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COUNCIL DIRECTIVE
of 17 April 1972
on the modernization of farms

(72/159/EEC)

(OJ L 96, 23.4.1972, p. 1)

Amended by:

		Official Journal No	page	date
►**M1**	Council Directive 73/210/EEC of 24 July 1973	L 207	48	28.7.1973
►**M2**	Council Directive 73/358/EEC of 19 November 1973	L 326	17	27.11.1973
►**M3**	Council Directive 76/837/EEC of 25 October 1976	L 302	19	4.11.1976
►**M4**	Council Directive 81/528/EEC of 30 June 1981	L 197	41	20.7.1981
►**M5**	Council Regulation (EEC) No 1945/81 of 30 June 1981	L 197	31	20.7.1981
►**M6**	Council Directive 82/436/EEC of 24 June 1982	L 193	37	3.7.1982
►**M7**	Council Directive 84/140/EEC of 5 March 1984	L 72	24	15.3.1984
►**M8**	Council Directive 84/513/EEC of 23 October 1984	L 285	13	30.10.1984
►**M9**	Council Regulation (EEC) No 797/85 of 12 March 1985	L 93	1	30.3.1985
►**M10**	Council Regulation (EEC) No 3768/85 of 20 December 1985	L 362	8	31.12.1985

Amended by:

►**A1**	Act of Accession of Greece	L 291	17	19.11.1979

Corrected by:

►**C1** Consolidated text of corrigenda to instruments published in Special Editions 1952-72, p. 99 (72/159/EEC)

NB: This consolidated version contains references to the European unit of account and/or the ecu, which from 1 January 1999 should be understood as references to the euro — Council Regulation (EEC) No 3308/80 (OJ L 345, 20.12.1980, p. 1) and Council Regulation (EC) No 1103/97 (OJ L 162, 19.6.1997, p. 1).

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COUNCIL DIRECTIVE

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on the modernization of farms

(72/159/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 42 and 43 thereof;

Having regard to the proposal from the Commission;

Having regard to the Opinion of the European Parliament;

Whereas the objectives of the common agricultural policy set out in Article 39 (1) (a) and (b) of the Treaty can only be achieved through a reform of agricultural structures;

Whereas such structural reform is a basic factor in the development of the common agricultural policy; whereas it should therefore be based on a Community concept and on Community criteria;

Whereas, because of the diversity of their causes, nature and gravity, structural problems in agriculture may require solutions which vary according to region and are capable of adjustment over a period of time; whereas such solutions must contribute to the overall economic and social development of each region concerned; whereas the best results can be achieved if, acting on the basis of Community concepts and criteria, Member States implement the common measures individually through their own legislative and administrative procedures, and if, in addition, they themselves determine, on the basis of conditions laid down by the Community, the extent to which such measures should be intensified in or concentrated on certain regions;

Whereas agricultural structure within the Community is typified by the existence of a large number of farms which lack the structural conditions necessary to provide a fair income and living conditions comparable with those of other occupations; whereas, moreover, the gap between incomes on farms with a structure enabling them to adjust to economic developments and incomes on other farms is constantly widening;

Whereas, in the future, the only farms capable of adjusting to economic developments will be those on which the farmer has adequate occupational skill and competence, on which profitability is verified by accounts and which are capable, through the adoption of rational methods of production, of assuring a fair income and satisfactory working conditions for persons working thereon; whereas, therefore, reform of the structure of agricultural production should be directed towards the formation and development of such farms;

Whereas in most cases the development of such farms cannot be achieved by short term measures; whereas, moreover, it can be achieved at a more reasonable and balanced pace under a development plan covering several years and setting out the measures to be taken from the start of operations until completion of the plan;

Whereas, with a view to providing a guideline for the development of such farms, the objective which a development plan must attain both as regards the farm's profitability and as regards the working hours of those employed thereon should be specified;

Whereas, where the development of the farm includes a proposal for extending the utilized agricultural area, it is not necessary that the farm should be in occupation of the land earmarked for its extension from the time the development plan is first put into operation; whereas it must, however, be certain that the land in question will become available to the farm within the proposed development period;

Whereas, in order to ensure that public money allocated for the development of farms is indeed used for the ►C1 benefit ◄ of farms

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which satisfy the required conditions, development plans should be subject to approval by the competent authorities;

Whereas the efforts of farmers towards achieving the objective of the development plan may be encouraged by allocating to them by way of priority land released under the Council Directive of 17 April 1972 ([1]) and by granting aids for investment;

Whereas aids for investment should be granted mainly in the form of interest rate subsidies, in order to leave economic and financial responsibility for the farm in the hands of the farmer; whereas for the same reasons he should pay part of the interest; whereas provision should be made for aids to be granted also in the form of capital grants or deferred repayments;

Whereas, in view of the size of the investment required to ensure the profitability of farm businesses concentrating on cattle and sheep enterprises, the granting of aids for the purchase of such stock should be made subject to certain conditions;

Whereas, bearing in mind Community production objectives, incentives in respect of pig farming should be granted only under certain special conditions, and incentives in respect of poultry and eggs should be subject to a further decision, while farms should be encouraged to concentrate on the production of beef, veal, mutton and lamb;

Whereas the keeping of accounts is essential to a correct assessment of the financial and economic situation of farms, and in particular of those undergoing modernization; whereas a financial incentive may encourage the keeping of accounts;

Whereas, in the interests of rational production and of improvement in living conditions, encouragement should be given to the formation of groups having as their purpose mutual aid between farms a more rational common use of agricultural investments, or group farming operations:

Whereas the possibilities of developing farms by means of land repar-celling or irrigation schemes must be used as fully as possible in order to help achieve the objectives of this Directive; whereas it is therefore desirable that special systems of additional aids be introduced in connection with such schemes or that existing systems be adapted;

Whereas the modernization of farms will only be realized successfully if the financial assistance given by Member States is concentrated on achieving the aforesaid objectives; whereas farms whose long-term profitability is doubtful should not be encouraged to embark upon a growth process which is often long and costly; whereas, however, Member States should be allowed to alleviate, by means of temporary investment aids, the situation of heads of farm businesses which, for various reasons, are not eligible to benefit from the measures for agricultural reform.

Whereas Member States must be able to adopt special measures of aid for certain regions where the maintenance of a minimum level of population is not assured and where a certain amount of farming is essential in view of the need to conserve the countryside;

Whereas the proposed measures are in the Community's interest and are intended to achieve the objectives set out in Article 39 (1) (a) of the Treaty, including the structural changes necessary for the proper functioning of the common market; whereas they therefore constitute common measures within the meaning of Article 6 of Council Regulation (EEC) No 729/70 of 21 April 1970 on the financing of the common agricultural policy ([2]);

Whereas, inasmuch as the Community contributes to the financing of the common measures, it must be in a position to ascertain that the provisions adopted by Member States for the implementation of those

([1]) OJ No L 96, 17.4.1972, p. 9.
([2]) OJ No L 94, 28.4.1970, p. 13.

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measures will contribute towards achievement of the objectives thereof; whereas, to this end, provision should be made for a procedure establishing close cooperation between Member States and the Commission within the Standing Committee on Agricultural Structure set up by Article 1 of the Council Decision of 4 December 1962 on the coordination of policies on agricultural structure, [1] and involving, as regards financial aspects, consultation with the EAGGF Committee referred to ►C1 in Articles 11 to 15 of Regulation (EEC) No 729/70 ◄;

Whereas it is desirable that the European Parliament and the Council be able, on the basis of a report submitted by the Commission, to examine annually the effects of the national and Community measures taken, so that they may assess the need to supplement or adapt the system introduced hereunder;

HAS ADOPTED THIS DIRECTIVE:

TITLE I

Incentives to farms suitable for development

Article 1

1. With a view to bringing about structural conditions conducive to a significant improvement in agricultural incomes and working and production conditions, Member States shall introduce a system of selective incentives to farms suitable for development, designed to encourage their operation and development under rational conditions.

2. Member States may, acting in accordance with the general provisions to be adopted hereafter by the Council under the procedure laid down in Article 43 of the Treaty:

— vary according to region the amount of the financial incentives provided for in the first subparagraph of Article 8 (2), and, within the limits set out therein, those provided for in Articles 10, 11 and 12 and also those provided for in Article 13;

— refrain from applying in certain regions all or some of the measures provided for in Articles 8, 10, 11, 12 and 13.

Article 2

For the purposes of this Directive a farm shall be considered suitable for development where:

1. the farmer:

   (a) practises farming as his main occupation;

   (b) possesses adequate occupational skill and competence;

   (c) undertakes that from the start of the development plan he will keep accounts as defined in Article 11;

   (d) draws up a plan for the development of the farm business which satisfies the conditions laid down in Article 4;

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2. its level of earned income is less than the modernization objective established by Member States in accordance with Article 4 (2) or whose earned income does not exceed 120 % of this modernization objective, and where its present structure is such as to jeopardize maintenance of that income at a comparable level; in the latter case, the interest rate subsidy provided for in Article 8 (1) (b) shall apply only to two-thirds of the loan referred to in Article 8 (2).

[1] OJ No 136, 17.12.1962, p. 2892/62.

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Article 3

1. Member States shall for the purposes of this Directive define what is meant by the expression 'a farmer practising farming as his main occupation'. Definitions shall, in the case of a natural person, at least include the condition that the proportion of income from farming be not less than 50% of the farmer's total income and that the working time devoted to non-farming activities be less than half of the farmer's total working time.

Having regard, in particular, to the criteria indicated in the preceding subparagraph, Member States shall define the aforesaid expression:

— in relation to a person other than a natural person;

— in respect of a farm owned by a person other than the farmer;

— in respect of a farm worked under a share-cropping agreement.

2. In addition, Member States shall lay down the criteria for assessing the occupational skill and competence of the farmer. Such criteria shall refer to the standard of agricultural training received or to a minimum period of farming experience or to both.

Article 4

1. The development plan provided for in Article 2 (1) (d) must show that, upon its completion, the farm undergoing modernization will be capable of attaining as a minimum, in principle for either one or two man-work units, a level of earned income comparable to that received for non-agricultural work in the region in question.

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2. A comparable earned income as referred to in paragraph 1 means the average gross wage for a non-agricultural worker to which Member States may apply a 5 % general corrective abatement.

Member States may, where necessary, take account of disparities between the social security arrangements for farmers and those for non-agricultural workers.

Furthermore, Member States are authorized to accept, at the request of the farmer, development plans whose income objective represents only 90 % of the comparable earned income fixed in accordance with this paragraph.

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3. For the purpose of showing that the farm undergoing modernization will be capable of attaining the objective referred to in paragraph 1, the earned income to be attained upon completion of the development plan shall be compared either:

— with the comparable earned income as defined in paragraph 2, or

— with that of reference farms which at the time when application is made have an earned income equivalent to the comparable income as defined in paragraph 2.

4. Member States

(a) shall:

— specify the minimum number of man-work units, having regard to the various types of production and to the working conditions associated therewith;

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— determine what constitutes an adequate return on the capital invested in the farm business. Member States may add to the earned income accruing from the farm the amount of any return on capital over and above 3 · 5 %;

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— fix, having regard to the duration of the development plan, the modernization objective referred to in paragraph 1;

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— lay down the conditions of application of paragraph 2, subparagraph 3;