# Commission Regulation (EC) No 2184/2005 of 23 December 2005 amending Regulations (EC) No 796/2004 and (EC) No 1973/2004 laying down detailed rules for the application of 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 2184/2005

## of 23 December 2005

## amending Regulations (EC) No 796/2004 and (EC) No 1973/2004 laying down detailed rules for the application of 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 7(1), 24(1), 145(c), (l), (m), (n), (p), (r), thereof,

Whereas:

(1) Following the introduction of the support schemes for cotton, olive oil and tobacco into the single payment scheme, Commission Regulation (EC) No 796/2004 of 21 April 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[(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 those aid schemes. Moreover, the provisions of that Regulation need to be clarified with regard to certain aspects.

(2) There is a need to clarify the concept of the term ‘agricultural parcel’ for the purpose of the application of Regulation (EC) No 796/2004 as referring to a continuous area of land on which a single crop group is cultivated by a single farmer. Such definition read in conjunction with Article 49(3) of that Regulation should make it clear, however, that crops of different crop groups may be cultivated on the same continuous area of land where the different aid schemes so allow. In such cases the same area would have to be taken into account as several agricultural parcels.

(3) Due to the particularities of olive parcels, there is a need to provide for a particular definition in that respect.

**Changes to legislation:** *There are currently no known outstanding effects for the Commission Regulation (EC) No 2184/2005. (See end of Document for details)*

(4) In accordance with Article 66(2) of Regulation (EC) No 796/2004, the non-respect of various cross-compliance obligations, all falling within the same area of cross-compliance within the meaning of Article 2(31) of that Regulation, are to be considered as one non-compliance when fixing the respective sanctions. It should be clarified that the non-respect of the obligations for individual farmers in the context of the maintenance of land under permanent pasture referred to in Article 4 of that Regulation fall within the same area of cross-compliance as the respect of the 'good agricultural and environmental condition'. The respective definitions should be adapted accordingly.

(5) Any specific information relating to the production of cotton, olive oil and tobacco should be requested as part of the single application.

(6) Farmers are furnished with pre-printed application forms and graphic material. Whilst farmers should indicate the correct size of the area if the pre-printed material is incorrect, this would be very difficult in respect of the size of the area resulting from changes of the positioning of olive trees. In that respect the obligation of the farmer to indicate any changes regarding the positioning of the olive trees should suffice to give the competent authority the necessary information to re-calculate the exact resulting size of the area.

(7) 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. That derogation should also apply whenever new elements are introduced into the single application scheme.

(8) The cross-checks to be carried out on the single application should be extended to certain particular checks with regard to various conditions to be respected by the farmer when applying for the crop specific payment for cotton.

(9) A frequent error when performing the cross-checks is a minor over-declaration of the total agricultural area within a reference parcel. For reasons of simplification, where a reference parcel is subject to an aid application of two or more farmers applying for aid under the same aid scheme and where the overall area declared exceeds the agricultural area with a difference which falls within the tolerance defined pursuant to Article 30(1) of Regulation (EC) No 796/2004, Member States should be authorised to provide for a proportional reduction of the areas concerned. However, in certain situations, the farmers concerned should be entitled to appeal against such decisions.

(10) In order to guarantee effective controls on the tobacco aid scheme provided for in Chapter 10c of Title IV of Regulation (EC) No 1782/2003, a particular control sample should be provided for on-the-spot checks.

(11) Experience shows that certain adaptations may be made to the minimum sample to be selected for on-the-spot checks of farmers applying for aid for nuts provided for in Chapter 4 of Title IV of Regulation (EC) No 1782/2003.

(12) As regards payments of tobacco aid under Chapter 10c of Title IV of Regulation (EC) No 1782/2003, there is a need to provide for a particular control sample for the selection of first processors to be checked on-the-spot during first processing and market preparation.

(13) Since not only farmers are subject to the sampling provisions of Regulation (EC) No 796/2004, Article 27 of that Regulation should be adapted accordingly.

(14) The elements to be taken into account for the risk analysis when selecting control samples for on-the-spot checks should be extended for the purposes of the new aid schemes to be controlled under Regulation (EC) No 796/2004.

(15) The control report to be prepared after each on-the-spot check should provide the relevant information regarding olive trees.

(16) Given the particularities of the aid schemes for cotton, olive oil and tobacco in accordance with Chapters 10a, 10b and 10c of Title IV of Regulation (EC) No 1782/2003, special control provisions should be established.

(17) Following the introduction of approved inter-branch organisations in the context of the production of cotton, specific conditions for the on-the-spot checks should be laid down.

(18) In accordance with of Article 110k(a) and (c) of Regulation (EC) No 1782/2003, the granting of the tobacco aid is subject to the condition that the raw tobacco comes from a specified production area and is delivered on the basis of a cultivation contract. Aid for tobacco production may be paid only after a check on deliveries to guarantee that the operations concerned have actually been carried out. In several Member States checks are carried out at the place to which tobacco is delivered rather than that where it is processed. In order to prevent irregularities the checks to be carried out at those places and conditions for the transfer of the raw tobacco should be specified.

(19) For the purpose of guaranteeing effective checks during first processing and market preparation, the raw tobacco should be placed under supervision when the farmer delivers it to the first-processing undertaking. For that reason, the tobacco from both the Community and third countries should remain under supervision until first processing and market preparation have taken place.

(20) As regards both the basis of calculation in respect of areas declared and reductions and exclusions, special provisions are necessary to take into account the particularities of aid applications under the aid schemes for tobacco and cotton.

(21) Special provisions are needed as regards additional payments to be granted in the case of the optional implementation for specific types of farming and quality production.

(22) Aid schemes which are not established under Titles III or IV of Regulation (EC) No 1782/2003 but which are listed in Annex I to that Regulation also form part of the direct payment schemes. Cross-compliance is therefore also relevant, and applications for aid under such aid schemes should also be subject to sampling.

(23) Given the particularities of the aid schemes for cotton and tobacco provided for in Chapters 10a and 10c of Title IV of Regulation (EC) No 1782/2003, special penalties should be established.

(24) Experience gained shows that a clarification and specifications of the information to be communicated to the Commission is needed.

(25) Article 171ae 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)] establishes the procedure for the approval of inter-branch organisations of farmers producing cotton referred to in Article 110d of Regulation (EC) No 1782/2003. Provisions should be made in case an approved inter-branch organisation does no longer fulfil the relevant criteria.

(26) Regulations (EC) No 796/2004 and (EC) No 1973/2004 should therefore be amended accordingly.

(27) 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) the following points are inserted after point (1):

      (1a) "Agricultural parcel": shall mean a continuous area of land on which a single crop group is cultivated by a single farmer;

      (1b) "Olive parcel" shall mean an agricultural parcel with olive trees, as defined in point 1(a) of Annex XXIV to Commission Regulation (EC) No 1973/2004[(4)];;

   (b) point (31) is replaced by the following:

      (31) "Areas of cross-compliance" shall mean the different areas of statutory management requirements within the meaning of Article 4(1) of Regulation (EC) No 1782/2003 and the good agricultural and environmental condition in accordance with Article 5 of that Regulation;

   (c) point (33) is replaced by the following:

      (33) "Standards": shall mean the standards as defined by the Member States in accordance with Article 5 of Regulation (EC) No 1782/2003 and Annex IV thereto as well as the obligations in relation to permanent pasture as laid down in Article 4 of this Regulation;

   (d) point (35) is replaced by the following:

      (35) "Non-compliance": shall mean any non-compliance with the requirements and standards;

2. Article 12 is amended as follows:

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

(e) where appropriate, the olive area expressed in olive GIS-ha, in accordance with points 2 and 3 of Annex XXIV to Regulation (EC) No 1973/2004;

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

(b) in paragraph 2, the second subparagraph is deleted;

(c) paragraph 3 is replaced by the following:

3. For the purpose of the identification of all agricultural parcels on the holding referred to in paragraph 1(d), the pre-printed forms distributed to the farmer in accordance with Article 22(2) of Regulation (EC) No 1782/2003 shall mention the maximum eligible area per reference parcel for the purposes of the single payment scheme. Moreover, the graphical material supplied to the farmer in accordance with that provision shall indicate the boundaries of the reference parcels and their unique identification and the farmer shall indicate the location of each agricultural parcel.

As regards olive parcels, the graphical material supplied to the farmer shall include for each olive parcel the number of eligible olive trees and their positioning in the parcel as well as the olive area expressed in olive GIS-ha in accordance with point 3 of Annex XXIV to Regulation (EC) No 1973/2004.

In the case of an application for aid for olive groves provided for in Chapter 10b of Title IV of Regulation (EC) No 1782/2003, the graphical material supplied to the farmer shall include for each olive parcel:

a the number of non eligible olive trees and their positioning in the parcel;

b the olive area expressed in olive GIS-ha, in accordance with point 2 of Annex XXIV to Regulation (EC) No 1973/2004;

c the category under which aid is claimed, as established in accordance with Article 110i(2) of Regulation (EC) No 1782/2003;

d where appropriate, an indication that the parcel is covered by a programme approved by the Commission as referred to in Article 4 of Council Regulation (EC) No 1638/98[(5)], and the number of olive trees concerned and their positioning in the parcel.

4 When submitting the application form, the farmer shall correct the pre-printed form referred to in paragraphs 2 and 3 if any amendments, in particular transfers of payment entitlements in accordance with Article 46 of Regulation (EC) No 1782/2003, have occurred or if any of the information contained in the pre-printed forms is incorrect.

If the correction relates to the size of the area, the farmer shall indicate the actual size of the area concerned. However, where the positioning of olive trees indicated in the graphical material is incorrect, the farmer shall not be obliged to indicate the resulting correct size of the area expressed in olive GIS-ha but shall only indicate the actual position of the trees.;

3. in Article 13, the following paragraphs are added: