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**COMMISSION REGULATION (EC) No 2419/2001**

**of 11 December 2001**

**laying down detailed rules for applying the integrated administration and control system for certain Community aid schemes established by Council Regulation (EEC) No 3508/92**

(OJ L 327, 12.12.2001, p. 11)

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**COMMISSION REGULATION (EC) No 2419/2001**  
**of 11 December 2001**

**laying down detailed rules for applying the integrated administration and control system for certain Community aid schemes established by Council Regulation (EEC) No 3508/92**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European 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 <sup>(1)</sup>, as last amended by Commission Regulation (EC) No 495/2001 <sup>(2)</sup>, and in particular Article 12 thereof,

Whereas:

- (1) The integrated administration and control system for certain Community aid schemes system established by Regulation (EEC) No 3508/92 (hereinafter 'the integrated system') has proven to be an effective and efficient means for the implementation of the direct payment schemes first introduced as a result of the reform of the common agricultural policy in 1992 and further developed under the Agenda 2000 measures. 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 <sup>(3)</sup>, as last amended by Regulation (EC) No 2721/2000 <sup>(4)</sup>, has been amended on various occasions since its entry into force. Moreover, experience, and in particular the introduction of electronic tools for the management of the schemes, has shown that various provisions of that Regulation should be reviewed. Since further amendments are to be made, Regulation (EEC) No 3887/92 should be replaced by this Regulation in the interests of clarity and rationalisation.
- (2) For the sake of effective control and to prevent the submission of multiple aid applications to different Paying Agencies within one Member State, the Member States should provide for a single system to record the identity of farmers submitting aid applications subject to the integrated system. The Member States should, however, be given a transitional period for the introduction of that system.
- (3) In the light of the different identification systems throughout the Community, the Member States should be authorised to set up systems for the identification of areas by means of units other than agricultural parcels. This possibility should be accompanied by certain obligations in order to ensure that the identification is reliable. Moreover, each Member State should, for the sake of effective monitoring, determine the minimum size of agricultural parcel that may be declared in an area aid application.
- (4) The concepts of 'agricultural parcel' and 'forage area' should be clarified to ensure that parcels are correctly declared and identified.
- (5) Provision should be made regarding the content of area aid applications. For the sake of effective controls, any kind of area use should be declared in the area aid application. However, where the Member States have introduced administration and control systems for other area-related Community aid schemes which are compatible with the integrated system according to Article 9a of Regulation (EEC) No 3508/92, the Member States

<sup>(1)</sup> OJ L 355, 5.12.1992, p. 1.

<sup>(2)</sup> OJ L 72, 14.3.2001, p. 6.

<sup>(3)</sup> OJ L 391, 31.12.1992, p. 36.

<sup>(4)</sup> OJ L 314, 14.12.2000, p. 8.

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should be given the possibility to derogate from this requirement.

- (6) There is a need to lay down special provisions for the particular situation regarding producer groups in the sheepmeat and goatmeat sector as defined in Article 1(2) of Council Regulation (EEC) No 3493/90 of 27 November 1990 laying down general rules for the granting of premiums to sheepmeat and goatmeat producers<sup>(1)</sup>, as last amended by Regulation (EC) No 2825/2000<sup>(2)</sup>.
- (7) An area aid application submitted only for the purpose of declaring permanent pasture does not necessarily have to be submitted to the competent authorities within the same delays as area aid applications in general, in particular because the management of the control programme of permanent pasture does not have to be carried out following the same time-schedule as the control of arable crop areas. The Member States should, therefore, be able to provide for such area aid applications to be submitted later than the date fixed in accordance with Article 6(2) of Regulation (EEC) No 3508/92. However, the date to be fixed by the Member State should not be later than 1 July.
- (8) Farmers should be entitled to amend their area aid applications until the latest date for sowing in accordance with Council Regulation (EC) No 1251/1999 of 17 May 1999 establishing a support system for producers of certain arable crops<sup>(3)</sup>, as last amended by Regulation (EC) No 1038/2001<sup>(4)</sup>, provided that all the particular requirements under the relevant sectoral rules are respected and that the competent authority has not yet informed the farmer of errors contained in the aid application, nor notified an on-the-spot control which reveals errors, in relation to the part affected by the amendment.
- (9) Farmers applying only for aid which is not linked to area should be exempted from the requirement to submit an area aid application.
- (10) In order to facilitate the administration of the various livestock aid schemes concerned, common provisions should be made concerning the details to be included in livestock aid applications.
- (11) Regulation (EC) No 1760/2000 of the European Parliament and of the Council of 17 July 2000 establishing a system for the identification and registration of bovine animals and regarding the labelling of beef and beef products and repealing Council Regulation (EC) No 820/97<sup>(5)</sup> requires keepers of bovine animals to communicate data concerning these animals to a computerised database. Article 21 of Council Regulation (EC) No 1254/1999 of 17 May 1999 on the common organisation of the market in beef and veal<sup>(6)</sup>, as last amended by Regulation (EC) No 1512/2001<sup>(7)</sup>, stipulates that aids may only be paid for animals that are properly identified and registered in accordance with Regulation (EC) No 1760/2000. The computerised database has also gained far-reaching importance as far as the management of the aid schemes is concerned. Farmers submitting applications under the aid schemes concerned should therefore be given access to the relevant information in due time.
- (12) The Member States should be authorised to make use of the information contained in the computerised database with a view to introducing simplified application procedures provided that the computerised database is reliable. It should therefore be

<sup>(1)</sup> OJ L 337, 4.12.1990, p. 7.

<sup>(2)</sup> OJ L 328, 23.12.2000, p. 1.

<sup>(3)</sup> OJ L 160, 26.6.1999, p. 1.

<sup>(4)</sup> OJ L 145, 31.5.2001, p. 16.

<sup>(5)</sup> OJ L 204, 11.8.2000, p. 1.

<sup>(6)</sup> OJ L 160, 26.6.1999, p. 21.

<sup>(7)</sup> OJ L 201, 26.7.2001, p. 1.

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provided that the information contained in the computerised database may form part of the aid application.

- (13) According to new forms of communication, the Member States should be able to adopt national provisions permitting communications to be made by the farmer under the integrated system to be submitted electronically.
- (14) Where aid applications contain obvious errors they should be adjustable at any time.
- (15) Respect for the time limits for the submission of aid applications and for the amendment of area aid applications is indispensable to enable the national administrations to programme and, subsequently, carry out effective checks on the correctness of the aid applications. Provision should, therefore, be made regarding the time limits within which late submissions are acceptable. Moreover, a reduction should be applied to encourage farmers to respect the time limits. Where a farmer only has to declare permanent pasture and, therefore, has to submit an area aid application, checks may be programmed differently. For these cases lower reductions may be provided for and a longer delay should be foreseen. Where the Member States make use of the possibility to set a later date for the submission of an area aid application that only relates to permanent pasture, submission of applications after the date fixed by the Member State should, however, no longer be admissible.
- (16) Farmers should be entitled to withdraw their aid applications or parts thereof at any time provided that the competent authority has not yet informed the farmer of any errors contained in the aid application nor notified an on-the-spot control which reveals errors in relation to the part affected by the withdrawal.
- (17) Compliance with the provisions on the aid schemes managed under the integrated system should be effectively monitored. To this end, and to have a harmonised level of monitoring in all Member States, it is necessary to set out in detail the criteria and technical procedures for carrying out administrative and on-the-spot checks in respect both of area and livestock aid. Where appropriate, the Member States should undertake to combine the various controls under this Regulation as well as those provided for under other Community provisions at the same time.
- (18) The minimum number of farmers to be checked on the spot under the various aid schemes should be determined. In relation to farmers applying for aids under the various bovine schemes an integrated holding-based approach should be foreseen.
- (19) The sample of the minimum rate of on-the-spot checks should be drawn partly on the basis of a risk analysis and partly at random. The main factors to be taken into consideration for the risk analysis should be specified.
- (20) The determination of significant irregularities should require an increase in the level of the on-the-spot checks during the current and the following year to reach an acceptable level of assurance of the correctness of the aid applications concerned.
- (21) On-the-spot checks of farmers submitting aid applications do not necessarily have to be carried out on each individual animal or agricultural parcel. Checks on a sample basis may, in certain cases, be carried out. However, where this is allowed the sample should be extended to a degree that guarantees a reliable and representative level of assurance. In some cases the sample may have to be extended to a full control. The Member States should establish the criteria for the selection of the sample to be checked.
- (22) In order for the on-the-spot check to be effective it is important for the staff carrying out the checks to be informed of the reason for the selection for the on-the-spot check. The Member States should keep records of such information.

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- (23) In order to enable the national authorities as well as any competent Community authority to follow up on-the-spot checks carried out the details of checks should be recorded in a control report. The farmer or a representative should be given the opportunity to sign the report. However, in the case of checks by means of remote-sensing the Member States should be allowed to provide for this right only in cases where the check reveals irregularities. Moreover, irrespective of the kind of on-the-spot check carried out, the farmer should receive a copy of the report if irregularities are found.
- (24) On-the-spot checks of areas, as a general rule, consist of two parts, the first of which relates to verifications and measurements of declared agricultural parcels on the basis of graphic material, aerial photography and so forth. The second part consists of a physical inspection of the parcels to verify the declared crop and its quality as well as the actual size of the agricultural parcels. Where necessary, measurements should be carried out. The physical inspection in the field may be carried out on the basis of a sample.
- (25) Detailed rules regarding the determination of areas and the measurement methods to be used should be laid down. In relation to the determination of the area of agricultural parcels eligible for area payments, experience has shown that it is necessary to define the acceptable width of certain features of the fields, in particular hedges, ditches and walls. In view of specific environmental needs, it is appropriate to provide some flexibility within the limits taken into account when the regional yields were fixed in accordance with Regulation (EC) No 1251/1999.
- (26) 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 carried out in cases where photo-interpretation does not lead to clear results.
- (27) The timing and the minimum content of on-the-spot checks of farmers applying for livestock aid should be specified in order to ensure a harmonised control level in all Member States. In order to check effectively the correctness of declarations in aid applications and notifications to the computerised database it is essential to carry out a major part of such on-the-spot checks whilst animals still have to be kept on farm under the retention obligation.
- (28) The proper identification and registration of bovine animals is an eligibility condition pursuant to Article 21 of Regulation (EC) No 1254/1999. It should, therefore, be ensured that Community aid is granted only for bovines identified and registered in accordance with Regulation (EC) No 1760/2000. Such checks should also be carried out in respect of bovine animals not yet claimed but which could be subject to an aid application in the future. Due to the set-up of several of the bovine aid schemes, such bovine animals are, in many cases, only claimed for aid after they have already left the holding.
- (29) Special provision should be made for checks to be carried out in slaughterhouses in order to check that animals claimed for aid are eligible and that the information contained in the computerised database is correct. The Member States should be authorised to apply two different bases for selecting slaughterhouses for such checks.
- (30) As far as the slaughter premium granted after export of bovine animals is concerned, special provisions are necessary along with Community control provisions relating to export in general because of the differences in the control purposes.
- (31) The control provisions foreseen in relation to the livestock aid should also, where appropriate, apply as regards additional payments pursuant to Article 15 of Regulation (EC) No 1254/1999.

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- (32) To protect the Community's financial interests effectively adequate measures should be adopted to combat irregularities and fraud. Separate provisions should be made for the area aid schemes on the one hand and the livestock aid schemes on the other, due to the different natures of these aid schemes.
- (33) Reductions and exclusions should be established having regard to the principle of proportionality and the special problems linked to cases of force majeure as well as exceptional and natural circumstances. Such reductions and exclusions should be graded according to the gravity of the irregularity committed and should go as far as the total exclusion from one or several aid schemes for a specified period.
- (34) Provision for reductions and exclusions should take into account the particularities of the various aid schemes subject to the integrated system. In relation to area aid applications, irregularities normally affect parts of areas, and overdeclarations in respect of one parcel may be off-set against underdeclarations of other parcels of the same crop-group. As far as livestock aid applications are concerned, irregularities lead to the ineligibility of the animal concerned. In respect of area aid applications, where irregularities are found, it should be foreseen that within a certain margin of tolerance aid applications should only be adjusted and reductions only start to apply once this margin has been exceeded. In respect of applications for livestock aid, reductions should be foreseen as from the first animal found with irregularities but, irrespective of the level of the reduction, there should be a less harsh sanction where three animals or less are found with irregularities. In all other cases the severity of the sanction should depend on the percentage of animals found with irregularities.
- (35) Special provisions are necessary to take into account the particularities of farmers applying for livestock aid and declaring forage area for that purpose. Where an overdeclaration of such areas does not lead to a higher payment for livestock no penalties should be foreseen.
- (36) Farmers should be allowed to replace suckler cows, heifers and dairy cows within the limits allowed under the relevant sectoral rules.
- (37) In relation to the bovine aid schemes and the compliance with the system for the identification and registration of bovine animals set out in Regulation (EC) No 1760/2000, provision should be made in respect of bovine animals already claimed for aid on the one hand and for bovine animals not yet claimed but which could be subject to an aid application in the future, on the other. Such bovine animals not yet claimed constitute a potential risk to the European Agricultural Guidance and Guarantee Fund (EAGGF). Due to the structure of the aid schemes, once such animals are subject to an aid application non-compliance with the system may often not be detected. Moreover, compliance with the system for the identification and registration of bovine animals is essential in order to introduce simplified application procedures based on the computerised database. Compliance with that system before aid application is actually submitted is therefore essential to protect effectively the Community's financial interests. The principle that obvious errors may be adjusted at any time should, however, also apply to erroneous notifications to, or entries into the elements of that system.
- (38) Where, due to natural circumstances, a farmer is unable to fulfill the retention obligations under the sectoral rules, reductions and exclusions should not be applied.
- (39) Due to the importance of slaughterhouses for the proper functioning of some of the bovine aid schemes, provision should also be made for cases where slaughterhouses, gross negligently or intentionally, issue false certificates or declarations.

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- (40) As far as irregularities are concerned as regards the additional payments provided for in Article 14 of Regulation (EC) No 1254/1999 the Member States should provide for sanctions which should be equivalent to those provided for in relation to the area and livestock aid schemes unless this is inappropriate. In this latter case the Member States should provide for suitable equivalent sanctions.
- (41) Reductions and exclusions should, as a general rule, not apply where the farmer submitted factually correct information or where he can show otherwise that he is not at fault.
- (42) Farmers who give notice to the competent national authorities at any time of incorrect aid applications should not be subject to any reductions or exclusions irrespective of the reason of the incorrectness, provided that the farmer has not been informed of the competent authority's intention to carry out an on-the-spot check and the authority has not already informed the farmer of any irregularity in the application. The same should apply in relation to incorrect data contained in the computerised database.
- (43) Where various reductions have to be applied in relation to the same farmer they should apply independently from each other and individually. Moreover, the reductions and exclusions provided for under this Regulation should apply without prejudice to additional sanctions under any other provisions of Community or national law.
- (44) The management of small amounts is a burdensome task for the competent authorities of the Member States. It is therefore appropriate to authorise the Member States not to pay amounts of aid that are below a certain minimum limit and not to request reimbursement of incorrectly paid amounts when the sums involved are minimal.
- (45) Where, as a consequence of force majeure or exceptional circumstances, a farmer is not able to fulfill the obligations provided for under the sectoral rules, he should not lose his right to the aid payment. It should be specified which cases may, in particular, be recognized by the competent authorities as cases of exceptional circumstances.
- (46) In order to ensure uniform application of the principle of good faith throughout the Community, where amounts unduly paid are recovered, the conditions under which that principle may be invoked should be laid down without prejudice to the treatment of the expenditure concerned in the context of the clearance of accounts under Council Regulation (EC) No 1258/1999 of 17 May 1999 on the financing of the common agricultural policy<sup>(1)</sup>.
- (47) Rules should be established laying down who is entitled to the aid in certain cases where a holding is transferred.
- (48) As a general rule the Member States should take any further measures necessary to ensure a proper functioning of this Regulation. The Member States should give each other mutual assistance where necessary.
- (49) The Commission should, where appropriate, be informed of any measures taken by the Member States to introduce changes to their implementation of the integrated system. In order to enable the Commission to monitor the integrated system effectively, the Member States should send it certain annual control statistics.
- (50) The measures provided for in this Regulation are in accordance with the opinion of the Fund Committee,

<sup>(1)</sup> OJ L 160, 26.6.1999, p. 103.

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HAS ADOPTED THIS REGULATION:

## TITLE I

**GENERAL***Article 1***Scope**

This Regulation lays down detailed rules for applying the integrated administration and control system (hereinafter ‘the integrated system’) established by Regulation (EEC) No 3508/92. It shall be without prejudice to specific provisions laid down in the Regulations covering the individual aid schemes.

*Article 2***Definitions**

For the purposes of this Regulation the following definitions shall apply:

- (a) ‘System for the identification and registration of bovine animals’: the system for the identification and registration of bovine animals established by Regulation (EC) No 1760/2000;
- (b) ‘Ear tag’: the ear tag to identify animals individually, as referred to in point (a) of Article 3 and in Article 4 of Regulation (EC) No 1760/2000;
- (c) ‘Computerised database’: the computerised database as referred to in point (b) of Article 3 and in Article 5 of Regulation (EC) No 1760/2000;
- (d) ‘Animal passport’: the animal passport to be issued as referred to in point (c) of Article 3 and Article 6 of Regulation (EC) No 1760/2000;
- (e) ‘Register’: the register kept by the keepers of animals in accordance with Article 4 of Council Directive 92/102/EEC <sup>(1)</sup> or point (d) of Article 3 and Article 7 of Regulation (EC) No 1760/2000 respectively;
- (f) ‘Elements of the system for the identification and registration of bovine animals’: the elements referred to in Article 3 of Regulation (EC) No 1760/2000;
- (g) ‘Identification code’: the identification code as referred to in Article 4(1) of Regulation (EC) No 1760/2000;
- (h) ‘Irregularities’: any non-compliance with the relevant rules for the granting of the aid in question;
- (i) ‘Area aid application’: application for the payment of aids under aid schemes as referred to in Article 1(1)(a) and (b)(iii) of Regulation (EEC) No 3508/92 and including the declaration of any other uses of area, in particular the declaration of forage area for the purposes of livestock aid applications;
- (j) ‘Livestock aid application’: applications for the payment of aids under aid schemes referred to in Article 1(1)(b)(i) and (ii) of Regulation (EEC) No 3508/92;
- (k) ‘Use’: the use of area in terms of the type of crop or ground cover or the absence of a crop;
- (l) ‘Bovine aid schemes’: aid schemes referred to in Article 1(1)(b)(i) of Regulation (EEC) No 3508/92;
- (m) ‘Ovine/caprine aid scheme’: aid scheme referred to in Article 1(1)(b)(ii) of Regulation (EEC) No 3508/92;
- (n) ‘Claimed bovine animals’: bovine animals subject to a livestock aid application under the bovine aid schemes;

<sup>(1)</sup> OJ L 355, 5.12.1992, p. 32.



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- (o) 'Unclaimed bovine animals': bovine animals not yet subject to a livestock aid application but potentially eligible for aid under the bovine aid schemes;
- (p) 'Retention period': period during which an animal for which aid has been claimed has to be kept on the holding, as provided for in the following provisions:
  - Article 5 and Article 9(1) of Commission Regulation (EC) No 2342/1999 <sup>(1)</sup>, in relation to the special premium for male bovines,
  - Article 16 of Regulation (EC) No 2342/1999 in relation to the suckler cow premium,
  - Article 37 of Regulation (EC) No 2342/1999 in relation to the slaughter premium,
  - Article 1(3) of Commission Regulation (EEC) No 2700/93 <sup>(2)</sup>, in relation to aids paid for ovines and caprines;
- (q) 'Animal keeper': any natural or legal person responsible for animals whether on a permanent or on a temporary basis, including during transportation or at a market;
- (r) 'Area determined': the area for which all conditions laid down in the rules for the granting of the aid have been met;
- (s) 'Animal determined': an animal for which all conditions laid down in the rules for the granting of the aid have been met;
- (t) 'Premium period': period to which aid applications refer irrespective of the moment of their submission.

*Article 3***Identification of farmers applying for aid under the integrated system**

The Member States shall introduce a single system to record the identity of each farmer who submits an aid application subject to the integrated system.

*Article 4***Identification and minimum size of agricultural parcels**

1. The identification system referred to in Article 4 of Regulation (EEC) No 3508/92 shall operate at agricultural parcel level. The 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 the Member States shall ensure that agricultural parcels are reliably identified and in particular shall require area aid applications to be furnished with particulars or accompanied by documents specified by the competent authority that enable each agricultural parcel to be located and measured.

2. Each Member State shall determine the minimum size of agricultural parcels in respect of which an application may be made. However, the minimum size may not exceed 0,3 ha.

*Article 5***General principles in respect of agricultural parcels**

- 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;

<sup>(1)</sup> OJ L 281, 4.11.1999, p. 30.

<sup>(2)</sup> OJ L 245, 1.10.1993, p. 99.

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- (b) where a forage area is used in common, the competent authorities shall notionally allocate 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. Where a forage area is situated in a Member State other than that of the farmer's principal place of business that area shall be deemed at the request of the farmer to be part of that farmer's holding provided that:
- (a) it is situated in the immediate vicinity of the holding, and
  - (b) 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.

## TITLE II

**AID APPLICATIONS**

## CHAPTER I

*Area aid applications**Article 6***Requirements pertaining to area aid applications**

1. An area aid application shall contain all information necessary to establish eligibility for the aid, in particular:
- (a) the identity of the farmer;
  - (b) particulars permitting identification of all agricultural parcels on the holding, their area expressed in hectares to two decimal places, location, use, whether the agricultural parcel is irrigated, and the aid scheme concerned;
  - (c) a statement by the farmer that he is aware of the requirements pertaining to the aid in question.
2. An area aid application submitted by a farmer who is a member of a producer group as defined in Article 1(2) of Regulation (EEC) No 3493/90, and who, in respect of the same calendar year applies for both aid under the ovine/caprine aid scheme and for aid under another Community scheme shall specify all the agricultural parcels used by the producer group. In such cases the forage area shall be notionally allocated between the farmers concerned in proportion to their individual limits as determined in accordance with Article 6 of Council Regulation (EC) No 2467/98 <sup>(1)</sup>, valid on 1 January of the year concerned.
3. If an area aid application relates only to permanent pasture the Member State concerned may provide that it may be submitted by a date later than that fixed in accordance with Article 6(2) of Regulation (EEC) No 3508/92 which shall not be after 1 July.

The third subparagraph of Article 6(2) of Regulation (EEC) No 3508/92 shall apply *mutatis mutandis*.

*Article 7***Declarations in relation to particular uses**

1. Uses of area listed in the Annex to Regulation (EEC) No 3508/92 shall be declared separately.

<sup>(1)</sup> OJ L 312, 20.11.1998, p. 1.

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2. Uses of area not listed in Article 1(1) or in the Annex to Regulation (EEC) No 3508/92 shall be declared under one or more 'other uses' headings.
3. The Member States may provide that paragraphs 1 and 2 do not apply where such information is made available to the competent authorities in the framework of other administration and control systems that guarantee compatibility with the integrated system in accordance with Article 9a of Regulation (EEC) No 3508/92.

*Article 8***Amendments of area aid applications**

1. Subject to paragraph 3, after the expiry of the time limit for the submission of area aid applications individual agricultural parcels not yet declared in the aid application may be added and changes regarding the use or aid scheme may be made provided that the requirements under the sectoral rules applicable to the aid scheme concerned are respected.
2. The addition of agricultural parcels and amendments in accordance with paragraph 1 shall be notified to the competent authority in writing no later than the date laid down for sowing in, or fixed in accordance with Regulation (EC) No 1251/1999.

The third subparagraph of Article 6(2) of Regulation (EEC) No 3508/92 shall apply *mutatis mutandis*.

3. Where the competent authority has already informed the farmer of irregularities in the aid application or where it has given notice to the farmer of its intention to carry out an on-the-spot check and where this on-the-spot check reveals irregularities, additions and amendments in accordance with paragraphs 1 and 2 shall not be authorised in respect of the agricultural parcels affected by the irregularities.

*Article 9***Exemption from area aid applications**

An area aid application need not be submitted by farmers applying for any of the following livestock aids:

- (a) the deseasonalisation premium provided for in Article 5 of Regulation (EC) No 1254/1999;
- (b) the slaughter premium provided for in Article 11 of Regulation (EC) No 1254/1999;
- (c) the special premium for male bovine animals and/or the suckler cow premium, where the farmer is exempt from the stocking rate requirement pursuant to Article 12(1) of Regulation (EC) No 1254/1999, provided that the farmer does not apply for the extensification payment provided for in Article 13 of that Regulation;
- (d) the aid provided for under the ovine/caprine aid scheme.

*CHAPTER II****Livestock aid applications****Article 10***Requirements pertaining to livestock aid applications**

1. A livestock aid application shall contain all information necessary to establish eligibility for the aid, in particular:
  - (a) the identity of the farmer;
  - (b) a reference to the area aid application if this has already been submitted;
  - (c) the number of animals of each type in respect of which any aid is applied for and, for bovines, the identification code of the animals;

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- (d) where applicable, an undertaking by the farmer to keep the animals referred to in point (c) on his holding during the retention period and information on the location or locations where the animals will be held including the period or periods concerned;
- (e) where applicable, the individual limit or individual ceiling for the animals concerned;
- (f) where applicable, the individual milk reference quantity available to the farmer on 31 March or, if the Member State concerned decides to make use of the derogation provided for in Article 44a of Regulation (EC) No 2342/1999, on 1 April of 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;
- (g) a statement by the farmer that he is aware of the requirements pertaining to the aid in question.

If the animal is moved to another location during the retention period the farmer shall inform the competent authority in writing in advance.

2. The Member States shall guarantee every animal keeper the right to obtain from the competent authority without constraint at reasonable intervals and without excessive delay information on the data relating to him and his animals kept in the computerised database. When submitting his aid application, the farmer shall declare that this data is correct and complete or he shall rectify any incorrect or add missing data.

3. The Member States may decide that some of the information referred to in paragraph 1 need not be included in the aid application, where it has already been communicated to the competent authority.

The Member States may in particular introduce procedures by which data contained in the computerised database may be used for the purpose of the aid application provided that the computerised database offers the level of assurance and implementation necessary for the proper management of the aid schemes involved.

4. The Member States may provide that some of the information referred to in paragraph 1 can or shall be forwarded via a body or bodies approved by them. However, the farmer shall remain responsible for the data transmitted.

### *CHAPTER III*

#### *Common provisions*

##### *Article 11*

#### **Electronic transmission**

1. The Member States may permit communications required under this Regulation from the farmer to the competent authorities to be made by electronic transmission. In this event, appropriate measures shall be taken to ensure that:

- (a) the farmer is unambiguously identified and complies with all requirements;
- (b) all the necessary accompanying documents are received by the competent authorities within the same time limits as in the case of transmission by non-electronic means;
- (c) there is no discrimination between farmers using non-electronic means of submission and those opting for electronic transmission.

2. Notifications to the computerised database shall have the effect of an electronic transmission within the meaning of paragraph 1 provided that the computerised database offers the level of assurance and implementation necessary for the proper management of the aid schemes involved.

**▼B***Article 12***Adjustments of obvious errors**

Without prejudice to Articles 6 to 11, an aid application may be adjusted at any time after its submission, in cases of obvious errors recognised by the competent authority.

*Article 13***Late submission**

1. Except in cases of force majeure and exceptional circumstances within the meaning of Article 48, submission of an area aid application or a livestock aid application after the time limits laid down in the relevant sectoral rules shall lead to a 1 % reduction per working day in the amounts to which the farmer would have been entitled if the aid application had been lodged within the time limit.

If the delay amounts to more than 25 calendar-days the application shall be considered inadmissible.

Late submission of an area aid application that only relates to permanent pasture shall lead to a reduction of half a percent per working day in the amounts to which the farmer would have been entitled under the aid schemes concerned. Where such aid applications are submitted after 1 July they shall be considered inadmissible.

However, where the Member States make use of the possibility provided for in Article 6(3), no reductions shall apply in respect of aid applications submitted before the date fixed by the Member State. Aid applications submitted thereafter shall be considered inadmissible.

2. Submission of an amendment to an area aid application after the latest date for sowing as referred to in Article 8(2) shall lead to a 1 % reduction per working day in the amounts relating to the actual use of the agricultural parcels concerned.

Amendments to an area aid application shall only be admissible until the latest date for submission of an area aid application as specified in paragraph 1. However, where that date is earlier than, or the same as, the latest date for sowing as referred to in Article 8(2), amendments to an area aid application shall be considered inadmissible after that latest date for sowing.

3. Late submission of an area aid application shall not entail reductions or exclusions from the livestock aids referred to in Article 9.

4. As regards forage areas, where the area aid application is submitted late the resulting reduction shall be in addition to any other reduction applicable to the late submission of applications for aid referred to in Articles 12 and 13 of Regulation (EC) No 1254/1999.

*Article 14***Withdrawal of aid applications**

1. An aid application may be totally or partially withdrawn at any time.

However, where the competent authority has already informed the farmer of irregularities in the aid application or where the competent authority has given notice to the farmer of its intention to carry out an on-the-spot check and where this on-the-spot check reveals irregularities withdrawals shall not be authorised in respect of the parts of the aid application affected by the irregularities.

2. Withdrawals in accordance with paragraph 1 shall put the claimant into the position he was in before he submitted the aid application or part of the aid application in question.

**▼B**TITLE III  
**CHECKS***Article 15***General principle**

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 are granted.

*CHAPTER I**Administrative checks***▼M2***Article 16***Cross checks**

1. The administrative checks referred to in Article 8(1) of Regulation (EEC) No 3508/92 shall permit the automated detection of irregularities using computerised means, including in particular:

- (a) cross-checks on declared agricultural parcels and animals in order to avoid undue multiple granting of the same aid in respect of the same calendar or marketing year and to prevent any undue cumulation of aid granted under Community aid schemes involving declarations of areas as referred to in Article 9a of Regulation (EEC) No 3508/92;
- (b) cross-checks by means of the computerised database or, in the case of area aid applications, by any other computerised means, to verify eligibility for the aid.

2. Indications of irregularities resulting from cross-checks shall be followed-up by any other appropriate administrative procedure and, where necessary, by an on-the-spot check.

**▼B***CHAPTER II**On-the-spot checks***Section I**

## Common provisions

*Article 17***General principles**

1. On-the-spot checks shall be unannounced. However, provided that the purpose of the control is not jeopardized, advance notice limited to the strict minimum necessary may be given. Such notice shall, except in duly justified cases, not exceed 48 hours.
2. Where appropriate, the on-the-spot checks provided for in this Regulation, as well as any other checks provided for in Community rules, shall be carried out at the same time.
3. The application or applications concerned shall be rejected if the farmer or his representative prevent an on-the-spot check from being carried out.

*Article 18***Control rate**

1. The total number of on-the-spot checks carried out each year shall cover at least:

- (a) 5 % of all farmers submitting area aid applications;

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- (b) 5 % of all farmers submitting livestock aid applications under the bovine aid schemes, except where the computerised database does not offer the level of assurance and implementation necessary for the proper management of the aid schemes involved, in which case the percentage shall be increased to 10 %. These on-the-spot checks shall also cover at least 5 % of all animals per aid scheme for which aid is applied for;
  - (c) 10 % of all farmers submitting livestock aid applications under the ovine/caprine aid scheme.
2. Should on-the-spot checks reveal significant irregularities in the context of a given aid scheme or in a region or part of a region the competent authority shall appropriately increase the number of on-the-spot checks during the current year and shall, moreover, appropriately increase the percentage of farmers to be checked on-the-spot in the following year.
3. Where it is provided that particular elements of an on-the-spot check may be carried out on the basis of a sample this sample must guarantee a reliable and representative level of control. The Member States shall establish the criteria for the selection of the sample. If the checks on that sample reveal irregularities, the extent and scope of the sample shall be extended appropriately.

**▼M2***Article 19***Selection of applications to be checked on the spot**

1. Farmers subjected to on-the-spot checks 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 effectiveness of risk analysis parameters used in previous years shall be assessed on an annual basis.

To provide the element of representativeness, the Member States shall select randomly between 20 % and 25 % of the minimum number of farmers to be subjected to on-the-spot checks as provided for in Article 18(1).

2. The risk analysis shall take account of:
- (a) the amount of aid involved;
  - (b) the number of agricultural parcels and the area or number of animals for which aid is requested;
  - (c) changes from the previous year;
  - (d) the findings of checks made in past years;
  - (e) cases of non-compliance with Regulation (EC) No 1760/2000;
  - (f) those farmers who are either just above or below ceilings or limits relevant for the granting of aid;
  - (g) replacements of animals pursuant to Article 37;
  - (h) other factors to be defined by the Member States.
3. The competent authority shall keep records on the reasons for the selection of each farmer for an on-the-spot check. The inspector carrying out the on-the-spot check shall be informed accordingly prior to the commencement of the on-the-spot check.

**▼B***Article 20***Control report**

1. Every on-the-spot check shall be the subject of a control report which makes it possible to review the details of the checks carried out. The report shall indicate in particular:

- (a) the aid schemes and applications checked;
- (b) the persons present;

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- (c) the agricultural parcels checked, the agricultural parcels measured, the results of the measurements per measured agricultural parcel and the measuring methods used;
- (d) the number and type of animals found and, where applicable, the ear-tag numbers, entries in the register and in the computerised database and any supporting documents checked, the results of the checks and, where applicable, particular observations in respect of individual animals and/or their identification code;
- (e) whether notice was given to the farmer of the visit and, if so, the period of advance notification;
- (f) indication of any further control measures carried out.

2. The farmer or his representative shall be given the opportunity to sign the report to attest his presence at the check and to add observations. Where irregularities are found the farmer shall receive a copy of the control report.

Where the on-the-spot check is carried out by means of remote sensing in accordance with Article 23, the Member States may decide not to give the farmer or his representative the opportunity to sign the control report if no irregularities are revealed during the check by remote-sensing.

**Section II****On-the-spot checks of area aid applications***Article 21***Elements of the on-the-spot checks**

On-the-spot checks shall cover all the agricultural parcels for which aid is requested under aid schemes within the meaning of Article 1(1) of Regulation (EEC) No 3508/92. However, the actual inspection in the field as part 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.

*Article 22***Determination of areas****▼M2**

1. 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. A measurement tolerance may be defined by the competent authority that shall not exceed either 5 % of the agricultural parcel area or a buffer of 1,5 m applied to the perimeter of the agricultural parcel. However, the maximum tolerance with regard to each agricultural parcel shall not, in absolute terms, exceed 1,0 ha.

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2. The total area of an agricultural parcel may be taken into account provided that it is fully utilized according to the customary standards of the Member State or region concerned. In other cases the area actually utilized shall be taken into account.

In respect of those regions where certain features, in particular hedges, ditches and walls, are traditionally part of good agriculture cropping or utilisation practices, the Member States may decide that the corresponding area is to be considered part of the fully utilised area on condition that it does not exceed a total width to be determined by the Member States. This width must correspond to a traditional width in the region in question and shall not exceed 2 metres.

The Member States may, after prior notification to the Commission, allow a width greater than 2 metres if those areas were taken into account for the fixing of the yields of the regions concerned.



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

**▼M2***Article 23***Remote sensing**

1. The Member States may make use of remote sensing with regard to the sample referred to in Article 18(1)(a) instead of applying traditional means of on-the-spot checking under the conditions set out in this Article. Articles 17, 18, 19 and 20, the first sentence of Article 21 and Article 22 shall apply where appropriate.

2. The zones to be checked by means of remote sensing shall be selected on the basis of a risk-analysis or at random.

In the case of selection on the basis of a risk-analysis the Member States shall take account of appropriate risk factors, in particular:

- (a) their financial significance in terms of Community aid;
- (b) the composition of aid applications;
- (c) the structure of the agricultural parcel systems, and complexity of the agricultural landscape;
- (d) the lack of coverage in previous years;
- (e) the technical constraints of effective use of remote sensing, with respect to zone definition;
- (f) the findings of checks made in previous years.

3. On-the-spot checks by remote sensing shall cover:

- either all aid applications having at least 80 % of the area for which aid is requested under schemes referred to in Article 1(1) of Regulation (EEC) No 3508/92 within the respective zone,
- or aid applications to be selected by the competent authority on the basis of Article 19(2).

Applications selected randomly in accordance with Article 19(1) may be checked by remote sensing.

4. Once a farmer has been selected for an on-the-spot check in accordance with paragraph 3, at least 80 % of the area for which he requests aid under aid schemes referred to in Article 1(1) of Regulation (EEC) No 3508/92 shall be subject to the on-the-spot check by remote sensing.

5. Where a Member State applies the possibility to carry out on-the-spot checks by remote sensing they shall:

- (a) perform photo interpretation of satellite images or aerial photographs of all agricultural parcels per application to be checked in accordance with paragraph 4 with a view to recognising the ground cover and measuring the area;
- (b) carry out physical inspections in the field of all agricultural parcels for which photo interpretation does not make it possible to verify the accuracy of the declaration to the satisfaction of the competent authority.

6. The additional checks referred to in Article 18(2) 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.

**▼B****Section III****On-the-spot checks of livestock aid applications***Article 24***Timing of on-the-spot checks****▼M2**

1. For aid schemes other than those provided for in Article 4(6) and Article 11 of Regulation (EC) No 1254/1999, at least 60 % of the minimum rate of on-the-spot checks provided for in the last sentence of Article 18(1)(b) shall be conducted throughout the retention period of the aid scheme concerned. The remaining percentage of on-the-spot checks shall be conducted throughout the retention period of one of those aid schemes.

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2. At least 50 % of the minimum rate of on-the-spot checks provided for in Article 18(1)(c) shall be conducted throughout the retention period. However, the minimum rate of on-the-spot checks shall be fully conducted throughout the retention period in Member States where the system established by Directive 92/102/EEC as concerns ovines and caprines, in particular in relation to the identification of animals and the proper keeping of registers, is not fully implemented and applied.

*Article 25***Elements of the on-the-spot checks**

1. On-the-spot checks shall cover all livestock for which aid applications have been submitted under the aid schemes to be checked and, in the case of checks of the bovine aid schemes, also the unclaimed bovine animals.

2. On-the-spot checks shall include in particular:

- (a) a check that the number of animals present on the holding for which aid applications have been submitted and the number of unclaimed bovine animals corresponds to the number of animals entered in the registers and, in the case of bovine animals, to the number of animals notified to the computerised database;
- (b) in relation to the bovine aid schemes, checks
  - of the correctness of entries in the register and the notifications to the computerised database on the basis of a sample of supporting documents such as purchase and sales invoices, slaughter certificates, veterinary certificates and, where applicable, animal passports, in relation to animals for which aid applications were submitted in the 12 months prior to the on-the-spot check,
  - that information held in the computerised database corresponds to the information given in the register on the basis of a sample in relation to animals for which aid applications were submitted in the 12 months prior to the on-the-spot check,
  - that all animals present on the holding and still kept under the retention obligation are eligible for the aid claimed,
  - that all bovine animals present on the holding are identified by ear-tags and accompanied, where applicable, by animal passports and that they are recorded in the register and have been duly notified to the computerised database. These checks shall be made individually for each individual male bovine still kept under the retention obligation for which an application has been submitted for the special beef premium with the exception of those submitted in accordance with Article 4(6) of Regulation (EC) No 1254/1999. In all other cases the check on correct recording in the animal passports, the register and notification to the database may be made on the basis of a sample;
- (c) in relation to the ovine/caprine aid scheme, a check on the basis of the register that all the animals for which aid applications were

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submitted in the 12 months prior to the on-the-spot check have been kept on the holding throughout the retention period and a check of the correctness of entries in the register on the basis of a sample of supporting documents such as purchase and sales invoices and veterinary certificates.

*Article 26***Control-measures as regards on-the-spot checks in slaughterhouses**

1. As regards the special beef premium provided for in Article 4(6) of Regulation (EC) No 1254/1999 and the slaughter premium provided for in Article 11 of that Regulation, on-the-spot checks shall be carried out in the slaughterhouses. In this case the Member States shall carry out on-the-spot checks either:

- (a) in at least 30 % of all slaughterhouses, selected on the basis of a risk analysis, in which case the controls shall cover a sample of 5 % of the total number of bovine animals which have been slaughtered in the slaughterhouse concerned during the 12 months prior to the on-the-spot check, or
- (b) in at least 20 % of those slaughterhouses which have been approved beforehand according to particular criteria of reliability to be determined by the Member States and are selected on the basis of a risk analysis, in which case the controls shall cover a sample of 2 % of the total number of bovine animals which have been slaughtered in the slaughterhouse concerned during the 12 months prior to the on-the-spot check.

These on-the-spot checks shall comprise a posteriori scrutiny of documents, a comparison with the entries in the computerised database and checks of summaries relating to the slaughter certificates, or information in place thereof, which were sent to other Member States in accordance with Article 35(3) of Regulation (EC) No 2342/1999.

2. On-the-spot checks in the slaughterhouses shall comprise physical checks of slaughtering procedures carried out on the day of the on-the-spot check on the basis of a sample. Where necessary, it shall be checked whether the carcasses presented for weighing are eligible for aid.

*Article 27***Control-measures as regards the premium granted after export**

1. As regards the slaughter premium granted for bovine animals exported to third countries in accordance with Article 11 of Regulation (EC) No 1254/1999 all loading operations shall be subject to on-the-spot checks, which shall be carried out as follows:

- (a) at the time of loading, it shall be verified that all bovine animals are identified by ear-tags. Furthermore, at least 10 % of the bovine animals so verified shall be checked individually with a view to verifying their identification;
- (b) at the time of the departure from the Community territory:
  - where an official customs seal has been applied to the means of transport, it shall be checked that the seal is undamaged. If the seal is undamaged a sample check shall only be carried out if there are doubts as to the regularity of the load,
  - where no official customs seal has been applied to the means of transport or where a customs seal is damaged, at least 50 % of bovine animals that were individually checked at the time of loading shall be checked again.

2. The animal passports shall be surrendered to the competent authority in accordance with Article 6(5) of Regulation (EC) No 1760/2000.

3. The paying agency within the meaning of Article 4(2) of Regulation (EC) No 1258/1999 which is responsible for the payment of the premium shall scrutinize the aid applications on the basis of the

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payment files and other available information, paying particular attention to the documents relating to the export and the comments of the competent control authorities and shall check whether the animal passports have been surrendered in accordance with paragraph 2.

*Article 28***Special provisions as regards additional payments**

As regards the additional payments provided for in Article 15 of Regulation (EC) No 1254/1999 the Member State shall, where appropriate, apply the provisions of this Title. If the application of those provisions is not appropriate because of the structure of the additional payment scheme, the Member States shall provide controls ensuring a control level equivalent to that laid down in this Regulation.

*Article 29***Special provisions as regards the control report**

1. 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 <sup>(1)</sup>, the control report provided for in Article 20 shall be supplemented by reports in accordance with Article 2(5) of that Regulation.

2. With regard to the checks in slaughterhouses provided for in Article 26(1), the control report provided for in Article 20 may consist of an indication in the slaughterhouse accounts showing which animals have been subject to the checks.

With regard to the checks provided for in Article 26(2), the report shall include, inter alia, the identification numbers, the carcass weights and dates of the slaughter in relation to all animals slaughtered and checked on the day of the on-the-spot check.

3. With regard to the checks provided for in Article 27, the control report may consist only of an indication of the animals so checked.

4. Where on-the-spot checks conducted in accordance with this Regulation reveal cases of non-compliance with the provisions of Title I of Regulation (EC) No 1760/2000, copies of the control report provided for in Article 20 shall be sent without delay to the authorities responsible for the implementation of Regulation (EC) No 2630/97.

## TITLE IV

**BASIS FOR THE CALCULATION OF THE AID, REDUCTIONS AND EXCLUSIONS***CHAPTER I****Findings in relation to area aid applications****Article 30***General principles**

For the purpose of this chapter the following crop-groups shall be distinguished:

- (a) forage areas declared for the purposes of Article 12 of Regulation (EC) No 1254/1999;
- (b) forage areas other than pasture-land and other than areas used for the production of arable-crops within the meaning of Article 13(3)(b) of Regulation (EC) No 1254/1999 declared for the purposes of Article 13 of that Regulation;

<sup>(1)</sup> OJ L 354, 30.12.1997, p. 23.

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- (c) pasture land within the meaning of Article 13(3)(c) of Regulation (EC) No 1254/1999 declared for the purposes of Article 13 of that Regulation;
- (d) permanent pasture land declared for the purposes of Article 19 of Council Regulation (EC) No 1255/1999 <sup>(1)</sup>;
- (e) crop areas for which a different aid rate is applicable;
- (f) set-aside areas and, where applicable, set-aside areas for which a different aid-rate is applicable.

*Article 31***Basis of calculation**

1. If the area of a crop group determined is found to be greater than that declared in the aid application, the area declared shall be used for calculation of the aid.
2. Without prejudice to reductions and exclusions in accordance with Articles 32 to 35, if the area declared in an area aid application exceeds the area determined for that crop group as a result of administrative or on-the-spot checks the aid shall be calculated on the basis of the area determined for that crop group.
3. 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 determined and on a pro rata basis for each crop concerned. However, payments to arable crop producers shall, in relation to the area of set-aside land determined, only be reduced to the level corresponding to the area which would be needed to produce 92 tonnes of cereals in accordance with Article 6(7) of Regulation (EC) No 1251/1999.
4. If a farmer has been unable to comply with his obligations as a result of force majeure or exceptional circumstances within the meaning of Article 48, he shall retain his right to aid in respect of the area eligible at the time when the case of force majeure or the exceptional circumstance occurred.

*Article 32***Reductions and exclusions in cases of overdeclaration**

1. If, in respect of a crop-group, the area declared exceeds the area determined in accordance with Article 31(2) the aid shall be calculated on the basis of the area determined reduced by twice the difference found if that difference is more than either 3 % or two hectares but no more than 20 % of the area determined.

If the difference is more than 20 % of the area determined, no area-linked aid shall be granted for the crop-group concerned.

2. If, in respect of the overall area determined covered by an application for aid under the aid schemes referred to in Article 1(1)(a) of Regulation (EEC) No 3508/92, the area declared exceeds the area determined in accordance with Article 31(2) by more than 30 %, the aid to which the farmer would have been entitled pursuant to Article 31(2) shall be refused for the calendar year in question under those aid schemes.

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If the difference is more than 50 % the farmer shall be excluded once again from receiving aid up to an amount equal to the amount which corresponds to the difference between the area declared and the area determined in accordance with Article 31(2). This amount shall be off-set against aid payments under any of the aid schemes referred to in Article 1(1) of Regulation (EEC) No 3508/92 to which the farmer is entitled in the context of applications he lodges in the course of the three calendar years following the calendar year of the finding. If the

<sup>(1)</sup> OJ L 160, 26.6.1999, p. 48.

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amount cannot be fully off-set against those aid payments, the outstanding balance shall be cancelled.

**▼B***Article 33***Intentional non-compliance**

Where differences between the area declared and the area determined in accordance with Article 31(2) result from irregularities committed intentionally, the aid to which the farmer would have been entitled pursuant to Article 31(2) shall not be granted for the calendar year in question under the aid scheme concerned.

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Moreover, where that difference is more than 20 % of the area determined, the farmer shall be excluded once again from receiving aid up to an amount equal to the amount which corresponds to the difference between the area declared and the area determined in accordance with Article 31(2). This amount shall be off-set against aid payments under any of the aid schemes referred to in Article 1(1) of Regulation (EEC) No 3508/92 to which the farmer is entitled in the context of applications he lodges in the course of the three calendar years following the calendar year of the finding. If the amount cannot be fully off-set against those aid payments, the outstanding balance shall be cancelled.

**▼B***Article 34***Calculation of forage area for premiums referred to in Article 12 of Regulation (EC) No 1254/1999**

1. Articles 31, 32(1) and 33 shall apply to the calculation of the forage-area for the granting of the aids referred to in Article 12 of Regulation (EC) No 1254/1999.

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2. Where a difference of more than 50 % is found between the area declared and the area determined in accordance with Article 31(2), the farmer shall, in the framework of aid applications he lodges in the course of the three calendar years following the calendar year of the finding, be excluded once again in respect of a forage area equal to the difference between the area declared and the area determined. If the area to be excluded cannot be fully off-set within this period, the outstanding balance shall be cancelled.

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3. Reductions and exclusions in accordance with paragraphs 1 and 2 shall only apply if the area declared resulted, or would have resulted, in a higher payment.

*Article 35***Calculation of forage area for the extensification payment in accordance with Article 13 of Regulation (EC) No 1254/1999**

1. Extensification payments as provided for in Article 13 of Regulation (EC) No 1254/1999 may not be granted for a greater number of animals than that for which the premiums referred to in Article 12 of that Regulation may be paid after application of Article 34 of this Regulation.

2. Without prejudice to paragraph 1, the forage area concerned shall be determined in accordance with Article 31.

If the ceiling of the stocking density factor is not exceeded in relation to the area thus determined the area determined shall be the basis for the calculation of the extensification payment.

If the ceiling is exceeded, the total amount of aid to which the farmer is entitled following aid applications under aid schemes referred to in Article 12 of Regulation (EC) No 1254/1999 submitted during the calendar year in question, shall be reduced by 50 % of the amount the

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farmer has, or would otherwise have, received as extensification payment.

3. Where the difference between the area declared and the area determined results from irregularities committed intentionally and where the ceiling of the stocking density factor is exceeded in relation to the area determined, the total amount of aid referred to in paragraph 2 shall be refused. In this case, the second subparagraph of Article 33 shall, moreover, apply accordingly.

*CHAPTER II**Findings in relation to livestock aid applications**Article 36***Basis of calculation**

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

2. In no case may aid be granted for a number of animals greater than that shown in the aid application.

3. Without prejudice to Articles 38 and 39, if the number of animals declared in an aid application exceeds that determined as a result of administrative or on-the-spot checks, the aid shall be calculated on the basis of the animals determined.

However, if a farmer has been unable to comply with his retention obligation as a result of force majeure or exceptional circumstances within the meaning of Article 48, he shall retain his right to aid in respect of the number of animals eligible at the time when the case of force majeure or the exceptional circumstance occurred.

4. Where cases of non-compliance with the system for the identification and registration for bovine animals are found the following shall apply:

- (a) a bovine animal which has lost one of the two eartags shall be regarded as determined provided that it is clearly and individually identified by the other elements of the system for the identification and registration of bovine animals;
- (b) where the irregularities found relate to incorrect entries in the register or the animal passports, the animal concerned shall only be deemed as not determined if such errors are found on at least two checks within a period of 24 months. In all other cases the animals concerned shall be deemed as not determined already after the first finding.

The provisions of Article 12 shall apply in relation to entries in, and notifications to, the system for the identification and registration of bovine animals.

*Article 37***Replacement**

1. Bovine animals present on the holding shall only be regarded as determined if they are identified in the aid application. However, suckler cows or heifers in respect of which aid is claimed in accordance with Article 6(2) or Article 10(1) of Regulation (EC) No 1254/1999 and dairy cows in respect of which aid is claimed in accordance with Article 13(4) of that Regulation may be replaced during the retention period within the limits provided for in those Articles without the loss of the right to the payment of the aid applied for.

2. Replacements pursuant to paragraph 1 shall occur within 20 days following the event necessitating the replacement and shall be entered in the register not later than three days after the day of replacement. The competent authority to which the aid application was submitted shall be informed within ten working days after the replacement.

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3. Where a farmer applies for aid in respect of both ewes and goats and where there is no difference in the level of aid paid, a ewe may be replaced by a goat and a goat by a ewe. Ewes and goats in respect of which aid is claimed in accordance with Article 4 of Regulation (EC) No 2529/2001 may be replaced during the retention period within the limits provided for in that Article without the loss of the right to the payment of the aid applied for.

4. Replacements pursuant to paragraph 3 shall occur within ten days following the event necessitating the replacement and shall be entered in the register not later than three days after the day of replacement. The competent authority to which the application was submitted shall be informed within five working days after the replacement.

**▼B***Article 38***Reductions and exclusions in respect of bovine animals claimed for aid**

1. Where, in respect of an application for aid under the bovine aid schemes, a difference is found between the number of animals declared and that determined in accordance with Article 36(3), the total amount of aid to which the farmer is entitled under those schemes for the premium period concerned shall be reduced by the percentage to be established in accordance with paragraph 3, if no more than 3 animals are found with irregularities.

2. If more than 3 animals are found with irregularities the total amount of aid to which the farmer is entitled under those schemes for the premium period concerned shall be reduced by:

- (a) the percentage to be established in accordance with paragraph 3, if this is not more than 10 %, or
- (b) twice the percentage to be established in accordance with paragraph 3, if this is more than 10 % but not more than 20 %.

If the percentage established in accordance with paragraph 3 is more than 20 %, the aid to which the farmer would have been entitled pursuant to Article 36(3) shall be refused under those schemes for the premium period concerned.

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If the percentage established in accordance with paragraph 3 is more than 50 %, the farmer shall, moreover, be excluded once again from receiving aid up to an amount corresponding to the difference between the number of animals declared and the number of animals determined in accordance with Article 36(3). This amount shall be off-set against aid payments under the bovine aid schemes to which the farmer is entitled in the context of applications he lodges in the course of the three calendar years following the calendar year of the finding. If the amount cannot be fully off-set against those aid payments, the outstanding balance shall be cancelled.

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3. In order to establish the percentages referred to in paragraphs 1 and 2, the bovine animals claimed under all bovine aid schemes during the premium period concerned and found with irregularities shall be divided by all bovine animals determined for the premium period concerned.

4. Where differences between the number of animals declared and that determined in accordance with Article 36(3) result from irregularities committed intentionally the aid to which the farmer would have been entitled pursuant to Article 36(3) shall be refused under the bovine aid scheme or schemes concerned for the premium period in question.

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Where the difference established in accordance with paragraph 3 is more than 20 %, the farmer shall be excluded once again from receiving aid up to an amount corresponding to the difference between



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the number of animals declared and the number of animals determined in accordance with Article 36(3). This amount shall be off-set against aid payments under the bovine aid schemes to which the farmer is entitled in the context of applications he lodges in the course of the three calendar years following the calendar year of the finding. If the amount cannot be fully off-set against those aid payments, the outstanding balance shall be cancelled.

▼ **B***Article 39***Non-compliance with the provisions concerning the identification and registration of unclaimed bovine animals**

1. Where cases of non-compliance with the provisions of the system for the identification and registration of bovine animals are found as a result of an on-the-spot check concerning unclaimed bovine animals, the total amount of aid to which the farmer is entitled pursuant to Article 36(3) under the bovine aid schemes for the premium period concerned, where appropriate after the application of reductions in accordance with Article 38, shall, except in cases of force majeure or exceptional circumstances within the meaning of Article 48, be reduced by an amount to be calculated on the basis of the formula set out in paragraph 2. ► **M2** However, the amount of aid to be reduced shall not be more than 20 % of that total amount to which the farmer is entitled. ◀

The same shall apply where more bovine animals have been entered in, or notified to, the elements of the system for the identification and registration of bovine animals than are present on the holding.

Article 36(4) shall apply *mutatis mutandis*.

2. The calculation referred to in paragraph 1 shall be carried out according to the following formula:

$$\frac{a}{b} \times \frac{b+c}{2c} \times d$$

In this formula the symbols shall mean:

a = the number of cases of non-compliance with the system for the identification and registration of bovine animals;

▼ **M2**

b = the number of bovine animals present on the holding at the time of the on-the-spot check; this number shall not be lower than 1;

▼ **B**

c = the average number of bovine animals on the holding during the year in which the on-the-spot check is carried out by applying *mutatis mutandis* the methods used for the purposes of Article 32 of Regulation (EC) No 2342/1999;

d = the total amount of aid to which the farmer is entitled pursuant to Article 36(3) under the bovine aid schemes for the premium period concerned, where appropriate after the application of reductions in accordance with Article 38.

3. Where several on-the-spot checks are carried out in respect of the same farmer in the course of one year any reductions to be applied according to paragraph 1 shall be calculated on the basis of the arithmetical average of the results established for each on-the-spot check.

4. If the non-compliance referred to in paragraph 1 is committed intentionally, no aid shall be granted under the aid scheme or schemes concerned for the premium period in question.

▼ **M1***Article 40*

1. Where, in respect of applications for aid under the ovine/caprine aid scheme, a difference is found in accordance with Article 36(3), Article 38(2), (3) and (4) shall apply *mutatis mutandis* as from the first animal in respect of which irregularities are found.
2. If it is established that a sheep producer marketing sheep's milk and sheep's milk products failed to declare on his premium application that he was doing so, the amount of the aid to which he is entitled shall be reduced to the premium payable to sheep producers marketing sheep's milk and sheep's milk products less the difference between this and the full amount of the ewe premium.
3. Where, in respect of applications for the supplementary premium, it is determined that less than 50 % of the area of the holding used for agriculture is located in areas referred to in Article 5(1) of Council Regulation (EC) No 2529/2001 <sup>(1)</sup>, the supplementary premium shall not be paid and the ewe and goat premium shall be reduced by an amount equivalent to 50 % of the supplementary premium.
4. Where it is determined that the percentage of the area of the holding used for agriculture located in areas listed in Annex I of Commission Regulation (EC) No 2550/2001 <sup>(2)</sup> is below 50 %, the goat premium shall not be paid.
5. Where, it is established that the producer practising transhumance who submits an application for the supplementary premium has not grazed 90 % of his animals for at least 90 days in an area referred to in Article 5(2)(b) of Regulation (EC) No 2529/2001 the supplementary premium shall not be paid and the ewe or goat premium shall be reduced by an amount equivalent to 50 % of the supplementary premium.
6. Where it is found that the irregularity referred to in paragraphs 2, 3, 4 and 5 results from intentional non-compliance the total amount of aid referred to in these paragraphs shall be refused. In this case, the farmer shall be excluded once again from receiving aid equal to that amount.

This amount shall be off-set against aid payments under the ovine/caprine aid scheme to which the farmer is entitled in the context of applications he lodges in the course of the three calendar years following the calendar year of the finding.

▼ **M2**

7. In respect of farmers maintaining both ewes and goats entitled to the same level of premium, where an on-the-spot check reveals a difference in the composition of the flock in terms of numbers of animals per species, the animals shall be regarded as being of the same group.

▼ **B***Article 41***Natural circumstances**

The reductions and exclusions provided for in Articles 38 and 40 shall not apply in cases where, owing to the impact of natural circumstances on the herd or flock, the farmer cannot meet his commitment to keep the animals in respect of which aid is claimed throughout the retention period, provided that he has informed the competent authority in writing within ten working days of finding any reduction in the number of animals.

<sup>(1)</sup> OJ L 341, 22.12.2001, p. 3.

<sup>(2)</sup> OJ L 341, 22.12.2001, p. 105.

**▼B**

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 or flock:

- (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 42***False certificates and declarations issued by slaughterhouses**

As regards the declarations or certificates issued by slaughterhouses in connection with the slaughter premium in accordance with 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 concerned shall apply appropriate national sanctions. Where such irregularities are found 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 43***Findings in relation to additional payments**

As regards the additional payments provided for in Article 14 of Regulation (EC) No 1254/1999 the Member States shall provide for reductions and exclusions which shall, in substance, be equivalent to those provided for in this Title.

*CHAPTER III****Common provisions****Article 44***Exceptions from the application of reductions and exclusions**

1. The reductions and exclusions provided for in this Title shall not apply where the farmer submitted factually correct information or where he can show otherwise that he is not at fault.
2. The reductions and exclusions provided for in this Title shall not apply with regard to those parts of the aid application as to which the farmer informs the competent authority in writing that the aid application is incorrect or has become incorrect since it was lodged, provided that the farmer has not been informed of the competent authority's intention to carry out an on-the-spot check and that the authority has not already informed the farmer of any irregularity in the application.

The information given by the farmer as referred to in the first subparagraph shall have the effect that the aid application is adjusted to the actual situation.

*Article 45***Amendments and adjustments of entries in the computerised database**

1. In respect of claimed bovine animals, Article 44 shall apply from the time the aid application is submitted to errors and omissions in relation to entries in the computerised database.
2. In respect of unclaimed bovine animals the reductions and exclusions provided for in Article 39 shall not apply if the farmer communicates amendments and adjustments of entries in the computerised database to the competent authority provided that the farmer has not been informed of the competent authority's intention to carry out an on-the-spot check.



TITLE V

**GENERAL PROVISIONS**

*Article 46*

**Minimum payments**

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

*Article 47*

**Accumulation of sanctions**

1. Reductions and exclusions under this Regulation shall apply independently from each other and individually.
2. Subject to Article 6 of Council Regulation (EC) No 2988/95 <sup>(1)</sup>, the reductions and exclusions under this Regulation shall be without prejudice to additional sanctions pursuant to any other provisions under Community or national law.

*Article 48*

**Force majeure and exceptional circumstances**

1. Cases of force majeure and of exceptional circumstances with relevant evidence to the satisfaction of the competent authority shall be notified in writing to the authority within ten working days of the date on which the farmer is in a position to do so.
2. Exceptional circumstances may be recognized by the competent authority in cases such as, for example:
  - (a) the death of the farmer;
  - (b) long-term professional incapacity of the farmer;
  - (c) a severe natural disaster gravely affecting the holding's agricultural land;
  - (d) the accidental destruction of livestock buildings on the holding;
  - (e) an epizootic affecting part or all of the farmer's livestock.

*Article 49*

**Recovery of undue payments**

1. If undue payment is made, the farmer shall repay the amount in question plus interest calculated in accordance with paragraph 3.
2. The Member States may decide that recovery of an undue payment is to be made by deduction of that amount from any advances or payments under aid schemes referred to in Article 1(1) of Regulation (EEC) No 3508/92 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. Interest shall be calculated for the period elapsing between the notification of the repayment obligation to the farmer 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 amounts under national provisions.

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 of another authority and if the error could not reasonably have been detected by the farmer.

<sup>(1)</sup> OJ L 312, 23.12.1995, p. 1.

**▼B**

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.

5. The repayment obligation referred to in paragraph 1 shall not apply if the period which elapsed between the date of the payment of the aid and that of the first notification to the beneficiary by the competent authority concerning the undue nature of the payment concerned is more than ten years.

However, the period referred to in the first subparagraph shall be limited to four years if the beneficiary acted in good faith.

6. Amounts to be recovered as a consequence of the application of reductions and exclusions pursuant to Article 13 and Title IV shall be subject to a prescription period of four years.

7. Paragraphs 4 and 5 shall not apply in the case of advances.

8. The Member States may decide not to recover amounts of EUR 100 or less, not including interest, per farmer and per premium period, provided that their national law provides for non-recovery in such cases.

#### *Article 50*

#### **Transfer of holdings**

1. For the purposes of this Article:

- (a) the 'transfer of a holding' means the sale, lease or any similar type of transaction in respect of the production units concerned;
- (b) 'transferor' means the farmer whose holding is transferred to another farmer;
- (c) 'transferee' means the farmer to whom the holding is transferred.

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

3. 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 and requests payment of the aid;
- (b) the transferee presents any evidence required by the competent authority;
- (c) all the conditions for granting the aid are fulfilled in respect of the holding transferred;

4. 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 3:

- (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 rules;
- (c) the holding transferred shall be considered, where appropriate, as a separate holding in respect of the marketing year or premium period in question.

5. Where an aid application is 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

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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 3 are fulfilled. In this case, point (b) of paragraph 4 shall apply.

6. The 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) the Member States shall ensure analogous application of the requirements set out in paragraphs 2 to 5.

*Article 51***Additional measures and mutual assistance between Member States**

1. The Member States shall take all further measures required for the proper application of this Regulation and shall give the mutual assistance needed for the purposes of checks required pursuant to this Regulation. In this respect the Member States may, where this Regulation does not provide for appropriate reductions and exclusions, 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.

2. 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.

*Article 52***Notifications**

1. Where the Member States introduce changes to their implementation of the integrated system they shall inform the Commission thereof.

2. The Member States shall send the Commission by 31 March each year at the latest, for arable crops, and by 31 August each year at the latest, 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 and exclusions applied pursuant to Title IV.

At the same time as the notifications referred to in the first subparagraph in respect of animal premiums are sent to the Commission, the Member States shall also notify the total number of beneficiaries who received aids under aid schemes falling within the scope of the integrated system.

In exceptional situations the Member States may, in agreement with the Commission, derogate from the dates mentioned in the first subparagraph.

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

4. The computerised data established as a part of the integrated system shall be used to support the information specified in the framework of sectoral rules which the Member States are obliged to send to the Commission.

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## TITLE VI

## TRANSITIONAL AND FINAL PROVISIONS

▼ **M2***Article 52a***Prescription with regard to aid applications relating to marketing years and premium periods which started before 1 January 2002**

By way of derogation from Article 54(2) and without prejudice to more favourable rules on limitation periods laid down by Member States, Article 49(5) shall also apply to aid applications relating to the marketing years and premium periods that started before 1 January 2002, unless the beneficiary has already been notified by the competent authority of the undue nature of the payment concerned before 1 February 2004.

▼ **B***Article 53***Repeal**

1. Regulation (EEC) No 3887/92 is hereby repealed. However, it shall continue to apply in respect of aid applications relating to marketing years or premium periods which ► **C1** start before 1 January 2001. ◀
2. References to Regulation (EEC) No 3887/92 shall be construed as references to this Regulation and shall be read in accordance with the correlation table in the Annex.

*Article 54***Entry into force**

1. This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Communities*.
2. It shall apply to aid applications relating to marketing years or premium periods starting as of 1 January 2002.

Article 3 and the second subparagraph of Article 52(2) shall apply with effect from 1 January 2003.

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



## ANNEX

## CORRELATION TABLE

Regulation (EEC) No 3887/92	This Regulation
Article 1	Article 1
Article 2(1)	Article 5(1)
Article 2(2)	—
Article 2(3)	Article 5(2)
Article 2(4)	Article 46
Article 3	Article 4(1)
Article 4(1) first subparagraph	Article 6(1)
Article 4(1) second subparagraph	Article 2 point (k)
Article 4(1) third subparagraph	Article 7
Article 4(2) point (a)	Article 8
Article 4(2) point (b)	—
Article 4(3)	Article 6(3)
Article 4(4)	—
Article 4(5)	Article 9
Article 4(6)	Article 6(2)
Article 4(7)	Article 4(2)
Article 5	Article 10
Article 5a	Article 11
Article 5b	Article 12
Article 6(1)	Article 15
Article 6(2)	Article 16
Article 6(3)	Article 18(1) and (2)
Article 6(3a)	—
Article 6(4)	Article 19
Article 6(5) first subparagraph	Article 17(1)
Article 6(5) second subparagraph	Article 21
Article 6(5) third subparagraph	Article 25(1)
Article 6(5) subparagraph 4	Article 17(2)
Article 6(6)	Article 25(2)
Article 6(6a) first, second and third subparagraphs	Article 26
Article 6(6a) fourth subparagraph	Article 27



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Regulation (EEC) No 3887/92	This Regulation
Article 6(6a) fifth subparagraph	—
Article 6(6b)	—
Article 6(6c)	Article 18(3)
Article 6(7) and (8)	Article 22
Article 6(9)	Article 28
Article 7(1)	Article 23
Article 7(2)	—
Article 7a(1) and (2) first and second subparagraphs	Article 20
Article 7a(2) third subparagraph and (3) and (4)	Article 29
Article 7b	Article 17(3)
Article 8	Article 13
Article 9(1)	Article 31(1)
Article 9(2) first subparagraph first sentence	Article 31(2)
Article 9(2) first subparagraph second sentence and second subparagraph	Article 31(4) and Article 32(1)
Article 9(2) third subparagraph	—
Article 9(2) fourth subparagraph	Article 30
Article 9(2) fifth subparagraph	—
Article 9(2) sixth subparagraph	Article 2 point (r)
Article 9(2) seventh subparagraph	—
Article 9(3)	Article 33
Article 9(4) first subparagraph	Article 34
Article 9(4) second subparagraph	Article 31(3)
Article 10(1) to (4)	Article 36
Article 10(5)	Article 41
Article 10a	Article 37
Article 10b	Articles 38 and 40
Article 10c	Article 39
Article 10d	Article 36(4)
Article 10e(1)	Article 38(4) and Article 40
Article 10e(2)	Article 42
Article 10f	—
Article 10g	Article 43

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Regulation (EEC) No 3887/92	This Regulation
Article 11(1)	Article 47(2)
Article 11(1a)	Article 44(2)
Article 11(2) and (3)	Article 48
Article 12	—
Article 13	—
Article 14	Article 49
Article 14a	Article 50
Article 15	Article 51
Article 16	—
Article 17(1) and (2)	—
Article 17(3)	Article 52(2)
Article 18	Article 52(3) and (4)
Article 19	Article 54