

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amending Regulations (EC) No 1290/2005, (EC) No 247/2006, (EC) No 378/2007 and repealing Regulation (EC) No 1782/2003 (repealed)

## TITLE II

### GENERAL PROVISIONS ON DIRECT PAYMENTS

#### CHAPTER 5

##### Other general provisions

###### *Article 28*

##### **Minimum requirements for receiving direct payments**

1 From 2010, Member States shall not grant direct payments to a farmer in one of the following cases:

- a where the total amount of direct payments claimed or due to be granted before the reductions and exclusions provided for in Articles 21 and 23 in a given calendar year is less than EUR 100; or
- b where the eligible area of the holding for which direct payments are claimed or due to be granted before the reductions and exclusions provided for in Article 21 is less than one hectare.

In order to take account of the structure of their agricultural economies, Member States may adjust the thresholds referred to in points (a) and (b) of the first subparagraph of this paragraph within the limits set out in Annex VII.

Farmers holding special entitlements referred to in Article 44(1) shall be subject to the condition referred to in point (a) of the first subparagraph of this paragraph.

The Member States concerned may decide not to apply this paragraph in the French overseas departments, in the Azores and Madeira, in the Canary Islands and in the Aegean islands.

Where the amount paid is reduced as a consequence of a progressive introduction of direct payments as foreseen in Article 121 of this Regulation, in point K of Annex VII to Regulation (EC) No 1782/2003 or in point C of Annex IX to this Regulation, the amount claimed or due to be granted shall be calculated on the basis of the final amount of support to be received by the farmer.

2 From 2010, Member States may establish appropriate objective and non-discriminatory criteria to ensure that no direct payments are granted to a natural or legal person:

- a whose agricultural activities form only an insignificant part of its overall economic activities; or

*Status: Point in time view as at 22/12/2009.*

*Changes to legislation: Council Regulation (EC) No 73/2009 (repealed), CHAPTER 5 is up to date with all changes known to be in force on or before 25 August 2023.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)*

- b whose principal business or company objects do not consist of exercising an agricultural activity.

3 Payment entitlements not giving right to payments during two consecutive years due to the application of paragraphs 1 and 2 shall revert to the national reserve.

#### *Article 29*

#### **Payment**

1 Save as otherwise provided for in this Regulation, payments under support schemes listed in Annex I shall be made in full to the beneficiaries.

2 Payments shall be made in up to two instalments per year within the period from 1 December to 30 June of the following calendar year.

3 Payments under support schemes listed in Annex I shall not be made before the verification of eligibility conditions, to be carried out by the Member State pursuant to Article 20, has been finalised.

4 By way of derogation from paragraph 2 of this Article and in accordance with the procedure referred to in Article 141(2), the Commission may:

- a provide for advances;
- b authorise the Member States, subject to the budgetary situation, to pay prior to 1 December advances in regions where, due to exceptional conditions, farmers face severe financial difficulties:
  - (i) of up to 50 % of the payments;
  - or
  - (ii) of up to 80 % of the payments where advances have already been provided for.

#### *Article 30*

#### **Circumvention clause**

Without prejudice to any specific provisions in individual support schemes, no payment shall be made to beneficiaries for whom it is established that they artificially created the conditions required for obtaining such payments with a view to obtaining an advantage contrary to the objectives of that support scheme.

#### *Article 31*

#### **Force majeure and exceptional circumstances**

For the purposes of this Regulation, *force majeure* or exceptional circumstances shall be recognised by the competent authority in cases such as:

- (a) the death of the farmer;
- (b) long-term professional incapacity of the farmer;
- (c) a severe natural disaster gravely affecting the holding's agricultural land;

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- (d) the accidental destruction of livestock buildings on the holding;
- (e) an epizootic affecting part or all of the farmer's livestock.

#### *Article 32*

#### **Review**

Support schemes listed in Annex I shall apply without prejudice to a possible review at any time in the light of economic developments and the budgetary situation.

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