

# **Regulation (EU) No 1307/2013 of the European Parliament and of the Council**

**of 17 December 2013**

**establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy and repealing Council Regulation (EC) No 637/2008 and Council Regulation (EC) No 73/2009**

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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 Commission,

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

Having regard to the opinion of the Court of Auditors,

Having regard to the opinions of the European Economic and Social Committee,

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

Acting in accordance with the ordinary legislative procedure,

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 entitled "The CAP towards 2020: Meeting the food, natural resources and territorial challenges of the future" set out potential challenges, objectives and orientations for the Common Agricultural Policy ("the CAP") after 2013. In the light of the

debate on that Communication, the 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 73/2009. 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 the relevant provisions.

(2) One of the core objectives, and one of the key requirements, of the CAP reform is the reduction of the administrative burden. This should be taken firmly into account when shaping the relevant provisions for the direct support scheme.

(3) 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.

(4) It is necessary to clarify that Regulation (EU) No 1306/2013 of the European Parliament and of Council and the provisions adopted pursuant to it are to 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 1306/2013, in particular the rules to guarantee compliance with the obligations laid down by direct payment provisions, including checks and the application of administrative measures and administrative penalties in the case of non-compliance, the 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 the rules related to the payment of advances and the recovery of undue payments.

(5) In order to supplement or amend certain non-essential elements of this Regulation, the power to adopt 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.

(6) This Regulation should contain a list of the 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.

(7) 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 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, 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 to determine the established local practices as regards permanent grassland and permanent pasture ('permanent grassland').

(8) 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 1306/2013, an adjustment of the level of direct support in any calendar year should be made as provided for under Article 25 of that Regulation. In order to ensure that 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 to 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 from 1 January 2016, and in Croatia from 1 January 2022. Specific rules should be laid down in respect of that instrument of financial discipline and of certain other provisions in the case of a legal person, or a group of natural or legal persons, where national law provides for individual members' rights and obligations comparable to those of individual farmers who have the status of a head of holding, in order to strengthen the agricultural structures and promote the establishment of the legal persons or groups concerned.

(9) 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.

(10) Experience acquired in the application of the various support schemes for farmers has shown that support was in a number of cases granted to natural or legal persons whose business purpose was not, or was 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 or legal persons whose agricultural activity is marginal. However, Member States should be allowed to grant direct payments to smaller part-time farmers, since those farmers contribute directly to the vitality of rural areas. Member States should also refrain from granting direct payments to 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 a certain minimum activity.

(11) 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 laying down 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, criteria to establish the distinction between receipts resulting from agricultural and from 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.

(12) To avoid the excessive administrative burden caused by managing payments of small amounts, Member States should in general refrain from granting direct payments where the amount would be lower than EUR 100, or where the eligible area of the holding for which support is claimed would be less than one hectare. However, as 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 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. Since 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 the equal treatment of farmers in Bulgaria, Croatia and Romania whose direct payments are subject to phasing-in, the minimum threshold should, in those Member States, be based on the final amounts to be granted at the end of the phasing-in process.

(13) 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. Larger beneficiaries, due to their ability to exploit economies of size, do not require the same level of unitary support in order 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 by at least 5 % the part of the basic payment to be granted to farmers which exceeds EUR 150 000. 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 and should be made available as Union support for measures financed under the European Agricultural Fund for Rural Development (EAFRD).

(14) Net ceilings should be determined for each Member State in order to limit the payments to be made to farmers following the application of the reduction of payments. To take into account the specific characteristics of CAP support granted in accordance with Regulation (EU) No 228/2013 of the European Parliament and of the Council(7) and Regulation (EU) No 229/2013 of the European Parliament and of the Council(8), and the fact that these direct payments are not subject to reduction of payments, the net ceiling for the Member States concerned should not include those direct payments.

(15) 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 the reduction and, where applicable, capping of payments, as well as those resulting from the notifications to be made by Croatia regarding the demined land that has returned to use for agricultural activities, the power to adopt certain acts should be

delegated to the Commission in respect of adapting the national and net ceilings set out in this Regulation.

(16) It should be specified that those provisions of this Regulation which could give rise to behaviour of a Member State capable of constituting 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 any undue distortion of competition.

(17) 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. Member States should also be given the possibility to transfer funds from their support assigned for rural development to their direct payments ceiling. To ensure the effectiveness of this tool, Member States should be given the possibility to review their initial decision once, with effect from claim year 2018, provided that any decision based on 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 support schemes, in particular in the light of economic developments or the budgetary situation, with the result that beneficiaries cannot assume that support conditions remain 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 still be in force in 2015, and for Croatia, it will be in force 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. As regards authorising Croatia to grant complementary national direct payments, the Commission should be empowered to adopt implementing acts without applying Regulation (EU) No 182/2011 of the European Parliament and of the Council).

(20) 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 its accession to the Union, the allocation of payment entitlements to land which is de-mined and returned to agricultural use every year. It is appropriate to set the rules for determining the amounts allotted to funding support for that land under the support schemes provided for in this Regulation and the rules 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.

(21) In order to ensure a better distribution of support across 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), and continued under Regulation (EC) No 73/2009, which combined previously existing support mechanisms in a single scheme of decoupled direct payments. Such a move should, in principle, result in the expiry of payment entitlements obtained under those Regulations and the allocation of new ones. That allocation of new payment entitlements should be 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 of keeping their existing payment entitlements. In order to avoid a situation in a given Member State in which 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 certain limitations for the purpose of establishing the number of payment entitlements.

(22) Due to the successive integration of various sectors into the single payment scheme and the subsequent period of adjustment granted to farmers, it has become increasingly difficult to justify the existence 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 that have direct payments below the level of 90 % of the Union 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 that have direct payment levels above the Union average level.

(23) 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. However, in order to avoid disruptive financial consequences for farmers, Member States should be allowed to 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 have a value lower than 60 % of the average. Member States should finance this convergence by reducing, on the basis of objective and non-discriminative criteria which they are to establish, the value of payment entitlements that exceeds the 2019 average. In this context and in order to avoid unacceptably disruptive losses for certain farmers, Member States may limit this reduction to 30 % of the initial value of the concerned entitlements, even if such a limitation 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 uniform unit value from the first year of implementation of the scheme, 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 payment entitlements. However, for those Member States which keep their existing payment entitlements and which have already opted for convergence steps in accordance with Article 63(3) of Regulation (EC) No 1782/2003, those convergence steps should be implemented, where applicable, and the value of all payment entitlements should be adjusted to take account of the estimated resources available for payment entitlements.

(24) The experience gained through applying the single payment scheme has shown 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, or should be allowed to establish regional reserves. Such national or regional reserves 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 using them should be allowed in order to take account of certain other specific situations. Rules on the transfer and use of payment entitlements should be retained.

(25) The experience gained through applying 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, compared to the system under that Regulation, this Regulation reduces the risk of unspent funds Member States should nonetheless have the possibility of distributing 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.

(26) 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. Given the potential for non-agricultural activities to 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 on condition that it is used predominantly for agricultural activities. For the purpose of assessing that predominance, common criteria should be set for all Member States. In this context and in order to ensure better targeting of direct payments, it should be possible for Member States to draw up, in the interests of legal certainty and clarity, a list of areas which are predominantly used for non-agricultural activities and are 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 Council Regulation (EC) No 1698/2005 or Regulation (EU) No 1305/2013 of the European Parliament and of the Council, or areas subject to certain environmental commitments, are eligible to benefit from the basic payment.

(27) In order to avoid a situation in which, 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 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 form part of established local practices.

(28) 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 market for hemp. Hence, payments should continue to be granted only for areas sown with varieties of hemp offering certain guarantees with regard to its psychotropic substance content.

(29) In order to ensure legal certainty, 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 access in respect of the basic payment scheme of farmers, in the 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 a merger or scission of the holding and in the case of a contract clause regarding the right to receive payment entitlements in the first year of allocation of payment entitlements. Moreover, that delegation of power should also cover 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. Furthermore, that delegation of power should also cover rules on the establishment and calculation of the value and number of payment entitlements received from the national reserve or regional reserves; rules on the modification of the unit value of payment entitlements in the case of fractions of payment entitlements and the transfer of payment entitlements without land. In addition, that delegation of power should also cover 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 on the number of payment entitlements to be allocated; and criteria for setting the reduction coefficient for conversion of certain permanent grassland to eligible hectares.

(30) 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.

(31) In order to preserve public health, the power to adopt certain acts should be delegated to the Commission in respect of laying down 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.

(32) 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 the single area payment 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, 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 regimes for specific support and separate payments provided for in Regulation (EC) No 73/2009, or, in the case of Cyprus, under the sector-specific financial envelopes for transitional national aid.

(33) 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 laying down rules on eligibility and access in respect of the single area payment scheme of farmers.

(34) In Member States applying the single area payment scheme which were allowed to grant transitional national aid, such aid has 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 aid, it is appropriate to provide, in those Member States, for the possibility to grant that aid as a complement to the single area payment scheme. In order to ensure the continuity of the support with the transitional national aid granted so far, it is appropriate to limit the conditions to those applicable in 2013 to that aid, or in the case of Bulgaria and Romania to complementary

national direct payments, authorised by the Commission following the requests from Member States. It is also appropriate to limit the maximum amounts of aid by sector, compared to their levels in 2013, to ensure a steady decrease of the aid levels and to ensure their compatibility with the convergence mechanism.

(35) Specific rules should be provided for the first allocation and for 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.

(36) Taking into account the need for the unitary support to farmers with smaller holdings 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.

(37) 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 in order to grant, on top of the basic payment, an annual 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 that are linked to agriculture, such as crop diversification, the maintenance of permanent grassland, including traditional orchards where fruit trees are grown in low density on grassland, and the establishment of ecological focus areas. In order to better achieve the objectives of "greening" and to allow for its efficient administration and control, such practices should apply to the whole eligible area of the holding. 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 and by Directive 2009/147/EC of the European Parliament and of the Council, or in areas covered by Directive 2000/60/EC of the European Parliament and of the Council, as long as those practices are compatible with the objectives of those Directives.

(38) Given the recognised environmental benefits of the organic farming systems, farmers should, for those units of their holding on which they fulfil the conditions laid down in Council Regulation (EC) No 834/2007, benefit from the "greening" component without needing to fulfil any further obligation.

(39) Failure to respect the "greening" component should lead to penalties on the basis of Regulation (EU) No 1306/2013.

(40) In order to accommodate the diversity of agricultural systems and the different environmental situations across the Union, it is justified to recognise, in addition to the three greening practices established in this Regulation, practices covered by agri-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 observe the practices best suited to ensure the objectives of the measure and they 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. If the Commission considers this not to be the case, it should notify Member States accordingly by means of an implementing act adopted without applying Regulation (EU) No 182/2011. 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 specific characteristics of agri-environment-climate measures and certification schemes. In order to ensure that equivalent practices are properly applied and that 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.

(41) The obligations relating to crop diversification should be applied in a way that takes into account the difficulty for smaller farms to diversify, while continuing to make progress towards enhanced environmental benefit, and in particular the improvement of soil quality. Exceptions should be provided for farms that

already fulfil the objectives of crop diversification as a result of 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 geographical localisation would have excessive difficulties in introducing a third crop. In order to ensure that the obligations referred to in 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.

(42) For the sake of the environmental benefits of permanent grassland and in particular carbon sequestration, provision should be made for the maintenance of permanent grassland. This protection should consist of a ban on ploughing and conversion on the 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 be empowered to delineate further environmentally sensitive areas not covered by those 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.

(43) 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 relevant time frame for an obligation upon individual farmers to reconvert land.

(44) Ecological focus areas should be established, in particular, in order to safeguard and improve biodiversity on farms. The ecological focus area 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 areas covered by catch crops and winter green cover. The obligations laid down in respect of the ecological focus area should be applied in a way that avoids putting a disproportionate burden on smaller farms in comparison to the additional enhanced environmental benefit. 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. Exceptions should also be provided, in the case of predominantly forested Member States, for farmers that pursue an agricultural activity in areas facing natural constraints in certain predominantly forested areas where there is a significant risk of land abandonment. In addition, provision should be made for the possibility for Member States and farmers to implement 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.

(45) In order to ensure that ecological focus areas are established in an efficient and coherent way, while taking into account Member States' specific characteristics, the power to adopt certain acts 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 types of ecological focus area; establishing rules for the implementation, by Member States, of a part of the ecological focus area at regional level; laying down rules for collective implementation of the obligation to keep ecological focus areas by holdings in close proximity; establishing the framework for the criteria, to be defined 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 should 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, the preservation of landscape and meeting the climate change mitigation and adaptation objectives.

(46) 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 direct payments ceilings 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 Regulation (EC) No 1698/2005 but have not been designated in accordance with Regulation (EU) No 1305/2013.

(47) 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. For that purpose, Member States should use part of their national ceilings for direct payments to grant to young farmers an annual payment, on top of the basic payment. Member States should be able to decide on a calculation method for that payment and, if that method implies an obligation to set a limit on the payment per farmer, such a limit is to be set in respect of the general principles of Union law. Since it should only cover the initial period of the life of the business and should not become an operating aid, that payment should only be granted during a maximum period of five years. 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 under the basic payment scheme or under the single area payment scheme.

(48) 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.

(49) 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 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 % where their level of coupled support exceeds 5 % in at least one of the years of the period 2010-2014 or where they apply the single area payment scheme until 31 December 2014. 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. In duly justified cases where certain sensitive needs in a sector or a region 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 the sectors or regions concerned. That 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 be further empowered to adopt implementing acts without applying Regulation (EU) No 182/2011.

(50) 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.

(51) In order to ensure against any risk of disruption to production in the cotton producing regions, 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, taking into account all relevant factors. This situation should be maintained in accordance with the objectives set out in Protocol No 4 on cotton attached to the 1979 Act of Accession.

(52) In order to ensure the efficient application and management 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 interbranch organisations; obligations for producers; and rules governing the situation where the approved interbranch organisation does not satisfy those criteria.

(53) Chapter 2 of Council Regulation (EC) No 637/2008 required each cotton producing Member State 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 December 2009 a single draft modified eight-year restructuring programme. 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 1305/2013. Such measures 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 run their course, with no possibility of 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.

(54) 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 that replaces 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 1306/2013 without jeopardising 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 1306/2013 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 in the scheme automatically, subject to the possibility for them to opt-out.

(55) In order to ensure legal certainty, the power to adopt certain acts should be delegated to the Commission in respect of establishing conditions for participation in the small farmers scheme if the situation of the participating farmer changes.

(56) In the interest of simplification and in order 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 (EU) 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.

(57) 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 establishing 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 period of retention, the access rights to the information or information systems and the conditions of publication of the information.

(58) Personal data collected for the purposes of the application of direct payments should be processed in a way that is compatible with those purposes. It should also be made anonymous, be aggregated when processed for monitoring or evaluation purposes, and be 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 and Regulation (EC) No 45/2001 of the European Parliament and of the Council. Data subjects should be informed of such processing and of their data protection rights.

(59) The European Data Protection Supervisor was consulted and delivered an opinion on 14 December 2011.

(60) 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.

(61) 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: 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 notifications are to take place; 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; fixing annual ceilings for the redistributive payment. Those powers should be exercised in accordance with Regulation (EU) No 182/2011.

(62) In order to ensure uniform conditions for the implementation of this Regulation and to avoid unfair competition or discrimination between farmers, implementing powers should also be conferred on the Commission in respect of: adopting rules on the procedure, including on the timetables for their submission, 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 to be 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. Those powers should be exercised in accordance with Regulation (EU) No 182/2011.

(63) In order to ensure uniform conditions for the implementation of this Regulation and to avoid unfair competition or discrimination between farmers, implementing powers should also be conferred on the Commission in respect of: 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.

(64) 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.

(65) Since the objectives of this Regulation cannot be sufficiently achieved by the Member States but can rather, by reason of 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, be better achieved at Union level through the multiannual guarantee of Union financing and by concentrating on clearly identified priorities, 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.

(66) Given that Regulation (EC) No 73/2009 is to continue to apply in 2014, this Regulation should apply in general from 1 January 2015. However, the provisions of this Regulation on flexibility between pillars provide for the possibility for Member States to take decisions and notify them to the Commission by 31 December 2013. In addition, some other provisions of this Regulation require action to be taken in 2014. Those provisions should, therefore, apply from the entry into force of this Regulation.

(67) Due to the urgency of preparing the smooth implementation of the measures envisaged, this Regulation should enter into force on the day of its publication in the Official Journal of the European Union,

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");
  - (ii) a voluntary transitional national aid for farmers;
  - (iii) a voluntary redistributive payment;
  - (iv) a payment for farmers observing agricultural practices beneficial for the climate and the environment;
  - (v) a voluntary payment for farmers in areas with natural constraints;
  - (vi) a payment for young farmers commencing their agricultural activity;
  - (vii) a voluntary coupled support scheme;
  - (viii) a crop-specific payment for cotton;
  - (ix) a voluntary simplified scheme for small farmers;
  - (x) a framework within which Bulgaria, Croatia and Romania may 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 70 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 TFEU ("the outermost regions") and to the direct payments granted in the smaller Aegean islands in accordance with Regulation (EU) No 229/2013.

Titles III, IV and V of this Regulation 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 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:
  - (i) production, rearing or growing of agricultural products, including harvesting, milking, breeding animals, and keeping animals for farming purposes,
  - (ii) 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
  - (iii) carrying out a minimum activity, defined 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 28 of Regulation (EU) No 1305/2013, 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, as well as, where Member States so decide, that has not been ploughed up for five years or more; it may include other species such as shrubs and/or trees which can be grazed and, where Member States so decide, other species such as shrubs and/or trees which produce animal feed, provided that the grasses and other herbaceous forage remain predominant. Member States may also decide to consider as permanent grassland:
  - (i) 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; and/or
  - (ii) land which can be grazed where grasses and other herbaceous forage are not predominant or are absent 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:

- (j) 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 0602 90 41 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 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.

Notwithstanding points (f) and (h) of the first subparagraph, Member States which, prior to 1 January 2018, have accepted parcels of land lying fallow as arable land may continue to accept them as such after that date. From 1 January 2018 parcels of land lying fallow which have been accepted as arable land under this subparagraph in 2018 shall become permanent grassland in 2023, or thereafter, if the conditions set out in point (h) are met.

2. Member States shall:

- (a) establish criteria to be met by farmers in order to fulfil the obligation to maintain an agricultural area in a state suitable for grazing or cultivation, as referred to in point (c)(ii) of paragraph 1;
- (b) where applicable in a Member State, 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 point (c)(iii) 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.

Member States may decide that:

- (a) land that has not been ploughed up for five years or more shall be considered permanent grassland as referred to in point (h) of the first subparagraph of paragraph 1, provided that the land is used to grow grasses or other herbaceous forages naturally (self-seeded) or through cultivation (sown) and that it has not been included in the crop rotation of the holding for five years or more;
- (b) permanent grassland may include other species such as shrubs and/or trees which produce animal feed, in areas where grasses and other herbaceous forage are predominant; and/or
- (c) land which can be grazed where grasses and other herbaceous forage are not predominant or are absent in grazing areas be considered permanent grassland as referred to in point (h) of the first subparagraph of paragraph 1.

Member States may decide, on the basis of objective and non-discriminatory criteria, to apply their decision in accordance with points (b) and/or (c) of the third subparagraph of this paragraph to the whole or a part of their territory.

Member States shall notify the Commission by 31 March 2018 of any decision taken pursuant to the third and fourth subparagraphs of this paragraph.

3. In order to ensure legal certainty, the Commission shall be empowered to adopt delegated acts in accordance with Article 70 establishing:

- (a) the framework within which Member States are to establish the criteria to be met by farmers in order to fulfil the obligation to maintain an agricultural area in a state suitable for grazing or cultivation, as referred to in point (c)(ii) of paragraph 1;
- (b) the framework within which Member States shall 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 point (c)(iii) of paragraph 1;
- (c) 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 provisions**

Regulation (EU) No 1306/2013 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 and for each year, the national ceiling comprising the total value of all allocated payment entitlements, of the national reserve or the regional reserves and of the ceilings fixed in accordance with Articles 42, 47, 49, 51 and 53 shall be as set out in Annex II.

Where a Member State makes use of the option provided for in Article 22(2), the national 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 paragraph.

2. By way of derogation from paragraph 1, for each Member State applying the single area payment scheme and for each year, the national ceiling, comprising the ceilings fixed in accordance with Articles 36, 42, 47, 49, 51 and 53, 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 36(4), the national 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.

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 Member States in accordance with Article 136a of Regulation (EC) No 73/2009 and Article 14 of this Regulation and those resulting from the application of Article 20(2) of this Regulation, the Commission shall be empowered to adopt delegated acts

in accordance with Article 70 of this Regulation adapting the national ceilings set out in Annex II to this Regulation.

## *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 corresponding ceiling set out in Annex III.

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

2. For each Member State and for each calendar year, the estimated product of the reduction of payments referred to in Article 11 (which is reflected by the difference between the national ceiling set out in Annex II, to which is added the amount available in accordance with Article 58, and the net ceiling set out in Annex III) shall be made available as Union support financed under the European Agricultural Fund for Rural Development (EAFRD).

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 Member States pursuant to Article 14, the Commission shall be empowered to adopt delegated acts in accordance with Article 70 adapting the ceilings set out in Annex III.

## *Article 8*

### **Financial discipline**

1. The adjustment rate determined in accordance with Article 26 of Regulation (EU) No 1306/2013 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 from 1 January 2016.

As a result of the gradual introduction of direct payments provided for in Article 17, 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 70 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 defined by Member States in accordance with point (b) of Article 4(2).

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 decide to withdraw any such additions.

A person or group of persons falling within the scope of 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:

- (a) 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;
- (b) that its agricultural activities are not insignificant;
- (c) that its principal business or company objects consist of exercising an agricultural activity.

3.In addition to paragraphs 1 and 2, 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:

- (a) whose agricultural activities form only an insignificant part of their overall economic activities; and/or
- (b) whose principal activity or company objects do not consist of exercising an agricultural activity.

3a. In addition to paragraphs 1, 2 and 3, Member States may decide that no direct payments are to be granted to farmers who are not registered, for their agricultural activities, in a national fiscal or social security register.

4. Paragraphs 2, 3 and 3a shall not apply to farmers who only received direct payments not exceeding a certain amount for 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 be higher than 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 70 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;
- (c) criteria for establishing the amounts of direct payments referred to in paragraphs 2 and 4, especially concerning direct payments in the first year of allocation of payment entitlements where the value of the payment entitlements is not yet definitively established, as well as concerning direct payments for new farmers;
- (d) 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 consist of exercising an agricultural activity.

6. Member States shall notify the Commission by 1 August 2014 of any decision referred to in paragraphs 2, 3 or 4, and by 31 March 2018 of any decision referred to in paragraph 3a. In the case of amendments to such decisions, Member States shall notify the Commission within two weeks of the date on which any decision to amend was taken.

7. Member States may decide from 2018, or from any subsequent year, that only one or two of the three criteria listed in the third subparagraph of paragraph 2 may be invoked by persons or groups of persons falling within the scope of the first and second subparagraphs of paragraph 2, in order to demonstrate that they are active farmers. Member States shall notify the Commission of such a decision, if applied from 2018, by 31 March 2018 or, if applied from a subsequent year, by 1 August of the year preceding its application.

8. Member States may decide to stop applying paragraph 2 from 2018 or any subsequent year. They shall notify the Commission of such a decision, if applied from 2018, by 31 March 2018 or, if applied from a subsequent year, by 1 August of the year preceding its application.

### *Article 10*

#### **Minimum requirements for receiving direct payments**

1. Member States shall decide in which one of the following cases not to grant direct payments to a farmer:

- (a) where the total amount of direct payments claimed or due to be granted before the application of Article 63 of Regulation (EU) No 1306/2013 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 63 of Regulation (EU) No 1306/2013 is less than one hectare.

2. 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) of paragraph 1 within the limits set out in Annex IV.

3. 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.

4. The Member States concerned may decide not to apply paragraph 1 to the outermost regions and to the smaller Aegean Islands.

5. In Bulgaria and Romania, for the year 2015, the amount claimed or due to be granted as referred to in point (a) of paragraph 1 shall be calculated on the basis of the relevant 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 point (a) of paragraph 1 shall be calculated on the basis of the amount set out in point A of Annex VI.

### *Article 11*

#### **Reduction of payments**

1. Member States shall reduce the amount of direct payments to be granted to a farmer pursuant to Chapter 1 of Title III for 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 calendar year, including taxes and social contributions related to employment, from the amount of direct payments to be granted to a farmer pursuant

to Chapter 1 of Title III in a given calendar year. Where no data is available on the salaries actually paid and declared by the farmer in the previous calendar year, the most recent data available shall be used.

3. Where a Member State decides to grant a redistributive payment to farmers pursuant to Chapter 2 of Title III and to use more than 5 % of the annual national ceiling set out in Annex II for that purpose, it may decide not to apply this Article.

Where a Member State decides to grant a redistributive payment to farmers pursuant to Chapter 2 of Title III and the application of the maximum limits set out in Article 41(4) prevents it from using more than 5 % of the annual national ceiling set out in Annex II for that purpose, 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 they artificially created, after 18 October 2011, the conditions to avoid the effects of this Article.

5. 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 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. Member States may review their decisions on a reduction of payments in accordance with this Article on an annual basis, provided that such review does not lead to a reduction of the amounts available for rural development.

Member States shall notify the Commission of the decisions taken in accordance with this Article and of any estimated product of reductions for the years until 2019 by 1 August of the year preceding the application of such decisions, the last possible date for such notification being 1 August 2018 .

For the year 2020, Member States shall notify the Commission of the decisions taken in accordance with this Article and of any estimated product of reductions by 31 December 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*

*Deleted*

## *Article 14*

### **Flexibility between pillars**

1. By 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 1305/2013, up to 15 % of their annual national ceilings for calendar year 2014 set out in Annex VIII to Regulation (EC) No 73/2009 and of their annual national ceilings for calendar years 2015 to 2019 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 referred to in that subparagraph, which may vary by calendar year.

Member States which do not take the decision referred to in the first subparagraph in respect of calendar year 2014 may, by 1 August 2014, take that decision in respect of calendar years 2015 to 2019. They shall notify the Commission of any such decision by that date.

Member States may decide to review the decisions referred to in this paragraph with effect from calendar year 2018. Any decisions based on 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 any decision based on such review by 1 August 2017.

Member States may decide to review the decisions referred to in this paragraph with effect from calendar year 2019 and shall notify the Commission of any decision based on such review by 1 August 2018. Any decisions based on such review shall not result in a decrease of the percentage notified to the Commission in accordance with the first, second, third and fourth subparagraphs.

By 31 December 2019, Member States may decide to make available, as additional support financed under the EAFRD in financial year 2021, up to 15 % of their annual national ceilings for the calendar year 2020 set out in Annex II to this Regulation. As a result, the corresponding amount shall no longer be available for granting direct payments. That decision shall be notified to the Commission by 31 December 2019 and shall set out the percentage chosen.

2. By 31 December 2013, Member States which do not take the decision referred to in paragraph 1 may decide to make available as direct payments up to 15 % or, in the case of Bulgaria, Estonia, Spain, Latvia, Lithuania, Poland, Portugal, Romania, Slovakia, Finland, 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 in Regulation (EU) No 1305/2013. 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 referred to in that subparagraph, which may vary by calendar year.

Member States which do not take the decision referred to in the first subparagraph in respect of financial year 2015 may, by 1 August 2014, take that decision in respect of financial years 2016 to 2020. They shall notify the Commission of any such decision by that date.

Member States may decide to review the decisions referred to in this paragraph with effect for financial years 2019 and 2020. Any decisions based on 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 any decision based on such review by 1 August 2017.

Member States may decide to review the decisions referred to in this paragraph with effect from calendar year 2019 and shall notify the Commission of any decision based on such review by 1 August 2018. Any decisions based on such review shall not result in an increase of the percentage notified to the Commission in accordance with the first, second, third and fourth subparagraphs.

By 31 December 2019, Member States may decide to make available as direct payments up to 15 %, or in the case of Bulgaria, Estonia, Spain, Latvia, Lithuania, Poland, Portugal, Romania, Slovakia, Finland and Sweden up to 25 %, of the amount allocated to support financed under the EAFRD in financial year 2021 by Union legislation adopted after the adoption by the Council of the relevant Regulation pursuant to Article 312(2) TFEU. As a result, the corresponding amount shall no longer be available for support financed under the EAFRD. That decision shall be notified to the Commission by 31 December 2019 and shall set out the



percentage chosen.

## *Article 15*

### **Review**

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

## CHAPTER 2 - Provisions applying to Bulgaria, Croatia and Romania

### *Article 16*

#### **Gradual introduction of direct payments in Bulgaria and Romania**

For Bulgaria and Romania, the ceilings fixed in accordance with Articles 42, 47, 49, 51, 53 and 65 shall, for 2015, be established on the basis of the amount set out in point A of Annex V.

### *Article 17*

#### **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 % from 2022.

### *Article 18*

#### **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 Sections 1, 2 and 3 of Chapter 1 of Title III. The total amount of those payments shall not exceed the relevant amount set out in point B of Annex V.

2. In 2015, Bulgaria may use national direct payments in order to complement payments granted under the crop-specific payment for cotton referred to in Chapter 2 of Title IV. The total amount of those payments shall not exceed the amount set out in point C of Annex V.

3. Complementary national direct payments shall be granted in accordance with objective criteria and in such a way as to ensure the equal treatment of farmers and to avoid distortions of the market and of competition.

## *Article 19*

### **Complementary national direct payments for Croatia**

1. Subject to authorisation by the Commission, Croatia may complement any of the support schemes listed in Annex I, where relevant.

2. The amount of complementary national direct payments 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 17 for the calendar year 2022, and
- (b) the amount of direct support available per support scheme concerned after the application of the schedule of increments in accordance with Article 17 for the calendar 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 VI 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 direct payments to be granted.

5. The Commission shall adopt implementing acts authorising the payments under this Article, specifying the relevant support schemes and defining 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 implementing acts shall also specify the specific types of farming or the specific agricultural sectors referred to in Article 52(3) to which the complementary national direct payments may relate.

Those implementing acts shall be adopted without applying the procedure referred to in Article 71(2) or (3).

6. The eligibility conditions for complementary national direct payments for Croatia shall be identical to 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 by 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 and the total amount of complementary national direct payment granted, as well as the hectares and the number of animals or other units for which that complementary national direct payment has been granted;
- (c) a report on control measures applied in relation to the complementary national direct payments granted.

## *Article 20*

### **Special national de-mining reserve for Croatia**

1.From 2015 onwards, Croatia shall notify the Commission by 31 January of each 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 Commission of 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 on that same date.

Where applicable, the notifications provided in the first and second subparagraphs shall be made per region as defined in accordance with Article 23(1) of this Regulation.

2.When adapting Annex II pursuant to Article 6(3), the Commission shall calculate on a yearly basis the amount to be added to the amounts set for Croatia in that Annex in order to finance the support to be granted under the schemes listed in Annex I for the areas referred to in paragraph 1 of this Article. This amount shall be calculated on the basis of the data notified by Croatia in accordance with paragraph 1 of this Article 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 17. The resulting maximum annual amounts are set out in Annex VII.

3.The Commission shall adopt implementing acts setting 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 paragraph 1. That share shall be calculated on the basis of the ratio between the ceiling for the basic payment scheme and the national ceiling set out in Annex II before the national ceiling's increase in accordance with paragraph 2. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 71(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 where:

- (a) such land consists of eligible hectares within the meaning of Article 32(2) to (5);
- (b) the land in question was returned to use for agricultural activities during the previous calendar year; and
- (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 70 adapting the amounts set out in Annex VI.

### ***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 21***

###### **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 20(4), through first allocation pursuant to Article 24 or Article 39, through allocation from the national reserve or regional reserves pursuant to Article 30 or through transfer pursuant to Article 34; or
- (b) who comply with Article 9 and hold owned or leased-in 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 keep the existing payment entitlements. They shall notify any such decision to the Commission by that date.

4. As regards Member States which take the decision referred to in paragraph 3, when the number of owned or leased-in payment entitlements established in accordance with Regulation (EC) No 1782/2003 and with Regulation (EC) No 73/2009 which a farmer holds on the final date for submission of applications to be set in accordance with point (b) of the first subparagraph of Article 78 of Regulation (EU) No 1306/2013 exceeds the number of eligible hectares which the farmer declares in his aid application in accordance with point (a) of the first subparagraph of Article 72(1) of Regulation (EU) No 1306/2013 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 an aid application, the number of payment entitlements exceeding the number of eligible hectares shall expire on the latter date.

## *Article 22*

### **Basic payment scheme ceiling**

1. The Commission shall adopt implementing acts setting, 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 ceilings fixed in accordance with Articles 42, 47, 49, 51 and 53. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 71(2).

2. For each Member State, the amount calculated in accordance with the paragraph 1 of this Article may be increased by a maximum of 3 % of the relevant annual national ceiling set out in Annex II after deduction of the amount resulting from the application of Article 47(1) for the relevant year. When a Member State applies such an increase, that increase shall be taken into account by the Commission when setting the annual national ceiling for the basic payment scheme pursuant to paragraph 1 of this Article. For that purpose, Member States shall notify the Commission by 1 August 2014 of the annual percentages by which the amount calculated pursuant to paragraph 1 of this Article is to be increased.

3. Member States may review their decision referred to in paragraph 2 on an annual basis and shall notify the Commission of any decision based on such review by 1 August of the year preceding its application.

4. 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 annual national ceiling set by the Commission pursuant to paragraph 1.

5. If the ceiling for a Member State set by the Commission pursuant to paragraph 1 of this Article is different from that of the previous year as a result of any decision taken by that Member State in accordance with paragraph 3 of this Article, Article 14(1) or (2), Article 42(1), the second subparagraph of Article 49(1), the second subparagraph of Article 51(1), or Article 53, that Member State shall linearly reduce or increase the value of all payment entitlements in order to ensure compliance with paragraph 4 of this Article.

## *Article 23*

### **Regional allocation of the national ceilings**

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

Member States applying Article 36 may take the decision referred to in the first subparagraph by 1 August of the year preceding the first year of implementation of the basic payment scheme.

2. Member States shall divide the annual national ceiling for the basic payment scheme referred to in Article 22(1) between the regions in accordance with objective and non-discriminatory criteria.

Member States not applying Article 30(2) shall make that division after applying the linear reduction provided for in Article 30(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.

5. Member States applying paragraph 1 may decide to cease the application of the basic payment scheme at regional level from a date to be set by them.

6. Member States applying the first subparagraph of paragraph 1 shall notify the Commission of the decision referred to in that subparagraph and of the measures taken for the application of paragraphs 2 and 3 by 1 August 2014.

Member States applying the second subparagraph of paragraph 1 shall notify the Commission of any decision referred to in that subparagraph and of the measures taken for the application of paragraphs 2 and 3 by 1 August of the relevant year.

Member States applying paragraph 1 shall notify the Commission of any decision referred to in paragraph 5 by 1 August of the year preceding the first year of implementation of that decision.

## *Article 24*

### **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 of this Regulation provided that:

- (a) they apply for allocation of payment entitlements under the basic payment scheme by the final date for submission of applications in 2015 to be set in accordance with point (b) of the first subparagraph of Article 78 of Regulation (EU) No 1306/2013, except in case of force majeure or exceptional circumstances; and
- (b) 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, for transitional national aid or for complementary national direct payments in accordance with Regulation (EC) No 73/2009 for 2013.

The first subparagraph shall not apply in Member States applying Article 21(3) of this Regulation.

Member States may allocate payment entitlements to farmers who are entitled to be granted direct payments in accordance with Article 9 of this Regulation, who fulfil the condition provided for in point (a) of the first subparagraph and who:

- (a) did not receive payments for 2013 in respect of an aid application as referred to in the first subparagraph of this paragraph and who, on the date fixed by the Member State concerned in accordance with Article 11(2) of Commission Regulation (EC) No 1122/2009 for the claim year 2013:
  - (i) in Member States applying the single payment scheme:
    - were producing fruits, vegetables, ware potatoes, seed potatoes or ornamental plants, and did so on a minimum area expressed in hectares if the Member State concerned decides to adopt such a requirement, or
    - were cultivating vineyards; or
  - (ii) in Member States applying the single area payment scheme, had only agricultural land that was not in good agricultural condition on 30 June 2003 as provided for in Article 124(1) of Regulation (EC) No 73/2009;
- (b) in 2014, are 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) never held owned or leased-in payment entitlements established under Regulation (EC) No 73/2009 or Regulation (EC) No 1782/2003 and who submit verifiable evidence that, on the date fixed by the Member State in accordance with 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 establish their own additional 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 the first subparagraph of Article 72(1) of Regulation (EU) No 1306/2013 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 an aid application.

3. Member States may apply one or more of the limitations, as set out in paragraphs 4 to 7, on the number of payment entitlements to be allocated under paragraph 2.

4. Member States may decide that the number of payment entitlements to be allocated 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 eligible hectares referred to in paragraph 2 of this Article, whichever is the lowest. For Croatia, the use of this option shall be without prejudice to the allocation of payment entitlements for de-mined hectares in accordance with Article 20(4) of this Regulation.

5. Where the total number of eligible hectares referred to in paragraph 2 of this Article declared in a Member State would result in 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 eligible hectares declared in 2009, or, in the case of Croatia, of 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 that farmer declared in his aid application in 2011 or, in the case of Croatia, in 2013, without prejudice to the de-mined hectares for which payment entitlements are to be

allocated in accordance with Article 20(4) of this Regulation.

6. Member States may decide to apply, for the purposes of establishing the number of payment entitlements to be allocated to a farmer, a reduction coefficient to those eligible hectares referred to in paragraph 2 which consist of permanent grassland located in areas with difficult climate conditions, especially due to their altitude and other natural constraints such as poor soil quality, steepness and water supply.

7. Member States may decide that the number of payment entitlements to be allocated to a farmer shall be equal to the number of eligible hectares referred to in paragraph 2 of this Article which were not hectares of vineyards on 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.

8. In the case of the sale or lease of their holding or part of it, natural or legal persons complying with paragraph 1 of this Article may, by contract signed before the final date for submitting applications in 2015 to be set in accordance with point (b) of the first subparagraph of Article 78 of Regulation (EU) No 1306/2013, transfer the right to receive payment entitlements in accordance with paragraph 1 of this Article to one or more farmers provided that the latter comply with the conditions laid down in Article 9 of this Regulation.

9. A Member State may decide to fix a minimum size per holding, expressed in eligible hectares, in respect of which the farmer may apply for an allocation of payment entitlements. That minimum size shall not exceed the threshold set out in point (b) of Article 10(1) in conjunction with paragraph 2 of that Article.

10. Member States shall, where relevant, notify the Commission of the decisions referred to in this Article by 1 August 2014.

11. The Commission shall adopt implementing acts laying down rules on applications for the allocation of payment entitlements submitted in the year of allocation of payment entitlements where those payment entitlements may not yet be definitively established 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 71(2).

## *Article 25*

### **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 regional reserves in 2015.

The fixed percentage referred to in the first subparagraph shall be calculated by dividing the national or regional ceiling for the basic payment scheme to be set in accordance with, respectively, Article 22(1) or Article 23(2) of this Regulation for 2015, after applying the linear reduction provided for in paragraph 1 or, where applicable, paragraph 2 of Article 30, by the national ceiling for 2015 set out in Annex II. The payment entitlements shall be expressed in a number that corresponds to a number of hectares.

2. By way of derogation from the calculation method referred to in paragraph 1, Member States may decide to differentiate the value of payment entitlements in 2015, excluding those allocated from the national reserve or regional reserves in 2015, for each relevant year on the basis of their initial unit value as calculated in accordance with Article 26.

3. From claim year 2019 at the latest, all payment entitlements in a Member State or, where Article 23 is applied, in a region shall have a uniform unit value.

4. By way of derogation from paragraph 3, a Member State may decide that payment entitlements with an initial unit value as calculated in accordance with Article 26 that is lower than 90 % of the national or regional unit value in 2019 shall, for claim year 2019 at the latest, have their unit value increased by at least

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 %.

In addition, 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 would, in Member States applying the threshold referred to in paragraph 7, result in a maximum decrease exceeding that threshold. In such cases, the minimum unit value shall be set at a level necessary to respect that threshold.

5.The national or regional unit value in 2019 referred to in the paragraph 4 shall be calculated by dividing a fixed percentage of the national ceiling set out in Annex II, or of the regional ceiling, for calendar year 2019 by the number of payment entitlements in 2015 in the Member State or region concerned, excluding those allocated from the national reserve or regional reserves in 2015. That fixed percentage shall be calculated by dividing the national or regional ceiling for the basic payment scheme to be set in accordance with, respectively, Article 22(1) or Article 23(2) for the year 2015, after applying the linear reduction provided for in paragraph 1 or, where applicable, paragraph 2 of Article 30, by the national ceiling set out in Annex II, or the regional ceiling, for 2015.

6.The regional ceilings referred to in the paragraph 5 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 established in accordance with Article 23(2) for the year 2015 by the national ceiling to be set in accordance with Article 22(1) for the year 2015, after applying the linear reduction provided for in Article 30(1) where the second subparagraph of Article 23(2) applies.

7.In order to finance the increases in the value of payment entitlements referred to in paragraph 4, 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 %.

8.When applying paragraph 2 of this Article, the transition from the initial unit value of payment entitlements as calculated in accordance with Article 26 to their final unit value in 2019 as established in accordance with paragraph 3 or paragraphs 4 to 7 of this Article shall be made in equal steps starting from 2015.

In order to ensure compliance with the fixed percentage referred to in paragraph 1 of this Article for each year, the value of the payment entitlements with an initial unit value that is higher than the national or regional unit value in 2019 shall be adjusted.

9.By way of derogation from paragraph 8 of this Article, where Member States which, in accordance with Article 21(3), decide to keep their existing entitlements apply paragraph 2 of this Article, the transition from the initial unit value of payment entitlements as established in accordance with Article 26(5) to their final unit value in 2019 as established in accordance with paragraph 3 or paragraphs 4 to 7 of this Article shall, where applicable, be made 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 referred to in paragraph 1 of this Article for each year, the value of all payment entitlements shall be linearly adjusted.

10.In 2015, Member States shall inform farmers of the value of their payment entitlements as calculated in accordance with this Article and Articles 26 and 27 for each year of the period covered by this Regulation.

## *Article 26*

### **Calculation of the initial unit value**



1. The initial unit value of payment entitlements referred to in Article 25(2) in Member States which apply the single payment scheme in calendar year 2014 and which have not decided to keep their existing payment entitlements in accordance with Article 21(3) shall be set in accordance with either of the methods set out in paragraphs 2 or 3.

2. 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, shall be divided by the number of payment entitlements he is allocated in 2015, excluding those allocated from the national reserve or regional reserves in 2015.

That fixed percentage shall be calculated by dividing the national or regional ceiling for the basic payment scheme to be set in accordance with, respectively, Article 22(1) or Article 23(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 30 of this Regulation, by the amount of the payments for 2014 under the single payment scheme in the Member State or region concerned, before reductions and exclusions provided for in Chapter 4 of Title II of Regulation (EC) No 73/2009.

3. 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, shall be divided by the number of payment entitlements he is allocated in 2015, excluding those allocated from the national reserve or regional reserves in 2015.

That fixed percentage shall be calculated by dividing the national or regional ceiling for the basic payment scheme to be set in accordance with, respectively, Article 22(1) or Article 23(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 30 of this Regulation, by the total value of all entitlements, including special entitlements, in the Member State or region concerned for 2014, under the single payment scheme.

For the purpose of this paragraph, 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.

4. Member States which apply the single area payment scheme in calendar year 2014 shall calculate the initial unit value of payment entitlements referred to in Article 25(2) of this Regulation by dividing a fixed percentage of the total value of aid the farmer received for 2014 under the single area payment scheme in accordance with Regulation (EC) No 73/2009 and under Articles 132 and 133a of that Regulation, 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 regional reserves in 2015.

That fixed percentage shall be calculated by dividing the national or regional ceiling for the basic payment scheme to be set in accordance with, respectively, Article 22(1) or Article 23(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 30 of this Regulation, by the total value of aid granted under the single area payment scheme in accordance with Regulation (EC) No 73/2009 and under Articles 132 and 133a of that Regulation for 2014 in the Member State or region concerned, before reductions and exclusions provided for in Chapter 4 of Title II of that Regulation.

5. Member States which apply the single payment scheme in calendar year 2014 and which, in accordance with Article 21(3) of this Regulation, decide to keep their existing payment entitlements shall calculate the initial unit value of payment entitlements referred to in Article 25(2) of this Regulation by multiplying the unit value of the entitlements by a fixed percentage. That fixed percentage shall be calculated by dividing the national or regional ceiling for the basic payment scheme to be set in accordance with, respectively, Article 22(1) or Article 23(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 30 of this Regulation, by the amount of the payments for 2014 under the single payment scheme in the Member State or region concerned, before reductions and exclusions provided for in Chapter 4 of Title II of Regulation (EC) No 73/2009.

6. For the purposes of calculation methods provided for in this Article, provided that the relevant sectors do not receive any voluntary coupled support pursuant to Title IV of this Regulation, 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, as regards Member States which applied the single area payment scheme in accordance with Regulation (EC) No 73/2009, pursuant to point (c) of Article 68(1) and Articles 126, 127 and 129 of that Regulation.

Member States which decide to apply the voluntary coupled support pursuant to Title IV of this Regulation 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 when applying a calculation method provided for in this Article, provided that:

- (a) the voluntary coupled support pursuant to Title IV of this Regulation is granted to a sector which was 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
- (b) the amount per unit of the voluntary coupled support is lower than the amount per unit of the support in 2014.

For the purposes of the calculation methods provided for in this Article, provided that the redistributive payment pursuant to Article 41 is not applied, Member States shall fully take into account the support granted for calendar year 2014 under Articles 72a and 125a of Regulation (EC) No 73/2009.

#### *Article 27*

##### **Inclusion of the special national de-mining reserve**

For Croatia, any reference in Articles 25 and 26 to the national reserve shall be read as including the special national de-mining reserve referred to in Article 20.

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 Article 25(1), in paragraphs 5 and 6 of that Article and in Article 26.

#### *Article 28*

##### **Windfall profit**

For the purposes of Article 25(4) to (7) and Article 26, 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 33(1) of this Regulation, the increase, or part of the increase, in the value of payment entitlements that would be allocated to the farmer concerned is to revert to the national reserve or regional reserves 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 the equal treatment of farmers and to avoid distortions of the market and of competition and shall include, at least, the following:

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

## *Article 29*

### **Notifications concerning the value of payment entitlements and convergence**

Member States shall notify the Commission of any decision referred to in Articles 25, 26 and 28 by 1 August 2014.

#### Section 2 - National reserve and regional reserves

## *Article 30*

### **Establishment and use of the national reserve or regional reserves**

1. Each Member State shall establish a national reserve. In order to do so, Member States shall proceed, in the first year of implementation of the basic payment scheme, to a linear percentage reduction of the basic payment scheme ceiling at national level.

2. By way of derogation from paragraph 1, Member States exercising the option in Article 23(1) may establish regional reserves. In order to do so, Member States shall proceed, in the first year of implementation of the basic payment scheme, to a linear percentage reduction of the relevant basic payment scheme ceiling at regional level referred to in the first subparagraph of Article 23(2).

3. The reduction referred to in paragraphs 1 and 2 shall not be higher than 3 %, unless a higher percentage is required to cover any allocation needs pursuant to paragraph 6 or to points (a) and (b) of paragraph 7 for the year 2015 or, for Member States applying Article 36, for the first year of implementation of the basic payment scheme.

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

5. Payment entitlements referred to in paragraph 4 shall only be allocated to farmers entitled to be granted direct payments in accordance with Article 9.

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

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

- (a) allocate payment entitlements to farmers in order to prevent land from being abandoned, including in areas subject to restructuring or development programmes relating to a form of public intervention;
- (b) allocate payment entitlements to farmers in order to compensate them for specific disadvantages;
- (c) 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;
- (d) allocate, in cases where they apply Article 21(3) of this Regulation, payment entitlements to farmers whose number of eligible hectares that they declared in 2015 in accordance with point (a) of the first subparagraph of Article 72(1) of Regulation (EU) No 1306/2013 and that 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 an aid application, is higher than the number of owned or leased-in payment entitlements established in accordance with Regulation (EC) No 1782/2003 and with Regulation (EC) No 73/2009 that they hold on the final date for submission of applications to be set in accordance with point (b) of the first subparagraph of Article 78 of Regulation (EU) No 1306/2013;
- (e) linearly increase, on a permanent basis, the value of all payment entitlements under the basic payment scheme at national or regional level if the relevant national or regional reserve 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 6, under points (a) and (b) of this paragraph and under

paragraph 9 of this Article;

- (f) cover the yearly needs for payments to be granted in accordance with Article 51(2) and Article 65(1), (2) and (3) of this Regulation.

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

8. When applying paragraph 6 and points (a), (b) and (d) of paragraph 7, Member States shall fix the value of payment entitlements allocated to farmers at the national or regional average value of payment entitlements in the year of allocation.

The national or regional average value shall be calculated by dividing the national or regional ceiling for the basic payment scheme set in accordance with, respectively, Article 22(1) or Article 23(2) for the year of allocation, excluding the amount of the national reserve or regional reserves and, in the case of Croatia, the special de-mining 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 reserve or regional reserves, taking account of the modifications of the national or regional ceiling for the basic payment scheme set in accordance with, respectively, Article 22(1) and Article 23(2) that result from the variations in the level of the national ceilings set out in Annex II.

9. Where a farmer is entitled to receive payment entitlements or to increase the value of the existing ones by virtue of a definitive court 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, that date shall not be later than the latest date for lodging an application under the basic payment scheme following the date of the court ruling or the administrative act, taking into account the application of Articles 32 and 33.

10. When applying paragraph 6, points (a) and (b) of paragraph 7 and paragraph 9, Member States may either allocate new entitlements or increase the unit value of all of the existing entitlements of a farmer up to the national or regional average value.

11. For the purposes of this Article, the following definitions shall apply:

- (a) 'young farmers' means farmers fulfilling the conditions laid down in Article 50(2) and, where relevant, the conditions referred to in Article 50(3) and (11);
- (b) 'farmers commencing their agricultural activity' means natural or legal persons who, in the five years preceding the start of the agricultural activity, did not have any agricultural activity in their own name and at their 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 or persons in control of the legal person must not have had any agricultural activity in their own name and at their 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; Member States may establish their own additional objective and non-discriminative eligibility criteria for this category of farmers as regards appropriate skills, experience or education.

### *Article 31*

#### **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), or
  - (iii) Article 11(4) of this Regulation;
- (b) a number of payment entitlements equivalent to the total number of payment entitlements which have not been activated by farmers in accordance with Article 32 of this Regulation for a period of two consecutive years, except where their activation has been prevented by force majeure or exceptional circumstances; when establishing the owned or leased-in payment entitlements held by a farmer that shall revert to the national reserve or regional reserves, priority shall be given to those entitlements which have the lowest value;
- (c) payment entitlements voluntarily returned by farmers;
- (d) the application of Article 28 of this Regulation;
- (e) unduly allocated payment entitlements in accordance with Article 63 of Regulation (EU) No 1306/2013;
- (f) a linear reduction of the value of payment entitlements under the basic payment scheme at national or regional level where the national reserve or regional reserves are not sufficient to cover the cases referred to in Article 30(9) of this Regulation;
- (g) where Member States consider it necessary, a linear reduction of the value of payment entitlements under the basic payment scheme at national or regional level to cover cases referred to in Article 30(6) of this Regulation. In addition, Member States already making use of that linear reduction may in the same year also apply a linear reduction of the value of payment entitlements under the basic payment scheme at national or regional level to cover cases referred to in points (a) and (b) of the first subparagraph of Article 30(7) of this Regulation;
- (h) the application of Article 34(4) of this Regulation.

2.The Commission shall adopt implementing acts laying down necessary measures regarding the reversion of non-activated payment entitlements to the national reserve or regional reserves. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 71(2).

### Section 3 - Implementation of the basic payment scheme

#### *Article 32*

#### **Activation of payment entitlements**

1.Support under the basic payment scheme shall be granted to farmers, by means of declaration in accordance with Article 33(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, of reduction of payments in accordance with Article 11 and of linear reductions in accordance with Article 7, Article 51(2) and point (c) of Article 65(2) of this Regulation, and to the application of Article 63 of Regulation (EU) No 1306/2013.

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

- (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 also used for non-agricultural activities, is 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 and Directive 2009/147/EC;
- (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 22 of Regulation (EU) No 1305/2013 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 22 of Regulation (EU) No 1305/2013; 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, to Article 39 of Regulation (EC) No 1698/2005 or to Article 28 of Regulation (EU) No 1305/2013.

3. For the purposes of point (a) of paragraph 2:

- (a) 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;
- (b) Member States may draw up a list of areas which are predominantly used for non-agricultural activities.

Member States shall establish criteria for the implementation of this paragraph on their territory.

4. Areas shall be considered to be eligible hectares only if they comply with the definition of eligible hectare throughout the calendar year, except in the case of force majeure or exceptional circumstances.

5. For the purposes of determining 'eligible hectare', Member States having taken the decision referred to in the second subparagraph of Article 4(2) may apply a reduction coefficient to convert the hectares concerned into 'eligible hectares'.

6. 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 33*

#### *Declaration of eligible hectares*

1. For the purposes of the activation of payment entitlements provided for in Article 32(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, the parcels declared 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 72(1) of Regulation (EU) No 1306/2013.

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 34*

#### **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 in the same Member State, except in the case of transfer by actual or anticipated inheritance.

Payment entitlements, including in the case of actual or anticipated inheritance, may be activated only in the Member State where they were allocated.

2. Where Member States exercise the option in Article 23(1), payment entitlements may be transferred or activated only within the same region, except in the case of actual or anticipated inheritance.

Payment entitlements, including in the case of actual or anticipated inheritance, may be activated only in the region where they were allocated.

3. Member States not exercising the option in Article 23(1) may decide that payment entitlements may be transferred or activated only within the same region, except in the case of actual or anticipated inheritance.

Such regions shall be defined at the appropriate territorial level in accordance with objective criteria and in a way that ensures the equal treatment of farmers and avoids distortions of the market and of competition.

4. Where payment entitlements are transferred without land, Member States may, acting in compliance with the general principles of Union law, decide that a part of the payment entitlements transferred are to revert to the national reserve or regional reserves or that their unit value is to be reduced in favour of the national reserve or regional reserves. Such reduction may be applied to one or more types of transfer.

5. The Commission shall adopt implementing acts laying down detailed rules governing the notification by farmers of transfer of payment entitlements 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 71(2).

## *Article 35*

### **Delegated powers**

1. In order to ensure legal certainty 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 70 concerning:

- (a) rules on eligibility and access in respect of the basic payment scheme of farmers in the case of inheritance and anticipated inheritance, inheritance under a lease, change of legal status or denomination, transfer of payment entitlements, merger or scission of the holding, and the application of the contract clause referred to in Article 24(8);
- (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 may 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 34(4);
- (e) criteria for applying options under points (a), (b) and (c) of the third subparagraph of Article 24(1);
- (f) criteria for applying limitations on the number of payment entitlements to be allocated in accordance with Article 24(4) to (7);
- (g) criteria for the allocation of payment entitlements pursuant to Article 30(6) and (7);

(h) criteria for setting the reduction coefficient referred to in Article 32(5).

2. In order to ensure the proper management of payment entitlements, the Commission shall be empowered to adopt delegated acts in accordance with Article 70 laying down 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 70 laying down rules making the granting of payments conditional upon the use of certified seeds of certain hemp varieties and the procedure for the determination of hemp varieties and the verification of their tetrahydrocannabinol content referred to in Article 32(6).

## Section 4 - Single area payment scheme

### *Article 36*

#### **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, decide to continue to apply that scheme until 31 December 2020 at the latest. They shall notify the Commission of their decision and of the end date of the application of that scheme by 1 August 2014.

During the period of application of the single area payment scheme, Sections 1, 2 and 3 of this Chapter shall not apply to those Member States, with the exception of the second subparagraph of Article 23(1), Article 23(6) as well as Article 32(2) to (6).

2. 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 the first subparagraph of Article 72(1) of Regulation (EU) No 1306/2013. It shall be calculated each year by dividing the annual financial envelope established in accordance with paragraph 4 of this Article by the total number of eligible hectares declared in the Member State concerned in accordance with point (a) of the first subparagraph of Article 72(1) of Regulation (EU) No 1306/2013.

3. By way of derogation from paragraph 2 of this Article, Member States that decide to apply Article 38 of this Regulation 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 2 of this Article to differentiate the single area payment per hectare.

When doing so, they 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.

Cyprus may differentiate the aid taking into account the sector-specific financial envelopes set out in Annex XVIIa of Regulation (EC) No 73/2009, reduced by any aid granted to the same sector pursuant to Article 37 of this Regulation.

In order to differentiate the single area payment scheme, and provided that the redistributive payment pursuant to Article 41 is not applied, Member States shall fully take into account the support granted for calendar year 2014 under Article 125a of Regulation (EC) No 73/2009.

4. The Commission shall adopt implementing acts setting, for each Member State, the annual national ceiling for the single area payment scheme by deducting from the annual national ceiling set out in Annex II the ceilings fixed in accordance with Articles 42, 47, 49, 51 and 53. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 71(2).

For each Member State, the amount calculated in accordance with the first subparagraph of this paragraph may be increased by a maximum of 3 % of the relevant annual national ceiling set out in Annex II after deduction of the amount resulting from the application of Article 47(1) for the relevant year. When a Member



State applies such an increase, that increase shall be taken into account by the Commission when setting the annual national ceiling for the single area payment scheme pursuant to the first subparagraph of this paragraph. For that purpose, Member States shall notify the Commission by 31 January 2018 of the annual percentages by which the amount calculated pursuant to paragraph 1 of this Article is to be increased each calendar year from 2018.

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

5. Except in the case of force majeure or exceptional circumstances, the hectares referred to in paragraph 2 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 referred to in Article 72(1) of Regulation (EU) No 1306/2013.

6. The Commission shall be empowered to adopt delegated acts in accordance with Article 70 concerning rules on eligibility and the access of farmers to the single area payment scheme.

### *Article 37*

#### **Transitional national aid**

1. Member States applying the single area payment scheme in accordance with Article 36 may decide to grant transitional national aid in the period 2015-2020.

2. 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 transitional national 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 the exception of the reduction of the payments resulting from the application of Article 132(2) in conjunction with Articles 7 and 10 of that Regulation.

4. The total amount of transitional national aid that may be granted to farmers in any of the sectors referred to in paragraph 2 shall be limited to the following percentage of the sector-specific financial envelopes authorised by the Commission in accordance with Article 132(7) or Article 133a(5) of Regulation (EC) No 73/2009 in 2013:

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

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

5. Paragraphs 2 and 3 shall not apply to Cyprus.

6. Member States shall notify any decision referred to in paragraph 1 to the Commission by 31 March of each year. The notification shall include the following information:

- (a) the sector-specific financial envelope;
- (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 in 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 38*

**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.

Articles 24 to 29 shall not apply to those Member States.

*Article 39*

**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 of this Regulation provided that:

- (a) they apply for allocation of payment entitlements under the basic payment scheme by a final date for submission of applications to be set in accordance with point (b) of the first subparagraph of Article 78 of Regulation (EU) No 1306/2013 in the first year of implementation of the basic payment scheme, except in case of force majeure or exceptional circumstances; and
- (b) 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, for transitional national aid or for complementary national direct payments in accordance with Regulation (EC) No 73/2009 for 2013.

Member States may allocate payment entitlements to farmers who are entitled to be granted direct payments in accordance with Article 9 of this Regulation, who fulfil the condition provided for in point (a) of the first subparagraph, who did not receive payments for 2013 in respect of an aid application referred to in point (b) of the first subparagraph of this paragraph and who, on the date fixed by the Member State concerned 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 point (a) of the first subparagraph of Article 72(1) of Regulation (EU) No 1306/2013 for the first year of implementation of the basic payment scheme 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.

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 70 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 adopt implementing acts laying down rules on applications for the allocation of payment entitlements submitted in the year of allocation of payment entitlements where those payment entitlements may not yet be definitively established 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 71(2).

#### *Article 40*

### **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 reserve or regional reserves.

The fixed percentage referred to in the first subparagraph shall be calculated by dividing the national or regional ceiling for the basic payment scheme to be set in accordance with, respectively, Article 22(1) or Article 23(2) of this Regulation for the first year of implementation of the basic payment scheme, after applying the linear reduction provided for in paragraph 1 or, where applicable, paragraph 2 of Article 30 by the national ceiling set out in Annex II for the first year of implementation of the basic payment scheme. The payment entitlements shall be expressed in a number that corresponds to a number of hectares.

2. By way of derogation from the calculation method referred to in paragraph 1, Member States may decide to differentiate the value of payment entitlements in the first year of implementation of the basic payment scheme, excluding those allocated from the national reserve or regional reserves 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 aid pursuant to Articles 41, 43, 48 and 50 and Title IV of this Regulation, received by a farmer in accordance with this Regulation for the calendar year preceding the implementation of the basic payment scheme, before the application of Article 63 of Regulation (EU) No 1306/2013, by the number of payment entitlements allocated to that farmer in the first year of implementation of the basic payment scheme, excluding those allocated from the national reserve or regional reserves.

That fixed percentage shall be calculated by dividing the national or regional ceiling for the basic payment scheme to be set in accordance with, respectively, Article 22(1) or Article 23(2) of this Regulation for the first year of implementation of the basic payment scheme, after applying the linear reduction provided for in paragraph 1 or, where applicable, paragraph 2 of Article 30, by the total value of aid, excluding aid pursuant to Articles 41, 43, 48 and 50 and Title IV of this Regulation, granted for the calendar year preceding the implementation of the basic payment scheme within the Member State or region concerned, before the application of Article 63 of Regulation (EU) No 1306/2013.

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 shall notify them to the Commission by 1 August of the year preceding the implementation of the basic payment scheme. Those steps shall include annual progressive modifications of the initial value of payment entitlements 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, 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 36(5) and before the date fixed pursuant to Article 33(1), the increase, or a part thereof, in the value of payment entitlements that would be allocated to the farmer concerned is to revert to the national reserve or regional reserves 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 the equal treatment of farmers and to avoid distortions of the market and of competition and shall include, at least, the following:

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

## CHAPTER 2 - Redistributive payment

### *Article 41*

#### **General rules**

1. Member States may decide by 1 August of any given year to grant, from the following year, an annual payment to farmers who are entitled to a payment under the basic payment scheme referred to in Sections 1, 2, 3 and 5 of Chapter 1 or under the single area payment scheme referred to in Section 4 of Chapter 1 ("the redistributive payment").

Member States shall notify the Commission of any such 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 23 may apply the redistributive payment at regional level.

3. Without prejudice to the application of financial discipline, of reduction of payments in accordance with Article 11, of linear reductions as referred in Article 7 of this Regulation, and to the application of Article 63 of Regulation (EU) No 1306/2013, the redistributive payment shall be granted annually upon activation of payment entitlements by the farmer, or, in Member States applying Article 36 of this Regulation, upon declaration of eligible hectares by the farmer.

4. The redistributive payment 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 activated by the farmer in accordance with Article 33(1) or by the number of eligible hectares declared by the farmer in accordance with Article 36(2). The number of such payment entitlements or hectares shall not exceed a maximum to be set by Member States which shall not be higher than 30 hectares or the average size of agricultural holdings set out in Annex VIII if that average size exceeds 30 hectares in the Member State concerned.

5. Provided that the maximum limits set out in paragraph 4 are respected, Member States may, at national level, establish a graduation in the number of hectares set in accordance with that paragraph, which shall apply identically to all farmers.

6. The national average payment per hectare referred to in paragraph 4 of this Article shall be established by the Member States on the basis of the national ceiling set out in Annex II for calendar year 2019 and the number of eligible hectares declared in accordance with Article 33(1) or Article 36(2) in 2015.

The regional average payment per hectare referred to in paragraph 4 of this Article shall be established by the Member States by using a share of the national ceiling set out in Annex II for calendar year 2019 and the number of eligible hectares declared in the region concerned in accordance with Article 33(1) in 2015. For each region, this share shall be calculated by dividing the respective regional ceiling set in accordance with Article 23(2) by the national ceiling set in accordance with Article 22(1), after applying the linear reduction provided for in paragraph 1 of Article 30 where paragraph 2 of that Article is not applied.

7. Member States shall ensure that no advantage provided for under this Chapter is granted to farmers in respect of whom it is established that, after 18 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.

8. 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 42*

### **Financial provisions**

1. In order to finance the redistributive payment, Member States may decide, by the date referred to in Article 41(1), to use up to 30 % of the annual national ceiling set out in Annex II. They shall notify the Commission of any such decision by that date.

2. On the basis of the percentage of the national ceiling to be used by Member States pursuant to paragraph 1 of this Article, the Commission shall adopt implementing acts fixing the corresponding ceilings for the redistributive payment on a yearly basis. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 71(2).

## CHAPTER 3 - Payment for agricultural practices beneficial for the climate and the environment

## *Article 43*

### **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 32(2) to (5), the agricultural practices beneficial for the climate and the environment referred to in paragraph 2 of this Article or the equivalent practices referred to in paragraph 3 of this Article.

2. The agricultural practices beneficial for the climate and the environment shall be the following:

- (a) crop diversification;
- (b) maintaining existing permanent grassland; and
- (c) having ecological focus area on the agricultural area.

3. 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 2. Those equivalent practices and the practice or practices referred to in paragraph 2 to which they are equivalent are listed in Annex IX and shall be covered by any of the following:

- (a) commitments undertaken in accordance with either Article 39(2) of Regulation (EC) No 1698/2005 or Article 28(2) of Regulation (EU) No 1305/2013;
- (b) national or regional environmental certification schemes, including those for the 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 1306/2013, which aim to meet objectives relating to soil and water quality, biodiversity, landscape preservation, and climate change mitigation and adaptation. Those certification schemes may include the practices listed in Annex IX to this Regulation, the practices referred to in paragraph 2 of this Article, or a combination of those practices.

4. The equivalent practices referred to in paragraph 3 shall not be the subject of double funding.

5. Member States may decide, including, where appropriate, at regional level, to restrict the choice of the farmers to use the options referred to in points (a) and (b) of paragraph 3.

6. Member States may decide, including, where appropriate, at regional level, that farmers shall carry out all of their relevant obligations under paragraph 1 in accordance with national or regional environmental certification schemes referred to in point (b) of paragraph 3.

7. Subject to the decisions of Member States referred to in paragraphs 5 and 6, a farmer may observe one or more of the practices referred to in point (a) of paragraph 3 only if these fully replace the related practice or practices referred to in paragraph 2. A farmer may use certification schemes referred to in point (b) of paragraph 3 only if these cover the entire obligation referred to in paragraph 1.

8. Member States shall notify the Commission of their decisions referred to in paragraphs 5 and 6 and of the specific commitments or certification schemes which they intend to apply as equivalent practices within the meaning of paragraph 3.

The Commission shall assess whether the practices included in the specific commitments or certification schemes are covered by the list in Annex IX, and if it considers this not to be the case, notify Member States accordingly by means of implementing acts adopted without applying the procedure referred to in Article 71(2) or (3). Where the Commission notifies a Member State that those practices are not covered by the list in Annex IX, that Member State shall not recognise as equivalent practices within the meaning of paragraph 3 of this Article the specific commitments or certification schemes covered by the Commission notification.

9. Without prejudice to paragraphs 10 and 11 of this Article, to the application of financial discipline and of linear reductions in accordance with Article 7 of this Regulation and to the application of Article 63 of Regulation (EU) No 1306/2013, Member States shall grant the payment referred to in this Chapter to farmers who observe the practices referred to in paragraph 1 of this Article that are relevant for them, and to the extent that those farmers comply with Articles 44, 45 and 46 of this Regulation.

This payment shall take the form of an annual payment per eligible hectare declared in accordance with Article 33(1) or Article 36(2), the amount of which shall be calculated annually by dividing the amount resulting from the application of Article 47 by the total number of eligible hectares declared in accordance with Article 33(1) or Article 36(2) in the Member State or the region concerned.

By way of derogation from the second subparagraph, Member States deciding to apply Article 25(2) may decide to grant the payment referred to in this paragraph as a percentage of the total value of the payment entitlements that the farmer has activated in accordance with Article 33(1) for each relevant year.

For each year and each Member State or region, that percentage shall be calculated by dividing the amount resulting from the application of Article 47 by the total value of all payment entitlements activated in accordance with Article 33(1) in that Member State or region.

10. 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.

11. 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.

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.

12. The Commission shall be empowered to adopt delegated acts in accordance with Article 70:

- (a) adding equivalent practices to the list set out in Annex IX;
- (b) establishing appropriate requirements applicable to the national or regional certification schemes referred to in point (b) of paragraph 3 of this Article, including the level of assurance to be provided by those schemes;

- (c) establishing detailed rules for the calculation of the amount referred to in Article 28(6) of Regulation (EU) No 1305/2013 for the practices referred to in points 3 and 4 of Section I and point 7 of Section III of Annex IX to this Regulation, 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.

13. The Commission shall adopt implementing acts establishing rules on the procedure for the notifications, including on timetables for their submission, and the Commission assessment referred to in paragraph 8. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 71(2).

## *Article 44*

### **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.

2. Without prejudice to the number of crops required pursuant to paragraph 1, the maximum thresholds set out therein shall not apply to holdings where grasses or other herbaceous forage or land lying fallow or cultivated with crops under water for a significant part of the year or for a significant part of the crop cycle cover more than 75 % of the arable land. In such cases, the main crop on the remaining arable area shall not cover more than 75 % of that remaining arable land, except where this remaining area is covered by grasses or other herbaceous forage or land lying fallow.

3. Paragraphs 1 and 2 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, is used for cultivation of leguminous crops, is land lying fallow or is subject to a combination of those uses;
- (b) where more than 75 % of the eligible agricultural area is permanent grassland, is used for the production of grasses or other herbaceous forage or for the cultivation of crops under water for a significant part of the year or for a significant part of the crop cycle, or is subject to a combination of those uses;
- (c) where more than 50 % of the areas of 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, and none of these crops shall cover more than 75 % of the arable land, unless the main crop is grasses or other herbaceous forage, or land lying fallow.

4. For the purposes of this Article, a "crop" means any of the following:

- (a) a culture of any of the different genera defined in the botanical classification of crops;
- (b) a culture of any of the species in the case of Brassicaceae, Solanaceae, and Cucurbitaceae;
- (c) land lying fallow;
- (d) grasses or other herbaceous forage.

Winter crop and spring crop shall be considered to be distinct crops even if they belong to the same genus. *Triticum spelta* shall be considered to be a distinct crop from crops belonging to the same genus.

5. The Commission shall be empowered to adopt delegated acts in accordance with Article 70:

- (a) recognising other types of genera and species than those referred to in paragraph 4 of this Article; and
- (b) laying down the rules concerning the application of the precise calculation of shares of different crops.

#### *Article 45*

#### **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, including in peat and wetlands situated in these areas, and which need strict protection in order to meet the objectives of those Directives.

Member States may, in order to ensure the 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 or 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 areas of permanent grassland to the total agricultural area declared by the farmers in accordance with point (a) of the first subparagraph of Article 72(1) of Regulation (EU) No 1306/2013 does not decrease by more than 5 % compared to a reference ratio to be established by Member States in 2015 by dividing areas of permanent grassland referred to in point (a) of the second subparagraph of this paragraph by the total agricultural area referred to in point (b) of that subparagraph.

For the purposes of establishing the reference ratio referred to in the first subparagraph:

- (a) "areas of permanent grassland" means 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, as well as the areas of permanent grassland declared in 2015 in accordance with point (a) of the first subparagraph of Article 72(1) of Regulation (EU) No 1306/2013 by the farmers subject to the obligations under this Chapter that have not been declared as land under permanent pasture in 2012 or, in the case of Croatia, 2013;
- (b) "total agricultural area" means the agricultural area declared in 2015 in accordance with point (a) of the first subparagraph of Article 72(1) of Regulation (EU) No 1306/2013 by farmers subject to the obligations under this Chapter.

The reference ratio of permanent grassland shall be recalculated in cases where farmers subject to the obligations under this Chapter have an obligation to reconvert an area into permanent grassland in 2015 or in 2016 in accordance with Article 93 of Regulation (EU) No 1306/2013. In such cases, these areas shall be added to the areas of permanent grassland referred to in point (a) of the second subparagraph of this paragraph.

The ratio of 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 that year in accordance with point (a) of the first subparagraph of Article 72(1) of Regulation (EU) No 1306/2013.

The obligation under this paragraph shall apply at national, regional or the 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 ratio of permanent grassland does not decrease by more than 5 %. Member States shall notify the Commission of any such decision by 1 August 2014.



Member States shall notify the reference ratio and the ratio referred to in this paragraph to the Commission.

3. 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 impose obligations at holding level to reconvert land into permanent grassland for those farmers who have land at their disposal which was converted from land under permanent pasture or from permanent grassland into land for other uses during a period in the past.

However, where the amount of areas of 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 to have been complied with.

4. Paragraph 3 shall not apply where the decrease below the threshold is the result of afforestation that is compatible with the environment and does not include plantations of short rotation coppice, Christmas trees or fast growing trees for energy production.

5. 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 70 laying down detailed rules on maintenance of permanent grassland, including rules on reversion in the case of non-respect of the obligation in paragraph 1 of this Article, rules applying to Member States for setting up obligations at holding level for maintaining permanent grassland as referred to in paragraphs 2 and 3 and any adjustment of the reference ratio referred to in paragraph 2 that may become necessary.

6. The Commission shall be empowered to adopt delegated acts in accordance with Article 70:

- (a) laying down the framework for the designation of further sensitive areas referred to in the second subparagraph of paragraph 1 of this Article;
- (b) establishing 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 of this Article;
- (c) defining the period in the past referred to in the first subparagraph of paragraph 3 of this Article.

7. The Commission shall adopt implementing acts fixing the limits referred to in the second subparagraph of paragraph 3 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 71(2).

## *Article 46*

### **Ecological focus area**

1. Where the arable land of a holding covers more than 15 hectares, the farmer shall ensure that, from 1 January 2015, an area corresponding to at least 5 % of the arable land of the holding that the farmer declared in accordance with point (a) of the first subparagraph of Article 72(1) of Regulation (EU) No 1306/2013 and, if they are considered to be ecological focus area by the Member State in accordance with paragraph 2 of this Article, including the areas mentioned in points (c), (d), (g), (h), (k) and (l) of that paragraph is ecological focus area.

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

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

2. By 1 August 2014, Member States shall decide that one or more of the following are to be considered to be ecological focus area:

- (a) land lying fallow;
- (b) terraces;
- (c) landscape features, including such features adjacent to the arable land of the holding which, by way of derogation from Article 43(1) of this Regulation, may include landscape features that are not included in the eligible area in accordance with point (c) of Article 76(2) of Regulation (EU) No 1306/2013;
- (d) buffer strips, including buffer strips covered by permanent grassland, provided that these are distinct from adjacent eligible agricultural area;
- (e) hectares of agro-forestry that receive, or have received, support under Article 44 of Regulation (EC) No 1698/2005 and/or Article 23 of Regulation (EU) No 1305/2013;
- (f) strips of eligible hectares along forest edges;
- (g) areas with short rotation coppice with no use of mineral fertiliser and/or plant protection products;
- (h) afforested areas referred to in point (b)(ii) of Article 32(2) of this Regulation;
- (i) 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 3 of this Article;
- (j) areas with nitrogen-fixing crops;
- (k) areas with *Miscanthus* ;
- (l) areas with *Silphium perfoliatum* ;
- (m) land lying fallow for melliferous plants (pollen and nectar rich species).

With the exception of the areas of the holding referred to in points (g), (h), (k) and (l) of the first subparagraph of this paragraph, the ecological focus area shall be located on the arable land of the holding. In the case of areas referred to in points (c) and (d) of the first subparagraph of this paragraph, the ecological focus area may also be adjacent to the arable land of the holding the farmer declared in accordance with point (a) of the first subparagraph of Article 72(1) of Regulation (EU) No 1306/2013.

3. In order to simplify administration and to take account of the characteristics of the types of ecological focus area listed in the first subparagraph of paragraph 2, as well as 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 X. If a Member State decides to consider to be ecological focus area the area under point (i) of the first subparagraph of paragraph 2 or any other area that is subject to a weighting of less than 1, the use of the weighting factors set out in Annex X shall be mandatory.

4. 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, is land lying fallow, is used for cultivation of leguminous crops, or is subject to a combination of those uses;
- (b) where more than 75 % of the eligible agricultural area is permanent grassland, is used for the production of grasses or other herbaceous forage or for the cultivation of crops under water either for a significant part of the year or for a significant part of the crop cycle, or is subject to a combination of those uses.

5. Member States may decide to implement up to half 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 of participating farmers or groups of farmers. The aim of the designation of areas and obligations shall be to underpin the implementation of Union policies on the environment, climate and biodiversity.

6. Member States may decide to allow farmers whose holdings are in close proximity to fulfil the obligation referred to in paragraph 1 collectively ("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 impose further obligations upon farmers or groups of farmers participating in such collective implementation.

Each farmer participating in 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 is in accordance with the second subparagraph of paragraph 2. The number of farmers participating in such collective implementation shall not exceed ten.

7. Member States with more than 50 % of their total land surface area covered by forest may decide that paragraph 1 of this Article 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 32(1) of Regulation (EU) No 1305/2013, 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 covered by forest and the ratio of forest land to agricultural land shall be assessed on an area level equivalent to the LAU2 level or on the level of another clearly delineated unit which covers a single clear contiguous geographical area having similar agricultural conditions.

8. Member States shall notify the Commission of the decisions referred to in paragraph 2 by 1 August 2014, and of any decisions referred to in paragraphs 3, 5, 6 or 7 by 1 August of the year preceding their application.

9. The Commission shall be empowered to adopt delegated acts in accordance with Article 70:

- (a) laying down further criteria for the types of areas referred to in paragraph 2 of this Article to qualify as ecological focus area;
- (b) adding other types of areas than those referred to in paragraph 2 that can be taken into account for the purpose of respecting the percentage referred to in paragraph 1;
- (c) adapting Annex X in order to establish the conversion and weighting factors referred to in paragraph 3 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;
- (d) setting rules for the implementation referred to in paragraphs 5 and 6, including the minimum requirements on such implementation;
- (e) establishing the framework within which Member States are to define the criteria to be met by holdings in order to be considered to be in close proximity for the purposes of paragraph 6;
- (f) establishing the methods for determination of the percentage of total land surface area covered by forest and the ratio of forest land to agricultural land referred to in paragraph 7.

## *Article 47*

### **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.

Member States applying Article 23 may decide to apply the payment at regional level. In such cases, they shall use in each region a share of the ceiling set pursuant to paragraph 3 of this Article. For each region, this share shall be calculated by dividing the respective regional ceiling set in accordance with Article 23(2) by the national ceiling set in accordance with Article 22(1), after applying the linear reduction provided for in paragraph 1 of Article 30 where paragraph 2 of that Article is not applied.

3. The Commission shall adopt implementing acts fixing the corresponding ceilings 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 71(2).

## CHAPTER 4 - Payment for areas with natural constraints

### *Article 48*

#### **General rules**

1. Member States may grant a payment to farmers who are 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 32(1) of Regulation (EU) No 1305/2013 ("payment for areas with natural constraints").

2. Member States may decide to grant the payment for areas with natural constraints to all areas falling within the scope of paragraph 1, or to restrict the payment to some of those areas on the basis of objective and non-discriminatory criteria.

3. Without prejudice to paragraph 2 of this Article, to the application of financial discipline, of reduction of payments in accordance with Article 11 and of linear reduction in accordance with Article 7 of this Regulation, and to the application of Article 63 of Regulation (EU) No 1306/2013, the payment for areas with natural constraints shall be granted annually per eligible hectare situated in the areas for which a Member State has decided to grant a payment in accordance with paragraph 2 of this Article. It shall be paid upon activation of payment entitlements in respect of those hectares held by the farmer concerned or, in Member States applying Article 36 of this Regulation, upon declaration of those eligible hectares by the farmer concerned.

4. The payment for areas with natural constraints, per hectare, shall be calculated by dividing the amount resulting from the application of Article 49 by the number of eligible hectares declared in accordance with Article 33(1) or Article 36(2) which are situated in the areas for 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 for areas with natural constraints at regional level under the conditions laid down in this paragraph provided that they identified the regions concerned in accordance with objective and non-discriminatory criteria and, in particular, their natural constraint characteristics, including the severity of the constraints, and their agronomic conditions.

Member States shall divide the national ceiling referred to in Article 49(1) between the regions in accordance with objective and non-discriminatory criteria.

The payment for areas with natural constraints at regional level shall be calculated by dividing the regional ceiling calculated in accordance with the second subparagraph of this paragraph by the number of eligible hectares declared in the respective region in accordance with Article 33(1) or Article 36(2) which are situated in the areas for which a Member State has decided to grant a payment in accordance with paragraph 2 of this Article.

### *Article 49*

#### **Financial provisions**

1. In order to finance the payment for areas with natural constraints, 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 the Commission of any such decision by that date.

Member States may, by 1 August 2016, review their decision and amend it with effect from 1 January 2017. They shall notify the Commission of any such decision 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 adopt implementing acts fixing the corresponding ceilings for the payment for areas with natural constraints on a yearly basis. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 71(2).

## CHAPTER 5 - Payment for young farmers

### *Article 50*

#### **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 ("payment for young farmers").

2. For the purposes of this Chapter, 'young farmers', means 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 under the basic payment scheme or the single area payment scheme referred to in Article 72(1) of Regulation (EU) No 1306/2013; and
- (b) who are no more than 40 years of age in the year of submission of the application referred to in point (a).

3. Member States may define further objective and non-discriminatory eligibility criteria for young farmers applying for the payment for young farmers as regards appropriate skills and/or training requirements.

4. Without prejudice to the application of financial discipline, of reduction of payments in accordance with Article 11 and of linear reductions in accordance with Article 7 of this Regulation, and to the application of Article 63 of Regulation (EU) No 1306/2013, the payment for young farmers shall be granted annually upon activation of payment entitlements by the farmer or, in Member States applying Article 36 of this Regulation, upon declaration of eligible hectares by the farmer.

5. The payment for young farmers shall be granted per farmer for a period of five years, starting from the first submission of the application for the payment for young farmers provided that that submission takes place within the five years following the setting up referred to in point (a) of paragraph 2. That period of five years shall also apply for farmers who have received payment for young farmers in respect of claims before claim year 2018.

By way of derogation from the second sentence of the first subparagraph, Member States may decide that, for those young farmers who set up in accordance with point (a) of paragraph 2 in the period 2010-2013, the five-year period is to be reduced by the number of years which have elapsed between the setting up referred to in point (a) of paragraph 2 and the first submission of the application for the payment for young farmers.

6. Each year, Member States not applying Article 36 shall calculate the amount of the payment for young farmers by multiplying the number of entitlements the farmer has activated in accordance with Article 32(1) by a figure corresponding to:

- (a) between 25 % and 50 % of the average value of the owned or leased-in payment entitlements held by the farmer; or
- (b) between 25 % and 50 % of an amount calculated by dividing a fixed percentage of the national ceiling for the calendar year 2019 set out in Annex II by the number of all eligible hectares declared in 2015 in accordance with Article 33(1). That fixed percentage shall be equal to the share of the national ceiling remaining for the basic payment scheme in accordance with Article 22(1) for 2015.

7. Member States applying Article 36 shall each year calculate the amount of the payment for young farmers by multiplying a figure corresponding to a value between 25 % and 50 % of the single area payment calculated in accordance with Article 36 by the number of eligible hectares that the farmer has declared in accordance with Article 36(2).

8. By way of derogation from paragraphs 6 and 7 of this Article, Member States may calculate each year the amount of the payment for young farmers by multiplying a figure corresponding to a value between 25 % and 50 % of the national average payment per hectare by the number of entitlements that the farmer has activated in accordance with Article 32(1), or by the number of eligible hectares that the farmer has declared in accordance with Article 36(2).

The national average payment per hectare shall be calculated by dividing the national ceiling for the calendar year 2019 set out in Annex II by the number of eligible hectares declared in 2015 in accordance with Article 33(1) or Article 36(2).

9. Member States shall set a single maximum limit applicable to the number of payment entitlements activated by the farmer or to the number of eligible hectares declared by the farmer. That limit shall not be below 25 or above 90. Member States shall respect that limit when applying paragraphs 6, 7 and 8.

10. Instead of applying paragraphs 6 to 9, Member States may allocate an annual lump sum amount per farmer calculated by multiplying a fixed number of hectares by a figure corresponding to a value between 25 % and 50 % of the national average payment per hectare, as established in accordance with paragraph 8.

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 33(1) or Article 36(2) by the young farmers applying for the payment for young farmers in 2015 by the total number of young farmers applying for that payment in 2015.

A Member State may recalculate the fixed number of hectares in any year after 2015 in the case of significant changes in the number of young farmers applying for the payment or in the size of the holdings of young farmers, or both.

The annual lump sum amount that a farmer may be granted shall not exceed the total amount of his basic payment before application of Article 63 of Regulation (EU) No 1306/2013 in the given year.

11. 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 70 concerning the conditions under which a legal person may be considered to be eligible to receive the payment for young farmers.

## *Article 51*

### **Financial provisions**

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

Member States may, by 1 August of each year, revise their estimated percentage with effect from the subsequent year. They shall notify the Commission of the revised percentage by 1 August of the year preceding its application.

2. Without prejudice to the maximum of 2 % laid down in paragraph 1 of this Article, where the total amount of the payment for young farmers 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 that maximum, that Member State shall finance the difference by applying point (f) of the first subparagraph of Article 30(7) in the

relevant year, by applying a linear reduction to all payments to be granted to all farmers in accordance with Article 32 or Article 36(2), or by both means.

3. Where the total amount of the payment for young farmers 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 amount is 2 % of the annual national ceiling set out in Annex II, Member States shall apply a linear reduction to the amounts to be paid pursuant to Article 50 in order to comply with that ceiling.

4. On the basis of the percentage notified by Member States pursuant to paragraph 1 of this Article, the Commission shall adopt implementing acts fixing the corresponding ceilings for the payment for young farmers on a yearly basis.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 71(2).

## *TITLE IV - COUPLED SUPPORT*

### CHAPTER 1 - Voluntary coupled support

#### *Article 52*

#### **General rules**

1. Member States may grant coupled support to farmers under the conditions laid down in this Chapter (in this Chapter referred to as "coupled support").

2. 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, silkworms, dried fodder, hops, sugar beet, cane and chicory, fruit and vegetables and short rotation coppice.

3. 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 that are particularly important for economic, social or environmental reasons undergo certain difficulties.

4. By way of derogation from paragraph 3, coupled support may also be granted to farmers who:

- (a) on 31 December 2014, have 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 paragraph of Article 65 of Regulation (EC) No 73/2009; and
- (b) have at their disposal no 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.

5. ....

6. Coupled support is a production-limiting scheme that shall take the form of an annual payment based on fixed areas and yields or on a fixed number of animals and shall respect financial ceilings to be determined by Member States for each measure and notified to the Commission.

7. 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 6 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.

8. Any coupled support granted under this Article shall be consistent with other Union measures and policies.

9. 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 70 laying down:

- (a) the conditions for granting coupled support;
- (b) rules on consistency with other Union measures and on the cumulation of support.

10. The Commission is empowered to adopt delegated acts in accordance with Article 70 supplementing this Regulation as regards measures in order to avoid beneficiaries of voluntary coupled support suffering from structural market imbalances in a sector. Those delegated acts may allow Member States to decide that such support may continue to be paid until 2020 on the basis of the production units for which voluntary coupled support was granted in a past reference period.

### *Article 53*

#### **Financial provisions**

1. In order to finance the coupled support, Member States may, by 1 August of the year preceding the first year of implementation of such support, decide 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) until 31 December 2014:
  - (i) they apply the single area payment scheme laid down in Title V of Regulation (EC) No 73/2009,
  - (ii) they finance measures under Article 111 of that Regulation, or
  - (iii) they are covered 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 allocate, in total, 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 Title III, Title IV, with the exception of Section 6 of Chapter 1 thereof, and Title V of Regulation (EC) No 73/2009 for financing:
  - (i) the measures laid down in Section 2 of Chapter 2 of Title III of Regulation (EC) No 73/2009,
  - (ii) 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
  - (iii) the measures under Chapter 1, with the exception of Section 6 of Title IV of that Regulation.

3. The percentages of the annual 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 annual national ceiling set out in Annex II to support the production of protein crops under this Chapter.

4. By way of derogation from paragraphs 1 and 2, Member States allocating, in total, 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 Title III, Title IV, with the exception of Section 6 of Chapter 1 thereof, and Title V of Regulation (EC) No 73/2009 for financing:

- (a) the measures laid down in Section 2 of Chapter 2 of Title III of Regulation (EC) No 73/2009;
- (b) 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



(c) 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 to this Regulation, upon approval by the Commission in accordance with Article 55 of this Regulation.

5. By way of derogation from the percentages set out in paragraphs 1 to 4, Member States may choose to use up to EUR 3 million per year for financing coupled support.

6. Member States may, by 1 August of any given year, review their decision pursuant to this Chapter and decide, with effect from the following year:

- (a) to leave unchanged, increase or decrease the percentage fixed pursuant to paragraphs 1, 2 and 3, within the limits laid down therein where applicable, or to leave unchanged or decrease the percentage fixed pursuant to paragraph 4;
- (b) to modify the conditions for granting the support;
- (c) to cease granting the support under this Chapter.

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

7. On the basis of the decision taken by each Member State pursuant to paragraphs 1 to 6 of this Article, the Commission shall adopt implementing acts fixing the corresponding ceilings for coupled support on a yearly basis. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 71(2).

#### *Article 54*

##### **Notification**

1. Member States shall notify the Commission of the decisions referred to in Article 53 by the dates referred to in that Article. Except for the decision referred to in point (c) of Article 53(6), 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 53(2) and (4), or, where appropriate, in point (a) of Article 53(6), shall 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 53(1) insufficient to address the difficulties referred to in Article 52(3) and which justify an increased level of support.

#### *Article 55*

##### **Approval by the Commission**

1. The Commission shall adopt implementing acts, without applying the procedure referred to in Article 71(2) or (3), approving the decision referred to in Article 53(4), or, where appropriate, in point (a) of Article 53(6), where one of the following needs in the sector or region concerned is demonstrated:

- (a) the need to sustain a certain level of specific production due to the lack of alternatives, and to reduce the risk of production abandonment with the resulting social and/or environmental problems;

- (b) the need to provide stable supply to the local processing industry, thereby avoiding the negative social and economic consequence of any ensuing restructuring;
- (c) the need to compensate disadvantages affecting farmers in a particular sector which are the consequence of continuing disturbances on the related market;
- (d) the need to intervene where the existence of any other support available under this Regulation, Regulation (EU) No 1305/2013 or any approved State aid scheme is deemed to be insufficient to meet the needs referred to in points (a), (b) and (c) of this paragraph.

2. The Commission shall adopt implementing acts laying down rules on the procedure for the assessment and approval of the decisions referred to in paragraph 1 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 71(2).

## CHAPTER 2 - Crop-specific payment for cotton

### *Article 56*

#### **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 57*

#### *Eligibility*

1. The crop-specific payment for cotton shall be granted per hectare of eligible area of cotton. The area shall be eligible only if it is located on agricultural land authorised by the Member State for cotton production, sown with 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 70 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 adopt implementing acts laying down rules on the procedure for the authorisation of land and varieties for the purposes of the crop-specific payment for cotton and on 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 71(2).

### *Article 58*

#### *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 calculated 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 it possible to apply the crop-specific payment for cotton, the Commission shall be empowered to adopt delegated acts in accordance with Article 70 concerning rules on the conditions for the granting of that payment, on the eligibility requirements and on agronomic practices.

6.The Commission may adopt implementing acts laying down 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 71(2).

## *Article 59*

### **Approved interbranch organisations**

1.For the purpose of this Chapter, an 'approved interbranch organisation' means a legal entity made up of farmers producing cotton and at least one ginner, carrying out activities such as:

- (a) helping to better coordinate 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 ginner are established shall approve interbranch organisations that satisfy the criteria to be laid down pursuant to paragraph 3.

3.In order to ensure the efficient application of the crop-specific payment for cotton, the Commission shall be empowered to adopt delegated acts in accordance with Article 70 laying down:

- (a) criteria for the approval of interbranch organisations;
- (b) obligations for producers;
- (c) rules governing the situation where the approved interbranch organisation does not satisfy the criteria referred to in point (a).

## *Article 60*

### **Granting of the payment**

1. Farmers shall be granted the crop-specific payment for cotton per eligible hectare as established in Article 58.

2. In the case of farmers who are members of an approved interbranch organisation, the crop-specific payment for cotton per eligible hectare within the base area laid down in Article 58(1) shall be increased by an amount of EUR 2.

## *TITLE V - SMALL FARMERS SCHEME*

### *Article 61*

#### **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 who, in 2015, hold owned or leased-in payment entitlements or, in Member States applying Article 36, claim for the single area payment scheme, and fulfil the minimum requirements provided for in Article 10(1) may opt to participate in the small farmers scheme.

2. Payments under the small farmers scheme shall replace the direct 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 the first subparagraph of Article 63(2). In that case, the payment shall be subject to 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 3 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 they artificially created, after 18 October 2011, the conditions to benefit from the small farmers scheme.

### *Article 62*

#### **Participation**

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

Farmers who have not applied to participate in the small farmers scheme on the date fixed by the Member State, who decide to withdraw from it after that date or who have been selected for support under point (c) of Article 19(1) of Regulation (EU) No 1305/2013 shall no longer be entitled 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 63 are to be included in the small farmers scheme automatically, unless they expressly withdraw from it by the date fixed by the Member State in accordance with 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. Each Member State shall ensure that an estimate of the amount of the payment referred to in Article 63 is made known to farmers in due time before the date for submitting applications or for withdrawal fixed by that Member State.

### *Article 63*

#### **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:

- (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 out in Annex II for calendar year 2019 and the number of farmers who have declared eligible hectares, pursuant to Article 33(1) or Article 36(2), in 2015;
- (b) an amount corresponding to the national average payment per hectare multiplied by a figure corresponding to a number of hectares not exceeding five, to be set by the Member States. The national average payment per hectare shall be established by the Member States on the basis of the national ceiling set out in Annex II for calendar year 2019 and the number of eligible hectares declared in accordance with Article 33(1) or Article 36(2) in 2015.

The amount referred to in points (a) or (b) of the first subparagraph shall not be lower than EUR 500 and shall not be higher than EUR 1 250.

Where the application of points (a) and (b) of the first subparagraph results in an amount lower than EUR 500 or higher than EUR 1 250, the amount shall be rounded up or down, respectively, to that minimum or maximum amount.

2. By way of derogation from paragraph 1, a Member State may decide to grant participating farmers:

- (a) an amount equal to the total value of the direct payments to be allocated to the farmer each year under Titles III and IV; or
- (b) an amount equal to the total value of the direct payments to be allocated to the farmer in 2015 under Titles III and IV, that the Member State may adjust in subsequent years to proportionately take into account the changes in the national ceiling set out in Annex II.

The amount referred to in point (a) or (b) of the first subparagraph shall not be higher than an amount fixed by that Member State which shall be between EUR 500 and EUR 1 250.

Where the application of point (a) or (b) of the first subparagraph results in an amount lower than EUR 500, the Member State concerned may decide to round up this amount to EUR 500.

3. By way of derogation from paragraphs 1 and 2, in Cyprus, Croatia, Malta and Slovenia, the amount referred to in those paragraphs 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 64*

### **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 owned or leased-in payment entitlements held, or to the number of eligible hectares declared in 2015 in accordance with Article 36(2);
- (b) fulfil the minimum requirement provided for in point (b) of Article 10(1).

2. Payment entitlements activated in 2015 pursuant to Articles 32 and 33 by a farmer participating in the small farmers scheme shall be considered to be activated entitlements for the duration of the farmer's participation in that scheme.

The owned or leased-in payment entitlements held by the farmer during the participation in that scheme shall not be considered to be unused payment entitlements which are to revert to the national reserve or regional reserves in accordance with point (b) of Article 31(1).

In Member States applying Article 36, the eligible hectares declared in 2015 in accordance with Article 36(2) by a farmer participating in the small farmers scheme shall be considered to be declared for the duration of the participation of the farmer in that scheme.

3. By way of derogation from Article 34, payment entitlements held by farmers participating in the small farmers scheme shall not be transferable, except in the 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 to participate in that scheme provided that 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. Where a Member State opts for the payment method laid down in point (a) of the first subparagraph of Article 63(2) without applying the third subparagraph of Article 63(2), paragraphs 1 and 2 as well as the first subparagraph of paragraph 3 of this Article shall not apply.

5. In order to ensure legal certainty, the Commission shall be empowered to adopt delegated acts in accordance with Article 70 setting out the conditions for participation in the scheme where the situation of the participating farmer has changed.

## *Article 65*

### **Financial provisions**

1. In order to finance the payment referred to in this Title, Member States shall deduct from the total amounts available for the respective payments the amounts to which the small farmers would be entitled:

- (a) under the basic payment scheme or the single area payment scheme referred to in Chapter 1 of Title III;
- (b) as a redistributive payment referred to in Chapter 2 of Title III;
- (c) as a payment for agricultural practices beneficial for the climate and the environment referred to in Chapter 3 of Title III;
- (d) as a payment for areas with natural constraints referred to in Chapter 4 of Title III;
- (e) as a payment for young farmers referred to in Chapter 5 of Title III; and
- (f) as coupled support referred to in Title IV.

In the case of Member States having opted to calculate the amount of the payment pursuant to point (a) of the first subparagraph of Article 63(2), where the sum of those amounts for an individual farmer exceeds the maximum amount that they have fixed, each amount shall be proportionately reduced.

2. The difference between the sum of all payments due under the small farmers scheme and the total amount financed in accordance with paragraph 1 shall be financed in one or more of the following ways:

- (a) by applying Article 30(7) in the relevant year;
- (b) by using the funds for financing the payment for young farmers laid down in Chapter 5 of Title III which are left unused in the relevant year;
- (c) by applying a linear reduction to all payments to be granted in accordance with Articles 32 or 36.

3. Except where a Member State has opted to set the amount of the annual payment pursuant to point (a) of the first subparagraph of Article 63(2), the elements on the basis of which the amounts referred to in paragraph 1 of this Article are established shall remain the same for the entire duration of the participation of the farmer in the small farmers scheme.

4. 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 the first subparagraph of Article 63(2) without applying the third subparagraph of Article 63(2).

The same exception applies for Member States which have set the amount of the payment in accordance with point (b) of the first subparagraph of Article 63(2) without applying the third subparagraph of Article 63(2), whose national ceiling set out in Annex II for year 2019 is higher than for year 2015 and which apply the calculation method set out in Article 25(1) or in Article 36(2).

## *TITLE VI - NATIONAL RESTRUCTURING PROGRAMMES FOR THE COTTON SECTOR*

### *Article 66*

#### **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 1305/2013.

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 shall be 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 67*

#### **Notification requirements**

1. In order to ensure the correct application of the rules set out in this Regulation, the Commission shall be empowered to adopt delegated acts in accordance with Article 70 on the necessary measures regarding notifications to be made by Member States to the Commission for the purposes of this Regulation, for the purpose of checking, controlling, monitoring, evaluating and auditing direct payments or for the purpose of

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, the Commission shall take into account the data needs and synergies between potential data sources.

Where appropriate, the information obtained may be transmitted or be 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 70 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) access rights to the information or information systems made available;
- (d) the conditions of publication of the information.

3. The Commission shall adopt implementing acts laying down:

- (a) the methods of notification;
- (b) rules on providing the information necessary for the application of this Article;
- (c) arrangements for the management of the information to be notified, as well as rules on content, form, timing, frequency and deadlines of the notifications;
- (d) 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 71(2).

## *Article 68*

### **Processing and protection of personal data**

1. Member States and the Commission shall collect personal data for the purposes set out in Article 67(1). They shall not process this data in a way that is incompatible with those purposes.

2. Where personal data are processed for monitoring and evaluation purposes as referred to in Article 67(1), they shall be made anonymous and processed in aggregated form only.

3. Personal data shall be processed in accordance with 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 Directive 95/46/EC and Regulation (EC) No 45/2001, respectively.

5. This Article shall be subject to Articles 111 to 114 of Regulation (EU) No 1306/2013.



## Article 69

### Measures to resolve specific problems

1. In order to resolve specific problems, the Commission shall adopt implementing acts which are both necessary and justifiable in an emergency. Such implementing acts may derogate from provisions of this Regulation, to the extent 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 71(2).

2. Where duly justified imperative grounds of urgency so require, and in order to resolve such specific problems while ensuring the continuity of the direct payments system in the case of extraordinary circumstances, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 71(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, submit an appropriate legislative proposal.

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 its adoption.

## CHAPTER 2 - Delegations of powers and implementing provisions

### Article 70

#### *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(3), Article 6(3), Article 7(3), Article 8(3), Article 9(5), Article 20(6), Article 35, Article 36(6), Article 39(3), Article 43(12), Article 44(5), Article 45(5) and (6), Article 46(9), Article 50(11), Article 52(9) and (10), Article 57(3), Article 58(5), Article 59(3), Article 64(5), Article 67(1) and (2) and Article 73 shall be conferred on the Commission for a period of seven years from 1 January 2014. 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(3), Article 6(3), Article 7(3), Article 8(3), Article 9(5), Article 20(6), Article 35, Article 36(6), Article 39(3), Article 43(12), Article 44(5), Article 45(5) and (6), Article 46(9), Article 50(11), Article 52(9) and (10), Article 57(3), Article 58(5), Article 59(3), Article 64(5), Article 67(1) and (2) and Article 73 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(3), Article 6(3), Article 7(3), Article 8(3), Article 9(5), Article 20(6), Article 35, Article 36(6), Article 39(3), Article 43(12), Article 44(5), Article 45(5) and (6), Article 46(9), Article 50(11), Article 52(9) and (10), Article 57(3), Article 58(5), Article 59(3), Article 64(5), Article 67(1) and (2) and Article 73 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 71*

##### **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 24(11), Article 31(2) and Article 67(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 72*

##### **Repeals**

1.Regulation (EC) No 637/2008 is repealed with effect from 1 January 2014.

However, it shall continue 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.

However, it shall continue to apply in respect of aid applications relating to claim years starting before 1 January 2015 .

Without prejudice to paragraph 3, references to the repealed Regulation shall be construed as references to this Regulation or Regulation (EU) No 1306/2013 and shall be read in accordance with the correlation table set out in Annex XI to this Regulation.

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 73*

##### **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 70 concerning the necessary measures to protect any acquired rights and legitimate

expectations of farmers.

#### Article 74

### Entry into force and application

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

It shall apply from 1 January 2015.

However, Article 8, Article 9(6), Article 11(6), Article 14, Article 16, Article 21(2) and (3), Article 22(2), the first subparagraph of Article 23(1), Article 23(6), Article 24(10), Article 29, the first subparagraph of Article 36(1), Article 41(1), Article 42(1), Article 43(8) and (13), the fifth subparagraph of Article 45(2), Article 46(2) and (8), Article 49(1), Article 51(1), Article 53, Article 54, Article 66(1), Articles 67 and 70 and Article 72(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.

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## ANNEX I

### List of support schemes

Sector	Legal base	Notes
Basic payment scheme	Title III, Chapter 1, Sections 1, 2, 3 and 5 of this Regulation	Decoupled payment
Single area payment scheme	Article 36 of this Regulation	Decoupled payment
Redistributive payment	Title III, Chapter 2 of this Regulation	Decoupled payment
Payment for agricultural practices beneficial for the climate and the environment	Title III, Chapter 3 of this Regulation	Decoupled payment
Payment for areas with natural constraints	Title III, Chapter 4 of this Regulation	Decoupled payment
Payment for young farmers	Title III, Chapter 5 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
Small farmers scheme	Title V of this Regulation	Decoupled payment
Posei	Chapter IV of Regulation (EU) No 228/2013	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
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## ANNEX II

### National ceilings referred to in Article 6

a For Croatia the national ceiling shall be EUR 344 340 000 for the 2021 calendar year and EUR 382 600 000 for the 2022 calendar year.						
(in thousands EUR)						
Calendar year	2015	2016	2017	2018	2019	2020
Belgium	523 658	509 773	502 095	488 964	481 857	505 266
Bulgaria	721 251	792 449	793 226	794 759	796 292	796 292
Czech Republic	844 854	844 041	843 200	861 708	861 698	872 809
Denmark	870 751	852 682	834 791	826 774	818 757	880 384
Germany	4 912 772	4 880 476	4 848 079	4 820 322	4 792 567	5 018 395
Estonia	114 378	114 562	123 704	133 935	143 966	169 366
Ireland	1 215 003	1 213 470	1 211 899	1 211 482	1 211 066	1 211 066
Greece	1 921 966	1 899 160	1 876 329	1 855 473	1 834 618	1 931 177
Spain	4 842 658	4 851 682	4 866 665	4 880 049	4 893 433	4 893 433
France	7 302 140	7 270 670	7 239 017	6 900 842	6 877 179	7 437 200
Croatia a	183 735	202 865	241 125	279 385	317 645	306 080
Italy	3 902 039	3 850 805	3 799 540	3 751 937	3 704 337	3 704 337
Cyprus	50 784	50 225	49 666	49 155	48 643	48 643
Latvia	181 044	205 764	230 431	255 292	280 154	302 754
Lithuania	417 890	442 510	467 070	475 319	483 680	517 028
Luxembourg	33 604	33 546	33 487	33 460	33 432	33 432
Hungary	1 345 746	1 344 461	1 343 134	1 343 010	1 342 867	1 269 158
Malta	5 241	5 241	5 242	5 243	5 244	4 690
Netherlands	749 315	736 840	724 362	682 616	670 870	732 370
Austria	693 065	692 421	691 754	691 746	691 738	691 738
Poland	3 378 604	3 395 300	3 411 854	3 431 236	3 450 512	3 061 518
Portugal	565 816	573 954	582 057	590 706	599 355	599 355
Romania	1 599 993	1 772 469	1 801 335	1 872 821	1 903 195	1 903 195
Slovenia	137 987	136 997	136 003	135 141	134 278	134 278
Slovakia	438 299	441 478	444 636	448 155	451 659	394 385

Finland	523 333	523 422	523 493	524 062	524 631	524 631
Sweden	696 890	697 295	697 678	698 723	699 768	699 768
United Kingdom	3 173 324	3 179 880	3 186 319	3 195 781	3 205 243	3 591 683

## ANNEX III

### Net ceilings referred to in Article 7

a For Croatia, the net ceiling shall be EUR 344 340 000 for the 2021 calendar year and EUR 382 600 000 for the 2022 calendar year.]						
(in million EUR)						
Calendar year	2015	2016	2017	2018	2019	2020
Belgium	523,7	509,8	502,1	489,0	481,9	505,3
Bulgaria	720,9	788,8	789,6	791,0	792,5	798,9
Czech Republic	840,1	839,3	838,5	856,7	856,7	872,8
Denmark	870,2	852,2	834,3	826,3	818,3	880,4
Germany	4 912,8	4 880,5	4 848,1	4 820,3	4 792,6	5 018,4
Estonia	114,4	114,5	123,7	133,9	143,9	169,4
Ireland	1 214,8	1 213,3	1 211,8	1 211,4	1 211,0	1 211,1
Greece	2 109,8	2 087,0	2 064,1	2 043,3	2 022,4	2 119,0
Spain	4 902,3	4 911,3	4 926,3	4 939,7	4 953,1	4 954,4
France	7 302,1	7 270,7	7 239,0	6 900,8	6 877,2	7 437,2
Croatia a	183,7	202,9	241,1	279,4	317,6	306,1
Italy	3 897,1	3 847,3	3 797,2	3 750,0	3 702,4	3 704,3
Cyprus	50,8	50,2	49,7	49,1	48,6	48,6
Latvia	181,0	205,7	230,3	255,0	279,8	302,8
Lithuania	417,9	442,5	467,1	475,3	483,3	517,0
Luxembourg	33,6	33,5	33,5	33,5	33,4	33,4
Hungary	1 276,7	1 275,5	1 274,1	1 274,0	1 273,9	1 269,2
Malta	5,2	5,2	5,2	5,2	5,2	4,7
Netherlands	749,2	736,8	724,3	682,5	670,8	732,4
Austria	693,1	692,4	691,8	691,7	691,7	691,7
Poland	3 359,2	3 375,7	3 392,0	3 411,2	3 430,2	3 061,5
Portugal	565,9	574,0	582,1	590,8	599,4	599,5
Romania	1 600,0	1 772,5	1 801,3	1 872,8	1 903,2	1 903,2

Slovenia	138,0	137,0	136,0	135,1	134,3	134,3
Slovakia	435,5	438,6	441,8	445,2	448,7	394,4
Finland	523,3	523,4	523,5	524,1	524,6	524,6
Sweden	696,8	697,2	697,6	698,7	699,7	699,8
United Kingdom	3 170,7	3 177,3	3 183,6	3 192,2	3 201,4	3 591,7

## ANNEX IV

### Limits for the adjustment for the thresholds, referred to in Article 10(2)

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
Slovakia	200	2
Finland	200	3
Sweden	200	4
United Kingdom	200	5

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## ANNEX V

### **Financial provisions applying to Bulgaria and Romania referred to in Articles 10, 16 and 18**

A.Amounts for applying point (a) of Article 10(1) and for calculating the national ceilings for payments referred to in Article 16 in 2015:

Bulgaria

: EUR 790 909 000

Romania

: EUR 1 783 426 000

B.Total amount of complementary national direct payments to the basic payment scheme referred to in Article 18(1) in 2015:

Bulgaria

: EUR 69 657 000

Romania

: EUR 153 536 000

C.Total amount of complementary national direct payments to the crop-specific payment for cotton referred to in Article 18(2) in 2015:

Bulgaria

: EUR 258 952

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## ANNEX VI

### Financial provisions applying to Croatia referred to in Articles 10 and 19

A.

Amount for applying Article 10(1)(a):

EUR 382 600 000

B.

Total amounts of complementary national direct payments referred to in Article 19(3):

(in thousand EUR)						
2015	2016	2017	2018	2019	2020	2021
248 690	229 560	191 300	153 040	114 780	76 520	38 260

## ANNEX VII

### Maximum amounts to be added to the amounts set out in Annex II in accordance with Article 20(2)

(in thousands EUR)							
2015	2016	2017	2018	2019	2020	2021	2022
3 360	3 840	4 800	5 760	6 720	7 680	8 640	9 600

## ANNEX VIII

### Average size of agricultural holding referred to in Article 41(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
Netherlands	25
Austria	19
Poland	6
Portugal	13
Romania	3
Slovenia	6
Slovakia	28
Finland	34
Sweden	43
United Kingdom	54

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## ANNEX IX

### List of equivalent practices referred to in Article 43(3)

#### I. Practices equivalent to crop diversification:

##### (1) Crop diversification

Requirement: at least three crops, the main crop covering a maximum of 75 %, and any one or more of the following applying:

- there are at least four crops,
- lower maximum thresholds apply,
- there is a more appropriate selection of crops, such as, for example, leguminous, protein crops, crops not requiring irrigation or pesticide treatments, as appropriate,
- regional varieties of old, traditional or endangered crop types are included on at least 5 % of the rotated area.

## (2) Crop rotation

Requirement: at least three crops, the main crop covering a maximum of 75 %, and any one or both of the following applying:

- a more environmentally beneficial multiannual sequence of crops and/or fallow is followed,
- there are at least four crops.

## (3) Winter soil cover

## (4) Catch crops

## II. Practices equivalent to maintenance of permanent grassland:

### (1) Management of meadows or pastures

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

- Cutting regime or 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, with no destruction of high nature value
- Evacuation of forage or 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)
- Shepherd or mountain pastoralism
- Using local or traditional breeds for grazing the permanent grassland

## III. Practices equivalent with ecological focus area:

Requirement: application of any of the following practices on at least the percentage of the arable land set pursuant to Article 46(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 or specified grass varieties and/or seeding regime, re-seeding with regional varieties, no use of pesticides, no disposal of manure and/or mineral fertilisers, no irrigation, no soil sealing)

(4) Borders, in-field strips and patches managed for wildlife or 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 or 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(23)

(8) Conversion of arable land into permanent grassland extensively used

## ANNEX X

Conversion and weighting factors referred to in Article 46(3)

Features	Conversion factor (m/tree to m <sup>2</sup> )	Weighting factor	Ecological focus area (if both factors are applied)	
Land lying fallow (per 1 m <sup>2</sup> )	n.a.	1	1 m <sup>2</sup>	
Terraces (per 1 m)	2	1	2 m <sup>2</sup>	
Landscape features:				
Hedges/wooded strips/trees in line (per 1 m)	5	2	10 m <sup>2</sup>	
Isolated tree (per tree)	20	1,5	30 m <sup>2</sup>	
Field copses (per 1 m <sup>2</sup> )	n.a.	1,5	1,5 m <sup>2</sup>	
Ponds (per 1 m <sup>2</sup> )	n.a.	1,5	1,5 m <sup>2</sup>	
Ditches (per 1 m)	5	2	10 m <sup>2</sup>	
Traditional stone walls (per 1 m)	1	1	1 m <sup>2</sup>	
Other features not listed above but protected under GAEC7, SMR 2 or SMR 3 (per 1 m <sup>2</sup> )	n.a.	1	1 m <sup>2</sup>	
Buffer strips and field margins (per 1 m)	6	1,5	9 m <sup>2</sup>	
Hectares of agro-forestry (per 1 m <sup>2</sup> )	n.a.	1	1 m <sup>2</sup>	
Strips of eligible hectares along forest edges (per 1 m)				
	Without production	6	1,5	9 m <sup>2</sup>
	With production	6	0,3	1,8 m <sup>2</sup>
[F1] Areas with short rotation coppice (per 1 m <sup>2</sup> )	n.a.	0,5	0,5 m <sup>2</sup> ]	
Afforested areas as referred to in Article 32(2)(b)(ii) (per 1 m <sup>2</sup> )	n.a.	1	1 m <sup>2</sup>	
Areas with catch crops or green cover (per 1 m <sup>2</sup> )	n.a.	0,3	0,3 m <sup>2</sup>	
[F1] Areas with nitrogen fixing crops (per 1 m <sup>2</sup> )	n.a.	1	1 m <sup>2</sup> ]	
[F2] Areas with Miscanthus	n.a.	0,7	0,7 m <sup>2</sup>	
Areas with Silphium perfoliatum	n.a.	0,7	0,7 m <sup>2</sup>	
Land lying fallow for melliferous plants (pollen and nectar rich species)	n.a.	1,5	1,5 m <sup>2</sup> ]	

Conversion and weighting factors referred to in Article 46(3) to be applied to features included in the equivalent practices as listed in Section III of Annex IX

Equivalent ecological focus area	Similar standard ecological focus area	Conversion factor	Weighting factor	Ecological focus area (if both factors are applied)
(1) Ecological set-aside (per 1 m <sup>2</sup> )	Land lying fallow	n.a.	1	1 m <sup>2</sup>
(2) Creation of 'buffer zones' (per 1 m)	Buffer strips and field margins	6	1,5	9 m <sup>2</sup>
(3) Management of uncultivated buffer strips and field margins (per 1 m)	Buffer strips and field margins	6	1,5	9 m <sup>2</sup>
(4) Borders, in-field strips and patches:				
Borders, in-field strips (per 1 m)	Buffer strips and field margins	6	1,5	9 m <sup>2</sup>
Patches (per 1 m <sup>2</sup> )	Field copses	n.a.	1,5	1,5 m <sup>2</sup>
(5) Management of landscape features:				
Isolated tree (per tree)	Isolated tree	20	1,5	30 m <sup>2</sup>
Trees in line (per 1 m)	Hedges/wooded strips/trees in line	5	2	10 m <sup>2</sup>
Group of trees/Field copses (per 1 m <sup>2</sup> )	Field copses	n.a.	1,5	1,5 m <sup>2</sup>
Hedgerows (per 1m)	Hedges/wooded strips/trees in line	5	2	10 m <sup>2</sup>
Riparian woody vegetation (per 1m)	Hedges/wooded strips/trees in line	5	2	10 m <sup>2</sup>
Terraces (per 1m)	Terraces	2	1	2 m <sup>2</sup>
Stone walls (per 1m)	Traditional stone walls	1	1	1 m <sup>2</sup>
Ditches (per 1m)	Ditches	5	2	10 m <sup>2</sup>
Ponds (per 1 m <sup>2</sup> )	Ponds	n.a.	1,5	1,5 m <sup>2</sup>

(6) Keeping arable peaty or wet soils under grass (no use of fertilisers and no use of plant protection products) (per 1 m <sup>2</sup> )	Land lying fallow	n.a.	1	1 m <sup>2</sup>
(7) Production on arable land with no use of fertiliser and/or plant protection products, and not irrigated, not sown with the same crop two years in a row (per 1 m <sup>2</sup> )	Areas with short rotation coppice; Strips along forest edges with production; Areas with nitrogen-fixing crops	n.a.	0,3 0,7 for nitrogen-fixing crops	0,3 m <sup>2</sup> 0,7 m <sup>2</sup>
(8) Conversion of arable land into permanent grassland (per 1 m <sup>2</sup> )	Land lying fallow	n.a.	1	1 m <sup>2</sup>

## ANNEX XI

### Correlation table

referred to in Article 72(2)

Regulation (EC) No 73/2009	This Regulation	Regulation (EU) No 1306/2013
Article 1	Article 1	—
Article 2	Article 4	—
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	Article 7	—
Article 9	—	—
Article 10	—	—
Article 10a	—	—
Article 10b	—	—
Article 10c	—	—

Article 10d	—	—
Article 11	Article 8	Article 26(1) and (2)
Article 11(3)	Article 8(2)	—
Article 11a	Article 8(3)	—
Article 12(1) and (2)	—	Article 12
Article 12(3)	—	Article 14
Article 12(4)	—	—
Article 13	—	Article 13(2)
Article 14	—	Article 67
Article 15	—	Article 68(1) and (2)
Article 16	—	Article 69
Article 17	—	Article 70
Article 18	—	Article 71
Article 19	—	Article 72
Article 20	—	Article 74(1), (2) and (3)
Article 21	—	Article 74(4)
Article 22	—	Article 96
Article 23	—	Article 97
Article 24	—	Article 99
Article 25	—	Article 100
Article 26	—	Article 61
Article 27(1)	—	Article 102(3)
Article 27(2)	—	Article 47
Article 27(3)	—	Article 68(3)
Article 28(1)	Article 10	—
Article 28(2)	Article 9(3)	—
Article 28(3)	Article 31(1)(a) (i) and (ii)	—
Article 29	—	Article 75
Article 30	—	Article 60
Article 31	—	Article 2(2)
Article 32	Article 15	—
Article 33	—	—
Article 34 (2)	Article 32(2) and (4)	—
Article 35	Article 33	—
Article 36	—	—
Article 37	Article 12	—

Article 38	—	—
Article 39(1)	Article 32(6)	—
Article 39(2)	Article 35(3)	—
Article 40(1)	Article 6(1)	—
Article 41(1)	Article 30(1)	—
Article 41(2)	Article 30(3) and (6)	—
Article 41(3)	Article 30(3) and (7)(a)	—
Article 41(4)	—	—
Article 41(5)	Article 30(10)	—
Article 41(6)	—	—
Article 42	Article 31(1)(b)	—
Article 43(1)	Article 34(1), (2) and (3)	—
Article 43(2)	—	—
Article 43(3)	Article 34(4)	—
Article 44	—	—
Article 45	—	—
Article 46	—	—
Article 47	—	—
Article 48	—	—
Article 49	—	—
Article 50	—	—
Article 51	—	—
Article 52	—	—
Article 53	—	—
Article 54	—	—
Article 55	—	—
Article 56	—	—
Article 57	—	—
Article 57a	Article 20 and Annex VII	—
Article 58	—	—
Article 59	—	—
Article 60	—	—
Article 61	—	—
Article 62	—	—
Article 63	—	—
Article 64	—	—

Article 65	—	—
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Article 76	—	—
Article 77	—	—
Article 78	—	—
Article 79	—	—
Article 80	—	—
Article 81	—	—
Article 82	—	—
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