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► **B****COMMISSION REGULATION (EEC) No 3887/92**

of 23 December 1992

**laying down detailed rules for applying the integrated administration and control system for certain
Community aid schemes**

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► <u>M1</u> Commission Regulation (EC) No 229/95 of 3 February 1995	L 27	3	4.2.1995
► <u>M2</u> Commission Regulation (EC) No 1648/95 of 6 July 1995	L 156	27	7.7.1995
► <u>M3</u> Commission Regulation (EC) No 2015/95 of 21 August 1995	L 197	2	22.8.1995
► <u>M4</u> Commission Regulation (EC) No 1678/98 of 29 July 1998	L 212	23	30.7.1998
► <u>M5</u> Commission Regulation (EC) No 2801/1999 of 21 December 1999	L 340	29	31.12.1999

Corrected by:

- **C1** Corrigendum, OJ L 230, 18.8.1998, p. 30 (3887/92)
- **C2** Corrigendum, OJ L 80, 25.3.1999, p. 34 (1648/95)

NB: This consolidated version contains references to the European unit of account and/or the ecu, which from 1 January 1999 should be understood as references to the euro — Council Regulation (EEC) No 3308/80 (OJ L 345, 20.12.1980, p. 1) and Council Regulation (EC) No 1103/97 (OJ L 162, 19.6.1997, p. 1).

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COMMISSION REGULATION (EEC) No 3887/92
of 23 December 1992

laying down detailed rules for applying the integrated administration and control system for certain Community aid schemes

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 3508/92 of 27 November 1992 establishing an integrated administration and control system for certain Community aid schemes⁽¹⁾ (hereinafter called 'integrated system'), and in particular Article 12 thereof,

Whereas the purpose of the integrated system is, first and foremost, to enable the reform of the common agricultural policy to be implemented efficiently and in particular to solve the administrative problems caused by the reform having introduced several area-linked aid schemes; whereas certain clarifications necessary for applying the concepts of agricultural parcel and forage area should be made;

Whereas the agricultural holding is the reference unit for administering the abovementioned aid schemes; whereas to prevent the stabilizing effects of the reform on agricultural production from being evaded by the artificial splitting up of existing holdings or creation of holdings, Member States should be obliged to take the necessary measures to this effect, taking into account in particular the jurisprudence of the Court of Justice relating to the notion of a holding as well as the general principle of forbidding the abuse of rights;

Whereas, having regard to the existing identification system, the Member States should be authorized to set up their systems for identifying areas with the aid of units other than agricultural parcels; whereas, however, this possibility should be accompanied by certain obligations in order to ensure that the identification is reliable;

Whereas the compulsory content of the 'area' aid application should be specified, along with the conditions on which it may be amended after the deadline for its submission; whereas provision should also be made for the set-aside declaration and the declaration concerning non-food products to be submitted with the 'area' aid application; whereas farmers applying only for aid which is not linked to area should be exempted from the requirement to submit such an application and the administrative treatment of producer groups in the sheep and goat sector should be clarified; whereas, moreover, if there is to be effective monitoring each Member State should determine the minimum size of agricultural parcel which may be declared in the application;

Whereas, so as to simplify the work as much as possible for farmers, in certain cases it should be possible to submit the 'area' aid application together with a 'livestock' aid application provided that this does not reduce the possibility of control;

Whereas there should also be an across-the-board definition of the particulars to be included in 'livestock' aid applications, having regard to the requirements of administering the premium schemes concerned;

Whereas compliance with the provisions on Community aid must be effectively monitored; whereas to this end it is necessary to set out in detail the criteria and technical procedures for carrying out administrative and on-the-spot checks in respect of both 'livestock' and 'area' aid; whereas, in the light of experience with on-the-spot checks, risk analysis should be applied when determining minimum checking rates and the factors to be taken into consideration should be specified; whereas, for monitoring purposes, there should be provision for a retention period in the case of the compensatory allowance also;

⁽¹⁾ OJ No L 355, 5. 12. 1992, p. 1.

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Whereas the conditions for the use of remote sensing for on-the-spot checks should be laid down and provision should be made for physical checks to be required in doubtful cases; whereas, in order to encourage Member States in their efforts to develop remote sensing and its practical application for monitoring purposes, there should be provision for the Community to make a financial contribution to the cost of photo interpretation and the conditions for such contribution should be laid down; whereas this financial contribution does not affect the part-financing provided for in Article 10 of Regulation (EEC) No 3508/92;

Whereas, in the light of experience and having regard to the principle of proportionality and the special problems linked to cases of *force majeure* and natural circumstances, provisions should be adopted to prevent and penalize irregularities and fraud effectively; whereas, to this end, having regard to the specific features of the 'area' schemes on the one hand and the 'livestock' schemes on the other, there should be sanctions graded according to the gravity of the irregularity committed, going as far as total exclusion from a scheme for the year in question and the year thereafter;

Whereas provision should be made for the beneficiary to repay with interest any amount wrongly paid; whereas the amounts recovered and the interest collected must be credited to the EAGGF in accordance with the principles set out in Article 8 (2) of Council Regulation (EEC) No 729/70 of 21 April 1970 on the financing of the common agricultural policy ⁽¹⁾, as last amended by Regulation (EEC) No 2048/88 ⁽²⁾;

Whereas the management of small amounts is by nature a burdensome task for the competent services of Member States the possibility not to pay amounts of aid which are smaller than a certain minimum limit and not to request reimbursement of wrongly paid amounts when the sums involved are minimal;

Whereas it is necessary to create an administrative framework for the part-financing provided for in Article 10 of Regulation (EEC) No 3508/92 and to lay down the procedural rules for the payment of advances, the definitive acceptance of the expenditure declared by Member States and the redistribution of amounts which are not used by the Member States and to which they are entitled;

Whereas the integrated system will not be applicable in its entirety until 1 January 1996 at the latest; whereas, without prejudice to the obligations arising from Article 8 (1) of Regulation (EEC) No 729/70, it is therefore indispensable to oblige the Member States to avoid any lack of administration or control meanwhile by adopting the necessary measures at national level; whereas Member States must inform the Commission regularly of the measures taken to implement the integrated system and the results obtained;

Whereas, taking into account the date of entry into force of this Regulation it would be appropriate to exclude the premium for ewes and for goats and the compensatory allowance from the application of the integrated system during 1993;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Fund Committee,

HAS ADOPTED THIS REGULATION:

TITLE 1

GENERAL*Article 1*

This Regulation lays down detailed rules for applying the integrated administration and control system introduced by Regulation (EEC)

⁽¹⁾ OJ No L 94, 28. 4. 1970, p. 13.

⁽²⁾ OJ No L 185, 15. 7. 1988, p. 1.

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No 3508/92. It shall be without prejudice to specific provisions adopted in the Regulations covering the individual aid schemes.

Article 2

1. For the purposes of this Regulation:
 - (a) a parcel that both contains trees and is used for crop production covered by Article 1 of Regulation (EEC) No 3508/92 shall be considered an agricultural parcel provided that the production envisaged can be carried out in a similar way as on parcels without trees in the same area;
 - (b) where a forage area is used in common, the competent authorities shall assign it between the individual farmers in proportion to their use or right of use of it;
 - (c) each forage area must be available for rearing animals for a minimum period of seven months, starting on a date to be determined by the Member State, which must be between 1 January and 31 March.
2. Member States shall take the measures necessary to avoid that the conversion of existing holdings or the creation of holdings after 30 June 1992 leads to the patently improper avoidance of the provisions relating to the individual limits on eligibility for premiums or land set-aside requirements imposed under the schemes indicated in Article 1 of ►C1 Regulation (EEC) No 3508/92 ◀.
3. For the purposes of the integrated system, if a forage area is situated in a Member State other than that in which the principal place of business of the farmer using it is situated, that area shall be deemed at the request of the applicant to be part of the holding of that farmer provided:
 - it is situated in the immediate vicinity of the holding, and
 - a major part of all the agricultural land used by that farmer is situated in the Member State in which he has his principal place of business.

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4. Member States may decide not to grant any aid if the amount per aid application does not exceed EUR 50.

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TITLE II

IDENTIFICATION*Article 3*

The identification system indicated in Article 4 of Regulation (EEC) No 3508/92 shall operate at agricultural parcel level. Member States may provide that another unit, such as the cadastral parcel or production block, be used instead of the agricultural parcel. In such cases Member States shall take the action required to ensure that agricultural parcels are reliably identified and in particular shall require that 'area' aid applications be furnished with particulars or accompanied by documents specified by the competent authority that will enable each agricultural parcel to be located and measured.

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TITLE III
AID APPLICATIONS

Article 4

1. Without prejudice to the requirements set out in regulations on individual aid schemes, 'area' aid application shall contain all necessary information, in particular:

— the identity of the farmer,

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— particulars permitting identification of all agricultural parcels on the holding, their area expressed in hectares to two decimal places, location, use, whether the parcel is irrigated, and the aid scheme concerned,

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— a statement by the producer that he is aware of the requirements pertaining to the aids in question.

By 'use' is meant the type of crop or ground cover or the absence of a crop.

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Uses not falling within the scope of the integrated system shall be declared under one or more 'other uses' headings. However, the following uses shall be declared separately:

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— production of forage intended for drying, whether artificially dehydrated or sundried, as referred to in Council Regulation (EC) No 603/95⁽¹⁾,

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— support pursuant to agri-environment (Title II, Chapter VI and Article 55(3) of Council Regulation (EC) No 1257/1999⁽²⁾),
— area-based afforestation support (Title II, Chapter VIII and Article 55(3) of Regulation (EC) No 1257/1999),

▼M4

— cotton, as referred to in Council Regulation (EC) No 1554/95⁽³⁾,
— hops, as referred to in Council Regulation (EEC) No 1696/71⁽⁴⁾,
— flax and hemp, as referred to in Council Regulation (EEC) No 1308/70⁽⁵⁾.

▼M5

2. (a) After the time limit for its submission the 'area' aid application may be amended provided that the competent authority receives the amendments not later than the date laid down for sowing in, or fixed in accordance with Council Regulation (EC) No 1251/1999⁽⁶⁾ and that the following conditions are respected:

- (i) where agricultural parcels are concerned, amendments may be made only in particular cases that are properly documented, in particular death, marriage, purchase or sale or conclusion of a tenancy contract. Member States shall determine the conditions applying thereto. However, a set-aside or forage area parcel may not be added to parcels already declared except in cases which are duly justified under the provisions concerned and on condition that the parcel has already been accounted for as set-aside or forage area in the aid application of another farmer, the latter application being corrected accordingly;
- (ii) changes of use or aid scheme shall be permitted. However, a parcel may not be added to parcels declared as set aside.

⁽¹⁾ OJ No L 63, 21. 3. 1995, p. 1.

⁽²⁾ OJ L 160, 26.6.1999, p. 80.

⁽³⁾ OJ L 148, 30. 6. 1995, p. 48.

⁽⁴⁾ OJ L 175, 4. 8. 1971, p. 1.

⁽⁵⁾ OJ L 146, 4. 7. 1970, p. 1.

⁽⁶⁾ OJ L 160, 26.6.1999, p. 1.

▼M5

By derogation from the first subparagraph and even after the date laid down for sowing in, or fixed in accordance with Regulation (EC) No 1251/1999, a Member State may authorise that an area be withdrawn from the 'area' aid application. The amendment must be notified in writing before any communication is made by the competent authority with regard either to the results of the administrative controls which affect the parcels in question or to the organisation of an on-the-spot check of the holding concerned.

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- (b) When a farmer decides during the period within which changes may be introduced, to use a parcel for a crop which falls within the scope of the integrated system which had not been used for such a crop, an 'area' aid application may still be introduced within that period.

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3. If an 'area' aid application relates only to permanent pasture the Member State may provide that it may be submitted at the same time as the first 'livestock' aid application by the farmer in question lodged after the date laid down for the submission of the other 'area' aid applications in the Member State concerned, and not later than 1 July.

4. Set-aside declarations and crop declarations under the non-food product crop scheme shall be made along with the 'area' application or comprise part of it. However, for 1993 the Member States may set an earlier date for the submission of applications.

5. An 'area' aid application need not be submitted by farmers applying for only:

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- the special premium for male bovine animals and/or the suckler cow premium who are exempted from the stocking rate requirement and do not apply for extensification premium,
- the slaughter premium in accordance with Article 11 of Council Regulation (EC) No 1254/1999⁽¹⁾,

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- the deseasonalization premium,
- the ewe or she-goat premium.

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6. The 'area' aid application of a producer who is a member of a producer group as defined in Article 1(2) of Council Regulation (EEC) No 3493/90⁽²⁾, and who for the same calendar year applies for both the ewe or she-goat premium and for aid under another Community scheme shall include all the agricultural parcels used by the group. In such cases the forage area shall be assigned to the producers concerned in proportion to their individual limits as specified in Article 6 of Council Regulation (EC) No 2467/98⁽³⁾, valid on 1 January of the year concerned.

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7. For the sake of effective control each Member State shall determine the minimum size of agricultural parcel in respect of which an application may be made. However, the minimum size may not exceed 0,3 ha.

Article 5

►M5 ————— ◀ Without prejudice to the requirements pertaining to application for aid under individual schemes the 'livestock' aid application shall contain all necessary information, in particular:

- the identity of the farmer,

⁽¹⁾ OJ L 160, 26.6.1999, p. 21.

⁽²⁾ OJ L 337, 4.12.1990, p. 7.

⁽³⁾ OJ L 312, 20.11.1998, p. 1.

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- a reference to the 'area' aid application if this has already been submitted, except in cases covered by Article 4 (5),
- the number of animals of each species in respect of which any aid is applied for,
- where applicable, an undertaking by the applicant to keep these animals on his holding during the retention period and information on the location or locations where the animals will be held including, where applicable, the period or periods concerned and, for cattle, the identity numbers of the animals; when the location changes during that period the farmer is obliged to inform the competent authority in writing in advance,
- where applicable, the individual limit or individual ceiling for the animals concerned,

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- where applicable, the individual milk reference quantity allocated to the producer on 31 March preceding the beginning of the 12-month period of application of the additional levy scheme starting in the calendar year concerned; where this quantity is unknown on the date on which the application is submitted, it shall be notified to the competent authority at the earliest opportunity,

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- a statement by the farmer that he is aware of the requirements pertaining to the aids in question.

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The Member State may decide that some of this information need not be included in the aid application, where that information has already been communicated to the competent authority. The Member States may also provide that some of this information can or shall be forwarded via a body or bodies approved by the Member State.

However, the applicant shall remain responsible for the transmitted data in relation to the competent authority. The Member State shall provide that the farmer has the possibility for redress if incorrect or incomplete data are transmitted, provided that the applicant is not at fault.

Article 5a

Member States may permit, with appropriate safeguards, applications within the meaning of Articles 4 and 5 to be submitted by electronic transmission. In this event, appropriate measures shall be taken to ensure that:

- (a) all the requirements referred to in Articles 4 and 5 are met and the applicant is unambiguously identified;
- (b) all the necessary accompanying documents are received by the competent authorities within the same time limits as in the case of applications submitted via traditional channels;
- (c) there is no discrimination between producers using traditional channels and those opting for electronic transmission;
- (d) the financial interests of the European Community within the meaning of Article 8 of Council Regulation (EC) No 1258/1999⁽¹⁾ are adequately safeguarded.

Article 5b

Without prejudice to Articles 4, 5 and 5a, an aid application may be adjusted at any time after its submission, in cases of obvious errors recognised by the competent authority.

⁽¹⁾ OJ L 160, 26.6.1999, p. 103.

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TITLE IV
CONTROL

Article 6

1. Administrative and on-the-spot checks shall be made in such a way as to ensure effective verification of compliance with the terms under which aids and premiums are granted.

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2. The administrative checks referred to in Article 8(1) of Regulation (EEC) No 3508/92 shall include in particular:

- (a) cross-checks on declared parcels and animals in order to ensure that the same aid is not granted more than once in respect of the same calendar/marketing year and to prevent any undue cumulation of aid granted under Community aid schemes involving declarations of areas;
- (b) once the computerised database is fully operational in accordance with Article 5 of Council Regulation (EC) No 820/97⁽¹⁾, cross-checks with a view to ensuring that Community aid is granted only for bovine animals for which the births, movements and deaths have been duly notified to the competent authority referred to in Article 7(1) of Council Regulation (EC) No 820/97;
- (c) where the computerised database is fully operational in accordance with Article 5 of Regulation (EC) No 820/97, cross-checks with a view to ensuring that payments of premium pursuant to the aid schemes laid down in Article 4(6) and Article 11 of Regulation (EC) No 1254/1999 are made only to producers who have respected their obligations relating to retention periods stipulated in Commission Regulation (EC) No 2342/1999⁽²⁾.

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3. On-the-spot checks shall cover at least a significant percentage of applications. The significant percentage shall represent at least:

— 10 % of 'livestock' aid applications or participation declarations,

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— 5 % of 'area' aid applications.

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Should on-the-spot checks reveal significant irregularities in a region or part of a region the competent authority shall make additional checks during the current year in that area and shall increase the percentage of applications to be checked in the following year.

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3a. As regards 'livestock' aid applications or participation declarations, the Member State may decide to reduce the 10 % rate for on-the-spot checks, referred to in paragraph 3, to 5 % where a fully operational computerised database in accordance with Article 5 of Regulation (EC) No 820/97, enabling the Member State to conduct effective cross checks in the framework of the integrated system, has been in place for at least one year. The database shall offer adequate assurances as to the accuracy of the data it contains for the purposes of the different animal aids or related payments concerned.

As from the year when the on-the-spot checks are conducted at the minimum 5 % level, these checks shall be conducted wholly within the retention period until such time as the rate of irregularity detected at the on-the-spot checks, and expressed in terms of number of animals, represents no more than 2 % of the animals checked. The previous sentence shall not apply to animal checks under the aid schemes in Article 4(6) and Article 11 of Regulation (EC) No 1254/1999.

⁽¹⁾ OJ L 117, 7.5.1997, p. 1.

⁽²⁾ OJ L 281, 4.11.1999, p. 30.

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4. Applications subjected to on-the-spot checking shall be selected by the competent authority on the basis of a risk analysis and an element of representativeness of the aid applications submitted. The risk analysis shall take account of:

- the amount of aid involved,
- the number of parcels and the area or number of animals for which aid is requested,
- changes from the previous year,
- the findings of checks made in past years,
- other factors to be defined by the Member State,

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— infringements of Regulation (EC) No 820/97.

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5. On-the-spot checks shall be unannounced. Advance warning limited to the strict minimum necessary may however be given, although as a general rule, this should not exceed 48 hours.

On-the-spot checks shall cover all the agricultural parcels for which aid is requested under Community schemes within the meaning of Article 1(1) of Regulation (EC) No 3508/92. However, the actual inspection in the field in the framework of the on-the-spot check may be limited to a sample of at least half of the agricultural parcels for which applications have been submitted. The Member States shall establish and apply the criteria for the selection of the sample. In the event that errors are found, the sample shall be extended.

On-the-spot checks concerning livestock premiums shall cover all livestock which are to be controlled under an aid scheme. At least 50 % of the minimal checks on animals shall be made during the retention period. The previous sentence shall not apply to animal checks under the aid schemes in Article 4(6) and Article 11 of Regulation (EC) No 1254/1999. Checks may be effected outside the retention period only if the registers provided for in Article 4 of Directive 92/102/EEC or Article 3(d) of Regulation (EC) No 820/97 are available.

On-the-spot checks under this Regulation shall, where appropriate, be carried out together with checks provided for under other Community rules.

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6. On-the-spot checks of livestock for the aid scheme concerned shall include in particular:

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- (a) a check that the total number of animals present on the holding, and eligible for the scheme concerned, corresponds to the number of such eligible animals entered in the farmer's register and notified to the computerised database in accordance with Article 7 of Regulation (EC) No 820/97;
- (b) a check on the basis of the register kept by the producer that all the animals for which aid applications were submitted in the 12 months prior to the on-the-spot check have been kept throughout the retention period and that the data are the same as notified to the database. When the Member State applies Article 6(3a) and has already checked adherence to the retention period by means of the data held in the database created in accordance with Article 5 of Regulation (EC) No 820/97, this part of the on-the-spot check may be made by a representative sampling;

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- (c) a check of the register by sampling of supporting documents such as purchase and sales invoices, slaughter certificates, veterinary certificates and passports as provided for in Article 6 of Regulation (EC) No 820/97;

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- (d) a check that all bovine animals present on the holding, for which aid applications have been lodged or which may be the subject of future aid applications, are identified by eartags and passports and recorded

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in the farmer's register and notified to the computerised database in accordance with Regulation (EC) No 820/97.

The check provided for in the first subparagraph, point (d), shall be made individually for all male bovines for which an application has been submitted for special beef premium. However, for all other bovine animals eligible for Community aid which are present on such holdings, the check on correct recording in the register and entries in the database may be made by sampling provided that a reliable and representative level of control is achieved.

6a. As regards the special beef premium referred to in Article 4(6) and the slaughter premium referred to in Article 11 of Regulation (EC) No 1254/1999, on-the-spot checks in the slaughterhouses shall be carried out in at least 30 % of all participating slaughterhouses, selected on the basis of a risk analysis. They shall comprise *a posteriori* scrutiny of documents and physical checks and a comparison with the entries in the database in accordance with Article 7 of Regulation (EC) No 820/97. On-the-spot checks in the slaughterhouses shall also cover the summaries relating to the slaughter certificates (or information in place thereof) which were sent to other Member States as referred to in Article 35(3) of Commission Regulation (EC) No 2342/1999.

The checks in the slaughterhouses shall relate to no less than 5 % of the total number of animals for which premium has been claimed in respect of a given year.

Where necessary, the physical checks in the slaughterhouses shall include also a verification that the carcasses presented for weighing are eligible for premium. The competent control authority shall keep records of such checks including, *inter alia*, identification numbers and carcass weights of all animals slaughtered and checked during the on-the-spot check concerned.

As regards the premium granted for animals exported to third countries, the Member States shall ensure that at least 10 % of the animals for which a premium is claimed or is expected to be claimed are subject to an identification check at the time of loading for export and at the time of the departure from the Community territory.

The 5 % and 10 % rate of sampling provided in subparagraphs 2 and 4 shall be representative. The Member State may reduce the rate of 30 % provided in subparagraph 1 to 15 % under the conditions laid down in paragraph 3a.

6b. As regards the extensification premium provided by Article 13 of Regulation (EC) No 1254/1999, the on-the-spot check shall consider all animals as provided in Article 13(3)(a) of that Regulation. The on-the-spot check shall include particularly a verification that the total number of animals present on the holding corresponds to the number of animals entered in the farmer's register and notified to the computerised database in accordance with Article 7 of Regulation (EC) No 820/97. The correctness of the entries in the register and in the database shall be checked and, if appropriate and necessary, a sampling of supporting documents such as purchase and sales invoices, slaughter certificates, veterinary certificates and passports as provided for in Article 6 of Regulation (EC) No 820/97 shall be carried out.

6c. Where sample checks reveal serious anomalies, the extent and scope of the check shall be increased to ensure an appropriate level of control.

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7. Agricultural parcel areas shall be determined by any appropriate means defined by the competent authority which ensure measurement of a precision at least equivalent to that required for official measurements under the national rules. The competent authority shall set a tolerance margin taking account of the measuring method used, the accuracy of the official documents available, local factors (such as slope, shape of parcel) and the provisions of the following subparagraph.

The total area of an agricultural parcel may be taken into account provided that it is fully utilized according to the customary standards of

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the Member State or region concerned. In other cases the area actually utilized shall be taken into account.

8. The eligibility of agricultural parcels shall be verified by any appropriate means. To this end additional proof shall be requested where necessary.

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9. As regards the additional payments as referred to in Article 15 of Regulation (EC) No 1254/1999 the Member State shall, as far as appropriate, apply the control rules as laid down in paragraphs 1 to 6c. If the application of the said rules is not appropriate because of the structure of the additional payment scheme, the Member State shall provide controls ensuring a control level equivalent to the principles laid down in this Regulation.

▼B*Article 7*

1. Should a Member State decide to use remote sensing on all or part of the sample referred to in Article 6 (3) it shall:

- perform photo interpretation of satellite images or aerial photographs of all parcels to be checked with a view to recognizing the ground cover and measuring the area,
- check on the spot all applications for which photo interpretation does not verify the accuracy of the declaration to the satisfaction of the competent authority.

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If a Member State makes use of remote sensing the additional checks referred to in Article 6 shall be carried out by means of traditional on-the-spot checks if it is no longer possible to carry them out by means of remote sensing within the current year.

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2. Without prejudice to the part-financing provided for in Article 10 of Regulation (EEC) No 3508/92, the Community may, within the limit of the appropriations allocated for that purpose, contribute to the cost of the operations provided for in the first indent of paragraph 1, provided that they are planned jointly with the Commission. The funds available will be assigned in the proportions specified in the Annex.

▼M5*Article 7a*

1. Every on-the-spot check shall be the subject of a report.
2. In the case of on-the-spot checks related to aid applications, the report shall set out, in particular:
 - (a) the reason for the visit;
 - (b) the aid schemes and applications checked;
 - (c) the persons present;
 - (d) the number of parcels checked, the number measured and the results per parcel as well as the measuring methods used;
 - (e) the number of animals of each species found and, where applicable, the eartag numbers and entries in the register and in the computerised database checked, the results of the checks and, where applicable, special observations in respect of particular identification numbers.

The farmer or his representative may sign the report. He may either merely attest his presence at the check or also add his observations.

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Where Member States carry out on-the-spot checks pursuant to this Regulation in conjunction with inspections pursuant to Commission Regulation (EC) No 2630/97⁽¹⁾, the report shall be supplemented by reports in accordance with Article 2(5) of that Regulation.

3. With regard to the checks in slaughterhouses provided by Article 6(6a), first subparagraph, the reports may consist of an indication in the slaughterhouse accounts system what animals have been subject to control.

With regard to the checks on the identity of individual animals at the time of their loading for export and their departure from the Community territory provided by Article 6(6a), fourth subparagraph, a simplified report indicating the animals so controlled shall suffice.

4. Where on-the-spot checks conducted in accordance with Article 6(5) of this Regulation reveal infringements of Regulation (EC) No 820/97, copies of reports on on-the-spot checks pursuant to this Regulation shall be sent without delay to the authorities responsible for the implementation of Regulation (EC) No 2630/97.

Article 7b

Except in cases of *force majeure*, the application shall be rejected if an on-the-spot check cannot be made through the fault of the farmer or his representative.

▼B*Article 8*

1. Except in cases of *force majeure*, late lodgement of an aid application shall lead to a 1 % reduction per working day in the amounts affected by the application, to which the farmer would have been entitled if the application had been lodged within the deadline. If the delay amounts to more than ►M2 25 ◀ days the application shall be considered inadmissible and no aid shall be granted.

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For the purpose of this Article, ‘application’ means an ‘area’ aid application, a ‘livestock’ aid application and an amendment to an ‘area’ aid application as referred to in Article 4(2).

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2. Late submission of, or failure to submit, an application other than the ‘livestock’ aid application concerned shall not entail reductions or exclusion from the aid schemes referred to in Article 4 (5).

Article 9

1. If the area actually determined is found to be greater than that declared in the ‘area’ aid application, the area declared shall be used for calculation of the aid.

2. If the area actually determined is found to be less than that declared in an ‘area’ aid application, the area actually determined on inspection shall be used for calculation of the aid. However, except in cases of *force majeure*, the area actually determined on inspection shall be reduced ►M2 by twice the difference found if this is more than 3 % or two hectares but not more than 20 % of the determined area. ◀

If the difference is more than 20 % of the determined area no area-linked aid shall be granted.

▼M5**▼B**

These reductions shall not be applied if the farmer can show that his determination of the area was accurately based on information recognized by the competent authority.

⁽¹⁾ OJ L 354, 30.12.1997, p. 23.

▼ M5

Forage areas, set-aside areas and each arable crop area for which a different aid rate is applicable shall be treated exclusively and separately for the purposes of applying paragraphs 1 and 2.

▼ B

Where a farmer has not met all the obligations incumbent on him in regard to parcels fallowed for non-food production purposes these shall, on the occasion of inspection for the purposes of application of this Article, be considered not to have been found.

▼ M4

For the purposes of this Article, 'determined area' means the area for which all of the conditions laid down in the rules have been met, including the following provisions:

▼ M5

- for rape seed and for sunflower: Article 4 of Commission Regulation (EC) No 2316/1999⁽¹⁾,
- for linseed: The direct payment shall be granted only if the linseed is produced from seeds of flax varieties considered as other than those intended mainly for the production of fibres referred to in Article 1 of Regulation (EEC) No 1308/70,
- for durum wheat: Article 6(4) and (5) of Regulation (EC) No 2316/1999.

With regard to areas declared and actually sown in durum wheat, where a discrepancy is found between the minimum quantity of certified seed fixed by the Member State and the quantity actually used, 'determined area' shall mean the area calculated by dividing the total quantity of certified seed for which the producer has furnished proof of use by the minimum quantity per hectare laid down by the Member State for the region of the producer in question. The area thus determined is used, after application of the aforementioned reductions, for the calculation of the right to the supplement or to the specific aid provided for at Article 5 of Regulation (EC) No 1251/1999.

3. In the case of a false declaration made intentionally or as a result of serious negligence:

- (a) the farmer in question shall be excluded from the aid scheme concerned referred to in Article 1(1) of Regulation (EEC) No 3508/92 for the calendar year in question, and
- (b) in the case of a false declaration intentionally made, moreover, from any aid scheme referred to in Article 1(1) of Regulation (EEC) No 3508/92 for the following calendar year, in respect of an area equal to that for which his aid application was rejected.

4. The areas established in accordance with the provisions of paragraphs 1 to 3 for the purpose of calculating the aid shall be used for the calculation of the limit of the premiums referred to in Article 12 of Regulation (EC) No 1254/1999.

The calculation of the maximum eligible area for the area payments to arable crop producers shall be made on the basis of the area of set-aside land actually determined and on a pro rata basis for each crop concerned.

▼ M4**▼ M5***Article 10*

1. Where an individual limit or individual ceiling is applicable, the number of animals shown in aid applications shall be reduced to the limit or ceiling set for the farmer concerned.

⁽¹⁾ OJ L 280, 30.10.1999, p. 43.

▼M5

2. In no case may aid be granted on a greater number of animals than that shown in the aid application.
3. Without prejudice to Article 10b, if the number of animals declared in an aid application exceeds that established during administrative or on-the-spot-checks carried out in accordance with Article 6, the aid shall be calculated on the number of eligible animals established.
4. If a farmer has been unable to comply with his retention undertaking as a result of *force majeure* he shall retain his right to aid in respect of the number of animals actually eligible at the time when the case of *force majeure* occurred.
5. In cases where, owing to the impact of natural circumstances on the herd, the farmer cannot meet his commitment to keep the animals notified for a premium throughout the compulsory retention period, he shall be entitled to the premium for the number of eligible animals actually kept throughout the period, provided that he has informed the competent authority in writing within 10 working days of finding any reduction in the number of animals. Without prejudice to the actual circumstances to be taken into account in individual cases, the competent authorities may recognise, in particular, the following cases of natural circumstances of the herd:
 - (a) death of an animal as a consequence of a disease;
 - (b) death of an animal following an accident for which the farmer cannot be held responsible.

Article 10a

1. Bovine animals present on the holding shall not be counted for premium unless identified in the aid application.
2. However, a suckler cow or heifer declared for the premium in accordance with Article 6 of Regulation (EC) No 1254/1999 may be replaced within the limits provided by Article 6(2) of Regulation (EC) No 1254/1999 by another suckler cow or heifer.
3. As regards suckler cows and heifers kept in mountain areas in accordance with Article 10 of Regulation (EC) No 1254/1999, a suckler cow can be replaced only by a suckler cow and a heifer by a heifer.
4. As regards Article 13(4) of Regulation (EC) No 1254/1999, a dairy cow can be replaced only by another dairy cow.
5. The replacement shall occur within 20 days of the animal's departure from the holding and shall be entered in the farmer's register not later than three days after the day of replacement. The competent authority to which the premium application was submitted shall be informed within 10 working days after the replacement.
6. The Member State may decide not to apply the obligation of notification provided in the previous paragraph when its computerised database in accordance with Article 5 of Regulation (EC) No 820/97 offers adequate assurances as to the accuracy of the data it contains for the purposes of the control of the replacements. The Member State shall take the replacements into account in the selection of aid applications for on-the-spot checks.

Article 10b

1. If the administrative or on-the-spot check finds a difference between the animals declared in the aid application and the animals established and eligible, the aid shall, except in cases of *force majeure* and after Article 10(5) has been applied as regards natural circumstances, be reduced pursuant to paragraph 2.
2. Where the application concerns a maximum of 20 animals, the amount of the aid shall be reduced:
 - (a) by the percentage corresponding to the difference found if this is not more than two animals, or

▼ **M5**

- (b) by twice the percentage corresponding to the difference found if this is more than two but not more than four animals.

If the difference is greater than four animals, no premium shall be granted.

In other cases, the amount of the aid shall be reduced:

- (a) by the percentage corresponding to the difference found if this is not more than 5 %, or.
- (b) by twice the percentage corresponding to the difference found if this is more than 5 % but not more than 20 %.

If the difference found is more than 20 %, no aid shall be granted.

The percentages mentioned in points (a) and (b) of the first subparagraph shall be calculated on the basis of the number declared, and those mentioned in points (a) and (b) of the third subparagraph on the basis of the number found.

Article 10c

1. As regards bovine animals other than those covered by Article 10b, where on-the-spot checks reveal that the number of animals present on the holding and eligible for or relevant to Community aids does not correspond to:

- (a) the animals notified to the computerised database in accordance with Article 7 of Regulation (EC) No 820/97;
- (b) the animals entered in the farmer's register in accordance with Article 7 of Regulation (EC) No 820/97;
- (c) the passports of animals held on the holding in accordance with Article 6 of Regulation (EC) No 820/97,

the total amount of the aid granted to the applicant for the aid scheme concerned for the 12 months prior to the on-the-spot check revealing such findings shall, except in cases of *force majeure*, be reduced proportionately.

The reduction shall be calculated on the basis of the number of all animals present for the scheme concerned or entries in the computerised database in accordance with Article 5 of Regulation (EC) No 820/97 or passports or farmer's register entries whereby the lowest figure shall be taken.

2. However, with regard to errors or omissions concerning entries in the farmer's register or the passports, a reduction in accordance with paragraph 1 shall apply only when such findings are revealed on at least two checks within a period of 24 months.

3. If the difference found during an on-the-spot check is greater than 20 % of the number of eligible animals established, no premium shall be granted for the 12 months prior to the on-the-spot check.

Article 10d

As regards bovine animals, an animal established within the meaning of Articles 10 and 10b at the time of an on-the-spot check is one which:

- (a) is individually identified by a passport in accordance with Article 6 of Regulation (EC) No 820/97, which indicates at least the date of birth, sex, movements and death within the meaning of the second indent of Article 7(1) of Regulation (EC) No 820/97;
- (b) has been recorded in the computerised database in accordance with Article 5 of Regulation (EC) No 820/97 and is properly recorded in the farmer's register in accordance with Article 7 of that Regulation;
- (c) is individually identified by eartags provided for by Article 4 of Regulation (EC) No 820/97;
- (d) in the case of an animal declared for Community aid, is found at the location notified by the applicant in accordance with the fourth indent of Article 5(1) of this Regulation.

▼M5

However, a bovine animal which has lost one of the two eartags shall be regarded as being established providing that it is clearly and individually identified by all other relevant conditions mentioned in the first subparagraph. Furthermore, as regards bovine animals incorrectly entered in the computerised database in accordance with Article 5 of Regulation (EC) No 820/97 or in the farmer's register or for which passports issued are incorrectly completed due to reasons attributable to the applicant with regard to the date of birth, sex, movements and death, Community aid shall be reduced in accordance with Articles 10, 10b or 10c only if such omissions are established on at least two checks within a period of 24 months.

Article 10e

1. Where it is found that, in view of animal premium, a false declaration in the aid application, farmer's register, passport or a false notification to the database referred to in Article 7(1) of Regulation (EC) No 820/97 or a false declaration of the number of livestock units or animals as referred to in the first indent of the third subparagraph of paragraph 3 of Article 32 of Regulation (EC) No 2342/1999 was made as a result of serious negligence, the farmer in question shall be excluded from the aid scheme concerned for the calendar year in question. In the case of a false declaration made intentionally, he shall be excluded from the same aid scheme for the following calendar year as well.

2. As regards the declarations or certificates issued by slaughterhouses in connection with the slaughter premium as laid down in Article 35 of Regulation (EC) No 2342/1999, if it is found that the slaughterhouse gave a false certification or declaration as a result of serious negligence or intentionally, the Member State shall apply appropriate national sanctions. If such findings are established a second time the slaughterhouse involved shall be excluded for a period of at least one year from the right to make declarations or to issue certificates valid for premium purposes.

Article 10f

For the purposes of Articles 10 to 10e, animals eligible for different Community aids shall be treated separately.

Article 10g

As regards the additional payments as referred to in Article 14 of Regulation (EC) No 1254/1999 the Member State shall, as appropriate, apply rules regarding sanctions as laid down in Articles 9 to 10f. If the application of sanctions in respect of the abovementioned rules is not appropriate because of the structure of the additional payment scheme implemented in the Member State, the Member State shall provide equivalent suitable sanctions in proportion to the failure of, the producer.

▼B*Article 11*

1. The penalties laid down in this Regulation shall be without prejudice to additional penalties laid down at national level.

▼M4

1a. The penalties applicable according to Articles 9 and 10 shall not be imposed in cases where the farmer, on finding that the application which he has lodged contains errors other than those made intentionally or by serious negligence incurring one or more of the said penalties, within 10 working days of finding these errors, informs the competent authority in writing, provided that the authority has not notified the farmer of its intention to carry out an on-the-spot control, the farmer has not been able to learn of this intention in any other way and the authority has not already informed the farmer of the irregularity in the application.

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2. A case of *force majeure* with relevant evidence to the satisfaction of the competent authority must be lodged in writing with the authority

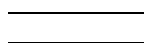
▼B

within 10 working days of the date on which the farmer is in a position to do so.

3. Without prejudice to the actual circumstances to be taken into account in individual cases, the competent authorities may recognize, in particular, the following cases of *force majeure*:

- (a) the death of the farmer;
- (b) long-term professional incapacity of the farmer;
- (c) expropriation of a major part of the agricultural land managed by the farmer if such expropriation could not be anticipated on the day the application was lodged;
- (d) a severe natural disaster gravely affecting the holding's agricultural land;
- (e) the accidental destruction of livestock buildings on the holding;
- (f) an epizootic affecting part or all of the farmer's livestock.

The Member States shall notify the Commission of the cases which they recognize as *force majeure*.

▼M5**▼M4***Article 14*

1. If undue payment is made, the farmer shall repay the amount in question plus interest calculated in accordance with paragraph 3.

2. Member States may decide that recovery of an undue payment shall be by deduction of the amount to be recovered from the first advance or first payment made to the farmer following the date of the decision to recover. However, the farmer may repay the amount without waiting for the deduction.

3. The interest shall be calculated for the period elapsing between payment and either repayment or deduction.

The rate of interest applicable shall be calculated according to the provisions of national law but shall not be lower than the interest rate applicable for the recovery of national amounts.

No interest shall be charged on undue payments made by error of the competent authority.

4. The repayment obligation referred to in paragraph 1 shall not apply if the payment was made by error of the competent authority itself or by error of another authority and if the error could not reasonably be detected by the farmer, who for his part acted in good faith and complied with all the rules in force.

However, where the error relates to factual elements relevant for the calculation of the payment concerned, the first subparagraph shall only apply if the decision to recover was not communicated within 12 months of the payment.

For the purposes of the first and second subparagraphs, any third party whose acts are imputable to the farmer shall be treated as the farmer.

5. Paragraph 4 shall not apply in the case of advances and payments the return of which is claimed because a penalty has been imposed under Articles 8, 9 or 10 or any other Community or national provision.

6. Member States may decide not to claim return of amounts of ECU 100 or less, not including interest, per farmer and per aid application to which the claim applies, provided that their national law provides for non-recovery in such cases.

7. In the case of aid or premiums financed by the European Agricultural Guidance and Guarantee Fund (EAGGF), Guarantee Section, paying agencies shall deduct amounts recovered and interest

▼ M4

paid from the expenditure of that Section, without prejudice to Article 7 of Regulation (EEC) No 595/91.

▼ M5*Article 14a*

1. Where after an aid application has been lodged and before all the conditions for granting the aid have been fulfilled, a holding is transferred in its entirety from one farmer to another farmer, no aid shall be granted to the transferor in respect of the transferred holding.

2. The aid applied for by the transferor shall be granted to the transferee where:

- (a) within a period of the transfer to be determined by the Member States the transferee informs the competent authority of the transfer, undertakes to present any evidence required by the competent authority and requests payment of the aid, and
- (b) all the conditions for granting the aid are fulfilled in respect of the holding transferred, and the undertaking given by the transferee in point (a) is fulfilled.

3. Once the transferee informs the competent authority of the transfer of the holding and requests payment of the aid in accordance with point (a) of paragraph 2:

- (a) all rights and obligations of the transferor resulting from the legal relationship between the transferor and the competent authority generated by the aid application shall be conferred on the transferee,
- (b) all actions necessary for the granting of the aid and all declarations made by the transferor prior to the transfer shall be attributed to the transferee for the purpose of applying the relevant Community provisions,
- (c) by way of derogation from the second indent of Article 1(4) of Regulation (EEC) No 3508/92, the holding transferred shall be considered, where appropriate, as a separate holding in respect of the marketing year or the aid or premium period in question.

4. Where an aid application has to be lodged after the actions necessary for the granting of the aid have been performed and a holding is transferred in its entirety from one farmer to another farmer after those actions have started but before all the conditions for granting the aid have been fulfilled, the aid may be granted to the transferee provided the conditions in points (a) and (b) of paragraph 2 are fulfilled. In this case, point (b) of paragraph 3 shall apply.

5. Member States may decide, where appropriate, to grant the aid to the transferor. In this event:

- (a) no aid shall be granted to the transferee and
- (b) Member States shall ensure analogous application of the requirements set out in paragraphs 1 to 4.

6. In the case of a transfer of parts of a holding, paragraphs 1 to 5 shall not apply. The normal provisions on the granting of aid shall apply.

7. For the purposes of this Article,

- (a) the transfer of a holding shall mean the transfer of management of the production units concerned;
- (b) 'transferor' shall be the farmer whose holding is transferred to another farmer, and 'transferee' shall be the farmer to whom the holding is transferred;
- (c) 'aid application' shall mean:
 - (i) an 'area' aid application for the aid schemes referred to in Article 1(1)(a) of Regulation (EEC) No 3508/92,
 - (ii) an 'animal' aid application for the aid schemes referred to in Article 1(1)(b) of Regulation (EEC) No 3508/92.

▼ M5*Article 15*

Member States shall take all further measures required for application of this Regulation and shall give the mutual assistance needed for the purposes of checks required pursuant to this Regulation. In this respect Member States may also provide appropriate national sanctions against producers or other marketing participants such as slaughterhouses or associations involved in the procedure for granting aid in order to ensure the compliance with control requirements such as the current herd register of the holding or the respect of notification obligations.

As far as necessary or provided, the Member States shall assist one another mutually to ensure effective controls, and to ensure the check on the authenticity of documents submitted and/or the accuracy of the data exchanged.

▼ B

TITLE V

PART-FINANCING*Article 16*

1. Each year before 31 January Member States shall inform the Commission whether or not they wish to take up the part-financing option provided by Article 11 of Regulation (EEC) No 3508/92 and before 31 March shall notify a detailed expenditure forecast for the year and an application for an advance payment. For 1993, the Member States shall make the latter notification by 31 May.

2. Within three months of receiving the forecast mentioned in paragraph 1 the Commission shall examine its content and on that basis make an advance payment to the Member State to be deducted from the final amount of the Community contribution.

The Commission shall indicate to Member States any of their expenditure that cannot be part-financed by the Community.

3. By 15 May each year at the latest each Member State shall transmit to the Commission a breakdown of expenditure incurred in the previous year.

4. Within six months of receiving the breakdown of expenditure the Commission shall take a decision on the expenditure to be financed by the Community. The relevant amount shall be paid to the Member State minus the advance payment indicated in paragraph 2. ► M1 The amount taken as the basis for calculating the expenses to be borne by the Community budget shall not exceed the forecast of expenditure made by the Member State for the calendar year in question. ◀

5. If the advance payment made under paragraph 2 is greater than the total payment to be made by the Community the balance shall be repaid by the Member State either as a deduction from the advance payment for the following year or by reimbursement.

6. If a Member State has specifically informed the Commission under paragraph 1 that it does not want to take up the Community part-financing option the unused amount shall be allocated by the Commission in accordance with Article 10 of Regulation (EEC) No 3508/92 between those Member States that had stated their intention of taking up the option.

7. Member States shall retain for at least three years following the year to which they relate all payment files and supporting documents relating to expenditure incurred pursuant to Article 10 of Regulation (EEC) No 3508/92.

▼B

TITLE VI

TRANSITIONAL MEASURES*Article 17*

1. In cases where by virtue of Article 13 of Regulation (EEC) No 3508/92 certain features of the integrated system are not yet in application each Member State shall take whatever administrative and control measures are necessary to ensure compliance with the terms on which the aids concerned are granted.

2. Until the integrated system has been put into full and definitive application each Member State shall inform the Commission each year before 31 January of:

- the measures taken under paragraph 1,
- its plans for bringing the integrated system into application for the calendar year concerned,
- the progress achieved in the previous calendar year.

For 1993, Member States shall make that communication by 31 March.

At the Commission's request Member States shall make any adjustments it deems necessary to the abovementioned measures or plans.

▼M5

3. Without prejudice to paragraph 2, Member States shall, in accordance with provisions to be adopted by the Commission, send the Commission no later than 31 March each year, for arable crops, and no later than 31 August each year, for animal premiums, a report covering the previous calendar year and, in particular, relating to the following areas:

- (a) the state of implementation of the integrated system;
- (b) the number of applications as well as the total area and total number of animals broken down by individual aid scheme within the meaning of Article 1 of Regulation (EEC) No 3508/92;
- (c) the number of applications as well as the total area and total number of animals covered by checks;
- (d) the result of the checks carried out, indicating the reductions applied pursuant to Articles 9 and 10.

▼B

TITLE VII

NOTIFICATION*Article 18*

1. Member States shall inform the Commission of national measures taken in application of this Regulation.

2. The computerized data base established as a part of the integrated system shall be used to support the information specified in the framework of sectorial regulations which Member States are obliged to send to the Commission.

TITLE VIII

FINAL PROVISIONS*Article 19*

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

It shall apply from 1 February 1993.

▼ M5

▼ B

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

▼B*ANNEX***The proportions (percentages) referred to in Article 7 (2)**

Belgium	2,3
Denmark	2,4
Germany	10,1
Greece	8,7
Spain	18,1
France	14,6
Ireland	4,5
Italy	20,1
Luxembourg	0,6
Netherlands	3,0
Portugal	5,7
United Kingdom	9,9