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INFORMATION NOTE

from: General Secretariat of the Council
to: Special Committee on Agriculture / Council
Subject: Proposal for a Regulation of the European Parliament and of the Council
establishing rules for direct payments to farmers under support schemes within the
framework of the common agricultural policy
- Outcome of the European Parliament's first reading
(Strasbourg, 18 to 21 November 2013)

I. INTRODUCTION

In accordance with the provisions of Article 294 of the TFEU and the joint declaration on practical arrangements for the codecision procedure¹, a number of informal contacts have taken place between the Council, the European Parliament and the Commission with a view to reaching an agreement on this dossier at first reading, thereby avoiding the need for second reading and conciliation.

¹ OJ C 145, 30.6.2007, p.5

In this context, the Committee on Agriculture and Rural Development submitted a compromise amendment (amendment 1) to the proposal for Regulation. This amendment had been agreed during the informal contacts referred to above.

In addition, the Greens/EFA political group submitted three amendments (amendments 2-4) and the EUL/NGL political group submitted fourteen amendments (amendments 5 - 18).

II. VOTE

When it voted on 20 November 2013, the plenary adopted the compromise amendment 1. No other amendments were adopted.

The Commission's proposal as thus amended constitutes the Parliament's first-reading position, which is contained in its legislative resolution as set out in the Annex hereto ¹.

The Parliament's position reflects what had been previously agreed between the institutions. The Council should therefore be in a position to approve the Parliament's position.

The act would then be adopted in the wording which corresponds to the Parliament's position.

¹ The version of the Parliament's position in the legislative resolution has been marked up to indicate the changes made by the amendments to the Commission's proposal. Additions to the Commission's text are highlighted in *bold and italics*. The symbol "■" indicates deleted text.

Direct payments to farmers under support schemes within the framework of the CAP *I**

European Parliament legislative resolution of 20 November 2013 on the proposal for a regulation of the European Parliament and of the Council establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy (COM(2011)0625 – C7-0336/2011 – COM(2012)0552 – C7-0311/2012 – 2011/0280(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2011) 0625) and the amendments to the proposal (COM(2012)0552),
- having regard to Article 294(2) and Article 42 and Article 43(2) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0336/2011),
- having regard to the 1979 Act of Accession, and in particular paragraph 6 of Protocol No 4 on cotton attached thereto,
- having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
- having regard to opinion 1/2012 of the Court of Auditors of 8 March 2012¹,
- having regard to the opinions of the European Economic and Social Committee of 25 April 2012 and 12 December 2012²,
- having regard to the opinion of the Committee of the Regions of 4 May 2012³,
- having regard to its decision of 13 March 2013 on the opening of, and on the mandate for, interinstitutional negotiations on the proposal⁴,
- having regard to the undertaking given by the Council representative by letter of 7 October 2013 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,
- having regard to Rule 55 of its Rules of Procedure,

¹ Not yet published in the Official Journal.

² OJ C 191, 29.6.2012, p. 116, and OJ C 44, 15.2.2013, p. 159.

³ OJ C 225, 27.7.2012, p. 174.

⁴ Texts adopted, P7_TA(2013)0084.

- having regard to the report of the Committee on Agriculture and Rural Development and the opinions of the Committee on Development, the Committee on Budgets, the Committee on Budgetary Control, the Committee on Environment, Public Health and Food Safety and the Committee on Regional Development (A7-0362/2013),
1. Adopts its position at first reading hereinafter set out;
 2. Takes note of the Commission statements annexed to this resolution;
 3. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
 4. Instructs its President to forward its position to the Council, the Commission, and the national parliaments.

Position of the European Parliament adopted at first reading on 20 November 2013 with a view to the adoption of Regulation (EU) No .../2013 of the European Parliament and of the Council establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy and repealing Council Regulations (EC) No 637/2008 and (EC) No 73/2009*

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 42 and Article 43(2) thereof,

Having regard to the 1979 Act of Accession, and in particular paragraph 6 of Protocol No 4 on cotton attached thereto,

Having regard to the proposal from the European Commission¹,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the Court of Auditors¹,

Having regard to the opinion of the European Economic and Social Committee²,

Having regard to the opinion of the Committee of the Regions³,

■

Acting in accordance with the ordinary legislative procedure⁴,

Whereas:

- (1) The Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on "The CAP towards 2020: Meeting the food, natural resources and territorial challenges of the future"¹ sets out potential challenges, objectives and orientations for the Common Agricultural Policy (CAP) after 2013. In the light of the debate on that Communication, the

* TEXT HAS NOT YET UNDERGONE LEGAL-LINGUISTIC FINALISATION.

¹ *OJ C ...*

² *OJ C 191, 29.6.2012, p. 116 and OJ C 44, 15.2.2013, p. 159.*

³ *OJ C 225, 27.7.2012, p. 174.*

⁴ *Position of the European Parliament of 20 November 2013.*

CAP should be reformed with effect from 1 January 2014. That reform should cover all the main instruments of the CAP, including Council Regulation (EC) No 73/2009¹. In view of the scope of the reform, it is appropriate to repeal Regulation (EC) No 73/2009 and to replace it with a new text. The reform should also streamline and simplify provisions.

- (1a) ***One of the core objectives and key requirements of the CAP reform is the reduction of the administrative burden. This aim should be taken firmly into account when shaping the relevant provisions for the direct support scheme.***
- (2) ***All the basic elements pertaining to the payment of Union support to farmers should be included in this Regulation, which should also fix the conditions of access to payments which are inextricably linked to those basic elements.***
- (3) It should be clarified that Regulation (EU) No [...] of the European Parliament and of Council² and the provisions adopted pursuant to it should apply in relation to the measures set out in this Regulation. For the sake of consistency with other legal instruments relating to the CAP, some rules currently provided for in Regulation (EC) No 73/2009, are now laid down in Regulation (EU) No [...] [HZR], in particular rules ***set out in order*** to guarantee compliance with the obligations laid down by direct payment provisions, including checks and the application of administrative measures and administrative penalties in case of non-compliance, rules related to cross-compliance such as the statutory management requirements, the good agricultural and environmental condition, the monitoring and evaluation of relevant measures and rules related to the ***payment of advances and the*** recovery of undue payments.
- (4) In order to supplement or amend certain non-essential elements of this Regulation, the power to adopt delegated acts in accordance with Article 290 of the Treaty ***on the Functioning of the European Union (TFEU)*** should be delegated to the Commission. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing-up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and ***to the*** Council.

- (8) ***This Regulation should contain a list of direct payment support schemes covered by it. In order to take into account new legislation on support schemes which may be adopted after the entry into force of this Regulation, the power to adopt certain acts should be delegated to the Commission in respect of the amendment of that list.***

¹ ***Council Regulation (EC) No 73/2009 of 19 January 2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers, amending Regulations (EC) No 1290/2005, (EC) No 247/2006, (EC) No 378/2007 and repealing Regulation (EC) No 1782/2003 (OJ L 30, 31.1.2009, p. 16).***

² ***Regulation (EU) No [...] of the European Parliament and of Council of... on the financing, management and monitoring of the common agricultural policy (OJ L ...).***

- (9) In order to *ensure legal certainty*, the power to adopt *certain* acts █ should be delegated to the Commission *in respect of* establishing the framework within which Member States *have to define the criteria to be met by farmers in order to fulfil the obligation to maintain the agricultural area in a state suitable for grazing or cultivation and* the minimum activities to be carried out on areas naturally kept in a state suitable for grazing or cultivation as well as the criteria to █ determine the predominance of grasses and other herbaceous forage *and the criteria to determine the established local practices* as regards permanent grassland *and permanent pasture ('permanent grassland')*.

█

(11) With a view to ensuring that the amounts for the financing of the CAP comply with the annual ceilings referred to in Article 16(1) of Regulation (EU) No [...] [HZR], an adjustment of the level of direct support in any calendar year should be maintained **as provided for under Article 25 of that Regulation. In order to ensure it contributes to achieving the objective of a more balanced distribution of payments between small and large beneficiaries, the** adjustment of the direct payments should only be applied to payments to be granted to farmers in excess of EUR 2 000 in the corresponding calendar year. Taking into account the levels of direct payments for farmers in Bulgaria, Croatia and Romania in the framework of the application of the phasing-in mechanism to all direct payments granted in those Member States, this instrument of financial discipline should only apply in Bulgaria and Romania as from 1 January 2016 and in Croatia as from 1 January 2022. **Specific rules should be foreseen for the purpose of this provision and certain other provisions in case of a legal person, or a group of natural or legal persons, where national law provides for the individual members rights and obligations comparable to those of individual farmers who have the status of head of holding in order to strengthen the agricultural structures and promote the establishment of the legal persons or groups concerned.**

(11a) In order to ensure the correct application of the adjustment of direct payments with respect to financial discipline, the power to adopt certain acts should be delegated to the Commission in respect of rules on the basis for calculation of reductions to be applied by Member States to farmers pursuant to the application of the financial discipline.

(13) Experience from the application of the various support schemes for farmers has shown that support was in a number of cases granted to **natural and legal persons** whose business purpose was not or only marginally targeted at an agricultural activity. To ensure **that support is better targeted**, Member States should refrain from granting direct payments to **certain natural and legal persons unless such persons can demonstrate that their agricultural activity is not marginal. Member States should also have the possibility of not granting direct payments to other natural and legal persons whose agricultural activity is marginal. However, Member States should be allowed to grant direct payments to smaller part-time farmers as those farmers contribute directly to the vitality of rural areas. Member States should also refrain from granting direct payments to natural and legal persons whose agricultural areas are mainly naturally kept in a state suitable for grazing or cultivation and who do not carry out certain minimum activity.**

(13a) In order to guarantee the protection of the rights of farmers, the power to adopt certain acts should be delegated to the Commission in respect of criteria to establish the cases where a farmer's agricultural area is to be considered as mainly an area naturally kept in a state suitable for grazing or cultivation, criteria to establish the distinction between receipts resulting from agricultural and non-agricultural activities and the amount of direct payments relevant for applying the marginality test, and criteria to be met by farmers in order to prove that their agricultural activity is not marginal.

(14) To avoid an excessive administrative burden caused by the managing of payments of small amounts, Member States should in general refrain from granting direct payments where the payment would be lower than EUR 100 or the eligible area of the holding for which support is claimed would be less than one hectare. However, as the **Member States' farming structures** vary considerably and may differ significantly from the average

farming structure in the Union, Member States should be allowed to apply minimum thresholds that reflect their particular situation. Due to the very specific farming structure in the outermost regions and the smaller Aegean Islands, Member States should be able to decide whether any minimum threshold should apply in those regions. Moreover, Member States should have the possibility to opt for the implementation of one of the two types of minimum threshold taking account of the particularities of the structures of their farming sectors. As payment could be granted to farmers with so-called ‘landless’ holdings, the application of the hectare-based threshold would be ineffective. The support-related minimum amount should therefore apply to such farmers. To ensure equal treatment of farmers whose direct payments are subject to phasing-in in Bulgaria, Croatia and Romania, the minimum threshold should be based on the final amounts to be granted at the end of the phasing-in process.

- (15) The distribution of direct income support among farmers is characterised by the allocation of disproportionate amounts of payments to a rather small number of large beneficiaries. Due to economies of size, larger beneficiaries do not require the same level of unitary support for the objective of income support to be efficiently achieved. Moreover, the potential to adapt makes it easier for larger beneficiaries to operate with lower levels of unitary support. ***Member States should therefore reduce the part of the basic payment/single area payment to be granted to farmers which exceeds EUR 150 000 by at least 5 %. To avoid disproportionate effects on large farms with high employment numbers, Member States may decide to take into account salaried labour intensity when applying the mechanism. In order to make such reduction of the support level effective, no advantage should be granted to farmers who artificially create the conditions to avoid its effects. The proceeds of the reduction of payments to large beneficiaries should remain in the Member States where they were generated***
- (16) ***Net ceilings should be determined for each Member State to limit the payments to be made to farmers following reduction of the support level. To take into account the specificities of CAP support granted in accordance with Regulation (EU) No 228/2013 of the European Parliament and of the Council of 13 March 2013 laying down specific measures for agriculture in the outermost regions of the Union and repealing Council Regulation (EC) No 247/2006¹ and Regulation (EU) No 229/2013 of the European Parliament and of the Council of 13 March 2013 laying down specific measures for agriculture in favour of the smaller Aegean islands and repealing Council Regulation (EC) No 1405/2006², and the fact that these direct payments are not subject to reduction of the support level, the net ceiling for the Member States concerned should not include those direct payments.***
- (16a) ***In order to take account of the developments relating to the total maximum amounts of direct payments that may be granted, including those resulting from the decisions to be taken by the Member States regarding transfers between the first and second pillars [and the application of progressive reduction and, where applicable, capping], as well as those resulting from the notifications to be made by Croatia regarding the de-mined land that has returned to use for agricultural activities, the power to adopt certain acts should be delegated to the Commission in respect of reviewing the national and net ceilings set out in this Regulation.***

¹ OJ L 78, 20.3.2013, p. 23.

² OJ L 78, 20.3.2013, p. 41.

- (17) It should be specified that the provisions of this Regulation which could give rise to behaviour of a Member State possibly constitutive of State aid are excluded from the application of the State aid rules given that the provisions concerned include appropriate conditions for the granting of support, or envisage the adoption of such conditions by the Commission, in order to prevent undue distortion of competition.
- (17a) *With a view to strengthening their rural development policy, Member States should be given the possibility to transfer funds from their direct payments ceiling to their support assigned for rural development. At the same time, Member States should be given the possibility to transfer funds from their support assigned for rural development to their direct payments ceiling. To ensure effectiveness of the tool, Member States should be given the possibility to review their initial decision once with effect as from claim year 2018 provided such review does not entail any decrease in the amounts assigned for rural development.*
- (18) In order to achieve the objectives of the CAP, the support schemes may need to be adapted to changing developments, if necessary within short time-limits. Therefore, it is necessary to provide for a possible review of the schemes, in particular in the light of economic developments or the budgetary situation, implying that beneficiaries cannot rely on support conditions remaining unchanged.
- (19) Farmers in Member States which acceded to the Union on or after 1 May 2004 received direct payments following a phasing-in mechanism provided for in the respective Acts of Accession. For Bulgaria and Romania, such mechanism will be still in force in **2015**, and **for Croatia, until 2021**. Furthermore, those Member States were allowed to grant complementary national direct payments. The possibility for granting such payments should be maintained for **Croatia and, as a complement to the basic payment scheme for Bulgaria and Romania until they are fully phased-in.**
- (19a) Regulation (EC) No 73/2009, as amended by the Act of Accession of 2011, **provides** for a special national de-mining reserve for Croatia in order to finance, for a period of ten years after the **accession** to the Union, the allocation of payment entitlements to land which will be de-mined and returned to agricultural use every year. It is appropriate to set the rules for determining the amounts dedicated to funding support for that land under the support schemes **provided for** in this Regulation and for the management of that reserve. In order to take account of the amounts resulting from the notifications to be made by Croatia regarding the de-mined land that has returned to use for agricultural activities, the power to adopt **certain** acts should be delegated to the Commission **in respect** of reviewing certain financial provisions applying to Croatia.
- (20) In order to ensure a better distribution of support amongst agricultural land in the Union, including in those Member States which applied the single area payment scheme established under Regulation (EC) No 73/2009, a new basic payment scheme should replace the single payment scheme established under Council Regulation (EC) No

1782/2003 ¹, and continued under Regulation (EC) No 73/2009, which combined previously existing support mechanisms into a single scheme of decoupled direct payments. Such a move should, *in principle*, entail the expiry of payment entitlements obtained under those Regulations and the allocation of new ones, although still based, *as a general rule*, on the number of eligible hectares at the disposal of farmers in the first year of implementation of the scheme. *However, Member States which currently operate the single payment scheme on a regional or regional hybrid basis should have the possibility to keep their existing payment entitlements. In order to avoid that in a given Member State an increase in the eligible area dilutes disproportionately the amount of direct payments per hectare and thus affects the internal convergence process, Member States should be allowed, when carrying out the first allocation of payment entitlements, to apply a reduction coefficient for the purpose of establishing the number of payment entitlements.*

- (21) Due to the successive integration of various sectors into the single payment scheme and the ensuing period of adjustment granted to farmers, it has become increasingly difficult to justify the presence of significant individual differences in the level of support per hectare resulting from use of historical references. Therefore direct income support should be more equitably distributed between Member States, by reducing the link to historical references and having regard to the overall context of the Union budget. To ensure a more equal distribution of direct support, while taking account of the differences that still exist in wage levels and input costs, the levels of direct support per hectare should be progressively adjusted. Member States with direct payments below the level of 90 % of the average should close one third of the gap between their current level and this level, *with all Member States arriving at a minimum level by financial year 2020*. This convergence should be financed proportionally by all Member States with direct payments above the Union average.
- (21a) In addition, *as a general rule*, all payment entitlements activated in 2019 in a Member State or in a region should have a uniform unit value ¹. However, in order to avoid disruptive financial consequences for farmers, Member States ¹ should be allowed to ¹ take historical factors into account when calculating the value of payment entitlements *which farmers should have in 2019 provided that no payment entitlements in 2019 will have a value lower than 60 % of the average. This convergence should be financed by reducing the value of those payment entitlements with a value above the 2019 average on the basis of objective and non-discriminative criteria to be established by Member States. In this context and in order to avoid unacceptably disruptive losses for certain farmers, Member States may limit this decrease to 30 % of the initial value of the concerned entitlements, even if this decision does not allow for all payment entitlements to reach 60 % of the average value for 2019. Except for those Member States that opt for a*

¹ *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 (OJ L 270, 21.10.2003, p. 1). Regulation repealed and replaced by Regulation (EC) No 73/2009.*

uniform unit value as from the first year of implementation of the scheme and those who have already determined convergence steps in accordance with Regulation (EC) No 1782/2003, the convergence should be made in equal steps. The convergence of the payment entitlements with a value above the average should also take account of the estimated resources available for entitlements.

- (22) The experience gained with the application of the single payment scheme shows that some of its main elements should be kept, including the determination of national ceilings to ensure that the total level of support does not exceed current budgetary constraints. Member States should also continue to operate a national reserve, **and should be allowed to establish regional reserves, that should be used, as a matter of priority, to facilitate the participation of young farmers and farmers commencing their agricultural activity in the scheme and should be allowed to be used to take account of certain other specific situations.** Rules on the transfer and use of payment entitlements should be kept **■**.
- (22a) *Experience under Regulation (EC) No 73/2009 has shown that Member States did not use the entire amount of the funds available under the national ceilings laid down in that Regulation. While this Regulation reduces the risk of unspent funds compared to the system under Regulation (EC) No 73/2009, Member States should nonetheless have the possibility to distribute payment entitlements for a higher value than the amount available for their basic payment scheme, in order to facilitate a more efficient use of the funds. Member States should therefore be allowed, within certain common limits and in respect of the net ceilings for direct payments, to calculate the necessary amount by which their basic payment ceiling may be increased.*
- (22b) *In order to avoid that in a given Member State an increase in the eligible area dilutes disproportionately the amount of direct payments per hectare and thus affects the internal convergence process, Member States shall be allowed to use a reduction coefficient for determining the eligible area of permanent grassland where grasses and other herbaceous forage are traditionally not predominant in grazing areas, but as such form part of established local practices.*
- (23) In order to guarantee the protection of the rights of beneficiaries and in order to clarify the specific situations that may arise in the application of the basic payment scheme, the power to adopt **certain** acts **■** should be delegated to the Commission **in respect of** rules on eligibility and the access in respect of the basic payment scheme of farmers, in case of inheritance and anticipated inheritance, inheritance under a lease, change of legal status or denomination, **transfer of payment entitlements** and in the case of merger or scission of the holding **and in case of a contract clause regarding the right to receive payment entitlements in the first year of allocation of payment entitlements;** **■** rules on the calculation of the value and number or on the **change** in the value of payment entitlements in relation to the allocation of payment entitlements, including rules on the possibility of a provisional value and number or of a provisional increase of payment entitlements allocated on the basis of the application from the farmer, on the conditions for establishing the provisional and definitive value and number of the payment entitlements and on the cases where a sale or lease contract could affect the allocation of payment entitlements; **■** rules on the establishment and calculation of the value and number of payment entitlements received from the national **or regional** reserve; **■** rules on the modification of the unit value of payment entitlements in the case of fractions of payment entitlements and **transfer of payment entitlements without land;** criteria for the allocation of payment entitlements **to farmers who did not receive direct payments in 2013 or** pursuant to the use

of the national *or regional reserve; criteria for applying limitations upon the number of payment entitlements to be allocated; and criteria for setting the reduction coefficient for conversion of certain permanent grassland to eligible hectares.*

- (24) In order to ensure the proper management of payment entitlements, the power to adopt *certain acts* ■ should be delegated to the Commission *in respect of rules on the content of the declaration and the requirements for the activation of payment entitlements.*
- (24a) *As a general rule, any agricultural area of the holding, including areas that were not in good agricultural condition on 30 June 2003 in Member States acceding to the Union on 1 May 2004 that opted to apply the single area payment scheme, that is used for an agricultural activity is eligible to benefit from the basic payment scheme. Given that non-agricultural activities may contribute to the income diversification of agricultural holdings and to the vitality of rural areas, an agricultural area of a holding that is used also for non-agricultural activities is to be considered eligible under the condition that it is used predominantly for agricultural activities. For the purpose of assessing this predominant character, common criteria should be set for all Member States. In this context and in order to ensure better targeting of direct payments, Member States may draw up, for reasons of legal certainty and clarity, a list of areas which are predominantly used for non-agricultural activities and hence ineligible. Furthermore, in order to maintain the eligibility of land that was eligible for the purpose of activating set-aside entitlements prior to the abolition of the set-aside obligation, it should be provided that certain afforested areas, including those afforested under national schemes complying with the relevant rules in Regulation (EC) No 1698/2005 or Regulation (EU) No [...] [RDR], or areas subject to certain environmental commitments are eligible under the basic payment scheme.*
- (25) As regards hemp, specific measures should be kept to ensure that illegal crops cannot be hidden among the crops eligible for the basic payment, thereby adversely affecting the common market organisation for hemp. Hence, payments should continue to be granted only for areas sown to varieties of hemp offering certain guarantees with regard to the psychotropic substance content.
- (25a) In order to preserve public health, the power to adopt *certain acts* ■ should be delegated to the Commission *in respect of* rules making the granting of payments conditional upon the use of certified seeds of certain hemp varieties and defining the procedure for the determination of hemp varieties and the verification of their tetrahydrocannabinol content.
- (25b) *In view of the considerable administrative, technical and logistical difficulties the transition to the basic payment scheme represents for the Member States applying the single area payment scheme under Regulation (EC) No 73/2009, they should be allowed to apply such scheme for the purpose of granting the basic payment for a further transitional period until the end of 2020 at the latest. If a Member State decides to introduce the basic payment scheme by 2018 at the latest, it may opt for differentiating the payments under the single area payment scheme according to the level of certain payments granted in 2014 under the specific support and separate payments under Regulation (EC) No 73/2009, or in the case of Cyprus under the envelopes by sector for transitional national aid.*
- (25c) *In order to guarantee the protection of the rights of beneficiaries and in order to clarify the specific situations that may arise in the application of the single area payment scheme, the power to adopt certain acts should be delegated to the Commission in*

respect of rules on eligibility and the access in respect of the single area payment scheme of farmers.

- (25d) *In Member States applying the single area payment scheme which were allowed to grant transitional national aids, such aid played an important role in supporting the income of farmers in specific sectors. For that reason, and in order to avoid a sudden and substantial decrease of support from 2015 in those sectors benefiting, until 2014, from transitional national aids, it is appropriate to provide, in those Member States, for the possibility to grant this aid as a complement to the single area payment scheme. In order to ensure the continuity of the support with the national aids granted so far, it is appropriate to limit the conditions to those applicable in 2013 to those aids, or in the case of Bulgaria and Romania complementary national direct payments, as authorised by the Commission following the requests from Member States. It is also appropriate to limit the maximum amounts of aids by sector compared to their levels in 2013 to ensure steady decrease of the aid levels and their compatibility with a convergence mechanism.*
- (25e) *Specific rules should be provided for the first allocation and the calculation of the value of payment entitlements when Member States having applied the single area payment scheme pursuant to this Regulation introduce the basic payment scheme. In order to ensure a smooth transition between those schemes, the power to adopt certain acts should be delegated to the Commission in respect of further rules on the introduction of the basic payment scheme in Member States having applied the single area payment scheme.*
- (25f) *Taking into account that the unitary support to farmers with smaller holdings has to be sufficient in order to achieve the objective of income support effectively, Member States should be allowed to redistribute direct support between farmers by granting them an extra payment for the first hectares on which they activate payment entitlements.*
- (26) One of the objectives of the new CAP is the enhancement of environmental performance through a mandatory "greening" component of direct payments which will support agricultural practices beneficial for the climate and the environment applicable throughout the Union. For that purpose, Member States should use part of their national ceilings for direct payments to grant an annual payment, on top of the basic payment, ***which may take account of internal convergence in the Member State or region***, for compulsory practices to be followed by farmers addressing, as a priority, both climate and environment policy goals. Those ***practices*** should take the form of simple, generalised, non-contractual and annual actions that go beyond cross-compliance and are linked to agriculture such as crop diversification, maintenance of permanent grassland – ***which includes traditional orchards where fruit trees are grown in low density on grassland – and ecological focus areas and apply on the whole eligible area of the holding in order to better achieve the objectives of the measure and to allow for an efficient administration and control of greening.*** The compulsory nature of those ***practices*** should also concern farmers whose holdings are fully or partly situated in "Natura 2000" areas covered by Council Directive 92/43/EEC ¹ and

¹ ***Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora*** (OJ L 206, 22.7.1992, p. 7).

by Directive 2009/147/EC of the European Parliament and of the Council ¹, or in areas covered by Directive 2000/60/EC of the European Parliament and of the Council², as long as these practices are compatible with the objectives of those Directives.

- (26a) Farmers who fulfil the conditions laid down in Council Regulation (EC) No 834/2007 ³ should benefit from the "greening" component without fulfilling any further obligation, given the recognised environmental benefits of the organic farming systems.
- (26b) Non-respect of the "greening" component should lead to penalties on the basis of Regulation (EU) No [...] [HZR].
- (26c) *In order to accommodate the diversity of agricultural systems and the different environmental situations across the Union, it is justified to recognize, besides the three greening measures established in the present Regulation, practices covered by agro-environment-climate measures or certification schemes that are similar to greening and that yield an equivalent or higher level of benefit for the climate and the environment. For reasons of legal clarity these practices should be laid down in an Annex to this Regulation. Member States should decide whether to offer to farmers the possibility of using equivalent practices and the greening practices established in this Regulation in order to require the farmer to follow the practices best suited to ensure the objectives of the measure and should notify the Commission of their decisions. For reasons of legal certainty, the Commission should assess whether the practices covered by the notified equivalent measures are covered by the Annex. In order to allow a simpler implementation of equivalence and for reasons of controllability, rules should be laid down as regards the area coverage of equivalent measures, taking into account the specificities of agro-environment-climate measures and certification schemes. In order to ensure equivalent practices are properly applied and double funding is avoided, the power to adopt certain acts should be delegated to the Commission for the purpose of adding practices to the list of equivalent practices, establishing requirements for the national or regional certification schemes and, where necessary, establishing detailed rules for the calculation of related amounts.*
- (27) *The obligations under the crop diversification measure should be applied in a way that takes into account the difficulty for smaller farms to diversify while still leading to an enhanced environmental protection, and in particular the improvement of soil quality. Exceptions should be provided for farms that already fulfil the objectives of crop diversification by being covered to a significant extent by grassland or fallowland, for specialised farms rotating their parcels each year or for farms that because of their*

¹ Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (OJ L 20, 26.1.2010, p. 7).

² Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy (OJ L 327, 22.12.2000, p. 1).

³ Council Regulation (EC) No 834/2007 of 28 June 2007 on organic production and labelling of organic products and repealing Regulation (EEC) No 2092/91 (OJ L 189, 20.7.2007, p. 1).

geographical localisation would have excessive difficulties in introducing a third crop. In order to ensure that the obligations referred to the crop diversification measure are applied in a proportionate and non-discriminatory way and lead to an enhanced environmental protection, the power to adopt *certain acts should be delegated to the Commission in respect of recognising further genera and species and laying down rules concerning the application of the precise calculation of shares of different crops.*

(27a) *For the sake of environmental protection of permanent grassland and in particular carbon sequestration, provisions should be made for the maintenance of permanent grassland. This protection should consist of a ban on ploughing and conversion on environmentally most sensitive areas in "Natura 2000" areas covered by Directives 92/43/EEC and 2009/147/EC, and of a more general safeguard, based on a ratio of permanent grassland, against conversion to other uses. Member States should have the competence to delineate further environmentally sensitive areas not covered by the Directives. In addition, they should choose at which territorial level the ratio should apply. In order to assure an efficient protection of permanent grassland, the power to adopt certain acts should be delegated to the Commission for the purpose of defining the framework for the designation, by Member States, of permanent grasslands not covered by Directives 92/43/EEC or 2009/147/EC.*

(28) *In order to ensure that the ratio of permanent grassland to the total agricultural area is correctly determined and maintained, the power to adopt certain acts should be delegated to the Commission in respect of the establishment of detailed methods for the determination of that ratio, detailed rules on maintenance of permanent grassland and the time frame relevant for an obligation of individual farmers to revert land.*

(29) *Ecological focus areas should be established, in particular, in order to safeguard and improve biodiversity on farms. The ecological focus areas should therefore consist of areas directly affecting biodiversity such as land lying fallow, landscape features, terraces, buffer strips, afforested areas and agro-forestry areas or indirectly affecting biodiversity through a reduced use of inputs on the farm, such as catch crops and winter green cover. The obligations laid down in respect of the ecological focus area measure should be applied in a way that avoids disproportionate burdens being applied to smaller farms in establishing such areas in comparison to the additional enhanced environmental protection. Exceptions should be provided for farms that already fulfil the objectives of ecological focus areas by being covered to a significant extent by grassland or fallowland and for farmers that pursue an agricultural activity in areas facing natural constraint in certain predominantly forested areas where there is a significant risk of land abandonment in predominantly forested Member States. Provision should be made for the possibility for Member States and farms to fulfil at a regional or collective level the obligation in order to obtain adjacent ecological focus areas that are more beneficial for the environment. For the sake of simplification, Member States should have the option to standardise the measurement of the ecological focus areas.*

(29a) *In order to ensure the implementation of the ecological focus area measure in an efficient and coherent way, while taking into account Member States' specificities, the power to adopt certain acts in **■** should be delegated to the Commission in respect of laying down further criteria for the qualification of areas as ecological focus areas; recognising other types of ecological focus areas; establishing conversion and weighting factors for certain ecological focus areas; establishing rules for the implementation, by Member States, of a part of the ecological focus area at regional level; laying down rules for the establishment of collective implementation of the obligation to keep ecological focus areas by holdings in close proximity, establishing the framework for the criteria, to be set out by Member States, for identifying such close proximity; and establishing the methods of determination of the ratio of forest to agricultural land. When adding other types of ecological focus area, the Commission shall ensure that they aim to improve the general*

environmental performance of the holding, in particular as regards biodiversity, the improvement of soil and water quality, preservation of landscape and meeting the climate change mitigation and adaptation objectives.

- (30) In order to promote the sustainable development of agriculture in areas with specific natural constraints, Member States should be able to use part of their national ceilings for direct payments to grant an annual area-based payment, on top of the basic payment, to all farmers operating in *those areas or in some of those areas, where decided by the Member State*. That payment should not replace the support given under rural development *programmes* and should not be granted to farmers in areas which were designated in accordance with Council Regulation (EC) No 1698/2005 ¹ but have not been designated in accordance with Article 46(1) of Regulation (EU) No [...] of the European Parliament and of the Council ².
- (31) The creation and development of new economic activity in the agricultural sector by young farmers is financially challenging and constitutes an element that should be considered in the allocation and targeting of direct payments. This development is essential for the competitiveness of the agricultural sector in the Union and, for that reason, an income support to young farmers commencing their agricultural activities should be established in order to facilitate the initial establishment of young farmers and the structural adjustment of their holdings after the initial setting up. Member States should be able to use *for that purpose* part of their national ceilings for direct payments to grant *to young farmers* an annual area-based payment, on top of the basic payment. *Member States should be able to decide on a calculation method of that payment and, if that method implies an obligation to set a limit on a payment per farmer, such a limit shall be set in respect of the general principles of Union law*. That payment should only be granted during a *maximum* period of [■] five years, since it should only cover the initial period of the life of the business and should not become an operating aid, *and it should be available to young farmers commencing their agricultural activity who are no more than 40 years of age in the year of the first submission of the application to the basic payment scheme or the single area payment scheme*.
- (32) In order to guarantee the protection of the rights of beneficiaries and to avoid discrimination *between* them, the power to adopt *certain* acts [■] should be delegated to the Commission *in respect* of defining the conditions under which a legal person may be considered eligible for receiving the payment for young farmers [■].
- (33) Member States should be allowed to use part of their national ceilings for direct payments for coupled support in certain sectors *or regions* in clearly defined cases. The resources that may be used for any coupled support should be limited to an appropriate level, while

¹ *Council Regulation (EC) No 1698/2005 of 20 September 2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD)* (OJ L 277, 21.10.2005, p. 1). Regulation repealed and replaced by Regulation (EU) No...[RDR]

² *Regulation (EU) No [...] of the European Parliament and of the Council of on support for rural development by the European Agricultural Fund for Rural Development (EAFRD)* (OJ L.....).

allowing such support to be granted in Member States ■ in their specific *sectors or* regions facing particular situations where specific types of farming or specific agricultural sectors are particularly important for economic, environmental and/or social reasons. Member States should be allowed to use up to 8 % of their national ceilings for this support, or 13 % in case their level of coupled support in at least one of the years of the period 2010-2014 exceeded 5 %. **Furthermore, in order to maintain the protein based autonomy of the breeding sector, Member States which decide to use at least 2 % of their national ceilings to support the production of protein crops should be allowed to increase those percentages by up to two percentage points.** However, in duly justified cases where certain sensitive needs in a region *or a sector* are demonstrated, and upon approval by the Commission, Member States should be allowed to use more than 13 % of their national ceiling. **As an alternative to those percentages, Member States may choose to use up to EUR 3 million per year for financing the coupled support.** Coupled support should only be granted to the extent necessary to create an incentive to maintain current levels of production in those regions. This support should also be available to farmers holding, on 31 December 2013, special payment entitlements allocated under Regulation (EC) No 1782/2003 and Regulation (EC) No 73/2009 and who do not have eligible hectares for the activation of payment entitlements. As regards the approval of voluntary coupled support exceeding 13 % of the annual national ceiling fixed per Member State, the Commission should further be empowered to adopt implementing acts without applying Regulation (EU) No 182/2011.

- (34) In order to ensure efficient and targeted use of Union funds and to avoid double funding under other similar support instruments, the power to adopt *certain* acts ■ should be delegated to the Commission **in respect of establishing** the conditions for granting voluntary coupled support, **as well as** rules on its consistency with other Union measures and on the cumulation of support.
- (35) **A part of** support to the cotton sector *under* Regulation (EC) No 73/2009 ■ continued to be linked to the cultivation of cotton through a crop specific payment per eligible hectare to ensure against any risk of disruption to production in the cotton producing regions, taking into account all factors that influence this choice. This choice should be maintained in accordance with the objectives set out in Protocol No 4 on cotton attached to the 1979 Act of Accession.
- (36) In order to **ensure** the efficient application of the crop-specific payment for cotton, the power to adopt *certain* acts ■ should be delegated to the Commission **in respect of establishing** rules and conditions for the authorisation of land and varieties **for the purposes of** the crop specific payment for cotton; rules on the conditions for the granting of that ■ payment, on the eligibility requirements and the agronomic practices; criteria for the approval of inter-branch organisations; obligations for producers; and **rules governing** the situation where the approved inter-branch organisation does not *satisfy* those criteria.
- (37) Chapter 2 of Council Regulation (EC) No 637/2008 ■ ¹ provided that each cotton producing Member State has **to submit to the Commission** either every four years and for the first time by 1 January 2009 a draft four-year restructuring programme, or ■ by 31

¹ **Council Regulation (EC) No 637/2008 of 23 June 2008 amending Regulation (EC) No 1782/2003 and establishing national restructuring programmes for the cotton sector** (OJ L 178, 5.7.2008, p. 1).

December 2009, a single draft modified restructuring programme for a duration of eight years. Experience has shown that the restructuring of the cotton sector would be better served through other measures, including those under rural development programming financed under Regulation (EU) No [...] [RDR], which would also allow for a greater co-ordination with measures in other sectors. *The acquired rights and legitimate expectations of undertakings already involved in restructuring programmes should, however, be respected.* Therefore the ongoing programmes of four or eight years should be allowed to continue to their end *with no extension.* Funds available from the four-year programmes could then be integrated into the available Union funds for measures under rural development from 2014. *Given the programming period, funds available after the end of the eight year programmes would not be useful in rural development programmes in 2018* and could therefore be more usefully transferred to support schemes under this Regulation, as already provided for in Regulation (EC) No 637/2008. Regulation (EC) No 637/2008 will therefore become obsolete from 1 January 2014 or 1 January 2018 as regards Member States which have, respectively, four or eight-year *programmes* and should therefore be repealed.

- (38) *Member States should be allowed to establish a simple and specific scheme for small farmers* in order to reduce the administrative costs linked to the management and control of direct support. For that purpose, *Member States should be allowed to establish either a lump-sum payment replacing all direct payments, or a payment based on the amount due to the farmers each year. Rules simplifying formalities should be introduced by reducing, inter alia, the obligations imposed on small farmers such as those related to the application for support, to agricultural practices beneficial for the climate and the environment, to cross-compliance and to controls as laid down in Regulation (EU) No [...] [HZR] without endangering the achievement of the overall objectives of the reform, it being understood that Union legislation as referred to in Annex II to Regulation (EU) No [...] [HZR] applies to small farmers. The objective of that scheme should be to support the existing agricultural structure of small farms in the Union without countering the development towards more competitive structures. For that reason, access to the scheme should, in principle, be limited to existing holdings. Participation of farmers in the scheme should be optional, however, in order to further increase the impact of the scheme in terms of simplification, Member States should be allowed to include certain farmers into the scheme automatically with the possibility for them to opt-out.*
- (39) In order to *ensure legal certainty, the power to adopt certain acts* should be delegated to the Commission *in respect of conditions* for participation in the small farmers scheme where the situation of the participating farmer changes.
- (40) In the interest of simplification and to take into account the specific situation of the outermost regions, direct payments in those regions should be managed within the support programmes established by Regulation (EC) No **228/2013**. As a consequence, provisions in this Regulation relating to the basic payment and related payments, to coupled support *and to the small farmers scheme* should not apply to those regions.
- (41) Notifications are needed from Member States for the purpose of applying this Regulation, and for the purpose of monitoring, analysing and managing direct payments. In order to ensure *the correct* application of the rules *set out* in this Regulation *and to make such notifications fast, efficient, accurate, cost-effective and compatible with the protection of personal data*, the power to adopt *certain acts* should be delegated to the Commission *in respect* of the necessary measures regarding notifications to be made by Member States *to*

the Commission or for the purpose of checking, controlling, monitoring, evaluating and auditing direct payments *and for complying with requirements laid down in* international agreements, including notification requirements under those agreements and *in respect of further rules on* the nature and type of the information to be notified, *the categories of data to be processed and maximum retention period*, the access rights to the information or information systems and the conditions **■** of publication of the information.

- (42) *Personal data collected for the purposes of the application of direct payments should be processed in a way compatible with those purposes, made anonymous and aggregated when processed for monitoring or evaluation purposes, and protected in accordance with Union law* concerning the protection of individuals with regard to the processing of personal data and on the free movement of such data, in particular Directive 95/46/EC of the European Parliament and of the Council **■**¹ and Regulation (EC) No 45/2001 of the European Parliament and of the Council **■**². *Data subjects should be informed of such processing and of their rights as regards data protection.*

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- (42a) *The European Data Protection Supervisor was consulted and delivered an opinion on 14 December 2011*³.

- (44) In order to ensure a smooth transition from the arrangements provided for in Regulation (EC) No 73/2009 to those laid down in this Regulation, the power to adopt *certain* acts **■** should be delegated to the Commission *in respect of establishing* the necessary measures to protect *any* acquired rights and legitimate expectations of farmers.

- (46) *In order to ensure uniform conditions for the implementation of this Regulation and to avoid unfair competition or discrimination between farmers, implementing powers should be conferred on the Commission in respect of: authoring of complementary national direct payments for Croatia; setting the amount to be included in the special national de-mining reserve for Croatia; fixing the annual national ceiling for the basic payment scheme; adopting rules on applications for allocation of payment entitlements; adopting measures regarding the reversion of non-activated payment entitlements to the national reserve; adopting modalities of the notification of transfer of payment entitlements to the national authorities and the deadlines within which such notification are to take place; fixing annual ceilings for the redistributive payment; fixing the annual national ceiling for the single area payment scheme; adopting rules on applications for allocation of payment entitlements submitted in the year of allocation of payment entitlements where Member States change to the basic payment scheme; modalities and*

¹ *Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data* (OJ L 281, 23.11.1995, p. 31).

² *Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data* (OJ L 8, 12.1.2001, p. 1).

³ *OJ C 35, 9.2.2012, p. 1.*

timetables for notifications relating to specific commitments or certification schemes; adopting rules on the procedure for the Member States notifications and the Commission assessment as regards equivalent practices; adopting certain limits within which the obligation to maintain permanent grassland is considered as being complied with; setting out the annual ceiling for the payment for agricultural practices beneficial for the climate and the environment; setting out the annual ceiling for the payment for areas with natural constraints; setting out the annual ceiling for the payment for young farmers; setting out the annual ceilings for the voluntary coupled support; adopting rules on the procedure for the assessment and approval of decisions in the framework of the voluntary coupled support; adopting rules on the authorisation procedure and on the notifications to the producers related to the authorisation of land and varieties for the purposes of the crop specific payment for cotton; adopting rules on the calculation of the reduction of the amount of the crop specific payment for cotton; adopting rules concerning general notification requirements and methods; and adopting necessary and justifiable measures to resolve specific problems in an emergency. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council¹.

¹ *Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).*

- (47) *In order to solve urgent problems occurring in one or more Member States while ensuring the continuity of the direct payments system, the Commission should adopt immediately applicable implementing acts where, in duly justified cases extraordinary circumstances affect the granting of support and jeopardise the effective implementation of the payments under the support schemes listed in this Regulation.*
- (48) *Since the objectives of this Regulation cannot be sufficiently achieved by the Member States acting alone and can therefore be better achieved at Union level through the multiannual guarantee of Union financing and by concentrating on clearly identified priorities, given the links between this Regulation and the other instruments of the CAP, the disparities between the various rural areas and the limited financial resources of the Member States in an enlarged Union, the Union may adopt measures,, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union (TEU). In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.*

HAVE ADOPTED THIS REGULATION:

■

TITLE I SCOPE AND DEFINITIONS

Article 1 Scope

This Regulation establishes:

- (a) common rules on payments granted directly to farmers under the support schemes listed in Annex I (■ "direct payments");
- (b) specific rules concerning:
- (i) a basic payment for farmers ("*the basic payment scheme*" and a *transitional simplified scheme ('the single area payment scheme')*);
 - (ia) *a voluntary redistributive payment ('the redistributive payment')*;
 - (iaa) *voluntary transitional national aid for farmers*;
 - (ii) a payment for farmers observing agricultural *practices* beneficial for the climate and the environment;
 - (iii) a voluntary payment for farmers in areas *with* natural constraints;
 - (iv) a payment for young farmers who commence their agricultural activity;
 - (v) a voluntary coupled support scheme;
 - (vi) a crop specific payment for cotton;
 - (vii) a *voluntary* simplified scheme for small farmers;

- (viii) a framework to enable Bulgaria, Croatia and Romania to complement direct payments.

Article 2
Amendment of Annex I

In order to ensure legal certainty, the Commission shall be empowered to adopt delegated acts in accordance with Article 55 amending the list of support schemes set out in Annex I ***to the extent necessary to take account of any new legislative acts on support schemes which may be adopted after the adoption of this Regulation.***

Article 3
Application to the outermost regions and the smaller Aegean islands

Article 11 shall not apply to the regions of the Union referred to in Article 349 of the *TFEU* ("*the outermost regions*") and to the direct payments granted in the smaller Aegean islands in accordance with Regulation (EC) No **229/2013**.

Titles III, IV and V shall not apply to the outermost regions.

Article 4
Definitions and related provisions

1. For the purposes of this Regulation, the following definitions shall apply:
 - (a) "farmer" means a natural or legal person, or a group of natural or legal persons, ***regardless of the*** legal status granted to ***such*** group and its members by national law, whose holding is situated within the ***territorial scope of the Treaties***, as defined in Article 52 *TEU* in conjunction with Articles 349 and 355 of the *TFEU*, and who exercises an agricultural activity;
 - (b) "holding" means all the units used for agricultural activities and managed by a farmer situated within the territory of the same Member State;
 - (c) "agricultural activity" means:
 - ***production***, rearing or growing of agricultural products including harvesting, milking, breeding animals and keeping animals for farming purposes, ***or***
 - maintaining ***an*** agricultural area in a state which makes it suitable for grazing or cultivation without preparatory action going beyond ***usual*** agricultural methods and machineries, ***based on criteria established by Member States on the basis of a framework established by the Commission***, or
 - carrying out a minimum activity, established by Member States, on agricultural areas naturally kept in a state suitable for grazing or cultivation;
 - (d) "agricultural products" means the products, with the exception of fishery products, ***listed in Annex I to the Treaties*** as well as cotton;
 - (e) "agricultural area" means any area taken up by arable land, permanent grassland ***and permanent pasture*** or permanent crops;

- (f) "arable land" means land cultivated for crop production or areas available for crop production but **lying** fallow, including areas set aside in accordance with Articles 22, 23 and 24 of Regulation (EC) No 1257/1999, with Article 39 of Regulation (EC) No 1698/2005 and with Article 29 of Regulation (EU) No [...] [RDR], irrespective of whether or not that land is under greenhouses or under fixed or mobile cover;
- (g) "permanent crops" means non-rotational crops other than permanent grassland **and permanent pasture** that occupy the land for five years or **more** and yield repeated harvests, including nurseries ■ and short rotation coppice;
- (h) "permanent grassland **and permanent pasture**" (*together referred to as "permanent grassland"*) means land used to grow grasses or other herbaceous forage naturally (self-seeded) or through cultivation (sown) and that has not been included in the crop rotation of the holding for five years or **more**; it may include other species **such as shrubs and/or trees which can be grazed** provided that the grasses and other herbaceous forage remain predominant **as well as, subject to a decision by Member States, land which can be grazed and which forms part of established local practices where grasses and other herbaceous forage are traditionally not predominant in grazing areas**;
- (i) "grasses or other herbaceous forage" means all herbaceous plants traditionally found in natural pastures or normally included in mixtures of seeds for pastures or meadows in the Member State, whether or not used for grazing animals;
- (j) "nurseries" means the following areas of young ligneous (woody) plants grown in the open air for subsequent transplantation:
- vine and root-stock nurseries,
 - fruit tree and berries nurseries,
 - ornamental nurseries,
 - commercial nurseries of forest trees excluding those for the holding's own requirements grown within woodland,
 - **nurseries of** trees and bushes for planting in gardens, parks, at the roadside and on embankments (e.g. hedgerow plants, rose trees and other ornamental bushes, ornamental conifers), including in all cases their stocks and young seedlings;
- (k) "short rotation coppice" means areas planted with tree species of CN code **06 02 9041** to be defined by Member States ■ that consist of woody, perennial crops, the rootstock or stools **of which remain** in the ground after harvesting, with new shoots emerging in the following season and with a maximum harvest cycle to be determined by the Member States;
- (l) "**sale**" means the sale or any other definitive transfer of ownership of land or payment entitlements; it does not include the sale of land where land is transferred to public authorities and/or for use in the public interest and where the transfer is carried out for non-agricultural purposes;

- (m) *"lease" means a rental agreement or similar temporary transaction;*
- (n) *"transfer" means the lease or sale or actual inheritance or anticipated inheritance of land or payment entitlements or any other definitive transfer thereof; it does not cover the reversion of entitlements upon expiry of a lease.*

1a. Member States shall:

- (a) *establish criteria to be met by farmers in order to fulfil the obligation to maintain the agricultural area in a state suitable for grazing or cultivation, as referred to in the second indent of point (c) of paragraph 1;*
- (b) *define the minimum activity to be carried out on agricultural areas naturally kept in a state suitable for grazing or cultivation, as referred to in the third indent of point (c) of paragraph 1;*
- (c) *define the tree species qualifying for short rotation coppice and determine the maximum harvest cycle in respect of those tree species, as referred to in point (k) of paragraph 1.*

Member States may decide that land which can be grazed and which forms part of established local practices where grasses and other herbaceous forage are traditionally not predominant in grazing areas, is to be considered to be permanent grassland, as referred to in point (h) of paragraph 1.

2. In order to ensure legal certainty, the Commission shall be empowered to adopt delegated acts in accordance with Article 55 establishing:

- (aa) the framework within which Member States *are to define* the criteria to be met by farmers in order to *fulfil* the obligation *to maintain* the agricultural area in a state suitable for grazing or cultivation as referred to in *the second indent of point (c) of paragraph 1;*
- (b) *the framework within which Member States shall define the minimum activities to be carried out on areas naturally kept in a state suitable for grazing or cultivation* as referred to in the third indent of point (c) of paragraph 1;
- (d) **█** *the criteria to determine the predominance of grasses and other herbaceous forage and the criteria to determine the established local practices referred to in point (h) of paragraph 1.*

TITLE II
GENERAL PROVISIONS ON DIRECT PAYMENTS
CHAPTER 1
COMMON RULES ON DIRECT PAYMENTS

Article 5
General common agricultural policy (CAP) provisions

■ **Regulation (EU) No [...] [HZR] and the provisions adopted pursuant thereto shall apply to the schemes provided for in this Regulation.**

Article 6
National ceilings

1. For each Member State, *for* each year, the national ceiling comprising the total value of all allocated entitlements, of the national reserve *or the regional reserves* and of the ceilings fixed in accordance with Articles 28h, 33, 35, 37 and 39 shall be as set out in Annex II.

Where a Member State makes use of the option provided for in the second subparagraph of Article 19(1), the ceiling set out in Annex II for that Member State for the respective year may be exceeded by the amount calculated in accordance with that subparagraph.

- 1a. *By way of derogation from paragraph 1, for each Member State applying the single area payment scheme and each year, the national ceiling comprising the ceilings fixed in accordance with Articles 28c, 28h, 33, 35, 37 and 39 shall be as set out in Annex II.*
2. In order to take account of the developments relating to the total maximum amounts of direct payments that may be granted, including those resulting from the decisions to be taken by the Member States in accordance with Article 14 and those resulting from the application of the second paragraph of Article 17b, the Commission shall be empowered to adopt delegated acts in accordance with Article 55 *adapting* the national ceilings set out in Annex II.

Article 7
Net ceilings

1. Without prejudice to Article 8, the total amount of direct payments which may be granted in a Member State pursuant to Titles III, IV and V in respect of a calendar year, after application of Article 11, shall not be higher than the ceilings set out in Annex III ■ .

Where the total amount of direct payments *to be granted would be* higher than the ceilings set out in Annex III, Member States shall make a linear reduction in the amounts of all direct payments with the exception of direct payments granted under Regulations (EU) No 228/2013 and (EU) No 229/2013.

2. For each Member State, *for* each year, the estimated product of *the reduction* as referred to in Article 11 (which is reflected by the difference between the national ceilings set out in Annex II, to which is added the amount available in accordance with Article 44, and the net ceilings set out in Annex III) *shall be* made available as Union support for measures under rural development programming financed under the EAFRD as specified in Regulation (EU) No [...] [RDR].
3. *In order to take account of the developments relating to the total maximum amounts of direct payments that may be granted, including those resulting from the decisions taken by the Member States pursuant to Article 14, the* Commission shall be empowered to adopt delegated acts in accordance with Article 55 *adapting* the ceilings set out in Annex III.

Article 8
Financial discipline

1. The adjustment rate determined in accordance with Article 25 of Regulation (EU) No [...] [HZR] shall only apply to direct payments in excess of EUR 2 000 to be granted to farmers in the corresponding calendar year.
2. *As a result* of the gradual introduction of direct payments provided for in Article 16, paragraph 1 of this Article shall apply to Bulgaria and Romania as from 1 January 2016. *As a result of the gradual introduction of direct payments provided for in Article 16a, paragraph 1 of this Article shall apply to Croatia* from 1 January 2022.
3. *In order to ensure the correct application of the adjustments of direct payments with respect to financial discipline, the* Commission shall be empowered to adopt delegated acts in accordance with Article 55 *laying down* rules on the basis for calculation of reductions to be applied by Member States to farmers pursuant to *paragraph 1* of this Article.
4. *In the case of a legal person, or a group of natural or legal persons, Member States may apply the adjustment rate referred to in paragraph 1 at the level of the members of those legal persons or groups where national law provides for the individual members to assume rights and obligations comparable to those of individual farmers who have the status of a head of holding, in particular as regards their economic, social and tax status, provided that they have contributed to strengthening the agricultural structures of the legal persons or groups concerned.*

Article 9
Active farmer

1. No direct payments shall be granted to natural or legal persons, or to groups of natural or legal persons **whose** agricultural areas are mainly areas naturally kept in a state suitable for grazing or cultivation and *who* do not carry out on those areas the minimum activity established by Member States in accordance with *point (c) of Article 4(1)* .
2. *No direct payments shall be granted to natural or legal persons, or to groups of natural or legal persons, who operate airports, railway services, waterworks, real estate services, permanent sport and recreational grounds.*

Where appropriate, Member States may, on the basis of objective and non-discriminatory criteria, decide to add to the list in the first subparagraph any other similar non-agricultural businesses or activities, and may subsequently withdraw such additions.

A person or group referred to in the first or second subparagraph shall, however, be regarded as an active farmer if it provides verifiable evidence, in the form that is required by Member States, which demonstrates any of the following:

- (i) *that the annual amount of direct payments is at least 5 % of the total receipts that it obtained from non-agricultural activities in the most recent fiscal year for which such evidence is available;*

- (ii) *that its agricultural activities are not insignificant;*
 - (iii) *that its principal business or company objects consist of exercising an agricultural activity.*
3. *In addition, Member States may decide, on the basis of objective and non-discriminatory criteria, that no direct payments are to be granted to natural or legal persons, or to groups of natural or legal persons:*
- (i) *whose agricultural activities form only an insignificant part of their overall economic activities, and/or*
 - (ii) *whose principal activity or company objects do not consist of exercising an agricultural activity.*
4. *Paragraphs 2 and 3 shall not apply to farmers who only received direct payments not exceeding a certain amount in the previous year. Such amount shall be decided by Member States on the basis of objective criteria such as their national or regional characteristics and shall not exceed an amount of EUR 5 000.*
5. *In order to guarantee the protection of the rights of farmers, the Commission shall be empowered to adopt delegated acts in accordance with Article 55* **■** *laying down:*
- (a) *criteria for determining the cases where a farmer's agricultural area is to be considered to be mainly an area naturally kept in a state suitable for grazing or cultivation;*
 - (b) *criteria for establishing the distinction between receipts resulting from agricultural and non-agricultural activities;*
 - (ba) *criteria for establishing the amount of direct payments referred to in paragraphs 2 and 4, in particular in the first year of allocation of payment entitlements where the value of the payment entitlements is not yet definitively established, as well as for new farmers;*
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- (c) *criteria that farmers are to meet in order to prove for the purposes of paragraphs 2 and 3 that their agricultural activities are not insignificant and that their principal business or company objects consists of exercising an agricultural activity.*
6. *Member States shall notify the Commission of their decision referred to in paragraphs 2, 3 and 4 by 1 August 2014 and, in the case of amendments thereto, within two weeks of the date on which the decision was taken.*

Article 10

Minimum requirements for receiving direct payments

1. Member States shall decide not to grant direct payments to a farmer in one of the following cases:
- (a) where the total amount of direct payments claimed or due to be granted before the *application of* Article 65 of Regulation (EU) No [...] [HZR] in a given calendar year

is less than EUR 100;

- (b) where the eligible area of the holding for which direct payments are claimed or due to be granted before the *application of* Article 65 of Regulation (EU) No [...] [HZR] is less than one hectare.

In order to take account of the structure of their agricultural economies, Member States may adjust the thresholds *set out* in points (a) and (b) within the limits set out in Annex IV.

2. ***Where a Member State has decided to apply an area threshold pursuant to point (b) of paragraph 1 it shall nevertheless apply point (a) of that paragraph to those farmers receiving the animal-related coupled support referred to in Title IV who hold fewer hectares than the area threshold.***
3. The Member States concerned may decide not to apply paragraph 1 in the outermost regions and in the smaller Aegean Islands.
4. In Bulgaria and Romania, for the *year* 2015, the amount claimed or due to be granted as referred to in paragraph 1 shall be calculated on the basis of the amount set out in *point A of Annex V* . In Croatia, for the years **2015-2021**, the amount claimed or due to be granted as referred to in paragraph 1 shall be calculated on the basis of the amount set out in *point A of Annex Va* .

Article 11

Reduction of the payment

1. ***Member States shall reduce the amount of direct payments to be granted to a farmer pursuant to Chapter 1 of Title III of this Regulation in a given calendar year by at least 5 % for the part of the amount exceeding EUR 150 000.***
2. ***Before applying paragraph 1, Member States may subtract the salaries linked to an agricultural activity actually paid and declared by the farmer in the previous year, including taxes and social contributions related to employment, from the amount of payments to be granted to a farmer pursuant to Chapter 1 of Title III of this Regulation in a given calendar year. Where no data is available on the salaries actually paid and declared by the farmer in the previous year, the most recent data available shall be used.***
3. ***Member States that decide to grant a redistributive payment to farmers pursuant to Chapter 1a of Title III and to use more than 5 % of the annual national ceiling set out in Annex II for that purpose may decide not to apply this Article. Where the application of the maximum limits set out in Article 28g(4) prevents a Member State from reaching this percentage, that Member State may decide not to apply this Article.***
4. ***No advantage by means of avoiding reductions of the payment shall be granted in favour of farmers in respect of whom it is established that, as from 19 October 2011, they artificially created the conditions to avoid the effects of this Article.***
 - 4a. ***In the case of a legal person, or a group of natural or legal persons, Member States may apply the reduction referred to in paragraph 1 at the level of the members of those legal persons or groups where national law provides for the individual members to assume rights and obligations comparable to those of individual farmers who have the status of***

head of holding, in particular as regards their economic, social and tax status, provided that they have contributed to strengthening the agricultural structures of the legal persons or groups concerned.

5. *Member States shall notify the Commission by 1 August 2014 of the decisions taken in accordance with this Article and the estimated product of reductions for the years 2015 to 2019.*

Article 12 **Multiple claims**

The area corresponding to the number of eligible hectares in respect of which an application for a basic payment has been submitted by a farmer pursuant to Chapter 1 of Title III may be the subject of an application for any other direct payment as well as for any other aid not covered by this Regulation, save as explicitly provided otherwise in this Regulation.

Article 13 **State aid**

By way of derogation from Article 146(1) of Regulation [sCMO], Articles 107, 108 and 109 of the *TFEU* shall not apply to payments made by Member States ■ in conformity with this Regulation.

Article 14 **Flexibility between pillars**

1. Before **31 December** 2013, Member States may decide to make available as additional support for measures under rural development programming financed under the EAFRD as specified under Regulation (EU) No [...] [RDR], up to **15 %** of their annual national ceilings for calendar years 2014 to 2019 as set out in Annex II to this Regulation. As a result, the corresponding amount shall no longer be available for granting direct payments.

The decision referred to in the first *subparagraph* shall be notified to the Commission by **31 December 2013**. *That decision shall set out the percentage as referred to in that subparagraph which may vary by calendar year.*

Member States which do not make use of the first subparagraph for calendar year 2014 may take the decision referred to therein, as regards calendar years 2015 to 2019, before 1 August 2014 and shall notify it to the Commission by 1 August 2014.

Member States may decide to review the decisions referred to in this paragraph with effect from calendar year 2018. Such review shall not result in a decrease of the percentage notified to the Commission in accordance with the first, second and third subparagraphs. Member States shall notify the Commission of such decisions to review by 1 August 2017.

2. *Before 31 December 2013, Member States not using the possibility under paragraph 1 may decide to make available as direct payments under this Regulation up to 15 % or, in the case of Bulgaria, Estonia, Finland, Latvia, Lithuania, Poland, Portugal, Romania, Slovakia, Spain, Sweden and the United-Kingdom, up to 25 % of the amount allocated to support for measures under rural development programming financed under the EAFRD in the period 2015-2020 as specified under Regulation (EU) No [...] [RDR].] As a result, the corresponding amount shall no longer be available for support measures under rural*

development programming.

The decision referred to in the first subparagraph shall be notified to the Commission by 31 December 2013. That decision shall set out the percentage as referred to in that subparagraph which may vary by calendar year.

Member States which do not make use of the first subparagraph for financial year 2015 may take the decision referred to in the first subparagraph, as regards the period 2016-2020, before 1 August 2014 and shall notify it to the Commission by 1 August 2014.

Member States may decide to review the decisions referred to in this paragraph with effect for financial years 2019 and 2020. Such review shall not result in an increase of the percentage notified to the Commission in accordance with the first, second and third subparagraphs. Member States shall notify the Commission of such decisions to review by 1 August 2017.

Article 15 **Review**

Support schemes listed in Annex I shall apply without prejudice to a possible review at any time *by legislative acts, delegated acts under Article 290 of the TFEU or implementing acts under Article 291 of the TFEU* in the light of economic developments and the budgetary situation.

CHAPTER 2 **Provisions applying to Bulgaria, Croatia and Romania**

Article 16 **Gradual introduction of direct payments in Bulgaria and Romania**

In Bulgaria and Romania, the national ceilings for payments referred to in Articles *28h*, 33, 35, 37, 39 and 51 shall in 2015 be established on the basis of the *amount set out in point A of Annex V*.

Article 16a **Gradual introduction of direct payments in Croatia**

In Croatia, direct payments shall be introduced in accordance with the following schedule of increments expressed as a percentage of the corresponding level of the direct payments as applied from 2022:

- 25 % in 2013,
- 30 % in 2014,
- 35 % in 2015,
- 40 % in 2016,
- 50 % in 2017,
- 60 % in 2018,
- 70 % in 2019,

- 80 % in 2020,
90 % in 2021,
100 % as from 2022.

Article 17

Complementary national direct payments and direct payments in Bulgaria and Romania

1. In 2015, Bulgaria and Romania may use national direct payments in order to complement payments granted under the basic payment scheme referred to in Chapter 1 of Title III and, in the case of Bulgaria, also to complement payments granted under the crop specific payment for cotton referred to in Chapter 2 of Title IV.
2. The total amount of complementary national direct payments to the basic payment scheme which may be granted in respect of 2015 shall not exceed the *amount* set out in *point B of Annex V* for *that year*.
3. For Bulgaria, the total amount of complementary national direct payments to the crop specific payment for cotton *which may be granted in respect of 2015* shall not exceed the *amount set out in point C of Annex V for that year*.
4. Complementary national direct payments shall be granted in accordance with objective criteria and in such a way as to ensure equal treatment between farmers and to avoid market and competition distortions.

Article 17a

Complementary national direct payments for Croatia

1. Croatia *may complement*, subject to authorisation by the Commission, any of the support schemes listed in Annex I, where relevant.
2. The complementary amount which may be granted in a given year and for a given support scheme shall be limited by a specific financial envelope. This envelope shall be established as the difference between:
 - (a) the amount of direct support available per support scheme concerned after the full introduction of direct payments *in accordance with* Article 16a for the calendar year 2022and
 - (b) the amount of direct support available per support scheme concerned after the application of the schedule of increments *in accordance with* Article 16a in the year concerned.
3. The total amount of complementary national direct payments granted shall not be higher than the ceiling set out in *point B of Annex Va* for a corresponding calendar year.
4. Croatia may decide, on the basis of objective criteria and after authorisation by the Commission, on the amounts of complementary national aid to be granted.
5. The authorisation by the Commission *under this Article* shall specify the relevant support

schemes and define the level up to which the complementary national direct payments may be paid.

As regards complementary national direct payments intended to complement the voluntary coupled support referred to in Chapter 1 of Title IV, the authorisation shall also specify the specific types of farming or the specific agricultural sectors referred to in Article 38(2) to which the complementary national direct payments may relate.

The authorisation shall be given by means of an implementing act adopted without applying the procedure referred to in Article 56(2) or (3).

6. The eligibility conditions for complementary national direct payments *for Croatia* shall be those for support under corresponding support schemes as laid down in this Regulation.
7. ***Complementary national direct payments for Croatia*** shall be subject to any adjustments which may be rendered necessary by developments in the **CAP** . They shall be granted in accordance with objective criteria and in such a way as to ensure equal treatment between farmers and to avoid ***distortions of the*** market and ***of*** competition .
8. Croatia 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, the total amount of complementary national aid granted, as well as the hectares, the number of animals or other units for which the aid has been granted;
 - (c) a report on control measures applied in relation to the complementary national direct payments granted.

Article 17b

Special national de-mining reserve for Croatia

1. From **2015** onwards, Croatia shall notify the Commission **by** 31 January every year of the areas which have been identified in accordance with Article 57a(10) of Regulation (EC) No 73/2009 and which **were** returned to use for agricultural activities in the previous calendar year.

Croatia shall also notify the number of payment entitlements available to farmers on 31 December of the previous calendar year, as well as the amount remained unspent in the special national de-mining reserve at the same date.

Where applicable, the notifications provided in the first and second **subparagraphs** shall be made per region as defined in accordance with Article 20(1).

2. The Commission shall calculate on a yearly basis the amount to be added to the amounts set for Croatia in Annex II, when reviewing that Annex pursuant to Article 6(2), in order to finance the support to be granted under the schemes listed in Annex I for the areas referred to in the first **subparagraph** of paragraph 1 of this Article. This amount shall be calculated on the basis of the data notified by Croatia in accordance with paragraph 1 and the estimated average direct payments per hectare in Croatia for the year concerned.

The maximum amount to be added in accordance with the first *subparagraph*, on the basis of all the areas notified by Croatia in accordance with paragraph 1 *of this Article until 2022*, shall be EUR 9 600 000 and shall be, subject to the schedule of introduction of direct payments in accordance with Article 16a, set out in Annex Vb.

3. The Commission shall, by means of implementing acts, set the share of the amount to be added in accordance with paragraph 2 which Croatia shall include in the special national de-mining reserve in order to allocate payment entitlements for the areas referred to in the first *subparagraph* of paragraph 1. *That* share shall be calculated on the basis of the ratio between the *ceiling for the basic payment scheme* and the amount set in Annex II before its increase in accordance with paragraph 2. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 56(2).
4. For the years **2015** to 2022, Croatia shall use the special national de-mining reserve to allocate payment entitlements to farmers on the basis of de-mined land declared by the farmers in the year in question under the following conditions:
 - (a) such land is eligible within the meaning of Article 25(2),
 - (b) the land in question was returned to use for agricultural activities during the previous calendar year,
 - (c) the land has been notified to the Commission in accordance with paragraph **1 of this Article**.
5. The value of the payment entitlements established under this Article shall be the national or regional average value of payment entitlements in the year of allocation within the limits of the amount available in the special national de-mining reserve.
6. *In order to take account of the consequences of the return of de-mined land to use for agricultural activities as notified by Croatia in accordance with this Article, the Commission shall be empowered to adopt delegated acts in accordance with Article 55 adapting the amounts set out in Annex Va* .

TITLE III

BASIC PAYMENT SCHEME, *SINGLE AREA PAYMENT SCHEME AND RELATED PAYMENTS*

CHAPTER 1

BASIC PAYMENT SCHEME AND SINGLE AREA PAYMENT SCHEME

Section 1

Setting up of the basic payment scheme

Article 18

Payment entitlements

1. Support under the basic payment scheme shall be available to farmers :

(a) *who obtain payment entitlements under this Regulation through allocation pursuant to Article 17b(4), first allocation pursuant to Article 21 or Article 28e, from the national or regional reserve pursuant to Article 23 or by transfer pursuant to Article 27,*

or

(b) *who comply with Article 9 and hold owned or leased payment entitlements in a Member State which has decided, in accordance with paragraph 3, to keep its existing payment entitlements.*

2. Payment entitlements obtained under the single payment scheme in accordance with Regulation (EC) No 1782/2003 and with Regulation (EC) No 73/2009 shall expire on 31 December 2014.
3. *By way of derogation from paragraph 2, Member States which established the single payment scheme in accordance with Section I of Chapter 5 of Title III or Chapter 6 of Title III of Regulation (EC) No 1782/2003 or Chapter 3 of Title III of Regulation (EC) No 73/2009 may, by 1 August 2014, decide to maintain the payment entitlements. They shall notify the Commission of this decision by 1 August 2014.*
- 3a. *In Member States applying paragraph 3, when the number of payment entitlements established in accordance with Regulation (EC) No 1782/2003 and with Regulation (EC) No 73/2009 which a farmer holds on the date to be set in accordance with point (b) of Article 78 of Regulation (EU) No [...] [HZR] exceeds the number of eligible hectares which the farmer declares in his aid application in accordance with point (a) of Article 73(1) of Regulation (EU) No [...] [HZR] for 2015 and which are at his disposal on a date fixed by the Member State which shall be no later than the date fixed in that Member State for amending such aid application, the number of payment entitlements exceeding the number of eligible hectares shall expire at that date.*

Article 19

Basic payment scheme ceiling

1. The Commission shall, by means of implementing acts, set, *for each Member State*, the annual national ceiling for the basic payment scheme by deducting from the annual national ceiling *set out* in Annex II the annual amounts to be set in accordance with Articles 28h, 33, 35, 37 and 39. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 56(2).

The amount calculated in accordance with the first subparagraph may be increased by a maximum of 3 % of the annual ceiling set out in Annex II after deduction of the amount resulting from the application of the percentage set out in Article 33(1) for the relevant year. When a Member State makes use of that option, such increase shall be taken into account by the Commission when setting the annual national ceiling for the basic payment scheme pursuant to the first subparagraph. For that purpose, Member States shall notify the Commission by 1 August 2014 of the annual percentages by which the amount calculated pursuant to the first subparagraph is to be increased.

Member States may review their decision referred to in the second subparagraph on an annual basis and notify the Commission of any such review by 1 August of the preceding year.

2. For each Member State and each year, the total value of all **■** payment entitlements and the national reserve *or the regional reserves* shall equal the respective national ceiling adopted by the Commission pursuant to paragraph 1.
3. *If the ceiling adopted by the Commission pursuant to paragraph 1 is different from that of the previous year as a result of the decisions taken by the Member States in accordance with the third subparagraph of paragraph 1 of this Article, the last two subparagraphs of Article 14(1), the last two subparagraphs of Article 14(2), Article 28g(1), Article 35(1), Article 37(1), and/or Article 39, a Member State shall linearly reduce or increase the value of all payment entitlements in order to ensure compliance with paragraph 2.*

Article 20

Regional allocation of the national ceilings

1. Member States may decide, *by 31 July 2014*, to apply the basic payment scheme at regional level. In that case they shall define the regions in accordance with objective and non-discriminatory criteria such as their agronomic and *socio-economic* characteristics and their regional agricultural potential, or their institutional or administrative structure.

Member States applying Article 28c may take the decision referred to in the first subparagraph by 31 July of the year prior to the first year of implementation of Article 28d.

2. Member States shall divide the national ceiling *for the basic payment scheme* referred to in Article 19(1) between the regions in accordance with objective and non-discriminatory criteria.

In the case of Member States not applying Article 23(2), that division shall be made after the application of the linear reduction provided for in Article 23(1).

3. Member States may decide that the regional ceilings shall be subject to annual progressive modifications in accordance with pre-established annual steps and objective and non-discriminatory criteria such as **■** agricultural potential or environmental criteria.
4. To the extent necessary to respect the applicable regional ceilings determined in accordance with paragraph 2 or 3, Member States shall make a linear reduction or increase in the value of the payment entitlements in each of *the relevant* regions.
- 4a. *Any Member State applying paragraph 1 may decide to cease the application of the basic payment scheme at regional level from a date to be set by that Member State.*
5. Member States *applying paragraph 1* shall notify the Commission by 1 August 2014 of the decision referred to in paragraph 1 *and of* the measures taken for the application of paragraphs 2 and 3. *Member States applying Article 28c shall notify the Commission by 1 August of the relevant year of the decision referred to in the second subparagraph of paragraph 1 and of the measures taken for the application of paragraphs 2 and 3.*

Member States applying paragraph 1 shall notify the Commission of the decision referred to in paragraph 4a by 1 August of the year prior to the first year of implementation of that decision.

First allocation of payment entitlements

1. Payment entitlements shall be allocated to farmers who are entitled to be granted direct payments in accordance with Article 9 if they apply for allocation of payment entitlements under the basic payment scheme by the date in 2015 to be set in accordance with point (b) of Article 78 of Regulation (EU) No [...] [HZR] except in case of force majeure or exceptional circumstances, provided they were entitled to receive payments, before any reduction or exclusion provided for in Chapter 4 of Title II of Regulation (EC) No 73/2009, in respect of an aid application for direct payments or transitional national aid or complementary national direct payments, or, in the case of Cyprus, state aid, in accordance with Regulation (EC) No 73/2009 for 2013.

The first subparagraph shall not apply in Member States applying Article 18(3).

In addition, Member States may allocate payment entitlements to:

- (a) *Farmers who, for 2013, did not receive payments in respect of an aid application as referred to in the first subparagraph and who, by the date fixed by the Member State according to Article 11(2) of Regulation (EC) No 1122/2009 for the claim year 2013:*
 - (i) *in Member States applying the single payment scheme, produced fruits, vegetables, ware potatoes, seed potatoes, ornamental plants, if so decided by the Member State concerned on a minimum area expressed in hectares, and/or cultivated vineyards; or*
 - (ii) *in Member States applying the single area payment scheme, had agricultural land that was not in good agricultural conditions on 30 June 2003 as provided for in Article 124(1) of Regulation (EC) No 73/ 2009;or*
 - (b) *farmers who, in 2014, were allocated payment entitlements from the national reserve under the single payment scheme pursuant to Article 41 or 57 of Regulation (EC) No 73/2009; or*
 - (c) *farmers who never held payment entitlements established under Regulation (EC) No 73/2009 or Regulation (EC) No 1782/2003 and who submit verifiable evidence that by the date fixed by the Member State according to Article 11(2) of Regulation (EC) No 1122/2009 for the claim year 2013, they produced, reared or grew agricultural products, including through harvesting, milking, breeding animals and keeping animals for farming purposes. Member States may add their own objective and non-discriminatory eligibility criteria for this category of farmers as regards appropriate skills, experience or education.*
2. Except in the case of force majeure or exceptional circumstances, the number of payment entitlements allocated per farmer *in 2015* shall be equal to the number of eligible hectares, *which* the farmer declares in *his aid application in* accordance with point (a) of Article 73(1) of Regulation (EU) No [...] [HZR] for 2015 and *which are at his disposal on a date fixed by the Member State. That date shall be no later than the date fixed in that Member State for amending such aid application.*

Member States may however apply one or more of the following limitations upon the number of payment entitlements to be allocated:

(aa) A Member State may decide that the number of payment entitlements shall be equal to either the number of eligible hectares which the farmer declared in accordance with Article 34(2) of Regulation (EC) No 73/2009 in 2013, or the number of hectares referred to in the first subparagraph, whichever number is the lowest. For Croatia, this possibility shall apply without prejudice to the de-mined hectares for which payment entitlements are to be allocated in accordance with Article 17b(4).

(a) where the total number of eligible hectares referred to in the first subparagraph declared in a Member State entails an increase of more than 35 % of the total number of eligible hectares declared in accordance with Article 35 of Regulation (EC) No 73/2009 in 2009, or in the case of Croatia in 2013, Member States may limit the number of payment entitlements to be allocated in 2015 to a minimum of either 135 % or 145 % of the total number of hectares declared in 2009, or in the case of Croatia the total number of eligible hectares declared in 2013, in accordance with Article 35 of Regulation (EC) No 73/2009.

When using this option, Member States shall allocate a reduced number of payment entitlements to farmers. That number shall be calculated by applying a proportional reduction to the additional number of eligible hectares declared by each farmer in 2015 compared to the number of eligible hectares within the meaning of Article 34(2) of Regulation (EC) No 73/2009 that the farmer declared in his aid application in 2011, or in the case of Croatia in 2013, without prejudice to the demined hectares for which payment entitlements are to be allocated in accordance with Article 17b(4);

(b) Member States may decide to apply, for the purposes of establishing a number of payment entitlements a farmer shall receive, a reduction coefficient to those eligible hectares referred to in the first subparagraph which consist of permanent grassland located in areas with difficult climate conditions, especially due to the altitude and other natural constraints such as poor soil quality, steepness and water supply;

(c) Member States may decide that the number of payment entitlements to be allocated to the farmer shall be equal to the number of eligible hectares referred to in the first subparagraph which were not hectares of vineyards by the date fixed by the Member State in accordance with Article 11(2) of Regulation (EC) No 1122/2009 for the claim year 2013 or hectares of arable land under permanent greenhouses.

3. In *the* case of *the* sale or lease of their holding or part of it, natural or legal persons complying with paragraph 1 may, by contract signed before *the date in 2015 to be set in accordance with point (b) of Article 78 of Regulation (EU) No[...] [HZR]*, transfer the right to receive payment entitlements referred to in paragraph 1 to *one or more farmers* provided that the latter *comply* with the conditions laid down in Article 9.

3a. *A Member State may decide to fix a minimum size per holding, expressed in eligible hectares, in respect of which the allocation of payment entitlements may be requested. That minimum size shall not be higher than the thresholds set out in point (b) of the first subparagraph of Article 10(1) in conjunction with the second subparagraph of that*

Article.

- 3b. *Member States shall, where relevant, notify the Commission of the decisions referred to in this Article by 1 August 2014.*
4. The Commission shall, by means of implementing acts, adopt rules on applications for allocation of payment entitlements submitted in the year of allocation of payment entitlements where those payment entitlements may not be definitively established yet and where that allocation is affected by specific circumstances. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 56(2).

Article 22

Value of payment entitlements and convergence

1. *In 2015, Member States shall calculate the unit value of payment entitlements by dividing a fixed percentage of the national ceiling set out in Annex II for each relevant year by the number of payment entitlements in 2015 at national or regional level, excluding those allocated from the national reserve or from the regional reserve in 2015.*

The fixed percentage referred to in the first subparagraph shall be calculated by dividing the national or regional ceiling established for 2015 in accordance with Articles 19 or 20, after application of the linear reduction provided for in paragraph 1 or, where applicable, paragraph 2 of Article 23 by the national ceiling set out in Annex II for 2015. The number of payment entitlements shall be expressed in a number that corresponds to the number of hectares.

2. *By way of derogation from the calculation method referred to in paragraph 1, Member States may differentiate the value of payment entitlements in 2015, excluding those allocated from the national reserve or from the regional reserve in 2015, for each relevant year on the basis of their initial unit value.*
3. *The initial unit value of payment entitlements referred to in paragraph 2 shall be set in accordance with either of the following methods:*
- (a) *by dividing a fixed percentage of the payments the farmer received for 2014 under the single payment scheme, in accordance with Regulation (EC) No 73/2009, before reductions and exclusions provided for in Chapter 4 of Title II of that Regulation, by the number of payment entitlements he is allocated in 2015, excluding those allocated from the national or regional reserve in 2015. That fixed percentage shall be calculated by dividing the ceiling of the basic payment scheme to be set in accordance with Article 19(1) or Article 20(2) of this Regulation for the year 2015, after applying the linear reduction provided for in paragraph 1 or, where applicable, paragraph 2 of Article 23 by the amount of the payments for 2014 under the single payment scheme, before reductions and exclusion.*
 - (b) *by dividing a fixed percentage of the value of the entitlements, including special entitlements, which the farmer held on the date of submission of his application for 2014 under the single payment scheme, in accordance with Regulation (EC) No 73/2009, by the number of payment entitlements he is allocated in 2015, excluding those allocated from the national or regional reserve in 2015. That fixed percentage shall be calculated by dividing the ceiling of the basic payment scheme*

to be set in accordance with Article 19(1) or Article 20(2) of this Regulation for the year 2015, after applying the linear reduction provided for in paragraph 1 or, where applicable, paragraph 2 of Article 23 by the total value of all entitlements, including special entitlements, in the Member State for 2014, under the single payment scheme. For the purpose of this point, a farmer shall be considered to hold payment entitlements on the date of submission of his application for 2014 where payment entitlements were allocated or definitively transferred to him by that date;

- (c) *by dividing a fixed percentage of the total value of aid received by the farmer for 2014 under the single area payment scheme in accordance with Regulation (EC) No 73/2009 and under Articles 132, 133 and 133a of Regulation (EC) No 73/2009 before reductions and exclusions provided for in Chapter 4 of Title II of that Regulation, by the number of payment entitlements he is allocated in 2015, excluding those allocated from the national reserve or from the regional reserve in 2015. That fixed percentage shall be calculated by dividing the ceiling of the basic payment scheme to be set in accordance with Article 19(1) or Article 20(2) of this Regulation for the year 2015, after applying the linear reduction provided for in paragraph 1 or, where applicable, paragraph 2 of Article 23 by the total value of aid granted under the single area payment scheme and under Articles 132, 133 and 133a of Regulation (EC) No 73/2009 for 2014 within the Member State or region concerned, before reductions and exclusion.*

Member States which, in accordance with Article 18(3), decide to keep their existing payment entitlements shall calculate the initial unit value of a payment entitlement by multiplying the value of the entitlements by a fixed percentage. That fixed percentage shall be calculated by dividing the ceiling of the basic payment scheme to be set in accordance with Article 19(1) or Article 20(2) of this Regulation for the year 2015, after applying the linear reduction provided for in paragraph 1 or, where applicable, paragraph 2 of Article 23 by the amount of the payments for 2014, under the single payment scheme before reductions and exclusions.

For the purposes of the calculations in the first and second subparagraphs, provided that the voluntary coupled support pursuant to Title IV of this Regulation to the relevant sectors is not applied, Member States may also take into account the support granted for calendar year 2014 under one or more of the schemes pursuant to Article 52, Article 53(1) and points (a) and (b) of Article 68(1) of Regulation (EC) No 73/2009 and, only for the Member States which applied the single area payment scheme as provided for in Regulation (EC) No 73/2009, pursuant to point (c) of Article 68(1) and Articles 126, 127 and 129 of that Regulation.

However, if a Member State has decided to apply the voluntary coupled support pursuant to Title IV of this Regulation, it may take into account the differences between the level of support granted in calendar year 2014 and the level of support to be granted in accordance with Title IV of this Regulation for the calculation of the increase referred to in the first subparagraph, provided that:

- (i) *the voluntary coupled support pursuant to Title IV of this Regulation is applied to a sector which has been granted support in calendar year 2014 pursuant to Article 52, Article 53(1) and points (a) and (b) of Article 68(1) and, for Member States which applied the single area payment scheme, pursuant to point (c) of Article 68(1) and Articles 126, 127 and 129 of Regulation (EC) No 73/2009, and*
- (ii) *the amount per unit of this support is reduced as compared to the amount per unit of the support in 2014.*

4. For the purposes of *paragraphs 3 and 5a*, a Member State may, on the basis of objective criteria, provide that, in cases of sale or grant or expiry of all or part of a lease of agricultural areas after the date fixed pursuant to Article 35 *or Article 124(2)* of Regulation (EC) No 73/2009 and before the date fixed pursuant to Article 26 of this Regulation, the increase, or part of the increase, in the value of payment entitlements that would be allocated to the farmer concerned shall revert to the national reserve *or regional reserve* where the increase would lead to a windfall profit for the farmer concerned.

Those objective criteria shall be established in such a way as to ensure equal treatment between farmers and to avoid market and competition distortions and shall include, at least, the following:

- (a) a minimum duration for the lease;
- (b) the proportion of the payment received which shall revert to the national reserve *or regional reserve*.

5. As of claim year 2019 at the latest, all payment entitlements in a Member State or, in case of application of Article 20, in a region, shall have a uniform unit value.

5a. *By way of derogation from paragraph 5, a Member State may decide that payment entitlements whose initial unit value as calculated in accordance with paragraph 3 is lower than 90 % of the national or regional unit value in 2019 shall have, for claim year 2019 at the latest, their unit value increased at least by one third of the difference between their initial unit value and 90 % of the national or regional unit value in 2019.*

Member States may decide to set the percentage referred to in the first subparagraph at a level higher than 90 % but not above 100 %.

Additionally, Member States shall provide that, at the latest for claim year 2019, no payment entitlement shall have a unit value lower than 60 % of the national or regional unit value in 2019, unless this results in a maximum decrease above the percentage threshold referred to in the last subparagraph of this paragraph in the Member States applying that threshold. In this case, the minimum unit value shall be set at a level necessary to respect that threshold.

The national or regional unit value in 2019 as referred to in the first and the third subparagraphs shall be calculated by dividing a fixed percentage of the national ceiling as set out in Annex II, or of the regional ceiling, for calendar year 2019, by the number of payment entitlements in 2015, excluding those allocated from the national or regional reserve in 2015. That fixed percentage shall be calculated by dividing the ceiling of the

basic payment scheme to be set in accordance with Article 19(1) or Article 20(2) for the year 2015, after applying the linear reduction provided for in paragraph 1 or, where applicable, paragraph 2 of Article 23 by the national ceiling set out in Annex II, or the regional ceiling, for 2015.

The regional ceilings referred to in the fourth subparagraph shall be calculated by applying a fixed percentage to the national ceiling set out in Annex II for the year 2019. That fixed percentage shall be calculated by dividing the respective regional ceilings, as established in accordance with Article 20(2), by the ceiling to be determined in accordance with Article 19(1) for the year 2015, after applying the linear reduction provided for in Article 23(1) where the second subparagraph of Article 20(2) applies.

In order to finance the increases in the value of payment entitlements referred to in this paragraph, where payment entitlements have an initial unit value higher than the national or regional unit value in 2019, the difference between their initial unit value and the national or regional unit value in 2019 shall be decreased on the basis of objective and non-discriminative criteria to be determined by Member States. Such criteria may include the fixing of a maximum decrease of the initial unit value of 30 %.

6. *When applying paragraph 2, the move from the initial unit value of payment entitlements as established in accordance with paragraph 3 and their final unit value in 2019 as established in accordance with paragraphs 5 or 5a shall be made in equal steps starting from 2015 or, where applicable, in the case of Member States which in accordance with Article 18(3) decide to keep their existing payment entitlements, by applying the steps decided nationally in accordance with Article 63(3) of Regulation (EC) No 1782/2003. In order to ensure compliance with the fixed percentage of the national ceiling set out in Annex II referred to in paragraph 1 of this Article for each year, the value of the payment entitlement with an initial unit value that is higher than the national or regional average in 2019 shall be adjusted.*

In 2015, Member States shall inform the farmers of the value of their payment entitlements as calculated in accordance with this Article for each year of the period covered by this Regulation.

7. *Member States shall notify the Commission of the decisions referred to in this Article by 1 August 2014.*
8. *For Croatia, any reference in this Article to the national reserve shall be read as including the special national de-mining reserve referred to in Article 17b of this Regulation.*

In addition, the amount arising from the special national de-mining reserve shall be deducted from the ceilings of the basic payment scheme referred to in the second subparagraph of paragraph 1, in the first and second subparagraph of paragraph 3 and in the fourth and fifth subparagraph of paragraph 5a.

Section 2

National reserve or regional reserves

Article 23

Establishment and use of the national or regional reserve

1. Each Member State shall establish a national reserve. For that purpose, in the first year of application of the basic payment scheme, Member States shall proceed to a linear percentage reduction of the basic payment scheme ceiling at national level in order to constitute the national reserve. █

█

2. *By way of derogation from paragraph 1, Member States applying Article 20 may establish regional reserves. For that purpose, in the first year of application of the basic payment scheme, Member States shall proceed to a linear percentage reduction of the basic payment scheme ceiling at regional level referred to in the first subparagraph of Article 20(2) in order to constitute the regional reserve.*

2a. *The reduction referred to in paragraphs 1 and 2 shall not be higher than 3 % except, if required, to cover the allocation needs laid down in paragraph 4 and/or point (a) of paragraph 5 for the year 2015 or, for Member States applying Article 28c, for the first year of implementation of Article 28d.*

3. Member States shall *allocate* payment entitlements from *their* national reserves *or their regional reserves* in accordance with objective criteria and in such a way as to ensure equal treatment between farmers and to avoid market and competition distortions.

3a. *Payment entitlements referred to in paragraph 3 shall only be allocated to farmers entitled to be granted direct payments in accordance with Article 9.*

4. Member States shall use *their* national reserves *or their regional reserves* to allocate payment entitlements, as a matter of priority, to young farmers *and to farmers* who commence their agricultural activity.

█

5. Member States may use *their* national reserves *or their regional reserves* to:

(a) allocate payment entitlements to farmers *in order to prevent land from being abandoned, including* in areas subject to restructuring and/or development programmes relating to a form of public intervention █, and/or to compensate farmers for specific disadvantages █ ;

(aa) *allocate payment entitlements to farmers who were prevented from being allocated payment entitlements under this Chapter as a result of force majeure or exceptional circumstances;*

(ac) *in Member States applying Article 18(3) of this Regulation, allocate payment entitlements to farmers whose number of eligible hectares declared in 2015 in accordance with Article 73(1)(a) of Regulation (EU) No [...] [HRZ] and which are at their disposal on a date fixed by the Member State which shall be no later than the date fixed in that Member State for amending such aid application is higher than the number of payment entitlements established in accordance with Regulation (EC) No 1782/2003 and with Regulation (EC) No 73/2009 they hold on the date to be set in accordance with point (b) of Article 78 of Regulation (EU) No [...] [HZR].*

- (b) linearly increase ***on a permanent basis*** the value of ***all*** payment entitlements under the basic payment scheme at national or regional level if the national reserve ***or the regional reserves exceeds 0,5 % of the annual national or regional ceiling for the basic payment scheme***, provided that sufficient amounts remain available for allocations under paragraph 4, under point (a) of this paragraph and under paragraph 7;
- (c) ***cover the yearly needs according to Article 37(2) and Article 51(1).***

For the purpose of this paragraph, Member States shall decide on the priorities between the different uses referred to herein.

6. When applying ***paragraph 4, and points (a) and (ac) of paragraph 5***, Member States shall establish the value of payment entitlements allocated to farmers on the basis of the national or regional average value of payment entitlements in the year of allocation.

The national or regional average shall be calculated by dividing the national or regional ceiling as set out in accordance with Article 19(1) or Article 20(2) for the year of allocation, excluding the amount of the national or regional reserve, by the number of allocated payment entitlements.

Member States shall fix the steps for annual progressive modifications of the value of payment entitlements allocated from the national or regional reserve taking account of the modifications of the ceilings for the basic payment scheme as referred to in Article 19(1) and Article 20(2) that result from the variations in the level of the national ceilings set out in Annex II.

7. Where a farmer is 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. However, this date shall not be later than the latest date for lodging an application under the basic payment scheme following the date of the court's ruling or the administrative act, taking into account the application of Articles 25 and 26.
8. ***When applying paragraph 4, point (a) of paragraph 5 and paragraph 7, Member States may either allocate new entitlements or increase the unit value of all of the existing entitlements of a farmer, up to the value of the national or regional average.***
9. ***For the purposes of this Article, the following definitions shall apply:***
- (a) ***'young farmers' means farmers fulfilling the conditions laid down in Article 36(2) and, where relevant, the conditions referred to in Article 36(7);***
- (b) ***'farmers who commence their agricultural activity' means a natural or legal person who, in the five years preceding the start of the agricultural activity, did not have any agricultural activity in his own name and at his own risk or did not have the control of a legal person exercising an agricultural activity. In the case of a legal person, the natural person(s) who has the control of the legal person must not have had any agricultural activity in his own name and at his own risk or must not have had the control of a legal person exercising an agricultural activity in the five years preceding the start of the agricultural activity by the legal person.***

As regards farmers covered by this point, Member States may add their own objective and non-discriminative eligibility criteria as regards appropriate skills, experience or education.

Article 24

Replenishment of the national reserve or regional reserves

1. The national reserve *or regional reserves shall be* replenished by amounts resulting from:
 - (a) payment entitlements not giving right to payments during two consecutive years due to the application of:
 - (i) Article 9,
 - (ii) Article 10(1),
 - (iii) *Article 11(4).*
 - (b) *a number of payment entitlements equivalent to the total number of payment entitlements which have not been activated by a farmer in accordance with Article 25 for a period of two consecutive years, except in the case of force majeure or exceptional circumstances. For the purpose of establishing the entitlements held by a farmer that shall be reverted to the national or regional reserve, the entitlements having the lowest value shall be given priority;*
 - (c) payment entitlements voluntarily reverted by farmers;
 - (d) the application of Article 22(4).;
 - (e) *unduly allocated payment entitlements in accordance with Article 65 of Regulation (EU) No [...] [HZR];*
 - (f) *a linear reduction of the value of payment entitlements under the basic payment scheme at national or regional level where the national or regional reserve is not sufficient to cover the cases referred to in Article 23(7). Member States may, when they consider it to be necessary, make a linear reduction to cover cases referred to in Article 23(4);*
 - (g) *the application of Article 27(2b).*
2. The Commission shall, by means of implementing acts, adopt necessary measures regarding the reversion of non-activated payment entitlements to the national *or regional* reserve. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 56(2).

Section 3

Implementation of the basic payment scheme

Article 25

Activation of payment entitlements

1. Support under the basic payment scheme shall be granted to farmers **█**, by means of declaration in accordance with Article 26(1), *upon activation* of a payment entitlement per

eligible hectare in the Member State where it has been allocated. Activated payment entitlements shall give a right to the annual payment of the amounts fixed therein, without prejudice to the application of financial discipline, progressive reduction and capping, linear reductions in accordance with Article 7, **Article 37(2)** and **Article 51(1)**, and **to the application of Article 65 of Regulation (EU) No [...] [HZR]**.

2. For the purposes of this Title, 'eligible hectare' shall mean:

- (a) any agricultural area of the holding, **including areas that were not in good agricultural condition on 30 June 2003 in Member States acceding to the Union on 1 May 2004 that opted upon accession to apply the single area payment scheme**, that is used for an agricultural activity or, where the area is used as well for non-agricultural activities, predominantly used for agricultural activities; or
- (b) any area which gave a right to payments in 2008 under the single payment scheme or the single area payment scheme laid down, respectively, in **Titles III and IVA** of Regulation (EC) No 1782/2003, and which:
 - (i) no longer complies with the definition of 'eligible hectare' under point (a) as a result of the implementation of Directive 92/43/EEC, Directive 2000/60/EC of the European Parliament and of the Council ¹ and Directive 2009/147/EC; or
 - (ii) for the duration of the relevant commitment by the individual farmer, is afforested pursuant to Article 31 of Regulation (EC) No 1257/1999 or to Article 43 of Regulation (EC) No 1698/2005 or to Article 23 of Regulation (EU) No [...] [RDR] or under a national scheme the conditions of which comply with Article 43(1), (2) and (3) of Regulation (EC) No 1698/2005 **or** Article 23 of Regulation (EU) No [...] [RDR]; or
 - (iii) for the duration of the relevant commitment of the individual farmer, is set aside pursuant to Articles 22, 23 and 24 of Regulation (EC) No 1257/1999 or to Article 39 of Regulation (EC) No 1698/2005 and Article 29 of Regulation (EU) No [...] [RDR].

For the purposes of point (a) of the first **subparagraph**:

- (i) where an agricultural area of a holding is also used for non-agricultural activities, that area shall be considered to be used predominantly for agricultural activities provided that those agricultural activities can be exercised without being significantly hampered by the intensity, nature, duration and timing of the non-agricultural activities;
- (ii) **Member States may draw up a list with areas which are predominantly used for non agricultural activities.**

Member States shall establish criteria for the implementation of **the second subparagraph** on their territory.

¹ **Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy** (OJ L 327, 22.12.2000, p. 1).

In order to be eligible, areas must comply with the definition of eligible hectare throughout the calendar year, except in the case of *force majeure* or exceptional circumstances.

For the purposes of determining ‘eligible hectare’, Member States deciding to include hectares of permanent grassland where grasses and other herbaceous forage are traditionally not predominant in grazing areas, as referred to in Article 4(1)(h), may apply a reduction coefficient to convert those hectares into ‘eligible hectares’.

3. Areas used for the production of hemp shall only be eligible hectares if the varieties used have a tetrahydrocannabinol content not exceeding **0,2** %.

Article 26

Declaration of eligible hectares

1. For the purposes of ***the activation of payment entitlements provided for in*** Article 25 (1), the farmer shall declare the parcels corresponding to the eligible hectares accompanying any payment entitlement. Except in the case of *force majeure* or exceptional circumstances, those parcels shall be at the farmer's disposal on a date fixed by the Member State which shall be no later than the date fixed in that Member State for amending the aid application as referred to in Article 73(1) of Regulation (EU) No [...] [HZR].
2. Member States may, in duly justified circumstances, authorise the farmer to modify his declaration provided that he maintains at least the number of hectares corresponding to his payment entitlements and respects the conditions for granting the ***payment under the*** basic payment ***scheme*** for the area concerned.

Article 27

Transfer of payment entitlements

1. Payment entitlements may be transferred only to a farmer *entitled to be granted direct payments in accordance with Article 9* established within the same Member State, except in the case of transfer by actual or anticipated inheritance.

However, even in the case of actual or anticipated inheritance, payment entitlements may be *activated* only in the Member State where the payment entitlements were *allocated*.

2. *In the case of application of Article 20(1), payment entitlements may be transferred or activated only within the same region, except in the case of actual or anticipated inheritance. However, even in the case of actual or anticipated inheritance, payment entitlements may be activated only in the region where the payment entitlements were allocated.*
- 2a. *Member States not applying Article 20(1) may decide that payment entitlements may be transferred or activated only within one and the same region, except in case of actual or anticipated inheritance.*

Such regions shall be defined at the appropriate territorial level in accordance with objective criteria and in such a way as to ensure equal treatment between farmers and to avoid market and competition distortions.

- 2b. *Where payment entitlements are transferred without land, Member States may, acting in compliance with the general principles of Union law, decide that part of the payment entitlements transferred revert to the national or regional reserve or that their unit value is reduced in favour of the national or regional reserve. Such reduction may be applied to one or more of the types of transfer.*
3. The Commission shall, by means of implementing acts, *lay down the modalities of the notification of transfer of payment entitlements which farmers have to make* to the national authorities and the deadlines within which such notification is to take place. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 56(2).

Article 28

Delegated powers

1. *In order to guarantee the protection of the rights of beneficiaries and to clarify the specific situations that may arise in the application of the basic payment scheme, the Commission shall be empowered to adopt delegated acts in accordance with Article 55 concerning:*
 - (a) rules on eligibility and the access in respect of the basic payment scheme of farmers, in case of inheritance and anticipated inheritance, inheritance under a lease, change of legal status or denomination, *transfer of payment entitlements* and in the case of merger or scission of the holding *and in case of application of the contract clause referred to in Article 21(3)*;

- (b) rules on the calculation of the value and number or on the increase or reduction in the value of payment entitlements in relation to the allocation of payment entitlements under any provision of this Title, including rules:
 - (i) on the possibility of a provisional value and number or of a provisional increase of payment entitlements allocated on the basis of the application from the farmer,
 - (ii) on the conditions for establishing the provisional and definitive value and number of the payment entitlements,
 - (iii) on the cases where a sale or lease contract could affect the allocation of payment entitlements.
- (c) rules on the establishment and calculation of the value and number of payment entitlements received from the national reserve *or regional reserves*;
- (d) rules on the modification of the unit value of payment entitlements in the case of fractions of payment entitlements *and in the case of transfer of payment entitlements referred to in Article 27(2b)*;
- (e) *criteria for applying options under points (a), (b) and (c) of Article 21(1)*;
- (ea) *criteria for applying limitations upon the number of payment entitlements to be allocated referred to in Article 21(2)*;
- (f) criteria for the allocation of payment entitlements pursuant to in Article 23(4) and (5);



(ga) *criteria for setting the reduction coefficient referred to in fifth subparagraph of Article 25(2).*

2. *In order to ensure the proper management of payment entitlements, the Commission shall be empowered to adopt delegated acts in accordance with Article 55 concerning rules on the content of the declaration and the requirements for the activation of payment entitlements.*
3. *In order to preserve public health, the Commission shall be empowered to adopt delegated acts in accordance with Article 55 concerning rules making the granting of payments conditional upon the use of certified seeds of certain hemp varieties and laying down the procedure for the determination of hemp varieties and the verification of their tetrahydrocannabinol content referred to in Article 25(3).*

■ **[CHAPTER 1A MOVED]**

Section 4

Single area payment scheme

Article 28c

Single area payment scheme

1. *Member States applying in 2014 the single area payment scheme laid down in Chapter 2 of Title V of Regulation (EC) No 73/2009 may, under the conditions set out in this Regulation, continue the application of that scheme until 31 December 2020 at the latest. They shall notify to the Commission by 1 August 2014 their decision and the end date of such application.*

During the period of application of the single area payment scheme, sections 1, 2 and 3 of this Chapter shall not apply to these Member States, with the exception of the second subparagraph of Article 20(1), Article 20(5) as well as Article 25(2) and (3).

- 1a. *The single area payment shall be granted on an annual basis for each eligible hectare declared by the farmer in accordance with point (a) of Article 73(1) of Regulation (EU) No [...] [HZR]. It shall be calculated each year by dividing the annual financial envelope established in accordance with paragraph 2 of this Article by the total number of eligible hectares declared in the respective Member State in accordance with point (a) of Article 73(1) of Regulation (EU) No [...] [HZR].*
- 1b. *By way of derogation from paragraph 1a, Member States that decide to apply Article 28d as from 1 January 2018 at the latest may use, for the period during which they apply this Article, up to 20 % of the annual financial envelope referred to in paragraph 1a to differentiate the single area payment per hectare.*

In order to differentiate the single area payment per hectare, Member States shall take into account the support granted for calendar year 2014 under one or more of the schemes pursuant to points (a), (b) and (c) of Article 68(1) and Articles 126, 127 and 129 of Regulation (EC) No 73/2009.

For Cyprus, the aid may be differentiated taking into account the sector specific financial envelopes as set out in Annex XVIIa of Regulation (EC) No 73/2009 reduced by any aid granted to the same sector pursuant to Article 28ca.

2. *For each Member State applying the single area payment scheme, the Commission shall, by means of implementing acts, set the annual national ceiling for the single area payment scheme by deducting from the annual national ceiling set out in Annex II the annual amounts to be set in accordance with Articles 28h, 33, 35, 37 and 39. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 56(2).*
3. *Except in the case of force majeure or exceptional circumstances, the hectares referred to in paragraph 1a shall be at the farmer's disposal on a date fixed by the Member State which shall be no later than the date fixed in that Member State for amendment of the aid application as referred to in Article 73(1) of Regulation (EU) No [...] [HZR].*
4. *The Commission shall be empowered to adopt delegated acts in accordance with Article 55 concerning rules on eligibility and the access in respect of the single area payment scheme of farmers.*

Article 28ca Transitional national aid

1. *The Member States applying the single area payment scheme in accordance with Article 28c may decide to grant transitional national aid in 2015-2020.*

2. *The transitional national aid may be granted to farmers in sectors in respect of which this aid, or in the case of Bulgaria and Romania, complementary national direct payments were granted in 2013.*
3. *The conditions for granting the aid shall be identical to those authorised for the granting of payments pursuant to Article 132(7) or Article 133a of Regulation (EC) No 73/2009 in respect of 2013, with exception of the reduction of the payments applied due to the modulation according to Article 7 and 10 of that Regulation.*
4. *The total amount of aid that may be granted to farmers in any of the sectors referred to in paragraph 2 shall be limited by the following percentage of the financial envelopes by sector as authorised by the Commission in accordance with Article 132(7) or Article 133a(5) of Council Regulation 73/2009 in 2013:*

- *75 % in 2015*
- *70 % in 2016*
- *65 % in 2017*
- *60 % in 2018*
- *55 % in 2019*
- *50 % in 2020*

For Cyprus, this percentage shall be calculated on the basis of the sector specific financial envelopes as set out in Annex XVIIa of Regulation (EC) No 73/2009.

5. *Paragraphs 2 and 3 shall not apply to Cyprus.*
6. *Member State shall notify the decisions referred to in paragraph 1 to the Commission in the latest by 31 March each year. The notification shall include the following:*
 - (a) *the financial envelope per sector;*
 - (b) *the maximum rate of transitional national aid where appropriate.*
7. *Member States may decide, on the basis of objective criteria and within the limits set out pursuant to paragraph 4, on the amounts of transitional national aid to be granted.*

Section 5

Implementation of the basic payment scheme in the Member States having applied the single area payment scheme

Article 28d

Introduction of the basic payment scheme in the Member States having applied the single area payment scheme

Save as otherwise provided for in this Section, this Title shall apply to the Member States having applied the single area payment scheme provided for in Section 4 of this Chapter.

Article 21 and 22 shall not apply.

Article 28e
First allocation of payment entitlements

1. *Payment entitlements shall be allocated to farmers entitled to be granted direct payments in accordance with Article 9 if they apply for allocation of payment entitlements under the basic payment scheme by a date to be set in accordance with point (b) of Article 78 of Regulation (EU) No... [HZR] in the first year of implementation of the basic payment scheme, except in case of force majeure or exceptional circumstances. Entitlements shall be allocated to farmers who were entitled to receive payments, before any reduction or exclusion provided for in Chapter 4 of Title II of Regulation (EC) No 73/2009, in respect of an aid application for direct payments, or transitional national aid or complementary national direct payments, or, in the case of Cyprus, state aid in accordance with Regulation (EC) No 73/2009 for 2013.*

In addition, Member States may allocate payment entitlements to farmers who, for 2013, did not receive payments in respect of an aid application as referred to in the first subparagraph and, by the date fixed by the Member State in accordance with Article 11(2) of Regulation (EC) No 1122/2009 for the claim year 2013, had only agricultural land that was not in good agricultural condition on the 30 June 2003 as provided for in Article 124(1) of Regulation (EC) No 73/2009.

2. *Except in the case of force majeure or exceptional circumstances, the number of payment entitlements allocated per farmer in the first year of implementation of the basic payment scheme shall be equal to the number of eligible hectares which the farmer declares in his aid application in accordance with Article 73(1) of Regulation (EU) No [...] [HZR] for the first year of application of the basic payment scheme and which are at his disposal on a date fixed by the Member State, which shall be no later than the date fixed in that Member State for amending such aid application.*
3. *The Commission shall be empowered to adopt delegated acts in accordance with Article 55 for the purpose of laying down further rules on the introduction of the basic payment scheme in Member States having applied the single area payment scheme.*
4. *The Commission shall, by means of implementing acts, adopt rules on applications for allocation of payment entitlements submitted in the year of allocation of payment entitlements where those payment entitlements may not be definitively established yet and where that allocation is affected by specific circumstances.*

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 56(2).

Article 28f
Value of payment entitlements

1. *In the first year of implementation of the basic payment scheme, Member States shall calculate the unit value of payment entitlements by dividing a fixed percentage of the national ceiling set out in Annex II for each relevant year by the number of payment entitlements in the first year of implementation of the basic payment scheme, excluding those allocated from the national or regional reserve.*

The fixed percentage referred to in the first subparagraph shall be calculated by dividing the national or regional ceiling established for the first year of implementation of the

basic payment scheme in accordance with Article 19 or 20, after application of the linear reduction provided for in Article 23(1) or, where applicable, in Article 23(2), by the national ceiling set out in Annex II for the first year of implementation of the basic payment scheme. The number of payment entitlements shall be expressed in a number that corresponds to the number of hectares.

2. *By way of derogation from the calculation method referred to in paragraph 1, Member States may differentiate the value of payment entitlements in the first year of implementation of the basic payment scheme, excluding those allocated from the national or regional reserve, for each relevant year, on the basis of their initial unit value.*
3. *The initial unit value of payment entitlements referred to in paragraph 2 shall be set by dividing a fixed percentage of the total value of aid, excluding aids pursuant to Articles 28g, 29, 34 and 36, and Title IV, received by that farmer in accordance with this Regulation for the calendar year immediately preceding transition to the basic payment scheme before the application of Article 65 of Regulation (EU) No [...] [HZR], by the number of payment entitlements he is allocated in the first year of implementation of the basic payment scheme, excluding those allocated from the national or regional reserve. That fixed percentage shall be calculated by dividing the ceiling of the basic payment scheme to be set in accordance with Article 19(1) or Article 20(2) of this Regulation for the first year of implementation of the basic payment scheme, after application of the linear reduction provided for in Article 23(1) or, where applicable, in Article 23(2), by the total value of aid, excluding aids pursuant to Articles 28g, 29, 34 and 36, and Title IV for the calendar year immediately preceding transition to the basic payment scheme within the Member State or region concerned, before the application of Article 65 of Regulation (EU) No [...] [HZR].*
4. *When applying paragraph 2, Member States, acting in compliance with the general principles of Union law, shall move towards approximating the value of the payment entitlements at national or regional level. To this end, Member States shall fix the steps to be taken and the method of calculation to be used and notify them to the Commission by 1 August of the year preceding the transition to the basic payment scheme. Those steps shall include annual progressive modifications of the initial value of payment entitlements as referred to in paragraph 3 in accordance with objective and non-discriminatory criteria, starting from the first year of implementation of the basic payment scheme. In the first year of implementation of the basic payment scheme, Member States shall inform the farmers of the value of their entitlements as calculated in accordance with this Article for each year of the period covered by this Regulation.*
5. *For the purposes of paragraph 3, a Member State may, on the basis of objective criteria, provide that, in cases of sale or grant or expiry of all or part of a lease of agricultural areas after the date fixed pursuant to Article 28c(3) and before the date fixed pursuant to Article 26, the increase, or part of the increase, in the value of payment entitlements that would be allocated to the farmer concerned reverts to the national or regional reserve where the increase would lead to a windfall profit for the farmer concerned.*

Those objective criteria shall be established in such a way as to ensure equal treatment between farmers and to avoid market and competition distortions and shall include, at least, the following:

- (a) *a minimum duration for the lease;*

- (b) *the proportion of the payment received which shall revert to the national or regional reserve.*

CHAPTER 1a[moved here] REDISTRIBUTIVE PAYMENT

Article 28g General rules

1. *Member States may decide, by 1 August of any given year, to grant, as from the following year, an annual payment to farmers who are entitled to a payment under the basic payment scheme referred to in Chapter 1 or under the single area payment scheme referred to in Section 4.*

Member States shall notify the Commission of their decision by the date referred to in the first subparagraph.

2. *Member States which have decided to apply the basic payment scheme at regional level in accordance with Article 20 may apply the payment referred to in this Chapter at regional level.*
3. *Without prejudice to the application of financial discipline, progressive reduction and capping, linear reductions as referred in Article 7, and the application of Article 65 of Regulation (EU) No [...] [HZR], the payment referred to in paragraph 1 of this Article shall be granted annually upon activation of payment entitlements by the farmer, or upon declaration of eligible hectares by the farmer under the single area payment scheme.*
4. *The payment referred to in paragraph 1 shall be calculated each year by Member States by multiplying a figure to be set by the Member State, which shall not be higher than 65 % of the national or regional average payment per hectare, by the number of payment entitlements that the farmer has activated in accordance with Article 26(1), or by the number of eligible hectares declared by the farmer under the single area payment scheme. The number of such payment entitlements or hectares shall not be higher than 30 hectares or the average size of agricultural holdings as set out in Annex VI if that average size is higher than 30 hectares in the Member State concerned.*

Provided the maximum limits set out in the first subparagraph are respected, Member States may, at national level, establish a graduation within the number of hectares set in accordance with that subparagraph, which shall apply identically to all farmers.

The national average payment per hectare referred to in the first subparagraph shall be established by the Member States on the basis of the national ceiling set in Annex II for calendar year 2019 and the number of eligible hectares declared in accordance with Article 26 or under the single area payment scheme in 2015.

The regional average payment per hectare referred to in the first subparagraph shall be established by the Member States by using a share of the national ceiling set in Annex II for calendar year 2019 and the number of eligible hectares declared in the concerned region in accordance with Article 26 in 2015. For each region, this share shall be calculated by dividing the respective ceiling as established in accordance with Article 20(2) by the ceiling determined according to Article 19(1), after application of the linear

reduction provided for in Article 23(1) in case Article 23(2) is not applied.

5. *Member States shall ensure that no advantage is granted to farmers for whom it is established that, as from 19 October 2011, they divided their holding with the sole purpose of benefiting from the redistributive payment. This shall also apply to farmers whose holdings result from that division.*
6. *In the case of a legal person, or a group of natural or legal persons, Member States may apply the maximum number of payment entitlements or hectares referred to in paragraph 4 at the level of the members of those legal persons or groups where national law provides for the individual members to assume rights and obligations comparable to those of individual farmers who have the status of a head of holding, in particular as regards their economic, social and tax status, provided that they have contributed to strengthening the agricultural structures of the legal persons or groups concerned.*

Article 28h *Financial provisions*

1. *In order to finance the payment referred to in this Chapter, Member States may decide, by the date referred to in Article 28g(1), to use up to 30 % of the annual national ceiling set out in Annex II. They shall notify any such decision to the Commission by that date.*
2. *On the basis of the percentage of the national ceiling to be used by Member States pursuant to paragraph 1, the Commission shall, by means of implementing acts, fix the corresponding ceilings for that payment on a yearly basis. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 56(2).*

CHAPTER 2 **PAYMENT FOR AGRICULTURAL PRACTICES BENEFICIAL FOR THE CLIMATE AND THE ENVIRONMENT**

Article 29 **General rules**

1. Farmers entitled to a payment under the basic payment scheme *or the single area payment scheme* shall observe on *all* their eligible hectares *within the meaning of* Article 25(2) the agricultural *practices* beneficial for the climate and the environment *referred to in paragraph 1a or the equivalent practices referred to in paragraph 1b*.
- 1a. *The agricultural practices beneficial for the climate and the environment shall be:*
 - (a) *crop diversification;*
 - (b) *maintaining* existing permanent grassland █ ; and
 - (c) *having* ecological focus area on *the* agricultural area.
- 1b. *The equivalent practices shall be those which include similar practices that yield an equivalent or higher level of benefit for the climate and the environment compared to one or several of the practices referred to in paragraph 1a. These equivalent practices*

and the practice(s) referred to in paragraph 1a to which they are equivalent are listed in Annex VIa and shall be covered by:

- (a) commitments undertaken in accordance with either Article 39(2) of Regulation No 1698/2005 or Article 29(2) of Regulation (EU) No [...] [RDR].*
- (b) national or regional environmental certification schemes, including certification of compliance with national environmental legislation, going beyond the relevant mandatory standards established pursuant to Chapter I of Title VI of Regulation (EU) No [...] [HZR], which aim to meet objectives relating to soil and water quality, biodiversity, landscape preservation, and climate change mitigation and adaptation. These certification schemes may include the practices listed in Annex VIa, the practices referred to in paragraph 1a, or a combination of these.*

The equivalent practices referred to in this paragraph shall not be the subject of double funding.

- 1c. Member States may decide, where appropriate at regional level, to restrict the choice of the farmers to use the options referred to in paragraph 1b.*
 - 1d. Member States may decide, where appropriate at regional level, that farmers shall carry out all of their relevant obligations under paragraph 1 in accordance with national or regional certification schemes referred to in point (b) of paragraph 1b.*
 - 1da. Subject to the decisions of the Member States referred to in paragraphs 1c and 1d, a farmer may use one (or more) of the practices referred to in point (a) of paragraph 1b only if these fully replace the related practice(s) referred to in paragraph 1a. A farmer may use certification schemes referred to in point (b) of paragraph 1b only if these cover the entire obligation referred to in paragraph 1.*
 - 1e. Member States shall notify to the Commission their decisions referred to in paragraphs 1c and 1d and the specific commitments or certification schemes which they intend to apply as equivalent practices within the meaning of paragraph 1b. The Commission shall assess whether the practices included in the specific commitments or certification schemes are covered by the list in Annex VIa, and if it considers this not to be the case, notify the Member States accordingly by means of an implementing act without applying the procedure referred to in Article 56(2) or (3). If the Commission notifies a Member State that practices are not covered by the list in Annex VIa, then that Member State shall not apply the specific commitments or certification schemes concerned by the Commission notification as equivalent practices within the meaning of paragraph 1b.*
 - 1f. The modalities and timetables for the submission of such notifications shall be fixed by the Commission by means of an implementing act to be adopted in accordance with the examination procedure referred to in Article 56(2).*
2. Without prejudice to paragraphs 3 and 4 *of this Article* and to the application of financial discipline, *of* linear reductions in accordance with Article 7 *and of Article 65 of* Regulation (EU) No [...] [HZR], Member States shall grant the payment referred to in this Chapter to farmers observing those of the *practices* referred to in paragraph 1 *of this Article* that are relevant for them, and in function of their compliance with Articles 30, 31 and 32.

This payment shall take the form of an annual payment per eligible hectare declared in accordance with Article 26(1) or, in Member States applying Article 28c, of an annual payment per eligible hectare declared under the single area payment scheme, the amount of which shall be calculated annually by dividing the amount resulting from the application of Article 33 by the total number of eligible hectares declared, in accordance with Article 26(1), in the Member State or the region concerned or, in Member States applying Article 28c, by the total number of eligible hectares declared under the single area payment scheme.

By way of derogation from the second subparagraph, Member States deciding to apply Article 22(2) may decide to grant the payment referred to in this paragraph as a percentage of the total value of the entitlements that the farmer has activated in accordance with Article 26(1) for each relevant year.

For each year and each Member State or region, the percentage referred to in the third subparagraph shall be calculated by dividing the amount resulting from the application of Article 33, by the total value of all payment entitlements activated in accordance with Article 26(1) in that Member State or region.

3. Farmers whose holdings are fully or partly situated in areas covered by Directives 92/43/EEC, 2000/60/EC, or 2009/147/EC shall be entitled to the payment referred to in this Chapter provided that they observe the *practices* referred to in this Chapter to the extent that those practices are compatible in the holding concerned with the objectives of those Directives.
4. Farmers complying with the requirements laid down in Article 29(1) of Regulation (EC) No 834/2007 as regards organic farming shall be entitled *ipso facto* to the payment referred to in this Chapter.

As regards organic farming the first subparagraph shall apply only to the units of a holding that are used for organic production in accordance with Article 11 of Regulation (EC) No 834/2007.

6. *The Commission shall be empowered to adopt delegated acts in accordance with Article 55 in order to:*
 - (a) *add equivalent practices to the list set out in Annex VIa;*
 - (b) *establish appropriate requirements applicable to the national or regional certification schemes referred to in point (b) of paragraph 1b including the level of assurance to be provided by those schemes;*
 - (c) *establish detailed rules for the calculation of the amount referred to in Article 29 paragraph 6 of Regulation (EU) [...] [RDR] for the practices referred to in points 3 and 4 of Section I and point 7 of Section III of Annex VIa and any further equivalent practices added to that Annex pursuant to point (a) of this paragraph, for which a specific calculation is needed in order to avoid double funding.*
7. *The Commission shall, by means of implementing acts, establish rules on the procedure for the notifications and the Commission assessment referred to in paragraph 1e.*

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 56(2).

Article 30
Crop diversification

1. Where the arable land of the farmer covers *between 10 and 30* hectares, and is not entirely cultivated with crops under water for a significant part of the year *or for a significant part of the crop cycle, there shall be at least two different crops on that arable land. The main crop shall not cover more than 75 % of that arable land.*

Where the arable land of the farmer covers more than 30 hectares, and is not entirely cultivated with crops under water for a significant part of the year or for a significant part of the crop cycle, there shall be at least three different crops on that arable land. The main crop shall not cover more than 75 % of that arable land and the two main crops together shall not cover more than 95 % of that arable land.

Without prejudice to the number of crops required pursuant to the first and the second subparagraphs of this paragraph, the maximum thresholds set therein shall not apply where grasses or other herbaceous forage or land lying fallow cover more than 75 % of the arable land. In this case, the main crop on the remaining arable area shall not cover more than 75 % of that remaining arable land except in case this remaining area is covered by grasses or other herbaceous forage or land lying fallow.

- 1a. *Paragraph 1 shall not apply to holdings:*

- (a) *where more than 75 % of the arable land is used for the production of grasses or other herbaceous forage, land lying fallow, or subject to a combination of these uses, provided the arable area not covered by these uses does not exceed 30 hectares;*
- (b) *where more than 75 % of the eligible agricultural area is permanent grassland, used for the production of grasses or other herbaceous forage or crops under water for a significant part of the year or for a significant part of the crop cycle or a combination of these uses, provided the arable area not covered by these uses does not exceed 30 hectares;*
- (c) *where more than 50 % of the areas under arable land declared were not declared by the farmer in his aid application of the previous year and, where based on a comparison of the geo-spatial aid applications, all arable land is being cultivated with a different crop compared to that of the previous calendar year;*
- (d) *that are situated in areas north of 62nd parallel or certain adjacent areas. Where the arable land of such holdings covers more than 10 hectares, there shall be at least two crops on the arable land. None of these crops shall cover more than 75 % of the arable land with the exception of where the main crop is grasses or other herbaceous forage or land lying fallow.*

- 1b. *For the purposes of this Article, a "crop" shall mean a culture of any of the different genera defined in the botanical classification of crops or a culture of any of the species in the case of Brassicaceae, Solanaceae, and Cucurbitaceae, as well as a land lying fallow and grasses or other herbaceous forage. However, winter crop and spring crop*

shall be considered to be distinct crops even if they belong to the same genus.

2. The Commission shall be empowered to adopt delegated acts in accordance with Article 55 *for the purpose of:*
 - (a) *recognising other types of genera and species than those referred to in paragraph 1b of this Article; and*
 - (b) *laying down the rules concerning the application of the precise calculation of shares of different crops.*

Article 31

Permanent grassland

1. *Member States shall designate permanent grasslands which are environmentally sensitive in areas covered by Directives 92/43/EEC or 2009/147/EC and that need strict protection in order to meet the objectives of those Directives, including in peat and wetlands in these areas.*

The Member States may, in order to ensure protection of environmentally valuable permanent grasslands, decide to designate further sensitive areas situated outside areas covered by Directives 92/43/EEC or 2009/147/EC, including permanent grasslands on carbon rich soils.

Farmers shall not convert and not plough permanent grassland situated in areas designated by Member States under the first subparagraph and, where applicable, the second subparagraph.

2. **Member States shall ensure that the ratio of the land under permanent grassland in relation to the total agricultural area declared by the farmers in accordance with Article 73(1) of Regulation (EU) No [...] [HZR] does not decrease by more than 5 % compared to a reference ratio to be established by Member States in 2015 by dividing land under permanent grassland as referred to in point (a) of this subparagraph by the total agricultural area as referred to in point (b) of this subparagraph:**
 - (a) *the land under permanent grassland shall be the land under permanent pasture declared in 2012, or 2013 in the case of Croatia, in accordance with Regulation (EC) No 73/2009 by the farmers subject to the obligations under this Chapter, plus the land under permanent grassland declared in 2015 in accordance with Article 73(1) of Regulation (EU) No [...] [HZR] by the farmers subject to the obligations under this Chapter that has not been declared as permanent pasture in 2012 or, in the case of Croatia, 2013;*
 - (b) *the total agricultural area shall be the agricultural area declared in 2015 in accordance with Article 73(1) of Regulation (EU) No [...] [HZR] by farmers subject to the obligations under this Chapter.*

The reference ratio under permanent grassland shall be recalculated in cases where farmers subject to the obligations under this Chapter have an obligation to reconvert area into permanent grassland in 2015 and/or in 2016 in accordance with Article 93 of Regulation

(EU) No [...] [HZR] by adding these areas to the land under permanent grassland as referred to in point (a) of the second subparagraph.

The ratio under permanent grassland shall be established each year on the basis of the areas declared by the farmers subject to the obligations under this Chapter for the year concerned in accordance with Article 73(1) of Regulation (EU) No [...] [HZR].

The obligation under this paragraph shall apply at national, regional or appropriate sub-regional level. Member States may decide to apply an obligation to maintain permanent grassland at holding level in order to ensure that the permanent grassland ratio does not decrease by more than 5 %. Member States shall notify any such decision by 31 July 2014 to the Commission.

Member States shall notify the reference ratio and the ratio referred to in the first subparagraph to the Commission.

- I**
- 2a. *Where it is established that the ratio referred to in paragraph 2 has decreased by more than 5 % at regional or sub-regional level or where applicable at national level, the Member State concerned shall provide for obligations at the level of the individual farmer to revert land into land under permanent grassland for those farmers who have land at their disposal which was converted from land under permanent pasture or permanent grassland into land for other uses during a period in the past to be defined by means of a delegated act in accordance with Article 55.*

However, where the amount of land under permanent grassland in absolute terms established in accordance with point (a) of the second subparagraph of paragraph 2 is maintained within certain limits, the obligation set out in the first subparagraph of paragraph 2 shall be considered as being complied with.

- 2b. *Paragraph 2a shall not apply where the decrease below the threshold results from afforestation, provided such afforestation is compatible with the environment and does not include plantations of short rotation coppice, Christmas trees or fast growing trees for energy production.*
3. *In order to ensure that the ratio of permanent grassland is maintained, the Commission shall be empowered to adopt delegated acts in accordance with Article 55 laying down detailed rules on maintenance of permanent grassland, including rules on reversion in case of non-respect of the obligation in paragraph 1, rules applying to Member States for setting up obligations at farm level for maintaining permanent grassland as referred to in paragraphs 2 and 2a and any adjustment of the reference ratio referred to in paragraph 2 that may become necessary.*
4. *The Commission shall be empowered to adopt delegated acts in accordance with Article 55:*
- (a) *to define the framework within which the designations of further sensitive areas referred to in the second subparagraph of paragraph 1 are to be made;*

(b) *to establish detailed methods for the determination of the ratio of permanent grassland and of the total agricultural area that has to be maintained pursuant to paragraph 2;*

(c) *to define the period in the past referred to in paragraph 2a.*

5. *The Commission shall, by means of implementing acts, define the limits referred to in paragraph 2a. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 56(2).*

Article 32

Ecological focus area

1. Where the arable land of a holding covers more than 15 hectares, farmers shall ensure that as from 1 January 2015, an area corresponding to at least 5 % of the arable land of *the holding the farmer declared in accordance with Article 73(1) of Regulation (EU) No [...] [HZR] and including the areas mentioned in points (c), (d), (j) and (k) of the fourth subparagraph is ecological focus area.*

The threshold referred to in the first subparagraph shall be increased from 5 % to 7 % subject to a legislative act of the European Parliament and the Council in accordance with Article 43(2) of the Treaty.

By 31 March 2017, the Commission shall present an evaluation report on the implementation of the first subparagraph accompanied, where appropriate, by a proposal for a legislative act as referred to in the second subparagraph.

Member States shall by 1 August 2014 decide that one or more of the following shall be considered as ecological focus area:

(a) *land lying fallow;*

(b) *terraces;*

(c) *landscape features, including such features adjacent to the arable land of the holding; by way of derogation from Article 29(1), these may include landscape features that are not included in the eligible area in accordance with point © of Article 77(2) of Regulation (EU) No [...] [HZR];*

(d) *buffer strips, including buffer strips covered by permanent grassland provided these are distinct from adjacent eligible agricultural area;*

(e) *hectares of agro-forestry that receive support under Article 44 of Regulation (EU) No 1698/2005 and/or Article 24 of Regulation (EU) No [...] [RDR] or that have received support under these provisions;*

(g) *strips of eligible hectares along forest edges;*

(j) *areas with short rotation coppice with no use of mineral fertilizer and/or plant protection products;*

(k) *afforested areas referred to in point (b)(ii) of Article 25(2);*

- (l) *areas with catch crops, or green cover established by the planting and germination of seeds, subject to the application of weighting factors referred to in paragraph 1a;*
- (m) *areas with nitrogen fixing crop.*

With the exception of the areas of the holding referred to in points (j) and (k) of the fourth subparagraph of this paragraph, the ecological focus area shall be located on the arable land of the holding, or in case of areas mentioned in points (c) and (d) of the fourth subparagraph of this paragraph, adjacent to the arable land of the holding the farmer declared in accordance with Article 73(1) of Regulation (EU) No [...] [HZR].

- 1a. *In order to simplify the administration and in order to take account of the specificities of the types of ecological focus area listed in paragraph 1 and to facilitate their measurement, Member States may, when calculating the total hectares represented by the ecological focus area of the holding, make use of the conversion and/or weighting factors set out in Annex VIb. If a Member State decides to consider as ecological focus area the area under point (l) of paragraph 1 or any other area that is subject to a weighting of less than 1, the use of the weighting factors set out in Annex VIb shall be mandatory.*
- 1b. *Paragraph 1 shall not apply to holdings:*
 - (a) *where more than 75 % of the eligible agricultural area is permanent grassland, used for the production of grasses or other herbaceous forage or cultivated with crops under water either for a significant part of the year or for a significant part of the crop cycle or a combination of those uses provided the arable area not covered by these uses does not exceed 30 hectares;*
 - (b) *where more than 75 % of the arable land is used for production of grasses or other herbaceous forage, land lying fallow, cultivated with leguminous crops, or subject to a combination of these uses provided that the arable area not covered by these uses does not exceed 30 hectares.*
- 1ba. *By way of derogation from paragraph 1, Member States may decide to implement up to 50 % of the percentage points of the ecological focus area referred to in paragraph 1 at regional level in order to obtain adjacent ecological focus areas. Member States shall designate the areas and the obligations for farmers or groups of farmers participating. The aim of the designation and obligations shall be to underpin the implementation of Union policies on the environment, climate and biodiversity.*
- 1c. *Member States may decide to permit farmers whose holdings are in close proximity to fulfil the obligation referred to in paragraph 1 on the basis of collective implementation provided that the ecological focus areas concerned are contiguous. In order to underpin the implementation of Union policies on the environment, climate and biodiversity, Member States may designate the areas on which collective implementation is possible and may also impose further obligations upon farmers or groups of farmers participating in such collective implementation.*

Each farmer participating in such collective implementation shall ensure that at least 50 % of the area subject to the obligation in paragraph 1 is located on the land of his holding and in accordance with the fifth subparagraph of paragraph 1. The number of

farmers participating in such collective implementation shall not exceed 10.

1d. *Member States where more than 50 % of the total land surface area is covered by forests may decide that paragraph 1 shall not apply to holdings situated in areas designated by those Member States as areas facing natural constraints in accordance with point (a) or (b) of Article 33(1) of Regulation (EU) No [...] [RDR], provided that more than 50 % of the land surface area of the unit referred to in the second subparagraph of this paragraph is covered by forest and the ratio of forest land to agricultural land is higher than 3:1.*

The area under forest and the forest ratio shall be assessed on an area level equivalent to the LAU2 level or on the level of a clearly delineated unit which covers a single clear contiguous geographical area having similar agricultural conditions.

1e. *Member States shall notify the Commission of their decisions referred to in paragraph 1 by 1 August 2014, and of any decisions referred to in paragraphs 1a, 1ba, 1c and 1d by 1 August of the preceding year.*

2. The Commission shall be empowered to adopt delegated acts in accordance with Article 55:

- (a)** *laying down further criteria for the types of areas referred to in paragraph 1 of this Article to qualify as ecological focus areas;*
- (b)** *adding other types of areas than those referred to in paragraph 1 that can be taken into account in order to respect the percentage referred to in that paragraph;*
- (c)** *adapting Annex VIb in order to establish the conversion and weighting factors referred to in paragraph 1a and in order to take into account the criteria and/or types of areas to be defined by the Commission under points (a) and (b) of this paragraph;*
- (e)** *setting rules for the establishment of the collective implementation referred to in paragraphs 1ba and 1c, including the minimum requirements of such implementation;*
- (f)** *establishing the framework within which Member States shall define the criteria to be met by holdings to be considered to be in close proximity for the purposes of paragraph 1c;*
- (g)** *establishing the methods for determination of the ratio of forest to the total land surface area and the ratio of forest to agricultural land in paragraph 1d.*

Article 33

Financial provisions

- 1.** In order to finance the payment referred to in this Chapter, Member States shall use 30 % of the annual national ceiling set out in Annex II.
- 2.** Member States shall apply the payment referred to in this Chapter at national *level*.

When applying Article 20, *Member States may decide to apply the payment* at regional level. In *such case, they* shall use in each region a share of the ceiling set pursuant to

paragraph 3. For each region, this share shall be calculated by dividing the respective regional ceiling as established in accordance with Article 20(2) by the ceiling determined ***in accordance with Article 19(1), after deduction of the national reserve in case Article 23(2) is not applied.***

3. The Commission shall, by means of implementing acts, set out the corresponding ceiling for the payment referred to in this Chapter on a yearly basis. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 56(2).

CHAPTER 3 PAYMENT FOR AREAS WITH NATURAL CONSTRAINTS

Article 34 **General rules**

1. Member States may grant a payment to farmers entitled to a payment under the basic payment scheme ***or the single area payment scheme*** referred to in Chapter 1 and whose holdings are fully or partly situated in areas with natural constraints designated by Member States in accordance with Article 33(1) of Regulation (EU) No [...] [RDR].
2. Member States may decide to grant the payment referred to in paragraph 1 to all areas falling within the scope of that paragraph or, alternatively, and on the basis of objective and non-discriminatory criteria, to restrict the payment to some of the areas ***designated by Member States in accordance with Article 33(1) of Regulation (EU) No [...] [RDR].***
3. Without prejudice to paragraph 2 and to the application of financial discipline, progressive reduction and capping, linear reduction ***in accordance with Article 7, and the application of Article 65 of Regulation (EU) No [...] [HZR],*** the payment referred to in paragraph 1 ***of this Article*** shall be granted annually per eligible hectare situated in the areas to which ***a Member State has*** decided to grant a payment in accordance with paragraph 2 of this Article and shall be paid upon activation of payment entitlements on those hectares held by the farmer concerned ***or, in Member States applying Article 28c, for those eligible hectares which are declared under the single area payment scheme.***
4. The payment per hectare referred to in paragraph 1 shall be calculated by dividing the amount resulting from the application of Article 35 by the number of eligible hectares declared ***in accordance with Article 26(1) or, in Member States applying Article 28c, by the number of eligible hectares declared under the single area payment scheme*** which are situated in the areas to which ***a Member State has*** decided to grant a payment in accordance with paragraph 2 of this Article.

Member States may, on the basis of objective and non-discriminatory criteria, also set a maximum number of hectares per holding for which support under this Chapter can be granted.

5. Member States may apply the payment referred to in ***paragraph 1*** at regional level under the conditions laid down in this paragraph ***provided they determined*** the regions ***concerned*** in accordance with objective and non-discriminatory criteria ***and, in particular,*** their natural constraint characteristics ***including severity of the constraints,*** and agronomic conditions.

Member ***States*** shall divide the national ceiling referred to in Article 35(1) between the

regions in accordance with objective and non-discriminatory criteria.

The payment at regional level shall be calculated by dividing the regional ceiling calculated in accordance with the *second subparagraph* by the number of eligible hectares declared *in the respective region in accordance with Article 26(1) or, in Member States applying Article 28c, by the number of eligible hectares declared under the single area payment scheme* which are situated in the areas to which *a Member State has* decided to grant a payment in accordance with paragraph 2 of this Article.

Article 35

Financial provisions

1. In order to finance the payment referred to in Article 34, Member States may decide, by 1 August **2014**, to use up to 5 % of their annual national ceiling set out in Annex II. *They shall notify any such decision to the Commission by that date.* Member States may, by 1 August 2016, review their decision with effect from 1 January 2017. *They shall notify the Commission of any reviewed percentage by 1 August 2016.*
2. *On the basis of* the percentage of the national ceiling to be used by Member States pursuant to paragraph 1, the Commission shall, by means of implementing acts, fix the corresponding *ceilings* for that payment on a yearly basis. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 56(2).

CHAPTER 4

PAYMENT FOR YOUNG FARMERS

Article 36

General rules

1. Member States shall grant an annual payment to young farmers who are entitled to a payment under the basic payment scheme *or the single area payment scheme* referred to in Chapter 1.
2. For the purposes of this Chapter, 'young farmers', shall mean **■** natural persons:
 - (a) who are setting up for the first time an agricultural holding as head of the holding, or who have already set up such a holding during the five years preceding the first submission of an application to the basic payment scheme *or the single area payment scheme* as referred in Article 73(1) of Regulation (EU) No [...] [HZR], and
 - (b) who are *no more* than 40 years of age *in the year of submission of* the application referred to in point (a).

Member States may define further objective and non-discriminatory eligibility criteria for young farmers applying for the payment referred to in paragraph 1 of this Article as regards appropriate skills and/or training requirements.

3. Without prejudice to the application of financial discipline, progressive reduction and capping, linear reductions *in accordance with* Article 7, and *to the application of* Article 65 of Regulation (EU) No [...] [HZR], the payment referred to in paragraph 1 of this Article shall be granted annually upon activation of payment entitlements by the farmer *or, in Member States applying Article 28c, upon declaration of eligible hectares by the*

farmer.

4. The payment referred to in paragraph 1 shall be granted per farmer for a period of maximum five years. That period shall be reduced by the number of years elapsed between the setting up and the first submission of the application referred to in point (a) of paragraph 2.
5. Member States shall **■** each year *calculate* the amount of the payment referred to in paragraph 1 by multiplying *the number of entitlements the farmer has activated in accordance with Article 25(1)* by a figure corresponding to :
 - (a) 25 % of the average value of the payment entitlements held by the farmer; *or*
 - (b) *25 % of an amount calculated by dividing a fixed percentage of the national ceiling for the calendar year 2019, as set out in Annex II, by the number of all eligible hectares declared in 2015 in accordance with Article 26(1). That fixed percentage shall be equal to the share of the national ceiling set for the basic payment scheme in accordance with Article 19(1) for 2015.*

■
By way of derogation from the first subparagraph, Member States applying Article 28c shall calculate the amount of the payment each year by multiplying a figure corresponding to 25 % of the single area payment calculated in accordance with Article 28c by the number of eligible hectares the farmer has declared in accordance with Article 28c(1a).

By way of derogation from the first and second subparagraphs, Member States may calculate the amount of the payment by multiplying a figure corresponding to 25 % of the national average payment per hectare by the number of entitlements the farmer has activated in accordance with Article 25(1) or by the number of eligible hectares the farmer has declared in accordance with Article 28c(1a). The average payment per hectare shall be calculated by dividing the national ceiling for the calendar year 2019, as set out in Annex II, by the number of eligible hectares declared in 2015 in accordance with Article 26(1) or, respectively, Article 28c(1a).

Member States shall set a single maximum limit applicable to the number of payment entitlements activated by the farmer or of eligible hectares declared by the farmer, which shall correspond to a figure not below 25 and not above 90. They shall respect that limit when applying this paragraph.

6. *By way of derogation from paragraph 5, Member States may allocate an annual lump sum amount per farmer calculated by multiplying a fixed number of hectares by a figure corresponding to 25 % of the national average payment per hectare as established in accordance with the third subparagraph of paragraph 5.*

The fixed number of hectares referred to in the first subparagraph of this paragraph shall be calculated by dividing the total number of eligible hectares declared pursuant to Article 26(1) or, respectively, Article 28c(1a) by the young farmers applying for the payment referred to in paragraph 1 in 2015 by the total number of young farmers applying for the same payment in 2015. However, a Member State may recalculate the fixed number of hectares in any year after 2015 in case of significant changes in the

number of young farmers applying for the payment and/or in the size of the holdings of young farmers.

The lump sum amount a farmer may be granted shall not exceed the total amount of his basic payment before application of Article 65 of Regulation (EU) No [...] [HZR] in the given year.

- 7 *In order to guarantee the protection of the rights of beneficiaries and to avoid discrimination among them, the Commission shall be empowered to adopt delegated acts in accordance with Article 55 concerning the conditions under which a legal person may be considered eligible for receiving the payment referred to in paragraph 1 of this Article.*

Article 37

Financial provisions

1. In order to finance the payment referred to in Article 36, Member States shall use a percentage of the annual national ceiling set out in Annex II which shall not be higher than 2 %. They shall notify the Commission, by 1 August 2014, of the estimated percentage necessary to finance that payment.

Member States may, *every year by 1 August*, review their estimated percentage with effect from *the subsequent year*. They shall notify the Commission of the reviewed percentage by 1 August *of the year prior to the year of application of that revised percentage*.

2. Without prejudice to the maximum of 2 % set *in paragraph 1 of this Article*, where the total amount of the payment applied for in a Member State in a particular year exceeds the ceiling set pursuant to paragraph 4 *of this Article*, and where that ceiling is lower than 2 % of the annual national ceiling set out in Annex II, Member States shall *finance the difference by applying point (c) of Article 23(5) in the relevant year and/or by applying a linear reduction to all payments to be granted to all farmers in accordance with Article 25 or Article 28c(1a)*.
3. Where the total amount of the payment applied for in a Member State in a particular year exceeds the ceiling set pursuant to paragraph 4 *of this Article*, and where that ceiling amounts to 2 % of the annual national ceiling set out in Annex II, Member States shall apply a linear reduction to the amounts to be paid in accordance with Article 36 in order to comply with that ceiling.
4. *The Commission shall, by means of implementing acts, set on a yearly basis the ceilings for the payment referred to in Article 36 on the basis of the percentage notified by Member States pursuant to paragraph 1.*

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 56(2).

TITLE IV

COUPLED SUPPORT

CHAPTER 1

VOLUNTARY COUPLED SUPPORT

Article 38
General rules

1. Member States may grant coupled support to farmers under the conditions laid down in this Chapter.

Coupled support may be granted to the following sectors and productions: cereals, oilseeds, protein crops, grain legumes, flax, hemp, rice, nuts, starch potato, milk and milk products, seeds, sheepmeat and goatmeat, beef and veal, olive oil, silk worms, dried fodder, hops, sugar beet, cane and chicory, fruit and vegetables and short rotation coppice.
2. Coupled support may only be granted to *those* sectors or to *those* regions of a Member State where specific types of farming or specific agricultural sectors undergo certain difficulties and are particularly important for economic, social and/or environmental reasons.
3. By way of derogation from paragraph 2, coupled support may also be granted to farmers who held, on 31 December **2014**, payment entitlements granted in accordance with Section 2 of Chapter 3 of Title III and Article 71m of Regulation (EC) No 1782/2003 and in accordance with Article 60 and the fourth *subparagraph* of Article 65 of Regulation (EC) No 73/2009; and who are without eligible hectares for the activation of payment entitlements under the basic payment scheme as referred to in Chapter 1 of Title III of this Regulation.
4. Coupled support may only be granted to the extent necessary to create an incentive to maintain current levels of production in the regions *or sectors* concerned.
5. Coupled support shall take the form of an annual payment and shall be granted within defined quantitative limits and based on fixed areas and yields or on a fixed number of animals.
- 5a. *In the case of a legal person, or a group of natural or legal persons, Member States may apply the limits referred to in paragraph 5 at the level of the members of those legal persons or groups where national law provides for the individual members to assume rights and obligations comparable to those of individual farmers who have the status of a head of holding, in particular as regards their economic, social and tax status, provided that they have contributed to strengthening the agricultural structures of the legal persons or groups concerned.*
6. Any coupled support granted under this Article shall be consistent with other Union measures and policies.
7. *In order to ensure efficient and targeted use of Union funds and to avoid double funding under other similar support instruments, the Commission shall be empowered to adopt delegated acts in accordance with Article 55 concerning:*
 - (a) the conditions for granting the support referred to in this Chapter,
 - (b) rules on consistency with other Union measures and on the cumulation of support.

Article 39
Financial provisions

1. In order to finance the voluntary coupled support, Member States may decide, by 1 August of the year preceding the first year of implementation of such support, to use up to **8 %** of their annual national ceiling set out in Annex II.
2. By way of derogation from paragraph 1, Member States may decide to use up to **13 %** of the annual national ceiling set out in Annex II, provided that:
 - (a) they applied, until 31 December **2014**, the single area payment scheme as laid down in Title V of Regulation (EC) No 73/2009, or financed measures under Article 111 of that Regulation, or are concerned by the derogation provided for in Article 69(5), or, in the case of Malta, in Article 69(1) of that Regulation; and/or
 - (b) they allocated, during at least one year in the period 2010-**2014**, more than 5 % of their amount available for granting the direct payments provided for in Titles III, IV and V of Regulation (EC) No 73/2009, with the exception of Section 6 of Chapter 1 of Title IV, for financing the measures laid down in Section 2 of Chapter 2 of Title III of Regulation (EC) No 73/2009, the support provided for in *subpoints* (i) to (iv) of *point* (a) and *in points* (b) and (e) of Article 68(1) of that Regulation, or the measures under Chapter 1, with the exception of Section 6, of Title IV of that Regulation.
- 2a.** *The percentage of the national ceiling referred to in paragraphs 1 and 2 may be increased by up to two percentage points for those Member States which decide to use at least 2 % of their national ceiling as defined in Annex II in order to support the production of protein crops under this Chapter.*
3. By way of derogation from paragraph 2, Member States having allocated during at least one year in the period 2010- **2014** more than 10 % of their amount available for granting the direct payments provided for in Titles III, IV and V of Regulation (EC) No 73/2009, with the exception of Section 6 of Chapter 1 of Title IV, for financing the measures laid down in Section 2 of Chapter 2 of Title III of Regulation (EC) No 73/2009, the support provided for in *subpoints* (i) to (iv) of *point* (a) and *in points* (b) and (e) of Article 68(1) of that Regulation, or the measures under Chapter 1, with the exception of Section 6, of Title IV of that Regulation may decide to use more than **13 %** of the annual national ceiling set out in Annex II upon approval by the Commission in accordance with Article **41 of this Regulation**.
- 3a.** *By way of derogation from the percentages set out in paragraphs 1 to 3, Member States may choose to use up to EUR 3 million per year for the financing referred to in this Article.*
4. Member States may, by 1 August 2016, review their decision pursuant to paragraphs 1, 2, **2a** and 3 and decide, with effect from 2017:
 - (a) to *leave unchanged*, increase *or decrease* the percentage fixed pursuant to paragraphs **1**, **2** and **2a**, within the limits laid down therein where applicable *or to leave unchanged or decrease the percentage fixed pursuant to paragraph 3*,
 - (b) to **■** modify the conditions for granting *the* support;
 - (c) to cease granting the support under this Chapter.

5. On the basis of the decision taken by each Member State pursuant to paragraphs 1 to 4 on the proportion of the national ceiling to be used, the Commission shall, by means of implementing acts, fix the corresponding *ceilings* for the support on a yearly basis. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 56(2).

Article 40
Notification

1. *Member States shall notify the* decisions referred to in Article 39 to the Commission by the *dates* referred to in that Article. *Except* for the decision referred to in *point (c) of* Article 39(4), the notification shall include information on the regions targeted, the selected types of farming or sectors and the level of support to be granted.
2. The decisions referred to in Article 39(2) and (3), or, where appropriate, in *point (a) of* Article 39(4), shall also include a detailed description of the particular situation in the region targeted and of the particular characteristics of the types of farming, or specific agricultural sectors, which make the percentage referred to in Article 39(1) insufficient to address the difficulties referred to in Article 38(2) and which justify an increased level of support.

Article 41
Approval by the Commission

1. The Commission shall, by means of implementing *acts adopted without applying the procedure referred to in Article 56(2) or (3)*, approve the decision referred to in Article 39(3), or, where appropriate, in *point (a) of* Article 39(4), where one of the following needs in the region or sector concerned is demonstrated:
 - (a) the necessity to sustain a certain level of specific production due to the lack of alternatives and to reduce the risk of production abandonment and the resulting social and/or environmental problems,
 - (b) the necessity to provide stable supply to the local processing industry, thus avoiding the negative social and economic consequence of any ensuing restructuring,
 - (c) the necessity to compensate disadvantages affecting farmers in a particular sector which are the consequence of continuing disturbances on the related market;
 - (d) the necessity to intervene where the existence of any other support available under this Regulation, Regulation (EU) No [...] [RDR] or any approved State aid scheme is deemed insufficient to meet the needs referred to in points (a), (b) and (c).
2. The Commission shall, by means of implementing acts, adopt rules on the procedure for the assessment and approval of decisions referred to in paragraph 1. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 56(2).

CHAPTER 2
CROP SPECIFIC PAYMENT FOR COTTON

Article 42

Scope

Aid shall be granted to farmers producing cotton falling within CN code 5201 00 under the conditions laid down in this Chapter ("crop specific payment for cotton").

Article 43

Eligibility

1. The crop specific payment for cotton shall be granted per hectare of eligible area of cotton. In order to be eligible, the area shall be located on agricultural land authorised by the Member State for cotton production, sown under *varieties authorised by the Member State* and actually harvested under normal growing conditions.

The crop specific payment for cotton shall be paid for cotton of sound, fair and marketable quality.

2. Member States shall authorise the land and the varieties referred to in paragraph 1 in accordance with the rules and conditions to be adopted pursuant to paragraph 3.
3. ***In order to*** ensure an efficient management of the crop-specific payment for cotton, the Commission shall be empowered to adopt delegated acts in accordance with Article 55 concerning rules and conditions for the authorisation of land and varieties for the purposes of the crop specific payment for cotton.
4. The Commission shall, by means of implementing acts, adopt rules on the procedure of the authorisation ***of land and varieties for the purposes of the crop specific payment for cotton*** and the notifications to the producers related to this authorisation. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 56(2).

Article 44

Base areas, fixed yields and reference amounts

1. The following national base areas are established:
 - Bulgaria: 3 342 ha,
 - Greece: 250 000 ha,
 - Spain: 48 000 ha,
 - Portugal: 360 ha.
2. The following fixed yields in the reference period are established:
 - Bulgaria: 1,2 tonne/ha,
 - Greece: 3,2 tonne/ha,
 - Spain: 3,5 tonne/ha,
 - Portugal: 2,2 tonne/ha.

3. The amount of the crop specific payment per hectare of eligible area shall be established by multiplying the yields established in paragraph 2 with the following reference amounts:
 - Bulgaria: EUR **584,88** in 2015; and EUR **649,45** for 2016 and onwards
 - Greece: EUR **234,18**
 - Spain: EUR **362,15**
 - Portugal: EUR **228,00**
4. If the eligible area of cotton in a given Member State and in a given year exceeds the base area established in paragraph 1, the amount referred to in paragraph 3 for that Member State shall be reduced proportionately to the overrun of the base area.
5. In order to *make* the application of the crop-specific payment for cotton *possible*, the Commission shall be empowered to adopt delegated acts in accordance with Article 55 concerning rules on the conditions for the granting of *that* payment, on the eligibility requirements and *on* agronomic practices.
6. The Commission may, by means of implementing acts, provide for rules on the calculation of the reduction provided for in paragraph 4. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 56(2).

Article 45

Approved inter-branch organisations

1. For the purpose of this Chapter, an ‘approved inter-branch organisation’ *means* a legal entity made up of farmers producing cotton and at least one ginner, carrying out activities such as:
 - (a) helping to coordinate better the way cotton is placed on the market, particularly through research studies and market surveys;
 - (b) drawing up standard forms of contract compatible with Union rules;
 - (c) orienting production towards products that are better adapted to market needs and consumer demand, particularly in terms of quality and consumer protection;
 - (d) updating methods and means to improve product quality;
 - (e) developing marketing strategies to promote cotton via quality certification schemes.
2. The Member State where the ginneries are established shall approve interbranch organisations that satisfy the criteria to be laid down pursuant to paragraph 3.
3. *In order to enable the efficient application of the crop-specific payment for cotton, the Commission shall be empowered to adopt delegated acts in accordance with Article 55 concerning:*
 - (a) criteria for the approval of inter-branch organisations;
 - (b) obligations for producers;

- (c) rules **governing** the situation where the approved inter-branch organisation does not **satisfy** those criteria.

Article 46

Granting of the payment

1. Farmers shall be granted the crop specific payment for cotton per eligible hectare as established in Article 44.
2. Farmers who are members of an approved inter-branch organisation shall be granted the crop specific payment for cotton per eligible hectare within the base area laid down in Article 44(1), increased by an amount of EUR 2.

TITLE V

Small farmers scheme

Article 47

General rules

1. ***Member States may establish a scheme for small farmers in accordance with the conditions laid down in this Title ('small farmers scheme').***

Farmers holding payment entitlements ***or, in Member States applying Article 28c, claiming for the single area payment scheme in 2015*** and fulfilling the minimum requirements provided for in Article 10(1) may opt for participation in ***this scheme***.

2. Payments under the small farmers scheme shall replace the payments to be granted pursuant to Titles III and IV.

The first subparagraph shall not apply where a Member State opts for the payment method laid down in point (a) of Article 49(2). In that case, the payment shall be conditional upon the respective conditions laid down in Titles III and IV, without prejudice to paragraph 3 of this Article.

3. Farmers participating in the small farmers scheme shall be exempted from the agricultural ***practices*** provided for in Chapter 2 of Title III.
4. No advantage provided for under this Title shall be granted in favour of farmers in respect of whom it is established that, as from 19 October 2011, they artificially created the conditions to benefit from the small farmers scheme.

Article 48

Participation

1. Farmers wishing to participate in the small farmers scheme shall submit an application by ***a date to be fixed by Member States but not later than 15 October 2015. The date fixed by Member States cannot, however be earlier than the last day for submission of an application for the basic payment scheme or the single area payment scheme.***

Farmers not having applied for participation in the small farmers scheme by ***the date fixed by the Member State*** or deciding to withdraw from it after that date or selected for support under point (c) of Article 20(1) of Regulation (EU) No [...] [RDR] shall no longer have

the right to participate in that scheme.

2. ***By way of derogation from paragraph 1, Member States may provide that farmers whose amount of direct payments under Titles III and IV is lower than the maximum amount fixed by the Member State in accordance with Article 49 shall be included in the small farmers scheme automatically unless they expressly withdraw from it by the date fixed by the Member State as referred to in paragraph 1 or in any subsequent year. Member States making use of this possibility shall inform the relevant farmers in due time about their right to withdraw from the scheme.***
3. ***Member States shall ensure that an estimate of the amount of the payment referred to in Article 49 is made known to farmers in due time before the date of application or withdrawal fixed by the Member State.***

Article 49

Amount of the payment

1. Member States shall set the amount of the annual payment for ***each farmer participating in*** the small farmers scheme at one of the following levels, subject to ***paragraph 3***:
 - (a) an amount not exceeding 25 % of the national average payment per beneficiary, ***which shall be established by the Member States on the basis of the national ceiling set in Annex II for calendar year 2019 and the number of farmers having declared eligible hectares pursuant to Article 26(1) in 2015 or having claimed for the single area payment scheme in 2015 pursuant to Article 28c;***
 - (b) an amount corresponding to the national average payment per hectare multiplied by a figure corresponding to the number of hectares with a maximum of ***five***. ***The national average payment per hectare shall be established by the Member States on the basis of the national ceiling set in Annex II for calendar year 2019 and the number of eligible hectares declared in accordance with Article 26 or Article 28c in 2015.***

The amounts referred to in points (a) and (b) shall not be lower than EUR 500 and not higher than EUR 1 250.

Without prejudice to Article 51(1), where the application of points (a) and (b) results in an amount lower than EUR 500 or higher than EUR 1 250, the amount shall be rounded up or down, respectively, to the minimum or maximum amount.

2. ***By way of derogation from paragraph 1, Member States may decide to grant participating farmers:***
 - (a) ***an amount equal to the total value of the payments to be allocated to the farmer each year under Titles III and IV of this Regulation, or***
 - (b) ***an amount equal to the total value of the payments to be allocated to the farmer in 2015 under Titles III and IV of this Regulation that Member States may adjust in subsequent years to proportionately take into account the changes in the national ceiling set in Annex II.***

■

The amount shall not be higher than an amount fixed by the Member State between EUR 500 and EUR 1 250.

Without prejudice to Article 51(1), where the *payment* results in an amount lower than EUR 500, *Member States may decide to round up this amount to EUR 500.*

3. ***In Cyprus, Croatia, Malta and Slovenia, the amount referred to in paragraphs 1 and 2 may be set at a value lower than EUR 500, but not less than EUR 200 or, in the case of Malta, not less than EUR 50.***

Article 50

Special conditions

1. During the participation in the small farmers scheme, farmers shall:
 - (a) keep at least a number of *eligible* hectares corresponding to the number of entitlements held ***or to the number of eligible hectares declared under the single area payment scheme in 2015;***
 - (b) fulfil the minimum requirement provided for in Article 10(1)(b).
2. Payment entitlements activated in **2015** pursuant to Articles 25 and 26 by a farmer participating in the small farmers scheme shall be considered as activated entitlements for the duration of the participation of the farmer in that scheme.

The payment entitlements held by the farmer during the participation in that scheme shall not be considered as unused payment entitlements reversible to the national reserve within the meaning of ***point (b) of Article 24(1)*** .

In those Member States applying Article 28c, the eligible hectares declared under the single area payment scheme in 2015 by a farmer participating in the small farmers scheme shall be considered as declared for the duration of the participation of the farmer in that scheme.

3. By way of derogation from Article 27, payment entitlements held by farmers participating in the small farmers scheme shall not be transferable, except in case of inheritance or anticipated inheritance.

Farmers who by way of inheritance or anticipated inheritance receive payment entitlements from a farmer participating in the small farmers scheme shall be eligible for participation in that scheme provided they meet the requirements to benefit from the basic payment scheme and that they inherit all the payment entitlements held by the farmer from whom they receive the payment entitlements.

4. ***Paragraphs 1, 2 and the first subparagraph of paragraph 3 of this Article shall not apply where a Member State opts for the payment method laid down in point (a) of Article 49(2) of this Regulation without applying the last subparagraph of Article 49(2).***
5. ***In order to ensure legal certainty, the Commission shall be empowered to adopt delegated acts in accordance with Article 55 setting out the conditions for participation in the scheme where the situation of the participating farmer changes.***

Article 51
Financial provisions

1. In order to finance the payment referred to in this Title, Member States shall deduct the amounts corresponding to the amounts to which the small farmers would be entitled *under the basic payment scheme or the single area payment scheme* referred to in Chapter 1 of *Title III, as a redistributive payment referred to in Chapter 1a* of Title III, as a payment for agricultural *practices* beneficial for the climate and the environment referred to in Chapter 2 of Title III and, where applicable, as a payment for areas with natural constraints referred to in Chapter 3 of Title III, as a payment for young farmers referred to in Chapter 4 of Title III and as coupled support referred to in Title IV from the total amounts available for the respective payments.

In Member States having opted for calculating the amount of the payment pursuant to point (a) of Article 49(2), where the sum of those amounts for an individual farmer exceeds the maximum amount they have fixed, each amount shall be proportionately reduced.

The difference between the sum of all payments due under the small farmers scheme and the total amount financed in accordance with the first subparagraph shall be financed *in one or more of the following ways:*

- (a) *by applying Article 23(5) in the relevant year;*
- (b) *by using the funds left unused in the relevant year, to finance the payment for young farmers laid down in Chapter 4 of Title III;*
- (c) *by applying a linear reduction to all payments to be granted in accordance with Articles 25 or 28c.*

Except where the Member State has opted for setting the amount of the annual payment pursuant to point (a) of Article 49(2), the elements on the basis of which the amounts referred to in the first subparagraph are established shall remain the same for the entire duration of the participation of the farmer in the scheme.

2. If the total amount of payments due under the small farmers scheme exceeds 10 % of the annual national ceiling set out in Annex II, Member States shall apply a linear reduction to the amounts to be paid in accordance with this Title in order to respect that percentage, *unless they have set the amount of the payment in accordance with point (a) of Article 49(2) without applying the last subparagraph of Article 49(2). The same exception applies for Member States which have set the amount of the payment in accordance with point (b) of Article 49(2) without applying the last subparagraph of Article 49(2), whose national ceiling in Annex II for year 2019 is higher than for year 2015 and which apply the calculation method in Article 22(1) or, respectively, Article 28c(1a).*

TITLE VI
NATIONAL RESTRUCTURING PROGRAMMES FOR THE
COTTON SECTOR

Article 52
Use of the annual budget for the restructuring programmes

1. For Member States which have applied the first *subparagraph* of Article 4(1) of Regulation (EC) No 637/2008, the relevant annual budget available pursuant to Article 5(1) of that Regulation shall be transferred with effect from 1 January 2014 **and shall constitute** additional Union funds for measures under rural development programming financed under Regulation (EU) No [...] [RDR].
2. For Member States which have applied the second *subparagraph* of Article 4(1) of Regulation (EC) No 637/2008, **the relevant** annual budget **available pursuant to** Article 5(1) of that Regulation is included with effect from 1 January 2017 in their national **ceilings** as set out in Annex II to this Regulation.

TITLE VII FINAL PROVISIONS

CHAPTER 1 NOTIFICATIONS AND EMERGENCY

Article 53

Notification requirements

1. ***In order to ensure correct application of the rules set out in this Regulation, the*** Commission shall be empowered to adopt delegated acts in accordance with Article 55, on the necessary measures regarding notifications to be made by Member States ***to the Commission*** for the purposes of this Regulation or for the purpose of checking, controlling, monitoring, evaluating and auditing direct payments ***and for complying with requirements laid down in*** international agreements ***which have been concluded by a Council decision***, including notification requirements under those agreements. In so doing it shall take into account the data needs and synergies between potential data sources.

The information obtained may, where appropriate, be transmitted or made available to international organisations **and** the competent authorities of third countries and may be made public, subject to the protection of personal data and the legitimate interest of undertakings in the protection of their business secrets.

2. ***In order*** to make notifications referred to in paragraph 1 fast, efficient, accurate, and cost effective, the Commission shall be empowered to adopt delegated acts in accordance with Article 55 for the purpose of laying down ***further rules on***:
 - (a) the nature and type of the information to be notified;
■
 - (b) ***the categories of data to be processed and maximum retention periods;***
 - (c) the rules related to the access rights to the information or information systems made available;
 - (d) the conditions **■** of publication of the information.
3. The Commission shall, by means of implementing acts, adopt:

- (aa) *the methods of notification;*
- (a) rules on providing the information as necessary for the application of this Article;
- (b) arrangements for the management of the information to be notified, as well as rules on content, form, timing, frequency and deadlines of the notifications;
- (c) *arrangements for transmitting or making information and documents available to the Member States, international organisations, the competent authorities in third countries, or the public, subject to the protection of personal data and the legitimate interest of farmers and undertakings in the protection of their business secrets.*

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 56(2).

Article 53a
Processing and protection of personal data

1. *Member States and the Commission shall collect personal data for the purposes set out in Article 53(1) and shall not process this data in a way incompatible with these purposes.*
2. *Where personal data are processed for monitoring and evaluation purposes as referred to in Article 53(1), they shall be made anonymous and processed in aggregated form only.*
3. *Personal data shall be processed in accordance with the rules of Directive 95/46/EC and Regulation (EC) No 45/2001. In particular, such data shall not be stored in a form which permits identification of data subjects for longer than is necessary for the purposes for which they were collected or for which they are further processed, taking into account the minimum retention periods laid down in the applicable national and Union law.*
4. *Member States shall inform the data subjects that their personal data may be processed by national and Union bodies in accordance with paragraph 1 and that in this respect they enjoy the rights set out in the data protection rules of, respectively, Directive 95/46/EC and Regulation (EC) No 45/2001.*
5. *This Article shall be subject to the provisions in Articles 110a to 110d in Regulation (EU) No [...]HRZ].*

Article 54
Measures to resolve specific problems

1. The Commission shall **adopt** implementing acts **■** which are both necessary and justifiable in an emergency, in order to resolve specific problems. Such **implementing acts** may derogate from provisions of this Regulation, but only to the extent that, and for such a period, as is strictly necessary. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 56(2).
2. *Where* duly justified imperative grounds of urgency *so require, in order to resolve such*

specific problems while ensuring the continuity of the direct payments system in case of extraordinary circumstances, the Commission shall adopt immediately applicable implementing acts, in accordance with the procedure referred to in Article 56(3).

3. *Measures adopted under paragraph 1 or 2 shall remain in force for a period not exceeding twelve months. If after this period the specific problems referred to in those paragraphs persist, the Commission may, in order to establish a permanent solution, present appropriate legislative proposals.*
4. *The Commission shall inform the European Parliament and the Council of any measure adopted under paragraph 1 or 2 within two working days of their adoption.*

CHAPTER 2

DELEGATIONS OF POWERS AND IMPLEMENTING PROVISIONS

Article 55

Exercise of the delegation

1. The power to adopt the delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. **█** *The power to adopt delegated acts referred to in Article 2, Article 4(2), Article 6(2), Article 7(3), Article 8(3), Article 9(5), Article 17b(6), Article 28, Article 28c(4), Article 28e(3), Article 29(6), Article 30(2), Article 31(2a), (3) and (4), Article 32(2), Article 36(7), Article 38(7), Article 43(3), Article 44(5), Article 45(3), Article 50(5), Article 53(1) and (2) and Article 58 shall be conferred on the Commission for a period of seven years from XXX. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the seven-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.*
3. The delegation of *power referred to in Article 2, Article 4(2), Article 6(2), Article 7(3), Article 8(3), Article 9(5), Article 17b(6), Article 28, Article 28c(4), Article 28e(3), Article 29(6), Article 30(2), Article 31(2a), (3) and (4), Article 32(2), Article 36(7), Article 38(7), Article 43(3), Article 44(5), Article 45(3), Article 50(5), Article 53(1) and (2) and Article 58* may be revoked at any time by the European Parliament or by the Council. A decision *to revoke* shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
5. A delegated act adopted pursuant to *Article 2, Article 4(2), Article 6(2), Article 7(3), Article 8(3), Article 9(5), Article 17b(6), Article 28, Article 28c(4), Article 28e(3), Article 29(6), Article 30(2), Article 31(2a), (3) and (4), Article 32(2), Article 36(7), Article 38(7), Article 43(3), Article 44(5), Article 45(3), Article 50(5), Article 53(1) and (2) and Article 58* shall enter into force only if no objection has been expressed either by the European

Parliament or the Council within a period of *two* months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by *two* months at the initiative of the European Parliament or *of* the Council.

Article 56

Committee procedure

1. The Commission shall be assisted by a Committee called *the* "Committee for Direct Payments". That Committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

In the case of acts referred to in Article 21(4), Article 24(2) and Article 53(3), where the committee delivers no opinion, the Commission shall not adopt the draft implementing act and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply.

3. Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011, in conjunction with Article 5 thereof, shall apply.

CHAPTER 3

TRANSITIONAL AND FINAL PROVISIONS

Article 57

Repeals

1. Regulation (EC) No 637/2008 is repealed *with effect from 1 January 2014*.
However, it continues to apply until 31 December 2017 in respect of Member States which have exercised the option laid down in the second subparagraph of Article 4(1) of that Regulation.
2. Regulation (EC) No 73/2009 is repealed.
Without prejudice to paragraph 3, references to the repealed Regulation shall be construed as references to this Regulation and shall be read in accordance with the correlation table set out in Annex VII.
3. The references made in this Regulation to Regulations (EC) No 73/2009 and (EC) No 1782/2003 shall be understood as *being made* to those Regulations such as they were in force before their repeal.

Article 58

Transitional rules

In order to ensure a smooth transition from the arrangements provided for in Regulation (EC) No 73/2009 to those laid down in this Regulation, the Commission shall be empowered to adopt

delegated acts in accordance with Article 55 concerning the necessary measures to protect *any* acquired rights and legitimate expectations of farmers.

Article 59

Entry into force and application

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 **2015**.

However, *Article 9(6), Article 11(5), Article 14, Article 18(2) and (3), the second subparagraph of Article 19(1), the first subparagraph of Article 20(1), Article 20(5), Article 21(3b), Article 22(7), the first subparagraph of Article 28c(1), Article 28g(1), the fourth subparagraph of Article 31(2), the fourth subparagraph of Article 32(1), Article 32(1e), Article 35(1), Article 37(1), Article 39, Article 52(1) and Article 57(1)* shall apply from the date of entry into force of this Regulation.

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

Done at Brussels,

For the European Parliament

For the Council

The President

The President

ANNEX I

List of support schemes

Sector	Legal base	Notes
Basic payment scheme	Title III, Chapter 1 Sections 1 to 3 and 5 of this Regulation	Decoupled payment
Single area payment scheme	Title III, Chapter 1 Section 4 of this Regulation	Decoupled payment
Redistributive payment	Title III, Chapter 1a of this Regulation	Decoupled payment
Payment for farmers following agricultural practices beneficial for the climate and the environment	Title III, Chapter 2 of this Regulation	Decoupled payment
Payment for farmers in areas with natural constraints	Title III, Chapter 3 of this Regulation	Decoupled payment
Payment for young farmers	Title III, Chapter 4 of this Regulation	Decoupled payment
Voluntary coupled support	Title IV, Chapter 1 of this Regulation	
Crop specific payment for cotton	Title IV, Chapter 2 of this Regulation	Area payment
Payment for small farmers	Title V of this Regulation	Decoupled payment
Posei	Chapter IV of Regulation EUNo 228/ 013	Direct payments under measures established in the programmes
Aegean islands	Chapter IV of Regulation (EU) (No) 229/ 2013	Direct payments under measures established in the programmes

ANNEX II

National ceilings referred to in Article 6

(In thousands EUR)

Calendar year	2015	2016	2017	2018	2019 and subsequent year
Belgium	536 076	528 124	520 170	512 718	505 266
Bulgaria	721 251	792 449	793 226	794 759	796 292
Czech Republic	874 484	873 671	872 830	872 819	872 809
Denmark	916 580	907 108	897 625	889 004	880 384
Germany	5 144 264	5 110 446	5 076 522	5 047 458	5 018 395
Estonia	121 870	133 701	145 504	157 435	169 366
Ireland	1 215 003	1 213 470	1 211 899	1 211 482	1 211 066

(In thousands EUR)

Greece		2 039 122	2 015 116	1 991 083	1 969 129	1 947 177
Spain		4 842 658	4 851 682	4 866 665	4 880 049	4 893 433
France		7 553 677	7 521 123	7 488 380	7 462 790	7 437 200
Croatia		130 550	149 200	186 500	223 800	261 100
Italy		3 902 039	3 850 805	3 799 540	3 751 937	3 704 337
Cyprus		50 784	50 225	49 666	49 155	48 643
Latvia		195 649	222 363	249 020	275 887	302 754
Lithuania		417 890	442 510	467 070	492 049	517 028
Luxembourg		33 603	33 545	33 486	33 459	33 431
Hungary		1 271 593	1 270 410	1 269 187	1 269 172	1 269 158
Malta		5 127	5 015	4 904	4 797	4 689
Netherlands		780 815	768 340	755 862	744 116	732 370
Austria		693 065	692 421	691 754	691 746	691 738
Poland		2 987 267	3 004 501	3 021 602	3 041 560	3 061 518
Portugal		565 816	573 954	582 057	590 706	599 355
Romania		1 629 889	1 813 795	1 842 446	1 872 821	1 903 195
Slovenia		137 987	136 997	136 003	135 141	134 278
Slovakia		380 680	383 938	387 177	390 781	394 385
Finland		523 333	523 422	523 493	524 062	524 631
Sweden		696 890	697 295	697 678	698 723	699 768
United-Kingdom		3 555 915	3 563 262	3 570 477	3 581 080	3 591 683

* For Croatia the national ceiling for calendar year 2020 is 298 400, for 2021 is 335 700 and for 2022 is 373 000 (in thousands EUR).

ANNEX III

Net ceilings referred to in Article 7

(In million EUR)

Calendar year		2015	2016	2017	2018	2019 and subsequent year
Belgium		536,1	528,1	520,2	512,7	505,3
Bulgaria		723,6	795,1	795,8	797,4	798,9
Czech Republic		874,5	873,7	872,8	872,8	872,8
Denmark		916,6	907,1	897,6	889,0	880,4
Germany		5 144,3	5 110,4	5 076,5	5 047,5	5 018,4
Estonia		121,9	133,7	145,5	157,4	169,4
Ireland		1 215,0	1 213,5	1 211,9	1 211,5	1 211,1
Greece		2 227,0	2 203,0	2 178,9	2 157,0	2 135,0
Spain		4 903,6	4 912,6	4 927,6	4 941,0	4 954,4
France		7 553,7	7 521,1	7 488,4	7 462,8	7 437,2
Croatia		130,6	149,2	186,5	223,8	261,1
Italy		3 902,0	3 850,8	3 799,5	3 751,9	3 704,3
Cyprus		50,8	50,2	49,7	49,2	48,6
Latvia		195,6	222,4	249,0	275,9	302,8
Lithuania		417,9	442,5	467,1	492,0	517,0
Luxembourg		33,6	33,5	33,5	33,5	33,4
Hungary		1 271,6	1 270,4	1 269,2	1 269,2	1 269,2
Malta		5,1	5,0	4,9	4,8	4,7
Netherlands		780,8	768,3	755,9	744,1	732,4

(In million EUR)

Austria		693,1	692,4	691,8	691,7	691,7
Poland		2 987,3	3 004,5	3 021,6	3 041,6	3 061,5
Portugal		566,0	574,1	582,2	590,9	599,5
Romania		1 629,9	1 813,8	1 842,4	1 872,8	1 903,2
Slovenia		138,0	137,0	136,0	135,1	134,3
Slovakia		380,7	383,9	387,2	390,8	394,4
Finland		523,3	523,4	523,5	524,1	524,6
Sweden		696,9	697,3	697,7	698,7	699,8
United-Kingdom		3 555,9	3 563,3	3 570,5	3 581,1	3 591,7

* For Croatia the *national* ceiling for calendar year 2020 is **298 400**, for 2021 is **335 700** and for 2022 is **373 000** (in *thousands* EUR).

ANNEX IV

Coefficients to be applied under Article 10(1)

Member State	Limit for the EUR threshold (Article 10(1)(a))	Limit for the hectare threshold (Article 10(1)(b))
Belgium	400	2
Bulgaria	200	0,5
Czech Republic	200	5
Denmark	300	5
Germany	300	4
Estonia	100	3
Ireland	200	3
Greece	400	0,4
Spain	300	2
France	300	4
Croatia	100	1
Italy	400	0,5
Cyprus	300	0,3
Latvia	100	1
Lithuania	100	1
Luxemburg	300	4
Hungary	200	0,3
Malta	500	0,1
Netherlands	500	2
Austria	200	2
Poland	200	0,5
Portugal	200	0,3
Romania	200	0,3
Slovenia	300	0,3

Member State	Limit for the EUR threshold (Article 10(1)(a))	Limit for the hectare threshold (Article 10(1)(b))
Slovakia	200	2
Finland	200	3
Sweden	200	4
United Kingdom	200	5

ANNEX V

Financial provisions applying to Bulgaria and Romania referred to in Articles 16 and 17

A. Amounts for calculating the national ceilings for payments referred to in Article 16:
(in thousands EUR)

		2015
Bulgaria		<i>790 909</i>
Romania		<i>1 783 426</i>

B. Total amount of complementary national direct payments to the basic payment scheme referred to in Article 17(2):

(in thousands EUR)

		2015
Bulgaria		<i>69 657</i>
Romania		<i>153 536</i>

C. Total amount of complementary national direct payments to the crop specific payment for cotton referred to in Article 17(3):

(in EUR)

		2015
Bulgaria		<i>258 952</i>

ANNEX Va

Financial provisions applying to Croatia referred to in Articles 10 and 17a

A. Amounts for applying Article 10:

(in thousands EUR)

Croatia	373 000

B. Total amount of complementary national direct payments referred to in Article 17a(3):

(in thousands EUR)

		2015	2016	2017	2018	2019	2020	2021
Croatia		242 450	223 800	186 500	149 200	111 900	74 600	37 300

ANNEX Vb

Maximum amount to be added to the amounts set out in Annex II in accordance with Article 17b(2)

(in thousands EUR)

		2015	2016	2017	2018	2019	2020	2021	2022
Croatia		3 360	3 840	4 800	5 760	6 720	7 680	8 640	9 600

ANNEX VI

Average size of agricultural holding to be applied under Article 28g(4)

Member State	Average size of agricultural holding (in hectares)
Belgium	29
Bulgaria	6
Czech Republic	89
Denmark	60
Germany	46
Estonia	39
Ireland	32
Greece	5
Spain	24
France	52
Croatia	5,9
Italy	8
Cyprus	4
Latvia	16
Lithuania	12
Luxemburg	57
Hungary	7
Malta	1

Member State	Average size of agricultural holding (in hectares)
Netherlands	25
Austria	19
Poland	6
Portugal	13
Romania	3
Slovenia	6
Slovakia	28
Finland	34
Sweden	43
United Kingdom	54

ANNEX VIA

LIST OF EQUIVALENT PRACTICES TO GREENING referred to in Article 29(1b)

I. Practices equivalent to crop diversification:

1) Crop diversification

Requirement: at least 3 crops, maximum 75 % for the main crop, and any one or more of the following:

- *with at least 4 crops,*
- *with lower maximum thresholds,*
- *with a more appropriate selection of crops, such as, for example, leguminous, protein crops, crops not requiring irrigation or pesticide treatments, as appropriate*
- *including regional varieties of old/traditional/endangered crop types (on at least 5 % of the rotated area)*

2) Crop rotation

Requirement: at least 3 crops, maximum 75 % for the main crop, and any one or both of the following:

- *with a more environmentally beneficial multiannual sequence of crops and/or fallow,*
- *with at least four crops*

3) Winter soil cover (*)

4) Catch crops (*)

II. Practices equivalent to maintenance of permanent grassland:

1) Management of meadows/ pastures

Requirement: maintenance of permanent grassland and any one or more of the following:

- *Cutting regime/appropriate mowing (dates, methods, limits),*
- *Maintenance of landscape features on permanent grassland and control of scrub,*
- *Specified grass varieties and/ or seeding regime for renewal depending on the grassland type (no destruction of high nature value),*
- *Evacuation of forage/ hay,*
- *Appropriate management for steep slopes,*
- *Fertiliser regime,*
- *Pesticide restrictions*

2) Extensive grazing systems

Requirement: maintenance of permanent grassland and any one or more of the following:

- Extensive grazing (timing, maximum stocking density),
- *Shepherding/ mountain pastoralism,*
- *Using local/traditional breeds for grazing the permanent grassland.*

III. Practices equivalent with EFA:

Requirement: applied on at least the percentage of the arable land set pursuant to Article 32(1)

- 1) *Ecological set-aside*
 - 2) *Creation of "buffer zones" for high nature value areas, Natura 2000 or other biodiversity protection sites, including along hedgerows and water courses*
 - 3) *Management of uncultivated buffer strips and field margins (cutting regime, local/specified grass varieties and/ or seeding regime, re-seeding with regional varieties, no use of pesticides, no disposal of manure and/or mineral fertilizers), no irrigation, no soil sealing*
 - 4) *Borders, in-field strips and patches managed for wildlife/ specific fauna (herbaceous border, protection of nests, wildflower strips, local seed mix, unharvested crops)*
 - 5) *Management (pruning, trimming, dates, methods, restoration) of landscape features (trees, hedgerows, riparian woody vegetation, stone walls (terraces), ditches, ponds)*
 - 6) *Keeping arable peaty/ wet soils under grass (with no use of fertilisers and no use of plant protection products)*
 - 7) *Production on arable land with no use of fertiliser (mineral fertiliser and manure) and/or plant protection products, and not irrigated, not sown with the same crop two years in a row and on a fixed place (*)*
 - 8) *Conversion of arable land into permanent grassland extensively used*
- (*) *Practices subject to the method referred to in point (c) of Article 29(6).*

ANNEX VIb

EFA CONVERSION MATRIX referred to in Article 32(1a)

<i>Features</i>	<i>Conversion factor</i>	<i>Weighting factor</i>	<i>EFA area</i>
<i>Land lying fallow</i>			
<i>Terraces</i>			
<i>Landscape features</i>			
<i>Buffer strips</i>			
<i>Hectares of agro-forestry</i>			
<i>Strips of eligible hectares along forest edges</i>			
<i>Areas with short rotation coppice</i>			
<i>Afforested areas as referred to in Article 25(2)(b)(ii)</i>			
<i>Areas with catch crops or green cover</i>			
<i>Areas with nitrogen fixing crops</i>			

ANNEX VII

CORRELATION TABLE

[to be completed by the Lawyer Linguists at a later stage]

Regulation (EC) No 73/2009	This Regulation	Regulation (EU) No [...] [HZR]
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Regulation (EC) No 73/2009	This Regulation	Regulation (EU) No [...] [HZR]
Article 1	Article 1	-
-	Article 2	-
Article 2	Article 4	-
-	Article 5(2)	-
Article 3	Article 5	-
Article 4(1)	-	Article 91
Article 4(2)	-	Article 95
Article 5	-	Article 93
Article 6(1)	-	Article 94
Article 6(2)	-	-
Article 7	-	-
Article 8(1) and (2)	Article 7(1) and (3)	-
-	Article 7(2)	-
Article 9	-	-
Article 10	-	-
Article 11(1) and (2)	-	Article 25(1) and (2)
-	Article 8	-
Article 12(1) and (2)	-	Article 12
Article 12(3)	-	Article 14
Article 12(4)	-	-
Article 13	-	Article 13(2)
Article 14	-	Article 68
Article 15	-	Article 69
Article 16	-	Article 70
Article 17	-	Article 71
Article 18	-	Article 72
Article 19	-	Article 73
Article 20	-	Article 75
Article 21	-	Article 75(4)
Article 22	-	Article 96
Article 23	-	Article 97
Article 24	-	Article 99
Article 25	-	Article 100
Article 26	-	Article 63
Article 27(1)	-	Article 102(3)
Article 27(2)	-	Article 49
Article 27(3)	-	Article 69(3)
-	Article 9	-
Article 28(1) and (2)	Article 10(1), (3) and (4)	-
-	Article 10(2)	-
Article 28(3)	Article 23(1)(a)(ii)	-
-	Article 23(1)(a)(i), (c) and (d)	-
-	Article 11	-
Article 29	-	Article 76
Article 30	-	Article 62
Article 31	-	Article 2(2)
Article 32	Article 15	-
Article 33(1)	Article 18(1)	-
-	Article 18(2)	-
Article 34(1) and (2)	Article 25(1) and (2)	-
Article 35	Article 26	-
Article 36	-	-
Article 37	Article 12	-
-	Article 14	-
Article 38	-	-
Article 39(1)	Article 25(3)	-
Article 40(1)	Article 6(1)	-

Regulation (EC) No 73/2009	This Regulation	Regulation (EU) No [...] [HZR]
Article 40(2)	Article 19(3)	-
Article 41(1)	Article 23(1)	-
Article 41(2)	Article 23(3) and (4)	-
Article 41(3)	Article 23(5)(a)	-
Article 41(5)	Article 23(5)(b)	-
-	Article 23(2), (6) and (7)	-
Article 41(6)	Article 22(4)	-
Article 42	Article 24(1)(b)	-
Article 43(1) and (2)	Article 25(1) and (2)	-
Article 43(3)	-	-
Article 44	-	-
Article 45	-	-
-	-	-
-	Article 19(1) and (2)	-
Article 46(1) to (4)	Article 20(1) to (4)	-
Article 46(5)	-	-
-	Article 21	-
Article 47(1)	-	-
Article 47(2)	Article 22(1) regional application	-
-	Article 22(1) national application	-
-	Article 22(2),(3), (5), (6) and (7)	-
Article 48	-	-
Article 49	-	-
Article 50	-	-
Article 51	-	-
Article 52	-	-
Article 53	-	-
Article 54	-	-
Article 55	-	-
Article 56	-	-
Article 57	-	-
Article 57a	Article 17b	-
Article 58	-	-
Article 59	-	-
Article 60	-	-
Article 61	-	-
Article 62	-	-
Article 63	-	-
Article 64	-	-
Article 65	-	-
Article 66	-	-
Article 67	-	-
Article 68	-	-
Article 69	-	-
Article 70	-	-
Article 71	-	-
Article 72	-	-
Article 73	-	-
Article 74	-	-
Article 75	-	-
Article 76	-	-
Article 77	-	-
Article 78	-	-
Article 79	-	-
Article 80	-	-
Article 81	-	-
Article 82	-	-

Regulation (EC) No 73/2009	This Regulation	Regulation (EU) No [...] [HZR]
Article 83	-	-
Article 84	-	-
Article 85	-	-
Article 86	-	-
Article 87	-	-
Article 88	Article 42	-
Article 89	Article 43	-
Article 90	Article 44	-
Article 91	Article 45	-
Article 92	Article 46	-
Article 93	-	-
Article 94	-	-
Article 95	-	-
Article 96	-	-
Article 97	-	-
Article 98	-	-
Article 99	-	-
Article 100	-	-
Article 101	-	-
Article 102	-	-
Article 103	-	-
Article 104	-	-
Article 105	-	-
Article 106	-	-
Article 107	-	-
Article 108	-	-
Article 109	-	-
Article 110	-	-
Article 111	-	-
Article 112	-	-
Article 113	-	-
Article 114	-	-
Article 115	-	-
Article 116	-	-
Article 117	-	-
Article 118	-	-
Article 119	-	-
Article 120	-	-
Article 121	Articles 16 and 16a	-
Article 122	-	-
Article 123	-	-
Article 124	-	-
Article 124(6)	-	Article 98
Article 125	-	-
Article 126	-	-
Article 127	-	-
Article 128	-	-
Article 129	-	-
Article 130	-	-
Article 131	-	-
Article 132	Articles 17 and 17a	-
Article 133	-	-
-	Article 28	-
-	Article 29	-
-	Article 20	-
-	Article 31	-
-	Article 32	-

Regulation (EC) No 73/2009	This Regulation	Regulation (EU) No [...] [HZR]
-	Article 33	-
-	Article 34	-
-	Article 35	-
-	Article 36	-
-	Article 37	-
-	Article 47	-
-	Article 48	-
-	Article 49	-
-	Article 50	-
-	Article 51	-
Article 134	-	-
Article 135	-	-
Article 136	-	-
-	Article 52	-
Article 137	-	-
Article 138	Article 3	-
Article 139	Article 13	-
Article 140	Article 53	-
Article 141	Article 56	-
Article 142	Article 55	-
Article 142(r)	Article 54	-
Article 143	-	-
Article 144	-	-
Article 145	-	-
Article 146	Article 55	-
Article 146a	-	-
Article 147	Article 56	-
Article 148	-	-
Article 149	Article 57	-

ANNEX TO THE LEGISLATIVE RESOLUTION

STATEMENT FROM THE COMMISSION on Article 9(2) of the Direct Payments Regulation

Article 9(2) of the proposal for a regulation on direct payments does not preclude the possibility for a farmer to rent buildings or parts of buildings to third parties or to possess a stable, provided that these activities do not constitute the farmer's main activity.

STATEMENT FROM THE COMMISSION on coupled support

For agricultural products, notably for those not eligible to coupled support according to Article 38(1) of the Direct Payments Regulation, the Commission shall closely follow their market evolution and, in case of severe market crisis, may resort to any appropriate measures at its disposal to improve the market situation.