Commission Regulation (EC) No 972/2007 of 20 August 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 972/2007

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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 Article 145(c), (j), (k), (l), (m), (n) and (p) thereof,

Whereas:

(1) Experienced gained since the introduction of the support schemes under Regulation (EC) No 1782/2003 shows that Commission Regulation (EC) No 796/2004[(2)] needs to be amended. Moreover, Regulation (EC) No 796/2004 needs to be clarified with regard to certain aspects and a number of simplifications of the rules should be introduced. In addition, provisions which have become obsolete, in particular because of the ending of the transitional period provided for in Article 71 of Regulation (EC) No 1782/2003, should be deleted.

(2) In order to ensure coherence between the obligations to declare separate use of parcels and the definition of the ‘agricultural parcel’, that definition should be clarified in the case where a separate declaration of the use of a parcel is required in the context of Regulation (EC) No 796/2004. In the case where that separate declaration of use concerns an area within a crop group, it is appropriate to clarify that the agricultural parcel is defined by that use.

(3) Following the accession of Bulgaria and Romania to the European Union the definition of the term ‘new Member States’ needs to be updated.

(4) To ensure an adequate and reliable system for identification of the agricultural parcels, the provisions concerning the declaration of areas and in particular, the need to indicate the new boundaries of the reference parcels when the pre-printed application form is corrected, needs to be clarified.

(5) Following the amended rules for payments for energy crops and the introduction of the written declaration provided for in Article 33(2) 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)] as amended by Regulation (EC) No 270/2007[(4)], Articles 13 and 24 of Regulation (EC) No 796/2004 should be amended accordingly.

(6) To verify the eligibility of certain payments, the farmer is required to send supporting documents when he is making his application. In order to simplify the administration for the farmer as well as for the national authorities, it should be possible for the national authority to require those documents directly from the source of information.

(7) The integration of the banana reference amounts into the single payment scheme following the reform in the banana sector, as provided for by Council Regulation (EC) No 2013/2006 of 19 December 2006 amending Regulations (EEC) No 404/93, (EC) No 1782/2003 and (EC) No 247/2006 as regards the banana sector[(5)], requires flexibility concerning possible additions and amendments to the single application during the year 2007. 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.

(8) Based on experience, the current provisions for selection of farmers for on-the-spot checks and the control rates should be improved and more flexibility should be given to the Member States. This can be achieved by setting the requirement of a sample to at least 5 % of the farmers applying for the single payment scheme or the single area payment scheme. At the same time the Member State should assure that at least 3 % of the farmers applying for the aid schemes provided for under Titles III, IV and IVa of Regulation (EC) No 1782/2003 are selected for control. The control rate for farmers whose agricultural parcels are being declared by a producer group applying for hops payments should be adapted accordingly. For ovine and caprine premia, the introduction of a centralised database for registration of the animals justifies a decrease of the control rate.

(9) Taking too many pre-defined factors into account when doing the risk analyses to select a sample for on-the-spot controls could have an adverse effect on the sample. Therefore it is appropriate to give the responsibility to choose the risk factors to the competent authority as it is in a better position to chose the relevant risk factors. To assure relevant and efficient risk analyses, the effectiveness of the risk analyses should be assessed and updated on an annual basis taking into account the relevance of each risk factor, comparing the results of randomly and risk based selected samples and the specific situation in the Member State.

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

(11) Rules for identification and registration of ovine and caprine animals have been introduced by Council Regulation (EC) No 21/2004 of 17 December 2003 establishing a system for the identification and registration of ovine and caprine animals and amending Regulation (EC) No 1782/2003 and Directives 92/102/EEC and 64/432/EEC[(6)]. Those rules also apply on animals for which an aid is applied for. Therefore the relevant provisions in Regulation (EC) No 796/2004 should be updated.

(12) On-the-spot checks can either be performed by a visit on the farm or via remote sensing. The two ways of performing the checks have equal value and that should be clarified by streamlining the rules for the different ways of performing an on-the-spot check.

(13) In order to ensure the quality of the on-the-spot checks, provisions to assure a minimum quality of measurements of areas should be introduced and the means used should be proven to assure a quality at least equivalent to that required by applicable technical standard as drawn up at Community level.

(14) Experience has shown that the use of a perimeter tolerance when measuring parcels is the most appropriate. Focusing on the perimeter tolerance would furthermore simplify the systems and assure equal treatment of farmers in different Member States.

(15) Experience gained shows that it is possible to simplify the check of documents during the on-the-spot controls for livestock premia without jeopardising the quality of the check. However, if anomalies are found during the check, the time period for which the documents should be checked should be extended.

(16) In relation to applications for area related payments, differences between the total area declared in the application and the total area determined as eligible are often insignificant. To avoid a high number of minor adjustments of applications it should be provided that the aid application should not be adjusted to the area determined unless a certain level of differences is exceeded.

(17) The general principle applied is that there is no tolerance when a farmer has intentionally over declared his area. This can lead to an undesired reduction of the payment. A threshold should therefore be introduced also in case of intentional over declaration to assure proportionality when this over declaration is of a limited nature. Nevertheless, it is still an intentional act by the farmer and the tolerance should therefore be at very low level.

(18) When a Member State makes use of the possibility provided for in Article 69 of Regulation (EC) No 1782/2003 and the payments are granted for areas or livestock it is appropriate to apply the rules in Title IV of Regulation (EC) No 796/2004. This needs to be clarified and Article 63 of Regulation (EC) No 796/2004 should be amended accordingly.

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EC) No 972/2007. (See end of Document for details)*

(19) In certain cases unduly allocations of entitlements did not affect the total value, but only the number of the entitlements of the farmer. In these cases, the Member States should correct the allocation or where appropriate the type of entitlements, without reducing the value hereof. The provision should only apply if the farmer could not have detected the error.

(20) The reporting requirements for the Member States should be updated to assure an efficient reporting of the checks of the production aids for starch potatoes, seeds and tobacco.

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

(22) The provision related to the inclusion of banana reference amounts into the single payment scheme provided for in this Regulation concerns aid applications relating to years or premium periods starting from 1 January 2007. This also applies for the provision including Bulgaria and Romania in the definition of 'new Member States'. Those provisions should therefore apply from 1 January 2007.

(23) 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) in the first paragraph, point (1)(a) is replaced by the following:

      (1a) "agricultural parcel": shall mean a continuous area of land on which a single crop group is cultivated by a single farmer; however, where a separate declaration of the use of an area within a crop group is required in the context of this Regulation, that specific use shall further limit the agricultural parcel;

   (b) the second paragraph is replaced by the following:

      For the purposes of this Regulation, "new Member States" shall mean Bulgaria, the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Romania, Slovenia and Slovakia.;

2. Article 8(2) is replaced by the following:

2. Where an 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.;

3. in the second subparagraph of Article 12(4), the first sentence is replaced by the following:

   'If the correction relates to the reference parcel area, the farmer shall declare the up-to-date area of each agricultural parcel concerned and where necessary indicate the new boundaries of the reference parcel.';

4. 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 25 of Regulation (EC) No 1973/2004 or, in case of application of Article 33(2) of that Regulation, a written declaration in accordance with that Article.;

(b) the following paragraph is added:

14. The information required in the supporting documents set out in this Article may, when possible, be requested directly from the source of the information by the competent authority.;

5. Article 15 is amended as follows:

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

Where the amendments referred to in the first and second 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 second subparagraph is replaced by the following:

However, in respect of the year 2007, 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. In duly justified cases, notifications of such amendments shall be accepted until 20 days following the publication of Regulation (EC) No 972/2007[7] in the *Official Journal of the European Union*.

6. in Article 17a(2), the second subparagraph is deleted;

7. Article 21(3) is deleted;

8. Article 24(1)(f) is replaced by the following:

(f) where supporting documents, contracts, growing declarations or written declarations in accordance with Article 33(2) of Regulation (EC) No 1973/2004 have to be submitted and where applicable, between the agricultural parcels as declared in the single application and in the supporting documents, contracts, growing declarations or written declarations in accordance with Article 33(2) of Regulation (EC) No 1973/2004 to verify the eligibility for aid of the area;

9. Article 26 is amended as follows:

(a) Paragraph 1 is replaced by the following:

1. The total number of on-the-spot checks carried out each year shall cover at least 5 % of all farmers applying for the single payment scheme or the single area payment scheme.