

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amending Regulations (EC) No 1290/2005, (EC) No 247/2006, (EC) No 378/2007 and repealing Regulation (EC) No 1782/2003 (repealed)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

SINGLE PAYMENT SCHEME

CHAPTER 2

Regional and partial implementation

Section 1

Regional implementation

Article 46

Regional allocation of the national ceilings referred to in Article 40

1 Having introduced the single payment scheme in accordance with Chapters 1 to 4 of Title III of Regulation (EC) No 1782/2003, a Member State may decide to apply the single payment scheme in or after 2010 at regional level under the conditions laid down in this Section.

Where that decision applies from 2010, it shall be taken by 1 August 2009. In any other case it shall be taken by 1 August 2010.

2 Member States shall define the regions in accordance with objective and non-discriminatory criteria such as their institutional or administrative structure and the regional agricultural potential.

Member States may consider their whole territory as one single region.

3 Member States shall divide the national ceilings referred to in Article 40 between the regions in accordance with objective and non-discriminatory criteria. Member States may decide that these regional ceilings shall be subject to annual progressive modifications in accordance with no more than three pre-established annual steps and objective and non-discriminatory criteria such as the agricultural potential or environmental criteria.

4 Where a Member State applying paragraphs 1, 2 and 3 of this Article decides not to apply Article 47, it shall, to the extent necessary to respect the applicable regional ceilings, adjust the value of the payment entitlements in each of its regions. To this end, the payment entitlements shall be subject to linear reductions or increases in their value. The total reduction in the value of the payment entitlements under this paragraph shall be limited to 10 % of their initial value.

Status: Point in time view as at 22/12/2009.

Changes to legislation: Council Regulation (EC) No 73/2009 (repealed), CHAPTER 2 is up to date with all changes known to be in force on or before 25 August 2023.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)

5 If a Member State decides to apply both Article 45 and this Article, the reductions in the value of the payment entitlements referred to in paragraph 4 of this Article shall be taken into account for the calculation of the limits set in the second subparagraph of Article 45(2).

Article 47

Regionalisation of the single payment scheme

1 In duly justified cases, Member States may decide to divide no more than 50 % of the regional ceiling established under Article 46 between all the farmers whose holdings are located in the region concerned, including those who do not hold payment entitlements.

2 Farmers shall receive payment entitlements the unit value of which shall be calculated by dividing the corresponding part of the regional ceiling established under Article 46 by the number of eligible hectares established at regional level.

The value of these payment entitlements shall be increased in cases where, prior to the application of this Article, a farmer holds payment entitlements. To this end, the regional unit value of each of the farmer's payment entitlements shall be increased by an amount calculated on the basis of the total value of the payment entitlements which the farmer held by a date to be fixed by the Member State concerned. These increases shall be calculated within the limits of the remaining part of the regional ceiling after application of paragraph 1 of this Article.

3 The number of payment entitlements per farmer shall be equal to the number of hectares the farmer declares in the year of application of the single payment scheme at regional level, as referred to in Article 46(1), in accordance with Article 34(2), except in the case of *force majeure* or exceptional circumstances.

4 Payment entitlements held by farmers before the division referred to in paragraphs 1 and 2 shall be cancelled and replaced by the new entitlements referred to in paragraph 3.

Article 48

Revision of payment entitlements

1 In duly justified cases, the Member States applying Article 47 may decide, acting in compliance with the general principles of Community law, to move, in the year following the application of the single payment scheme at regional level as referred to in Article 46(1), towards approximating the value of the payment entitlements established under this Section.

Where that decision applies from 2010, it shall be taken by 1 August 2009. In any other case it shall be taken by 1 August 2010.

For the purpose of applying the first subparagraph, the payment entitlements may be made subject to annual progressive modifications in accordance with objective and non-discriminatory criteria. If the modification results in a reduction in the value of the payment entitlements, it shall be made in at least two pre-established annual steps.

2 In duly justified cases, the Member States having introduced the single payment scheme in accordance with Section 1 of Chapter 5 or Chapter 6 of Title III of Regulation (EC) No 1782/2003 may decide, acting in compliance with the general principles of Community law, to move, in or after 2010, towards approximating the value of the payment entitlements.

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Where that decision applies from 2010, it shall be taken by 1 August 2009. In any other case it shall be taken by 1 August 2010.

For the purpose of applying the first subparagraph, the payment entitlements shall be subject to annual progressive modifications in accordance with objective and non-discriminatory criteria. If the modification results in a reduction in the value of the payment entitlements, it shall be made in at least three pre-established annual steps.

The first subparagraph shall apply without prejudice to the decisions taken by Member States pursuant to Article 63(3) of Regulation (EC) No 1782/2003. The Member States concerned may derogate from the minimum number of steps provided for in the first subparagraph and the limits established in paragraph 3 of this Article.

3 In none of the annual steps referred to in paragraphs 1 and 2 shall the reduction in the value of any payment entitlement be more than 50 % of the difference between its initial and final value. Where the reduction in the value is less than 10 % of the initial value, Member States may apply fewer than three steps.

4 Member States may decide to apply paragraphs 1, 2 and 3 at the appropriate geographical level which shall be determined in accordance with objective and non-discriminatory criteria such as their institutional or administrative structure and the agricultural potential.

Article 49

Grassland

When applying Article 47, Member States may, in accordance with objective and non-discriminatory criteria, determine, within the regional ceiling established under Article 46 or part of it, different per unit values of the payment entitlements to be allocated to the farmers referred to in Article 47(1):

- (a) for hectares under grassland on the date set for the area aid applications for 2008 and for any other eligible hectare; or
- (b) for hectares under permanent pasture on the date set for the area aid applications for 2008 and for any other eligible hectare.

Article 50

Conditions for the payment entitlements established under this Section

1 Payment entitlements established in accordance with this Section or with Section 1 of Chapter 5 or Chapter 6 of Title III of Regulation (EC) No 1782/2003 may only be transferred or used within the same region or between regions where the value of the payment entitlements per hectare is the same.

2 Save as otherwise provided for in this Section, the other provisions of this Title shall apply.

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Section 2

Partial implementation

Article 51

General provisions

1 The Member States having granted payments in the sheepmeat and goatmeat sector or the beef and veal payments in accordance with Section 2 of Chapter 5 of Title III of Regulation (EC) No 1782/2003 may decide, by 1 August 2009, to continue to grant these payments under the conditions laid down in this Section. They may also decide to set the part of the component of their national ceilings to be used to grant these payments at a lower level than that decided in accordance with Article 64(2) of Regulation (EC) No 1782/2003. Where a Member State does not take that decision, the payments shall be integrated into the single payment scheme from 2010 in accordance with Article 66 of this Regulation.

In the case of the beef and veal payments referred to in Article 53(2) of this Regulation, Member States may also decide, by 1 August 2010, not to grant these payments but to integrate them into the single payment scheme from 2011 in accordance with Article 66 of this Regulation.

Where a Member State excluded all or part of the fruit and vegetable payments from the single payment scheme pursuant to Article 68b of Regulation (EC) No 1782/2003, it may:

- a from 2010, grant the fruit and vegetable payments under the conditions laid down in this Section and in accordance with the decision taken on the basis of Article 68b(1) and (2) or 143bc(1) and (2) of Regulation (EC) No 1782/2003; or
- b decide, by 1 August 2009, to integrate the fruit and vegetable payments excluded from the single payment scheme pursuant to Article 68b of Regulation (EC) No 1782/2003 into the single payment scheme, in accordance with Article 66 of this Regulation; or
- c decide, by 1 August 2009 to grant the transitional fruit and vegetable payment under the conditions laid down in this Section and at a lower level than that decided in accordance with Article 68b of Regulation (EC) No 1782/2003.

The new Member States having applied the single area payment scheme may decide, when introducing the single payment scheme, to grant the payments referred to in the first subparagraph under the conditions laid down in this Section. In the case of the transitional fruit and vegetables payment, the new Member States not having applied Article 143bc of Regulation (EC) No 1782/2003 shall not apply Article 54 of this Regulation. Furthermore, in the case of the transitional fruit and vegetable payment, the new Member States shall take into account, where relevant, Article 128(3) of this Regulation.

[^{F1}Member States having made use of the option provided for in Section 2 of Chapter 5 of Title III of Regulation (EC) No 1782/2003 to apply the single payment scheme at regional level may apply the first and second subparagraph at the same regional level.]

2 On the basis of the choice made by each Member State, the Commission shall determine, in accordance with the procedure referred to in Article 141(2), a ceiling for each of the direct payments referred to in Articles 52, 53 and 54.

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

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This ceiling shall be equal to the component of each type of direct payment in the national ceilings referred to in Article 40, multiplied by the percentages of reduction applied by Member States in accordance with Articles 52, 53 and 54.

[^{F13} Any Member State applying the possibility provided for in the fifth subparagraph of paragraph 1 shall submit the following information to the Commission, by 1 December 2009:

- a the breakdown per region of the amounts foreseen for the measure or measures concerned for the years 2010 to 2012 according to objective criteria;
- b the statistical and other supporting data used to establish the amounts referred to in point (a).

Member States shall reply to any request from the Commission for further clarifications on the information submitted within one month.

The Commission shall use the amounts referred to in point (a) of the first subparagraph of this paragraph as a basis for fixing the ceiling of the Member States concerned for each of the direct payments referred to in Articles 52 and 53 as provided for in paragraph 2 of this Article.]

Textual Amendments

- F1** Inserted by [Council Regulation \(EC\) No 1250/2009 of 30 November 2009 amending Regulation \(EC\) No 73/2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers.](#)

Article 52

Sheepmeat and goatmeat payments

Member States may retain up to 50 % of the component of the national ceilings referred to in Article 40 of this Regulation corresponding to payments in the sheepmeat and goatmeat sector listed in Annex VI to Regulation (EC) No 1782/2003. In this case they shall make, on a yearly basis, an additional payment to farmers.

The additional payment shall be granted to farmers rearing sheep and goats, under the conditions provided for in Section 10 of Chapter 1 of Title IV of this Regulation and within the ceiling determined in accordance with Article 51(2) of this Regulation.

Article 53

Beef and veal payments

1 The Member States having applied Article 68(2)(a)(i) of Regulation (EC) No 1782/2003 and the new Member States having applied the single area payment scheme may retain all or part of the component of the national ceilings referred to in Article 40 of this Regulation corresponding to the suckler cow premium referred to in Annex VI to Regulation (EC) No 1782/2003. In these cases they shall make, on a yearly basis, an additional payment to farmers.

The additional payment shall be granted for maintaining suckler cows, under the conditions provided for in Section 11 of Chapter 1 of Title IV of this Regulation and within the ceiling determined in accordance with Article 51(2) of this Regulation.

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2 In 2010 and 2011, the Member States having applied Article 68(1), Article 68(2)(a) (ii) or Article 68(2)(b) of Regulation (EC) No 1782/2003 and the new Member States having applied the single area payment scheme may retain all or part of the national ceilings referred to in Article 40 of this Regulation corresponding to the slaughtering premium for calves, the slaughtering premium for bovine animals other than calves or the special male premium. In these cases, they shall make an additional payment to farmers. The additional payments shall be granted for the slaughtering of calves, for the slaughtering of bovine animals other than calves and for holding male bovine animals, under the conditions provided for in Section 11 of Chapter 1 of Title IV of this Regulation and within the ceiling determined in accordance with Article 51(2) of this Regulation.

Article 54

Transitional fruit and vegetables payments

1 Member States may retain, until 31 December 2011, up to 50 % of the component of the national ceilings referred to in Article 40 corresponding to support for the production of tomatoes.

In this case and within the ceiling determined in accordance with Article 51(2), the Member State concerned shall make, on a yearly basis, an additional payment to farmers.

The additional payment shall be granted to farmers producing tomatoes, under the conditions provided for in Section 8 of Chapter 1 of Title IV.

- 2 Member States may retain:
- a until 31 December 2010, up to 100 % of the component of the national ceilings referred to in Article 40 of this Regulation corresponding to support for the production of fruit and vegetable crops other than annual crops listed in the third subparagraph of this paragraph which are supplied for processing and were eligible under the aid schemes set out in Regulations (EC) No 2201/96 and (EC) No 2202/96; and
 - b from 1 January 2011 until 31 December 2012, up to 75 % of the component of the national ceilings referred to in Article 40 of this Regulation corresponding to support for the production of fruit and vegetable crops other than annual crops listed in the third subparagraph of this paragraph which are supplied for processing and were eligible under the aid schemes set out in Council Regulation (EC) No 2201/96 of 28 October 1996 on the common organization of the markets in processed fruit and vegetable products⁽¹⁾ and Council Regulation (EC) No 2202/96 of 28 October 1996 introducing a Community aid scheme for producers of certain citrus fruits⁽²⁾.

In this case and within the ceiling determined in accordance with Article 51(2) of this Regulation, the Member State concerned shall make, on a yearly basis, an additional payment to farmers.

The additional payment shall be granted to farmers producing one or more of the following fruit and vegetables, as determined by the Member State concerned, under the conditions provided for in Section 8 of Chapter 1 of Title IV:

- a fresh figs;
- b fresh citrus fruits;
- c table grapes;
- d pears;
- e peaches and nectarines; and
- f 'd'Ente' plums.

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3 The components of the national ceilings referred to in paragraphs 1 and 2 are those set out in Annex X.

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- (1) OJ L 297, 21.11.1996, p. 29.
- (2) OJ L 297, 21.11.1996, p. 49.

Status:

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Changes to legislation:

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