



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 29.8.2007
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2007/0177 (CNS)

Proposal for a

COUNCIL REGULATION

amending Regulation (EC) No 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers and Regulation (EC) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD)

(presented by the Commission)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

- **Grounds for and objectives of the proposal**

In 2003 the Council reached a political agreement on the CAP reform, paving the way for an in-depth reshuffling of the way the EU is granting income support to its farmers and introducing mandatory cross-compliance obligations.

- **General context**

In the report to the Council on the implementation of cross-compliance, the Commission has identified some possible specific improvements in terms of efficiency and/or simplification.

- **Existing provisions in the area of the proposal**

Council Regulation (EC) No 1782/2003.

- **Consistency with the other policies and objectives of the Union**

Not applicable.

2. CONSULTATION OF INTERESTED PARTIES AND IMPACT ASSESSMENT

- **Consultation of interested parties**

Parties already consulted and urgency.

- **Collection and use of expertise**

There was no need for external expertise.

- **Impact assessment**

Not applicable.

3. LEGAL ELEMENTS OF THE PROPOSAL

- **Summary of the proposed action**

The aim of this proposal is to apply from the year 2008 the following specific improvements:

- the conclusion of the Commission report to the Council regarding the phasing-in of the statutory management requirements covered by the cross-compliance obligations in the new Member States that have opted for the single area payment scheme;

- the simplification of the rules for eligibility under both the single payment scheme and the single area payment scheme regarding the time period during which the farmers shall have the land at their disposal; the clarification of the farmer's responsibility vis-à-vis cross compliance in case of transfer of land during the calendar year;
- the introduction of a legal basis for the implementation under cross compliance of a *de minimis* rule for applying reductions and of exemptions from reductions for minor infringements.

Additionally, it is proposed that for all the new Member States opting to differentiate the per unit value of entitlements allocated to hectares of grassland or permanent pasture and of any other eligible hectares in the framework of the single payment scheme, the date referred to for identifying the parcels is established on 30 June 2006 instead of 30 June 2003.

This proposal includes also a modification to the special provisions governing the complementary national direct payments in Cyprus, as a result of the extension of the period for the implementation of the single area payment scheme that was adopted by the Council on 19 December 2006.

- **Legal basis**

Article 37(2) of the Treaty establishing the European Community.

- **Proportionality principle**

The proposal complies with the proportionality principle for the following reason: the abolition of the 10-months rule, the minor non-compliance and the '*de minimis*' rule in Regulation (EC) No 1782/2003 will simplify the administrative burden.

- **Choice of instruments**

Proposed instrument: regulation.

Other means would not be adequate for the following reason: a regulation must be amended by a regulation.

4. BUDGETARY IMPLICATION

The additional cost for the Community budget would be the consequences of not applying reductions under cross compliance in case of application of the *de minimis* rule and the exemptions for minor infringements.

5. ADDITIONAL INFORMATION

- **Simplification**

The proposal provides for simplification of administrative procedures for public authorities (EU or national).

Simplification of the eligibility rules under the single payment scheme and the single area payment scheme regarding the time period during which the farmers shall have the land at their disposal.

The proposal is included in the Commission's Work and Legislative Programme under the reference 2007/AGRI/040.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular the third subparagraph of Article 37(2) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament¹,

Whereas:

- (1) Experience has unveiled the need to introduce a measure of tolerance for minor cases of non-compliance, whose severity, extent and permanence would not justify an immediate reduction of the direct payments to be granted. Such measure of tolerance should include in particular a specific follow-up by the competent authority. Besides, applying reductions to very low initial amounts may prove burdensome for the administration whilst offering a questionable added-value in respect of its deterrent aspect. As a consequence, a suitable threshold should be defined, below which Member States may decide not to apply any reduction, provided a specific follow-up is foreseen.
- (2) Article 44(3) of Council Regulation (EC) No 1782/2003² provides that farmers shall keep at their disposal for a period of at least 10 months the parcels corresponding to the eligible hectare. Experience shows that this condition risks putting high constraints on the functioning of the land market and creates significant administrative workload for the farmers and the administrative services. A reduction of the time period would not jeopardise the management of the cross-compliance obligations. On the other hand, it is also necessary to establish a date where the parcels should be at the farmer's disposal to avoid double claims for the same land. Therefore it would be appropriate to establish that farmers shall have the parcels at their disposal on the 15 June of the year of submission of the aid application. The same rule should also be applied for the Member States applying the single area payment scheme. It would be also appropriate

¹ OJ C ..., ..., p.

² OJ L 270, 21.10.2003, p. 1. Regulation as last amended by Regulation (EC) No 2013/2006 (OJ L 384, 29.12.2006, p. 13).

to set up the rules as regards the responsibilities under cross-compliance in case of transfer of land.

- (3) Article 71h of Regulation (EC) No 1782/2003 provides that, in the framework of the single payment scheme, the new Member States within the meaning of Article 2(g) of that Regulation may differentiate the per unit value of entitlements allocated to hectares of grassland or permanent pasture and of any other eligible hectares as identified on 30 June 2003 or on 30 June 2005 in the case of Bulgaria and Romania. The new Member States have established an identification system for agricultural parcels in compliance with Article 20 of Regulation (EC) No 1782/2003. When switching from the old to the new identification system, the features of certain parcels as existing in 2003 may not have been accurately reflected into the new identification system due to technical difficulties. In order to allow a smooth implementation of this optional differentiation in all the new Member States, the date referred to for identifying the parcels should be established on 30 June 2006. Article 71h of Regulation (EC) No 1782/2003 should be amended accordingly.
- (4) Experience shows that the setting-up of the administrative network that is needed for the management of the statutory management requirements covered by the cross-compliance obligations requests an important administrative work. A three years phasing-in in the new Member States that are using the single area payment scheme, similar to the phasing-in applied in the Community as constituted on 30 April 2004 in accordance with the time schedule described in Annex III to Regulation (EC) No 1782/2003, would ease the process of introduction of the statutory management requirements and their smooth implementation. This phasing-in should be possible even if the new Member State decides to fully apply the direct payments before the last possible date for applying the single area payment scheme. Article 143b(6) of Regulation (EC) No 1782/2003 and Article 51(3) of Council Regulation (EC) No 1698/2005³ should be amended accordingly.
- (5) Article 143b (10) and (11) of Regulation (EC) No 1782/2003 lays down the rules governing the passage of new Member States using the single area payment scheme to the application of the single payment system. According to these rules the Commission has to authorize the decision of a new Member State to implement the single payment scheme after assessing the preparedness of the new Member State concerned. This prior authorisation by the Commission does not appear to be necessary in a present context where almost all direct payments are decoupled and taking into account that both the single area payment scheme and the single payment scheme are decoupled and area-based payments sharing most of the elements of the integrated system, notably the land parcel identification system. Those provisions should therefore be deleted.
- (6) Table 2 of Annex XII to Regulation (EC) No 1782/2003 sets out the total amounts of Complementary National Direct Payments to be paid in Cyprus in case of application of the Single Area Payment Scheme (SAPS) up to 2008. Further to the extension of the application of SAPS by Council Regulation (EC) No 2012/2006, it is necessary to set out the total amounts in case of application of SAPS in 2009 and 2010.

³ OJ L 277, 21.10.2005, p. 1. Regulation as last amended by Regulation (EC) No 2012/2006 (OJ L 384, 29.12.2006, p. 8).

- (7) New Member States having decided to apply the single payment scheme have opted for introducing it from 2007. It is appropriate to apply the modification of Article 71h of Regulation (EC) No 1782/2003 from that date.
- (8) Regulation (EC) No 1782/2003 and Regulation (EC) No 1698/2005 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1782/2003 is amended as follows:

(1) Article 6 is amended as follows:

(a) Paragraph (1) is replaced by the following:

"1. Where the statutory management requirements or good agricultural and environmental conditions are not complied with in a given calendar year (hereinafter 'the calendar year concerned'), the total amount of direct payments to be granted, after application of Articles 10 and 11 to the farmer who submitted an application in the calendar year concerned, shall be reduced or cancelled in accordance with the detailed rules laid down under Article 7.

Subject to paragraph 2, the farmer who submitted an aid application shall be held liable unless he can show that the non-compliance in question is neither the result of an action or omission directly attributable:

(a) to himself, or

(b) in case where the agricultural land has been transferred during the calendar year concerned,

– to the transferee where the transferral has taken place between the date referred to in Article 44(3) and 1 January of the following calendar year;

– to the transferor, where the transferral has taken place between 1 January of the calendar year concerned and the date referred to in Article 44(3)."

(b) The following paragraph is added:

"3. Notwithstanding paragraph 1 and pursuant to the conditions laid down in the detailed rules referred to in Article 7(1), Member States may decide not to apply a reduction amounting to EUR 50 or less per farmer and per calendar year.

Any finding of non-compliance shall nevertheless be subject to a specific follow-up by the competent authority. Any such findings, the follow-up

measures and the remedial action to be taken shall be notified to the farmer."

- (2) "In Article 7(2), the following subparagraphs are added:

"Pursuant to the conditions laid down in the detailed rules referred to in paragraph 1, Member States may decide that no reduction is applied where a case of non-compliance, depending on its specific circumstances and given its severity, extent and permanence, is to be considered as minor. Cases of non-compliance which constitute a direct risk to public or animal health shall however not be considered as minor.

Any finding of minor non-compliance shall nevertheless be subject to a specific follow-up by the competent authority. Any such finding, the follow-up measures and the remedial action to be taken shall be notified to the farmer. This subparagraph shall not apply where the farmer has taken immediate remedial action putting an end to the non-compliance found".

- (3) In Article 44(3), the second sentence is replaced by the following:

"Except in case of *force majeure* or exceptional circumstances, these parcels shall be at the farmer's disposal on the 15 June of the year of submission of the aid application."

- (4) Article 71h is replaced by the following:

"Article 71h
Grassland

The new Member States may also, according to objective criteria, fix, within the regional ceiling or part of it, different per unit values of entitlements to be allocated to farmers referred to in Article 71f (1), for hectares of grassland as identified on 30 June 2006 and for any other eligible hectare or alternatively for hectares of permanent pasture as identified on 30 June 2006 and for any other eligible hectare."

- (5) Article 143b is amended as follows:

- (a) In the first subparagraph of paragraph 5, the following sentence is added:

"Except in case of *force majeure* or exceptional circumstances, these parcels shall be at the farmer's disposal on the 15 June of the year of submission of the aid application."

- (b) In paragraph 6, the third subparagraph is replaced by the following:

"As from 1 January 2005 and until 31 December 2008 the application of Articles 3, 4, 6, 7 and 9 shall be optional for the new Member States insofar as those provisions relate to statutory management requirements. As from 1 January 2009 a farmer receiving payments under the single area payment scheme shall respect the statutory management requirements referred to in Annex III according to the following timetable:

- (a) requirements referred to in point A shall apply from 1 January 2009;
- (b) requirements referred to in point B shall apply from 1 January 2010;
- (c) requirements referred to in point C shall apply from 1 January 2011.

However, for Bulgaria and Romania, the application of Articles 3, 4, 6, 7 and 9 shall be optional until 31 December 2011 insofar as those provisions relate to statutory management requirements. As from 1 January 2012 a farmer receiving payments under the single area payment scheme shall respect the statutory management requirements referred to in Annex III according to the following timetable:

- (a) requirements referred to in point A shall apply from 1 January 2012;
- (b) requirements referred to in point B shall apply from 1 January 2013;
- (c) requirements referred to in point C shall apply from 1 January 2014.

New Member States may apply this option also in the case where they decide to terminate the application of the single area payment scheme before the end of the period of application provided for in paragraph 9.”

- (c) In paragraph 9, the first sentence is replaced by the following:

"For any new Member State the single area payment scheme shall be available for a period of application until the end of 2010."

- (d) Paragraphs 10 and 11 are deleted.

- (6) Annex XII is amended in accordance with the Annex to this Regulation.

Article 2

In Article 51(3) of Regulation (EC) No 1698/2005, the second subparagraph is replaced by the following:

“The derogation provided for in the first subparagraph shall apply until 31 December 2008. As from 1 January 2009 a farmer receiving payments under the single area payment scheme shall respect the statutory management requirements referred to in Annex III of Regulation (EC) No 1782/2003 according to the following timetable:

- (a) requirements referred to in point A shall apply from 1 January 2009;
- (b) requirements referred to in point B shall apply from 1 January 2010;
- (c) requirements referred to in point C shall apply from 1 January 2011.

However, for Bulgaria and Romania, the application of Articles 3, 4, 6, 7 and 9 of Regulation (EC) No 1782/2003 shall be optional until 31 December 2011 insofar as those provisions relate to statutory management requirements. As from 1 January 2012 a farmer receiving payments under the single area payment scheme shall respect the statutory management

requirements referred to in Annex III of Regulation (EC) No 1782/2003 according to the following timetable:

- (a) requirements referred to in point A shall apply from 1 January 2012;
- (b) requirements referred to in point B shall apply from 1 January 2013;
- (c) requirements referred to in point C shall apply from 1 January 2014.”

Article 3

This Regulation shall enter into force on the seventh day following that of its publication in the *Official Journal of the European Union*.

It shall apply as from 1 January 2008. However, Article 1(4) shall apply as from 1 January 2007.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

*For the Council
The President*

ANNEX

In table 2 of Annex XII to Regulation (EC) No 1782/2003 the two following columns are added:

"

2009	2010
0	0
1 795 543	1 572 955
0	0
3 456 448	3 438 488
4 608 945	4 608 945
10 724 282	10 670 282
5 547 000	5 115 000
156 332	149 600
4 323 820	4 312 300
1 038 575	1 035 875
31 650 945	30 903 405

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