

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amending Regulations (EC) No 1290/2005, (EC) No 247/2006, (EC) No 378/2007 and repealing Regulation (EC) No 1782/2003 (repealed)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 4

Integration of coupled support into the single payment scheme

Article 63

Integration of coupled support into the single payment scheme

1 As from 2010, Member States shall integrate the support available under the coupled support schemes referred to in Annex XI into the single payment scheme in accordance with the rules laid down in Articles 64, 65, 66 and 67.

2 By way of derogation from paragraph 1:

- a the Member States having introduced the single payment scheme in accordance with Chapters 1 to 4 of Title III of Regulation (EC) No 1782/2003 may decide to use all or part of the support referred to in paragraph 1 to establish payment entitlements or to increase the value of the payment entitlements on the basis of the type of agricultural activities exercised by farmers during one or more years in the period 2005 to 2008 and in accordance with objective and non-discriminatory criteria such as the agricultural potential or environmental criteria;
- b 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 or making use of the option provided for in Article 47 of this Regulation may decide to use all or part of the support referred to in paragraph 1 to increase the value of all payment entitlements by a supplementary amount corresponding to the increase of the regional ceiling divided by the total number of payment entitlements.

Member States may also differentiate the increase in value of the payment entitlements by taking into account the criteria referred to in Article 64(1) of this Regulation or on the basis of the type of agricultural activities exercised by farmers during one or more years in the period 2005 to 2008 and in accordance with objective and non-discriminatory criteria such as the agricultural potential or environmental criteria.

3 Where a Member State makes use of the derogation provided for in paragraph 2(a), it shall take adequate measures to ensure that farmers having benefited from the support referred to in paragraph 1 are not excluded from the single payment scheme. In particular, it shall make sure that the overall support the farmer will receive after the integration of the coupled support schemes referred to paragraph 1 into the single payment scheme does not fall below 75 % of the

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average annual support the farmer received under all the direct payments during the relevant reference periods referred to in Articles 64, 65 and 66.

Article 64

Integration of coupled support excluded from the single payment scheme

1 The amounts referred to in Annex XII that were available for coupled support under the schemes referred to in points 1 and 2 of Annex XI shall be distributed by the Member States amongst the farmers in the sectors concerned in accordance with objective and non-discriminatory criteria, taking account, in particular, of support that those farmers received, directly or indirectly, under the relevant support schemes during one or more years in the period 2005 to 2008. In the case of the potato starch schemes referred to in points 1 and 2 of Annex XI, Member States may distribute the amounts available under those schemes taking into account the quantities of potato covered by cultivation contracts between the potato producer and the starch manufacturer within the limit of the quota allocated to that manufacturer, as referred to in Article 84a of Regulation (EC) No 1234/2007, in a given year.

2 Member States shall increase the value of the payment entitlements held by the farmers concerned on the basis of the amounts resulting from the application of paragraph 1.

The increase in value per payment entitlement per farmer shall be calculated by dividing the amounts referred to in the first subparagraph by the number of payment entitlements of each farmer concerned.

However, where a farmer in a sector concerned does not hold any payment entitlement, he shall be allocated payment entitlements:

- a the number of which shall be equal to the number of hectares he declares in accordance with Article 35(1) in respect of the year of integration of the coupled support scheme into the single payment scheme;
- b the value of which shall be established by dividing the amount resulting from the application of paragraph 1 by the number established in accordance with point (a) of this subparagraph.

3 However, where the amount per aid scheme is lower than EUR 250 000, the Member State concerned may decide not to distribute the amounts and add them to the national reserve.

Article 65

Integration of coupled support partially excluded from the single payment scheme

The amounts that were available for coupled support under the schemes referred to in point 3 of Annex XI shall be distributed by the Member States amongst the farmers in the sectors concerned in proportion to the support that those farmers received under the relevant support schemes during the relevant reference periods referred to in Regulation (EC) No 1782/2003.

Member States may, however, choose a more recent representative period in accordance with objective and non-discriminatory criteria and, where a Member State 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 or where it makes use of the option provided in Article 47 of this Regulation, in accordance with Article 63(2)(b) of this Regulation.

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Member States shall increase the value of the payment entitlements of the farmers concerned or allocate payment entitlements in accordance with Article 64(2) of this Regulation.

Where a farmer that received payments under Articles 67 and 68 of Regulation (EC) No 1782/2003 would be entitled to receive payment entitlements in accordance with this Article for which he does not have eligible hectares in the year of integration of the coupled support scheme into the single payment scheme or where his payment entitlement per hectare results in an amount higher than EUR 5 000, he shall be allocated special entitlements as referred to in Article 44, not exceeding EUR 5 000 per entitlement.

Article 66

Optional integration of coupled support partially excluded from the single payment scheme

Where a Member State:

- (a) does not take the decision referred to in the first subparagraph of Article 51(1);
- (b) decides not to grant the beef and veal payments referred to in Article 53(2) from 2011, in application of the second subparagraph of Article 51(1); or
- (c) decides not to grant the fruit and vegetable payments in application of the third subparagraph of Article 51(1),

the amounts that were available for coupled support under the schemes referred to in point 4 of Annex XI shall be integrated into the single payment scheme in accordance with Article 65.

Article 67

Advanced integration of coupled support into the single payment scheme

Member States may decide, by 1 August 2009, to integrate the seed aid referred to in Section 5 of Title IV and the schemes referred to in point 1 of Annex XI, with the exception of the specific quality premium for durum wheat, into the single payment scheme in 2010 or 2011. In this case, the Commission, in accordance with the procedure referred to in Article 141(2), shall adjust the national ceilings referred to in Article 40 by adding the amounts from Annex XII for the aid scheme concerned.

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