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*Status: Point in time view as at 19/01/2009.*

*Changes to legislation: Council Regulation (EC) No 73/2009 (repealed), ANNEX IX is up to date with all changes known to be in force on or before 11 November 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

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## ANNEX IX

### Payment entitlements referred to in Article 33(1)(b)(iii)

#### A. Fruit and vegetables, ware potatoes and nurseries

1. For the purposes of this Annex, ‘fruit and vegetables’ shall mean the products listed in Article 1(1)(i) and (j) of Regulation (EC) No 1234/2007, and ‘ware potatoes’ shall mean potatoes of CN code 0701 other than those intended for the manufacture of potato starch for which aid is granted under Article 77 of this Regulation.

Farmers shall receive a payment entitlement per hectare which is calculated by dividing the reference amount referred in point 2 by the number of hectares as calculated in accordance with point 3.

2. Member States shall determine the amount to be included in the reference amount of each farmer on the basis of objective and non-discriminatory criteria such as:
  - (a) the amount of market support received, directly or indirectly, by the farmer in respect of fruit and vegetables, ware potatoes and nurseries;
  - (b) the area used to produce fruit and vegetables, ware potatoes and nurseries;
  - (c) the amount of fruit and vegetables produced, ware potatoes and nurseries,

in respect of a representative period which could be different for each product, of one or more marketing years starting from the marketing year ending in 2001 and, in the case of the new Member States, from the marketing year ending in 2004, up to the marketing year ending in 2007.

The application of the criteria in this point may be varied between different fruit and vegetable products, ware potatoes and nurseries, if duly justified on an objective basis. On the same basis, Member States may decide not to determine the amounts to be included in the reference amount and the applicable hectares under this point before the end of a transitional three-year period ending on 31 December 2010.

3. Member States shall calculate the applicable hectares on the basis of objective and non-discriminatory criteria such as the areas referred to in point (b) of the first subpoint of point 2.
4. A farmer whose production was adversely affected during the representative period referred to in point 2 by a case of *force majeure* or exceptional circumstances occurring before or during that reference period shall be entitled to request that the reference amount referred to in point 2 be calculated on the basis of the calendar year or years in the representative period not affected by the case of *force majeure* or exceptional circumstances.
5. If the whole reference period was affected by the case of *force majeure* or exceptional circumstances, the Member State concerned shall calculate the reference amount on the basis of the closest marketing year prior to the representative period chosen in accordance with point 3. In such case, point 1 shall apply *mutatis mutandis*.
6. A case of *force majeure* or exceptional circumstances, with relevant evidence to the satisfaction of the competent authority, shall be notified by the farmer concerned in writing to the authority within a deadline to be fixed by each Member State.

#### B. Wine (grubbing up)

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Farmers who participate in the grubbing up scheme laid down in Chapter 3 of Title V of Regulation (EC) No 479/2008 shall be allocated, in the year following the grubbing up, payment entitlements equal to the number of hectares for which they have received a grubbing up premium.

The unit value of these payment entitlements shall be equal to the regional average of the value of the payment entitlements of the corresponding region. However, the unit value shall in any case not exceed EUR 350/ha.

By way of derogation from the first subpoint, where the hectares for which a farmer has received the grubbing up premium had previously been taken into account for the allocation of payment entitlements, the value of the payment entitlements held by the farmer concerned shall be increased by the amount resulting from the multiplication of the number of hectares grubbed up referred to in the first subpoint with the unit value referred to in the second subpoint.

C. Wine (transfer from support programmes)

Where Member States choose to provide support in accordance with Article 9 of Regulation (EC) No 479/2008, they shall establish a reference amount for each farmer as well as the applicable hectares:

- (a) on the basis of objective and non-discriminatory criteria;
- (b) in respect of a representative reference period of one or more wine years starting from the wine year 2005/2006. However, the reference criteria used to establish the reference amount and applicable hectares shall not be based on a reference period including wine years after the wine year 2007/2008 where the transfer in support programmes concerns compensation to farmers who have previously received support for potable alcohol distillation or have been the economic beneficiaries of the support for the use of concentrated grape must to enrich wine under Regulation (EC) No 479/2008;
- (c) which shall not exceed the overall available amount for this measure referred to in Article 6(e) of Regulation (EC) No 479/2008.

Farmers shall receive a payment entitlement per hectare which is calculated by dividing the abovementioned reference amount by the number of applicable hectares.

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