Commission Regulation (EC) No 1550/2007 of 20 December 2007 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

COMMISSION REGULATION (EC) No 1550/2007

of 20 December 2007

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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), (l), (m) (n) and (p) thereof,

Whereas:

(1) In the report to the Council[(2)] on the implementation of cross-compliance, the Commission has identified a number of possible improvements in terms of efficiency and simplification of the rules governing this implementation. To put those improvements into force, Commission Regulation (EC) No 796/2004[(3)] needs to be amended in several respects.

(2) Article 143bb of Regulation (EC) No 1782/2003 provides for a separate fruit and vegetables payment in Member States applying the single area payment scheme provided for in Article 143b of that Regulation. This payment is, due to its 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 that payment scheme. Hence, the definition of area-related aid schemes should be amended accordingly and provision should be made for an appropriate application procedure.

(3) The provisions concerning the sugar payment provided for in Chapter 10e of Regulation (EC) No 1782/2003 have become obsolete and should be deleted.

(4) The date for the establishment of the ratio of permanent pasture to be maintained at Member State level needs to be established for Bulgaria and Romania. The latest date

for which information about this ratio shall be communicated to the Commission should also be provided.

(5) Following the introduction of the transitional fruit and vegetables payment provided for in Chapter 10g of Regulation (EC) No 1782/2003 and the transitional soft fruit payment provided for in Chapter 10h of that Regulation, Regulation (EC) No 796/2004 needs to be amended in respect of the application procedure.

(6) Following the introduction of the single payment scheme and the decoupling of area related payment it is no more necessary for on-the-spot checks for those payments to be unannounced in all cases. It should also be clarified when on-the-spot checks concerning cross-compliance need to be unannounced, in particular with a view to avoid a concealment of a non-compliance or irregularity.

(7) Experience has shown that more flexibility when reaching the minimum control rate for checks of cross-compliance is needed. The Member State should have the option to fulfil the minimum rate not only at the level of the competent control authority but also at the level of the paying agency or at the level of an act or standard, or group of acts or standards. Furthermore, when a sample has to be extended beyond the minimum control rate following a high number of non-compliances found, that extension should be targeting the acts or standards concerned and not the whole area subject to cross-compliance. Therefore the relevant provisions in Regulation (EC) No 796/2004 should be amended accordingly.

(8) Furthermore, experience has shown that the selection of control sample for on-the-spot checks can be improved by allowing such sample not only to be selected at the level of the competent control authority but also at the level of the paying agency, or per act and standard.

(9) The existence of differing control rates provided for in specific legislation concerning the control of cross-compliance makes it more difficult for the Member States to organise the controls. Therefore a single control rate for on-the-spot checks regarding cross-compliance should be introduced. Nevertheless, any instance of non-compliance detected in the course of on-the-spot checks under the sectoral legislation should be reported and followed-up under cross-compliance.

(10) The sampling of on-the-spot checks for cross-compliance can be improved by allowing to take into account into the risk analysis the farmers participation in the farm advisory system provided for in Articles 13 and 14 of Regulation (EC) No 1782/2003 as well as farmers participation in relevant certifications systems. It should however be demonstrated when taking that participation into account that the farmers participating in those schemes represent a lesser risk than farmers not participating in those schemes.

(11) To assure an element of representativeness in the sample to be selected for on-the-spot checks for cross-compliance, a certain part of the sample should be selected randomly. In the case when the number of on-the-spot checks for cross-compliance is increased, it should also be possible to increase the percentage of farmers randomly selected for those checks.

(12) In order to make it possible to start the on-the-spot checks for cross-compliance as early as possible in the year, also before all information on the application forms is available, it should be possible to make a partial selection of the control sample based on the already available information.

(13) On-the-spot checks for cross-compliance would in general require several visits on the same farm. In order to reduce the burden of the checks for both farmers and administrations, the checks may be limited to one control visit. The timing of that visit should be clarified. Nevertheless, the Member States should ensure that a representative and effective check of the requirements and standards remaining to be checked shall be carried out within the same calendar year.

(14) Concerning on-the-spot checks of eligibility criteria, the possibility to limit actual inspections to a sample of the area to be checked has proven efficient. Therefore it is appropriate to extend this possibility, where applicable, to the on-the-spot checks for cross-compliance. However, when the sample check reveals non-compliances, the sample actually inspected should be extended. This principle should also apply where the legislation applicable to the act and standard provides for such a check.

(15) To simplify the on-the-spot checks and to make better use of existing control capacities, it should be provided, when the effectiveness of the controls is at least equal to the one achieved when the checks are carried out by on-the-spot checks, to replace controls at farm level by administrative checks or checks at the level of undertakings.

(16) It should furthermore be possible for the Member States to make use of objective indicators specific to certain requirements or standards when performing the on-the-spot checks. Those indicators should however be directly linked to the requirements or standards they represent and cover all elements to be checked.

(17) Article 66 of Regulation (EC) No 796/2004 provides that a possible reduction following a determined non-compliance shall be applied the same calendar year as the application is submitted. Logically, the on-the-spot check has to be carried out the same year where the application is lodged. This should be clarified in Regulation (EC) No 796/2004.

(18) The farmers should be informed about any possible non-compliance determined following an on-the-spot check. It is appropriate to provide for a certain time limit within which the farmers should receive this information. However, exceeding such time limit should not entitle the farmers concerned to avoid the consequences that the determined non-compliance would otherwise trigger.

(19) The current provisions concerning reductions to be applied in case of repeated non-compliances do not take into account any improvement or worsening of the repeated non-compliance. In order to encourage improvement and discourage worsening of the situation, the percentage to be fixed and multiplied by the factor three, for the first repetition should take such changes into account.

(20) The introduction of new aid schemes for direct payments requires an updating of the references to the budgetary ceilings referred to in Article 71a of Regulation (EC) No 796/2004.

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EC) No 1550/2007. (See end of Document for details)*

(21) In certain cases, unduly allocated entitlements correspond to very small amounts and a substantial administrative burden is required to recover those entitlements. In light of simplification and the balance between the administrative burden and the amount to be recovered, the introduction of a minimum amount that may trigger a recovery is justified.

(22) The amendments provided for in this Regulation concern aid applications relating to years or premium periods starting as of 1 January 2008. This Regulation should therefore apply as of 1 January 2008.

(23) Regulation (EC) No 796/2004 should therefore be amended accordingly.

(24) 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 that Regulation, except those established under Chapters 7, 10f, 11 and 12 of that Title IV, except the separate sugar payment established in Article 143b(a) of that Regulation and except the separate fruit and vegetable payment established in Article 143bb of that Regulation;

(b) point 32 is replaced by the following:

32. "Act": shall mean each of the individual Directives and Regulations listed in Annex III to Regulation (EC) No 1782/2003; however, the Directive and the Regulations listed in points 7 and 8 of Annex III to that Regulation shall establish one single act;

2. in Article 3, the following paragraph is added:

7. For Bulgaria and Romania, the reference ratio shall be established as follows:

a the land under permanent pasture shall be the land under permanent pasture declared by the farmers in 2007 in accordance with Article 14(1) of this Regulation;

b the total agricultural area shall be the total agricultural area declared by the farmers in 2007.;

3. in Article 13, the following paragraph is inserted before paragraph 14:

13a. In case of application for transitional fruit and vegetables payments provided for in Chapter 10g of Title IV of Regulation (EC) No 1782/2003 or application for

transitional soft fruit payments provided for in Chapter 10h of that Title, the single application shall contain a copy of the contract for processing or the commitment to supply pursuant to Article 171db of Regulation (EC) No 1973/2004.

Member States may provide that the information in the first subparagraph may be submitted separately by a later date which shall not be later than 1 December the year of the application.;

4. in Title II of Part II, the heading of Chapter IIIa is replaced by the following:
AID FOR SUGAR BEET AND CANE PRODUCERS, SEPARATE SUGAR PAYMENT AND SEPARATE FRUIT AND VEGETABLES PAYMENT;

5. Article 17a is amended as follows:

(a) the heading is replaced by the following:

> Requirements pertaining to aid applications for the aid for sugar beet and cane producers, the separate sugar payment and the separate fruit and vegetables payment;

(b) in paragraph 1, the introductory words are replaced by the following:

> 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, farmers applying for the separate sugar payment provided for in Article 143ba of that Regulation and farmers applying for the separate fruit and vegetables payment provided for in Article 143bb of that Regulation shall submit an aid application containing all information necessary to establish eligibility for the aid, and in particular:

(c) paragraph 2 is replaced by the following:

> 2. The aid application for the aid for sugar beet and cane producers, the separate sugar payment or the separate fruit and vegetables 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, not later than 15 June.;

6. in Chapter I of Title III of Part II, the following Article 23a is added:

Article 23a

1 Provided that the purpose of the control is not jeopardised, on-the-spot checks may be announced. The announcement shall be strictly limited to the minimum time period necessary and shall not exceed 14 days.

However, for on-the-spot checks concerning livestock aid applications, the notice mentioned in the first subparagraph shall, except in duly justified cases, not exceed 48 hours. Furthermore, where the legislation applicable to the acts and standards relevant to cross-compliance requires the on-the-spot check to be unannounced, those rules shall also apply in the case of on-the-spot checks related to cross-compliance.

2 Where appropriate, on-the-spot checks provided for in this Regulation and any other checks provided for in Community rules shall be carried out at the same time.;

7. Article 25 is deleted;