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*Status: Point in time view as at 01/07/2013.*

*Changes to legislation: Council Regulation (EC) No 73/2009 (repealed), CHAPTER 3 is up to date with all changes known to be in force on or before 26 August 2023.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)*

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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amending Regulations (EC) No 1290/2005, (EC) No 247/2006, (EC) No 378/2007 and repealing Regulation (EC) No 1782/2003 (repealed)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 3

#### **[<sup>F1</sup>Implementation in the new Member States having applied the single area payment scheme and in Croatia]**

#### *Article 55*

#### **[<sup>F1</sup>Introduction of the single payment scheme in the Member States having applied the single area payment scheme and in Croatia]**

[<sup>F1</sup> Save as otherwise provided for in this Chapter, this Title shall apply to the new Member States having applied the single area payment scheme provided for in Chapter 2 of Title V and to Croatia.]

Article 41 and Section 1 of Chapter 2 shall not apply.

2 Any new Member State having applied the single area payment scheme shall take the decisions referred to in Article 51(1) and Article 69(1) by 1 August of the year preceding that in respect of which it will apply the single payment scheme for the first time.

3 Except for Bulgaria and Romania, any new Member State having applied the single area payment scheme may provide that, in addition to the eligibility conditions established in Article 34(2), ‘eligible hectare’ shall mean any agricultural area of the holding which has been maintained in good agricultural condition on 30 June 2003, whether or not in production at that date.

#### *Article 56*

#### **Application for support**

1 Farmers shall apply for support under the single payment scheme by a date to be determined by the new Member States, but no later than 15 May.

2 Except in the case of *force majeure* or exceptional circumstances, payment entitlements shall be allocated only to those farmers who have applied for the single payment scheme by 15 May of the first year of application of the single payment scheme.

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## Article 57

### National reserve

1 Each new Member State shall make a linear percentage reduction in its national ceiling referred to in Article 40 in order to constitute a national reserve. [<sup>F2</sup>For Croatia this reduction shall not be higher than 20 % of the annual ceiling as indicated in table 3 of Annex VIII.]

2 The new Member States shall use the national reserve for the purpose of allocating, in accordance with objective criteria and in such a way as to ensure equal treatment between farmers and to avoid market and competition distortions, payment entitlements to farmers placed in a special situation to be defined by the Commission in accordance with the procedure referred to in Article 141(2).

3 During the first year of application of the single payment scheme, the new Member States may use the national reserve for the purpose of allocating, in accordance with objective criteria and in such a way as to ensure equal treatment between farmers and to avoid market and competition distortions, payment entitlements to farmers in specific sectors placed in a special situation as a result of the transition to the single payment scheme. [<sup>F2</sup>In Croatia, the use of the national reserve shall be subject to authorisation by the Commission by means of an implementing act without the assistance of the Committee referred to in Article 141. The Commission shall examine, in particular, the establishment of any national direct payment scheme applicable prior to the date of accession and the conditions under which it applied. The request to authorise the national reserve shall be sent by Croatia to the Commission by 15 July 2013.]

4 The new Member States may use the national reserve to allocate payment entitlements to farmers who have commenced their agricultural activity after 1 January of the first year of application of the single payment scheme and who have not received any direct payment in that year, in accordance with objective criteria and in such a way as to ensure equal treatment between farmers and to avoid market and competition distortions.

5 The new Member States not applying Article 68(1)(c) may use the national reserve for the purpose of allocating, in accordance with objective criteria and in such a way as to ensure equal treatment between farmers and to avoid market and competition distortions, payment entitlements to farmers in areas subject to restructuring and/or development programmes relating to one or the other form of public intervention in order to ensure against land being abandoned and to compensate farmers for specific disadvantages in those areas.

6 For the purposes of applying paragraphs 2 to 5, the new Member States may increase the unit value of the payment entitlements held by the farmer concerned, within the limit of EUR 5 000, or may allocate new payment entitlements to the farmer concerned.

7 The new Member States shall make linear reductions in the payment entitlements where their national reserve is not sufficient to cover the cases referred to in paragraphs 2, 3 and 4.

#### Textual Amendments

- F2** Inserted by [Treaty between the Kingdom of Belgium, the Republic of Bulgaria, the Czech Republic, the Kingdom of Denmark, the Federal Republic of Germany, the Republic of Estonia, Ireland, the Hellenic Republic, the Kingdom of Spain, the French Republic, the Italian Republic, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Grand Duchy of Luxembourg, the](#)

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Republic of Hungary, the Republic of Malta, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, Romania, the Republic of Slovenia, the Slovak Republic, the Republic of Finland, the Kingdom of Sweden, the United Kingdom of Great Britain and Northern Ireland (Member States of the European Union) and the Republic of Croatia concerning the accession of the Republic of Croatia to the European Union.

## *F<sup>2</sup>* Article 57a

### Special national de-mining reserve in Croatia

1 Croatia shall create a special national de-mining reserve which shall be used for the purpose of allocating, during a period of ten years after accession and in accordance with objective criteria and in such a way as to ensure equal treatment between farmers and to avoid market and competition distortions, payment entitlements to farmers with de-mined land returning to use for agricultural activities.

2 Land eligible for allocation of payment entitlements under this Article shall not be eligible for allocation of payment entitlements under Articles 59 and 61.

3 The value of the payment entitlements established under this Article shall not be higher than the value of the payment entitlements established in accordance with Articles 59 and 61, respectively.

4 The maximum amount allocated to the special national de-mining reserve shall be EUR 9 600 000 and shall be subject to the schedule of introduction of direct payments set out in Article 121. The maximum amounts per year shall be as follows:

(thousand EUR)										
Croatia	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022
Maximum amount for the special national de-mining reserve	4 400	2 880	3 360	3 840	4 800	5 760	6 720	7 680	8 640	9 600

5 In the first year of implementation of the single payment scheme, Croatia shall allocate payment entitlements to the farmers on the basis of the land which has been de-mined and declared by farmers in the aid applications submitted in the first year of implementation of the single payment scheme and returned to use for agricultural activities between 1 January 2005 and 31 December 2012.

6 For the years 2013 to 2022, payment entitlements shall be allocated to farmers on the basis of the de-mined land declared by the farmers in the year in question on condition that such land was returned to use for agricultural activities during the previous calendar year, and which has been notified to the Commission in accordance with paragraph 9.

7 In order to ensure an appropriate use of Union funds, the Commission shall, in accordance with the procedure referred to in Article 141(2), modify the ceiling in table 3 of

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Annex VIII in order to add thereto the amounts from the special national de-mining reserve which have been allocated by 31 December 2022.

8 All land declared for the purpose of this Article shall comply with the definition of eligible hectare provided for in Article 34(2).

9 By 15 July 2013, Croatia shall notify the Commission of the area of land eligible according to paragraph 5, indicating both land eligible for the support levels according to Article 59, and land eligible for the support levels according to Article 61. This notification shall also include information on the corresponding budgetary envelopes and the unused amounts. From 2014 onwards, a communication with the same information shall be sent to the Commission no later than 31 January every year and shall cover the previous calendar year, specifying the areas returned to use for agricultural activities and the corresponding budgetary envelopes.

10 By 31 December 2012, all mined and de-mined land on which farmers might receive payment entitlement from this special national de-mining reserve shall be identified in the integrated administration and control system established in accordance with Chapter 4 of Title II.]

#### **Textual Amendments**

- F2** Inserted by Treaty between the Kingdom of Belgium, the Republic of Bulgaria, the Czech Republic, the Kingdom of Denmark, the Federal Republic of Germany, the Republic of Estonia, Ireland, the Hellenic Republic, the Kingdom of Spain, the French Republic, the Italian Republic, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Grand Duchy of Luxembourg, the Republic of Hungary, the Republic of Malta, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, Romania, the Republic of Slovenia, the Slovak Republic, the Republic of Finland, the Kingdom of Sweden, the United Kingdom of Great Britain and Northern Ireland (Member States of the European Union) and the Republic of Croatia concerning the accession of the Republic of Croatia to the European Union.

#### *Article 58*

#### **Regional allocation of the national ceilings referred to in Article 40**

- 1 The new Member States may apply the single payment scheme at regional level.
- 2 The new Member States shall define the regions in accordance with objective and non-discriminatory criteria.
- 3 Where applicable, the new Member State shall divide the national ceiling referred to in Article 40 after any reduction provided for in Article 57 between the regions in accordance with objective and non-discriminatory criteria.

#### *Article 59*

#### **Allocation of payment entitlements**

- 1 Farmers shall receive payment entitlements, the unit value of which shall be calculated by dividing the applicable national ceiling referred to in Article 40 after any reduction provided for in Article 57 by the number of payment entitlements established at national level in accordance with paragraph 2 of this Article.

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2 Except in the case of *force majeure* or exceptional circumstances, the number of payment entitlements per farmer shall be equal to the number of hectares the farmer declares in accordance with Article 35(1) for the first year of application of the single payment scheme.

3 By way of derogation from paragraph 2, the new Member States may decide that, except in the case of *force majeure* or exceptional circumstances, the number of payment entitlements per farmer shall be equal to the average annual number of all hectares which during one or more years of a representative period to be fixed by the Member State but no later than 2008 conferred a right to the single area payment.

However, where a farmer has commenced agricultural activity in the representative period, the average number of hectares shall be based on the payments he was granted in the calendar year or years during which he exercised the agricultural activity.

[<sup>F24</sup> The Commission shall, in accordance with the procedure referred to in Article 141(2), adopt rules on the initial allocation of payment entitlements in Croatia.]

#### Textual Amendments

- F2** Inserted by Treaty between the Kingdom of Belgium, the Republic of Bulgaria, the Czech Republic, the Kingdom of Denmark, the Federal Republic of Germany, the Republic of Estonia, Ireland, the Hellenic Republic, the Kingdom of Spain, the French Republic, the Italian Republic, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Grand Duchy of Luxembourg, the Republic of Hungary, the Republic of Malta, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, Romania, the Republic of Slovenia, the Slovak Republic, the Republic of Finland, the Kingdom of Sweden, the United Kingdom of Great Britain and Northern Ireland (Member States of the European Union) and the Republic of Croatia concerning the accession of the Republic of Croatia to the European Union.

#### Article 60

##### Farmers with no eligible hectares

A farmer acting in the beef and veal sector, dairy sector or sheepmeat and goatmeat sector who is entitled to receive payment entitlements in accordance with Article 57(3) and Article 59 for which he does not have eligible hectares in the first year of implementation of the single payment scheme shall be allocated special entitlements, not exceeding EUR 5 000 per entitlement, as referred to in Article 44.

#### Article 61

##### Grassland

The new Member States may also, in accordance with objective and non-discriminatory criteria, determine, within the regional ceiling established under Article 58 or part of it, different per unit values of the payment entitlements to be allocated to farmers referred to in Article 59(1):

- (a) for hectares of grassland as identified on 30 June 2008 and for any other eligible hectare; or
- (b) for hectares of permanent pasture as identified on 30 June 2008 and for any other eligible hectare.

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[<sup>F2</sup>For Croatia, the dates referred to in points (a) and (b) of the first paragraph shall be 30 June 2011.]

#### Textual Amendments

- F2** Inserted by Treaty between the Kingdom of Belgium, the Republic of Bulgaria, the Czech Republic, the Kingdom of Denmark, the Federal Republic of Germany, the Republic of Estonia, Ireland, the Hellenic Republic, the Kingdom of Spain, the French Republic, the Italian Republic, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Grand Duchy of Luxembourg, the Republic of Hungary, the Republic of Malta, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, Romania, the Republic of Slovenia, the Slovak Republic, the Republic of Finland, the Kingdom of Sweden, the United Kingdom of Great Britain and Northern Ireland (Member States of the European Union) and the Republic of Croatia concerning the accession of the Republic of Croatia to the European Union.

### Article 62

#### Conditions for payment entitlements

1 Payment entitlements established in accordance with this Chapter may be transferred only within the same region or between regions where the entitlements per hectare are the same.

2 The new Member States may, acting in compliance with the general principles of Community law, decide to approximate the value of the payment entitlements established in accordance with this Chapter. This decision shall be taken by 1 August of the year preceding the first year of application of the single payment scheme.

For the purpose of applying the first subparagraph, the payment entitlements shall be made subject to annual progressive modifications in accordance with objective and non-discriminatory criteria and in pre-established annual steps.

3 Except in the case of *force majeure* or exceptional circumstances, a farmer may transfer his payment entitlements without land only after he has activated, within the meaning of Article 34, at least 80 % of his payment entitlements during at least one calendar year or after he has surrendered voluntarily to the national reserve all the payment entitlements he has not used in the first year of application of the single payment scheme.

#### Textual Amendments

- F1** Substituted by Treaty between the Kingdom of Belgium, the Republic of Bulgaria, the Czech Republic, the Kingdom of Denmark, the Federal Republic of Germany, the Republic of Estonia, Ireland, the Hellenic Republic, the Kingdom of Spain, the French Republic, the Italian Republic, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Grand Duchy of Luxembourg, the Republic of Hungary, the Republic of Malta, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, Romania, the Republic of Slovenia, the Slovak Republic, the Republic of Finland, the Kingdom of Sweden, the United Kingdom of Great Britain and Northern Ireland (Member States of the European Union) and the Republic of Croatia concerning the accession of the Republic of Croatia to the European Union.

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