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Acts whose titles are printed in light type are those relating to day-to-day management of agricultural matters, and are generally valid for a limited period.

The titles of all other acts are printed in bold type and preceded by an asterisk.

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*(Acts whose publication is obligatory)***COMMISSION REGULATION (EC) No 1973/2004****of 29 October 2004**

laying down detailed rules for the application of Council Regulation (EC) No 1782/2003 as regards the support schemes provided for in Titles IV and IVa of that Regulation and the use of land set aside for the production of raw materials

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THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to the Act of Accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia, and in particular the first paragraph of Article 41 thereof,

Having regard to Council Regulation (EC) No 1782/2003 of 29 September 2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers and amending Regulations (EEC) No 2019/93, (EC) No 1452/2001, (EC) No 1453/2001, (EC) No 1454/2001, (EC) 1868/94, (EC) No 1251/1999, (EC) No 1254/1999, (EC) No 1673/2000, (EEC) No 2358/71 and (EC) No 2529/2001⁽¹⁾, and in particular Article 110 and Article 145(c), (d), (e) and (f) thereof,

Whereas:

(1) Titles IV and IVa of Regulation (EC) No 1782/2003 establish certain support schemes for farmers. The implementing rules of some of these schemes have already been laid down by the following acts: Commission Regulation (EEC) No 1686/72 of 2 August 1972 on certain detailed rules for aid for seed⁽²⁾, Commission Regulation (EEC) No 1445/76 of 22 June 1976 specifying the different varieties of *Lolium perenne* L.⁽³⁾, Commission Regulation (EC) No 1644/96 of 30 July 1996 laying down detailed rules for the grant of aid for certain grain legumes⁽⁴⁾, Commission Regulation (EC) No 609/1999 of 19 March 1999 laying down detailed rules for granting aid to hop producers⁽⁵⁾; Commission Regulation (EC) No 2316/1999 of 22 October 1999 laying down detailed rules for the application of Council Regulation (EC) No 1251/1999 establishing a support system for producers of certain arable crops⁽⁶⁾, Commission Regulation (EC) No 2342/1999 of 28 October 1999 laying down detailed rules for the application of Council Regulation (EC) No 1254/1999 on the common organisation of the market in beef and veal as regards premium schemes⁽⁷⁾, Commission Regulation (EC) No 2461/1999 of 19 November 1999 laying down

detailed rules for the application of Council Regulation (EC) No 1251/1999 as regards the use of land set aside for the production of raw materials⁽⁸⁾, Commission Regulation (EC) No 2550/2001 of 21 December 2001 laying down detailed rules for the application of Council Regulation (EC) No 2529/2001 on the common organisation of the market in sheepmeat and goatmeat as regards premium schemes and amending Regulation (EC) No 2419/2001⁽⁹⁾, Commission Regulation (EC) No 2199/2003 of 16 December 2003 laying down transitional measures for the application in respect of the year 2004 of Council Regulation (EC) No 1259/1999 as regards the single area payment scheme for the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia⁽¹⁰⁾, Commission Regulation (EC) No 2237/2003 of 23 December 2003 laying down detailed rules for the application of the support schemes provided for in Title IV of Council Regulation (EC) No 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers⁽¹¹⁾. In the interests of clarity of Community legislation, it is appropriate to repeal those acts and replace them by one Regulation laying down the implementing rules for all those schemes, applicable from 1 January 2005.

- (2) In order to ensure the efficient administration of those schemes, the area payments should be restricted to certain areas and conditions should be specified.
- (3) Malta has a very large number of small farms, less than 0.3 hectare in size. To avoid many farmers in Malta being disqualified from the area based direct payments, the minimum size of application to area based direct payments in Malta should be fixed at 0.1 ha and, for the years 2005 and 2006, Malta should be allowed to derogate from Article 107(9) of Regulation (EC) No 1782/2003.
- (4) The sowing of land for the sole purpose of qualifying for area payments should be prevented. Certain conditions relating to the sowing and cultivation of crops should be specified, in particular as regards durum wheat, protein plants and rice. Local standards should be respected in order to reflect the diversity of agricultural practice within the Community.

⁽¹⁾ OJ L 270, 21.10.2003, p. 1. Regulation as last amended by Regulation (EC) No 864/2004 (OJ L 161, 30.4.2004, p. 48).

⁽²⁾ OJ L 177, 4.8.1972, p. 26. Regulation as last amended by Regulation (EC) No 323/2004 (OJ L 58, 26.2.2004, p. 14).

⁽³⁾ OJ L 161, 23.6.1976, p. 10. Regulation as last amended by Regulation (EC) No 1252/2001 (OJ L 173, 27.6.2001, p. 27).

⁽⁴⁾ OJ L 207, 17.8.1996, p. 1.

⁽⁵⁾ OJ L 75, 20.3.1999, p. 20.

⁽⁶⁾ OJ L 280, 30.10.1999, p. 43. Regulation as last amended by Regulation (EC) No 206/2004 (OJ L 34, 6.2.2004, p. 33).

⁽⁷⁾ OJ L 281, 4.11.1999, p. 30. Regulation as last amended by Regulation (EC) No 1777/2004 (OJ L 316, 15.10.2004, p. 66).

⁽⁸⁾ OJ L 299, 20.11.1999, p. 16. Regulation as last amended by Regulation (EC) No 345/2002 (OJ L 55, 26.2.2002, p. 10).

⁽⁹⁾ OJ L 341, 22.12.2001, p. 105. Regulation as last amended by Regulation (EC) No 920/2004 (OJ L 163, 30.4.2004, p. 92).

⁽¹⁰⁾ OJ L 328, 17.12.2003, p. 21. Regulation as last amended by Regulation (EC) No 1766/2004 (OJ L 315, 14.10.2004, p. 27).

⁽¹¹⁾ OJ L 339, 24.12.2003, p. 52.

- (5) Only one application for an area payment should be permitted in respect of any parcel cultivated in a given year except in cases where the area payment is given as a supplement to the same crop or the aid concerns the production of seeds. Area payments may be granted on crops subsidised under a scheme falling within the Community's structural or environmental policies.
- (6) Supports schemes based on area aid provide that where the area for which aid is claimed exceeds the maximum guaranteed area or base areas or sub-base areas, the area per farmer for which aid is claimed is to be reduced proportionately in that year. It is therefore appropriate to establish the modalities and deadlines for the exchange of information between the Commission and the Member States in order to establish the coefficient of reduction and to inform the Commission of the areas for which the aid has been paid. The same provisions should apply for the reduction of the total amount of individual reference quantities in the event of application of Article 95(4) of Regulation (EC) No 1782/2003.
- (7) Under Article 73 of Regulation (EC) No 1782/2003, the granting of the specific quality premium for durum wheat is subject to the use of certain quantities of certified seeds of varieties recognised, in the production zone, as being of high quality for the production of semolina or pasta. In order to ensure that those requirements are respected, the criteria for the variety screening method in each Member State should be fixed and the procedure for the establishment of the eligible varieties list as well as the minimum quantity of certified seeds to be used should be fixed.
- (8) The short time between the adoption of Regulation (EC) No 1782/2003 and the entry into force of the specific quality premium for durum wheat makes it impossible to establish a list of eligible varieties for the granting of the aid in the year 2005 according to the envisaged screening method. It is therefore necessary for Member States to establish a transitional list based on a selection of current varieties.
- (9) In some regions, the protein crops are traditionally sown in a mixture with cereals for agronomical reasons. The resulting crop principally consists of protein crops. For the purpose of granting the protein crop premium, the areas thus sown should therefore be considered as areas of protein crops.
- (10) Standards for sweet lupins and tests to determine whether or not a sample of lupins is sweet should be laid down.
- (11) In the interest of efficiency and good management of the aid scheme for nuts, the area aid granted should not be used to finance marginal plantations or isolated trees. A minimum plot size and a minimum tree density of a specialised orchard should therefore be defined. In order to facilitate the transition between the existing improvement plans which expire later than the introduction of the new aid scheme, it is appropriate to provide for transitional measures.
- (12) The terms of payment as well as the crop specific payment for rice calculation depend not only on the base area or areas fixed for each producing Member State fixed by Regulation (EC) No 1782/2003, but also on the possible subdivision of those base areas into sub-base areas and on the objective criteria chosen by each Member State to perform this subdivision, on conditions in which the cultivated parcels are put into cultivation and on the minimum size of the base areas. As a consequence, detailed rules should be laid down for the establishment, the management and the cultivation modalities applicable to base areas and sub-base areas.
- (13) The observation of a possible overrun of the base area referred to in Article 82 of Regulation (EC) No 1782/2003 implies a reduction of the crop-specific payment for rice. In order to set the calculation modalities for such a reduction, the criteria to be taken into consideration as well as applicable coefficients should be defined.
- (14) The follow-up of the payments of the crop specific payment for rice presumes that the Commission has been forwarded certain information related to the cultivation of base areas and sub-base areas. For that purpose, the detailed information that the Member States should communicate to the Commission as well as the deadlines for such communications should be determined.
- (15) Articles 93 and 94 of Regulation (EC) No 1782/2003 provide for an aid to farmers producing potatoes intended for the manufacture of potato starch subject to a cultivation contract and within the quota limit established by Council Regulation (EC) No 1868/94 of 27 July 1994 establishing a quota system in relation to the production of potato starch⁽¹⁾. The conditions for the granting of the aid should therefore be established and, where applicable, cross references should be made to the existing provisions concerning the quota system provided for in Regulation (EC) No 1868/94.
- (16) Articles 95 and 96 of Regulation (EC) No 1782/2003 provide that the dairy premium and additional payment are paid to producers. Council Regulation (EC) No 1788/2003 of 29 September 2003 establishing a levy in the milk and milk products sector⁽²⁾ provides for specific provisions in case of inactivity. It is therefore appropriate to provide, when a natural or legal person holding an individual reference quantity no longer meets the conditions referred to in Article 5(c) of Regulation (EC) No 1788/2003 during the twelve-month period preceding 31 March of the year concerned, for an exclusion from the benefit of the premium and payment.

⁽¹⁾ OJ L 197, 30.7.1994, p. 4. Regulation as last amended by Regulation (EC) No 1782/2003.

⁽²⁾ OJ L 270, 21.10.2003, p. 123.

- (17) Articles 88 to 92 of Regulation (EC) No 1782/2003 provide for a new aid scheme for energy crops to be granted to farmers. In line with Regulation (EC) No 2461/1999, which excludes sugarbeet from the aid, the cultivation of sugarbeet should be excluded from the aid scheme for energy crops.
- (18) The terms of eligibility for that aid should be laid down. For that purpose, it should be laid down that a contract must be concluded between the producer and the first processor with respect to the agricultural raw materials concerned. The conditions where processing is carried out by the farmer on the holding should also be defined.
- (19) To ensure that the raw material is processed into the specified energy product, first processors should lodge a security, despite the fact that the aid is granted not to first processors but to farmers. The security should be high enough to prevent any risk that the raw materials are ultimately diverted from their destination. In addition, in order to make the control system for the scheme effective, sales of raw materials and of semi-processed products should be limited to a maximum of two before final processing.
- (20) An explicit distinction should be made between the applicant's obligations, which end once the total quantity of raw material harvested is delivered, and the obligations incumbent on first processors, which commence on delivery and end with the final processing of the raw materials into energy products.
- (21) Certain transport operations within Community territory involving raw materials and products derived therefrom should be subject to controls entailing the use of T5 control copies to be issued in accordance with Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code⁽¹⁾. Provision should be made for alternative evidence should the T5 control copy be lost as a result of circumstances for which the first processor is not responsible.
- (22) Article 98 of Regulation (EC) No 1782/2003 provides for a reduction of the specific regional aid for arable crops when the total amount of aid claimed exceeds the fixed ceiling. The modalities for the calculation of the reduction coefficient should therefore be established.
- (23) Article 99 of Regulation (EC) No 1782/2003 provides for the possibility of direct aid being granted for the production of one or more seed species.
- (24) That aid may be granted only for the production of basic seed or certified seed and these products should be clearly defined by reference to the Directives on certification and marketing of seeds: Council Directive 66/401/EEC of 14 June 1966 on the marketing of fodder plant seed⁽²⁾, Council Directive 66/402/EEC of 14 June 1966 on the marketing of cereal seed⁽³⁾, and Council Directive 2002/57/EC of 13 June 2002 on the marketing of seed of oil and fibre plants⁽⁴⁾.
- (25) To make controls possible, basic seed and certified seed should be produced under growing contracts or growing declarations which will be joined to the single application and seed establishments and breeders should be officially approved or registered. The necessary measures should be laid down for cases where a seed establishment or a breeder from one Member State grows seed in another Member State.
- (26) For administrative reasons, aid should, in each Member State, be granted only in respect of products harvested on the territory of that Member State.
- (27) Under Annex XI to Regulation (EC) No 1782/2003, production aid is payable for basic and certified seed of varieties of *Cannabis sativa* L. with a tetrahydrocannabinol content not exceeding 0.2 %. In order to ensure uniform application throughout the Community of the rules for granting the aid, the list of the varieties of *Cannabis sativa* L. eligible for aid set up in Annex II to Commission Regulation (EC) No 796/2004 of 21 April 2004 laying down detailed rules for the implementation of cross-compliance, modulation and the integrated administration and control system provided for in of Council Regulation (EC) No 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers⁽⁵⁾ should be used for that purpose.
- (28) Article 108 of Regulation (EC) No 1782/2003 defines the land that is eligible for arable crops area payments. That Article authorises certain exceptions under the control of the Member States which do not undermine the effectiveness of the arrangements laid down in that Regulation. In order to avoid any such risk, suitable measures should be laid down to keep the total area of eligible land at the current level and to prevent any appreciable increase therein. Those measures may in certain cases involve deeming previously eligible areas ineligible as an offsetting measure.

⁽¹⁾ OJ L 253, 11.10.1993, p. 1. Regulation as last amended by Regulation (EC) No 2286/2003 (OJ L 343, 31.12.2003, p. 1).

⁽²⁾ OJ L 125, 11.7.1966, p. 2298/66. Directive as last amended by Directive 2004/55/EC (OJ L 114, 21.4.2004, p. 18).

⁽³⁾ OJ L 125, 11.7.1966, p. 2309/66. Directive as last amended by Directive 2003/61/EC (OJ L 165, 3.7.2003, p. 23).

⁽⁴⁾ OJ L 193, 20.7.2002, p. 74. Directive as last amended by Directive 2003/61/EC.

⁽⁵⁾ OJ L 141, 30.4.2004, p. 18.

- (29) Member States where maize is not a traditional crop may make silage grass eligible for the arable crops area payments. Accordingly, it is necessary to define what is meant by silage grass.
- (30) Article 106 of Regulation (EC) No 1782/2003 subjects the area payment for flax and hemp grown for fibre to the conclusion of a contract or to a commitment as referred to in Article 2(1) of Council Regulation (EC) No 1673/2000 of 27 July 2000 on the common organisation of the markets in flax and hemp grown for fibre⁽¹⁾. Provision should be made for a copy of the contract or the commitment to be sent to the competent authorities of the Member State responsible for the administration of payment applications. It should also be ensured that the varieties of flax and hemp grown for fibre are those listed in the Common Catalogue of Varieties of Agricultural Plant Species as fibre plants and, in the case of flax in particular, as 'fibre flax'. Moreover, in the case of hemp, the tetrahydrocannabinol content of the authorised varieties may not exceed 0.2 %. A list of eligible varieties for flax should therefore be drawn up, the eligible varieties for hemp being listed in Annex II to Regulation (EC) No 796/2004. To provide firmer guarantees in the case of hemp, the use of certified seed should also be required.
- (31) Article 109 of Regulation (EC) No 1782/2003 requires producers of cereals, oilseeds and protein plants to complete sowing by 31 May at the latest. In certain cases, sowing may be put off until after 31 May because of the climate. The deadline for sowing and for submitting applications should be extended for certain crops in certain regions. However, such extensions should not adversely affect the effectiveness of the support system or undermine the control system introduced by Chapter 4 of Title II of Regulation (EC) No 1782/2003.
- (32) In order to ensure that the processing industry receives regular supplies of sweetcorn throughout the marketing year, producers should be able to spread their sowings over a longer period. The final date for sowing sweetcorn should therefore be deferred to 15 June.
- (33) It is appropriate to provide that a minimum quantity of certified durum wheat seed is to be used in the case of the durum wheat supplement and special aid. In view of the diversity of agricultural practice within the Member States and within regions thereof, the setting of the minimum quantity should be left to the Member States concerned.
- (34) For the purpose of Article 103 of Regulation (EC) No 1782/2003, what is meant by irrigation should be defined.
- (35) The areas to be taken into account with a view to assessing any overshoot in the base area and the rules for determining the extent of such overshoots should be specified. Where a separate base area is established for maize, irrigated areas or silage grass, special rules should be laid down as regards the areas to be taken into account with a view to calculating any overshoot in the base area in question. The rules for determining any overshoot in the base area should ensure that the base area is complied with in all cases. The way the overshoot is to be calculated in respect of the maximum guaranteed areas for durum wheat should also be specified. The procedure to be followed for establishing overshoot of the ceiling of the payments referred to in Article 102(2) of Regulation (EC) No 1782/2003 should also be specified.
- (36) In the event of application of Article 71 of Regulation (EC) No 1782/2003, eligibility for arable crops area payments is conditional on an obligation on the producers concerned to set aside part of the area on their holdings. Detailed implementing rules capable of ensuring that the scheme has the necessary effectiveness should be laid down. To that end, provision should be made for the areas counting as set-aside to be comparable with those counting for the purposes of calculating the regional base area. The legume crops referred to in the second indent of Article 107(3) of Regulation (EC) No 1782/2003 should be defined.
- (37) Under Article 107(6) and in the event of application of Article 66 of Regulation (EC) No 1782/2003, detailed rules should be established regarding land voluntarily set-aside. Those rules should be consistent with the overall system introduced by Regulation (EC) No 1782/2003.
- (38) The criteria for eligibility for sheep and goat premiums provided for in Chapter 11 of Title IV of Regulation (EC) No 1782/2003, and in particular the conditions required, need to be laid down.
- (39) Article 113(2) of Regulation (EC) No 1782/2003 provides for the granting of a premium to goatmeat farmers in certain areas of the Community. The areas in question should therefore be determined in accordance with the criteria laid down in that provision.

⁽¹⁾ OJ L 193, 29.7.2000, p. 16. Regulation as last amended by Regulation (EC) No 393/2004 (OJ L 65, 3.3.2004, p. 4).

- (40) Under Article 114(1) of Regulation (EC) No 1782/2003 farmers whose holdings have at least 50 % of their area used for agriculture situated in less-favoured areas may qualify for a supplementary premium. Article 113(2) makes reference to the specific geographical zones where goatmeat farmers meet the necessary conditions to qualify for the goat premium. Provisions should be made for a declaration to be provided by farmers meeting those criteria to prove that at least half of the land they are using for agricultural production is located in less-favoured areas or in areas which qualify for the goat premium.
- (41) For the purpose of control on eligibility for the correct level of ewe premium, Member States should draw up an inventory of farmers marketing sheep's milk or sheep's milk products.
- (42) With a view to implementing the system of individual limits as introduced by Articles 116, 117 and 118 of Regulation (EC) No 1782/2003, the existing administrative rules may continue to be applied as regards, in particular, the use of rights granted free of charge, the use of normal rights including minimum use, the temporary leasing and transfer of rights, the notification of changes on individual ceiling and the transfer of rights through the national reserve. Some of those rules are specific provisions for exceptional and duly justified circumstances such as, regarding the use of rights, the small farmers and farmers participating in extensification programs and early retirement schemes, and, for the transfer purpose, the inheritance of premiums rights and the case of farmers using only publicly or collectively owned land for grazing.
- (43) The Commission is to monitor the new arrangements and as a result it needs to be properly provided by the Member States with the essential information regarding the implementation of the premium rules.
- (44) If applicable, detailed information on the national rules on, and the implementation of, the additional payments should be forwarded to the Commission.
- (45) Title IV Chapter 12 of Regulation (EC) No 1782/2003 provides for beef and veal payments. The criteria for eligibility, and in particular the conditions required for those payments, need to be laid down.
- (46) The objectives of the regional ceiling and of the stocking density dictate that the special premium may no longer be applied for in respect of the same age bracket for those animals affected by the application of these two measures. For the purposes of the deseasonalisation premium, those animals should be deemed to have qualified for the special premium.
- (47) Provision should be made for the administrative document laid down in Article 123(3)(b) of Regulation (EC) No 1782/2003 to be drawn up and issued at national level. In order to take account of particular administrative and control conditions in the Member States, different forms of administrative document should be allowed.
- (48) Article 123(3)(a) and Article 130(1) of Regulation (EC) No 1782/2003 lay down a retention period as a condition for granting the special premium and the slaughter premium. It is therefore necessary to define and quantify that period.
- (49) The arrangements for granting the special premium at the time of slaughter should be consistent with the arrangements for granting the slaughter premium. The types of documents which are to accompany the animal until slaughter dispatch or export should be specified. In order to take account of the specific features of the form of granting at the time of slaughter, the age conditions for steers and the method of presentation of the carcase for adult bovine animals should be laid down.
- (50) The conditions for granting the deseasonalisation premium should be laid down, in accordance with the arrangements for granting the slaughter premium. The Commission should determine, on the basis of available information, which Member States meet the conditions for applying this premium scheme.
- (51) The concept of suckler cow laid down in Article 125 of Regulation (EC) No 1782/2003 should be defined. In that respect, the same breeds should be kept as those under Regulation (EC) No 2342/1999. Moreover, the existing essential requirements may continue to be applied, in particular as regards the average milk yield and the additional national premium.
- (52) The existing administrative rules may continue to be applied as regards in particular the individual ceilings, the notifications on the individual ceilings and the national reserve, the rights obtained free of charge, the use of rights, the transfer and temporary leasing of rights, the transfers through the national reserve.
- (53) The Commission should determine, on the basis of available information, which Member States meet the conditions for applying the special scheme laid down in Article 129 of Regulation (EC) No 1782/2003. The special arrangements for granting the premium should be specified.
- (54) The method for calculating the stocking density should be determined. A date should be laid down for taking the milk reference quantity into consideration.

- (55) The stocking density for the extensification payment scheme should include all bovine animals aged six months and over present on the holding. Special rules are therefore required for counting animals and for the producer's statement of participation in the scheme. Provision should be made for using the computerised database referred to in Regulation (EC) No 1760/2000 of the European Parliament and of the Council of 17 July 2000 establishing a system for the identification and registration of bovine animals and regarding the labelling of beef and beef products and repealing Council Regulation (EC) No 820/97 ⁽¹⁾.
- (56) Steps should be taken to ensure that the extensification payment is not granted to farmers who artificially comply with the average stocking rates required for the grant of the extensification payment.
- (57) The procedures for determining, on the basis of available information, which Member States meet the conditions in Article 132(4) of Regulation (EC) No 1782/2003 for granting the extensification payment to dairy cows should be laid down. The special arrangements for granting the premium should be specified. A minimum retention period should be laid down.
- (58) Specific provisions should be laid down as regards the application of the rules on periods, dates and time limits to the retention period.
- (59) In the interests of simplification, the 'livestock' aid application provided for in the integrated system should be taken to represent application for the slaughter premium, provided that it contains all the elements needed to justify payment of the premium and that the animal is slaughtered in the same Member State or in another Member State, or exported.
- (60) It should be possible to use the computerised database referred to in Regulation (EC) No 1760/2000 to facilitate the management of the slaughter premium, on condition that the Member State concerned considers that the database offers adequate assurances as to the accuracy of the data it contains for the purposes of the payment of premiums.
- (61) The slaughter premium for calves is conditional on a maximum weight limit. A standard type of carcass presentation should therefore be laid down, to which this maximum weight applies.
- (62) Detailed information on the national rules on and implementation of the additional payments should be forwarded to the Commission.
- (63) To ensure that farmers receive payments as quickly as possible, provision should be made for granting advances. However, in view of the application of the national or regional ceilings, steps should be taken to ensure that the advance does not exceed the definitive payment. Provision should therefore be made to allow Member States to reduce the percentage of the advance for the premium schemes subject to those ceilings.
- (64) Regulation (EC) No 1782/2003 lays down penalties for the illegal use or holding of substances or products not authorised by the relevant veterinary legislation. In the case of repeated infringements, determination of the duration of penalties should be left to the Member States, which are better placed to judge the true gravity of the offence committed.
- (65) It is necessary to fix the date determining the elements to be taken into consideration for the application of the special premium and suckler cow premium schemes. In order to ensure sound and consistent administration, that date should, as a general rule, be the date of the submission of applications. However, with respect to the special premium paid on slaughter, special rules should be laid down in order to avoid carry-overs from one year to the next with a view to obtaining a higher premium. As regards the slaughter premium, the date of slaughter or of export is a better indication of whether the operations concerned have actually been carried out.
- (66) The exchange rate applicable on the date of the operative event for the premiums should be fixed in such a way as to ensure in principle that such premiums do not undergo any sharp fluctuations on conversion into national currency due to the exchange rate on a single date.
- (67) Provision should be made for the Member States to be subject to certain notification obligations. To facilitate the transmission and analysis of the data, a consistent format for submitting that data should be laid down.
- (68) In order to facilitate the change to the new scheme, transitional provisions are needed for the obligation to mark and identify animals.
- (69) Article 143b of Regulation (EC) No 1782/2003 allows the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia (the new Member States) to replace the direct payments with a single payment ('the single area payment scheme'). The Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Poland and Slovakia have made that choice. Therefore detailed rules for the application of the single area payment scheme should be laid down.

⁽¹⁾ OJ L 204, 11.8.2000, p. 1. Regulation as amended by the Act of Accession of 2003.

- (70) In accordance with the second subparagraph of Article 143b(5) of Regulation (EC) No 1782/2003 and in order to avoid managing numerous applications that would entail payments per holding lower than EUR 50, the Czech Republic, Estonia, Latvia, Lithuania, Hungary, Poland and Slovakia have requested the authorisation to set the minimum size of eligible area per holding at a level higher than 0.3 ha.
- (71) The Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Poland and Slovakia have estimated the part of their utilised agricultural area which has been maintained in good agricultural condition on 30 June 2003 and have proposed to adjust it in accordance with the minimum size of eligible area per holding.
- (72) Article 143c of Regulation (EC) No 1782/2003 provides for the possibility in the new Member States of complementing direct aid paid to a farmer, subject to authorisation by the Commission. The general modalities for implementing this possibility should be established.
- (73) Article 55(b) and the first indent of Article 107(3) of Regulation (EC) No 1782/2003 provide for exemption from set-aside if the land is used for producing materials for the manufacture within the Community of products not primarily intended for human or animal consumption, provided that effective control systems are applied.
- (74) The cultivation of sugarbeet, Jerusalem artichokes or chicory roots on land set aside should not be ruled out under certain conditions. Such crops cannot qualify for area payments in view of the risk of affecting the market in sugar. Care should nonetheless be taken to ensure that such crops comply with the rules governing the use of set-aside land.
- (75) The terms of eligibility for this scheme must be laid down. To this end it should be laid down that a contract must be concluded between the producer and the collector or first processor with respect to the agricultural raw materials concerned. Conditions should also be laid down for cases where processing is carried out by the farmer on the holding.
- (76) To guarantee conformity with point 7 of the Memorandum of understanding on certain oil seeds between the European Economic Community and the United States of America within the framework of the GATT, approved by Council Decision 93/355/EC⁽¹⁾, detailed implementing rules must be laid down to reduce, where necessary, the quantity of by-products which may be produced for human or animal consumption if the total quantity of those by-products exceeds 1 million metric tonnes annually, expressed in soya bean meal equivalents.
- (77) To ensure that the raw material is processed into the specified end product, collectors or first processors must lodge a security, even though the aid is granted to farmers. In addition, to make the control system for the scheme effective, the number of processors should be limited.
- (78) A clear distinction must be made between the applicant's obligations, which end once the total quantity of raw material harvested is delivered, and the obligations, including the requirement concerning securities, incumbent on collectors and first processors, which commence on delivery and end with the final processing of the raw materials into end products.
- (79) Certain transport operations within Community territory involving raw materials and products derived therefrom should be subject to controls entailing the use of declarations and T5 control copies to be issued in accordance with Regulation (EEC) No 2454/93. Provision should be made for alternative evidence if the T5 control copy is not returned to the competent authorities of the collectors or first processors as a result of circumstances for which they are not responsible. In the interest of efficiency and good management of the aid scheme, provisions should be laid down to govern checks.
- (80) Apart from the eligibility criteria laid down in Article 110o of Regulation (EC) No 1782/2003 for the hops area aid, some additional criteria should be established in order to ensure that the aid if granted to areas on which hops is cultivated under normal cultivation conditions. The concept of an area 'planted with hops' should be defined at Community level so as to ensure that the areas for which the additional payment is made are calculated in the same way. It is necessary to lay down the way in which the total sum per Member State available for the additional payments is distributed over the eligible areas.
- (81) A time limit should be set for committing the payment in respect of the measures listed in Article 7(1) (a) to (d) of Council Regulation (EEC) No 1696/71 of 26 July 1971 on the common organisation of the market in hops⁽²⁾ by the recognised hop producer groups and the Commission should be informed about the way the payment has been used. Any amount not committed within a certain time period should be paid back. It is necessary to lay down the way in which the total sum per Member State available for the payment to recognised hop producer groups is distributed.

⁽¹⁾ OJ L 147, 18.6.1993, p. 25.

⁽²⁾ OJ L 175, 4.8.1971, p. 1. Regulation as last amended by Regulation (EC) No 2320/2003 (OJ L 345, 31.12.2003, p. 18).

- (82) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Direct Payments,

2. This Regulation lays down detailed rules as regards the use of land set aside for the production of raw materials under the single payment scheme provided for in Title III of Regulation (EC) No 1782/2003 and under arable crops area payment provided for in Title IV Chapter 10 of that Regulation.

HAS ADOPTED THIS REGULATION:

CHAPTER 1

SCOPE AND GENERAL PROVISIONS

Article 1

Subject matter and scope

1. This Regulation lays down detailed rules for the implementation of the following supports schemes provided for in Titles IV and IVa of Regulation (EC) No 1782/2003:

- (a) specific quality premium for durum wheat provided for in Title IV Chapter 1 of that Regulation;
- (b) protein crop premium provided for in Title IV Chapter 2 of that Regulation;
- (c) crop-specific payment for rice provided for in Title IV Chapter 3 of that Regulation;
- (d) area payment for nuts provided for in Title IV Chapter 4 of that Regulation;
- (e) aid for energy crops provided for in Title IV Chapter 5 of that Regulation;
- (f) aid for starch potato provided for in Title IV Chapter 6 of that Regulation;
- (g) dairy premium and additional payments provided for in Title IV Chapter 7 of that Regulation;
- (h) specific regional aid for arable crops provided for in Title IV Chapter 8 of that Regulation;
- (i) seed aid provided for in Title IV Chapter 9 of that Regulation;
- (j) arable crops area payment provided for in Title IV Chapter 10 of that Regulation;
- (k) sheep and goat premiums provided for in Title IV Chapter 11 of that Regulation;
- (l) beef and veal payments provided for in Title IV Chapter 12 of that Regulation;
- (m) grain legumes aid provided for in Title IV Chapter 13 of that Regulation;
- (n) single area payment scheme provided for in Article 143b of that Regulation;
- (o) complementary national direct payments provided for in Article 143c of that Regulation;
- (p) hops area aid provided for in Title IV Chapter 10d of that Regulation.

Article 2

Conditions for the payment

1. The direct payments referred to in Article 1(a), (b), (c), (e), (h), (i), (j), (m) and (p) shall be granted only for the areas, per each type of crop, which have been the subject of application in respect of at least 0.3 hectare, where each cultivated parcel exceeds the minimum size set by the Member State within the limit provided for in Article 14(4) of Regulation (EC) No 796/2004.

In the case of Malta, the direct payments referred to in Article 1(a), (b), (c), (e), (h), (i), (j), (m) and (p) shall be granted only for the areas, per each type of crop, which have been the subject of application in respect of at least 0.1 hectare, where each cultivated parcel exceeds the minimum size set by the Member State within the limit provided for in Article 14(4) of Regulation (EC) No 796/2004.

2. The direct payment referred to in Article 1(a), (b), (c), (h) and (j) shall be granted only for the areas entirely sown and on which all normal cultivation conditions have been performed in accordance with local standards.

However, in the case of the specific quality premium for durum wheat provided for in Title IV Chapter 1 of Regulation (EC) No 1782/2003 and of arable crops payment provided for in Title IV Chapter 10 of that Regulation, crops grown on areas which are fully sown and which are cultivated in accordance with local standards, but which do not attain the stage of flowering as a result of exceptional weather conditions recognised by the Member State concerned, shall remain eligible for aid provided that the areas in question are not used for any other purpose up to this growing stage.

3. In a given year, no more than one application for an area payment under a scheme financed pursuant to Article 1(2)(b) of Council Regulation (EC) No 1258/1999 ⁽¹⁾ may be made in respect of any cultivated parcel.

However:

- (a) any cultivated parcel which is covered in respect of the same year by an application for specific quality premium for durum wheat provided for in Title IV Chapter 1 of Regulation (EC) No 1782/2003 or protein crop premium provided for in Title IV Chapter 2 of that Regulation may be the subject of an application for arable crops payments provided for in Title IV Chapter 10 of Regulation (EC) No 1782/2003;

⁽¹⁾ OJ L 160, 26.6.1999, p. 103.

- (b) any cultivated parcel which is covered in respect of the same year by an application for crop-specific payment for rice provided for in Title IV Chapter 3 of Regulation (EC) No 1782/2003 or protein crop premium provided for in Title IV Chapter 2 of that Regulation may be the subject of an application for seed aid provided for in Title IV Chapter 9 of Regulation (EC) No 1782/2003;
- (c) any cultivated parcel which is covered in respect of the same year by an application for aid for energy crops provided for in Title IV Chapter 5 of Regulation (EC) No 1782/2003 may be the subject of an application for arable crops area payment provided for in Title IV Chapter 10 of Regulation (EC) No 1782/2003, without prejudice to the second subparagraph of Article 90 of Regulation (EC) No 1782/2003, or may be the subject of an application for crop specific payment for rice provided for in Title IV Chapter 3 of Regulation (EC) No 1782/2003;
- (d) any cultivated parcel which is covered in respect of the same year by an application for arable crops payments referred to in Title IV Chapter 10 of Regulation (EC) No 1782/2003 may be the subject of an application for seed aid provided for in Title IV Chapter 9 of Regulation (EC) No 1782/2003.

4. Land used to produce raw materials referred to in Article 55 (b) and in the first indent of Article 107 (3) of Regulation (EC) No 1782/2003 or cultivated under the energy crop aid provided for in Title IV Chapter 5 of that Regulation shall not be eligible for Community aid provided for in Title II Chapter VIII of Council Regulation (EC) No 1257/1999⁽¹⁾, with the exception of support granted in respect of the costs of planting fast-growing species as provided for in the second subparagraph of Article 31(3) of that Regulation.

Raw materials referred to in Article 55 point b) and 107 (3) first indent of Regulation (EC) No 1782/2003 grown on land set aside and intermediate products, end products, co-products and by-products derived therefrom shall not be eligible for any financing by the Guarantee Section of the European Agricultural Guidance and Guarantee Fund pursuant to Article 1(2) point a) and b) of Regulation (EC) No 1258/1999.

5. For the purpose of the protein crop premium provided for in Title IV Chapter 2 of Regulation (EC) No 1782/2003 and arable crops area payment provided for in Title IV Chapter 10 of that Regulation, 'sweet lupins' shall mean those varieties of lupins producing seed comprising not more than 5 % bitter seeds. The bitter seed content shall be calculated in accordance with the test set out in Annex I to this Regulation.

Article 3

Communications

The Member States shall communicate the following data to the Commission by electronic transmission:

⁽¹⁾ OJ L 160, 26.6.1999, p. 80.

- (a) by 15 September of the year concerned at the latest: the available data on the areas, or the quantities in the case of the dairy premium and additional payment provided for in Articles 95 and 96 of Regulation (EC) No 1782/2003, for which the aid has been claimed for that calendar year, where the case may be subdivided by sub-base area;
- (b) by 31 October of the year concerned at the latest: definitive data on the areas or quantities referred in point (a), taking into account checks already carried out;
- (c) by 31 July of the following year at the latest: the final data corresponding to the areas or quantities for which the aid has actually been paid for the year concerned, after, where applicable, the deduction of the reductions in area provided for in Title IV Chapter 1 of Regulation (EC) No 796/2004.

The areas shall be expressed in hectares to two decimal places. The quantities shall be expressed in tonnes to three decimal places.

Article 4

Coefficient of reduction

1. The coefficient of reduction of area in the case referred to in Articles 75, 78(2), 82, 85, 89(2), 98, 143 and 143b(7) of Regulation (EC) No 1782/2003 or of the quantities and the objective criteria in the case referred to in Article 95(4) of that Regulation shall be fixed at the latest by 15 November of the year concerned on the basis of the data communicated in accordance with Article 3(b) of this Regulation.

2. In the cases referred to in Article 75, Article 82, Article 85, Article 95(4), Article 98, Article 143 and Article 143b(7) of Regulation (EC) No 1782/2003, the Member States shall communicate to the Commission, by 1 December of the year concerned at the latest, the coefficient of reduction applied and, in the case referred to in Article 95(4) of that Regulation, the objective criteria applied.

CHAPTER 2

SPECIFIC QUALITY PREMIUM FOR DURUM WHEAT

Article 5

Variety screening

1. Member States listed in Article 74(1) of Regulation (EC) No 1782/2003 shall establish the list of durum wheat varieties eligible for the special quality premium provided for in Article 72 of that Regulation in accordance with the variety screening method laid down in paragraphs 2 to 5 of this Article.

2. Member States shall, at least every two years, identify at least two representative varieties. The representative varieties shall be the most certified durum wheat varieties.

3. Member States shall analyse durum wheat varieties according to the following quality parameters and assign to each parameter the relevant weighting:

- (a) protein content (40 %);
- (b) gluten quality (30 %);
- (c) yellow index (20 %);
- (d) specific weight or weight of one thousand kernels (10 %).

The sum of the averages of the quality parameters referred to in (a) to (d) of the first subparagraph, multiplied by the indicated value in percentage, shall constitute the quality index of the varieties.

Each Member State shall compare, over a period of at least two years, the quality indexes of the durum wheat varieties with those of the representative varieties at regional level. The varieties to be examined shall be those which are registered in the national catalogue of each Member State, with the exclusion of those varieties for which no analytical data are available for the last three years because they are not longer used or certified.

To that end, based on the average quality index of 100 attributed to the representative varieties, each Member State shall calculate, for each of the quality parameters provided for in points (a) to (d) of the first subparagraph, the percentage to be assigned to the other durum wheat varieties in comparison with the index of 100. Only durum wheat varieties with an index equal to or higher than 98 shall be eligible for the specific quality premium for durum wheat.

4. A Member State may exclude from the list of eligible varieties the varieties which have an average rate of loss of vitreous aspect of durum wheat (*'mitadinage'*) exceeding 27 %.

5. Varieties which are registered in the national catalogue of another Member State may also be examined for their eligibility.

Article 6

Analysis methods

1. The analysis methods of the protein content, specific weight and the rate of loss of vitreous aspect of durum wheat (*'mitadinage'*) shall be those laid down in Commission Regulation (EC) No 824/2000 ⁽¹⁾.

2. The yellow index shall be measured in accordance with the ICC 152 method or an equivalent recognised method.

3. The gluten quality shall be measured in accordance with the ICC 158 method or according to the ICC 151 method.

⁽¹⁾ OJ L 100, 20.4.2000, p. 31.

Article 7

Quantity of certified seeds

Member States shall fix, before 1 October of the year preceding the year in respect of which the specific quality premium for durum wheat is granted, the minimum quantity of seed, certified in accordance with Directive 66/402/EEC ⁽²⁾, to be used in accordance with the current agricultural practices in the production zone concerned.

Article 8

Publications and communications

1. Member States shall publish the list of selected varieties which are eligible at national or regional level to the special quality premium for durum wheat, by 1 October at the latest for winter varieties, and by 31 December at the latest for spring varieties, of the year preceding the year in respect of which the premium is granted.

2. Member States shall communicate to the Commission, not later than one month after the dates provided for in paragraph 1, the list referred to in paragraph 1 as well as, if amended, the minimum quantity of certified seed to be used.

Article 9

Validity

1. The varieties included in the list referred to in Article 8(1) shall be eligible for the special quality premium for durum wheat for periods of five years starting from the date of their first inclusion in that list.

2. The eligibility of each variety may be extended for a period of five years, based on the results of the qualitative analyses carried out during the second and third year of the five-year eligibility period.

Article 10

Transitional measures

1. Member States shall publish the list of selected varieties which are eligible for the special quality premium for durum wheat in respect of the year 2005, by 1 October 2004 at the latest for winter varieties and by 31 December 2004 at the latest for spring varieties.

2. Member States shall establish the list referred to in paragraph 1 by eliminating from the list of varieties which are registered in the national catalogue the varieties which have not been certified in 2003 and 2004 and those which do not satisfy at least two of the four following parameters:

- (a) a minimum protein content of 11.5 %;
- (b) a minimum specific weight of 78 kg/hl or a minimum weight of one thousand kernels of 42 g;

⁽²⁾ OJ L 125, 11.7.1966, p. 2309.

(c) a maximum rate of loss of vitreous aspect of durum wheat ('mitadinage') of 27 %;

(d) a minimum gluten content of 10 %.

3. The lists of varieties which are eligible for the premium in 2005 and 2006 may include varieties which are in the list of selected varieties of another Member State on the basis of the results of the qualitative analyses carried out by that other Member State.

CHAPTER 3

PROTEIN CROP PREMIUM

Article 11

Mixture of cereals and protein crops

In regions where protein crops are traditionally sown in a mixture with cereals, the protein crop premium shall be paid at the request of the applicant provided that he proves, to the satisfaction of the competent authorities of the Member State concerned, that the protein crops are predominant in the mixture. The areas concerned shall not be eligible for the specific regional aid for arable crops provided for in Article 98 of Regulation (EC) No 1782/2003.

CHAPTER 4

CROP SPECIFIC PAYMENT FOR RICE

Article 12

Dates for sowings

To be eligible for the crop specific payment for rice, the declared area shall be sown at the latest:

- (a) on 30 June preceding the harvest in question, for Spain and Portugal,
- (b) on 31 May for the other producing Member States referred to in Article 80(2) of Regulation (EC) No 1782/2003.

However, in French Guiana, the areas shall be sown respectively for each of the two sowing cycles, at the latest on 31 December and 30 June preceding each of them and the crop specific payment for rice shall be granted on the basis of the average of the areas sown for each of the two sowing cycles

Article 13

Coefficient of reduction

The coefficient of reduction of the crop specific payment for rice referred to in Article 82 of Regulation (EC) No 1782/2003 shall be calculated in accordance with Annex II to this Regulation.

Article 14

Communications

1. Member States shall communicate to the Commission, in accordance with Article 3, the following information:

- (a) by 15 September at the latest:
 - (i) the list of the varieties registered in the national catalogue, classified according to the criteria defined in item 2 of Annex I to Council Regulation (EC) No 1785/2003 ⁽¹⁾,
 - (ii) the sown areas for which applications for crop-specific payment for rice have been submitted, by variety of rice and by base area and sub-base area, using the model set out in Annex III(A) to this Regulation, including the overruns of the base areas and sub-base areas;
- (b) by 31 October at the latest, the modifications with regard to the sown areas for which applications for the crop-specific payment for rice have been submitted, communicated in accordance with subparagraph (a) and using the model form set out in Annex III(B);
- (c) by 31 July at the latest, the information concerning the sown areas for which the crop-specific payment for rice has actually been paid for the past marketing year, in accordance with the calculation method defined in Annex II and using the model form set out in Annex III(C).

2. For French Guiana, the information concerning the sown areas shall be communicated on the basis of the average of the areas sown during the two sowing cycles.

3. Member States may revise annually the subdivision of their base area or areas in sub-base areas and the objective criteria on which those subdivisions are based. They shall communicate that information to the Commission by 15 May preceding the harvest in question at the latest.

CHAPTER 5

AREA PAYMENT FOR NUTS

Article 15

Eligibility conditions for Community aid

1. For the purposes of this Chapter, an orchard shall mean a homogeneous and cohesive area planted with nut trees which is not intersected by other crops or plantations and which is geographically continuous. Isolated trees or a single row of nut trees planted alongside roads or other crops shall not be considered an orchard.

⁽¹⁾ OJ L 270, 21.10.2003, p. 96.

By way of derogation from the first subparagraph, Member States may allow the presence of trees other than nut trees within a limit corresponding to 10 % of the number of trees laid down in paragraph 3. Moreover, Member States may allow the presence of chestnut trees if the number of trees laid down in paragraph 3 is respected by the eligible nut trees.

2. Only orchards producing nuts and meeting the conditions provided for in paragraphs 3 and 4 of this Article at the date to be fixed in accordance with Article 11 of Regulation (EC) No 796/2004 shall be eligible for the area payment provided for in Article 83 of Regulation (EC) No 1782/2003.

In the case of an orchard where different types of nuts are grown and when the aid is differentiated in function of the products, the eligibility conditions and the level of the aid specific to the nut type which is predominant shall apply.

3. The minimum plot size of orchards may not be less than a surface area of 0.10 hectare.

The number of nut trees per hectare of orchards may not be less than:

- (i) 125 for hazelnuts;
- (ii) 50 for almonds;
- (iii) 50 for walnuts;
- (iv) 50 for pistachios;
- (v) 30 for locust beans.

4. Member States may fix the minimum plot size and tree density at a higher level than that laid down in paragraph 3 in accordance with objective criteria and in order to take into account the specific characteristic of the areas and productions concerned.

Article 16

Eligibility conditions for national aid

Article 15 shall apply to the national aid provided for in Article 87 of Regulation (EC) No 1782/2003.

Without prejudice to Article 87 of Regulation (EC) No 1782/2003, a Member State may establish further eligibility criteria, provided that such criteria are consistent with the environmental, rural, social and economic objectives of the aid scheme and do not introduce discrimination between producers. Member States shall establish the necessary arrangements in order to control that those eligibility criteria are respected by farmers.

Article 17

Communications

1. Member States shall communicate to the Commission in any case before the date for lodging an application fixed by

Member States in accordance with Article 11 of Regulation (EC) No 796/2004 and at the latest:

- (a) by 31 March, the higher levels and the criteria referred to in Article 15(4) and the additional criteria referred to in Article 16;
- (b) by 15 May, where a Member State differentiates the aid in accordance with Article 83(2) of Regulation (EC) No 1782/2003, the level of the area payment per products and/or the modified national guaranteed area ('the NGA').

2. Any modification of the information to be communicated to the Commission pursuant to paragraph 1 shall apply to the following year and shall be immediately communicated by the Member State concerned to the Commission accompanied by the objective criteria justifying any such modification.

Article 18

Transitional measures

1. Member States may determine whether and under what conditions the improvement plans referred to in Article 86(2) of Regulation (EC) No 1782/2003 may be ceased before their normal expiry and relative areas become eligible under the scheme provided for in Chapter 4 of Title IV of that Regulation.

2. When setting the conditions referred to in paragraph 1, the Member State shall ensure that:

- (a) the plan is not ceased before the complete implementation of an annual period;
- (b) the initial objectives of the plan have been reached to the satisfaction of the Member State.

CHAPTER 6

AID FOR STARCH POTATO

Article 19

Eligibility

The aid for starch potato provided for in Article 93 of Regulation (EC) No 1782/2003 shall be granted for potatoes which are covered by a cultivation contract as provided for in Article 3 of Commission Regulation (EC) No 2236/2003⁽¹⁾, on the basis of the net weight of the potatoes determined by one of the methods described in Annex I to Commission Regulation (EC) No 2235/2003⁽²⁾ and the starch content of the potatoes delivered, in accordance with the rates fixed in Annex II to that Regulation.

No aid for starch potato shall be granted for potatoes whose starch content is less than 13 %, except where the second subparagraph of Article 5(3) of Regulation (EC) No 2236/2003 applies.

⁽¹⁾ OJ L 339, 24.12.2003, p. 45.

⁽²⁾ OJ L 339, 24.12.2003, p. 36.

Article 20

Minimum price

The aid for starch potato shall be subject to the requirement that proof is provided that a price not less than that referred to in Article 4a of Regulation (EC) No 1868/94 has been paid at the delivered-to-factory stage in accordance with the rates fixed in Annex II to Regulation (EC) No 2235/2003.

Article 10(2) of Regulation (EC) No 2236/2003 shall apply.

Article 21

Payment

1. Without prejudice to Article 28 of Regulation (EC) No 1782/2003, the aid for starch potato shall be paid, by the Member State on whose territory the potato starch was manufactured, per farmer once all his quantities for the marketing year have been delivered to the starch-producing undertaking within four months from the date on which the proof referred to in Article 20 of this Regulation has been provided and the conditions referred to in Article 19 of this Regulation have been respected.

2. Member States may grant advances, as from 1 December of the marketing year, based on the different parts of the quantity of starch potatoes by farmer delivered to the starch-producing undertaking for that marketing year. Each advance payment shall be granted for the quantity of starch potatoes delivered for which the proof referred to in Article 20 has been provided and the conditions referred to in Article 19 have been respected.

3. The conversion rate to be used to express aid for starch potato in national currency shall be the one applied under Article 20 of Regulation (EC) No 2236/2003.

CHAPTER 7

DAIRY PREMIUM AND ADDITIONAL PAYMENT

Article 22

Cases of inactivity

1. When a natural or legal person holding an individual reference quantity does not come within the definition of producer provided for in Article 5(c) of Regulation (EC) No 1788/2003 during the twelve-month period ending on 31 March of the year concerned, no dairy premiums and additional payment shall be paid for the year concerned, unless he proves before the deadline for the application and to the satisfaction of the competent authority that production has been taken up.

2. Paragraph 1 shall not apply in cases of *force majeure* and in duly justified cases temporarily affecting the production

capacity of the producers concerned and recognised by the competent authority.

CHAPTER 8

AID FOR ENERGY CROPS

SECTION 1

Definitions

Article 23

Definitions

For the purposes of this Chapter:

- (a) 'applicant' means any farmer cultivating the areas referred to in Article 88 of Regulation (EC) No 1782/2003 with a view to obtaining the aid provided for in that Article;
- (b) 'first processor' means any user of agricultural raw materials who undertakes the first processing thereof with a view to obtaining one or more of the products referred to in the second paragraph of Article 88 of Regulation (EC) No 1782/2003.

SECTION 2

Contract

Article 24

Use of raw material

1. Any agricultural raw material with the exception of sugarbeet may be grown on the areas covered by the aid provided for in Article 88 of Regulation (EC) No 1782/2003 provided that they are intended primarily for use in the production of the energy products referred to in the second paragraph of that Article.

The economic value of the energy products obtained by processing raw materials shall be higher than that of all other products intended for other uses and obtained by such processing, as determined by the valuation method set out in Article 39(3).

2. The raw materials referred to in paragraph 1 shall be covered by a contract in accordance with Article 90 of Regulation (EC) No 1782/2003 under the conditions laid down in this Section.

3. Applicants shall deliver all raw materials harvested to a first processor who shall take delivery of them and ensure that an equivalent quantity of such raw materials is used within the Community for the manufacture of one or more energy products as referred to in the second paragraph of Article 88 of Regulation (EC) No 1782/2003.

Where the first processor uses the raw material actually harvested to manufacture an intermediate product or a by-product, he may use an equivalent quantity of such intermediate products or by-products to manufacture one or more end products as referred to in the first subparagraph.

In the case referred to in the second subparagraph, the first processor shall so inform the competent authority with whom the security is lodged. Where such equivalent quantity is used in a Member State other than that in which the raw material is harvested, the competent authorities of the Member States concerned shall inform each other of the details of such transaction.

4. In accordance with the national provisions governing contractual relations, the first processor may delegate to a third party the collection of the raw material from the farmer applying for the aid. The delegate shall act in the name and on behalf of the processor who remains solely responsible with regard to the obligations laid down by this Chapter.

Article 25

Derogations

1. Notwithstanding Article 24(2) and (3), Member States may permit applicants to:

(a) use short rotation forest trees covered by ex 0602 90 41 or all the cereals or the oilseeds covered by CN codes 1201 00 90, 1205 10 90, 1205 90 00, 1206 00 91 and 1206 00 99 harvested:

(i) as fuel for heating their agricultural holding,

(ii) for the production on the holding of power or biofuels;

(b) process into biogas covered by CN code 2711 29 00 on their holdings all raw materials harvested.

2. In the cases referred to in paragraph 1, applicants shall:

(a) undertake, by way of a declaration in place of the contract referred to in Article 26, to use or process directly the raw material covered by the declaration; Articles 26 to 40 shall apply *mutatis mutandis* to those cases.

(b) have all the raw material harvested weighed by a body or an undertaking designated by the Member State and keep separate accounts for the raw material used and the products and by-products resulting from its processing; however, in the case of cereals and oilseeds, and of straw, and where the entire plant is used, weighing may be replaced by volumetric measurement of the raw material.

3. Member States applying paragraph 1 shall introduce adequate control measures to ensure that the raw material is directly used on the holding or is processed into biogas falling within CN code 2711 29 00.

4. Cereals and oilseeds used in accordance with paragraph 1(a) shall be denatured in accordance with the method laid

down by the Member State. The Member States may authorise the oil produced by processing oilseeds in accordance with paragraph 1(a)(ii) to be denatured instead of the oilseeds themselves, provided that such denaturing takes place immediately after the seeds are processed into oil and that the use to which the seeds are put is checked.

Article 26

Contract

1. In support of their aid applications, applicants shall submit to their competent authorities the contracts they have concluded with a first processor.

2. Applicants shall ensure that the contracts specify the following:

(a) the names and addresses of the parties to the contract;

(b) the duration of the contract;

(c) the species of all raw materials concerned and the area planted with each species;

(d) any conditions applicable to the delivery of the forecast quantities of raw materials;

(e) an undertaking to fulfil their obligations pursuant to Article 24(3);

(f) the intended primary end uses for the raw material, each end use complying with the conditions laid down in Articles 24(1) and 39(3).

3. Applicants shall ensure that the contracts are concluded in time to allow the first processor to deposit a copy with the competent authority of the applicant within the time limits laid down in Article 34(1).

4. For the purposes of control, Member States may require each applicant to conclude a single supply contract for each raw material.

SECTION 3

Amendment and termination of contracts

Article 27

Amendment and termination of contracts

Where the parties to a contract amend or terminate the contract after the applicant has lodged an aid application, the applicant may maintain such aid application only on condition that, with a view to allowing the requisite inspections to be carried out, he informs the competent authority of such amendment or termination, no later than the closing date set in the Member State concerned for amendment of the application.

Article 28

Exceptional circumstances

Without prejudice to Article 27, where an applicant informs his competent authority that, owing to exceptional circumstances, he will be unable to supply all or part of the raw materials specified in the contract, the competent authority may, after obtaining sufficient evidence of such exceptional circumstances, authorise such amendments to the contract as appear justified, or may authorise its termination.

Where the land covered by a contract is reduced as a result of amendments thereto or where a contract is terminated, the applicant shall forfeit his right to the aid referred to in this Chapter for the areas withdrawn from the contract.

Article 29

Changes in end uses

Without prejudice to Article 27, first processors may alter the intended primary end uses of raw materials, as referred to in Article 26(2)(f), once the raw materials under contract have been delivered to them and once the conditions laid down in Article 31(1) and in the first subparagraph of Article 34(3) have been fulfilled.

Changes in end uses shall be made in compliance with the conditions laid down in the second subparagraph of Article 24(1) and in Article 39(3).

The first processors shall give prior notice to their competent authorities with a view to the requisite controls.

SECTION 4

Representative yields and quantities delivered

Article 30

Representative yields

Each year the Member States shall establish, using an appropriate procedure, representative yields which must be attained, and shall inform the applicants concerned thereof.

Article 31

Quantities to be delivered

1. Applicants shall declare the total quantity of raw materials harvested by species to their competent authorities and shall confirm the quantities of raw materials delivered and the parties to whom such deliveries are made.

2. The actual quantities to be delivered by the applicants to the first processors shall at least correspond to the representative yield.

However, in duly justified cases, the Member States may, by way of an exception, accept a quantity up to 10 % below the representative yield.

Furthermore, where the competent authorities have authorised the amendment or termination of contracts in accordance with Article 28, they may, where it seems justified to do so, reduce the quantities that applicants are required to deliver under the first subparagraph of this paragraph.

SECTION 5

Conditions of payment of the aid

Article 32

Payment

1. The aid may be paid to applicants before the raw material is processed. However, such payments shall be made only where the requisite quantities of raw materials pursuant to this Chapter have been delivered to the first processor and where:

- (a) the declaration provided for in Article 31(1) has been made;
- (b) a copy of the contract has been deposited with the first processor's competent authority in accordance with Article 34(1) and the conditions provided for in Article 24(1) have been fulfilled;
- (c) the competent authority has received proof that the full security provided for in Article 35(2) has been lodged;
- (d) the competent authority responsible for the payment has checked that the conditions laid down in Article 26 have been met in respect of each application.

2. In the case of biennial crops, where the raw materials are harvested, and hence delivered, in the course of the second year of cultivation only, payment shall be made in each of the two years following the date of conclusion of the contract as provided for in Article 26, on condition that the competent authorities establish that:

- (a) the obligations referred to in paragraph 1(b), (c) and (d) of this Article are fulfilled as from the first year of cultivation;
- (b) the obligations referred to in paragraph 1(a) of this Article are fulfilled, and the information referred to in the first subparagraph of Article 34(3) is communicated, in the second year of cultivation.

In respect of the first year of cultivation, payments shall be made only if the competent authorities have received proof that the security provided for in Article 35(2) has been lodged. In respect of the second year of cultivation, payment may be made without security being lodged.

3. In the case of permanent or multi-annual crops, the payment of the aid shall be made each year from the date of conclusion of the contract. The conditions laid down in paragraph 2 shall be applied *mutatis mutandis*.

SECTION 6

Contract and obligations on applicants and first processors

Article 33

Number of processors

Energy products shall be obtained at the most by a second successive processor.

Article 34

Contract and obligations on applicants and first processors

1. First processors shall deposit a copy of the contract with their competent authorities under a timetable to be established by the Member State concerned and no later than the closing date for the submission of aid applications for the year in question in the Member State concerned.

Where applicants and first processors amend or terminate contracts prior to the date referred to in Article 27 in a given year, the first processors shall deposit with their competent authorities a copy of the amended or terminated contract, no later than that date.

2. First processors shall provide their competent authorities with the requisite information on the processing chain in question, in particular as regards prices and the technical processing coefficients to be used for determining the quantities of end products that may be obtained, as referred to in the second subparagraph of Article 40(1).

3. First processors who have taken over the raw materials from applicants shall inform their competent authorities of the quantities of raw materials received, specifying the species, the name and address of the party to the contract who delivered the raw materials, the place of delivery and the contract reference, within a time limit to be set by the Member States that allows the payments to be made within the period specified in Article 28 of Regulation (EC) No 1782/2003.

Where the Member State of the first processor is not the same Member State in which the raw materials have been grown, the competent authority of the first processor shall inform the competent authority of the applicant of the total quantities of raw materials delivered, within 40 working days of receipt of the information referred to in the first subparagraph.

SECTION 7

Securities

Article 35

First processors

1. First processors shall lodge a full security as provided for in paragraph 2 with their competent authorities by the closing date for submission of payment applications for the year in question in the Member State concerned.

2. The securities to be lodged in respect of each raw material shall be calculated by multiplying the sum of all areas covered by a contract signed by the first processor concerned and used to produce that raw material, by the rate of EUR 60 per hectare.

3. Where contracts are amended or terminated in accordance with Articles 27 or 28, the securities lodged shall be adjusted accordingly.

4. A percentage of the security shall be released for each raw material on condition that the competent authority of the first processor concerned is in possession of proof that the quantity of raw material in question has been processed in compliance with the requirement laid down in Article 26(2)(f), account being taken, where necessary, of any changes pursuant to the Article 29.

Article 36

Primary and subordinate requirements

1. The following obligations shall constitute primary requirements within the meaning of Article 20 of Commission Regulation (EEC) No 2220/85 ⁽¹⁾:

- (a) the obligation to process the quantities of raw materials principally into the end products specified in the contract. The raw materials shall be processed by 31 July of the second year following that of harvest;
- (b) the obligation that products be accompanied by a T5 control copy in accordance with Articles 37 and 38 of this Regulation.

2. The following obligations, incumbent on first processors, shall constitute subordinate requirements within the meaning of Article 20 of Regulation (EEC) No 2220/85:

- (a) the obligation to take delivery of all raw materials delivered by applicants pursuant to Article 24(3) of this Regulation;
- (b) the obligation to deposit copies of contracts in accordance with Article 34(1) of this Regulation;
- (c) the obligation to provide the information required in accordance with the first subparagraph of Article 34(3) of this Regulation;
- (d) the obligation to lodge a security in accordance with Article 35(1) of this Regulation.

⁽¹⁾ OJ L 205, 3.8.1985, p. 96.

SECTION 8

Documents for sale in, transfer to or delivery to another Member State or export

Article 37

T5 control copy

Where first processors sell or transfer to second processors in other Member States intermediate products covered by contracts as provided for in Article 26, the products shall be accompanied by T5 control copies issued in accordance with Regulation (EEC) No 2454/93.

One of the following shall be entered under the heading 'Other' in box 104 of the T5 control copies:

- Producto destinado a su transformación o entrega de acuerdo con lo establecido en el artículo 26 del Reglamento (CE) n° 1973/2004 de la Comisión;
- Použito pro zpracování nebo dodávku v souladu s článkem 26 nařízení Komise (ES) 1973/2004
- Skal anvendes til forarbejdning eller levering i overensstemmelse med artikel 26 i Kommissionens forordning (EF) nr. 1973/2004
- Zur Verarbeitung oder Lieferung gemäß Artikel 26 der Verordnung (EG) Nr. 1973/2004 der Kommission zu verwenden
- Προς χρήση για μεταποίηση ή παράδοση σύμφωνα με το άρθρο 26 του κανονισμού (ΕΚ) αριθ. 1973/2004 της Επιτροπής
- To be used for processing or delivery in accordance with Article 26 of Commission Regulation (EC) No 1973/2004
- Kasutamiseks töötlemisel või tarnimisel vastavalt komisjoni määruse (EÜ) nr 1973/2004 artiklile 26
- À utiliser pour transformation ou livraison conformément aux dispositions de l'article 26 du règlement (CE) n° 1973/2004 de la Commission
- Da consegnare o trasformare conformemente all'articolo 26 del regolamento (CE) n. 1973/2004 della Commissione
- Izmantot pārstrādei vai piegādei saskaņā ar Komisijas Regulas (EK) Nr. 1973/2004 26. panta nosacījumiem
- Naudoti perdirbimui arba pristatymui pagal Komisijos reglamentą (EB) Nr. 1973/2004 26 straipsnio nuostatas
- A Bizottság 2004/1973/EK rendelete szerint feldolgozásra, vagy átadásra használandó

- Te gebruiken voor verwerking of aflevering overeenkomstig artikel 26 van Verordening (EG) nr. 1973/2004 van de Commissie
- Do wykorzystania w procesie przetwórstwa bądź do dostawy zgodnie z postanowieniami zawartymi w art. 26 rozporządzenia Komisji (WE) nr 1973/2004
- A utilizar para transformação ou entrega em conformidade com o artigo 26 do Regulamento (CE) n.º 1973/2004 da Comissão
- Na spracovanie alebo dodávku v súlade s článkom 26 nariadenia Komisie (ES) č. 1973/2004
- Se uporablja za predelavo ali dostavo v skladu s členom 26 Uredbe Komisije (ES) št. 1973/2004
- Käytetään jalostamiseen tai toimittamiseen komission asetuksen (EY) N:o 1973/2004 26 artiklan mukaisesti
- Används till bearbetning eller leverans i enlighet med artikel 26 i kommissionens förordning (EG) nr 1973/2004.

Article 38

Alternatives to the T5 control copy

If the T5 control copy is not returned to the office of departure of the body responsible for control in the Member State in which the first processor is established two months after expiry of the deadline for the processing of raw materials provided for in Article 36(1)(a), as a result of circumstances for which the first processor is not responsible, the following documents may be accepted as alternatives to the T5 control copy:

- (a) purchase invoices for the intermediate products;
- (b) statements by the second processor verifying the final processing of the raw materials into energy products as referred to in Article 88 of Regulation (EC) No 1782/2003;
- (c) certified photocopies from the second processor of accounting documents proving that processing has been carried out.

SECTION 9

Checks

Article 39

Record keeping

1. The competent authority of the Member State shall specify the records to be kept by processors and the frequency thereof, which shall be at least monthly.

Such records shall comprise at least the following information:

- (a) the quantities of different raw materials purchased for processing;
- (b) the quantities of raw materials processed and the quantities and types of end products, co-products and by-products obtained therefrom;
- (c) wastage during processing;
- (d) the quantities destroyed and the reasons for such destruction;
- (e) the quantities and types of products sold or transferred by the processor and the prices obtained;
- (f) where applicable, the names and addresses of the subsequent processors.

2. The competent authority of the first processor shall check that the contract submitted complies with the conditions laid down in Article 24(1). Where those conditions are not met, the applicants' competent authorities shall be notified.

3. With a view to calculating the economic value of the products referred to in Article 24(1), the competent authorities concerned shall, on the basis of the information referred to in Article 34(2), compare the sum of the values of all energy products with the sum of the values of all other products intended for other uses and obtained from the same processing operation. Each value shall equal the relevant quantity multiplied by the average of the ex-factory prices recorded during the previous marketing year. Where such prices are not available, the competent authorities shall determine the relevant prices, in particular on the basis of the information referred to in Article 34(2).

Article 40

Checks at the premises of processors

1. The competent authorities of the Member States in which processing takes place shall verify compliance with Article 24(1) at the premises of at least 25 % of the processors located in their territory, selected on the basis of a risk analysis. Such checks shall involve at least:

- (a) a comparison of the sum of the values of all the energy products with the sum of the values of all other products intended for other uses and obtained from the same processing operation;
- (b) analysis of the processor's production system, comprising physical checks and inspections of commercial documents, with a view to verifying, in the case of processors, that deliveries of raw materials, end products, co-products and by-products tally.

For the purpose of the checks referred to in point (b) of the first subparagraph, the competent authorities shall base themselves in particular on the technical processing coefficients for the raw materials concerned. Where such coefficients exist for exports in Community legislation, they shall be applied. Where they do not but other coefficients do exist in Community legislation, they shall be applied. In all other cases, inspection shall rely mainly on the coefficients generally accepted by the processing industry.

2. For the processing operations referred to in Article 25, checks shall be carried out on 10 % of applicants selected on the basis of a risk analysis taking account of:

- (a) aid amounts;
- (b) the number of agricultural parcels and the area covered by an aid application;
- (c) developments since the previous year;
- (d) the findings of checks made in past years;
- (e) other parameters to be defined by the Member States, based on the representativeness of the declarations submitted.

3. Where the checks referred to in paragraph 2 reveal irregularities in at least 3 % of cases, the competent authority shall carry out additional checks during the year and shall consequently increase the percentage of farmers to be subject to an on-the-spot check the following year.

4. If it has been provided that certain elements of the checks referred to in paragraphs 1 and 2 may be carried out on the basis of a sample, that sample shall guarantee a reliable and representative level of inspection.

5. Every on-the-spot check shall be the subject of an inspection report signed by the inspector giving the details of the checks carried out. The report shall indicate in particular:

- (a) the date of the check;
- (b) the persons present;
- (c) the period checked;
- (d) the checking techniques used including, where applicable, reference to sampling methods;
- (e) results of the check.

Article 41

Hemp production

The provisions relating to hemp referred to in Article 29 of Commission Regulation (EC) No 795/2004 ⁽¹⁾ and in Article 33 of Regulation (EC) No 796/2004 shall apply.

⁽¹⁾ OJ L 141, 30.4.2004, p. 1.

Article 42

Additional measures and mutual assistance

1. The Member States shall take all further measures required for the proper application of this Chapter and shall give the mutual assistance needed for the purposes of checks required pursuant to this Chapter. Where this Chapter does not provide for appropriate reductions and exclusions, the Member States may apply appropriate national sanctions against market participants involved in the procedure for granting aid.

2. As far as necessary or as required by this Chapter, the Member States shall assist one another mutually to ensure effective controls, and enable the authenticity of documents submitted and the accuracy of the data exchanged to be verified.

SECTION 10

Exclusion from the aid for energy crops and evaluation

Article 43

Exclusion of raw materials from aid for energy crops and minimal cultivated area

1. The Member States may exclude any agricultural raw material from aid for energy crops where such materials raise difficulties from the viewpoint of controls, public health, the environment, criminal law, or a reduced rate of final energy products.

2. For any raw material referred to in Article 24, the Member States may set a minimum cultivated area.

Article 44

Evaluation

Before 15 October following the end of the year in respect of which the aid is granted, the Member States shall forward to the Commission all the information needed to evaluate the aid for energy crops.

Such information shall include, in particular:

- (a) the areas corresponding to each species of raw material;
- (b) the quantities of each type of raw material, end product, by-product and co-product obtained, with details of the type of raw material used;
- (c) the measures taken under Article 25;
- (d) the raw materials excluded from the aid for energy crops pursuant to Article 43(1) and the minimal cultivated areas referred to in Article 43(2).

CHAPTER 9

SPECIFIC REGIONAL AID FOR ARABLE CROPS

Article 45

Sowing date

To be eligible for the special regional aid for arable crops provided for in Article 98 of Regulation (EC) No 1782/2003, the declared area shall be sown by a date to be fixed by the Member States which shall not be later than 15 June.

CHAPTER 10

SEED AID

Article 46

Certified seeds

In the event of application of Article 99 of Regulation (EC) No 1782/2003, the aid shall be granted for production of basic and officially certified seed as defined by Directives 66/401/EEC, 66/402/EEC and 2002/57/EC and complying with the standards and conditions laid down in those Directives, in accordance with Articles 47 to 50 of this Regulation.

Article 47

Production of seeds

1. The seed shall be produced:
 - (a) either under a growing contract concluded between a seed establishment or a breeder and a seed grower,
 - (b) or directly by the seed establishment or the breeder; such production being attested by a growing declaration.
2. The seed establishments and breeders referred to in paragraph 1 shall be approved or registered by Member States. Approval or registration by a Member State shall be valid throughout the Community.
3. A seed establishment or a breeder growing seed or having seed grown in a Member State other than that in which approval or registration referred to in paragraph 2 took place shall supply the competent authorities of that other Member State, on request, with all the information required for checking entitlement to aid.

Article 48

Territorial eligibility

Each Member State shall grant aid only in respect of seed harvested on its territory during the calendar year in which the marketing year for which the aid was fixed begins.

The aid shall be granted to all seed growers under conditions which ensure equal treatment for beneficiaries irrespective of the place of their establishment within the Community.

Article 49

Marketing of seeds

Aid shall be granted only on condition that the seed has in fact been marketed for sowing by the recipient by 15 June of the year following the harvest at the latest. 'Marketed' shall mean holding available or in stock, displaying for sale, offering for sale, sale or delivery to another person.

Article 50

Cannabis sativa L. varieties

The varieties of *Cannabis sativa* L. eligible for aid under Article 99(4) of Regulation (EC) No 1782/2003 shall be those listed in Annex II to Regulation (EC) No 796/2004.

CHAPTER 11

ARABLE CROPS AREA PAYMENT

SECTION 1

General provisions for the eligibility for arable crops area payment

Article 51

Eligible land

1. For the purposes of Chapter 10 of Regulation (EC) No 1782/2003:

- (a) 'permanent pasture' shall mean 'permanent pasture' within the meaning of Article 2(2) of Regulation (EC) No 796/2004;
- (b) 'permanent crops' shall mean 'permanent crops' within the meaning of Article 2(c) of Regulation (EC) No 795/2004.

2. For the purposes of the first paragraph of Article 108 of Regulation (EC) No 1782/2003, land under permanent pasture in 2003 shall be:

- (a) land declared by a farmer in his aid application for 2003 as being under permanent pasture,

and

- (b) land not declared by a farmer in his aid application for 2003, unless it can be shown that that land was not under permanent pasture in 2003.

3. Pursuant to the third paragraph of Article 108 of Regulation (EC) No 1782/2003, Member States may only derogate from the first paragraph of that Article only subject to the following conditions:

- (a) for areas subject to a restructuring programme, defined as a 'change to the structure and/or eligible area of a holding imposed by the public authorities', Member States shall take action to prevent any significant increase in the total agricultural area eligible for arable area crops payment; this may in particular involve deeming previously eligible areas ineligible as an offsetting measure; areas newly declared eligible by the Member States under a restructuring programme shall not exceed the area newly declared ineligible under that programme by more than 5 %;
- (b) in case of one or other form of public intervention, where such intervention results in a farmer growing crops on land previously regarded as ineligible for arable crops area payment in order to continue his normal agricultural activity and the intervention in question means that land originally eligible ceases to be so, Member States may not increase their total eligible agricultural area, either temporarily or permanently, by more than 0.1 % of their total base area;
- (c) where farmers are able to give relevant and objective reasons for exchanging land ineligible for arable crops area payment for eligible land on their holdings, Member States shall check that there are no valid reasons for refusing such exchanges, in particular from the viewpoint of environmental risks, and shall provide proof in a plan submitted to the Commission that the total amount of eligible land remains unchanged; under no circumstances may exchanges result in any increase in the total area of eligible arable land on the holding; the Member States shall provide for a system for the prior notification and approval of such exchanges.

Article 52

Conditions for payment

Without prejudice to Article 2, arable crops area payments shall be paid solely on areas:

- (a) located in regions climatically and agriculturally suitable for growing arable crops; the Member States shall have the power to decide that any region is not suitable for producing certain arable crops;
- (b) on which the crop is maintained until at least the beginning of flowering under conditions of normal growth.

As regards durum wheat, crops shall in addition be cultivated in accordance with local standards at least until 30 June in respect of which the payment is granted, unless they are harvested at full maturity before that date.

Article 53

Regional amount

1. Where a producer's areas eligible for arable crops area payment are located in more than one region of production, the amount payable shall be determined by the location of each area covered by his application.

2. Member States that treat maize separately in regions where maize is grown principally for silage shall be authorised to apply the yield for a feed grain in that region to all areas under maize in the regions in question.

SECTION 2

Special provisions covering certain arable crops

Article 54

Silage grass

1. For the purposes of Article 100(3) of Regulation (EC) No 1782/2003, 'silage grass' shall mean the crop grown on areas mainly sown to herbaceous grasses and harvested green at least once a year with a view to preservation in an enclosed environment by anaerobic fermentation.

Areas registered for growing grass seed certified in accordance with Directive 66/401/EEC during the marketing year in question shall not qualify for arable crops area payments.

2. The provisions of this Chapter, with the exception of the condition relating to flowering in point (b) of the first paragraph of Article 52, shall apply to silage grass.

3. In the Member States that make provision for a specific area for silage grass as set out in Annex IV, farmers shall be eligible for area payments in respect of silage grass.

Article 55

Durum wheat

1. Aid applications in respect of durum wheat supplement and special aid laid down in Article 105 of Regulation (EC) No 1782/2003 shall be valid only where:

(a) an application for an area payment, as referred to in Article 101 of Regulation (EC) No 1782/2003, is submitted in respect of the same number of hectares under durum wheat;

(b) a minimum quantity of seed certified in accordance with Directive 66/402/EEC is used.

2. The Member States shall, before 1 October of the year preceding the year in respect of which the aid is granted, fix and notify to the farmers the minimum quantity of certified seed to be used in accordance with agricultural practice in the Member State concerned.

Article 56

Flax and hemp grown for fibre

1. The area payment for flax and hemp grown for fibre is subject to the following conditions:

(a) the submission of a copy of the contract or commitment referred to in the first paragraph of Article 106 of Regulation (EC) No 1782/2003 by 15 September of the year in respect of which the payment is granted at the latest or by an earlier date laid down by the Member State;

(b) the use of seed of the following varieties:

(i) for flax grown for fibre, varieties listed in Annex V on 15 May of the year in respect of which the payment is granted;

(ii) for hemp grown for fibre, varieties listed in Annex II to Regulation (EC) No 1782/2003 on 15 May of the year in respect of which the payment is granted and certified in accordance with Directive 2002/57/EEC ⁽¹⁾.

2. For the purposes of granting the area payment for hemp grown for fibre, the Member States may fix the minimum sowing rate compatible with good hemp-growing practice.

Article 57

Sowing date

By way of derogation from Article 109 of Regulation (EC) No 1782/2003, the Member States may defer the final date for sowing to no later than 15 June for the crops listed in Annex VIII to this Regulation and in the zones, to be defined by the Member States concerned, located in the regions specified in that Annex.

SECTION 3

Base areas, reference yields and ceilings

Article 58

Irrigated and non-irrigated land

1. Where regionalisation plans referred to in Article 103 of Regulation (EC) No 1782/2003 provide for different yields for irrigated and non-irrigated land, the Member States shall lay down rules to determine whether or not areas are irrigated in the course of a marketing year. They shall in particular lay down:

(a) a list of arable crops on which area payments may be granted at the rate for the irrigated yield;

⁽¹⁾ OJ L 193, 20.7.2002, p. 74.

(b) a description of the irrigation equipment which the farmer must have at his disposal; such equipment must be commensurate with the area concerned and must allow for the supply of the water needed for the normal development of plants during their growth cycle;

(c) the relevant irrigation period.

2. Paragraph 1 shall not apply to 'regadío' production regions in Spain or other regions where irrigation is a historical feature linked to the parcels and allows them to be distinguished and listed.

Article 59

Base area overshoot

1. For the purposes of determining any overshoots in regional base areas in accordance with Article 102 of Regulation (EC) No 1782/2003, the competent authority of the Member State concerned shall take account of:

- (a) the regional base area as set out in Annex IV to this Regulation;
- (b) the sum of areas covered by applications for area payments submitted in respect of each crop, including, in the event of application of Article 71 of Regulation (EC) No 1782/2003, the corresponding compulsory set-aside.

Any voluntary set-aside shall be included with areas other than irrigated, other than under maize and/or other than under silage grass.

2. The sum of the areas covered by aid applications submitted shall not include areas, or parts thereof, covered by applications that administrative checks show to be clearly unjustified.

Where applicable, the area actually determined during on-the-spot checks pursuant to Article 23 of Regulation (EC) No 1782/2003 shall be taken into account.

3. Areas sown to arable crops in accordance with Chapter 10 of Title IV of Regulation (EC) No 1782/2003 and used in support of aid applications under Chapter 12 of Title IV of that Regulation shall be added to the sum of the areas covered by applications submitted, adjusted in accordance with paragraph 2.

4. The base area overshoot shall be calculated in accordance with the table in Annex VI.

Article 60

Durum wheat limited area overshoot

1. For the purposes of determining any overshoot in the limited area for durum wheat eligible for the supplement to the area payment laid down in Article 105(1) of Regulation (EC) No 1782/2003, the competent authorities of the Member States shall take account of the sum of the areas covered by applications for the supplement to area payments in respect of

durum wheat, adjusted in accordance with Article 59(2) of this Regulation and, where applicable, reduced in accordance with Article 102 of Regulation (EC) No 1782/2003.

2. Paragraph 1 shall apply for the purposes of determining any overshoot in the limited areas eligible for the special aid for durum wheat set out in Article 105(3) of Regulation (EC) No 1782/2003.

Article 61

Definitive rate of areas overshoot and coefficient of reduction

1. Where the areas referred to in Articles 59 and 60 are found to be exceeded, the Member State concerned shall, by 31 October of the year concerned at the latest, determine the definitive rate of overshoot truncated to two decimal points.

2. The definitive rate of overshoot thus determined shall be used to calculate the proportional reduction in the area eligible for:

- (a) the arable crop area payment in accordance with Article 102(1) of Regulation (EC) No 1782/2003;
- (b) the supplement thereto and the special aid for durum wheat in accordance with Article 105 of Regulation (EC) No 1782/2003 and after Article 102(1) of that Regulation has been applied.

Article 62

Sub-base areas

For the purposes of Article 102(5) of Regulation (EC) No 1782/2003, the Member States shall, by 15 September of the year in respect of which the area payment is applied for at the latest, determine the following and shall notify the Commission thereof:

- (a) the national base area to be subdivided;
- (b) the criteria used by the Member State to establish the sub-base areas;
- (c) the sub-base areas (number, name and size);
- (d) the detailed rules for concentrating measures applicable in case of overshoot.

Article 63

Ceiling of the sum of the payments

For the purposes of determining any overshoot in the ceiling of the payments and the corresponding reduction coefficient provided for in Article 102(2) of Regulation (EC) No 1782/2003, the competent authorities of the Member States shall take account of the proportional reduction in the eligible areas provided for in Article 102(1) and Article 105(2) of that Regulation.

SECTION 4

Set-aside

Article 64

Definition

For the purposes of Article 107(1) of Regulation (EC) No 1782/2003, 'set-aside' shall mean leaving fallow an area eligible for area payments pursuant to Article 108 of Regulation (EC) No 1782/2003.

Article 65

Conditions

1. Article 32 of Regulation (EC) No 795/2004 shall apply.
2. By way of derogation from Article 107(9) of Regulation (EC) No 1782/2003 and for the years 2005 and 2006, Malta may set the minimum size requirements for set aside areas at less than 0.1 ha in size and 10 metres wide.

Article 66

Regional breakdown

1. Aid applications referred to in Title II of Regulation (EC) No 1782/2003 shall be broken down by region in accordance with the regionalisation plan referred to in Article 103 of that Regulation.
2. For each area payment application in a given region of production, there shall be a corresponding set-aside declaration in respect of at least the corresponding number of hectares in the same region of production.
3. The Member State may provide for derogation from paragraph 2 in accordance with objective criteria.
4. By way of derogation from paragraph 2, the compulsory set-aside corresponding to an application for area payment submitted may be effected in whole or in part:
 - (a) in Spain, in the 'secano' region in the case of holdings situated in 'secano' and 'regadío' production regions;
 - (b) in another region of production, provided that the areas to be set aside are located in regions of production adjacent to those in which the cultivated areas are situated.
5. Where paragraphs 3 and 4 are applied, the area to be set aside shall be adjusted to take account of the difference between the yields used to calculate the payment in respect of

set-aside in the regions concerned. However, the application of this paragraph shall not lead to fewer hectares being set aside than the obligation requires.

Article 67

Legume crops

1. For the purposes of applying the second indent of Article 107(3) of Regulation (EC) No 1782/2003, 'legume crops' shall mean areas sown with one or more species of the fodder legumes listed in Annex VII to this Regulation. Sowing in a mixture with cereals and/or grasses shall be allowed subject to the following conditions:

- (a) the area is sown mainly with fodder legumes;
- (b) they cannot be harvested separately.

Where specific regional environmental standards established by the Member States for organic crops set a ceiling on area sown with fodder legumes, the condition concerning areas sown mainly with fodder legumes laid down in (a) shall be met if at least 85 % of the limit fixed by the Member States is complied with.

2. Areas on which legume crops as referred to in paragraph 1 qualify between 15 January and 31 August under the aid scheme provided for in Council Regulation (EC) No 1786/2003 ⁽¹⁾ shall not qualify for area payments.

Article 68

Payments on land voluntarily set-aside

For the purposes of Article 107(6) of Regulation (EC) No 1782/2003 in the event of application of Article 66 of that Regulation, Member States shall allow farmers to set-aside up to at least 10 % of the area for which an arable crops area payment application is made and which is not used to give right to the payment of set-aside entitlements. Higher percentage may be set by a Member State taking into account specific situations and ensuring sufficient occupation of farmland.

The basic amount for voluntary set-aside shall be EUR 63.00/t from the marketing year 2005/2006. Where different yields are set for irrigated and non-irrigated land, the payments for set-aside for non-irrigated land shall apply.

The Member States shall apply suitable measures compatible with the specific situation of areas voluntarily set-aside in order to ensure they are maintained in good agricultural and environmental condition and the environment is protected.

⁽¹⁾ OJ L 270, 21.10.2003, p. 114.

SECTION 5

Communications*Article 69***Communications**

1. The Member States shall send the Commission the information referred to in Annex IX in the standardised format described therein, by production region, base area and country, in accordance with the timetable set out in Article 3.

2. Where the areas referred to in Articles 59 and 60 are found to have been exceeded, the Member State concerned shall fix the definitive rate of the overshoot immediately and by 15 November of the year concerned at the latest and shall communicate it to the Commission by 1 December of the year concerned at the latest. The data used to calculate the rate by which a base area is exceeded shall be forwarded using the form set out in Annex VI.

3. Where the rate of overshoot is distributed in accordance with Articles 102(5) and 105(2) of Regulation (EC) No 1782/2003, the Member State concerned shall notify the Commission of such distribution by 15 November at the latest.

4. In the event of application of Article 63, the Member State concerned shall notify the Commission of the definitive coefficient of reduction by 1 December of the year concerned at the latest.

CHAPTER 12

SHEEP AND GOAT PREMIUMS

SECTION 1

Direct Payments*Article 70***Applications and retention period**

1. In addition to the requirements under the integrated administration and control system provided for in Chapter 4 of Title II of Regulation (EC) No 1782/2003 ('the integrated system'), farmers shall indicate in their application for ewe and goat premiums and supplementary premiums whether or not they are marketing sheep's milk, or milk products based on sheep's milk, during the year in respect of which the premium is requested.

2. Applications for a premium in favour of farmers keeping ewes and/or she-goats shall be submitted to the competent authority, during a unique period fixed by the Member State concerned commencing not before 1 November and ending not later than 30 April, respectively, preceding and following

the commencement of the year in respect of which the applications are submitted.

However, the United Kingdom may set a different period in respect of Northern Ireland from that set for Great Britain.

3. The period referred to in Article 115(1) of Regulation (EC) No 1782/2003 during which the farmer undertakes to keep on his holding the number of ewes and/or she-goats in respect of which the premium is requested ('the retention period') shall be 100 days starting on the first day following the last day of the period for the submission of applications referred to in paragraph 2.

*Article 71***Areas eligible for goat premium**

The criteria referred to in Article 113(2) of Regulation (EC) No 1782/2003 are met in the areas listed in Annex X.

However, Member States shall, on a regular basis, verify whether these criteria continue to be met in all the areas listed in Annex X falling within their respective territories. Following this evaluation, Member States shall notify the Commission of any need for amending Annex X before 31 July of the year preceding the year in respect of which the amendment shall apply. The notification shall, in particular, indicate the zones, or parts of zones, listed in Annex X that do not further meet the criteria referred to in Article 113(2) of Regulation (EC) No 1782/2003, as well as the eventual zones that meet these criteria but are not yet listed in Annex X. For these potential new zones, the Member States shall supply the Commission with a detailed justification of their proposal.

*Article 72***Application for supplementary premium and for the goat premium**

1. In order to benefit from the supplementary premium or the goat premium, a farmer whose holding has at least 50 % but less than 100 % of its area used for agriculture situated in areas referred to in Article 114(1) of Regulation (EC) No 1782/2003 or in areas listed in Annex X to this Regulation, shall submit a declaration or declarations indicating the location of his land, in accordance paragraphs 2 and 3 of this Article:

2. A farmer who is required to submit each year a declaration of the total utilised agricultural area of his holding, at the occasion of an aid application, as provided for in Article 22(1) of Regulation (EC) No 1782/2003, shall indicate in that declaration those parcels used for agriculture which are located in areas referred to in Article 114(1) of Regulation (EC) No 1782/2003 or in areas listed in Annex X to this Regulation as appropriate;

A farmer who is not required to submit the declaration referred to in the first paragraph shall submit each year a specific declaration using, where appropriate, the system for identifying agricultural parcels provided for under the integrated system.

That specific declaration shall indicate the location of all the land the farmer owns, rents or uses under whatever arrangements, indicating its area and detailing those parcels used for agriculture which are located in areas referred to in Article 114(1) of Regulation (EC) No 1782/2003 or in areas listed in Annex X of this Regulation as appropriate. Member States may provide for the specific declaration to be included in the application for the ewe and/or goat premium. Member States may also demand that the specific declaration be made by means of a 'single payment application' form.

3. The competent national authority may demand the presentation of a property deed, a rental contract or a written agreement between farmers and, where appropriate, an attestation from the local or regional authority which has made land used for agriculture available to the farmer concerned. The attestation shall indicate the area of land granted to the producer and the parcels located in areas referred to in Article 114(1) of Regulation (EC) No 1782/2003 or areas listed in Annex X to this Regulation as appropriate.

Article 73

Farmers practising transhumance

1. Premium applications submitted by farmers the registered addresses of whose farms are in one of the geographical areas referred to in Article 114(2)(b) of Regulation (EC) No 1782/2003 and who wish to qualify for the supplementary premium shall indicate:

- (a) the place or places where transhumance is to be carried out for the current year;
- (b) the period of at least 90 days referred to in Article 114(2)(a) of Regulation (EC) No 1782/2003 and laid down for the current year.

2. Premium applications from farmers referred to in paragraph 1 shall be accompanied by documents certifying that transhumance has actually been carried out, except in cases of *force majeure* or due to the impact of duly justified natural circumstances affecting the life of the flock, during the two previous years and in particular by an attestation from the local or regional authority at the place of transhumance certifying that it has actually taken place during at least 90 consecutive days.

When carrying out administrative checks on applications Member States shall ensure that the place of transhumance specified in the premium application is actually within an area referred to in Article 114(1) of Regulation (EC) No 1782/2003.

Article 74

Eligibility

1. Premiums shall be paid to farmers on the basis of the number of ewes and/or she-goats kept on their holding throughout the retention period referred to in Article 70(3).

2. Animals satisfying the conditions provided for in the definitions referred to in Article 112 of Regulation (EC) No 1782/2003 on the final day of the retention period shall be considered eligible animals.

Article 75

Inventory of farmers marketing sheep's milk or sheep's milk products

For each year Member States shall draw up, no later than the thirtieth day of the retention period, an inventory of farmers marketing sheep's milk or sheep's milk products on the basis of the farmers' declarations referred to in Article 70(1).

When drawing up the inventory, Member States shall take account of the results of controls and any other source of information available to the competent authority, in particular information obtained from processors or distributors relating to the marketing of sheep's milk or sheep's milk products by farmers.

Article 76

Notification

1. Member States shall notify the Commission:

- (a) by 31 July of each year at the latest, of the information relating to premium applications submitted for the current year, using the model form set out in Annex XI;
- (b) by 31 July of each year at the latest, of the number and amount of premiums paid the previous year after application of the reduction of aid provided for in Article 120 of Regulation (EC) No 1782/2003 if appropriate, using the model form set out in Annex XII to this Regulation;
- (c) by 31 October of each year at the latest, of any changes in the list of geographical areas practising transhumance referred to in Article 114(2) of Regulation (EC) No 1782/2003 and Article 73 of this Regulation.

The information required under the first subparagraph shall be made available to the national bodies responsible for drawing up official statistics in the sheepmeat and goatmeat sector, at their request.

2. Where the information required under paragraph 1 changes, in particular as a result of the checks or corrections or improvements of previous figures, an update shall be communicated to the Commission within one month after the occurrence of the change.

SECTION 2

Limits, Reserves and Transfers

Article 77

Rights obtained free of charge

Except in duly justified exceptional circumstances, where a farmer has obtained premium rights free of charge from the national reserve he shall not be authorised to transfer his rights or to lease them temporarily for a period of three years from the date he obtained those rights.

Article 78

Use of rights

1. A farmer holding rights may make use of them by availing himself of those rights and/or leasing those rights to another farmer.

2. Where a farmer has not made use of the minimum percentage of his rights provided for paragraph 4, during each year, the part not used shall be transferred to the national reserve, except in the following cases:

- (a) in the case of farmers holding a maximum of 20 premium rights, where this farmer has not made use of the minimum percentage of his rights, during each of two consecutive calendar years, only the part not used during the last calendar year shall be transferred to the national reserve;
- (b) in the case of a farmer participating in an extensification programme recognised by the Commission;
- (c) in the case of a farmer participating in an early retirement scheme recognised by the Commission in which the transfer and/or temporary leasing of rights is not obligatory;
- (d) in exceptional and duly justified circumstances.

3. Temporary leasing shall be only in respect of whole years and shall involve at least the minimum number of animals provided for in Article 79(1). At the end of each period of temporary leasing, which may not exceed three consecutive years, a farmer shall, except in the event of a transfer of rights, recover all his rights for himself, for at least two consecutive years. If the farmer does not avail himself of at least the minimum percentage of his rights provided for paragraph 4 during each of the two years, the Member State shall, except in exceptional and duly justified cases, withdraw and return annually to the national reserve that part of the rights not used by the farmer.

However, in the case of farmers participating in early retirement schemes recognised by the Commission, Member States may provide for the total duration of the temporary leasing on the basis of such schemes to be increased.

Farmers who have undertaken to participate in an extensification programme in accordance with the measure referred to in Article 2(1)(c) of Council Regulation (EEC) No 2078/92 ⁽¹⁾ or in an extensification programme in accordance with Articles 22 and 23 of Regulation (EC) No 1257/1999 shall not be authorised to temporarily lease and/or to transfer their rights throughout the period of that participation. However, this provision shall not apply in cases where the programme permits the transfer and/or temporary leasing of rights to farmers whose participation in measures other than those referred to in this subparagraph requires the acquisition of rights.

4. The minimum percentage of use of rights to the premium shall be 70 %.

However, Member States may increase that percentage up to 100 %. They shall inform the Commission in advance of the percentage they intend to apply.

Article 79

Transfer of rights and temporary leasing

1. Member States may lay down, on the basis of their production structures, a minimum number of premium rights which may be the subject of a partial transfer not involving the transfer of a holding. This minimum may not exceed 10 premium rights.

2. Transfers of premium rights and temporary leasing of such rights shall be effective only after they have been notified to the competent authorities of the Member State by the farmer transferring and/or leasing the rights and by the farmer receiving the rights.

Such notification shall take place within a deadline set by the Member State and not later than the date on which the premium application period ends in that Member State, except in those cases where the transfer takes place through an inheritance. In those cases, the farmer who receives the rights shall be in a position to furnish appropriate legal documents to prove that he/she is the beneficiary of the deceased farmer.

3. In the case of a transfer without a transfer of the holding, the number of rights transferred without compensation to the national reserve may in no case be less than one.

Article 80

Change of individual ceiling

In the case of transfers or temporary leasing of premium rights, Member States shall set the new individual ceiling and shall notify the farmers concerned of the number of premium rights to which they are entitled not later than 60 days from the last day of the period during which the producer submitted his application.

The first paragraph shall not apply in the case where the transfer takes effect through an inheritance as referred to in Article 79(2).

⁽¹⁾ OJ L 215, 30.7.1992, p. 85.

Article 81

Farmers who do not own the land they farm

Farmers farming only publicly or collectively owned land who decide to stop using that land for grazing and to transfer all their rights to another farmer shall be treated in the same way as farmers selling or transferring their holdings. In all other cases such farmers shall be treated in the same way as farmers transferring their premium rights only.

Article 82

Transfer through the national reserve

Where Member States provide that the transfer of rights is to take place via the national reserve, they shall apply national provisions analogous to those in this Chapter. Moreover, in such cases:

- (a) Member States may provide for temporary leasing to be carried out via the national reserve;
- (b) in the event of the transfer of premium rights or temporary leasing pursuant to point (a), transfer to the reserve shall not become effective until after notification by the competent authorities of the Member State to the farmer transferring and/or leasing the rights, and transfers from the reserve to another farmer shall not become effective until after notification to that farmer by the authorities.

In addition, the national provisions referred to in the first paragraph shall ensure that the part of the rights not covered by the second subparagraph of Article 117(2) of Regulation (EC) No 1782/2003 must be offset by a payment by the Member State corresponding to the payment which would have resulted from a direct transfer between farmers, account being taken in particular of the trend in production in the Member State concerned. That payment shall be equal to the payment charged to a farmer who receives equivalent rights from the national reserve.

Article 83

Calculation of individual limits

Only whole numbers shall be used in the initial calculations and in subsequent adjustments to individual limits on premium rights.

To that end, where the final result of the arithmetical calculations is not a whole number, the nearest whole number shall be used. However, where the result of the calculations falls exactly between whole numbers, the higher whole number shall be used.

Article 84

Notification

1. Member States shall notify the Commission by 1 March 2005 at the latest of the part of the premiums rights trans-

ferred which shall be surrendered to the national reserve in accordance Article 117(2) of Regulation (EC) No 1782/2003 and where applicable of the measures taken under Article 117(3) of that Regulation and, before 1 January each year, of any amendments thereto.

2. Using the table set out in Annexes XIII and XIV, Member States shall notify the Commission by 30 April at the latest for each year of:

- (a) the number of premium rights returned without compensatory payment to the national reserve following transfers of rights without transfers of holdings during the preceding year;
- (b) the number of unused premium rights as referred to in Article 118(2) of Regulation (EC) No 1782/2003 transferred to the national reserve during the preceding year;
- (c) the number of rights granted under Article 118(3) of Regulation (EC) No 1782/2003 during the preceding year;
- (d) the number of premium rights granted to farmers in less-favoured areas from the national reserve during the preceding year;
- (e) the dates concerning the periods and deadlines related to the transfers of rights and to the applications for the premium.

SECTION 3

Additional Payments

Article 85

Additional payments

Member States applying Article 71 of Regulation (EC) No 1782/2003 shall provide information to the Commission on their national arrangements concerning the granting of the additional payments provided for under Article 119 of that Regulation. Where applicable that information shall include in particular:

- (a) as regards headage payments:
 - (i) indicative amounts per head and grant arrangements;
 - (ii) an indicative forecast of total expenditure and the number of animals concerned;
 - (iii) specific stocking density requirements;
 - (iv) other information on the rules of application;
- (b) as regards area payments, where necessary:
 - (i) calculation of regional base areas;
 - (ii) indicative amounts per hectare;
 - (iii) an indicative forecast of total expenditure and of the number of hectares concerned;
 - (iv) other information on the rules of application;

- (c) details of other schemes that have been established to make additional payments.

Member States shall notify the Commission of any changes in their national arrangements within a period of one month from the date of any such changes.

SECTION 4

General Provisions

Article 86

Conversion into national currency

The operative event for the exchange rate to be applied to the amount of the premiums and payments referred to in Articles 113, 114 and 119 of Regulation (EC) No 1782/2003 shall be the commencement of the calendar year in respect of which the premium or payment is granted.

The exchange rate to be used shall be the average of the exchange rates applicable in the month of December preceding the date of the operative event, calculated *pro rata temporis*. It shall be fixed by the Commission during the month following the date of the operative event.

CHAPTER 13

BEEF AND VEAL PAYMENTS

SECTION 1

Special premium

(Article 123 of Regulation (EC) No 1782/2003)

Article 87

Applications

1. In addition to the requirements under the integrated system, each application for direct payments as referred to in Article 22 of Regulation (EC) No 1782/2003 shall contain:

- (a) the breakdown of the number of animals by age bracket;
- (b) a reference to the passports or administrative documents accompanying the animals which are the subject of the application.

2. Applications may only be submitted in respect of animals which on the date of commencement of the retention period referred to in Article 90 are:

- (a) in the case of bulls, not less than seven months old;
- (b) in the case of steers:
 - (i) not less than seven months nor more than 19 months old in the case of the first age bracket;
 - (ii) at least 20 months old in the case of the second age bracket.

Article 88

Grant of premium

Animals which have not qualified for the special premium either on account of the application of the proportional reduction provided for in Article 123(4) of Regulation (EC) No 1782/2003 or of application of the stocking density provided for in Article 131 of that Regulation may no longer be the subject of an application for the same age bracket and shall be considered to have been the subject of payment of the premium.

Article 89

Passports and administrative documents

1. Where, under the conditions laid down in Article 6 of Regulation (EC) No 1760/2000, the passport is not available, it shall be replaced by a national administrative document as provided for in Article 123(3)(b) of Regulation (EC) No 1782/2003.

2. The competent authorities of the Member State shall ensure that passports or administrative documents ensure that only one premium is granted per animal and per age bracket. Member States shall assist one another, as necessary, to this end.

3. Member States may provide that the national administrative document referred to in paragraph 1 shall take the form of:

- (a) a document accompanying each individual animal;
- (b) a comprehensive list, held by the farmer, containing all the information required for the administrative document, on condition that the animals concerned remain, from the date on which the first application is made, with the same farmer until they are placed on the market for the purpose of being slaughtered;
- (c) a comprehensive list, held by the central authorities, containing all the information required for the administrative document, on condition that the Member State or region of a Member State availing itself of this possibility carries out on-the-spot checks on all the animals covered by an application, checks the movements of those animals and makes a distinctive mark on each animal checked which the farmers shall be required to permit;
- (d) a comprehensive list, held by the central authorities, containing all the information required for the administrative document, on condition that the Member State takes the measures necessary to ensure that the premium is not granted twice for the same age bracket and provides information as to the premium status of each animal immediately upon request.

4. Member States which decide to avail themselves of one or more of the possibilities provided for in paragraph 3 shall notify the Commission thereof in due time and forward to it the relevant implementing provisions.

For the purposes of point (c) of paragraph 3, Great Britain and Northern Ireland alone shall be considered to be regions of a Member State.

Article 90

Retention period

The duration of the retention period referred to in Article 123(3) (a) of Regulation (EC) No 1782/2003 shall be two months, starting on the day following that on which the application is submitted.

However, Member States may provide that other starting dates may be set by the farmer on condition that they do not begin more than two months following the day on which the application is submitted.

Article 91

Regional ceiling

1. Where the application of the proportional reduction provided for in Article 123(4) of Regulation (EC) No 1782/2003 gives a number of eligible animals which is less than a whole number, there shall be granted in respect of the decimal part a corresponding fraction of the unit amount of the premium. For this purpose, account shall be taken of the first decimal place only.

2. Where Member States decide to introduce different regions within the meaning of Article 122(a) of Regulation (EC) No 1782/2003, or to modify the existing regions within their territory, they shall inform the Commission of their decision before 1 January of the year concerned, giving a definition of the region and the ceiling set. Any subsequent modification shall be notified to the Commission before 1 January of the year concerned.

Article 92

Limits on the number of animals per holding

1. Where Member States decide to amend the limit of 90 heads of cattle per holding and per age bracket referred to in Article 123(1) of Regulation (EC) No 1782/2003, or to derogate from it, they shall inform the Commission before 1 January of the calendar year concerned.

Where, moreover, Member States fix a minimum number of animals per holding, below which the proportional reduction will not be applied, they shall inform the Commission before 1 January of the calendar year concerned.

2. Any subsequent amendment in the application of paragraph 1 shall be notified to the Commission before 1 January of the year concerned.

Article 93

Granting at the time of slaughter

1. Member States may grant the special premium at the time of slaughter as follows:

(a) in the case of bulls, for the single age bracket;

(b) in the case of steers, for the first or second age bracket or by combining the granting of the premiums for the two age brackets.

2. Member States which decide to grant the special premium at the time of slaughter in accordance with paragraph 1 shall provide that the premium is also to be granted when eligible animals are being dispatched to another Member State or being exported to a third country.

3. Where Member States decide to grant the special premium at the time of slaughter in accordance with paragraph 1, this Section and Article 120 and Article 121(1) and (2) shall apply *mutatis mutandis* to the grant of the premium.

4. In addition to the information referred to in Article 121(1), aid applications shall indicate whether the animal is a bull or a steer, and shall be accompanied by a document containing the details required for the purposes of Article 89(2). That document shall be one of the following, at the choice of the Member State:

(a) the passport or a copy of the passport where the type used consists of several copies;

(b) a copy of the passport where the type of passport used consists of one copy only which must be returned to the competent authority for the purposes of Article 6 of Regulation (EC) No 1760/2000; in that case the Member State shall take steps to ensure that the information contained in the copy corresponds to the original;

(c) the national administrative document where the passport is not available, under the conditions laid down in Article 6 of Regulation (EC) No 1760/2000.

Member States may suspend the application of the national administrative document. In that case they shall take the measures necessary to ensure that the premium is not granted twice for the same age bracket for animals which have been the subject of intra-Community trade.

Where the computerised databases as provided for in Article 3(b) of Regulation (EC) No 1760/2000 contain, to the satisfaction of the Member State, the information necessary to ensure that one premium only is granted for each animal and each age bracket, the aid application need not be accompanied by the document referred to in the first subparagraph of this paragraph.

By way of derogation from the first subparagraph of this paragraph, where Member States apply the option referred to in the first subparagraph of Article 121(2), they shall take the measures necessary to ensure that the farmer can determine the animals for which he is requesting a special premium.

5. In the case of bulls, proof of slaughter shall specify the carcase weight.

6. Where the animal is dispatched, proof of dispatch shall be provided by means of a statement by the consignor indicating the Member State of destination of the animal.

In that case, aid applications shall include:

- (a) the name and address of the consignor (or an equivalent code);
- (b) the identity number of the animal;
- (c) a statement that the animal is not less than nine months old.

Aid applications shall be submitted before the animal leaves the territory of the Member State concerned and proof of dispatch shall be submitted within three months from the date of the animals leaving the territory of the Member State concerned.

Article 94

Details of the grant system

1. By way of derogation from Article 90, the premium shall be paid to farmers who have kept animals for a minimum retention period of two months ending less than one month before the date of slaughter or consignment or ending less than two months before the date of export.

In the case of steers, payment of the premium shall be subject to the following rules:

- (a) the premium in respect of the first age bracket shall be paid only if the farmer has kept the animal for a period of not less than two months between the time when the animal was not less than seven months old and the time when it was less than 22 months old;
- (b) the premium in respect of the second age bracket may be paid only if the farmer has kept the animal aged not less than 20 months for a period of not less than two months;
- (c) the premiums in respect of the two age brackets may be paid together only if the farmer has kept the animal for not less than four consecutive months in compliance with the age requirements laid down in points (a) and (b);
- (d) the premium in respect of the second age bracket only may be paid if the animal was dispatched from another Member State when it had reached 19 months.

2. In the context of calculating the stocking density provided for in Article 131 of Regulation (EC) No 1782/2003, each animal which is the subject of a combined application for the two age brackets shall be taken into consideration twice.

3. The carcase weight shall be established on the basis of a carcase within the meaning of Article 2 of Council Regulation (EEC) No 1208/81 ⁽¹⁾.

Where the carcase presentation differs from that definition, the corrective factors set out in the Annex to Commission Regulation (EEC) No 563/82 ⁽²⁾ shall apply.

Where slaughter takes place in a slaughterhouse which is not subject to the application of the Community grading scale for carcasses of adult bovine animals, Member States may permit the weight to be established on the basis of the live weight of the slaughtered animal. In such cases the carcase weight shall

be considered to be equal to or greater than 185 kilograms if the live weight of the slaughtered animal was equal to or greater than 340 kilograms.

Article 95

Notification

Member States shall notify the Commission before the start of the calendar year concerned of their decision, or any amendments thereto, concerning the application of Article 93 and the relevant procedures.

SECTION 2

Deseasonalisation premium

(Article 124 of Regulation (EC) No 1782/2003)

Article 96

Application of the premium

The Commission shall decide, by 1 September of each calendar year at the latest, in which Member States the deseasonalisation premium may be granted for the following calendar year.

Member States shall inform the Commission by 1 January of the calendar year in which the premium is granted at the latest if they decide to apply Article 124(3) of Regulation (EC) No 1782/2003.

Article 97

Entitlement to the premium

1. The deseasonalisation premium may be granted in respect only of steers which have already received the special premium, or are considered to have received the special premium pursuant to Article 88, in a Member State applying the deseasonalisation premium and which are slaughtered in a Member State applying the deseasonalisation premium.

2. The deseasonalisation premium may be granted only to the farmer who last held the animal prior to slaughter.

Article 98

Applications

1. The farmer shall submit an application to the competent authority of the Member State in whose territory the holding is situated.

2. The application shall be drawn up in accordance with Articles 93(4) and 121, applied *mutatis mutandis*.

Member States shall take the measures necessary to verify that the special premium has been granted and shall carry out regular, unannounced checks on the accuracy of the certificates provided for in Article 121.

⁽¹⁾ OJ L 123, 7.5.1981, p. 3.

⁽²⁾ OJ L 67, 11.3.1982, p. 23.

SECTION 3

Suckler cow premium**(Articles 125 to 129 of Regulation (EC) No 1782/2003)**

Article 99

Cows belonging to a meat breed

For the purposes of Articles 122(d) and 129(2) of Regulation (EC) No 1782/2003, Cows belonging to the bovine breeds listed in Annex XV to this Regulation shall not be considered to be cows belonging to a meat breed.

Article 100

Maximum individual reference quantity

1. Where Member States decide to change the maximum individual reference quantity of 120 000 kilograms referred to in Article 125(2)(b) of Regulation (EC) No 1782/2003 or to derogate from it, they shall inform the Commission before 1 January of the calendar year concerned.

2. Any subsequent change in the application of paragraph 1 shall be notified to the Commission before 1 January of the year concerned.

Article 101

Retention period

The six-month retention period provided for in Article 125(2) of Regulation (EC) No 1782/2003 shall start on the day following that on which the application is submitted.

Article 102

Applications

1. Without prejudice to the requirements under the integrated system, where an application is made for the premium pursuant to Article 125(2)(b) of Regulation (EC) No 1782/2003, the application for direct payments provided for in Article 22 of Regulation (EC) No 1782/2003 shall contain:

- (a) a statement setting out the individual reference quantity of milk available to the producer on 31 March preceding the beginning of the 12-month period of application of the additional levy scheme starting in the calendar year concerned; where this quantity is unknown on the date on which the application is submitted, it shall be notified to the competent authority at the earliest opportunity;
- (b) an undertaking by the farmer not to increase his individual reference quantity above the quantitative limit laid down in Article 125(2)(b) of Regulation (EC) No 1782/2003 during the 12-month period starting on the date on which the application is submitted.

Point (b) shall not apply if the Member State has abolished the quantitative limit.

2. Applications shall be submitted within an overall period of six months during a calendar year, to be determined by the Member State.

Member States may provide for separate periods for submitting applications within that overall period.

Article 103

Average milk yield

The average milk yield shall be calculated on the basis of the average yields set out in Annex XVI. However, for that calculation, Member States may use a document recognised by them certifying the farmer's dairy herd's average yield.

Article 104

Additional national premium

1. An additional national suckler cow premium as provided for in Article 125(5) of Regulation (EC) No 1782/2003 may be granted only to a farmer who, in respect of the same calendar year, receives the suckler cow premium.

The additional national suckler cow premium shall be granted only within the limit of the number of animals qualifying for the suckler cow premium, if appropriate after application of the proportional reduction laid down in the second subparagraph of Article 129(1) of Regulation (EC) No 1782/2003.

2. Member States may lay down additional conditions for the grant of the additional national suckler cow premium. They shall inform the Commission thereof in good time before those conditions are brought into effect.

3. The Commission shall decide by 1 September at the latest of each calendar year which Member States fulfil the conditions laid down in the third subparagraph of Article 125(5) of Regulation (EC) No 1782/2003.

Article 105

Individual ceiling

Member States shall determine an individual ceiling per farmer in accordance with Article 126(1) of Regulation (EC) No 1782/2003.

Article 106

Notification

1. Member States shall notify the Commission by 1 March 2005 at the latest of any change of the procedures used to implement the reduction of individual ceilings in accordance with Article 126(3) of Regulation (EC) No 1782/2003.

2. Member States shall notify the Commission:
- (a) by 1 March 2005 at the latest of any change to the method of calculating the reduction provided for in the second subparagraph of Article 127(1) of Regulation (EC) No 1782/2003;
 - (b) before 1 January each year, where applicable, of any amendments to the measures taken under Article 127(2)(a) of that Regulation.
3. Using the table set out in Part 3 of Annex XVIII, Member States shall notify the Commission by 1 March at the latest, provisionally, and by 31 July at the latest, definitively, for each calendar year of:
- (a) the number of premium rights returned without compensatory payment to the national reserve following transfers of rights without transfers of holdings during the preceding calendar year;
 - (b) the number of unused premium rights as referred to in Article 109(2) transferred to the national reserve during the preceding calendar year;
 - (c) the number of rights granted under Article 128(3) of Regulation (EC) No 1782/2003 during the preceding calendar year.

Article 107

Rights obtained free of charge

Except in duly justified exceptional cases, where a farmer has obtained premium rights free of charge from the national reserve he shall not be authorised to transfer and/or temporarily lease his rights during the three following calendar years

Article 108

Use of rights

1. A farmer holding rights may make use of them by availing himself of those rights and/or leasing those rights to another producer.
2. Where a farmer has not made use of at least the minimum percentage of his rights, fixed in accordance with paragraph 4, during each calendar year, the part not used shall be transferred to the national reserve, except:
 - in the case of a farmer holding a maximum of seven premium rights, where this farmer has not made use of the minimum percentage of his rights, fixed in accordance with paragraph 4, during each of two consecutive calendar years, the part not used during the last calendar year shall be transferred to the national reserve,
 - in the case of a farmer participating in an extensification programme recognised by the Commission,
 - in the case of a farmer participating in an early retirement scheme recognised by the Commission in which the

transfer and/or temporary leasing of rights is not obligatory,

or

— in exceptional and duly justified cases.

3. Temporary leasing shall be only in respect of whole calendar years and shall involve at least the minimum number of animals provided for in Article 109(1). At the end of each period of temporary leasing, which may not exceed three consecutive years, a farmer shall, except in the event of a transfer of rights, recover all his rights for himself, for at least two consecutive calendar years. If the farmer does not avail himself of at least the minimum percentage of his rights, fixed in accordance with paragraph 4, during each of the two years, the Member State shall, except in exceptional and duly justified cases, withdraw and return annually to the national reserve that part of the rights not used by the farmer.

However, in the case of farmers participating in early retirement schemes recognised by the Commission, Member States may provide for the total duration of the temporary leasing on the basis of such schemes to be increased.

Farmers who have undertaken to participate in an extensification programme in accordance with the measure referred to in Article 2(1)(c) of Council Regulation (EEC) No 2078/92 ⁽¹⁾ or in an extensification programme in accordance with Articles 22 and 23 of Regulation (EC) No 1257/1999 ⁽²⁾ shall not be authorised to temporarily lease and/or to transfer their rights throughout the period of that participation. However, this provision shall not apply in cases where the programme permits the transfer and/or temporary leasing of rights to farmers whose participation in the measures other than those referred to in this subparagraph requires the acquisition of rights.

4. The minimum percentage of use of rights to the premium shall be 70 %. However, the Member States may raise this percentage up to 100 %.

The Member States shall inform the Commission in advance of the percentage that they intend to apply or of any change of this one.

Article 109

Transfer of rights and temporary leasing

1. Member States may lay down, on the basis of their production structures, a minimum number of premium rights which may be the subject of a partial transfer not involving the transfer of a holding. This minimum may not exceed five premium rights.
2. Transfers of premium rights and temporary leasing of such rights shall be effective only after they have been notified jointly to the competent authorities of the Member State by the farmer transferring and/or leasing the rights and by the farmer receiving the rights.

⁽¹⁾ OJ L 215, 30.7.1992, p. 85.

⁽²⁾ OJ L 160, 26.6.1999, p. 80.

Such notification shall take place within a deadline set by the Member State and not later than the date on which the farmer receiving the rights submits his premium application, except in those cases where the transfer of rights takes effect through an inheritance. In that case, the farmer who receives the rights shall be in a position to furnish appropriate legal documents to prove that he or she is the beneficiary of the deceased farmer.

Article 110

Change of individual ceiling

In the case of transfers or temporary leasing of premium rights, Member States shall set the new individual ceiling and shall notify the farmers concerned of the number of premium rights to which they are entitled not later than 60 days from the last day of the period during which the farmer submitted his application.

The first paragraph shall not apply in the case where the transfer takes effect through an inheritance.

Article 111

Farmers who do not own the land that they farm

Farmers farming only public land or collectively owned land who decide to discontinue the farming of such land and to transfer all their rights to another farmer shall be treated in the same way as farmers selling or transferring their holdings. In all other cases such farmers shall be treated in the same way as farmers transferring their premium rights only.

Article 112

Transfer through the national reserve

Where Member States provide that the transfer of rights without transfer of the holding is to take place through the national reserve in accordance with Article 127(2)(b) of Regulation (EC) No 1782/2003, they shall apply national provisions analogous to those set out in Articles 109 to 111. In addition, in this event:

- Member States may provide that temporary leasing is to take place through the national reserve;
- when premium rights are transferred, or temporarily leased in cases where the first indent is applied, transfers to the reserve shall be effective only after they have been notified by the competent authorities of the Member State to the farmer transferring and/or leasing the rights, and transfers from the reserve to another farmer shall be effective only after they have been notified to that farmer by these authorities.

In addition, such provisions must ensure that a payment will be made by the Member State for that part of the rights other than the part referred to in the second subparagraph of Article 127(1) of Regulation (EC) No 1782/2003 corresponding to

that which would have resulted from a direct transfer between farmers, account being taken in particular of the trend of production in the Member State concerned. This payment shall be equal to the payment which will be claimed from farmers receiving equivalent rights from the national reserve.

Article 113

Partial rights

1. Where calculations to be made pursuant to Articles 105 to 112 produce numbers which are not whole numbers, only the first decimal place shall be taken into account.
2. Where application of the provisions of this Section results in partial premium rights, either for farmers or the national reserve, these partial rights shall be added up.
3. Where a farmer holds a partial right, this partial right shall only confer entitlement to the corresponding fraction of the unit amount of the premium and, where applicable, of the additional national premium referred to in Article 104 and of the extensification payment referred to in Article 118.

Article 114

Special scheme for heifers

1. Member States wishing to make use of the possibility stipulated in Article 129(1) of Regulation (EC) No 1782/2003 shall inform the Commission thereof and, at the same time, notify the Commission of the relevant data allowing establishing whether the conditions laid down in Article 129(1) of that Regulation are met.

Member States concerned shall also, where applicable, communicate the specific ceiling that they have determined.

The Commission shall decide which Member States meet the conditions laid down in Article 129(1) of Regulation (EC) No 1782/2003.

The decisions in force at the time of the entry into force of this Regulation shall continue to apply.

2. Member States meeting the conditions laid down in Article 129(1) of Regulation (EC) No 1782/2003 shall notify the Commission, before 1 January of the year concerned, of any modification of the specific national ceiling that they have determined.

3. Member States applying the special scheme shall lay down criteria to ensure that the premium is paid to farmers whose herd of heifers is intended to restock cow herds. These criteria may include in particular an age limit and/or breed requirements. Member States shall inform the Commission before 1 January of the year concerned of the criteria adopted. Any subsequent modification shall be notified to the Commission before 1 January of the year concerned.

4. Where the application of the proportional reduction referred to in the second subparagraph of Article 129(1) of Regulation (EC) No 1782/2003 gives a number of eligible animals which is less than a whole number, there shall be granted in respect of the decimal part a corresponding fraction of the unit amount of the premium and, where applicable, of the additional national premium referred to in Article 104 and of the extensification payment referred to in Article 118. For this purpose account shall be taken of the first decimal place only.

5. In Member States applying the special scheme, the requirement laid down in Article 125(2) of Regulation (EC) No 1782/2003 concerning the minimum number of animals to be held shall be met in full either by suckler cows if the farmer has lodged an application for suckler cows or by heifers if the farmer has lodged an application for heifers.

6. The provisions of Articles 105 to 113 shall not apply within this special scheme.

Article 115

Rounding-off of animal numbers

If the calculation of the maximum number of heifers as a percentage as laid down in the second subparagraph of Article 125(2) of Regulation (EC) No 1782/2003 produces a result which is not a whole number, that number shall be rounded down to the nearest whole number if it is less than 0.5 and up to the nearest whole number if it is 0.5 or more.

SECTION 4

Provisions common to the special premium and the suckler cow premium

Sub-section 1

General provisions

Article 116

Applications for the special premium and the suckler cow premium

1. Member States may, for administrative reasons, provide that aid applications for direct payments referred to in Article 22 of Regulation (EC) No 1782/2003, as regards the special premium and the suckler cow premium, shall be for a minimum number of animals, provided that that number does not exceed three.

2. Without prejudice to Articles 102(2) and 118c(2), Member States may determine the periods and dates for submission of premium applications and the number of applications that farmers may submit per premium scheme and calendar year.

Article 117

Stocking density

1. For each farmer who, in respect of the same calendar year, submits an application for direct payments referred to in Article 22 of Regulation (EC) No 1782/2003 for a special premium or a suckler cow premium, the competent authorities shall establish the number of LUs (livestock units) corresponding to the number of animals for which a special premium or suckler cow premium may be granted, taking account of the forage area of his holding.

2. In establishing the stocking density referred to in Article 131 of Regulation (EC) No 1782/2003, the following procedure shall apply:

- (a) account shall be taken of the individual reference quantity of milk available to the farmer on 31 March preceding the beginning of the period of 12 months of application of the additional levy scheme beginning in the calendar year concerned;
- (b) the number of dairy cows needed to produce that reference quantity shall be calculated in accordance with Article 103 of this Regulation.

3. In determining the number of animals eligible for a premium:

- (a) the number of hectares determined in accordance with the rules laid down in the integrated system shall be multiplied by the stocking density referred to in Article 131 of Regulation (EC) No 1782/2003;
- (b) the number of LUs corresponding to the number of dairy cows needed to produce the reference quantity of milk available to the farmer shall be deducted from the figure thus obtained;
- (c) the number of LUs corresponding to the number of sheep and/or goats for which a premium application is submitted shall be deducted from the figure thus obtained.

The final figure thus obtained shall correspond to the maximum number of LUs for which the special premium and the suckler cow premium may be granted.

4. The Member States shall inform each farmer concerned of the stocking density established for him and of the resultant number of LUs for which a premium may be granted.

Sub-section 2

Extensification payment scheme

(Article 132 of Regulation (EC) No 1782/2003)

Article 118

Participation in the extensification payment scheme

1. To qualify for the extensification payment, farmers shall indicate on the application for direct payments referred to in Article 22 of Regulation (EC) No 1782/2003 that they wish to participate in the extensification payment scheme.

2. Animals which are considered to have received the special premium within the meaning of Article 88 shall not qualify for the extensification payment.

Article 118a

Determination of stocking density by way of census

1. In order to check that the total number of animals calculated in accordance with Article 132(3)(a) of Regulation (EC) No 1782/2003 meets the stocking density requirements laid down in Article 132(2) of that Regulation, Member States shall determine each year at least five census dates for the animals and shall inform the Commission thereof.

Except in those cases where Member States decide that the census dates may be any day of the year, the census dates shall be distributed at random in such a way as to be representative of the entire year, being changed annually, and each census date shall be determined a posteriori and notified to the farmer at the earliest two weeks after it has been determined.

2. On census dates the animals shall be counted in accordance with one of the following methods, at the choice of the Member State:

- (a) Member States may ask each farmer to declare, on the basis of his farm register, prior to a date to be determined by the Member State, the number of LUs or the number of animals of each of the two categories of bovine animals referred to in the conversion table laid down in Article 131(2)(a) of Regulation (EC) No 1782/2003;
- (b) Member States may use the computerised databases referred to in Article 3(b) of Regulation (EC) No 1760/2000 to determine the number of LUs on condition that those databases offer, to the satisfaction of the Member State concerned, adequate assurances as to the accuracy of the data they contain for the purposes of the extensification payment scheme.

3. The number of LUs used to determine whether the farmer is complying with the stocking density requirements laid down in Article 132(2) of Regulation (EC) No 1782/2003 shall be the arithmetic average of the numbers of LUs counted on the census dates plus the number of LUs corresponding to the sheep and goats for which premium applications have been submitted for the same calendar year.

However, where Member States decide that the census dates may be any day of the year, they may provide that the numbers referred to in paragraph 2(a) and (b) shall be calculated pro rata temporis for the period on which the animals are present on the holding.

4. Member States shall take the measures necessary to apply Article 29 of Regulation (EC) No 1782/2003 in the case of farmers who, by means of abnormally low stocking rates during part of the year, artificially create the conditions required by Article 132 of that Regulation.

Article 118b

Simplified determination of stocking density

1. By way of derogation from Article 118a, Member States may give farmers the option of choosing a simplified scheme for calculating the stocking density.

In that case, the farmer shall include in the aid application:

- (a) a declaration that he has complied each day with the maximum stocking density laid down in Article 132 of Regulation (EC) No 1782/2003 up to the date of his aid application;
- (b) an undertaking to comply each day with that stocking density between the date of his aid application and the following 31 December.

Where the Member State concerned has chosen to apply the second subparagraph of Article 132(2) of Regulation (EC) No 1782/2003, the farmer shall specify on his application which of the two maximum stocking densities he is observing. The farmer may alter that choice before the announcement of an on-the-spot check on the number of his animals.

The farmer may notify the competent authority of the cancellation of the undertaking referred to in point (b) of the second subparagraph before the announcement of an on-the-spot check on the number of his animals. In that case he shall not qualify for the extensification payment.

The declaration and undertaking provided for in the second subparagraph shall be subject to the control and penalty provisions provided for under the integrated system.

2. Where Member States choose to apply, or to cease to apply, the option laid down in the second subparagraph of Article 132(2) of Regulation (EC) No 1782/2003, they shall inform the Commission of their decision before 1 January of the calendar year concerned.

Article 118c

Farmers in mountain areas

1. Member States wishing to make use of the possibility stipulated in Article 132(4) of Regulation (EC) No 1782/2003 shall inform the Commission thereof and, at the same time, notify the Commission of the relevant data allowing establishing whether the conditions laid down in this Article are met.

For the purposes of Article 132(4) of Regulation (EC) No 1782/2003, 'farmer in mountain area' means one of the following:

- (a) a farmer whose farm is situated in a mountain area;
- (b) a farmer whose at least 50 % of his forage area is situated in a mountain area.

The Commission shall decide which Member States meet the conditions laid down in Article 132(4) of Regulation (EC) No 1782/2003.

The Decisions in force at the time of the entry into force of this Regulation shall continue to apply.

2. Without prejudice to Article 118(1), farmers who wish to qualify for the extensification payment under paragraph 1 of this Article shall state on the aid application that they are applying for the extensification payment. Farmers shall keep, for at least six consecutive months starting on the date on which the application referred to in Article 118 is submitted, a number of dairy cows at least equal to the number of dairy cows for which the extensification payment has been applied for. That six-month retention period shall start on the day following that on which the application is submitted.

Applications shall be submitted within an overall period of six months during a calendar year, to be determined by the Member State.

Member States may provide for separate submission periods within that overall period.

Article 118d

Maximum number of dairy cows eligible for payment

The number of dairy cows for which the extensification payment is granted to a farmer may not exceed either of the following two figures:

- (a) the number of dairy cows needed to produce the individual reference quantity of milk available to the farmer on 31 March preceding the beginning of the 12-month period of application of the additional levy scheme beginning in the calendar year concerned; that number of cows shall be calculated using the average milk yield defined in Annex XVI;
- (b) the total number of cows on the holding, determined in accordance with Article 118a, less the number of suckler cows corresponding to the individual ceiling.

Article 119

General provisions

1. Member States shall notify the Commission of any amendment to the definition of 'pasture land' used for the purposes of Article 132(3)(c) of Regulation (EC) No 1782/2003 before 1 January of the year concerned.

2. For the purpose of calculating the stocking density pursuant to this Sub-section, account shall be taken of the first two decimal places only.

3. In the event that the competent veterinary authorities decide that no animal may leave the production unit except for the purpose of slaughter, the number of livestock units recorded on the holding shall be multiplied by the coefficient 0.8 for the purpose of applying this Sub-section.

That measure shall be restricted to the period, plus 20 days, within which the decision referred to in the first subparagraph applies, provided that the farmer has informed the competent authority, by writing within 10 working days of the decision, of the presence of the animals concerned and has taken all the

measures necessary to prevent and/or limit the occurrence of the epizootic.

SECTION 5

Slaughter premium

(Article 130 of Regulation (EC) No 1782/2003)

Article 120

Member States may provide that in order to qualify for the slaughter premium for a given calendar year each farmer shall, before or at the same time as making the first application for that calendar year, submit a statement of participation.

However, where the farmer makes no changes to the statement of participation, the Member State may accept that the previous statement remains valid.

Article 121

Applications

1. Aid applications shall include the information needed for payment of the slaughter premium, in particular the date of birth of the animal in the case of animals born after 1 January 1998.

Aid applications shall be submitted within a period to be determined by the Member State which may not exceed six months following slaughter of the animal or, where the animal is exported, after the date on which it leaves Community customs territory, and shall expire no later than the end of February of the following year except in exceptional cases to be decided by the Member State concerned where animals are dispatched or exported. Without prejudice to that time limit, the Member States may set periods and dates for the submission of aid applications and may determine the number of applications that each farmer may submit per calendar year.

Member States may permit applications to be submitted through a person other than the farmer. In such cases the application shall bear the name and address of the farmer who is liable to qualify for the slaughter premium.

In addition to the requirements introduced as part of the integrated system, each application shall contain:

- (a) in cases where the grant is made at the time of slaughter, a certificate from the slaughterhouse or any document produced or endorsed by the slaughterhouse containing at least the same information, showing:
 - (i) the name and address of the slaughterhouse (or an equivalent code),
 - (ii) the date of slaughter and the identity and slaughter numbers of the animal,
 - (iii) in the case of calves, the carcase weight, save where Article 122(4) applies;

- (b) in cases where the animal is exported to a third country:
- (i) the name and address of the exporter (or an equivalent code),
 - (ii) the identity number of the animal,
 - (iii) the export declaration stating the age of the animal for animals born after 1 January 1998 and, in the case of calves, save where Article 122(4) applies, the live weight, which may not exceed 300 kilograms,
 - (iv) proof that the animal has left Community customs territory, shown in the same manner as for an export refund.

Member States may provide that the information referred to in points (a) and (b) of the fourth subparagraph shall be forwarded via a body or bodies approved by the Member State, which may use information technology.

Member States shall carry out regular, unannounced checks on the accuracy of the certificates or documents issued and, where appropriate, the information referred to in the fourth subparagraph.

2. By way of derogation from paragraph 1, Member States may provide that information on the slaughter of animals, entered in the computerised databases referred to in Article 3(b) of Regulation (EC) No 1760/2000, forwarded to the competent authority by slaughterhouses shall be regarded as applications for slaughter premiums on behalf of the farmers, on condition that those databases offer, to the satisfaction of the Member State, adequate assurances as to the accuracy of the data they contain for the purposes of the slaughter-premium scheme and, where applicable, the payment on slaughter of the special premium and/or the additional payments if these are paid on slaughter, and/or the deseasonalisation premium.

However, Member States may provide that applications shall be submitted. In such a case they may determine the type of information that shall accompany the application.

Member States choosing to apply this paragraph shall inform the Commission of any subsequent change before it is implemented.

Member States shall ensure that the data made available to the paying agency includes all the information needed to pay the slaughter premium, in particular:

- (a) the types and quantities of animals as referred to in Article 130(1) of Regulation (EC) No 1782/2003 slaughtered during the year concerned;
- (b) information regarding compliance with the age limits and carcase weight of the animals referred to in that Article and with the retention period referred to in Article 123 of this Regulation;
- (c) where applicable, the information needed to pay the special premium at the time of slaughter and/or the additional payments if these are paid on slaughter, and/or the deseasonalisation premium.

3. For animals which have been the subject of intra-Community trade after the retention period referred to in Article 123, even if the Member State where slaughter was carried out chose to apply the derogation laid down in paragraph 2 of this Article, the slaughterhouse shall issue the document referred to in point (a) of the fourth subparagraph of paragraph 1 of this Article.

However, where their data transfer systems are compatible, two Member States may agree to apply the system described in paragraph 2.

Member States shall assist one another to ensure effective controls on the authenticity of documents submitted and/or the accuracy of the data exchanged. To that end the Member State where payment is made shall forward regularly to the Member State where slaughter takes place a summary, grouped by slaughterhouse, of the slaughter certificates (or information in place thereof) received from the latter Member State.

Article 122

Weight and presentation of carcasses

1. For the purposes of Article 130(1)(b) of Regulation (EC) No 1782/2003, veal carcasses shall be presented after skinning, evisceration and bleeding, without the head or the feet but with the liver, kidneys and kidney fat.

2. The weight to be taken into consideration shall be the weight of the carcase after chilling, or the warm weight of the carcase established as soon as possible after slaughter, reduced by 2 %.

3. Where carcasses are presented without the liver, kidneys and/or kidney fat, their weight shall be increased by:

- (a) 3.5 kilograms for the liver;
- (b) 0.5 kilogram for the kidneys;
- (c) 3.5 kilograms for the kidney fat.

4. Member States may provide that where a calf is less than six months old at the time of slaughter or export, the weight requirement referred to in Article 130(1)(b) of Regulation (EC) No 1782/2003 shall be deemed to have been met.

Where the carcase weight cannot be established in the slaughterhouse, the weight requirement referred to in Article 130(1)(b) of Regulation (EC) No 1782/2003 shall be deemed to have been met if the live weight does not exceed 300 kilograms.

Article 123

Premium beneficiary

1. The slaughter premium shall be paid to the farmer who has held the animal for a minimum retention period of two months ending less than one month before slaughter or ending less than two months before export.

2. In the case of calves slaughtered before the age of three months, the retention period shall be one month.

Article 124

National ceilings

1. The national ceilings referred to in Article 130(1) and (3) of Regulation (EC) No 1782/2003 are set out in Annex XVII to this Regulation.

2. Where the application of the proportional reduction provided for in Article 130(4) of Regulation (EC) No 1782/2003 gives a number of eligible animals which is less than a whole number, there shall be granted in respect of the decimal part a corresponding fraction of the unit amount of the slaughter premium. For this purpose account shall be taken of the first decimal place only.

SECTION 6

Additional payments

(Articles 133 to 136 of Regulation (EC) No 1782/2003)

Article 125

National arrangements

The detailed information about national arrangements referred to in Article 137 of Regulation (EC) No 1782/2003 shall include the following:

- (1) For headage payments, where applicable:
 - (a) indicative amounts per head for each category of animal, and grant arrangements;
 - (b) an indicative forecast of total expenditure for each category of animal, specifying whether those payments will be made in the form of a supplement to the slaughter premium, and of the number of animals concerned;
 - (c) specific stocking density requirements, save in the case of payments in the form of a supplement to the slaughter premium;
 - (d) the headage limit on male bovines per holding, where applicable;
 - (e) other information on the rules of application.

The categories of animal referred to in points (a) and (b) are bulls, steers, suckler cows, dairy cows, heifers qualifying for the suckler cow premium, and other heifers, or any subgroup of animals determined by the Member State and included in those categories;

- (2) For area payments, where necessary:
 - (a) calculation of regional base areas;
 - (b) indicative amounts per hectare;
 - (c) an indicative forecast of total expenditure and of the number of hectares concerned;
 - (d) other information on the rules of application.

SECTION 7

General provisions

Article 126

Payment of advances

1. In accordance with Article 28(3)(b) of Regulation (EC) No 1782/2003, on the basis of the results of administrative checks and on-the-spot checks, the competent authority shall pay to the farmer, for the number of animals deemed to be eligible, an advance equal to 60 % of the special premium, the suckler cow premium and the slaughter premium.

In the case of the special premium, the special scheme for heifers referred to in Article 114 and the slaughter premium, the advance percentage may be reduced by the Member States but may not be less than 40 %.

In addition, on the basis of administrative and on-the-spot checks, Member States may decide to pay farmers an advance of a maximum 60 % on the amount of the additional payments referred to in Article 133 of Regulation (EC) No 1782/2003.

The advance may not be paid before 16 October of the calendar year in respect of which the premium is applied for or the additional payment is granted.

2. The definitive payment of the premium or the additional payment shall be an amount equal to the difference between the advance payment and the amount of the premium or the additional payment to which the farmer is entitled.

Article 127

Allocation year

1. The date of submission of the application shall constitute the operative event for determining the year to which animals covered by the special premium, suckler cow premium, deseasonalisation premium and extensification payment schemes are allocated and the number of LUs to be used for calculating the stocking density.

However, if the special premium is granted in accordance with Article 93, the amount of the premium applicable shall be that in force on 31 December of the year in which slaughter or export took place in the following cases:

- (a) where the animal was slaughtered or exported no later than 31 December;
- (b) where the premium application for that animal is submitted after that date.

2. As regards the slaughter premium, for the purposes of applying the rate of aid and calculating the proportional reduction in accordance with Article 124, the allocation year shall be the year of slaughter or export.

Article 128

Conversion into national currency

Conversion into national currency of premium amounts, the extensification payment and the additional payments shall be carried out in accordance with the average, calculated *pro rata temporis*, of the exchange rates applicable in the month of December preceding the allocation year determined in accordance with Article 127. The average exchange rate shall be fixed by the Commission during the following month.

Article 129

Penalties for the illegal use or holding of certain substances or products

In the event of repeated infringements through the illegal use or holding of substances or products not authorised by the relevant Community regulations in the veterinary sector, Member States shall determine, in the light of the seriousness of the infringement, the length of the exclusion from the aid schemes pursuant to the second subparagraph of Article 140(1) of Regulation (EC) No 1782/2003.

Article 130

Determination of the individual reference quantity of milk

Up to the end of the 11th period laid down in Article 1 of Regulation (EC) No 1788/2003, by way of derogation from Articles 102(1)(a), 117(2)(a) and 118d(a) of this Regulation, a Member State may decide that in the case of milk farmers who release or take over all or part of individual reference quantities with effect on 31 March or 1 April respectively in accordance with Article 5(j) and (k) of Regulation (EC) No 1788/2003 or pursuant to national provisions adopted for the implementation of Articles 16, 17 and 18 of that Regulation, the following shall be determined on 1 April:

- (a) the maximum individual reference quantity of milk available to qualify for the suckler cow premium and the maximum number of suckler cows;
- (b) grants of additional payments per head for dairy cows;
- (c) the number of dairy cows with a view to the granting of the extensification payment for dairy cows kept on holdings located in mountain areas;
- (d) the stocking density.

Article 130a

Determination of retention periods

The last day of the retention periods referred to in Articles 90, 94(1), 101, 118c(2) and 123 shall be the day, whether a working day or not, preceding the day which bears the same number as the starting day for the period.

Article 131

Notification

1. In the event of application of Article 68(1) of Regulation (EC) No 1782/2003, the Member States shall notify the Commission:

- (a) annually by 15 September at the latest for information relating to the first six months of the current year, and 1 March for information relating to the second six months of the previous year, of the number of calves in respect of which the slaughter premium has been applied for and indicating whether the animals were slaughtered or exported;
- (b) by 31 July at the latest in each year and for the preceding calendar year of:
 - (i) the number of calves for which the slaughter premium was actually granted and indicating whether the aid was granted on slaughter or on export, as well as the number of farmers concerned;
 - (ii) the number of calves in respect of which the slaughter premium has not been granted in respect of the preceding calendar year due to the application of national ceilings.

2. In the event of application of Article 68(2)(a)(i) and (ii) of Regulation (EC) No 1782/2003, the Member States shall notify the Commission:

- (a) annually by 15 September at the latest for information relating to the first six months of the current year, and 1 March for information relating to the second six months of the previous year, of:
 - (i) the number of cows in respect of which the suckler cow premium has been applied for, broken down according to the schemes referred to in Article 125(2)(a) and (b) of Regulation (EC) No 1782/2003;
 - (ii) the number of bovine animals other than calves in respect of which the slaughter premium has been applied for and indicating whether the animals were slaughtered or exported;
- (b) by 31 July at the latest in each year and for the preceding calendar year of:
 - (i) the number of cows and heifers for which the suckler cow premium was actually granted, broken down according to the schemes referred to in Article 125(2)(a) and (b) of Regulation (EC) No 1782/2003, as well as the number of farmers concerned in the case of each scheme;
 - (ii) where applicable, the number of animals for which the premium was not granted in respect of the preceding calendar year due to application of the specific national ceiling for heifers.
 - (iii) where applicable, the grant of any national premium in addition to the suckler cow premium, indicating:
 - the conditions for granting the premium,
 - the amount granted per animal;

- (iv) the number of bovine animals other than calves for which the slaughter premium was actually granted and indicating whether the aid was granted on slaughter or on export, as well as the number of farmers concerned;
- (v) the number of bovine animals other than calves in respect of which the slaughter premium has not been granted in respect of the preceding calendar year due to the application of national ceilings.
3. In the event of application of Article 68(2)(b)(i) of Regulation (EC) No 1782/2003, the Member States shall notify the Commission:
- (a) annually by 15 September at the latest for information relating to the first six months of the current year, and 1 March for information relating to the second six months of the previous year, of the number of bovine animals other than calves in respect of which the slaughter premium has been applied for and indicating whether the animals were slaughtered or exported.
- (b) by 31 July at the latest in each year and for the preceding calendar year of:
- (i) the number of bovine animals other than calves for which the slaughter premium was actually granted and indicating whether the animals were slaughtered or exported, as well as the number of farmers concerned;
- (ii) the number of bovine animals other than calves in respect of which the slaughter premium has not been granted in respect of the preceding calendar year due to the application of national ceilings.
4. In the event of application of Article 68(2)(b)(ii) of Regulation (EC) No 1782/2003, the Member States shall notify the Commission:
- (a) annually by 15 September at the latest for information relating to the first six months of the current year, and 1 March for information relating to the second six months of the previous year, of the number of male bovines in respect of which the special premium has been applied for, broken down by age bracket and type of animal (bull or steer);
- (b) by 31 July at the latest in each year and for the preceding calendar year:
- (i) of the number of male bovines for which the special premium was actually granted, broken down by age bracket and type of animal (bull or steer), and the number of farmers concerned;
- (ii) of the number of animals broken down by age bracket for which the special premium was not granted in respect of the preceding calendar year due to the application of the regional ceiling.
5. Member States shall notify the Commission by 31 July at the latest in each year and for the preceding calendar year of the amounts of the premiums actually paid, according to the choice made as regards the partial implementation of the single payment scheme, after application of the reduction laid down in the second paragraph of Article 139 of Regulation (EC) No 1782/2003.
6. In the event of application of Article 71 of Regulation (EC) No 1782/2003, the Member States shall notify the Commission:
- (a) where applicable, annually by 15 September at the latest for information relating to the first six months of the current year, and 1 March for information relating to the second six months of the previous year, of the number of animals for which the deseasonalisation premium was actually granted, broken down according to whether they benefited from the first or second tranche of the special premium, and the number of farmers corresponding to each of the two age brackets;
- (b) by 31 July at the latest in each year and for the preceding calendar year of:
- (i) the number of male bovines, broken down according to the limits laid down in Article 132(2) of Regulation (EC) No 1782/2003, for which the extensification payment was actually granted, as well as the number of farmers concerned, shown separately in accordance with those limits;
- (ii) the number of cows and heifers, broken down according to the limits laid down in Article 132(2) of Regulation (EC) No 1782/2003 for which the extensification payment was actually granted, as well as the number of farmers, shown separately according to those limits;
- (iii) the number of dairy cows for which the extensification payment was actually granted;
- (iv) the number of animals for which the premium not affected by stocking density was actually granted, and the number of farmers concerned.
7. Member States shall communicate the details specified in this Article using the tables set out in Annexes XVIII and XIX.

SECTION 8

Transitional and final provisions

Article 132

Transitional provisions

The requirement to identify and register animals laid down in Article 138 of Regulation (EC) No 1782/2003 shall apply, for animals born before 1 January 1998, in accordance with the procedure laid down in Council Directive 92/102/EEC⁽¹⁾, save in the case of animals which are the subject of intra-Community trade.

⁽¹⁾ OJ L 355, 5.12.1992, p. 32

Article 133

Provisions applicable in the transitional period referred to in Article 71 of Regulation (EC) No 1782/2003

Without prejudice of the other Articles of this Chapter, Articles 96, 97, 98, 117 to 119 and 125 shall apply in the calendar years 2005 and 2006 as far as Member States decide to make use of the possibility provided for in Article 71 of Regulation (EC) No 1782/2003.

CHAPTER 14

Single Area Payment Scheme

(Article 143b of Regulation (EC) No 1782/2003)

Article 134

Minimum size of eligible area per holding

The minimum size of eligible area per holding for which payments may be requested at a level higher than 0.3 ha, as provided for in Article 143b(5) of Regulation (EC) No 1782/2003, is set out in Annex XX.

Article 135

Agricultural areas

The agricultural areas under the single area payment scheme, as provided for in Article 143b(4) of Regulation (EC) No 1782/2003, are set out in Annex XXI.

Article 136

Application of Regulation (EC) No 796/2004

Without prejudice to the third subparagraph of Article 143b (6) of Regulation (EC) No 1782/2003, Regulation (EC) No 796/2004 shall apply to the single area payment scheme except for Article 6(3), Article 7, Article 8(2)(b) and (c), Article 12(1)(c) and (2), Article 13(2) to (8), Article 14 (2) and (3), Articles 16 and 17, Article 21(3), Article 24(1)(b), (d) and (e), Article 26(1)(a), (b) and (c) and (2)(b), (c) and (d), Article 27(2)(g), (h), (i) and (j), Article 28(1)(d), Article 30(3), Article 31, Articles 34 to 40, Article 49(2) and (3), Article 50(2), (4), (5) and (6), Articles 51 to 64, Article 69 and Article 71(1) thereof.

Article 137

Single area payment application

1. The single area payment application shall be treated as a single application within the meaning of Article 2 (11) of Regu-

lation (EC) No 796/2004 for the purposes of applying that Regulation.

2. The single area payment application shall indicate the areas eligible in accordance with the conditions referred to in Article 143b(5) of Regulation (EC) No 1782/2003.

Article 138

Reductions and exclusions in respect of eligibility conditions

1. Except in cases of *force majeure* or exceptional circumstances as defined in Article 72 of Regulation (EC) No 796/2004, where, as a result of an administrative or on-the-spot check, it is found that the established difference between the area declared and the area determined, within the meaning of point (22) of Article 2 of Regulation (EC) No 796/2004, is more than 3 % but no more than 30 % of the area determined, the amount to be granted under the single area payment scheme shall be reduced, for the year in question, by twice the difference found.

If the difference is more than 30 % of the area determined, no aid shall be granted for the year in question.

If the difference is more than 50 %, the farmer shall be excluded once again from receiving aid up to an amount which corresponds to the difference between the area declared and the area determined. That amount shall be off-set against aid payments to which the farmer is entitled in the context of applications he lodges in the course of the three calendar years following the calendar year of the finding.

2. Where differences between the area declared and the area determined result from irregularities committed intentionally, the aid to which the farmer would have been entitled shall not be granted for the calendar year in question.

Moreover, where that difference is more than 20 % of the area determined, the farmer shall be excluded once again from receiving aid up to an amount which corresponds to the difference between the area declared and the area determined. That amount shall be off-set against aid payments to which the farmer is entitled in the context of applications he lodges in the course of the three calendar years following the calendar year of the finding.

3. For the purpose of establishing the area determined within the meaning of point (22) of Article 2 of Regulation (EC) No 796/2004, Article 143b(5) and the first subparagraph of Article 143b(6) of Regulation (EC) No 1782/2003 and Article 137 of this Regulation shall apply.

CHAPTER 15

COMPLEMENTARY NATIONAL DIRECT PAYMENTS

(Article 143c of Regulation (EC) No 1782/2003)

*Article 139***Coefficient of reduction**

Where in a given sector the complementary national direct payments would exceed the maximum level authorised by the Commission in accordance with Article 143c(7) of Regulation (EC) No 1782/2003, the rate of complementary national direct payments of the concerned sector shall be reduced proportionally by application of a coefficient of reduction.

*Article 140***Controls and sanctions**

1. Regulation (EC) No 796/2004 shall apply to the complementary national direct payment co-financed in accordance with Article 33h of Regulation (EC) No 1257/1999.

2. In case of no co-financing, new Member States concerned shall apply appropriate control measures in order to ensure that the conditions for the granting of the complementary national direct payments, defined by the Commission authorisation in accordance with Article 143c(7) of Regulation (EC) No 1782/2003, are complied with.

*Article 141***Communications**

New Member States shall submit a report providing information on the measures for the implementation of the complementary national direct payments before 30 June of the year following their implementation. The report shall cover at least the following:

- (a) any changes in the situation affecting the complementary national direct payments;
- (b) for each complementary national direct payment, the numbers of beneficiaries, hectares or units of payment paid;
- (c) a report on controls and sanctions applied in accordance with Article 140.

*Article 142***State aid**

Complementary National Direct Payments paid not in conformity with the authorisation by the Commission referred to in Article 143c(6) of Regulation (EC) No 1782/2003 shall be considered as unlawful State aid within the meaning of Council Regulation (EC) No 659/1999 ⁽¹⁾.

⁽¹⁾ OJ L 83, 27.3.1999, p. 1

CHAPTER 16

USE OF LAND SET ASIDE FOR THE PRODUCTION OF RAW MATERIALS

SECTION 1

Object and definitions*Article 143***Purpose**

1. Land set aside in the context of the direct support schemes provided for in Regulation (EC) No 1782/2003 may be used, in accordance with Article 55(b) and the first indent of Article 107(3) thereof, for producing raw materials for the manufacture within the Community of products not primarily intended for human or animal consumption, under the conditions laid down in this Chapter.

2. No payment shall be made in respect of set-aside land on which sugarbeet, Jerusalem artichokes or chicory roots are grown. However, all the provisions of this Chapter shall apply to these crops grown on land set aside in the same way as if such a payment were made.

These raw materials may be grown on set-aside land provided that:

- (a) the sugarbeet does not serve for the production of sugar, as defined by Commission Regulation (EC) No 314/2002 ⁽²⁾, either as an intermediate product, co-product or by-product;
- (b) the chicory roots and Jerusalem artichokes do not undergo the process known as hydrolysis as defined by Regulation (EEC) No 314/2002, either in their natural state or as an intermediate product such as inuline, or as a co-product such as oligofructose, or as any by-products.

*Article 144***Definitions**

For the purposes of this Chapter:

- (a) 'applicant' means a farmer using the land set aside in accordance with Article 55(b) and the first indent of Article 107(3) of Regulation (EC) No 1782/2003;
- (b) 'collector' means any person signing a contract as provided for in Article 147 who purchases on his own account raw materials listed in Article 145 and intended for the uses provided for in Annex XXIII;
- (c) 'first processor' means any user of agricultural raw materials who undertakes the first processing thereof with a view to obtaining one or more of the products referred to in Annex XXIII to this Regulation.

⁽²⁾ OJ L 50, 21.2.2002, p. 40

SECTION 2

Contract

Article 145

Use of raw material

1. Any agricultural raw material may be grown on the areas set aside pursuant to Article 55(b) and the first indent of Article 107(3) of Regulation (EC) No 1782/2003.

The economic value of the products used for non-food purposes referred to in Annex XXIII to this Regulation obtained by processing raw materials shall be higher than that of all other products intended for other uses and obtained by such processing, as determined by the valuation method set out in Article 163(3) of this Regulation.

2. The raw materials referred to in paragraph 1 shall be covered by a contract in accordance with Article 147 of this Regulation, without prejudice to Article 148.

3. Applicants shall deliver all raw materials harvested to a collector or first processor who shall take delivery of them and ensure that an equivalent quantity of such raw materials is used within the Community for the manufacture of one or more end products intended for non-food purposes as listed in Annex XXIII.

Where the first processor uses the raw material actually harvested to manufacture an intermediate product or a by-product, he may use an equivalent quantity of such intermediate products or by-products to manufacture one or more end products as referred to in the first subparagraph.

In the case referred to in the second subparagraph, or where the collector sells an equivalent quantity of the raw material harvested, the first processor or the collector shall so inform the competent authority with whom the security is lodged. Where such equivalent quantity is used in a Member State other than that in which the raw material is harvested, the competent authorities of the Member States concerned shall inform each other of the details of such transaction.

4. In accordance with the national provisions governing contractual relations, the first processor may delegate to a third party the collection of the raw material from the farmer applying for the aid. The processor remains solely responsible with regard to the obligations laid down by this Chapter.

Article 146

Derogations

1. Notwithstanding Article 145(2) and (3), Member States may permit applicants to:

- (a) use all the cereals or oilseeds covered by CN codes 1201 00 90, 1205 10 90, 1205 90 00, 1206 00 91 1206 00 91 and 1206 00 99 harvested:
 - (i) as fuel for heating their agricultural holding;

- (ii) for the production on the holding of power or biofuels;
- (b) process into biogas falling within CN code 2711 29 00, on their holdings, all raw materials harvested.

2. In the cases referred to in paragraph 1, applicants shall:

- (a) undertake, by way of a declaration in place of the contract referred to in Article 147, to use or process directly the raw material covered by the declaration; Articles 147 to 164 shall apply *mutatis mutandis*;
- (b) have all the raw material harvested weighed by a body or an undertaking designated by the Member State and keep separate accounts for the raw material used and the products and by-products resulting from its processing; however, in the case of cereals and oilseeds, and of straw, and where the entire plant is used, weighing may be replaced by volumetric measurement of the raw material.

3. Member States applying paragraph 1 shall introduce adequate control measures to ensure that the raw material is used directly on the holding or is processed into biogas falling within CN code 2711 29 00.

4. Cereals and oilseeds used in accordance with paragraph 1(a) shall be denatured in accordance with the method laid down by the Member State. The Member States may, however, authorise the oil produced by processing oilseeds in accordance with paragraph 1(a)(ii) to be denatured instead of the oilseeds themselves, provided that such denaturing takes place immediately after the seeds are processed into oil and that the use to which the seeds are put is checked.

Article 147

Contract

1. In support of their aid applications, applicants shall submit to their competent authorities the contracts they have concluded with a collector or a first processor. However, Member States may decide that the contract may only be concluded between an applicant and a first processor.

2. Applicants shall ensure that such contracts specify the following:

- (a) the names and addresses of the parties to the contract;
- (b) the duration of the contract;
- (c) the species of all raw materials concerned and the area planted with each species;
- (d) any conditions applicable to the delivery, and for oilseeds the forecast quantities, deemed representative by the competent authority, of the raw material in question;
- (e) an undertaking to fulfil their obligations pursuant to Article 145(3);
- (f) the intended primary end uses for the raw material, each end use complying with the conditions laid down in Articles 145(1) and 163(3).

3. Applicants shall ensure that the contracts are concluded in time to allow collectors or first processors to deposit a copy with their competent authorities within the time limits laid down in Article 157(1).

4. For the purposes of control, Member States may require each applicant to conclude a single supply contract for each raw material.

5. Where contracts relate to rapeseed, colza seed, sunflower seed or soya beans covered by CN codes 1205 10 90, 1205 90 00, 1206 00 91, 1206 00 99 or 1201 00 90, applicants shall ensure that, in addition to the information required under paragraph 2, they specify the total forecast quantity of by-products intended for uses other than human or animal consumption, expressed by species in both cases.

The quantities shall be calculated on the basis of the following ratios:

- (a) 100 kilograms of rapeseed and/or colza seed covered by CN code 1205 10 90 or 1205 90 00 shall be deemed equivalent to 56 kilograms of by-products;
- (b) 100 kilograms of sunflower seed covered by CN codes 1206 00 91 or 1206 00 99 shall be deemed equivalent to 56 kilograms of by-products;
- (c) 100 kg of soya beans covered by CN code 1201 00 90 shall be deemed equivalent to 78 kg of by-products.

Article 148

Raw materials which need not be covered by contracts

By way of derogation from Article 147, the raw materials listed in Annex XXII need not necessarily be covered by contracts.

To qualify for payments, applicants wishing to use land set aside for growing these raw materials shall submit a written declaration with their payment applications to the competent authorities in their Member States, to the effect that the raw materials concerned will only be used or sold for purposes in accordance with Annex XXIII.

Article 149

Soya bean meal equivalents for oleaginous by-products

1. The competent authorities concerned shall inform the Commission, as soon as possible and not later than 30 June of the year in which the raw materials are to be harvested, of the total quantity, by species, of by-products intended for human or animal consumption and resulting from the contracts as referred to in Article 147, covering rapeseed, colza seed, sunflower seeds and soya beans falling within CN codes 1205 10 90, 1205 90 00, 1206 00 91, 1206 00 99 or 1201 00 90, and the area by species of these oilseeds.

2. On the basis of the information provided pursuant to paragraph 1, the Commission shall calculate the forecast total quantity of by-products for human or animal consumption, expressed in terms of soya bean meal equivalent applying the following coefficients:

- soya cake: 48 %
- colza cake: 32 %
- sunflower cake: 28 %.

If, as a result of the calculation made pursuant to the first subparagraph, the Commission finds that there is an overrun of the 1 million tonnes ceiling for by-products intended for human or animal consumption, it shall fix, as soon as possible and not later than 31 July of the year in which the raw materials are to be harvested, the percentage reduction to be applied to each contract, for the purpose of calculating the maximum quantity of by-products for human or animal consumption.

SECTION 3

Amendment and termination of contracts

Article 150

Amendment and termination of contracts

Where the parties to a contract amend or terminate the contract after applicants have lodged an aid application, applicants may maintain such aid applications only on condition that, with a view to allowing the requisite inspections to be carried out, they inform their competent authorities of such amendment or termination, no later than the closing date set in the Member State concerned for amendment of the application.

Article 151

Exceptional circumstances

Without prejudice to Article 150, where applicants inform their competent authorities that, owing to exceptional circumstances, they will be unable to supply all or part of the raw materials specified in the contract, the competent authorities may, after obtaining sufficient evidence of such exceptional circumstances, authorise such amendments to contracts as appear justified, or may authorise their termination.

Where the land covered by a contract is reduced as a result of amendments thereto, or where a contract is terminated, then, in order to maintain their right to payments, applicants shall:

- (a) once more set aside the land in question by any means permitted by the competent authorities;
- (b) abstain from selling, transferring or using raw materials grown on land struck out of the contracts.

Article 152

Changes in end uses

Without prejudice to Article 150, collectors or first processors may alter the intended primary end uses of raw materials, as referred to in Article 147(2)(f), once the raw materials under contract have been delivered to them and once the conditions laid down in Article 154(1) and the first subparagraph of Article 157(3) have been fulfilled.

Changes in end uses shall be made in compliance with the conditions laid down in the second subparagraph of Article 145(1) and Article 163(3).

The collectors or first processors shall give prior notice to their competent authorities with a view to the requisite controls.

SECTION 4

Representative yields and quantities delivered

Article 153

Representative yields

Each year the Member States shall establish, using an appropriate procedure, representative yields which must be attained, and shall inform the applicants concerned thereof.

However, the raw materials listed in Annex XXII may be exempt from the representative yields.

Article 154

Quantities to be delivered

1. Applicants shall declare the total quantity of raw materials harvested by species to their competent authorities and shall confirm the quantities of raw materials delivered and the parties to whom such deliveries are made.

2. The actual quantities to be delivered by the applicants to the collectors or first processors must at least correspond to the representative yield.

However, in duly justified cases, the Member States may, by way of an exception, accept a quantity up to 10 % below the representative yield.

Furthermore, where the competent authorities have authorised the amendment or termination of contracts in accordance with Article 151, they may, where it seems justified to do so, reduce the quantities that applicants are required to deliver under the first subparagraph.

SECTION 5

Conditions of payment of the aid

Article 155

Payment

1. The aid may be paid to applicants before the raw material is processed. However, such payments shall only be made

where the requisite quantities of raw materials pursuant to this Chapter have been delivered to the collector or first processor and where:

- (a) the declaration provided for in Article 154(1) has been made;
- (b) a copy of the contract has been deposited with the collector's or first processor's competent authority in accordance with Article 158(1) and the conditions referred to in Article 145(1) have been fulfilled;
- (c) the competent authority has received proof that the full security provided for in Article 158(2) has been lodged;
- (d) the competent authority responsible for the payment has checked that the conditions laid down in Article 147 have been met in respect of each application.

2. In the case of biennial crops, where the raw materials are harvested, and hence delivered, in the course of the second year of cultivation only, payment shall be made in each of the two years following the conclusion of the contract as provided for in Article 147, on condition that the competent authorities establish that:

- (a) the obligations referred to in paragraph 1(b), (c) and (d) of this Article are fulfilled as from the first year of cultivation; and
- (b) the obligations referred to in paragraph 1(a) are fulfilled, and the information referred to in the first subparagraph of Article 157(3) is communicated, in the second year of cultivation.

In respect of the first year of cultivation, payments shall be made only if the competent authorities have received proof that the security provided for in Article 158(2) has been lodged. In respect of the second year of cultivation, payment may be made without the security being lodged.

3. In the case of permanent or multiannual crops, the payment of the aid shall be made each year from the date of conclusion of the contract. The conditions laid down in paragraph 2 shall be applied *mutatis mutandis*.

SECTION 6

Obligations on collectors and applicants

Article 156

Number of processors

Non-food products shall be produced at the most by a third successive processor.

Article 157

Obligations

1. Collectors or first processors shall deposit a copy of the contract with their competent authorities under a timetable to be established by the Member State concerned and no later than the closing date for the submission of aid applications for the year in question in the Member State concerned.

Where applicants and collectors or first processors amend or terminate contracts prior to the date referred to in Article 150 in a given year, the collectors or first processors shall deposit with their competent authorities a copy of the amended or terminated contract, no later than that date.

2. First processors shall provide their competent authorities with the requisite information on the processing chain in question, in particular as regards prices and the technical processing coefficients to be used for determining the quantities of end products that may be obtained as referred to in the second subparagraph of Article 164(2).

3. Collectors or first processors who have taken over the raw materials from applicants shall inform their competent authorities of the quantities of raw materials received, specifying the species, the name and address of the party to the contract who delivered the raw materials, the place of delivery and the contract reference, within a time limit to be set by the Member States that allows the payments to be made within the period specified in Article 28 of Regulation (EC) No 1782/2003.

Where the Member States of the collectors or first processors are not the same as the Member States in which the raw materials have been grown, the competent authorities concerned shall inform the competent authorities of the applicants of the total quantities of raw materials delivered within 40 working days of receipt of the information referred to in the first subparagraph.

SECTION 7

Securities

Article 158

Securities lodged by collectors or first processors

1. Collectors or first processors shall lodge a full security as provided for in paragraph 2 with their competent authorities by the closing date for submission of payment applications for the year in question in the Member State concerned.

2. The securities to be lodged in respect of each raw material shall be calculated by multiplying the sum of all areas covered by a contract signed by the collector or first processor concerned and used to produce that raw material by the rate of EUR 250 per hectare.

3. Where contracts are amended or terminated in accordance with Articles 150 or 151, the securities lodged shall be adjusted accordingly.

4. A percentage of the security shall be released for each raw material on condition that the competent authority of the collector or first processor concerned is in possession of proof:

- (a) that the quantity of raw material in question has been processed in accordance with the uses referred to in Article 147(2)(f), account being taken, where necessary, of any changes pursuant to Article 152; and
 - (b) where contracts relate to rapeseed, colza seed, sunflower seed or soya beans covered by CN codes 1205 00 90, 1206 00 91, 1206 00 99 or 1201 00 90 and the procedure laid down in the second subparagraph of Article 149(2) applies, that the quantity of by-products in excess of the maximum quantity for human or animal consumption has found outlets other than the feed or foodstuffs markets.
5. Without prejudice to paragraph 4, where the security has been lodged by the collector, it shall be released once the raw material in question has been delivered to the first processor, provided that the collector's competent authority has proof that the first processor has lodged an equivalent security with their competent authority.

Article 159

Primary and subordinate requirements

1. The following obligations shall constitute primary requirements within the meaning of Article 20 of Regulation (EEC) No 2220/85:

- (a) the obligation to process the quantities of raw materials principally into the end products specified in the contract. The raw materials shall be processed by 31 July of the second year following that of harvest;
- (b) the obligation to find, before the date referred to in point (a), outlets other than the feed or foodstuffs markets for the quantities of by-products in excess of the maximum quantity for human or animal consumption, where the procedure provided for in the second subparagraph of Article 149(2) of this Regulation applies;
- (c) the obligation that products be accompanied by a T5 control copy in accordance with Articles 160 and 161 of this Regulation.

2. The following obligations, incumbent on collectors or processors, shall constitute subordinate requirements within the meaning of Article 20 of Regulation (EEC) No 2220/85:

- (a) the obligation to take delivery of all raw materials delivered by applicants pursuant to Article 145(3) of this Regulation;
- (b) the obligation to deposit copies of contracts in accordance with Article 157(1) of this Regulation;
- (c) the obligation to provide the information required in accordance with the first subparagraph of Article 157(3) of this Regulation;
- (d) the obligation to lodge a security in accordance with Article 158(1) of this Regulation.

SECTION 8

Documents for sale in, transfer to, or delivery to another Member State or export

Article 160

T5 control copy

1. Where processors sell or transfer to processors in other Member States intermediate products covered by contracts as provided for in Article 147, the products shall be accompanied by T5 control copies issued in accordance with Regulation (EEC) No 2454/93.

Where collectors sell or transfer to first processors established in other Member States raw materials covered by contracts, the first subparagraph shall apply.

2. One of the following shall be entered under 'Other' in box 104 of the T5 control copy:

- Producto destinado a su transformación o entrega de acuerdo con lo establecido en el artículo 147 del Reglamento (CE) n.º 1973/2004 de la Comisión;
- Použito pro zpracování nebo dodávku v souladu s článkem 147 nařízení Rady (ES) 1973/2004
- Skal anvendes til forarbejdning eller levering i overensstemmelse med artikel 147 i Kommissionens forordning (EF) nr. 1973/2004
- Zur Verarbeitung oder Lieferung gemäß Artikel 147 der Verordnung (EG) Nr. 1973/2004 der Kommission zu verwenden
- Προς χρήση για μεταποίηση ή παράδοση σύμφωνα με το άρθρο 147 του κανονισμού (ΕΚ) αριθ. 1973/2004 της Επιτροπής
- To be used for processing or delivery in accordance with Article 147 of Commission Regulation (EC) No 1973/2004
- Kasutamiseks töötlemisel või tarnimisel vastavalt komisjoni määruse (EÜ) nr 1973/2004 artiklile 147
- À utiliser pour transformation ou livraison conformément aux dispositions de l'article 147 du règlement (CE) n.º 1973/2004 de la Commission
- Da consegnare o trasformare conformemente all'articolo 147 del regolamento (CE) n. 1973/2004 della Commissione

- Izmantot pārstrādei vai piegādei saskaņā ar Komisijas Regulas (EK) Nr. 1973/2004 147. panta nosacījumiem
- Naudoti perdirbimui arba pristatymui pagal Komisijos reglamento (EB) Nr. 1973/2004 147 straipsnio nuostatas
- A Bizottság 2004/1973/EK rendelete szerint feldolgozásra, vagy átadásra használandó
- Te gebruiken voor verwerking of aflevering overeenkomstig artikel 147 van Verordening (EG) nr. 1973/2004 van de Commissie
- Do wykorzystania w procesie przetwórstwa bądź do dostawy zgodnie z postanowieniami zawartymi w art. 147 rozporządzenia Komisji (WE) nr 1973/2004
- A utilizar para transformação ou entrega em conformidade com o artigo 147 do Regulamento (CE) n.º 1973/2004 da Comissão
- Na spracovanie alebo dodávku v súlade s článkom 147 nariadenia Komisie (ES) č. 1973/2004
- Se uporablja za predelavo ali dostavo v skladu s členom 147 Uredbe Komisije (ES) št. 1973/2004
- Käytetään jalostamiseen tai toimittamiseen komission asetuksen (EY) N:o 1973/2004 147 artiklan mukaisesti
- Används till bearbetning eller leverans i enlighet med artikel 147 i kommissionens förordning (EG) nr 1973/2004.

Article 161

T5 control copy for export

Where one or more end products, intermediate products, co-products or by-products covered by contracts as provided for in Article 147 are intended for export to third countries, a T5 control copy shall be drawn up by the competent authority of the Member State in which those products are obtained to cover their transport within the Community.

One of the following shall be entered under 'Other' in box 104 of the T5 control copy:

- Este producto no podrá acogerse a ninguna de las medidas previstas en el apartado 2 del artículo 1 del Reglamento (CE) n.º 1258/1999 del Consejo
- Pro tento produkt nemůže být poskytnuto financování podle čl. 1 odst. 2 nařízení (ES) č. 1258/1999 Rady

- De finansieringsforanstaltninger, der er omhandlet i artikel 1, stk. 2, i Rådets forordning (EF) nr. 1258/1999, kan ikke anvendes på dette produkt
- Dieses Erzeugnis kommt für keine Finanzierungen gemäß Artikel 1 Absatz 2 der Verordnung (EG) Nr. 1258/1999 des Rates in Betracht
- Το προϊόν αυτό δεν μπορεί να τύχει καμιάς από τις χρηματοδοτήσεις που προβλέπονται στο άρθρο 1 παράγραφος 2 του κανονισμού (ΕΚ) αριθ. 1258/1999 του Συμβουλίου
- This product shall not qualify for any benefit pursuant to Article 1(2) of Council Regulation (EC) No 1258/1999
- Kõnealuse toote puhul nõukogu määruse (EÜ) nr 1258/1999 artikli 1 lõikele 2 vastavaid soodustusi ei anta.
- Ce produit ne peut pas bénéficier des financements prévus à l'article 1^{er}, paragraphe 2, du règlement (CE) n° 1258/1999 du Conseil
- Questo prodotto non può beneficiare delle misure di cui all'articolo 1, paragrafo 2 del regolamento (CE) n. 1258/1999 del Consiglio
- Šis produkts nevar saņemt Padomes Regulas (EK) Nr. 1258/1999 1. panta 2. punktā noteikto finansējumu
- Šiam produktui netaikoma jokia išmoka pagal Tarybos reglamento (EB) Nr. 1258/1999 1 straipsnio 2 punktą.
- Ez a termék nem jogosult az 1258/1999/EK tanácsi rendelet 1. cikkének (2) bekezdése szerinti semmilyen ellátásra
- Dit product komt niet in aanmerking voor financieringen zoals bedoeld in artikel 1, lid 2, van Verordening (EG) nr. 1258/1999 van de Raad
- Ten produkt nie kwalifikuje się do finansowania przewidzianego w art. 1 ust. 2 rozporządzenia Rady (WE) nr 1258/1999
- O presente produto não pode beneficiar de medidas ao abrigo do n.º 2 do artigo 1.º do Regulamento (CE) n.º 1258/1999 do Conselho
- Tento produkt nie je oprávnený na financovanie uvedené v odseku 2 článku 1 nariadenia Rady (ES) č. 1258/1999
- Ta proizvod ni upravičen do financiranja iz člena 1(2) Uredbe Sveta (ES) št. 1258/1999
- Tähän tuotteeeseen ei sovelleta neuvoston asetuksen (EY) N:o 1258/1999 1 artiklan 2 kohdan mukaisia toimenpiteitä
- De åtgärder som avses i artikel 1.2 i rådets förordning (EG) nr 1258/1999 kan inte användas för denna produkt.

The first and second subparagraphs shall apply only where end products listed in Annex XXIII, intermediate products, co-

products or by-products covered by contracts as provided for in Article 147 would attract export refunds if they were obtained from raw materials grown otherwise than under this scheme.

Article 162

Alternatives to the T5 control copy

Notwithstanding Article 159(1)(b), if the T5 control copy is not returned to the office of departure of the body responsible for control in the Member State in which the collector or the first processor is established two months after expiry of the deadline provided for in Article 159(1)(a), as a result of circumstances for which the first processor is not responsible, the following documents may be accepted as alternatives to the T5 control copy:

- (a) purchase invoices for the intermediate products;
- (b) statements by the final processor verifying final processing into non-food products;
- (c) certified photocopies from the final processor of accounting documents proving that processing has been carried out.

SECTION 9

Checks

Article 163

Record keeping

1. The competent authority of the Member State shall specify the records to be kept by collectors or processors and the frequency thereof, which shall be at least monthly.

In the case of collectors, such records shall include at least the following information:

- (a) the quantities of all raw materials purchased and sold for processing under this scheme;
- (b) the names and addresses of the first processors.

In the case of processors, such records shall include at least the following information:

- (a) the quantities of different raw materials purchased for processing;
- (b) the quantities of raw materials processed and the quantities and types of end products, co-products and by-products obtained therefrom;
- (c) wastage during processing;
- (d) the quantities destroyed and the reasons for such destruction;

- (e) the quantities and types of products sold or transferred by the processor and the prices obtained;
- (f) where applicable, the names and addresses of the subsequent processors.

2. The competent authority of the collector or the first processor shall check that the contract submitted complies with the conditions laid down in Article 145(1). Where those conditions are not met, the applicant's competent authorities shall be notified.

3. With a view to calculating the economic value of the products referred to in Article 145(1), the competent authorities concerned shall, on the basis of the information referred to in Article 157(2), compare the sum of the values of all non-food products with the sum of the values of all other products intended for other uses and obtained from the same processing operation. Each value shall equal the relevant quantity multiplied by the average of the ex-factory prices recorded during the previous marketing year. Where such prices are not available, the competent authorities shall determine the relevant prices, in particular on the basis of the information referred to in Article 157(2).

Article 164

Checks at the premises of collectors and processors

1. The competent authorities of the Member States in which collectors are located shall carry out checks on the premises of at least 25 % of the collectors established in their territory, selected on the basis of a risk analysis. These shall comprise physical checks and inspections of commercial documents, with a view to verifying consistency between the purchases of raw materials and the corresponding deliveries.

2. The competent authorities of the Member States in which processing takes place shall verify compliance with Article 146(1) at the premises of at least 25 % of the processors located in their territory, selected on the basis of a risk analysis. Such checks shall involve at least:

- (a) a comparison of the sum of the values of all the non-food products with the sum of the values of all other products intended for other uses and obtained from the same processing operation;
- (b) analysis of the processor's production system, comprising physical checks and inspections of commercial documents, with a view to verifying, in the case of processors, that deliveries of raw materials, end products, co-products and by-products tally.

For the purpose of the checks referred to in point (b) of the first subparagraph, the competent authorities shall base themselves in particular on the technical processing coefficients for the raw materials concerned. Where such coefficients exist for exports in Community legislation, they shall be applied. Where they do not but other coefficients do exist in Community legislation, they shall be applied. In all other cases, inspection shall

rely mainly on the coefficients generally accepted by the processing industry.

3. For the processing operations referred to in Article 146, checks shall be carried out on 10 % of applicants selected on the basis of a risk analysis taking account of:

- (a) aid amounts;
- (b) the number of agricultural parcels and the area covered by an aid application;
- (c) developments since the previous year;
- (d) the findings of checks made in past years;
- (e) other parameters to be defined by the Member States, based on the representativeness of the declarations submitted.

4. Where the checks referred to in paragraph 3 reveal irregularities in at least 3 % of cases, the competent authority shall carry out additional checks during the year and shall consequently increase the percentage of farmers to be subject to an on-the-spot check the following year.

5. If it has been provided that certain elements of the checks referred to in paragraphs 1, 2 and 3 may be carried out on the basis of a sample, that sample must guarantee a reliable and representative level of inspection.

6. Every on-the-spot check shall be the subject of an inspection report signed by the inspector giving the details of the checks carried out. The reports shall indicate in particular:

- (a) the date of the check;
- (b) the persons present;
- (c) the period checked;
- (d) the checking techniques used including, where applicable, reference to sampling methods;
- (e) results of the check.

Article 165

Production of hemp

The provisions relating to hemp referred to in Article 29 of Regulation (EC) No 795/2004 and in Article 33 of Regulation (EC) No 796/2004 shall apply.

Article 166

Additional measures and mutual assistance

1. The Member States shall take all further measures required for the proper application of this Chapter and shall give the mutual assistance needed for the purposes of checks required pursuant to this Chapter. Where this Chapter does not provide for appropriate reductions and exclusions, the Member States may apply appropriate national sanctions against market participants involved in the procedure for granting aid.

2. As far as necessary or as required by this Chapter, the Member States shall assist one another mutually to ensure effective checks, and enable the authenticity of documents submitted and the accuracy of the data exchanged to be verified.

SECTION 10

Exclusion from the scheme and notifications

Article 167

Exclusion of raw materials from the scheme

The Member States may exclude any agricultural raw material from the scheme established by this Chapter where such materials raise difficulties from the viewpoint of controls, public health, the environment, criminal law, or a reduced rate of final non-food products.

Article 168

Minimum area

Member States may fix a minimum cultivated area for each raw material referred to in Article 145(1).

Article 169

Notifications

The Member States shall forward to the Commission, before 15 October of the year following the end of the year in question, the following information:

- (a) the areas which result from the contracts referred to in Article 147 and the declarations referred to in Articles 146(2) and 148, for each raw material;
- (b) the quantities of each type of raw material, end product, by-product and co-product obtained, with details of the type of raw material used;
- (c) the measures taken under Article 146;
- (d) the raw materials excluded from the scheme under Article 167;
- (e) the minimum areas fixed in accordance with Article 168.

CHAPTER 17

HOPS AREA AID

Article 170

Additional payment to hop farmers

1. The additional payment referred to in the second paragraph of Article 68a of Regulation (EC) No 1782/2003 shall be granted to farmers producing hops on a per hectare basis for the areas respecting the conditions laid down in Article 110o of that Regulation, provided that:

- a) they have been planted at a uniform density of at least 1 500 plants per hectare in the case of double stringing/wiring, or 2 000 plants per hectare in the case of single stringing/wiring;
- b) they have undergone normal tending operations.

2. An area 'planted with hops' as referred to in the second indent of Article 110o of Regulation (EC) No 1782/2003 shall mean the area bounded by a line joining the outer stays of the poles. Where there are hop plants on that line, an additional strip of a width corresponding to the average width of an alleyway within that parcel shall be added to each side of that area. The additional strip must not form part of a public right of way. The two headlands at the ends of the hop rows that are needed for manoeuvring agricultural machinery are included in the area, provided that the length of neither headland exceeds eight metres and they do not form part of a public right of way.

3. Areas planted with young hop plants grown chiefly as nursery products are not eligible for the additional payment.

4. The total sum available for additional payments shall be distributed evenly over the eligible areas planted with hops on the territory of the Member State concerned.

Article 171

Payments to recognised hop producer groups

1. Recognised producer groups shall apply for the payment referred to in the second paragraph of Article 68a of Regulation (EC) No 1782/2003 not later than 1 September of the year of the harvest.

2. The sum paid to the recognised producer group shall be committed for the measures laid down in Article 7(1)(a) to (d) of Regulation (EEC) No 1696/71 within 3 years from the date of payment. Any amount not committed within this period shall be paid back to the paying agency and deducted from the expenditure financed under the EAGGF Guarantee Section.

3. Aid withheld in respect of the harvests preceding the 2005 harvest in conformity with Article 12(5)(c) of Regulation (EEC) No 1696/71 shall be spent before 31 December 2008.

4. A Member State making payments to recognised producer groups shall send on an annual basis a report to the Commission on the use of the payment by the producer groups recognised by it, including a description of the measures laid down in Article 7(1)(a) to (d) of Regulation (EEC) No 1696/71 financed by means of the payment. The report shall be sent by 30 June of each year at the latest.

5. The total sum available in a given Member State as payments to recognised producer groups referred to in the second paragraph of Article 68a of Regulation (EC) No 1782/2003 shall be distributed to those groups in proportion to the areas respecting the conditions in Article 170 of this regulation for which their members have submitted an application pursuant to Title II of part II of Regulation (EC) No 796/2004.

CHAPTER 18
FINAL PROVISIONS

Article 172

Repeals

1. Regulations (EEC) No 1686/72, (EEC) No 1445/76, (EC) No 1644/1996, (EC) No 2316/1999, (EC) No 2461/1999, (EC) No 2550/2001, (EC) No 2199/2003 and (EC) No 2237/2003 are repealed with effect from 1 January 2005.

However they shall continue to apply to aid applications relating to the 2004/2005 marketing year or premium period and previous marketing years or premium periods. In the event of application of Article 66 or Article 71 of Regulation (EC) No 1782/2003, Articles 20(2) to (5) of Regulation (EC) No 2316/1999 shall remain applicable until the expiration of the farmers' undertakings.

2. Regulation (EC) No 2342/1999 is repealed with effect from 1 January 2005. It shall remain applicable to applications submitted in respect of the year 2004.

3. Regulation (EC) No 609/1999 is repealed with effect from 1 January 2005. However, it shall continue to apply to applications for direct payments in respect of the 2004 harvest and of the harvest 2005 in the event of application of Article 71(1) of Regulation (EC) No 1782/2003.

4. References to the repealed acts shall be construed as references to this Regulation.

Article 173

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 to aid applications relating to marketing years or premium period starting from 1 January 2005, with the exception of Article 10 which shall apply from the date of the entry into force of this Regulation.

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

Done at Brussels, 29 October 2004

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX I

TEST FOR BITTER LUPINS REFERRED TO IN ARTICLE 2(5)

To be performed on a sample of 200 grains taken from a batch of 1 kg from each lot of 20 t maximum.

The test is intended solely to provide qualitative evidence of the presence of bitter grains in the sample. The homogeneity tolerance is 1 grain per 100. Use the Grain-Cut method according to Von Sengbusch (1942), Ivanov and Smirnova (1932) and Eggebrecht (1949). Cut the dry or swollen grains crosswise. Place the half-grains in a sieve and dip in an iodine solution for ten seconds, then rinse under water for five seconds. The cut surfaces of bitter grains turn brown while those low in alkaloids remain yellow.

To prepare the iodine solution, dissolve 14 g of potassium iodate in as little water as possible, add 10 g of iodine and dilute to 1 000 cm³. Leave the solution to stand for one week before use. Store in brown bottles. Dilute the stock solution to three to five times its initial volume before using.

ANNEX II

CROP-SPECIFIC PAYMENT FOR RICE**Calculation of the coefficient of reduction referred to in Article 13**

1. For the observation of a possible overrun of the base area referred to in Article 82 of the Regulation (EC) No 1782/2003, the competent authority of the Member State shall take into account, on the one hand, the base areas or sub-base areas, fixed in Article 81 of that Regulation, and on the other hand, the total of the areas for which aid applications have been submitted for these base areas and sub-base areas.
2. In establishing the total area for which aid applications have been submitted, account shall not be taken of applications or parts of applications that a check has shown to be clearly unjustified.
3. If an overrun is observed for certain base areas or sub-base areas, the Member State shall establish for these, the percentage of overrun, calculated with two decimal places according to the deadline fixed in Article 18(2) of this Regulation. When an overrun can be foreseen, the Member State shall inform the producers forthwith.
4. The coefficient of reduction of the crop-specific payment for rice shall be calculated, in accordance with Article 82 of Regulation (EC) No 1782/2003, according to the following formula:

Reduction coefficient = reference area of the sub-base area divided by the total area for which aid applications have been submitted for this sub-base area.

The reduced crop-specific payment for rice shall be calculated according to the following formula:

Reduced crop-specific aid for rice = crop-specific aid for rice multiplied by the reduction coefficient.

This reduction coefficient and this reduced crop-specific payment for rice shall be calculated for each sub-base area, after application of the redistribution provided for in Article 82(2) of Regulation (EC) No 1782/2003. Redistribution shall be done to the profit of the sub-base areas for which limits have been exceeded. It shall be done proportionally to the overruns noted in the sub-base areas for which limits have been exceeded.

ANNEX III

CROP-SPECIFIC PAYMENT FOR RICE

A. Area sown for which an aid has been applied (provisional data).
Information referred to in Article 14(1)(a)

Marketing year: 2.../2... Member State:

(for France only) base area:

sub-area	reference area (in hectares) (*)	variety	area sown for which an aid has been applied (in hectares) (**)	percentage overrun
Name of sub-area 1		Variety 1		
		Variety 2		
		Variety 3		
		Variety 4		
		Variety 5		
			
		TOTAL		
Name of sub-area 2		Variety 1		
		Variety 2		
		Variety 3		
		Variety 4		
		Variety 5		
			
		TOTAL		
Name of sub-area 3		Variety 1		
		Variety 2		
		Variety 3		
		Variety 4		
		Variety 5		
			
		TOTAL		
.....		Variety 1		
		Variety 2		
		Variety 3		
		Variety 4		
		Variety 5		
			
		TOTAL		
TOTAL				

(*) Article 81 of Regulation (EC) No 1782/2003.

(**) Article 80(1) of Regulation (EC) No 1782/2003.

B. Area sown for which an aid has been applied (definitive data).
Information referred to in Article 14(1)(b)

Marketing year: 2.../2... Member State:

(for France only) base area:

sub-area	reference area (in hectares) (*)	variety	area sown for which an aid has been applied (in hectares) (**)	percentage overrun
Name of sub-area 1		Variety 1		
		Variety 2		
		Variety 3		
		Variety 4		
		Variety 5		
			
		TOTAL		
Name of sub-area 2		Variety 1		
		Variety 2		
		Variety 3		
		Variety 4		
		Variety 5		
			
		TOTAL		
Name of sub-area 3		Variety 1		
		Variety 2		
		Variety 3		
		Variety 4		
		Variety 5		
			
		TOTAL		
.....		Variety 1		
		Variety 2		
		Variety 3		
		Variety 4		
		Variety 5		
			
		TOTAL		
TOTAL				

(*) Article 81 of Regulation (EC) No 1782/2003.

(**) Article 80(1) of Regulation (EC) No 1782/2003.

C. Area sown for which an aid has been paid.
Information referred to in Article 14(1)(c)

Marketing year: 2.../2... Member State:

(for France only) base area:

sub-area	reference area (in hectares) (*)	variety	area sown for which an aid has been paid (in hectares)	specific aid paid (EUR/ha) (**)
Name of sub-area 1		Variety 1		
		Variety 2		
		Variety 3		
		Variety 4		
		Variety 5		
			
		TOTAL		
Name of sub-area 2		Variety 1		
		Variety 2		
		Variety 3		
		Variety 4		
		Variety 5		
			
		TOTAL		
Name of sub-area 3		Variety 1		
		Variety 2		
		Variety 3		
		Variety 4		
		Variety 5		
			
		TOTAL		
.....		Variety 1		
		Variety 2		
		Variety 3		
		Variety 4		
		Variety 5		
			
		TOTAL		
TOTAL				

(*) Article 81 of Regulation (EC) No 1782/2003.

(**) Article 82 of Regulation (EC) No 1782/2003 and Annex II to this Regulation.

ANNEX IV

referred to in Articles 54(3) and 59(1)

BASE AREAS

(1 000 ha)

Region	All crops	of which maize	of which silage grass
BELGIUM			
Total	489,5	96,4	
of which: Flanders-Brussels			
DENMARK	2 018,6		
GERMANY	10 159,4 ⁽¹⁾	540,3 ⁽³⁾	
Schleswig-Holstein	506,2		
Hamburg	5,1		
Lower Saxony	1 424,7		
Bremen	1,8		
North Rhine-Westphalia	948,5		
Rhineland-Palatinate	368,6		
Hessen	461,4		
Baden-Württemberg	735,5	122,1	
Bavaria	1 776,0	418,2	
Saarland	36,6		
Berlin	2,9		
Brandenburg	889,6		
Mecklenburg-Western Pomerania	968,2		
Saxony	599,0		
Saxony-Anhalt	880,9		
Thuringia	554,4		
GREECE	1 491,7	222,1	
SPAIN			
Regadío	1 371,1	403,4	
Secano	7 849,0		
FRANCE			
Total	13 582,1		
Base area for maize		613,8 ⁽²⁾	
Irrigated base area	1 209,7 ⁽²⁾		
IRELAND	345,6	0,2	
ITALY	5 801,2	400,8	
LUXEMBOURG	42,8		
NETHERLANDS	441,7	208,3	
AUSTRIA	1 203,5		

(1 000 ha)

Region	All crops	of which maize	of which silage grass
PORTUGAL			
Azores	9,7		
Madeira			
— Regadio	0,31	0,29	
— Other	0,30		
Continental			
— Regadio	293,4	221,4	
— Other	622,7		
FINLAND	1 591,5		200,0
SWEDEN	1 737,1		130,0
UNITED KINGDOM			
England	3 794,6	33,2 ⁽³⁾	
Scotland	551,6		
Northern Ireland	52,9		
Wales	61,4	1,2 ⁽¹⁾	

⁽¹⁾ Where Article 102(5) of Regulation (EC) No 1782/2003 is applied.

⁽²⁾ Including 284 000 ha irrigated maize.

⁽³⁾ With the exception of sweetcorn.

ANNEX V

referred to in Article 56(1)(b)

Varieties of flax grown for fibre eligible for arable crops area payments

Adélie	Elise	Melina
Agatha	Escalina	Merkur
Alba	Evelin	Modran
Alizée	Exel	Nike
Angelin	Hermes	Opaline
Argos	Ilona	Rosalin
Ariane	Jitka	Selena
Artemida	Jordan	Super
Aurore	Kastyciai	Tabor
Belinka	Laura	Texa
Bonet	Liflax	Venica
Caesar Augustus	Liviola	Venus
Diane	Loréa	Veralin
Diva	Luna	Viking
Drakkar	Marina	Viola
Electra	Marylin	

ANNEX VI

referred to in Articles 59(4) and 69(2)

CALCULATION OF OVERRUN ON BASE AREA ON/....

		Product:	All crops	<input type="text"/>
			Irrigated	<input type="text"/>
			Non-irrigated	<input type="text"/>
			Maize	<input type="text"/>
			Crops other than maize	<input type="text"/>
			Silage grass	<input type="text"/>
Member State:	<input type="text"/>			
Base area:	<input type="text"/>			
Set-aside rate:	<input type="text"/>			
Area actually found -				
small producers	Cereals	1	<input type="text"/>	ha
within the meaning of	Oilseeds	2	<input type="text"/>	ha
Article 107(7) of	Protein plants	3	<input type="text"/>	ha
Regulation (EC) No 1782/2003	Linseed	4	<input type="text"/>	ha
	Flax grown for fibre	5	<input type="text"/>	ha
	Hemp grown for fibre	6	<input type="text"/>	ha
	Silage grass	7	<input type="text"/>	ha
	Voluntary set-aside	8	<input type="text"/>	ha
	TOTAL = 1+2+3+4+5+6+7+8	9	<input type="text"/>	ha
other producers	Cereals	10	<input type="text"/>	ha
	Oilseeds	11	<input type="text"/>	ha
	Protein plants	12	<input type="text"/>	ha
	Linseed	13	<input type="text"/>	ha
	Flax grown for fibre	14	<input type="text"/>	ha
	Hemp grown for fibre	15	<input type="text"/>	ha
	Silage grass	16	<input type="text"/>	ha
	Total crops = 10+11+12+13+14+15+16	17	<input type="text"/>	ha
	Voluntary set-aside	18	<input type="text"/>	ha
	Compulsory set-aside	19	<input type="text"/>	ha
	Total set-aside = 18+19	20	<input type="text"/>	ha
	TOTAL (crops+set-aside) = 17+20	21	<input type="text"/>	ha
forage (bovine animals-sheep)	Total for products concerned	22	<input type="text"/>	ha
TOTAL	for applications = 9+21+22	23	<input type="text"/>	ha
	BASE AREA (*)	24	<input type="text"/>	ha
	Any balance from another base area	25	<input type="text"/>	ha
Total	base area applicable = 24+25	26	<input type="text"/>	ha
Overrun	or deficit = 23-26	27	<input type="text"/>	ha
	Overrun as percentage = (23/26 - 1,00)	28	<input type="text"/>	%

(*) after reduction where Regulation (EC) No 1/2002 is applied

ANNEX VII

Fodder legume referred to in Article 67

CN code	
0713 90	Vicia spp. excluding Vicia faba and Vicia sativa, harvested at full maturity Vicia sativa other than harvested at full maturity
ex 1209 29 50	Lupinus spp. other than sweet lupins
ex 1214 90 99	Medicago spp. Trifolium spp. Lathyrus spp. Melilotus spp. Onobrychis spp. Ornithopus sativus Hedysarum coronarium Lotus corniculatus Galega orientalis Trigonella foenum-graecum Vigna sinensis

ANNEX VIII

CROPS REFERRED TO IN ARTICLE 57

Crop	Member State	Region
All eligible crops	Estonia	Whole territory
	Finland	Whole territory
	Sweden	Whole territory
Sweetcorn Hemp grown for fibre	All Member States	Whole territory

ANNEX IX

INFORMATION TO BE COMMUNICATED TO THE COMMISSION
referred to in Article 69(1)

The information is to be presented in the form of a series of tables drawn up in accordance with the model described below:

- a first set of tables giving information at production region level within the meaning of Article 103 of Regulation (EC) No 1782/2003,
- a second set of tables giving information in respect of each base area region within the meaning of Annex IV to this Regulation,
- a single table summarising the information for each Member State.

The tables are to be sent in hard copy and in computerised form.

Formulae for areas: $5 = 1 + 2 + 3 + 4$

$$10 = 7 + 8 + 9$$

$$16 = 17 + 18$$

$$21 = 5 + 10 + 11 + 12 + 13 + 14 + 15 + 16 + 20$$

Notes:

Each table must quote the region in question.

The yield is that used for calculating arable crops area payments in accordance with Chapter 10 of Title IV of Regulation (EC) No 1782/2003.

The distinction between 'irrigated' and 'non-irrigated' land should only be made in the case of regions containing both. In that case:

$$(d) = (e) + (f)$$

$$(j) = (k) + (l)$$

Line 1 relates only to durum wheat eligible for the supplement to the area payment provided for in Article 105(1) of Regulation (EC) No 1782/2003.

Line 2 relates only to durum wheat eligible for the special aid provided for in Article 105(3) of Regulation (EC) No 1782/2003.

Line 19 relates only to areas set aside or afforested under Articles 22, 23, 24 and 31 of Regulation (EC) No 1257/1999 and counting as arable land set aside under Article 107(8) of Regulation (EC) No 1782/2003.

Line 20 corresponds to the areas referred to in Article 102(3) of Regulation (EC) No 1782/2003.

Information must also be forwarded in respect of producers not applying for the per-hectare aid under the arable crops area payment (Chapter 10 of Title IV of Regulation (EC) No 1782/2003). This information, to be given under 'Other' in columns 'm' and 'n', mainly relates to arable crops declared as forage areas for the purposes of obtaining premiums for the production of beef/veal and sheepmeat.

Line 23 relates to land set aside for the production of non-food crops and on which no payments are made under the rules implementing the first indent of Article 107(3) of Regulation (EC) No 1782/2003 (e.g. sugarbeet, Jerusalem artichokes and chicory roots).

Line 24 relates to land set aside and used for growing fodder legumes in accordance with the second indent of Article 107(3) of Regulation (EC) No 1782/2003.

DATA

Name of region:

Date:

CROP	n°	Application > 92 tonnes						Application < 92 tonnes						Other	
		Total number of applications =						Total number of applications =						Total number of applications =	
		Yield (tonnes/hectare)			Area (hectares)			Yield (tonnes/hectare)			Area (hectares)			Yield (tonnes/hectare)	Area (hectares)
		Total	non-irrigated	Irrigated	Total	non-irrigated	Irrigated	Total	non-irrigated	Irrigated	Total	non-irrigated	Irrigated		
		(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)	(j)	(k)	(l)	(m)	(n)
Durum wheat, Article 105(1)	1														
Durum wheat, Article 105(3)	2														
Maize (separate base area)	3														
Other Cereals	4														
Total cereals	5														
— of which silage	6														
Soya beans	7														
Rapeseed	8														
Sunflower	9														
Total oilseeds	10														
Total protein plants	11														
Total linseed	12														
Total flax grown for fibre	13														
Total hemp grown for fibre	14														

CROP	n°	Application > 92 tonnes						Application < 92 tonnes						Other	
		Total number of applications =						Total number of applications =						Total number of applications =	
		Yield (tonnes/hectare)			Area (hectares)			Yield (tonnes/hectare)			Area (hectares)			Yield (tonnes/hectare)	Area (hectares)
		Total	non-irrigated	Irrigated	Total	non-irrigated	Irrigated	Total	non-irrigated	Irrigated	Total	non-irrigated	Irrigated		
		(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)	(j)	(k)	(l)	(m)	(n)
Silage grass	15														
Total set-aside (Article 107)	16														
— of which compulsory set-aside	17														
— of which voluntary set-aside, Article 107(6)	18														
— of which set-aside not paid, Article 107(8)	19														
Arable crops declared as fodder areas for premiums for bovine animals and sheep	20														
Total	21														
Non food set-aside	22														
— of which not paid	23														
Set-aside used for fodder legumes	24														

ANNEX X

AREAS ELIGIBLE FOR RECEIVING THE GOAT PREMIUM

1. Germany: all mountain areas within the meaning of Article 18 of Regulation (EC) No 1257/99.
 2. Greece: the whole country. (*)
 3. Spain: the autonomous regions of Andalusia, Aragon, the Balearic Islands, Castile-La Mancha, Castile-Leon, Catalonia, Extremadura, Galicia (with the exception of the provinces of Coruña and Lugo), Madrid, Murcia, La Rioja and Comunidad Valenciana and the Canary Islands (*) and all mountain areas within the meaning of Article 18 of Regulation (EC) No 1257/99 situated outside these regions.
 4. France: Corsica, the overseas departments (*) and all mountain areas within the meaning of Article 18 of Regulation (EC) No 1257/99 situated outside these regions.
 5. Italy: Lazio, Abruzzo, Molise, Campania, Apulia, Basilicata, Calabria, Sicily and Sardinia and all mountain areas within the meaning of Article 18 of Regulation (EC) No 1257/99 situated outside these regions.
 6. Cyprus: the whole country.
 7. Austria: all mountain areas within the meaning of Article 18 of Regulation (EC) No 1257/99.
 8. Portugal: the whole country, with the exception of the Azores (*).
 9. Slovenia: the whole country.
 10. Slovakia: all mountain areas within the meaning of Article 18 of Regulation (EC) No 1257/99.
-

(*) The French overseas departments, Madeira, the Canary and Aegean Islands shall be considered as excluded from this Annex in the event of application of the optional exclusion provided for in Article 70(1)(b) of Regulation (EC) No 1782/2003 by the interested Member State.

ANNEX XI

APPLICATIONS FOR EWE AND SHE-GOAT PREMIUMS

MEMBER STATE.....

YEAR

DATE

TRANSMISSION DEADLINE: 31 JULY EACH YEAR

Type of female		Non-milking ewes	Milking ewes	She-goats	Total females
Number of applications ⁽¹⁾					
Total number of females declared per farmer claim ⁽²⁾	10/20 ⁽³⁾				
	21/50				
	51/100				
	101/500				
	501/1000				
	+1 000				
Number of premiums claimed	TOTAL				
	of which with premium supplement ⁽⁴⁾				

⁽¹⁾ For example, in a mixed farm having non-milking ewes and goats there will be a '1' in the cells of this line concerning non-milking ewes and goats - also in the column 'total females' - and a '0' in the cell for milking ewes. This implies that in this row the column 'total females' may have a value which is lower than the sum of the other three figures of the row.

⁽²⁾ The row to be used (size of the flock) has to be based on the total of females. For the rows of this heading the column 'total females' must be equal to the sum of the number of 'non-milking ewes', 'milking ewes' and 'she-goats' of the three previous columns.

⁽³⁾ Under Regulation 1782/2003 it is not possible to introduce a claim for less than 10 ewes and/or goats.

⁽⁴⁾ In accordance with Articles 4 and 5 of this Regulation (Less Favoured Areas).

ANNEX XII

PAYMENTS FOR EWE AND SHE-GOAT PREMIUMS

MEMBER STATE.....

YEAR

DATE

TRANSMISSION DEADLINE: 31 JULY EACH YEAR

Type of female		Non-milking ewes	Milking ewes	She-goats	Total females or amount
Number of premiums paid (Heads)	Number of additional payments per head (*)	xxxxxxx	xxxxxxx	xxxxxxx	
	Number of supplementary premiums (**)				
	Number of ewe or goat premiums				
AMOUNTS PAID (EUR)	Amounts of additional payments other than per head (*)	xxxxxxx	xxxxxxx	xxxxxxx	
	Amounts of additional payments per head (*)	xxxxxxx	xxxxxxx	xxxxxxx	
	Amounts of supplementary premiums (**)				
	Amounts of ewe or goat premiums				
	TOTAL				

(*) Where Article 71 of Regulation (EC) No 1782/2003 applies (transitional period).

(**) In accordance with Articles 72 and 73 of this Regulation (Less Favoured Areas).

ANNEX XIII

OPERATION OF THE NATIONAL RESERVE

MEMBER STATE.....

YEAR

DATE

TRANSMISSION DEADLINE: 30 APRIL EACH YEAR

Transfers of rights during the year indicated above		Number of premium rights
(a) Balance of the national reserve at the beginning of the year (= end of the previous year)		
RETURNED WITHOUT COMPENSATORY PAYMENT TO THE NATIONAL RESERVE	(b) Following transfer of rights without transfer of holdings	
	(c) From unused premium rights (insufficient usage)	
	(d) TOTAL = (b) + (c)	
(e) Rights allocated		
(f) Rights granted to farmers in less favoured areas		
(g) Balance of the national reserve at the end of the year = (a) + (d) — (e)		

ANNEX XIV

PERIODS AND DEADLINES RELATED TO TRANSFERS OF RIGHTS AND PREMIUM APPLICATIONS

MEMBER STATE.....

YEAR

DATE.....

TRANSMISSION DEADLINE: 30 APRIL EACH YEAR

	Initial date	Final date
Deadline for permanent transfers of rights	XXXXX	
Deadline for temporary leasing of rights	XXXXX	
Period of application for rights from the national reserve		
Deadline for attributing rights from the national reserve	XXXXX	
Period of application for the premium		
Period of retention		

ANNEX XV

LIST OF BOVINE BREEDS REFERRED TO IN ARTICLE 99

- Angler Rotvieh (Angeln) — Rød dansk mælkerace (RMD)
 - Ayrshire
 - Armoricaïne
 - Bretonne Pie-noire
 - Fries-Hollands (FH), Française frisonne pie noire (FFPN), Friesian-Holstein, Holstein, Black and White Friesian, Red and White Friesian, Frisona española, Frisona Italiana, Zwartbonten van België/Pie noire de Belgique, Sortbroget dansk mælkerace (SDM), Deutsche Schwarzbunte, Schwarzbunte Milchrasse (SMR)
 - Groninger Blaarkop
 - Guernsey
 - Jersey
 - Malkeborthorn
 - Reggiana
 - Valdostana Nera
 - Itäsuomenkarja
 - Länsisuomenkarja
 - Pohjoissuomenkarja.
-

ANNEX XVI

AVERAGE MILK YIELD REFERRED TO IN ARTICLE 103

	(kilograms)
Belgium	5 450
Denmark	6 800
Germany	5 800
Greece	4 250
Spain	4 650
France	5 550
Ireland	4 100
Italy	5 150
Luxembourg	5 700
Netherlands	6 800
Austria	4 650
Portugal	5 100
Finland	6 400
Sweden	7 150
United Kingdom	5 900

ANNEX XVII

**NATIONAL CEILINGS FOR THE SLAUGHTER PREMIUM REFERRED TO IN ARTICLE 124(1) APPLICABLE
FROM 1 JANUARY 2005**

	Adult bovines	Calves
Belgium	711 232	335 935
Denmark	711 589	54 700
Germany	4 357 713	652 132
Greece	235 060	80 324
Spain ⁽¹⁾	1 982 216	25 629
France ⁽²⁾	4 041 075	2 045 731
Ireland	1 776 668	0
Italy	3 426 835	1 321 236
Luxembourg	21 867	3 432
Netherlands	1 207 849	1 198 113
Austria	546 557	129 881
Portugal ⁽³⁾	325 093	70 911
Finland	382 536	10 090
Sweden	502 063	29 933
United Kingdom	3 266 212	26 271

⁽¹⁾ Without prejudice to Article 5 of Regulation (EC) No 1454/2001.

⁽²⁾ Without prejudice to Article 9 of Regulation (EC) No 1452/2001.

⁽³⁾ Without prejudice to Articles 13 and 22 of Regulation (EC) No 1453/2001.

TABLE REFERRED TO IN ARTICLES 106(3) AND 131

1. SPECIAL PREMIUM

Number of animals

Regulation (EC) No/2004	Deadline for submission	Ref.	Information required	General scheme and slaughter scheme		Slaughter scheme only	
				Single age bracket or first age bracket		Second age bracket	Both age brackets together
				Bulls	Steers	Steers	Steers
Article. 131(4)(a)	15 September	1.1	Number of animals applied for (January to June)				
	1 March	1.2	Number of animals applied for (July to December)				
Article. 131(4)(b)(i)	31 July	1.3	Number of animals accepted (full year)				
Article. 131(4)(b)(ii)	31 July	1.4	Number of animals not accepted on account of the application of the ceiling				

Number of producers

Regulation (EC) No/2004	Deadline for submission	Ref.	Information required	General scheme and slaughter scheme			Slaughter scheme only
				Single age bracket or first bracket only	Second age bracket only	Both age brackets together	Both age brackets together only
Article. 131(4)(b)(i)	31 July	1.5	Number of producers granted premium				

2. DESEASONALISATION PREMIUM

Regulation (EC) No/2004	Deadline for submission	Ref.	Information required	Single age bracket or first age bracket	Second age bracket	Both age brackets together
Article. 131(6)(a)	15 September	2.1	Number of animals applied for			
		2.2	Number of producers			
	1 March	2.3	Number of animals accepted			
		2.4	Number of producers			

3. SUCKLER COW PREMIUM

Regulation (EC) No/2004	Deadline for submission	Ref.	Information required	Pure suckler herds	Mixed herds
Article. 131(2)(a)(i)	15 September	3.1.	Number of animals applied for (January to June)		
	1 March	3.2	Number of animals applied for (July to December)		
Article. 131(2)(b)(i); 131(6)(b)(ii)	31 July	3.3	Number of cows accepted (full year)		
		3.4	Number of heifers accepted (full year)		
		3.5	Number of producers granted premium (full year)		
				Amount per head	
Article. 131(2)(b)(iii)	31 July	3.6	National premium		
Article. 131(2)(b)(ii)	31 July	3.7	Number of animals not accepted on account of the application of the national ceiling for heifers		

4. EXTENSIFICATION PAYMENT

4.1. Application of the single stocking density (first subparagraph of Article 132(2) of Regulation (EC) No 1782/2003)

Regulation (EC) No/2004	Deadline for submission	Ref.	Information required	Special premium	Suckler cow premium	Dairy cows	TOTAL
Article. 131(6)(b)(i); 131(6)(b)(iii)	31 July	4.1.1	Number of animals accepted				
		4.1.2	Number of producers granted payments				

4.2. Application of the two stocking densities (second subparagraph of Article 132(2) of Regulation (EC) No 1782/2003)

Regulation (EC) No/2004	Deadline for submission	Ref.	Information required	Special premium		Suckler cow premium		Dairy cows		TOTAL	
				1 - 1	< 1	1 - 1	< 1	1 - 1	< 1	1 - 1	< 1
Article. 131(6)(b)(i); 131(6)(b)(iii)	31 July	4.2.1	Number of animals accepted								
		4.2.2	Number of producers granted payment								

5. PREMIUM EXEMPT THE DENSITY FACTOR

Regulation (EC) No/2004	Deadline for submission	Ref.	Information required	Animals	Producers
Article. 131(6)(b)(iv)	31 July	5	Number of animals and producers in respect of which the premium exempt from the application of the density factor was granted		

6. SLAUGHTER PREMIUM

Number of animals

Regulation (EC) No/2004	Deadline for submission	Ref.	Information required	Slaughter		Export	
				Adults	Calves	Adults	Calves
Article. 131(1)(a); 131(2)(a)(ii); 131(3)(a)	15 September	6.1	Number of animals applied for (January to June)				
	1 March	6.2	Number of animals applied for (July to December)				
Article. 131(1)(b)(i); 132(2)(b)(iv); 132(3)(b)(i)	31 July	6.3	Number of animals accepted (full year)				
Article. 131(1)(b)(ii); 131(2)(b)(v); 131(3)(b)(ii)	31 July	6.4	Number of animals not accepted on account of the application of the ceiling				

Number of producers

Regulation (EC) No/2004	Deadline for submission	Ref.	Information required	Slaughter		Export	
				Adults	Calves	Adults	Calves
Article. 131(1)(b)(i); 131(2)(b)(iv); 131(3)(b)(i)	31 July	6.5	Number of producers granted premium				

7. SUCKLER COW QUOTA

Regulation (EC) No/2004	Deadline for submission	Ref.	Balance of rights at start of year	Rights ceded to national reserve arising from		Rights obtained from national reserve	Balance of rights at end of year
Article. 106(3)	1 March (Provisional information)	7.1		(a) Transfers without holding	(b) Insufficient use		
Article. 106(3)	31 July (Definitive Information)	7.2					

ANNEX XIX

TABLE REFERRED TO IN ARTICLE 131, FOR THE APPLICATION OF PARAGRAPH 5 THEREOF

	Up to 100 % Slaughter premium (calves)	Up to 100 % Suckler cow premium	Up to 40 % Slaughter premium (bovine animals other than calves)	Up to 100 % Slaughter premium (bovine animals other than calves)	Up to 75 % Special premium
Reference in Regu- lation (EC) No 1782/ 2003	Article 68 (1)	Article 68 (2) (a)(i)	Article 68 (2)(a) (ii)	Article 68 (2)(b) (i)	Article 68 (2)(b) (ii)
Amount actually paid in EUR (after reduction laid down in Article 139)					

ANNEX XX

MINIMUM SIZE OF ELIGIBLE AREA PER HOLDING UNDER THE SINGLE AREA PAYMENT SCHEME

New Member States	minimum size of eligible area per holding (ha)
Cyprus	0,3
Czech Republic	1
Estonia	1
Hungary	1 However, holdings with more than 0,3 ha of orchards or vineyards may request payments
Latvia	1
Lithuania	1
Poland	1
Slovakia	1

ANNEX XXI

AGRICULTURAL AREA UNDER THE SINGLE AREA PAYMENT SCHEME

New Member States	Agricultural area under the single area payment scheme referred to in Article 143b (4) of Regulation (EC) No 1782/ 2003 (thousands ha)
Cyprus	140
Czech Republic	3 469
Estonia	800
Hungary	4 355
Latvia	1 475
Lithuania	2 289
Poland	14 843
Slovakia	1 976

ANNEX XXII

RAW MATERIALS REFERRED TO IN ARTICLE 148

CN code	Brief description of products
ex 0602 90 41	Short rotation forest trees with a harvest cycle of 20 years or less
ex 0602 90 49	Trees, shrubs and bushes, producing plant material covered by CN code 1211 and by Chapter 14 of the Combined Nomenclature, excluding all those which can be used for human or animal consumption
ex 0602 90 51	Outdoor multiannual plants (e.g. <i>Miscanthus sinensis</i>) other than those which can be used for human or animal consumption, in particular those producing plant material covered by CN code 1211, other than lavender, lavandin and sage, and by Chapter 14 of the Combined Nomenclature
ex 0602 90 59	<i>Euphorbia lathyris</i> , <i>Sylibum marianum</i> , <i>Polygonum tinctorium</i> and <i>Isatis tinctoria</i>
1211 90 95	<i>Digitalis lanata</i> , <i>Secale cornutum</i> and <i>Hypericum perforatum</i> , excluding plant material which can be used for human or animal consumption

ANNEXE XXIII

End-products that may be manufactured from raw materials listed in article 145:

- all products falling within Chapters 25 to 99 of the Combined Nomenclature,
- all products falling within Chapter 15 of the Combined Nomenclature and intended for uses other than human or animal consumption,
- products covered by CN code 2207 20 00 and intended for direct use in motor fuel or for processing for use in motor fuel,
- packaging material covered by CN codes ex 1904 10 and ex 1905 90 90, on condition that proof has been obtained that the products have been used for non-food purposes in accordance with Article 158(4) of this Regulation,
- mushroom spawn covered by CN code 0602 91 10,
- lac, natural gums, resins, gum-resins and balsams covered by CN code 1301,
- saps and extracts of opium covered by CN code 1302 11 00,
- saps and extracts of pyrethrum or of the roots of plants containing rotenone covered by CN Code 1302 14 00,
- other mucilages and thickeners covered by CN code 1302 39 00,
- all agricultural products listed in Article 146(1) and products derived therefrom by an intermediate process and used as fuel for energy production,
- all products listed in Article 146(1) and products derived therefrom and intended for energy purposes,
- *Miscanthus sinensis* falling within CN code 0602 90 51, shredded, intended for use as horse litter, mulch, additives to improve compost and litter for the drying and cleaning of plants, as well as this raw material or its fibber used as materials for construction
- all products referred to in Commission Regulation (EEC) No 1722/93 ⁽¹⁾, as last amended by Regulation (EC) No 216/2004 ⁽²⁾, on condition that they are not obtained from cereals or potatoes cultivated on land set aside and that they do not contain products derived from cereals or potatoes cultivated on land set aside,
- all products referred to in Council Regulation (EEC) No 1260/2001 ⁽³⁾, as last amended by Commission Regulation (EC) No 30/2004 ⁽⁴⁾, on condition that they are not obtained from sugarbeet cultivated on land set aside, and that they do not contain products derived from sugarbeet cultivated on land set aside.

⁽¹⁾ OJ L 159, 1.7.1993, p. 112.

⁽²⁾ OJ L 36, 7.2.2004, p. 36.

⁽³⁾ OJ L 178, 30.6.2001, p. 1.

⁽⁴⁾ OJ L 6, 10.1.2004, p. 16.

COMMISSION REGULATION (EC) No 1974/2004

of 29 October 2004

amending Regulation (EC) No 795/2004 laying down detailed rules for the implementation of the single payment scheme provided for in Council Regulation (EC) No 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1782/2003 of 29 September 2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers and amending Regulations (EEC) No 2019/93, (EC) No 1452/2001, (EC) No 1453/2001, (EC) No 1454/2001, (EC) N 1868/94, (EC) No 1251/1999, (EC) No 1254/1999, (EC) No 1673/2000, (EEC) No 2358/71 and (EC) No 2529/2001⁽¹⁾, and in particular Articles 42(4) and (9), 145(c) and (d) and 155 thereof,

Whereas:

- (1) Commission Regulation (EC) No 795/2004 of 21 April 2004, laying down detailed rules for the implementation of the single payment scheme provided for in Council Regulation (EC) No 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers⁽²⁾, introduces the implementing rules for the single payment scheme that will apply starting from 2005. The administrative and operational implementation of the scheme, which has started at national level on the basis of that Regulation, has shown the need for further detailed rules on some aspects of the scheme and to clarify certain aspects of the existing rules.
- (2) Further to the publication of Regulation (EC) No 795/2004, it appears that some references to Commission Regulation (EC) No 796/2004 have been wrongly published⁽³⁾. It is therefore appropriate to correct them.
- (3) The purpose of Article 46(2), second subparagraph, of Regulation (EC) No 1782/2003 is to allow the transfer of payment entitlement without land under specific conditions. Article 46(2), first subparagraph, of Regu-

lation (EC) No 1782/2003 clearly provides that only sale of payment entitlements is possible without land. In order to avoid that the second subparagraph may be misunderstood and result in making without object the provision of the first subparagraph of that Article, therefore it is appropriate for the sake of clarification to indicate that the transfer mentioned in the second subparagraph only refers to the sale of payment entitlements without land and not to the lease of payment entitlements which is not possible without land.

- (4) For administrative reasons, in order to limit the creation of fractions of payment entitlements to the extent that is necessary, it is appropriate to provide for a rule providing that, once all entire entitlements have been used, partially used entitlements should be considered as fully used whilst giving right to a payment proportionate to the land declared and, in case of transfer, before splitting an existing entitlement, all existing fractions should be used.
- (5) Article 2(e) of Regulation (EC) No 1782/2003 provides that the payments in the reference period are those granted or to be granted in that period. Annex VII adds that reductions resulting from the application of base areas, ceilings or other quantitative limitations should be taken into account. It is therefore appropriate, for the sake of clarification, to specify that the reductions and exclusions applied under Commission Regulation (EC) No 2419/2001⁽⁴⁾ should not be taken into consideration for all the direct payments referred to in Annex VI of Regulation (EC) No 1782/2003 in order not to perpetuate the reductions and exclusions applied in that period. Therefore the number of animals and hectares determined at the time of the establishment of the payment entitlements should be taken into consideration without prejudice to further controls and the application of Article 3(1) of Council Regulation (EC, Euratom) No 2988/95⁽⁵⁾.

⁽¹⁾ OJ L 270, 21.10.2003, p. 1. Regulation as amended by Regulation (EC) No 864/2004 (OJ L 161, 30.4.2004, p. 48).

⁽²⁾ OJ L 141, 30.4.2004, p. 1.

⁽³⁾ OJ L 141, 30.4.2004, p. 18.

⁽⁴⁾ OJ L 337, 20.12.2001, p. 9. Regulation as last modified by Regulation (EC) No 118/2004 (OJ L 17, 24.1.2004, p. 7).

⁽⁵⁾ OJ L 312, 23.12.1995, p. 1.

- (6) Farmers who leased or sold hectares should not benefit from the mechanism provided for in Article 7. Therefore it is necessary that land sold or transferred shall be included in the number of hectares which the farmer declares in order that those hectares do not benefit from the mechanism.
- (7) Article 40 of Regulation (EC) No 1782/2003 provides for the application of a different reference period in hardship cases affecting production. It is therefore appropriate to specify that the application of that Article should be done on the basis of each direct payment referred to in Annex VI of that Regulation which corresponds to the different productions.
- (8) Concerning the application of Article 42(9) of Regulation (EC) No 1782/2003, it is appropriate to specify its application in the case of transfer of premium rights and the consequences for the calculation of the remaining reference amount on the remaining hectares. Moreover, following the change of date from 29 September 2003 to 15 May 2004 introduced by Regulation (EC) No 864/2004, in order to avoid that that Article, where applied, could have an effect on the legitimate expectation of farmers who have already concluded contracts between 30 September 2003 and 15 May 2004 being aware of the application of that clause, it is appropriate to provide for the non application of that Article in such cases.
- (9) In order to take into account the possibility for Member States to provide for a further allocation of reference amounts in the first year of application of the single payment scheme according to Article 34(3), second subparagraph, of Regulation (EC) No 1782/2003, it is appropriate to fix the final date for the definitive establishment of payment entitlements at 15 August whilst at the same time taking into account the possibility for Member States to set up a later date where administrative reasons so warrant. It is appropriate to indicate the area to which the minimum size refers and when parcels should be declared.
- (10) Following the change of date from 29 September 2003 to 15 May 2004 introduced by Regulation (EC) No 864/2004, for consistency reasons, the same date should be introduced in the provisions relating to farmers in special situations.
- (11) Consideration should be taken of any eventual administrative act or court's ruling putting an end to a conflict between the administration and the farmer in case this results in the allocation or increase of payment entitlements. This situation should be considered a special situation in accordance with Article 42(2) of Regulation (EC) No 1782/2003 and treated consequently.
- (12) Without prejudice to the application of Article 43(2)(b) of Regulation (EC) No 1782/2003 which provides that all forage area in the reference period should be included in the calculation of the payment entitlements, in order to facilitate the task of the national administrations in establishing the provisional payment entitlements, it is appropriate to give them the possibility to take into account the number of forage areas declared in the area aid application before the introduction of the single payment scheme or in case of preliminary establishment of payment entitlements, whilst allowing the farmer the possibility to prove that his or her forage area in the reference period was lower.
- (13) The current implementing rules on the payment entitlements subject to special conditions need to be completed or specified as far as they concern certain aspects of the establishment and management of those entitlements.
- (14) Extensification payments and additional payments in the beef and veal and sheep and goat sectors referred to in Annex VI of Regulation (EC) No 1782/2003 were granted in the reference period according to eligibility conditions and amounts set up by Member States and may vary from one year to the other. Due to those changing elements, it is therefore appropriate to allow Member States concerned to take into account, according to objective criteria, those different eligibility conditions and amounts when calculating the reference amount relating to those payments whilst respecting the relative budgetary ceilings. Concerning the slaughter premium, in order to facilitate inclusion of the current regime of premiums into the single payment scheme, the current ceiling referred to in Article 11(4) of Regulation (EC) No 1254/12999 should be taken into account in the calculation of the reference amount.
- (15) In order to take into account any eventual hardship case in the application of the regional model, it is appropriate to provide for the application of the existing rules on hardship cases set up in Article 40 of Regulation (EC) No 1782/2003.
- (16) Farmers producing fruit and vegetables and table potatoes should be taken into account when applying the provisions on special situations.
- (17) According to Chapter 6 of Title III of Regulation (EC) No 1782/2003, new Member States shall apply the single payment scheme only in a regionalised way based on the provisions existing for the regionalised model provided for in Articles 58 to 63 of that Regulation. For the implementation of the single payment scheme in those Member States, it is therefore appropriate to provide for the same detailed rules, which are applicable, established in Regulation (EC) No 795/2004.

- (18) Where the Member State decides to make use of the option provided for in Article 71(1) of Regulation (EC) No 1782/2003, a deadline for the notification of the decisions it has taken in accordance with Articles 58, 59, 61 to 64 and 70 of Regulation (EC) No 1782/2003 should be fixed in order to allow the Commission to establish the ceilings referred to in those Articles.
- (19) According to Article 60(2), Annex VII (B) and (D), last subparagraph, of Regulation (EC) No 1782/2003, the Commission shall fix a maximum area for fruit and vegetables, dried fodder and starch potatoes on the basis of data communicated by Member States. It is therefore appropriate to provide for a deadline for those communications.
- (20) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Direct Payments,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 795/2004 is hereby amended as follows:

1. Article 2 shall be amended as follows:

- (a) in points (b) and (e), the reference to Regulation (EC) No 795/2004 shall be replaced by the reference to Regulation (EC) No 796/2004;
- (b) in point (l) the following subparagraph shall be added:

'The case of transfer of payment entitlements without land referred to in Article 46(2), second subparagraph, of Regulation (EC) No 1782/2003 shall be considered as a case of sale of payment entitlements without land';

2. Article 3(2) shall be replaced by the following paragraphs:

'2. Where a farmer, after having declared in accordance with Article 44(3) of Regulation (EC) No 1782/2003 all possible entire payment entitlements, needs to declare a payment entitlement accompanying a parcel which amounts to a fraction of a hectare, this last payment entitlement shall give right to a payment calculated pro rata to the size of the parcel and it shall be deemed as fully used for the purpose of Article 45 of that Regulation.

3. Where the size of a parcel which is transferred with an entitlement in accordance with Article 46(2) of that Regulation amounts to a fraction of a hectare, the farmer may transfer the part of the entitlement concerned with the land at a value calculated to the extent of the same fraction. The remaining part of the entitlement shall

remain at the disposal of the farmer at a value calculated correspondingly.

4. Paragraphs 2 and 3 shall apply only if the farmer still needs to declare or transfer a payment entitlement or a fraction of a payment entitlement with a fraction of a hectare after having declared or transferred existing payment entitlements or fractions of payment entitlements';

3. the following Article 3a shall be added:

'Article 3a

Determined hectares and animals

Without prejudice to the application of Annex VII of Regulation (EC) No 1782/2003, the number of hectares or animals for which a direct payment has been or should have been granted in the reference period to be taken into consideration for the purpose of establishing the reference amount referred to in Article 37(1) of that Regulation shall be the number of hectares or animals determined within the meaning of Article 2 points (r) and (s) of Regulation (EC) No 2419/2001 for each of the direct payments referred to in Annex VI of Regulation (EC) No 1782/2003';

4. Article 7 shall be modified as follows:

- (a) in paragraph 1 the following subparagraph shall be added:

'For the purpose of this Article, "payment entitlements" shall mean only the payment entitlements allocated by the Member State in the first year of application of the single payment scheme';

- (b) paragraph 6 shall be replaced by the following:

'For the purpose of paragraphs 1, 2, 3 and 4, hectares transferred by sale or lease shall be included in the number of hectares which the farmer declares';

5. in Article 8(1), second subparagraph, the reference to Regulation (EC) No 795/2004 shall be replaced by a reference to Regulation (EC) No 796/2004;

6. Article 10 shall be amended as follows:

- (a) in paragraph 1(a), (b) and (c), the following words are added at the end of each indent:

'or premium rights transferred';

- (b) in paragraph 2, the word 'hectares' shall be replaced by the following words:

'hectares of the reference period corresponding to that remaining reference amount.'

- (c) in paragraph 3, the date of 30 April 2004 shall be replaced by the date of 15 May 2004.

(d) the following paragraph shall be added:

‘5. Without prejudice to the application of paragraph 4, paragraph 1 shall not apply in cases where the contractual clause referred to in Article 17 and, where the case may be, Article 27 has been introduced in a contract before 15 May 2004.’

7. Article 12 shall be amended as follows:

(a) in paragraph 4 the second subparagraph shall be replaced by the following:

‘No definitive transfer of payment entitlements shall be possible before the definitive establishment of payment entitlements.

In any case, definitive payment entitlements shall be established by at the latest 15 August of the first year of application of the single payment scheme. Where specific administrative conditions so warrant, a Member State may decide that date for the definitive establishment may be at the same time as the date for the notification of the payment for the first year of application of the single payment scheme but in any case not later than 31 December of the first year of application.

Farmers may introduce, under reserve of the definitive establishment, applications under the single payment on the basis of provisional payment entitlements established by the Member States or acquired via the contractual clause referred to in Articles 17 or 27’;

(b) in paragraph 6, after ‘per holding’, the following words shall be added:

‘in terms of agricultural area’;

(c) the following paragraph 8 shall be added:

‘8. Except for the purpose of establishing payment entitlements from the national reserve referred to in Articles 6, 7 and 18 to 23a, and without prejudice to paragraph 5 and 6 of this Article, no parcel needs to be declared for the purpose of the establishment of the payment entitlements. The declaration of parcels referred to in Article 44(3) of Regulation (EC) No 1782/2003 shall apply for the purpose of the application for payment of the payment entitlements under the single payment scheme’;

8. in Article 16, the following paragraph shall be added:

‘3. Article 40 of Regulation (EC) No 1782/2003 shall apply on the basis of each direct payment referred to in Annex VI of that Regulation’;

9. in Article 18(1) and (2), ‘23’ shall be replaced by ‘23a’;

10. Article 20 shall be amended as follows:

(a) in paragraph 1, the words ‘by transfer free of charge or by lease for six or more years’ shall be replaced by the following:

‘by transfer, either by sale or by lease for six or more years, free of charge or at a symbolic price’;

(b) in Article 20(1), after ‘retired’ the following words shall be added:

‘from agricultural activity’;

11. in Articles 21, 22 and 23, the date of 29 September 2003 shall be replaced by the date of 15 May 2004;

12. The following Article 23a shall be added:

‘Article 23a

Administrative acts and court’s rulings

Where a farmer should be entitled to receive payment entitlements or increase the value of the existing ones by virtue of a definitive court’s ruling or by virtue of a definitive administrative act of the competent authority of a Member State, the farmer shall receive the number and value of payment entitlements established in that ruling or act at a date to be fixed by the Member State but not later than the latest date for lodging an application under the single payment scheme following the date of the ruling or the act and taking into account the application of Article 44(3) of Regulation (EC) No 1782/2003’;

13. Article 28 shall be replaced by the following:

‘1. For the purposes of Article 34(1)(b) of Regulation (EC) No 1782/2003, a Member State may decide, where the case may be, to use:

(a) the forage area declared by the farmer in the area aid application for 2004 or in the year preceding the first year of application of the single payment scheme, or

(b) the forage area declared in application of Article 12(1) or (2) of this Regulation.

2. For the purpose of the establishment of the definitive payment entitlements the farmer may prove, at the satisfaction of the competent authority, that his forage area in the reference period was lower or, in case the area used by Member States is lower, he shall, in accordance with Article 43(2)(b) of Regulation (EC) No 1782/2003, declare all the forage area he held in the reference period’;

14. in Article 29, the reference to Regulation (EC) No 795/2004 shall be replaced by the reference to Regulation (EC) No 796/2004;

15. Article 30 shall be modified as follows:

(a) paragraph 1 shall be replaced by the following:

'1. For the purposes of calculating the agricultural activity expressed in livestock units (LU) referred to in Article 49(2) of Regulation (EC) No 1782/2003, the conversion table provided for in Article 131(2)(a) of that Regulation shall apply to the three-year average number of animals for which a direct payment referred to in Article 47 of that Regulation was granted in the reference period';

(b) in paragraph 2, the following subparagraph shall be added:

'In case of dairy premium and additional payments, the LU shall be calculated by dividing the reference quantity used for the calculation of the amount of dairy premium and additional payment when included in the single payment scheme by the average milk yield provided for in Annex XVI of Regulation (EC) No 1973/2004 (*) applicable at that time or by the individual milk yield, in case the individual yield was higher than the average. Where a Member State makes use of the option provided for in Article 62 of Regulation (EC) No 1782/2003, the number of LU shall be modified accordingly.

In case of slaughter premium, where the necessary data regarding the age of the animals are not available, a Member State may convert bulls, steers, cows and heifers in LU by using the coefficient 0,7 and calves by using the coefficient 0,25.

Where the same animal benefitted from several premiums, the coefficient applicable shall be the average of the coefficient applicable to the different premiums

(*) See page 1 of this Official Journal.;

(c) the following paragraph 3a shall be added:

'3a. The number of LU shall be calculated pro rata to the payment entitlements for which he did not have hectares in the reference period and for which the farmer requests the application of the special conditions. It shall apply starting from the payment entitlements at the lowest value.

The request shall be made only in the first year of application of the single payment scheme. Member States shall fix the date for the request. It may be renewed in the following years for the same number of payment entitlements subject to special conditions in the previous year or, in case of transfer of some of those payment entitlements, or in case of declaration of some of those payment entitlements with a corresponding number of hectares, for the remaining of those payment entitlements.

In these cases, the number of LU shall be recalculated pro rata to the remaining payment entitlements for which the farmer requests the application of the special conditions.

No request to re-establish the special condition may be introduced for those payment entitlements once they have been declared with an equivalent number of hectares or they have been transferred, without prejudice to Article 49(2) second subparagraph of Regulation (EC) No 1782/2003';

16. the following Article 31a shall be added:

'Article 31a

Beef and veal and sheep and goat payments

1. In order to calculate the reference amount relating to extensification payments and additional payments in the beef and veal and sheep and goat sectors referred to in Annex VI of Regulation (EC) No 1782/2003, Member States shall take into account, according to objective criteria and in such a way as to ensure equal treatment between farmers and to avoid market and competition distortion, the eligibility conditions and amounts set up by the Member State concerned when granting such payments in the reference period provided that the component of such payments in the ceiling referred to in Annex VIII of that Regulation is not exceeded.

2. In order to calculate the reference amount relating to the slaughter premium in the beef and veal sector referred to in Annex VI of Regulation (EC) No 1782/2003, Member State shall take into account the application of Article 11(4) of Regulation (EC) No 1254/1999';

17. in Article 32, the following paragraph shall be added:

'4. For the purposes of Articles 54(2) and 61 of Regulation (EC) No 1782/2003, land under permanent pasture in 2003 shall be:

- (a) land declared by a farmer in his aid application for 2003 as being under permanent pasture, and
- (b) land not declared by a farmer in his aid application for 2003, unless it can be shown that that land was not under permanent pasture in 2003.

However, Member States may provide that land under permanent pasture in 2003 shall be land declared in the aid application for 2003 and in the aid applications for at least the five consecutive years prior to 2003 as land used to grow grasses or other herbaceous forage';

18. Article 38 shall be modified as follows:

- (a) in paragraph 3, the reference to Regulation (EC) No 795/2004 shall be replaced by the reference to Regulation (EC) No 796/2004.

(b) the following paragraphs shall be added:

'4. Article 40 of Regulation (EC) No 1782/2003 and Article 16 of this Regulation shall apply *mutatis mutandis*.

5. For the purpose of this Article, the reference to "agricultural area" in Article 12(6) shall be construed as a reference to "eligible area within the meaning of Article 44(2) of Regulation (EC) No 1782/2003";

19. the following paragraph 4 shall be added in Article 41:

'4. For the purpose of Article 60(3)(b) of Regulation (EC) No 1782/2003, Article 20 to 23a of this Regulation shall apply *mutatis mutandis* to the farmers producing the products referred to in Article 60(1) of Regulation (EC) No 1782/2003';

20. The following Chapter is inserted after Chapter 6:

'CHAPTER 6a

NEW MEMBER STATES

Article 48a

Implementation in the new Member States

1. Save as otherwise provided for in this Chapter, the provisions of this Regulation shall apply to the new Member States.
2. Any reference to Article 42 of Regulation (EC) No 1782/2003 in this Regulation shall be construed as a reference to Article 71d of Regulation (EC) No 1782/2003.
3. Any reference to the regional average in Articles 6(3) and (4) of this Regulation shall be construed as a reference to the limit of EUR 5 000 referred to in Article 71d(4) of Regulation (EC) No 1782/2003.
4. Any reference to Articles 58 and 59 or 58(1) and 59(1) of Regulation (EC) No 1782/2003 in Chapters 6 and 7 of this Regulation shall be construed as a reference to Article 71e of Regulation (EC) No 1782/2003.
5. Any reference to Article 59(2) and (3) of Regulation (EC) No 1782/2003 in Article 38 of this Regulation

shall be construed as a reference to Article 71f of Regulation (EC) No 1782/2003.

6. Any reference to Article 60 of Regulation (EC) No 1782/2003 in Article 8(2), Article 9(1) (e), Article 41 and Article 50a of this Regulation shall be construed as a reference to Article 71g of Regulation (EC) No 1782/2003.

7. Any reference to Article 63(2), third subparagraph, of Regulation (EC) No 1782/2003 in Articles 39, 43 and 48b of this Regulation shall be construed as a reference to Article 71j(2) of Regulation (EC) No 1782/2003.

8. Articles 3a, 7, 10, 12 to 17, 27, 28, 30, 31, 31a, 40, 42, 45 to 46 and 49 shall not apply.

9. Article 5, 19, 23, 31 and 42 shall not apply in case of application of the single area payment scheme referred to in Article 143b of Regulation (EC) No 1782/2003';

21. the following Article 48b shall be added:

'Article 48b

Notification of decisions

Where the Member State decides to make use of the option provided for in Article 71(1) of Regulation (EC) No 1782/2003, it shall notify by 1 August of the year preceding the first year of application of the single payment scheme the decisions it has taken in accordance with Articles 58, 59, 61 to 64 and 70 of Regulation (EC) No 1782/2003';

22. the following Article 50a shall be added:

'Article 50a

Dried fodder, starch potatoes and fruit and vegetables

For the purpose of Article 60(2), Annex VII (B) and (D) last subparagraph of Regulation (EC) No 1782/2003, Member States shall communicate to the Commission by at the latest 31 October of the year preceding the first year of application of the single payment scheme the number of hectares referred to in those provisions'.

Article 2

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 from 1 January 2005 except Article 1(21) which shall apply from 31 October 2004.

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

Done at Brussels, 29 October 2004.

For the Commission

Franz FISCHLER

Member of the Commission
