

COMMISSION REGULATION (EC) No 482/2009**of 8 June 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) and Regulation (EC) No 883/2006 laying down detailed rules for the application of Council Regulation (EC) No 1290/2005 as regards the keeping of accounts by the paying agencies, declarations of expenditure and revenue and the conditions for reimbursing expenditure under the EAGF and the EAFRD

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1698/2005 of 20 September 2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) ⁽¹⁾, and in particular Article 91 thereof,

Having regard to Council Regulation (EC) No 1290/2005 of 21 June 2005 on the financing of the common agricultural policy ⁽²⁾, and in particular Article 42 thereof,

Whereas:

- (1) Regulation (EC) No 1698/2005, which establishes the legal framework for the EAFRD support for rural development throughout the Community, has been amended by Council Regulation (EC) No 473/2009 of 25 May 2009 amending Regulation (EC) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) and Regulation (EC) No 1290/2005 on the financing of the common agricultural policy ⁽³⁾ to take into account the European Economic Recovery Plan which was approved by the European Council, at its meeting on 11 and 12 December 2008.
- (2) Consequently, Commission Regulation (EC) No 1974/2006 ⁽⁴⁾ should be complemented by additional detailed implementing rules.
- (3) Article 70(4b) of Regulation (EC) No 1698/2005 allows Member States to apply higher rates of co-financing by the EAFRD during 2009, subject to the overall rate of contribution from the EAFRD as provided for in Article 70(3) of that Regulation, being respected over the whole programming period. It is necessary to determine the procedure under which the Member States may use that possibility as well as the mechanism through which it will be ensured that the overall contribution rate from the EAFRD shall be respected over the whole programming period.

- (4) In order to facilitate the implementation of local development strategies and in particular the functioning of local action groups, as defined in Article 62 of Regulation (EC) No 1698/2005, the possibility to make advance payments related to their running costs should be provided.

- (5) In view of the general environmental benefit resulting from the transfer of a holding, or part of it, to an organisation having the objective of nature management, Member States should be allowed not to require the beneficiary for reimbursement in case the organisation does not take over the commitment given as a condition for the grant of assistance.

- (6) The implementation of the operations concerning investments associated with the maintenance, restoration and upgrading of the natural heritage and with the development of high natural value sites, provided in Article 57(a) of Regulation (EC) No 1698/2005, should be facilitated. Therefore, Member States should be allowed to fix the level of support for such operations on the basis of standard costs and standard assumptions of income foregone, as already provided for the operations of similar nature in accordance with Article 53 of Regulation (EC) No 1974/2006.

- (7) In order to allow Member States to benefit from Article 70(4b) of Regulation (EC) No 1698/2005 the rules for the calculation of the Community contribution in the context of the EAFRD accounts, provided for in Commission Regulation (EC) No 883/2006 ⁽⁵⁾, should be adapted.

- (8) Regulations (EC) No 1974/2006 and (EC) No 883/2006 should therefore be amended accordingly.

- (9) In order to be consistent with the date of application of Regulation (EC) No 473/2009, to which the provisions of this Regulation are complementary, this Regulation should apply as of 1 January 2009. Such retroactive application should not infringe the principle of legal certainty of the beneficiaries concerned.

⁽¹⁾ OJ L 277, 21.10.2005, p. 1.

⁽²⁾ OJ L 209, 11.8.2005, p. 1.

⁽³⁾ OJ L 144, 9.6.2009, p. 3.

⁽⁴⁾ OJ L 368, 23.12.2006, p. 15.

⁽⁵⁾ OJ L 171, 23.6.2006, p. 1.

- (10) The measures provided for in this Regulation are in accordance with the opinion of the Rural Development Committee and the Committee on the Agricultural Funds,

HAS ADOPTED THIS REGULATION:

Article 1

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

1. Article 6(1) is amended as follows:

(a) the following point is inserted after point (b):

‘(ba) changes to the financing plan related to the implementation of Article 70(4b) of Regulation (EC) No 1698/2005;’;

(b) point (c) is replaced by the following:

‘(c) other changes not covered by points (a), (b) and (ba) of this paragraph.’;

2. the following Article is inserted after Article 8:

‘Article 8a

1. Member States intending to make changes related to the implementation of Article 70(4b) of Regulation (EC) No 1698/2005 shall notify to the Commission an amended financing plan containing the increased rates of contribution from the EAFRD to be applied in 2009.

The procedure of Article 9 of this Regulation shall apply to changes notified in accordance with the first subparagraph.

2. After receiving the last declaration of expenditure for the year 2009, to be submitted by 31 January 2010 at the latest in accordance with Article 16(2) of Commission Regulation (EC) No 883/2006 (*), the Commission shall calculate the maximum EAFRD contribution rates that may be applied for the remaining part of the programming period in order to respect the overall maximum EAFRD contribution rates as provided in paragraphs 3 and 4 of Article 70 of Regulation (EC) No 1698/2005. The details and the result of that calculation shall be communicated to the Member States by 15 February 2010.

3. Member States shall notify to the Commission, by 15 March 2010, a new financing plan containing new EAFRD contribution rates for the remainder of the programming period in conformity with the maximum rates calculated by the Commission according to paragraph 2.

If a Member State does not notify the new financing plan by this date or if the financing plan notified is not in conformity with the Commission’s calculation of the maximum rates, the latter shall become automatically applicable to that Member State’s rural development programme as from the declaration corresponding to expenditure incurred by the paying agency during the first quarter of 2010, and up to a revised financing plan compatible with the co-financing rates calculated by the Commission.

(*) OJ L 171, 23.6.2006, p. 1’;

3. Article 38 is replaced by the following:

‘Article 38

1. Running costs of local action groups as referred to in Article 63(c) of Regulation (EC) No 1698/2005 shall be eligible for Community support within a limit of 20 % of the total public expenditure of the local development strategy.

2. Local action groups may request the payment of an advance from the competent paying agencies if such possibility is included in the rural development programme. The amount of the advances shall not exceed 20 % of the public aid related to the running costs, and its payment shall be subject to the establishment of a bank guarantee or an equivalent guarantee corresponding to 110 % of the amount of the advance. The guarantee shall be released at the closure of the local development strategy at the latest.

Article 26(5) of Commission Regulation (EC) No 1975/2006 (*) shall not apply for the payment referred to in the first subparagraph.

(*) OJ L 368, 23.12.2006, p. 74’;

4. in Article 44(2), the following point is added:

‘(c) where the holding of a beneficiary is entirely or partly transferred to an organisation having the main objective of nature management in view of conservation of the environment, provided that the transfer aims at a permanent change of land use into nature conservation and that this is associated with a significant benefit to the environment.’;

5. in Article 53, paragraph 1 is replaced by the following:

‘1. Where appropriate Member States may fix the level of support provided for in Articles 31, 37 to 41, and 43 to 49 of Regulation (EC) No 1698/2005 on the basis of standard costs and standard assumptions of income foregone.

Without prejudice to the applicable material and procedural State aid rules the first subparagraph also applies to investments associated with maintenance, restoration and upgrading of the natural heritage and with the development of high natural value sites as referred to in Article 57(a) of Regulation (EC) No 1698/2005.’;

6. Annexes II and VII are amended in accordance with the Annex to this Regulation.

Article 2

In Article 17(1) of Regulation (EC) No 883/2006 the following second subparagraph is added:

‘By way of derogation from the first subparagraph, for expenditure paid by Member States between 1 April and 31 December 2009, the Community contribution shall be calculated on the basis of the financing plan in force on the last day of the reference period.’.

Article 3

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.

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

Done at Brussels, 8 June 2009.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

ANNEX

The Annexes to Regulation (EC) No 1974/2006 are amended as follows:

1. in Annex II, A, point 6.3 is replaced by the following:

'6.3. Indicative budget related to operations referred to in Article 16a of Regulation (EC) 1698/2005 between 1 January 2009 and 31 December 2013 (Article 16a(3b) up to the amounts specified in Article 69(5a) of Regulation (EC) No 1698/2005).

Axis/measure	EAFRD contribution for 2009-2013
Axis 1	
Measure 111	...
Measure
Total Axis 1	...
Axis 2	
Measure 211	...
Measure
Total Axis 2	...
Axis 3	...
Measure 311	
Measure 321	
— Related to priorities listed in Article 16a(1), points (a) to (f) of Regulation (EC) No 1698/2005	
— Related to priorities listed in Article 16a(1), point (g) of Regulation (EC) No 1698/2005	
Measure ...	
Total Axis 3	...
— Related to priorities listed in Article 16a(1), points (a) to (f) of Regulation (EC) No 1698/2005	
— Related to priorities listed in Article 16a(1), point (g) of Regulation (EC) No 1698/2005	
Axis 4	...
Measure 411	
Measure 413	
— Related to priorities listed in Article 16a(1), points (a) to (f) of Regulation (EC) No 1698/2005	
— Related to priorities listed in Article 16a(1), point (g) of Regulation (EC) No 1698/2005	
Measure ...	
Total Axis 4	...
— Related to priorities listed in Article 16a(1), points (a) to (f) of Regulation (EC) No 1698/2005	
— Related to priorities listed in Article 16a(1), point (g) of Regulation (EC) No 1698/2005	

Axis/measure	EAFRD contribution for 2009-2013
Total programme	
Total under Axis 1, 2, 3 and 4 related to priorities listed in Article 16a(1), points (a) to (f) of Regulation (EC) No 1698/2005	...
Total under Axis 3 and 4 related to priorities listed in Article 16a(1), point (g) of Regulation (EC) No 1698/2005	

2. Annex VII, A is amended as follows:

(a) in point 2, the second paragraph is replaced by the following:

'Each Member State receiving additional financial resources in accordance with Article 69(5a) of Regulation (EC) No 1698/2005 should include, for the first time in the annual report submitted in 2010, a separate chapter containing at least the same analysis as mentioned in the first paragraph as regards the operations related to the priorities mentioned in Article 16a(1) of that Regulation.'

(b) point 3a is replaced by the following:

'3a. The financial implementation of the programme as regards the **operations related to the new challenges and broadband infrastructure**, giving, for each measure, a statement of expenditures paid to beneficiaries after 1 January 2009 for types of operations referred to in Article 16a(1) of Regulation (EC) No 1698/2005 and up to the amounts referred to in Article 69(5a) of that Regulation.

The table summarising the financial implementation of these types of operations shall have at least the following information:

Axis/measure	Annual payment-year N	Cumulative payments from year 2009 to year N
Measure 111
Measure ...		
Total Axis 1
Measure 211
Measure ...		
Total Axis 2
Measure 311
Measure 321		
— Related to priorities listed in Article 16a(1), points (a) to (f) of Regulation (EC) No 1698/2005		
— Related to priorities listed in Article 16a(1), point (g) of Regulation (EC) No 1698/2005		
Measure ...		
Total Axis 3		...
— Related to priorities listed in Article 16a(1), points (a) to (f) of Regulation (EC) No 1698/2005		
— Related to priorities listed in Article 16a(1), point (g) of Regulation (EC) No 1698/2005		

Axis/measure	Annual payment-year N	Cumulative payments from year 2009 to year N
Measure 411		...
Measure 413 — Related to priorities listed in Article 16a(1), points (a) to (f) of Regulation (EC) No 1698/2005 — Related to priorities listed in Article 16a(1), point (g) of Regulation (EC) No 1698/2005		
Measure ...		
Total Axis 4 — Related to priorities listed in Article 16a(1), points (a) to (f) of Regulation (EC) No 1698/2005 — Related to priorities listed in Article 16a(1), point (g) of Regulation (EC) No 1698/2005
Total programme Total under Axis 1, 2, 3 and 4 related to priorities listed in Article 16a(1), points (a) to (f) of Regulation (EC) No 1698/2005 Total under Axis 3 and 4 related to priorities listed in Article 16a(1) point (g) of Regulation (EC) No 1698/2005'