

COMMISSION REGULATION (EC) No 659/2006

of 27 April 2006

amending Regulation (EC) No 796/2004 laying down detailed rules for the implementation of cross-compliance, modulation and the integrated administration and control system provided for in Council Regulation (EC) No 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Whereas:

- (1) Following the introduction of the support scheme for sugar into the single payment scheme, Commission Regulation (EC) No 796/2004⁽²⁾ needs to be amended in several respects, in particular with regard to the application procedure and the control measures to be carried out with regard to that aid scheme. Moreover, the provisions of that Regulation need to be clarified with regard to certain aspects.
- (2) The application of certain provisions of the detailed rules of the integrated system set out in Regulation (EC) No 796/2004 to the schemes established in Article 143b and Article 143c of Regulation (EC) No 1782/2003 is provided for in Articles 136 and 140(1) respectively of Commission Regulation (EC) No 1973/2004 of 29 October 2004 laying down detailed rules for the application of Council Regulation (EC) No 1782/2003 as regards the support schemes provided for in Titles IV and IVa of that Regulation and the use of land set aside for the production of raw materials⁽³⁾. Regulation (EC) No 796/2004 should be clarified to that extent.

- (3) A number of references to other Regulations are obsolete and should be updated with the relevant reference.

- (4) Any specific information relating to the production of sugar should be requested as part of the single application.

- (5) In accordance with Article 14(2) of Regulation (EC) No 796/2004 the Member States may derogate from certain provisions concerning the single application during the first year of application of the single payment scheme or when a new element is introduced to the single application scheme. That derogation should also include the possibility to change the use or aid scheme in respect of individual parcels.

- (6) The integration of the sugar reference amounts into the single payment scheme following the reform in the sugar sector, as provided for by Council Regulation (EC) No 319/2006 of 20 February 2006 amending Regulation (EC) No 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers⁽⁴⁾, requires flexibility concerning possible additions and amendments to the single application in the case where a Member State applies Article 48c(8) of Commission Regulation (EC) No 795/2004 of 21 April 2004 laying down detailed rules for the implementation of the single payment scheme provided for in Council Regulation (EC) No 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers⁽⁵⁾ during the year 2006. Such additions and amendments should therefore be allowed until 15 June 2006. However, the dates for the submission of the single application as provided for in Article 11 of Regulation (EC) No 796/2004 should be maintained in order to allow the Member States to organise their respective control programmes in due time.

⁽¹⁾ OJ L 270, 21.10.2003, p. 1. Regulation as last amended by Regulation (EC) No 319/2006 (OJ L 58, 28.2.2006, p. 32).

⁽²⁾ OJ L 141, 30.4.2004, p. 18. Regulation as last amended by Regulation (EC) No 489/2006 (OJ L 88, 25.3.2006, p. 7).

⁽³⁾ OJ L 345, 20.11.2004, p. 1. Regulation as last amended by Regulation (EC) No 263/2006 (OJ L 46, 16.2.2006, p. 24).

⁽⁴⁾ OJ L 58, 28.2.2006, p. 32.

⁽⁵⁾ OJ L 141, 30.4.2004, p. 1. Regulation as last amended by Regulation (EC) No 658/2006 (see page 14 of this Official Journal).

- (7) Chapter 10e of Regulation (EC) No 1782/2003 provides for a transitional sugar payment in the Member States applying Article 71 of that Regulation. Article 143ba of that Regulation provides for a separate sugar payment in Member States applying the single area payment scheme provided for in Article 143b of that Regulation. Both the transitional sugar payment and the separate sugar payment are, due to their nature, not related to agricultural area, which is why the provisions concerning the single application pursuant to Regulation (EC) No 796/2004 do not apply to these payment schemes. Provision should therefore be made for an appropriate application procedure.
- (8) In the case where new sectors are being included in the single payment scheme, it should be provided for that the rules in Article 21a of Regulation (EC) No 796/2004 concerning late submissions of applications to the single payment scheme should also apply in the case of applications of farmers concerning such new sectors.
- (9) The cross-checks to be carried out on the single application should be extended to certain particular checks with regard to various conditions concerning the information provided by the sugar manufacturers.
- (10) Given the particularities of the aid scheme for sugar provided for in Chapters 10f of Title IV of Regulation (EC) No 1782/2003, special control provisions should be established.
- (11) In the case where the competent authority increases the number of on-the-spot checks, it should also be possible to increase the percentage of farmers randomly selected for those checks.
- (12) In the case where a farmer declared more area than payment entitlements, Article 50(2) of Regulation (EC) No 796/2004 provides that the basis for the calculation for the aid is the amount of hectares accompanied by payment entitlements. In cases where the area declared fulfils all other eligibility requirements, there is no need for the application of reductions or exclusions in accordance with Articles 51 or 53 of that Regulation. These provisions should therefore be clarified to that extent.
- (13) The rules concerning reductions to be applied by way of off-setting against payments the following three years are only possible, in the case of livestock payments, within the same aid scheme as where the irregularity has occurred. This is contrary to the area-related schemes where the off-set can be made to any payment covered by Titles III and IV of Regulation (EC) No 1782/2003. The rules for the different aid schemes should be harmonised.
- (14) Transitional rules concerning cases where reductions to be applied by way of off-setting against payments the following three years do only cover decisions taken concerning applications for the year 2004. Given that the livestock payments, after the introduction of the single payment scheme, are incorporated in that scheme, an off-set should be possible against that aid scheme.
- (15) The introduction of new aid schemes into the single payment scheme requires an updating of the references to the budgetary ceilings referred to in Article 71a of Regulation (EC) No 796/2004.
- (16) When the single payment scheme and the single application were introduced, the latest date for area-based payments and animal-based payments was harmonised. Therefore it is appropriate to also harmonise the latest date for the Member States to communicate information concerning those payments.
- (17) Regulation (EC) No 796/2004 should therefore be amended accordingly.
- (18) The amendments provided for in this Regulation concern aid applications relating to years or premium periods starting as of 1 January 2006. This Regulation should therefore apply as of 1 January 2006.
- (19) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Direct Payments,
- HAS ADOPTED THIS REGULATION:
- Article 1*
- Regulation (EC) No 796/2004 is amended as follows:

1. Article 2 is amended as follows:

(a) point 12 is replaced by the following:

'12. "Area-related aid schemes": shall mean the single payment scheme, the hops payment to recognised producer groups referred to in the second paragraph of Article 68a of Regulation (EC) No 1782/2003 and all aid schemes established under Titles IV and IVa of Regulation (EC) No 1782/2003, except those established under Chapters 7, 10e, 11 and 12 of that Title IV and except the separate sugar payment established in Article 143b(a) of that Regulation;'

(b) point 20 is replaced by the following:

'20. "Retention period": shall mean the 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:

- (a) Articles 90 and 94 of Regulation (EC) No 1973/2004, in relation to the special premium for male bovines;
- (b) Article 101 of Regulation (EC) No 1973/2004, in relation to the suckler cow premium;
- (c) Article 123 of Regulation (EC) No 1973/2004, in relation to the slaughter premium;
- (d) Article 70(3) of Regulation (EC) No 1973/2004, in relation to aid paid for ovines and caprines;'

2. Article 13 is amended as follows:

(a) paragraph 6 is replaced by the following:

'6. In the case of an application for energy crops provided for in Chapter 5 of Title IV of Regulation (EC) No 1782/2003, the single application shall contain a copy of the contract the applicant has concluded with a collector or a first processor pursuant to Article 26 of Regulation (EC) No 1973/2004;'

(b) the following paragraph is added:

'13. In the case of an application for the aid to sugar beet and cane producers provided for in Chapter 10f of

Title IV of Regulation (EC) No 1782/2003, the single application shall contain a copy of the delivery contract referred to in Article 110r of that Regulation;'

3. Article 14 is amended as follows:

(a) in paragraph 1, the third subparagraph is replaced by the following:

'Uses of area neither for the purposes of the aid schemes provided for in Titles III, IV and IVa of Regulation (EC) No 1782/2003 nor listed in Annex V to that Regulation shall be declared under one or more "other uses" headings;'

(b) in paragraph 2, the second subparagraph replaced by the following:

'Member States may, under the same conditions, also allow changes regarding the use or aid scheme in respect of individual agricultural parcels already declared in the single application.'

The derogations provided for in the first and second subparagraphs shall also apply with regard to the first year when new sectors are introduced into the single payment scheme and the payment entitlements are not yet definitively established for the farmers concerned by this introduction;'

4. Article 15 is amended as follows:

(a) in paragraph 1, the second and third subparagraphs are replaced by the following:

'Changes regarding the use or aid scheme in respect of individual agricultural parcels or in respect of payment entitlements already declared in the single application may be made under the same conditions.'

In respect of the year 2006, the application for the aid for sugar beet and cane producers provided for in Chapter 10f of Title IV of Regulation (EC) No 1782/2003 may be added to the single application under the conditions referred to in the first subparagraph of this paragraph.'

Where the amendments referred to in the first, second and third subparagraphs have a bearing on any supporting documents or contracts to be submitted, the related amendments to such documents or contracts shall also be allowed;'

(b) in paragraph 2, the following subparagraph is added:

‘However, in respect of the year 2006, the amendments made in accordance with paragraph 1 of this Article shall be notified to the competent authority by 15 June at the latest in those Member States which apply Article 48c(8) of Regulation (EC) No 795/2004.’;

5. in Article 16(1), point (f) is replaced by the following:

‘(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 130 of Regulation (EC) No 1973/2004, 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.’;

6. the following Chapter is inserted after Article 17:

‘CHAPTER IIIA

SUGAR PAYMENT AND SEPARATE SUGAR PAYMENT

Article 17a

Requirements pertaining to aid applications for the sugar payment and the separate sugar payment

1. Farmers applying for the sugar payment provided for in Chapter 10e of Regulation (EC) No 1782/2003 and farmers applying for the separate sugar payment provided for in Article 143ba of that Regulation shall submit an aid application containing all information necessary to establish eligibility for the aid, and in particular:

(a) the identity of the farmer;

(b) a statement by the farmer that he is aware of the conditions pertaining to the aid in question.

2. The aid application for the sugar payment or the separate sugar payment respectively shall be submitted by

a date to be determined by the Member States which shall not be later than 15 May and, in the case of Estonia, Latvia and Lithuania, 15 June.

However, in respect of the year 2006, the date referred to in the first subparagraph shall not be later than 30 June 2006 for the submission of aid applications for the separate sugar payment in accordance with Article 143ba of Regulation (EC) No 1782/2003.’;

7. in Article 21a, the following paragraph is added:

‘3. Paragraphs 1 and 2 shall also apply in the first year of the inclusion of new sectors into the single payment scheme in respect of applications of farmers concerning their participation in such sectors.’;

8. in Article 24(1), the following point is added:

‘(k) between the information provided in the delivery contract referred to in Article 110r of Regulation (EC) No 1782/2003 and the information on deliveries provided by the sugar manufacturer.’;

9. Article 26 is amended as follows:

(a) paragraph 1 is amended as follows:

(i) the following point is added to the second subparagraph:

‘(e) 5 % of all farmers applying for the aid for sugar beet and cane producers provided for in Chapter 10f of Title IV of Regulation (EC) No 1782/2003.’;

(ii) the third subparagraph is replaced by the following:

‘Where the control sample drawn under the first subparagraph already contains applicants for the aids referred to in points (a) to (e) of the second subparagraph, those applicants may be counted towards the control rates stipulated therein.’;

(b) in paragraph 2 the following point is added:

'(h) as regards applications for the aid for sugar beet and cane producers provided for in Chapter 10f of Title IV of Regulation (EC) No 1782/2003, concerning controls at the sugar manufacturers on the quantity quota sugar obtained from sugar beets and cane delivered in accordance with Article 110r of that Regulation, at least 5 % of the applicants delivering to the manufacturer concerned.;

10. in Article 27(1) the following subparagraph is added:

'However, if the number of farmers to be subjected to on-the-spot checks exceeds the minimum number of farmers to be subjected to on-the-spot checks as provided for in Article 26(1) and (2), the percentage of randomly selected farmers in the additional sample should not exceed 25 %;

11. the following Article is inserted after Article 31a:

'Article 31b

On-the-spot checks on sugar manufacturers

On-the-spot checks on sugar manufacturers in the framework of applications for sugar beet aid for sugar beet and cane producers provided for in Chapter 10f of Title IV of Regulation (EC) No 1782/2003 shall verify:

- (a) the information in the delivery contracts provided by the farmer;
- (b) the correctness of the information on deliveries provided to the competent authority;
- (c) the certification of the weighting scales used for deliveries;
- (d) the results of the official laboratory analyses performed to determine the percentage of sucrose of the sugar beets and cane delivered.;

12. Article 32 is amended as follows:

(a) in paragraph 3, point (a) is replaced by the following:

'(a) all aid applications having at least 80 % of the area for which aid is requested under schemes established in Titles III, IV and IVa of Regulation (EC) No 1782/2003 within the respective zone;

(b) paragraph 4 is replaced by the following:

'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 established in Titles III, IV and IVa of Regulation (EC) No 1782/2003 shall be subject to the on-the-spot check by remote sensing.;

13. in Article 36(1), the second subparagraph is replaced by the following:

'The on-the-spot checks in slaughterhouses shall comprise a posteriori scrutiny of documents, a comparison with the entries in the computerised database for bovine animals 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 121(3) of Regulation (EC) No 1973/2004.;

14. in Article 45(3), the first subparagraph is replaced by the following:

'By way of derogation from paragraph 2, the competent authority may, with regard to the requirements or standards for which it is responsible, select a control sample of 1 % of all farmers submitting aid applications under support schemes established in Titles III, IV and IVa of Regulation (EC) No 1782/2003 and who are under the obligation to respect at least one of the requirements or standards.;

15. in Article 50, paragraph 2 is replaced by the following:

'(2) With regard to an application for aid under the single payment scheme, if there is a discrepancy between the payment entitlements declared and the area declared, the calculation of the payment shall be based on the lower size.;

16. Article 51 is amended as follows:

(a) in the second subparagraph of paragraph 2, the second sentence is replaced by the following:

'That amount shall be off-set against aid payments under any of the aid schemes referred to in Titles III, IV and IVa of Regulation (EC) No 1782/2003 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.;

- (b) the following paragraph 2a is inserted after paragraph 2:

'2a. If a farmer declares more area than payment entitlements and the area declared fulfils all other eligibility requirements, the reductions or exclusions provided for in paragraphs 1 and 2 shall not apply.

If a farmer declares more area than payment entitlements and the area declared does not fulfil all other eligibility requirements, the difference referred to in paragraphs 1 and 2 shall be the difference between the area fulfilling all other eligibility requirements and the amount of payment entitlements declared.'

17. Article 53 is amended as follows:

- (a) in the second paragraph the second sentence is replaced by the following:

'That amount shall be off-set against aid payments under any of the aid schemes referred to in Titles III, IV and IVa of Regulation (EC) No 1782/2003 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.'

- (b) the following paragraphs are added:

'If a farmer declares more area than payment entitlements and the area declared fulfils all other eligibility requirements, the reductions or exclusions provided for in the first and second paragraphs shall not apply.

If a farmer declares more area than payment entitlements and the area declared does not fulfil all other eligibility requirements, the difference referred to in the first and second paragraphs shall be the difference between the area fulfilling all other eligibility requirements and the amount of payment entitlements declared.'

18. Article 59 is amended as follows:

- (a) in the third subparagraph of paragraph 2, the second sentence is replaced by the following:

'That amount shall be off-set against aid payments under any of the aid schemes referred to in Titles III, IV and IVa of Regulation (EC) No 1782/2003 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.'

- (b) in the second subparagraph of paragraph 4, the second sentence is replaced by the following:

'That amount shall be off-set against aid payments under any of the aid schemes referred to in Titles III, IV and IVa of Regulation (EC) No 1782/2003 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.'

19. Article 60 is amended as follows:

- (a) paragraph 4 is replaced by the following:

'4. Where it is determined that the percentage of the area of the holding used for agriculture located in areas listed in Annex X to Regulation (EC) No 1973/2004 is below 50 %, the goat premium shall not be paid.'

- (b) in the second subparagraph of paragraph 6, the second sentence is replaced by the following:

'That amount shall be off-set against aid payments under any of the aid schemes referred to in Titles III, IV and IVa of Regulation (EC) No 1782/2003 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.'

20. in Article 62, the first sentence is replaced by the following:

'As regards the declarations or certificates issued by slaughterhouses in connection with the slaughter premium provided for in Article 121 of Regulation (EC) No 1973/2004, if it is found that the slaughterhouse made a false certification or declaration as a result of serious negligence or intentionally, the Member State concerned shall apply appropriate national sanctions.'

21. in the second paragraph of Article 64, the third sentence is replaced by the following:

‘An amount equal to the amount covered by the refused application shall be off-set against aid payments under any of the aid schemes established in Titles III, IV and IVa of Regulation (EC) No 1782/2003 to which the person is entitled in the context of applications he lodges in the course of the calendar year following the calendar year of the finding.’;

22. in Article 71a(2)(d), the first subparagraph is replaced by the following:

‘With regard to aid schemes listed in Annex I to Regulation (EC) No 1782/2003 for which a budgetary ceiling is fixed in accordance with Articles 64(2), 70(2), 71(2), 110p(1), 143b(7) and 143ba(2) of that Regulation, the Member State shall sum up the amounts resulting from the application of points (a), (b) and (c).’;

23. in Article 73(2), the first sentence is replaced by the following:

‘Member States may decide that recovery of an undue payment is to be made by deduction of the corresponding amount from any advances or payments under aid schemes referred to in Titles III, IV and IVa of Regulation (EC) No 1782/2003 made to the farmer concerned following the date of the decision to recover.’;

24. Article 76(1) is amended as follows:

- (a) in the first subparagraph, the introductory terms are replaced by the following:

‘Member States shall send the Commission by 15 July each year at the latest, for the single payment and other area-related aid schemes as for animal premiums and

the separate sugar payment established in Article 143ba of Regulation (EC) No 1782/2003, a report covering the previous calendar year and, in particular, relating to the following points:’;

- (b) the second subparagraph is replaced by the following:

‘At the same time as the report referred to in the first subparagraph is sent to the Commission, Member States shall notify the total number of beneficiaries who received aid under aid schemes falling within the scope of the integrated system and the results of the checks relating to cross-compliance in accordance with Chapter III of Title III.’;

25. in Article 80(1), the following subparagraph is added:

‘When a Member State introduces the single payment scheme after 2005, in cases where reductions to be applied by way of off-setting in accordance with the third subparagraph of Article 59(2) and the second subparagraph of Article 59(4) could not yet fully be off-set before the date of application of the single payment scheme, the outstanding balance shall be off-set against payments under any of the aid schemes falling under this Regulation, provided the time-limits for the off-setting stipulated in those provisions have not yet expired.’

Article 2

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

It shall apply to aid applications relating to years or premium periods starting as of 1 January 2006.

However, points (16)(b) and (17)(b) of Article 1 shall apply to aid applications relating to years or premium periods starting as of 1 January 2005.

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

Done at Brussels, 27 April 2006.

For the Commission

Mariann FISCHER BOEL

Member of the Commission