have been the subject of application in respect of at least 0,1 hectares, where each cultivated parcel exceeds the minimum size set by the Member State within the limit provided for in Article 13(9) of Regulation (EC) No 1122/2009.

In the case of Bulgaria, Latvia, Hungary, and Poland, the soft fruit payment referred to in Article 1(1)(g) shall be granted only for the areas, per each type of crop, which have been the subject of application in respect of at least 0,1 hectares, where each cultivated parcel exceeds the minimum size set by the Member State within the limit provided for in Article 13(9) of Regulation (EC) No 1122/2009.

2 The minimum size of the parcel eligible for the area payment referred to in Article 1(1)(d) shall be 0,10 hectares. However, Member States may fix a higher minimum parcel size on the basis of objective criteria and taking into account the specific characteristics of the areas concerned.

3 The crop-specific payment for rice, the protein crop premium and the fruit and vegetable payments referred to in Article 1(1)(a), (c) and (g) shall be granted only for the areas entirely sown or planted and on which all normal cultivation conditions have been performed in accordance with local standards.

## *Article 6*

### **Coefficients of reductions**

The coefficient of reduction of areas in the case referred to in Articles 76, 81(2) and 84 of Regulation (EC) No 73/2009 shall be fixed before the payments are granted to the farmers and at the latest by 31 January of the following year on the basis of the data notified in accordance with Article 4(1)(b) and (c) of this Regulation.

## CHAPTER 2

### **Crop-specific payment for rice**

## *Article 7*

### **Dates for sowings**

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

- (a) on 30 June preceding the harvest in question, for France, Italy, Portugal, and Spain;
- (b) on 31 May for the other producing Member States referred to in Article 74(2) of Regulation (EC) No 73/2009.

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## *Article 8*

### **Coefficient of reduction**

The coefficient of reduction of the crop-specific payment for rice referred to in Article 76 of Regulation (EC) No 73/2009 shall be calculated in accordance with Annex I to this Regulation.

## *Article 9*

### **Notifications**

Member States may revise annually the subdivision of their base area or areas established in Article 75 of Regulation (EC) No 73/2009 into sub-base areas and the objective criteria on which those subdivisions are based. They shall notify that information to the Commission by 15 May preceding the harvest in question at the latest.

## CHAPTER 3

### **Aid for starch potato growers**

## *Article 10*

### **Eligibility**

The aid for starch potato provided for in Article 77 of Regulation (EC) No 73/2009 shall be granted for potatoes which are covered by a cultivation contract as provided for in Article 3 of Commission Regulation (EC) No 571/2009<sup>(12)</sup>, on the basis of the net weight of the potatoes determined by one of the methods described in Annex I to Commission Regulation (EC) No 2235/2003<sup>(13)</sup> and the starch content of the potatoes delivered, in accordance with the rates fixed in Annex II to that Regulation.

No aid for starch potato shall be granted for potatoes whose starch content is less than 13 %, except where the second subparagraph of Article 5(3) of Regulation (EC) No 571/2009 applies.

## *Article 11*

### **Minimum price**

The aid for starch potato shall be subject to the requirement that proof is provided that a price not less than that referred to in Article 95a(2) of Regulation (EC) No 1234/2007 has been paid at the delivered-to-factory stage in accordance with the rates fixed in Annex II to Regulation (EC) No 2235/2003.

Article 10(2) of Regulation (EC) No 571/2009 shall apply.

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## Article 12

### Payment

1 Without prejudice to Article 29 of Regulation (EC) No 73/2009, the aid for potato starch shall be paid, by the Member State on whose territory is situated the holding delivering the potatoes for the manufacturing of the potato starch, per farmer once all his quantities for the marketing year have been delivered to the starch-producing undertaking within 4 months from the date on which the proof referred to in Article 11 of this Regulation has been provided and the conditions referred to in Article 10 of this Regulation have been respected.

2 Member States may grant advances, as from 1 December of the marketing year, based on the different parts of the quantity of starch potatoes by farmer delivered to the starch-producing undertaking for that marketing year. Each advance payment shall be granted for the quantity of starch potatoes delivered for which the proof referred to in Article 11 has been provided and the conditions referred to in Article 10 have been respected.

## CHAPTER 4

### Protein crop premium

## Article 13

### Sweet lupins

For the purpose of the protein crop premium provided for in Title IV Chapter 1 Section 3 of Regulation (EC) No 73/2009, 'sweet lupins' shall mean those varieties of lupins producing seed comprising not more than 5 % bitter seeds. The bitter seed content shall be calculated in accordance with the test set out in Annex II to this Regulation.

## Article 14

### Mixture of cereals and protein crops

In regions where protein crops are traditionally sown in a mixture with cereals, the protein crop premium shall be paid at the request of the applicant provided that he proves, to the satisfaction of the competent authorities of the Member State concerned, that the protein crops are predominant in the mixture.

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## CHAPTER 5

### Area payment for nuts

#### Article 15

#### Conditions of payment of Community aid

1 Only agricultural parcels planted with nut trees and meeting the conditions provided for in paragraphs 2 and 3 of this Article at the date to be fixed in accordance with Article 11(2) of Regulation (EC) No 1122/2009 shall be eligible for the area payment provided for in Article 82 of Regulation (EC) No 73/2009.

In the case of a parcel planted with different species of nut trees and when the aid is differentiated by species, eligibility shall be conditional on compliance for at least one of the species of nuts with the minimum number of trees per hectare laid down in paragraph 2 of this Article.

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

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

However, Member States may fix a higher tree density on the basis of objective criteria and taking into account the specific characteristics of the production concerned.

3 In the cases referred to in the second subparagraph of paragraph 1, the level of the aid to be granted is the level corresponding to the species for which the eligibility conditions are met and for which the amount is highest.

#### Article 16

#### Eligibility conditions for national aid

Article 15 of this Regulation shall apply to the national aid provided for in Articles 86 and 120 of Regulation (EC) No 73/2009.

Without prejudice to Article 86 of Regulation (EC) No 73/2009, a Member State may establish further eligibility criteria, provided that such criteria are consistent with the environmental, rural, social and economic objectives of the aid scheme and do not introduce discrimination between producers. Member States shall establish the necessary arrangements in order to control that those eligibility criteria are respected by farmers.

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*Status: Point in time view as at 29/10/2009.*

*Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1121/2009 (repealed). (See end of Document for details)*

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## Article 17

### Notifications

1 Member States shall notify to the Commission in any case before the date for lodging an application fixed by Member States in accordance with Article 11 of Regulation (EC) No 1122/2009 and at the latest:

- a by 31 March, the higher density levels and the criteria referred to in Article 15(2) of this Regulation and the additional criteria referred to in Article 16 of this Regulation;
- b by 15 May, where a Member State differentiates the aid in accordance with Article 82(2) of Regulation (EC) No 73/2009, the level of the area payment per products and/or the modified national guaranteed area (the NGA).

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

## CHAPTER 6

### Seed aid

## Article 18

### Certification of seeds

The seed aid provided for in Article 87 of Regulation (EC) No 73/2009 shall be granted for production of basic and officially certified seed as defined by Directives 66/401/EEC, 66/402/EEC and 2002/57/EC and complying with the standards and conditions laid down in those Directives, in accordance with Articles 19 to 23 of this Regulation.

## Article 19

### Production of seeds

1 The seed shall be produced:

- a either under a growing contract concluded between a seed establishment or a breeder and a seed grower;
- b or directly by the seed establishment or the breeder; such production being attested by a growing declaration.

2 The seed establishments and breeders referred to in paragraph 1 shall be approved or registered by Member States. Approval or registration by a Member State shall be valid throughout the Community.

3 A seed establishment or a breeder growing seed or having seed grown in a Member State other than that in which approval or registration referred to in paragraph 2 took place shall supply the competent authorities of that other Member State, on request, with all the information required for checking entitlement to aid.

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#### *Article 20*

### **Territorial eligibility**

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

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

#### *Article 21*

### **Marketing of seeds**

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

#### *Article 22*

### **Advance payments**

Member States may grant advance payments to seed growers as from 1 December of the year in respect of which the aid is granted. Such payment shall be proportional to the quantity of seeds already marketed for sowing within the meaning of Article 21 provided that all the conditions of this Chapter are complied with.

#### *Article 23*

### **Hemp varieties**

The varieties of hemp (*Cannabis sativa* L.) eligible for aid in accordance with Article 87(4) of Regulation (EC) No 73/2009 shall be those referred to in Article 10 of Commission Regulation (EC) No 1120/2009.

## CHAPTER 7

### **Crop-specific payment for cotton**

#### *Article 24*

### **Authorisation of agricultural land for cotton production**

The Member States shall establish objective criteria on the basis of which land is authorised for the crop-specific payment for cotton provided for in Article 88 of Regulation (EC) No 73/2009.

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*Status: Point in time view as at 29/10/2009.*

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

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

#### *Article 25*

### **Approval of varieties for sowing**

The Member States shall approve the varieties registered in the 'Common Catalogue of Varieties of Agricultural Plant Species' that are adapted to market needs.

#### *Article 26*

### **Eligibility requirements**

Sowing the areas referred to in Article 89(1) of Regulation (EC) No 73/2009 shall be done by achieving a minimum plant density, to be fixed by the Member State on the basis of the soil and weather conditions and specific regional characteristics, where appropriate.

#### *Article 27*

### **Agronomic practices**

The Member States shall be authorised to establish specific rules on the agronomic practices needed to maintain and harvest the crops under normal growing conditions.

#### *Article 28*

### **Approval of inter-branch organisations**

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

- a covers a total area of at least 4 000 ha as established by the Member State and meeting the authorisation criteria laid down in Article 24, and which includes at least one ginning undertaking;
- b has adopted internal operating rules, in particular on membership conditions and fees, in accordance with national and Community rules and regulations.

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



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*Status: Point in time view as at 29/10/2009.*

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Farmers who are members of an approved inter-branch organisation whose approval is withdrawn in accordance with the first subparagraph of this paragraph shall lose their right to the increase of the aid provided for in Article 92(2) of Regulation (EC) No 73/2009.

#### *Article 29*

#### **Producers' obligations**

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

#### *Article 30*

#### **Communications to the producers**

- 1 Before January 31 of the year in question, Member States shall notify cotton growers of:
  - a the approved varieties; however, varieties approved in accordance with Article 25 after that date must be notified to the growers before 15 March in the same year;
  - b the criteria for authorising land;
  - c the minimum cotton plant density referred to in Article 26;
  - d the required agronomic practices.
- 2 Where approval for a variety is withdrawn, the Member States shall inform the growers no later than 31 January for the purposes of the following year's sowing season.

### CHAPTER 8

#### **Transitional fruit and vegetables payments and transitional soft fruit payment**

#### *Article 31*

#### **Definitions**

For the purposes of this Chapter:

- (a) 'applicant' means any farmer cultivating the areas referred to in Articles 96 and 98 of Regulation (EC) No 73/2009 with a view to obtaining the aids provided for in those Articles;
- (b) 'aid' means the transitional fruit and vegetables payment provided for in Article 96 of Regulation (EC) No 73/2009 or the transitional soft fruit payment provided for in Article 98 of that Regulation;
- (c) 'first processor' means any user of an agricultural raw material referred to in Articles 96 and 98 of Regulation (EC) No 73/2009 who undertakes the first processing

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thereof with a view to obtaining one or more of the products listed in Article 1(1)(j) of Regulation (EC) No 1234/2007;

- (d) ‘collector’ means any person concluding a contract with an applicant within the meaning of point (a) who purchases on his own account at least one of the products referred to respectively in the fourth subparagraph of Article 54(2) or in Article 98(1) of Regulation (EC) No 73/2009;
- (e) ‘recognised producer organisation’ means any legal entity or a clearly defined part of a legal entity which complies with the requirements of Articles 122, 125a(1) and 125b(1)(a) of Regulation (EC) No 1234/2007 and that is recognised by the concerned Member State in accordance with Article 125b of that Regulation and recognised producer groups in accordance with Articles 125e and 103a of that Regulation.

### *Article 32*

#### **Contract**

1 Without prejudice of the application by Member States of the possibility provided for in Article 97(4) of Regulation (EC) No 73/2009, the contract for processing referred to in Articles 97(3) and 98(2) of that Regulation shall be concluded between, on the one hand, an approved first processor, within the meaning of Article 33, and, on the other hand, an applicant or a recognised producer organisation representing him or an approved collector, within the meaning of Article 33, representing the applicant.

Where the recognised producer organisation also acts as an approved first processor, the contract may take the form of a commitment to supply.

- 2 The contract or the commitment to supply shall specify at least the following:
- a the names and addresses of the parties to the contract or the commitment to supply;
  - b the species concerned and the area planted with each species;
  - c where appropriate, an undertaking by the applicant to deliver to the first processor the total quantity harvested or minimum quantities defined by Member States.

In the cases where the contract is concluded between an approved first processor and a recognised producer organisation or an approved collector representing the applicant, the contract shall specify also the names and addresses, referred to in point (a), of the applicants concerned, as well as the species and the area planted, referred to in point (b), for each applicant concerned.

### *Article 33*

#### **Approval of the first processors and collectors**

1 For the purpose of this Chapter Member States shall set up a system of approval of the first processors and collectors located on their territory. They shall in particular lay down conditions for approval ensuring that at least:

- a the approved first processors and collectors have the administrative capacities for managing the contracts referred to in Article 32;
  - b the approved first processors have the appropriate production capacities.
- 2 Member States shall set up a procedure of controls of the approval.

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3 Approvals granted pursuant to Council Regulations (EC) No 2201/96<sup>(14)</sup>, (EC) No 2202/96<sup>(15)</sup> and (EC) No 1234/2007 shall remain valid for the purposes of this Chapter.

4 Where it is found that an approved first processor or collector fails to comply with the obligations laid down in this Chapter or with the national provisions adopted on its basis, or where an approved first processor or collector does not accept or facilitate the checks to be performed by the competent authorities in accordance with Regulation (EC) No 1122/2009, Member States shall impose appropriate penalties. The rate of penalties shall be calculated in the light of the seriousness of the infringement.

5 Member States shall make available to the public a list of approved first processors and collectors at least 2 months before the date fixed in accordance with Article 11(2) or Article 13(6) of Regulation (EC) No 1122/2009.

#### *Article 34*

### **Aid level for transitional fruit and vegetable payments**

1 In application of Article 97(1) of Regulation (EC) No 73/2009 and before 15 March of the year in respect of which the aid is claimed, Member States shall fix and make available to the public the indicative aid amount per hectare.

2 In application of Articles 97(1) and 97(2) of Regulation (EC) No 73/2009, Member States shall fix the final aid amount per hectare on the basis of the determined area.

## CHAPTER 9

### **Premiums in the sheepmeat and goatmeat sector**

#### Section 1

### **Applications and payments**

#### *Article 35*

### **Applications and retention period**

1 In addition to the requirements under the integrated administration and control system provided for in Chapter 4 of Title II of Regulation (EC) No 73/2009 (the integrated system), farmers shall indicate in their application for ewe and goat premiums and supplementary premiums whether or not they are marketing sheep's milk, or milk products based on sheep's milk, during the year in respect of which the premium is requested.

2 Applications for ewe and goat premiums and supplementary premiums shall be submitted to the competent authority, during a unique period fixed by the Member State concerned commencing not before 1 November and ending not later than 30 April, respectively, preceding and following the commencement of the year in respect of which the applications are submitted.

3 The period referred to in Article 103(1) of Regulation (EC) No 73/2009 during which the farmer undertakes to keep on his holding the number of ewes and/or she-goats in respect of

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which the premium is requested (the retention period) shall be 100 days starting on the first day following the last day of the period for the submission of applications referred to in paragraph 2.

### *Article 36*

#### **Areas eligible for goat premium**

The criteria referred to in Article 101(2) of Regulation (EC) No 73/2009 are met in the areas listed in Annex III to this Regulation.

However, Member States shall, on a regular basis, verify whether these criteria continue to be met in all the areas listed in that Annex III falling within their respective territories. Following this evaluation, Member States shall notify the Commission of any need for amending Annex III before 31 July of the year preceding the year in respect of which the amendment shall apply. The notification shall, in particular, indicate the zones, or parts of zones, listed in Annex III that do not further meet the criteria referred to in Article 101(2) of Regulation (EC) No 73/2009, as well as the eventual zones that meet those criteria but are not yet listed in Annex III to this Regulation. For these potential new zones, the Member States shall supply the Commission with a detailed justification of their proposal.

### *Article 37*

#### **Application for supplementary premium and for the goat premium**

1 In order to benefit from the supplementary premium or the goat premium, a farmer whose holding has at least 50 % but less than 100 % of its area used for agriculture situated in areas referred to in Article 102(1) of Regulation (EC) No 73/2009 or in areas listed in Annex III to this Regulation, shall submit a declaration or declarations indicating the location of his land, in accordance with paragraphs 2 and 3 of this Article.

2 A farmer who is required to submit each year a declaration of the total utilised agricultural area of his holding, at the occasion of an aid application, as provided for in Article 19(1) of Regulation (EC) No 73/2009, shall indicate in that declaration those parcels used for agriculture which are located in areas referred to in Article 102(1) of Regulation (EC) No 73/2009 or in areas listed in Annex III to this Regulation as appropriate.

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

That specific declaration shall indicate the location of all the land the farmer owns, rents or uses under whatever arrangements, indicating its area and detailing those parcels used for agriculture which are located in areas referred to in Article 102(1) of Regulation (EC) No 73/2009 or in areas listed in Annex III to this Regulation as appropriate. Member States may provide for the specific declaration to be included in the application for the ewe and/or goat premium. Member States may also demand that the specific declaration be made by means of a 'single payment application' form.

3 The competent national authority may demand the presentation of a property deed, a rental contract or a written agreement between farmers and, where appropriate, an attestation from the local or regional authority which has made land used for agriculture available to the farmer concerned. The attestation shall indicate the area of land granted to the producer and the

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parcels located in areas referred to in Article 102(1) of Regulation (EC) No 73/2009 or areas listed in Annex III to this Regulation as appropriate.

#### *Article 38*

### **Farmers practising transhumance**

1 Premium applications submitted by farmers the registered addresses of whose farms are in one of the geographical areas referred to in Article 102(2)(b) of Regulation (EC) No 73/2009 and who wish to qualify for the supplementary premium shall indicate:

- a the place or places where transhumance is to be carried out for the current year;
- b the period of at least 90 days referred to in Article 102(2)(a) of Regulation (EC) No 73/2009 and laid down for the current year.

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

When carrying out administrative checks on applications Member States shall ensure that the place of transhumance specified in the premium application is actually within an area referred to in Article 102(1) of Regulation (EC) No 73/2009.

#### *Article 39*

### **Payment of the premiums**

1 Premiums shall be paid to farmers on the basis of the number of ewes and/or she-goats kept on their holding throughout the retention period referred to in Article 35(3).

2 Premiums shall be paid for animals satisfying the conditions provided for in the definitions referred to in Article 100 of Regulation (EC) No 73/2009 on the final day of the retention period.

#### *Article 40*

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

For each year Member States shall draw up, no later than the 30th day of the retention period, an inventory of farmers marketing sheep's milk or sheep's milk products on the basis of the farmers' declarations referred to in Article 35(1).

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

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## Article 41

### Notification

Member States shall notify the Commission, by 31 October of each year at the latest, of any changes in the list of geographical areas practising transhumance referred to in Article 102(2) of Regulation (EC) No 73/2009 and Article 38 of this Regulation.

## Section 2

### Limits, Reserves and Transfers

## Article 42

### Rights obtained free of charge

Except in duly justified exceptional circumstances, where a farmer has obtained premium rights free of charge from the national reserve he shall not be authorised to transfer his rights or to lease them temporarily for a period of 3 years from the date he obtained those rights.

## Article 43

### Use of rights

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

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

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

3 Temporary leasing shall be only in respect of whole years and shall involve at least the minimum number of animals provided for in Article 44(1). At the end of each period of temporary leasing, which may not exceed three consecutive years, a farmer shall, except in the event of a transfer of rights, recover all his rights for himself, for at least two consecutive years. If the farmer does not avail himself of at least the minimum percentage of his rights provided for in paragraph 4 during each of the 2 years, the Member State shall, except in exceptional and duly justified cases, withdraw and return annually to the national reserve that part of the rights not used by the farmer.

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

Farmers who have undertaken to participate in an extensification programme in accordance with the measure referred to in Article 2(1)(c) of Council Regulation (EEC) No 2078/92<sup>(16)</sup> or in an extensification programme in accordance with Articles 22 and 23 of Council Regulation (EC) No 1257/1999<sup>(17)</sup> or in accordance with Article 39 of Council Regulation (EC) No 1698/2005<sup>(18)</sup> shall not be authorised to temporarily lease and/or to transfer their rights throughout the period of that participation. However, this provision shall not apply in cases where the programme permits the transfer and/or temporary leasing of rights to farmers whose participation in measures other than those referred to in this subparagraph requires the acquisition of rights.

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

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

#### *Article 44*

### **Transfer of rights and temporary leasing**

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

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

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

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

#### *Article 45*

### **Change of individual ceiling**

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

The first paragraph shall not apply in the case where the transfer takes effect through an inheritance as referred to in the second subparagraph of Article 44(2).

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#### Article 46

##### **Farmers who do not own the land they farm**

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

#### Article 47

##### **Transfer through the national reserve**

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

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

In addition, the national provisions referred to in the first paragraph shall ensure that the part of the rights not covered by the second subparagraph of Article 105(2) of Regulation (EC) No 73/2009 must be offset by a payment by the Member State corresponding to the payment which would have resulted from a direct transfer between farmers, account being taken in particular of the trend in production in the Member State concerned. That payment shall be equal to the payment charged to a farmer who receives equivalent rights from the national reserve.

#### Article 48

##### **Calculation of individual limits**

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

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

#### Article 49

##### **Notification**

1 Member States shall notify the Commission, by 31 December each year, of any amendment to the part of the premiums rights transferred which shall be surrendered to the



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national reserve in accordance with Article 105(2) of Regulation (EC) No 73/2009 and, where applicable, of the measures taken under Article 105(3) of that Regulation.

- 2 Member States shall notify the Commission by 30 April each year of:
  - a the number of premium rights returned without compensatory payment to the national reserve following transfers of rights without transfers of holdings during the preceding year;
  - b the number of unused premium rights as referred to in Article 106(2) of Regulation (EC) No 73/2009 transferred to the national reserve during the preceding year;
  - c the number of rights granted under Article 106(3) of Regulation (EC) No 73/2009 during the preceding year;
  - d the number of premium rights granted to farmers in less favoured areas from the national reserve during the preceding year.

## CHAPTER 10

### Beef and veal payments

#### Section 1

#### Special premium

##### *Article 50*

#### Applications

- 1 In addition to the requirements under the integrated system, each application for direct payments as referred to in Article 19 of Regulation (EC) No 73/2009 as regards the special premium provided for in this Chapter shall contain:
  - a the breakdown of the number of animals by age bracket;
  - b a reference to the passports or administrative documents accompanying the animals which are the subject of the application.
- 2 Applications may only be submitted in respect of animals which on the date of commencement of the retention period referred to in Article 53 are:
  - a in the case of bulls, not less than 7 months old;
  - b in the case of steers:
    - (i) not less than 7 months nor more than 19 months old in the case of the first age bracket;
    - (ii) at least 20 months old in the case of the second age bracket.

##### *Article 51*

#### Grant of premium

Animals which have not qualified for the special premium on account of the application of the proportional reduction provided for in Article 110(4) of Regulation (EC)

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No 73/2009 may no longer be the subject of an application for the same age bracket and shall be considered to have been the subject of payment of the premium.

## *Article 52*

### **Passports and administrative documents**

1 The competent authorities of the Member State shall ensure that passports referred to in Article 6 of Regulation (EC) No 1760/2000 or equivalent national administrative documents referred to in Article 110(3)(b) of Regulation (EC) No 73/2009 guarantee that only one premium is granted per animal and per age bracket.

Member States shall assist one another, as necessary, to this end.

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

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

3 Member States which decide to avail themselves of one or more of the possibilities provided for in paragraph 2 shall notify the Commission thereof in due time and forward to it the relevant implementing provisions.

## *Article 53*

### **Retention period**

The duration of the retention period referred to in Article 110(3)(a) of Regulation (EC) No 73/2009 shall be 2 months, starting on the day following that on which the application is submitted.

However, Member States may provide that other starting dates may be set by the farmer on condition that they do not begin more than 2 months following the day on which the application is submitted.

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*Status: Point in time view as at 29/10/2009.*

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#### Article 54

##### **Regional ceiling**

1 Where the application of the proportional reduction provided for in Article 110(4) of Regulation (EC) No 73/2009 gives a number of eligible animals which is less than a whole number, there shall be granted in respect of the decimal part a corresponding fraction of the unit amount of the premium. For this purpose, account shall be taken of the first decimal place only.

2 Where Member States decide to introduce different regions within the meaning of Article 109(a) of Regulation (EC) No 73/2009, or to modify the existing regions within their territory, they shall inform the Commission of their decision before 1 January of the year concerned, giving a definition of the region and the ceiling set. Any subsequent modification shall be notified to the Commission before 1 January of the year concerned.

#### Article 55

##### **Limits on the number of animals per holding**

1 Where Member States decide to amend the limit of 90 heads of cattle per holding and per age bracket referred to in Article 110(1) of Regulation (EC) No 73/2009, or to derogate from it, they shall inform the Commission before 1 January of the calendar year concerned.

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

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

#### Article 56

##### **Granting of the premium at the time of slaughter**

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

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

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

3 Where Member States decide to grant the special premium at the time of slaughter in accordance with paragraph 1 of this Article, this Section and Article 77 and Article 78(1) and (2) shall apply *mutatis mutandis* to the grant of the premium.

4 In addition to the information referred to in Article 78(1), aid applications shall indicate whether the animal is a bull or a steer, and shall be accompanied by a document containing the details required for the purposes of Article 52. That document shall be one of the following, at the choice of the Member State:

- a the passport or a copy of the passport where the type used consists of several copies;

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

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

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

By way of derogation from the first subparagraph of this paragraph, where Member States apply the option referred to in the first subparagraph of Article 78(2), they shall take the measures necessary to ensure that the farmer can determine the animals for which he is requesting a special premium.

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

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

In that case, aid applications shall include:

- a the name and address of the consignor (or an equivalent code);
- b the identity number of the animal;
- c a statement that the animal is not less than 9 months old.

Aid applications shall be submitted before the animal leaves the territory of the Member State concerned and proof of dispatch shall be submitted within 3 months from the date of the animals leaving the territory of the Member State concerned.

#### *Article 57*

#### **Details of the grant system**

1 In case of the application of Article 56 and by way of derogation from Article 53, the premium shall be paid to farmers who have kept animals for a minimum retention period of 2 months ending less than 1 month before the date of slaughter or consignment or ending less than 2 months before the date of export.

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

- a the premium in respect of the first age bracket shall be paid only if the farmer has kept the animal for a period of not less than 2 months between the time when the animal was not less than 7 months old and the time when it was less than 22 months old;
- b the premium in respect of the second age bracket may be paid only if the farmer has kept the animal aged not less than 20 months for a period of not less than 2 months;
- c the premiums in respect of the two age brackets may be paid together only if the farmer has kept the animal for not less than 4 consecutive months in compliance with the age requirements laid down in points (a) and (b);

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d the premium in respect of the second age bracket only may be paid if the animal was dispatched from another Member State when it had reached 19 months.

2 The carcase weight shall be established on the basis of a carcase within the meaning of Article 2 of Council Regulation (EC) No 1183/2006<sup>(19)</sup>.

Where the carcase presentation differs from that definition, the corrective factors set out in Annex III to Commission Regulation (EC) No 1249/2008<sup>(20)</sup> shall apply.

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

#### *Article 58*

#### **Notification**

Member States shall notify the Commission before the start of the calendar year concerned of their decision, or any amendments thereto, concerning the application of Article 56 and the relevant procedures.

#### Section 2

#### **Suckler cow premium**

#### *Article 59*

#### **Cows belonging to a meat breed**

For the purposes of Article 109(d) and Article 115(2) of Regulation (EC) No 73/2009, cows belonging to the bovine breeds listed in Annex IV to this Regulation shall not be considered to be cows belonging to a meat breed.

#### *Article 60*

#### **Maximum individual quota**

1 Where Member States decide to change the maximum individual quota of 120 000 kilograms referred to in Article 111(2)(b) of Regulation (EC) No 73/2009 or to derogate from it, they shall inform the Commission before 1 January of the calendar year concerned.

2 Any subsequent change in the application of paragraph 1 shall be notified to the Commission by 31 December of the year concerned.

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## Article 61

### Retention period

The 6-month retention period provided for in the second subparagraph of Article 111(2) of Regulation (EC) No 73/2009 shall start on the day following that on which the application is submitted.

## Article 62

### Applications

1 Without prejudice to the requirements under the integrated system, where the application for direct payments provided for in Article 19 of Regulation (EC) No 73/2009 includes an application for the premium to be granted pursuant to Article 111(2)(b) of Regulation (EC) No 73/2009, it shall contain:

- a a statement setting out the individual milk quota available to the producer on 31 March preceding the beginning of the 12-month period of application of the surplus levy scheme starting in the calendar year concerned; where this quantity is unknown on the date on which the application is submitted, it shall be notified to the competent authority at the earliest opportunity;
- b an undertaking by the farmer not to increase his individual quota above the quantitative limit laid down in Article 111(2)(b) of Regulation (EC) No 73/2009 during the 12-month period starting on the date on which the application is submitted.

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

2 Applications for suckler cow premium shall be submitted within an overall period of 6 months during a calendar year, to be determined by the Member State.

Member States may provide for separate periods or dates for submitting applications within that overall period and the number of applications that farmers may submit for the premium and per calendar year.

## Article 63

### Average milk yield

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

## Article 64

### Additional national premium

1 An additional national suckler cow premium as provided for in Article 111(5) of Regulation (EC) No 73/2009 may be granted only to a farmer who, in respect of the same calendar year, receives the suckler cow premium.

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The additional national suckler cow premium shall be granted only within the limit of the number of animals qualifying for the suckler cow premium, if appropriate after application of the proportional reduction laid down in the second subparagraph of Article 115(1) of Regulation (EC) No 73/2009.

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

3 The Commission shall decide by 31 August at the latest of each calendar year which Member States fulfil the conditions laid down in the third subparagraph of Article 111(5) of Regulation (EC) No 73/2009.

#### *Article 65*

### **Individual ceiling**

Member States shall determine an individual ceiling per farmer in accordance with Article 112(1) of Regulation (EC) No 73/2009.

#### *Article 66*

### **Notification**

1 Member States shall notify the Commission by 31 December each year:

- a of any change to the reduction referred to in the second subparagraph of Article 113(2) of Regulation (EC) No 73/2009;
- b where applicable, of any amendments to the measures taken pursuant to Article 113(3) (a) of that Regulation.

2 The Member States shall notify the Commission by electronic means using the form made available to them by the Commission the following information by 31 July at the latest for each calendar year:

- a the number of premium rights returned without compensatory payment to the national reserve following transfers of rights without transfers of holdings during the preceding calendar year;
- b the number of unused premium rights as referred to in Article 69(2) transferred to the national reserve during the preceding calendar year;
- c the number of rights granted under Article 114(3) of Regulation (EC) No 73/2009 during the preceding calendar year.

#### *Article 67*

### **Rights obtained free of charge**

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

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## Article 68

### Use of rights

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

2 Where a farmer has not made use of at least the minimum percentage of his rights, fixed in accordance with paragraph 4, during each calendar year, the part not used shall be transferred to the national reserve, except:

- a in the case of a farmer holding a maximum of seven premium rights, where this farmer has not made use of the minimum percentage of his rights, fixed in accordance with paragraph 4, during each of two consecutive calendar years, the part not used during the last calendar year shall be transferred to the national reserve;
- b in the case of a farmer participating in an extensification programme recognised by the Commission;
- c in the case of a farmer participating in an early retirement scheme recognised by the Commission in which the transfer and/or temporary leasing of rights is not obligatory; or
- d in exceptional and duly justified cases.

3 Temporary leasing shall be only in respect of whole calendar years and shall involve at least the minimum number of animals provided for in Article 69(1). At the end of each period of temporary leasing, which may not exceed three consecutive years, a farmer shall, except in the event of a transfer of rights, recover all his rights for himself, for at least two consecutive calendar years. If the farmer does not avail himself of at least the minimum percentage of his rights, fixed in accordance with paragraph 4, during each of the 2 years, the Member State shall, except in exceptional and duly justified cases, withdraw and return annually to the national reserve that part of the rights not used by the farmer.

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

Farmers who have undertaken to participate in an extensification programme in accordance with the measure referred to in Article 2(1)(c) of Regulation (EEC) No 2078/92 or in an extensification programme in accordance with Articles 22 and 23 of Regulation (EC) No 1257/1999 or in an extensification programme in accordance with Article 39 of Regulation (EC) No 1698/2005 shall not be authorised to temporarily lease and/or to transfer their rights throughout the period of that participation. However, this subparagraph shall not apply in cases where the programme permits the transfer and/or temporary leasing of rights to farmers whose participation in the measures other than those referred to in this subparagraph requires the acquisition of rights.

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

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



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### *Article 69*

#### **Transfer of rights and temporary leasing**

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

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

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

### *Article 70*

#### **Change of individual ceiling**

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

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

### *Article 71*

#### **Farmers who do not own the land that they farm**

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

### *Article 72*

#### **Transfer through the national reserve**

Where Member States provide that the transfer of rights without transfer of the holding is to take place through the national reserve in accordance with Article 113(3)(b) of Regulation (EC) No 73/2009, they shall apply national provisions analogous to those set out in Articles 69 to 71. In addition, in this event:

- Member States may provide that temporary leasing is to take place through the national reserve,

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

In addition, such provisions must ensure that a payment will be made by the Member State for that part of the rights other than the part referred to in the second subparagraph of Article 113(2) of Regulation (EC) No 73/2009 corresponding to that which would have resulted from a direct transfer between farmers, account being taken in particular of the trend of production in the Member State concerned. This payment shall be equal to the payment which will be claimed from farmers receiving equivalent rights from the national reserve.

### *Article 73*

#### **Partial rights**

- 1 Where calculations to be made pursuant to Articles 65 to 72 produce numbers which are not whole numbers, only the first decimal place shall be taken into account.
- 2 Where application of the provisions of this Section results in partial premium rights, either for farmers or the national reserve, these partial rights shall be added up.
- 3 Where a farmer holds a partial right, this partial right shall only confer entitlement to the corresponding fraction of the unit amount of the premium and, where applicable, of the additional national premium referred to in Article 64.

### *Article 74*

#### **Special scheme for heifers**

- 1 Member States wishing to make use of the possibility provided for in Article 115(1) of Regulation (EC) No 73/2009 shall inform the Commission thereof and, at the same time, notify the Commission of the relevant data allowing establishing whether the conditions laid down in Article 115(1) of that Regulation are met.

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

The Commission shall decide which Member States meet the conditions laid down in Article 115(1) of Regulation (EC) No 73/2009.

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

- 2 Member States meeting the conditions laid down in Article 115(1) of Regulation (EC) No 73/2009 shall notify the Commission, before 1 January of the year concerned, of any modification of the specific national ceiling that they have determined.

- 3 Member States applying the special scheme shall lay down criteria to ensure that the premium is paid to farmers whose herd of heifers is intended to restock cow herds. Those criteria may include in particular an age limit and/or breed requirements. Member States shall inform the Commission by 31 December of the year before the year concerned of the criteria adopted.

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Any subsequent modification shall be notified to the Commission by 31 December of the year before the year concerned.

4 Where the application of the proportional reduction referred to in the second subparagraph of Article 115(1) of Regulation (EC) No 73/2009 gives a number of eligible animals which is less than a whole number, there shall be granted in respect of the decimal part a corresponding fraction of the unit amount of the premium and, where applicable, of the additional national premium referred to in Article 64. For this purpose account shall be taken of the first decimal place only.

5 In Member States applying the special scheme, the requirement laid down in Article 111(2) of Regulation (EC) No 73/2009 concerning the minimum number of animals to be held shall be met in full either by suckler cows if the farmer has lodged an application for suckler cows or by heifers if the farmer has lodged an application for heifers.

6 The provisions of Articles 65 to 73 shall not apply to this special scheme.

#### *Article 75*

### **Rounding-off of animal numbers**

If the calculation of the maximum number of heifers as a percentage as laid down in the second subparagraph of Article 111(2) of Regulation (EC) No 73/2009 produces a result which is not a whole number, that number shall be rounded down to the nearest whole number if it is less than 0,5 and up to the nearest whole number if it is 0,5 or more.

#### Section 3

### **Provisions common to the special premium and the suckler cow premium**

#### *Article 76*

### **Applications for the special premium and the suckler cow premium**

Member States may, for administrative reasons, provide that aid applications for direct payments referred to in Article 19 of Regulation (EC) No 73/2009, as regards the special premium and the suckler cow premium, shall be for a minimum number of animals, provided that that number does not exceed three.

#### Section 4

### **Slaughter premium**

#### *Article 77*

### **Statement of participation**

Member States may provide that in order to qualify for the slaughter premium provided for in Article 116 of Regulation (EC) No 73/2009 for a given calendar year each farmer

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shall, before or at the same time as making the first application for that calendar year, submit a statement of participation.

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

#### Article 78

### Applications

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

Aid applications shall be submitted within a period to be determined by the Member State which may not exceed 6 months following slaughter of the animal or, where the animal is exported, after the date on which it leaves Community customs territory. That period shall expire no later than the end of February of the following year except in exceptional cases to be decided by the Member State concerned where animals are dispatched or exported. Subject to that time limit, the Member States may set periods and dates for the submission of aid applications and may determine the number of applications that each farmer may submit per calendar year.

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

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

- a in cases where the grant is made at the time of slaughter, a certificate from the slaughterhouse or any document produced or endorsed by the slaughterhouse containing at least the same information, showing:
  - (i) the name and address of the slaughterhouse (or an equivalent code);
  - (ii) the date of slaughter and the identity and slaughter numbers of the animal;
  - (iii) in the case of calves, the carcass weight, save where Article 79(4) applies;
- b in cases where the animal is exported to a third country:
  - (i) the name and address of the exporter (or an equivalent code);
  - (ii) the identity number of the animal;
  - (iii) the export declaration stating the age of the animal for animals born after 1 January 1998 and, in the case of calves, save where Article 79(4) applies, the live weight, which may not exceed 300 kilograms;
  - (iv) proof that the animal has left Community customs territory, shown in the same manner as for an export refund.

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

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

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

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

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

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

- a the types and quantities of animals as referred to in Article 116(1) of Regulation (EC) No 73/2009 slaughtered during the year concerned;
- b information regarding compliance with the age limits and carcase weight of the animals referred to in that Article and with the retention period referred to in Article 80 of this Regulation;
- c where applicable, the information needed to pay the special premium at the time of slaughter.

3 For animals which have been the subject of intra-Community trade after the retention period referred to in Article 80, even if the Member State where slaughter was carried out chose to apply the derogation laid down in paragraph 2 of this Article, the slaughterhouse shall issue the document referred to in point (a) of the fourth subparagraph of paragraph 1 of this Article.

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

Member States shall assist one another to ensure effective controls on the authenticity of documents submitted and/or the accuracy of the data exchanged. To that end the Member State where payment is made shall forward regularly to the Member State where slaughter takes place a summary, grouped by slaughterhouse, of the slaughter certificates (or information in place thereof) received from the latter Member State.

#### *Article 79*

### **Weight and presentation of carcasses**

1 For the purposes of Article 116(1)(b) of Regulation (EC) No 73/2009, veal carcasses shall be presented after skinning, evisceration and bleeding, without the head or the feet but with the liver, kidneys and kidney fat.

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

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

- a 3,5 kilograms for the liver;
- b 0,5 kilogram for the kidneys;
- c 3,5 kilograms for the kidney fat.

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4 Member States may provide that where a calf is less than 6 months old at the time of slaughter or export, the weight requirement referred to in Article 116(1)(b) of Regulation (EC) No 73/2009 shall be deemed to have been met.

Where the carcass weight cannot be established in the slaughterhouse, the weight requirement referred to in Article 116(1)(b) of Regulation (EC) No 73/2009 shall be deemed to have been met if the live weight does not exceed 300 kilograms.

#### *Article 80*

##### **Retention period**

1 The slaughter premium shall be paid to the farmer who has held the animal for a minimum retention period of 2 months ending less than 1 month before slaughter or ending less than 2 months before export.

2 In the case of calves slaughtered before the age of 3 months, the retention period shall be 1 month.

#### *Article 81*

##### **National ceilings**

1 The national ceilings referred to in Article 116(1) and (3) of Regulation (EC) No 73/2009 are set out in Annex VI to this Regulation.

2 Where the application of the proportional reduction provided for in Article 116(4) of Regulation (EC) No 73/2009 gives a number of eligible animals which is less than a whole number, there shall be granted in respect of the decimal part a corresponding fraction of the unit amount of the slaughter premium. For this purpose account shall be taken of the first decimal place only.

#### Section 5

##### **General provisions**

#### *Article 82*

##### **Payment of advances**

1 In accordance with Article 29(4)(a) of Regulation (EC) No 73/2009, on the basis of the results of administrative checks and on-the-spot checks, the competent authority shall pay to the farmer, for the number of animals deemed to be eligible, an advance equal to 60 % of the special premium, the suckler cow premium and the slaughter premium.

In the case of the special premium, the special scheme for heifers referred to in Article 74 and the slaughter premium, the advance percentage may be reduced by the Member States but may not be less than 40 %.

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

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

### *Article 83*

#### **Allocation year**

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

However, if the special premium is granted in accordance with Article 56, the amount of the premium applicable shall be that in force on 31 December of the year in which slaughter or export took place in the following cases:

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

2 As regards the slaughter premium, for the purposes of applying the rate of aid and calculating the proportional reduction in accordance with Article 81, the allocation year shall be the year of slaughter or export.

### *Article 84*

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

In the event of repeated infringements through the illegal use or holding of substances or products not authorised by the relevant Community regulations in the veterinary sector, Member States shall determine, in the light of the seriousness of the infringement, the length of the exclusion from the aid schemes pursuant to the second subparagraph of Article 119(1) of Regulation (EC) No 73/2009.

### *Article 85*

#### **Determination of the individual quota for milk**

Up to the end of the seventh consecutive period laid down in Article 66 of Regulation (EC) No 1234/2007, by way of derogation from the dates set out in Article 62(1)(a) of this Regulation, a Member State may decide that in the case of milk farmers who release or take over all or part of individual quota with effect on 31 March or 1 April respectively in accordance with Article 65(i) and (k) of Regulation (EC) No 1234/2007 or pursuant to national provisions adopted for the implementation of Articles 73, 74 and 75 of that Regulation, the maximum individual quota of milk available to qualify for the suckler cow premium and the maximum number of suckler cows shall be determined on 1 April.

### *Article 86*

#### **Determination of retention periods**

The last day of the retention periods referred to in Articles 53, 57(1), 61 and 80 shall be the day, whether a working day or not, preceding the day which bears the same number as the starting day for the period.

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## Article 87

### **Identification and registration of animals**

The requirement to identify and register animals laid down in Article 117 of Regulation (EC) No 73/2009 shall apply, for animals born before 1 January 1998, in accordance with the procedure laid down in Council Directive 2008/71/EC<sup>(21)</sup>, save in the case of animals which are the subject of intra-Community trade.

## TITLE III

### **SPECIFIC RULES CONCERNING TITLE V OF REGULATION (EC) No 73/2009**

## CHAPTER 1

### **Single area payment scheme**

## Article 88

### **Minimum size of eligible area per holding**

The minimum size of eligible area per holding for which payments may be requested at a level higher than 0,3 ha, as provided for in the third sub-paragraph of Article 124(2) of Regulation (EC) No 73/2009, is set out in Annex VII to this Regulation.

## Article 89

### **Agricultural areas**

The agricultural areas under the single area payment scheme, as provided for in Article 124(1) of Regulation (EC) No 73/2009, are set out in Annex VIII to this Regulation.

## Article 90

### **Production of hemp**

The provisions related to hemp varieties referred to in Article 39(1) of Regulation (EC) No 73/2009 and Article 10 of Regulation (EC) No 1120/2009 shall apply *mutatis mutandis* as regards eligibility for the single area payment scheme.



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## CHAPTER 2

### **Complementary national direct payments**

#### *Article 91*

#### **Coefficient of reduction**

Where in a given sector the complementary national direct payments would exceed the maximum level authorised by the Commission in accordance with Article 132(7) of Regulation (EC) No 73/2009, the rate of complementary national direct payments of the concerned sector shall be reduced proportionally by application of a coefficient of reduction.

#### *Article 92*

#### **Eligibility conditions**

For the purposes of Article 132(7)(b) of Regulation (EC) No 73/2009, the Commission shall in particular take into account the (sub)sector specific financial envelopes referred to in Article 132(5) of that Regulation and the eligibility conditions applicable to the corresponding direct payment then applicable to the Member States other than the new Member States referred to in the fourth subparagraph of Article 132(2) of that Regulation.

For the purposes of Article 132 of Regulation (EC) No 73/2009 and of this Chapter ‘corresponding direct payment then applicable to the Member States in the Member States other than the new Member States’ means any direct payment listed in Annex I to Regulation (EC) No 73/2009 granted in the year of application of the complementary national direct payments whose eligibility conditions are similar to that of the complementary national direct payment concerned.

#### *Article 93*

#### **Controls**

New Member States shall apply appropriate control measures in order to ensure that the conditions for the granting of the complementary national direct payments, as defined by the Commission authorisation in accordance with Article 132(7) of Regulation (EC) No 73/2009, are complied with.

#### *Article 94*

#### **Annual report**

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

- (a) any changes in the situation affecting the complementary national direct payments;

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- (b) for each complementary national direct payment, the numbers of beneficiaries, the total amount of complementary national aid granted, the hectares, the number of animals or other units of payment paid;
- (c) a report on control measures applied in accordance with Article 93.

#### *Article 95*

#### **State aid**

Complementary national direct payments paid not in conformity with the authorisation by the Commission referred to in Article 132(7) of Regulation (EC) No 73/2009 shall be considered as unlawful State aid within the meaning of Council Regulation (EC) No 659/1999<sup>(22)</sup>.

### TITLE IV

#### **REPEALS, TRANSITIONAL AND FINAL PROVISIONS**

#### *Article 96*

#### **Repeal**

1 Regulation (EC) No 1973/2004 is repealed with effect from 1 January 2010.

However it shall continue to apply to aid applications relating to the 2009 and previous premium years.

2 References made to Regulation (EC) No 1973/2004 shall be constructed as being made to this Regulation and shall be read in accordance with the correlation table set out in Annex IX.

#### *Article 97*

#### **Transitional rules**

By way of derogation from Article 32(2) and Article 159(1) of Regulation (EC) No 1973/2004 and in respect of the aid for energy crops according to Chapter 8 and voluntary set-aside scheme according to Chapter 16 of that Regulation, the processing of the raw materials harvested in 2009 shall take place by the date established by the Member State concerned which shall not be later than 31 July 2011.

For crops other than annual crops to be harvested after 2009, Chapters 8 and 16 of Regulation (EC) No 1973/2004 shall cease to apply in respect of such harvest from 2010 and the securities lodged according to Articles 31(3) and 158(1) of Regulation (EC) No 1973/2004 shall be released by a date to be established by the Member State concerned which shall not be later than 31 July 2010.

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### *Article 98*

#### **Entry into force and application**

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

It shall apply to aid applications relating to premium periods starting from 1 January 2010.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 29 October 2009.

*For the Commission*

Mariann FISCHER BOEL

*Member of the Commission*

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*Status: Point in time view as at 29/10/2009.*

*Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1121/2009 (repealed). (See end of Document for details)*

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## ANNEX I

### CROP-SPECIFIC PAYMENT FOR RICE

Calculation of the coefficient of reduction referred to in Article 8

1. For the observation of a possible overrun of the base area referred to in Article 76 of Regulation (EC) No 73/2009, the competent authority of the Member State shall take into account, on the one hand, the base areas or sub-base areas, fixed in Article 75 of that Regulation, and on the other hand, the total of the areas for which aid applications have been submitted for these base areas and sub-base areas.
2. In establishing the total area for which aid applications have been submitted, account shall not be taken of applications or parts of applications that a check has shown to be clearly unjustified.
3. If an overrun is observed for certain base areas or sub-base areas, the Member State shall establish for these, the percentage of overrun, calculated with two decimal places according to the deadline fixed in Article 6 of this Regulation. When an overrun can be foreseen, the Member State shall inform the producers forthwith.
4. The coefficient of reduction of the crop-specific payment for rice shall be calculated, in accordance with Article 76 of Regulation (EC) No 73/2009, according to the following formula:

Reduction coefficient = reference area of the sub-base area divided by the total area for which aid applications have been submitted for this sub-base area.

The reduced crop-specific payment for rice shall be calculated according to the following formula:

Reduced crop-specific aid for rice = crop-specific aid for rice multiplied by the reduction coefficient.

This reduction coefficient and this reduced crop-specific payment for rice shall be calculated for each sub-base area, after application of the redistribution provided for in Article 76(2) of Regulation (EC) No 73/2009. Redistribution shall be done to the profit of the sub-base areas for which limits have been exceeded. It shall be done proportionally to the overruns noted in the sub-base areas for which limits have been exceeded.

## ANNEX II

### TEST FOR BITTER LUPINS REFERRED TO IN ARTICLE 13

To be performed on a sample of 200 grains taken from a batch of 1 kg from each lot of 20 t maximum.

The test is intended solely to provide qualitative evidence of the presence of bitter grains in the sample. The homogeneity tolerance is 1 grain per 100. Use the Grain-Cut method according to Von Sengbusch (1942), Ivanov and Smirnova (1932) and Eggebrecht (1949). Cut the dry or swollen grains crosswise. Place the half-grains in a sieve and dip in an iodine solution for 10 seconds, then rinse under water for 5 seconds. The cut surfaces of bitter grains turn brown while those low in alkaloids remain yellow.

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To prepare the iodine solution, dissolve 14 g of potassium iodate in as little water as possible, add 10 g of iodine and dilute to 1 000 cm<sup>3</sup>. Leave the solution to stand for 1 week before use. Store in brown bottles. Dilute the stock solution to three to five times its initial volume before using.

### ANNEX III

#### AREAS ELIGIBLE FOR RECEIVING THE GOAT PREMIUM

1. Bulgaria: the whole country.
2. Cyprus: the whole country.
3. Portugal: the whole country, with the exception of the Azores.
4. Slovenia: the whole country.
5. Slovakia: all mountain areas within the meaning of Article 18 of Regulation (EC) No 1257/1999.

### ANNEX IV

#### LIST OF BOVINE BREEDS REFERRED TO IN ARTICLE 59

- Angler Rotvieh (Angeln) — Rød dansk mælkerace (RMD) — German Red — Lithuanian Red
- Ayrshire
- Armoricaïne
- Bretonne pie noire
- Fries-Hollands (FH), Française frisonne pie noire (FFPN), Friesian-Holstein, Holstein, Black and White Friesian, Red and White Friesian, Frisona española, Frisona Italiana, Zwartbonten van België/pie noire de Belgique, Sortbroget dansk mælkerace (SDM), Deutsche Schwarzbunte, Schwarzbunte Milchrasse (SMR), Czarno-biała, Czerwono-biała, Magyar Holstein-Friz, Dutch Black and White, Estonian Holstein, Estonian Native, Estonian Red, British Friesian, črno-bela, German Red and White, Holstein Black and White, Red Holstein
- Groninger Blaarkop
- Guernsey
- Jersey
- Malkeborthorn
- Reggiana
- Valdostana Nera
- Itäsuomenkarja
- Länsisuomenkarja
- Pohjoissuomenkarja.

*Status: Point in time view as at 29/10/2009.*

*Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1121/2009 (repealed). (See end of Document for details)*

## ANNEX V

## AVERAGE MILK YIELD REFERRED TO IN ARTICLE 63

<i>(kilograms)</i>	
Belgium	6 920
Czech Republic	5 682
Estonia	5 608
Spain	6 500
France	5 550
Cyprus	6 559
Latvia	4 796
Lithuania	4 970
Hungary	6 666
Austria	4 650
Poland	3 913
Portugal	5 100
Slovakia	5 006

## ANNEX VI

NATIONAL CEILINGS FOR THE SLAUGHTER  
PREMIUM REFERRED TO IN ARTICLE 81(1)

	<b>Adult bovines</b>	<b>Calves</b>
Belgium	—	335 935
Spain	1 982 216	25 629
Portugal	325 093	70 911

## ANNEX VII

MINIMUM SIZE OF ELIGIBLE AREA PER HOLDING  
UNDER THE SINGLE AREA PAYMENT SCHEME

<b>New Member States</b>	<b>Minimum size of eligible area per holding referred to in Article 124(2) of Regulation (EC) No 73/2009 (ha)</b>
Bulgaria	1

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	However, holdings with at least 0,5 ha of permanent crops may request payments
Cyprus	0,3
Czech Republic	1
Estonia	1
Hungary	1 However, holdings with more than 0,3 ha of orchards or vineyards may request payments
Latvia	1
Lithuania	1
Poland	1
Romania	1
Slovakia	1

## ANNEX VIII

### AGRICULTURAL AREA UNDER THE SINGLE AREA PAYMENT SCHEME

<b>New Member States</b>	<b>Agricultural area under the single area payment scheme referred to in Article 124(1) of Regulation (EC) No 73/2009 (thousands ha)</b>
Bulgaria	3 492
Cyprus	140
Czech Republic	3 469
Estonia	800
Hungary	4 829
Latvia	1 475
Lithuania	2 574
Poland	14 337
Romania	8 716
Slovakia	1 880

## ANNEX IX

### Correlation table

<b>Regulation (EC) No 1973/2004</b>	<b>Present Regulation</b>
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*Status: Point in time view as at 29/10/2009.*

*Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1121/2009 (repealed). (See end of Document for details)*

Article 1	Article 1
Article 2	Article 5
Article 2(2)	Article 5(3)
Article 2(3)	Article 3
Article 2(5)	Article 13
Article 3	Article 4
Article 4	Article 6
Article 5	—
Article 6	—
Article 7	—
Article 8	—
Article 9	—
Article 10	—
Article 11	Article 14
Article 12	Article 7
Article 13	Article 8
Article 14	Article 9
Article 15	Article 15
Article 16	Article 16
Article 17	Article 17
Article 18	—
Article 19	Article 10
Article 20	Article 11
Article 21	Article 12
Article 22	—
Article 23	—
Article 24	—
Article 25	—
Article 26	—
Article 27	—
Article 28	—
Article 29	—
Article 30	—
Article 31	—



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**Changes to legislation:** There are currently no known outstanding effects for the Commission Regulation (EC) No 1121/2009 (repealed). (See end of Document for details)

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Article 32	—
Article 33	—
Article 34	—
Article 35	—
Article 36	—
Article 36a	—
Article 37	—
Article 38	—
Article 39	—
Article 40	—
Article 41	—
Article 42	—
Article 43	—
Article 44	—
Article 45	—
Article 46	Article 18
Article 47	Article 19
Article 48	Article 20
Article 49	Article 21
Article 49a	Article 22
Article 50	Article 23
Article 51	—
Article 52	—
Article 53	—
Article 54	—
Article 55	—
Article 56	—
Article 57	—
Article 58	—
Article 59	—
Article 60	—
Article 61	—
Article 62	—
Article 63	—

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*Status:* Point in time view as at 29/10/2009.

*Changes to legislation:* There are currently no known outstanding effects for the Commission Regulation (EC) No 1121/2009 (repealed). (See end of Document for details)

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Article 64	—
Article 65	—
Article 66	—
Article 67	—
Article 68	—
Article 69	—
Article 70	Article 35
Article 71	Article 36
Article 72	Article 37
Article 73	Article 38
Article 74	Article 39
Article 75	Article 40
Article 76	Article 41
Article 77	Article 42
Article 78	Article 43
Article 79	Article 44
Article 80	Article 45
Article 81	Article 46
Article 82	Article 47
Article 83	Article 48
Article 84	Article 49
Article 85	—
Article 86	—
Article 87	Article 50
Article 88	Article 51
Article 89	Article 52
Article 90	Article 53
Article 91	Article 54
Article 92	Article 55
Article 93	Article 56
Article 94	Article 57
Article 95	Article 58
Article 96	—
Article 97	—

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*Status: Point in time view as at 29/10/2009.*

**Changes to legislation:** There are currently no known outstanding effects for the Commission Regulation (EC) No 1121/2009 (repealed). (See end of Document for details)

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Article 98	—
Article 99	Article 59
Article 100	Article 60
Article 101	Article 61
Article 102	Article 62
Article 103	Article 63
Article 104	Article 64
Article 105	Article 65
Article 106	Article 66
Article 107	Article 67
Article 108	Article 68
Article 109	Article 69
Article 110	Article 70
Article 111	Article 71
Article 112	Article 72
Article 113	Article 73
Article 114	Article 74
Article 115	Article 75
Article 116	Article 76
Article 117	—
Article 118	—
Article 118a	—
Article 118b	—
Article 118c	—
Article 118d	—
Article 119	—
Article 120	Article 77
Article 121	Article 78
Article 122	Article 79
Article 123	Article 80
Article 124	Article 81
Article 125	—
Article 126	Article 82
Article 127	Article 83

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**Changes to legislation:** There are currently no known outstanding effects for the Commission Regulation (EC) No 1121/2009 (repealed). (See end of Document for details)

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Article 128	—
Article 129	Article 84
Article 130	Article 85
Article 130a	Article 86
Article 131	—
Article 132	Article 87
Article 133	—
Article 134	Article 88
Article 135	Article 89
—	Article 90
Article 136	—
Article 137	—
Article 138	—
Article 139	Article 91
Article 139a	Article 92
Article 140	Article 93
Article 141	Article 94
Article 142	Article 95
Article 142a	—
Article 143	—
Article 144	—
Article 145	—
Article 146	—
Article 147	—
Article 148	—
Article 149	—
Article 150	—
Article 151	—
Article 152	—
Article 153	—
Article 154	—
Article 155	—
Article 156	—
Article 157	—

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*Status: Point in time view as at 29/10/2009.*

**Changes to legislation:** There are currently no known outstanding effects for the Commission Regulation (EC) No 1121/2009 (repealed). (See end of Document for details)

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Article 158	—
Article 159	—
Article 160	—
Article 163	—
Article 164	—
Article 165	—
Article 166	—
Article 167	—
Article 168	—
Article 169	—
Article 170	—
Article 171	—
Article 171a	Article 24
Article 171aa	Article 25
Article 171ab	Article 26
Article 171ac	Article 27
Article 171ad	Article 28
Article 171ae	Article 29
Article 171af	Article 30
Article 171ag	—
Article 171 ah	—
Article 171 ai	—
Article 171b	—
Article 171ba	—
Article 171bb	—
Article 171bc	—
Article 171c	—
Article 171ca	—
Article 171cb	—
Article 171cc	—
Article 171cd	—
Article 171ce	—
Article 171cf	—
Article 171cg	—

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*Status: Point in time view as at 29/10/2009.*

**Changes to legislation:** There are currently no known outstanding effects for the Commission Regulation (EC) No 1121/2009 (repealed). (See end of Document for details)

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Article 171ch	—
Article 171ci	—
Article 171cj	—
Article 171ck	—
Article 171cl	—
Article 171cm	—
Article 171cn	—
Article 171co	—
Article 171cp	—
Article 171d	Article 31
Article 171da	Article 32
Article 171db	Article 33
Article 171dc	Article 34
Article 172	Article 96
—	Article 97
Article 173	Article 98
Annex I	Annex II
Annex II	Annex I
Annex III, IV, V, VI, VII, VIII, IX	—
Annex X	Annex III
Annex XI, XII, XIII, XIV	—
Annex XV	Annex IV
Annex XVI	Annex V
Annex XVII	Annex VI
Annex XVIII, XIX	—
Annex XX	Annex VII
Annex XXI	Annex VIII
Annex XXII-XXX	—

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**Changes to legislation:** There are currently no known outstanding effects for the  
Commission Regulation (EC) No 1121/2009 (repealed). (See end of Document for details)

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- (1) OJ L 30, 31.1.2009, p. 16.
- (2) OJ L 270, 21.10.2003, p. 1.
- (3) OJ L 345, 20.11.2004, p. 1.
- (4) OJ L 299, 16.11.2007, p. 1.
- (5) OJ 125, 11.7.1966, p. 2298/66.
- (6) OJ 125, 11.7.1966, p. 2309/66.
- (7) OJ L 193, 20.7.2002, p. 74.
- (8) OJ L 281, 4.11.1999, p. 30.
- (9) OJ L 204, 11.8.2000, p. 1.
- (10) See page 1 of this Official Journal.
- (11) See page 65 of this Official Journal.
- (12) OJ L 171, 1.7.2009, p. 6.
- (13) OJ L 339, 24.12.2003, p. 36.
- (14) OJ L 297, 21.11.1996, p. 29.
- (15) OJ L 297, 21.11.1996, p. 49.
- (16) OJ L 215, 30.7.1992, p. 85.
- (17) OJ L 160, 26.6.1999, p. 80.
- (18) OJ L 277, 21.10.2005, p. 1.
- (19) OJ L 214, 4.8.2006, p. 1.
- (20) OJ L 337, 16.12.2008, p. 3.
- (21) OJ L 213, 8.8.2008, p. 31.
- (22) OJ L 83, 27.3.1999, p. 1.

**Status:**

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