

Commission Regulation (EC) No 363/2009 of 4 May 2009 amending Regulation (EC) No 1974/2006 laying down detailed rules for the application of Council Regulation (EC) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) (repealed)

Article 1

Regulation (EC) No 1974/2006 is amended as follows:

1. in Article 2, paragraph 3 is replaced by the following:
3. With the exception of the dairy sector, where a common market organisation, including direct support schemes financed by the European Agricultural Guarantee Fund (EAGF) places restrictions on production or limitations on Community support at the level of individual farmers, holdings or processing plants, no investment shall be supported under Regulation (EC) No 1698/2005 which would increase production beyond those restrictions or limitations.;
2. the following Article 3a is inserted:

Article 3a

Revisions of national strategy plans in accordance with Article 12a of Regulation (EC) No 1698/2005 shall include a revision of the relevant elements set out in Article 11(3) of that Regulation which are related to the priorities foreseen in Article 16a(1) of that Regulation, and, in particular, of the main quantified objectives.The National Strategy shall identify the approximate and indicative EAFRD contribution referred to in Article 69(5a) of Regulation (EC) No 1698/2005 allocated to each of the priorities referred to in Article 16a(1) of that Regulation in the Member State and shall contain the appropriate explanations related to the allocation.;
3. in Article 5, paragraph 1, the first subparagraph is replaced by the following:

The content of rural development programmes as referred to in Articles 16 and 16a of Regulation (EC) No 1698/2005 shall be established in accordance with Annex II to this Regulation.;
4. in Article 7, paragraph 1 is amended as follows:
 - (a) point (d) is replaced by the following:
 - (d) the revision relates to the first implementation of Article 16a of Regulation (EC) No 1698/2005.;
 - (b) the following point is added:
 - (e) the revision introduces an additional potential effect, not listed in Annex II to Regulation (EC) No 1698/2005, related to the priorities mentioned in Article 16a of the same Regulation.;
5. in Article 9, paragraph 1 is replaced by the following:
 1. Changes in programmes by Member States as referred to in Article 6(1) (c) may involve changes of financial breakdowns by measure within an axis as well as non-financial changes concerning the introduction of new measures and types of operations, the withdrawal of existing measures and types of operations, the changes

relating to the exception referred to in Article 5(6) of Regulation (EC) No 1698/2005 or information on and description of existing measures in the programme.;

6. the following Article 24a is inserted:

Article 24a

The business plan referred to in Article 35a of Regulation (EC) No 1698/2005 shall:

- (a) describe the main aspects of the restructuring envisaged including diversification outside agricultural activities;
- (b) identify specific objectives.;

7. in Article 27(6) the first subparagraph is deleted;

8. in Article 46, the following paragraph is added:

This Article shall also apply to the commitments concerned by the abolition of the set-aside following the entering into force of Regulation (EC) No 73/2009. On request of the beneficiary, adjustments of such commitments can be allowed also in case no revision clause is provided.;

9. in the first subparagraph of Article 56(2), the following sentence is added:

‘In the case of investments for which the individual decision to grant support is taken in 2009 or in 2010, the amount of the advances may be increased up to 50 % of the public aid related to that investment.’;

10. in Article 57, paragraph 2 is replaced by the following:

2. Rural development programmes may cover payments made by Member States for rural development, falling outside the scope of Article 36 of the Treaty, in favour of measures pursuant to Articles 25, 43 to 49 and 52 of Regulation (EC) No 1698/2005 and of operations under measures pursuant to Articles 21, 24, 28, 29, 30 and 35a of that Regulation or additional national funding, falling outside the scope of Article 36 of the Treaty, in favour of the measures pursuant to Articles 25, 27, 43 to 49 and 52 of Regulation (EC) No 1698/2005 and of operations under measures pursuant to Articles 21, 24, 28, 29, 30 and 35a of that Regulation only if the State aid is identified in accordance with point 9.B of Annex II to this Regulation.;

11. in Section 4 ‘Monitoring and Evaluation’, the following Article 59a is inserted:

Article 59a

For the purposes of Article 78, point (f) of Regulation (EC) No 1698/2005, “substantial proposals for changes” shall include the changes for which a decision of the Commission is compulsory and changes referred to in Article 9(1) of this Regulation except the changes relating to the exception referred to in Article 5(6) of Regulation (EC) No 1698/2005 and the information on and description of existing measures in the programme.;

12. in Article 62, paragraph 1, the following subparagraph is added:

For measures containing types of operations as specified under Article 16a of Regulation (EC) No 1698/2005 output indicators and indicative targets for output indicators shall be broken down by types of operations.;

13. in Article 63, paragraph 8, the first subparagraph is replaced by the following:

In cases of *force majeure* or exceptional circumstances, and in particular of malfunctioning of the system or a lack of a lasting connection, the Member State may submit the documents to the Commission in hard copy or by other appropriate electronic means. Such submission of hard copies or by other electronic means shall require prior notice to the Commission.;

14. Annexes I, II, VII and VIII are amended in accordance with the Annex to this Regulation.

Article 2

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

It shall apply from 1 January 2009. However, Article 1(1) shall apply as of 1 January 2007.

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

Done at Brussels, 4 May 2009.

For the Commission

Mariann FISCHER BOEL

Member of the Commission