

SUBSIDIARY LEGISLATION 146.07**SINGLE PAYMENT SCHEME REGULATIONS**

1st January, 2007

LEGAL NOTICE 151 of 2008, as amended by Legal Notice 510 of 2010.

1. (1) The title of these regulations is the Single Payment Scheme Regulations. Title and scope.

(2) The scope of these regulations is to apply the fully decoupled system as from 1 January, 2007.

2. In these regulations, words and phrases shall have the following meanings: Interpretation.

*Amended by:
L.N. 510 of 2010.*

"active herd book" or "flock register" means a register of live bovines or ovines of a particular holding registered with the Veterinary Services Department;

"agricultural activity" means the production, rearing or growing of agricultural products including harvesting, milking, breeding animals and keeping animals for farming purposes, or maintaining the land in good agricultural and environmental condition;

"agricultural parcel" means a continuous area of land declared by one farmer, which does not cover more than one single crop group;

"animal keeper" means any natural or legal person responsible for rearing animals whether on a permanent or on a temporary basis, including at the time of transportation or at a market;

"animal passport" means the animal passport referred to in Articles 3(c) and 6 of Regulation (EC) No 1760/2000;

"authorised person" means any person, whether or not an officer of the Paying Agency, who is authorised by the Paying Agency, either generally or specifically, to act in matters arising under these regulations;

"beneficiary" means the farmer registered and coded in a unique manner of identification and who applies for aid using the IACS;

"computerised database for bovine animals" means the computerised database referred to in Articles 3(b) and 5 of Regulation (EC) No 1760/2000;

"crop group", in relation to the use of areas, means a set of distinct parcels in the application that have the same relevant cultivation for the purposes of the calculation of the financial assistance under the relevant aid scheme;

"dairy producer" means a farmer registered with the competent authority for milk, who has been allocated a reference quantity of milk and has an active dairy herd book;

"ear tag" means the ear tag to identify animals individually referred to in Articles 3(a) and 4 of Regulation (EC) No 1760/2000;

"eligible land" means any agricultural area of the holding taken up by arable land, permanent pasture and areas under permanent crops, except forests, or used for non-agricultural activities;

"farmer" means a natural or legal person, or a group of natural or legal persons, who exercise an agricultural activity;

"fully decoupled" means when financial aid to farmers and breeders is no longer linked to either production or quotas;

"Geographical Information System (GIS)" means the computerised geographical information system techniques referred to in Article 17 of Regulation (EC) No. 73/2009;

"holding" means all the production units situated in Malta managed by the same farm;

S.L. 146.03 "Integrated Administration and Control System" or "IACS" shall have the same meaning as that assigned to it in the Paying Agency Regulations;

"Land Parcel Identification System" or "LPIS" means a Geographical Information System (GIS) which identifies reference parcels, assigning to each of them a unique identification code, referred to as the reference parcel number;

"land use" means the use of area in terms of the type of crop or ground cover or the absence of a crop;

"lease" means lease or similar types of temporary transactions;

"LFA" means the Less Favoured Area;

"livestock breeder" means a farmer who breeds bovines or ovines and has an active herd book or flock register;

"the Minister" means the Minister responsible for the agricultural activities;

"National Reserve" means a fund set up in terms of Article 41 of Regulation (EC) No. 73 of 2009;

S.L. 146.03 "Paying Agency" means the body established in terms of the Paying Agency Regulations;

"payment claim" means an application for direct payment in respect of entitlements submitted in terms of regulation 26;

"payment entitlement" means a right for payment related to the Single Payment Scheme in terms of these regulations;

"premium period" means the period to which a single application refers irrespective of the moment of its submission;

"reference parcel" means a geographically delimited area retaining a unique identification as registered in the Land Parcel Identification System (LPIS) and available in the IACS database, which refers to an area of land on which more than one crop may be raised by more than one farmer;

"Register" means the register kept by the keepers of animals in accordance with Article 4 of Council Directive 92/102/EEC, Article 5 of Council Regulation (EC) No 21/2004, or Articles 3(d) and 7 of Regulation (EC) No 1760/2000 respectively;

"sale" means the sale or any other definitive transfer of ownership of land or payment entitlements; the definition shall not include the sale of land where land is transferred to public authorities and, or for use in the public interest and the transfer is carried out for non-agricultural purposes;

"Single Application" means an application for direct payments in respect of the Single Payment Scheme;

"SPS" means the Single Payment Scheme;

"transfer or sale or lease of payment entitlement with land" shall mean the sale or lease of payment entitlements with, respectively, the sale or lease of a corresponding number of hectares of eligible land within the meaning of Regulation (EC) No. 73/2009 held by the transferor;

"used entitlements" means an entitlement which has been activated for payment.

3. The Single Payment Scheme shall replace the Arable Aid Scheme, aid related to Olive Trees and the production of Olive Oil, Livestock Premium Schemes and Dairy Premium, and shall also include fruit and vegetable reform in terms of EC Regulation No. 1182/2007 and wine reform in terms of EC Regulation No. 479/2008.

SPS to substitute other aid schemes.
Amended by:
L.N. 510 of 2010.

4. The SPS shall not include payments related to rural development and any other payments that did not fall under direct payments prior to 2007 and also national schemes.

Payments related to rural development.
Amended by:
L.N. 510 of 2010.

5. (1) The dates of receipt of applications and the conditions under which payment claims are assessed shall be published from time to time in the Gazette.

Receipt of application.
Amended by:
L.N. 510 of 2010.

(2) A farmer shall submit a payment claim for the Single Payment Scheme, on a form provided by the Paying Agency, in terms of Regulation (EC) 73/2009 in a year of allocation.

(3) In order for a farmer to be eligible for an allocation of entitlements he shall possess:

- (a) at least 0.1 ha of eligible land registered on the LPIS;
or
- (b) an active herd book or flock register.

6. (1) The Single Payment Scheme consists of five types of entitlement, namely:

Types of Single Payment entitlements.
Amended by:
L.N. 510 of 2010.

- (a) normal entitlements;
- (b) authorized entitlements;
- (c) special entitlements;
- (d) normal tomato entitlements; and
- (e) normal wine entitlements.

(2) Normal entitlements shall be allocated to farmers who declared their parcels as arable land or olives in 2007. New entitlements allocated from the National Reserve shall be

recognised as normal entitlements.

(3) Authorised entitlements shall be derived from areas on which crops listed under Article 1(2) of Reg. 2200/1996 and Reg. 2201/1996 are grown.

(4) Normal tomato entitlements shall apply to farmers who expressed interest to receive tomato entitlements during the applications campaign of 2008 and who produced tomatoes for processing during the years 2006 and 2007.

(5) Normal wine entitlements shall apply to farmers who expressed interest to receive wine entitlements during the applications campaign of 2009 and who cultivated vines for the production of wine during the year 2008.

(6) Special entitlements shall apply to all livestock and dairy producers whether or not they have any hectares of eligible land on which normal entitlements will be allocated. These entitlements shall be utilised by producers who have an active herd book or flock record.

(7) Authorised entitlements, special entitlements, normal tomato entitlements, and normal wine entitlements shall not be re-allocated from the National Reserve after their first year of allocation.

Entitlement for livestock breeders.

7. *(Deleted by Legal Notice 510 of 2010).*

Single Application submissions.

8. *(Deleted by Legal Notice 510 of 2010).*

Applications in the ovine sector.

9. *(Deleted by Legal Notice 510 of 2010).*

Entitlement value.

10. *(Deleted by Legal Notice 510 of 2010).*

Unit value of each entitlement.

11. *(Deleted by Legal Notice 510 of 2010).*

Allocation of entitlements.
*Substituted by:
L.N. 510 of 2010.*

12. Entitlements shall be allocated in terms of the following procedure:

- (a) any farmer who applies for aid in that year of allocation shall receive a notification by the Paying Agency indicating the entitlements which he has been allocated;
- (b) a farmer who receives a notification in terms of paragraph (a) shall be required to reply, within fifteen working days from the date of such notification, by making a declaration in writing stating his approval or disapproval of the area assigned to him;
- (c) if a reply is received in terms of paragraph (b) stating approval by the farmer, a definitive entitlement shall be allocated;
- (d) if no reply is received in terms of paragraph (b) within the stipulated period, such application for entitlements shall be cancelled;

- (e) if a reply is received in terms of paragraph (b) stating the disapproval by the farmer of the area assigned to him, such dispute shall be referred to arbitration in terms of regulation 13 of the Paying Agency Regulations. S.L. 146.03
13. (Deleted by Legal Notice 510 of 2010). Allocation of definitive entitlements.
14. (1) A case of *force majeure* or exceptional circumstances with relevant evidence to the Paying Agency, shall be notified by the farmer concerned in writing to the Paying Agency within fifteen days from the notification of the provisional entitlement. *Force majeure. Amended by: L.N. 510 of 2010.*
- (2) *Force majeure* or exceptional circumstances shall be recognised by the Paying Agency in the following cases:
- (a) the death of the farmer;
 - (b) long-term professional incapacity of the farmer;
 - (c) a severe natural disaster gravely affecting the holding's agricultural land;
 - (d) the accidental destruction of livestock buildings on the holding; and
 - (e) an epizootic event affecting part or all of the farmer's livestock.
15. (Deleted by Legal Notice 510 of 2010). Calculation of dairy entitlement.
16. (Deleted by Legal Notice 510 of 2010). Calculation of the livestock entitlement.
17. (Deleted by Legal Notice 510 of 2010). Calculation of land based entitlements.
18. (1) Unutilised entitlements shall revert to the National reserve in terms of Regulation (EC) 73/ 2009. Implementation of the national reserve. *Substituted by: L.N. 510 of 2010.*
- (2) Available amounts in the National Reserve shall be utilised according to decisions taken in terms of Article 57 of Regulation (EC) No. 73/2009.
19. (1) Entitlements may only be traded between farmers, by any one of the following methods: Trading of entitlements. *Amended by: L.N. 510 of 2010.*
- (a) the transfer of entitlements with land, either by sale or donation;
 - (b) the transfer of entitlements without land, either by sale or donation;
 - (c) the lease of entitlements with land; or
 - (d) by inheritance.
- (2) Entitlements may only be traded in terms of the provisions of Regulation (EC) No 73/2009.

Transfer of
entitlements with
land.

*Amended by:
L.N. 510 of 2010.*

20. Where the size of a parcel which is transferred with an entitlement in accordance with Article 43 of Regulation (EC) 73/2009 amounts to a fraction of a hectare, the farmer may transfer the part of the entitlement concerned with the land at a value calculated to the extent of the same fraction. The remaining part of the entitlement shall remain at the disposal of the farmer at a value calculated accordingly.

Transferring
entitlements
without land.

*Amended by:
L.N. 510 of 2010.*

21. (1) In order to transfer entitlements without land, a farmer should have used at least 80% of the allocated entitlements in the year of allocation (less any entitlements transferred in one calendar year). This does not apply if the farmer was prevented from activating the entitlements by force majeure or exceptional circumstances.

(2) If a farmer has not used 80% of the entitlements and the farmer has not been effected by force majeure or exceptional circumstances, he can still apply to transfer entitlements without land. This can only be done if he voluntarily surrenders all entitlements not used by him in the year of allocation to the national reserve.

(3) If a farmer transfers a fraction of an entitlement without land, the value of the two fractions shall be calculated proportionally.

Lease of
entitlements with
land.

22. (1) If a farmer leases entitlements, these shall be accompanied by the lease of at least an equal number of hectares eligible for the SPS. The lease of land and entitlements shall be for the same period of time and have the same start and end dates.

(2) At the end of the lease agreement, the entitlements shall automatically revert to the farmer who owns them, being the lessor. If the lease ends early or is further extended, the lessor shall inform the Paying Agency at least ten days before this occurrence.

Inheritance.
*Substituted by:
L.N. 510 of 2010.*

23. (1) A request for land or entitlements to be transferred by inheritance may be made at any time during the year and submitted to the Paying Agency by the designated heir.

(2) The designated heir shall assume all rights and obligations in respect of such transferred land or entitlements.

(3) Any relevant evidence in connection with such transfer by inheritance shall be provided to the Paying Agency upon request.

Transfer by
donation.

24. (1) These regulations only allow donations *inter vivos*, whereby the donor irrevocably and gratuitously transfers a thing to the donee who accepts it.

(2) A donation in which the donor reserves to himself the power to revoke or alter the donation itself, is void.

(3) If the donation is made in remuneration for services for which the donee had a right of action, the provisions of subregulations (1) and (2) shall not apply, except when the value of the thing given exceeds, by at least one-half, the value of such services, and in regard only to such excess.

(4) A donation may only include the present property of the

donor.

(5) If the donation includes future property, it shall be null with regard to such property.

25. When a dairy breeder transfers his quota or a part thereof to another farmer for a period exceeding twelve months, he shall transfer the equivalent amount of Special Dairy entitlements to the transferee:

Transfer of dairy quota.
Added by:
L.N. 510 of 2010.

Provided that if the transferor owns more quota than Special Dairy Entitlements he may keep those Special Dairy Entitlements as long as, after the transfer has taken place, the Special Dairy Entitlements do not exceed the amount of quota owned.

26. (1) A farmer shall submit a payment claim in respect of allocated entitlements during the application period as indicated by the Paying Agency.

Payment claims.
Added by:
L.N. 510 of 2010.

(2) A payment claim submitted in terms of sub-regulation (1) shall activate the entitlement in respect of which such claim was submitted. Farmers shall activate their entitlements in order to be eligible for payment under the SPS.

(3) In order for such entitlements to be activated, farmers shall meet all the requirements in terms of Regulation (EC) 73/2009, and the following conditions shall be satisfied:

- (a) in the case of area related entitlements a farmer is also bound to employ an equivalent amount of eligible land;
- (b) in the case of special entitlements farmers shall be in possession of an active herd book.

27. A direct payment shall not be granted to farmers if:

Direct payment.
Added by:
L.N. 510 of 2010.

- (a) in the case of land entitlements, the total amount of entitlements owned is less than 0.1ha or the total area declared under SPS is less than 0.1ha; or
- (b) in the case of special entitlements, the total amount of special entitlement activated is less than one hundred euro (€100).

28. As from claim year 2011 payments shall only be effected to a farmer if:

Further conditions for payment.
Direct payment.
Added by:
L.N. 510 of 2010.

- (a) in the case of activating special dairy entitlements the farmer produces at least 50% of milk equivalent to entitlements activated for that year. If the farmer fails to produce the required amount of milk, payment under these regulations shall not be effected;
- (b) in the case of activating special livestock entitlements a farmer shall have at least 50% of livestock units equivalent to the entitlements activated registered on his holding throughout the claim year. If such minimum amount is not registered, payment under

these regulations shall not be effected.

Reductions in
payment.
Direct payment.
Added by:
L.N. 510 of 2010.

29. The direct payment calculated in respect of payment claims submitted correctly in terms of regulation 26 and duly accepted, shall be reduced, in the event of any irregularities, in terms of the provisions of Regulation (EC) No. 1122/2009.

Dispute resolution.
Direct payment.
Added by:
L.N. 510 of 2010.
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30. Any dispute arising from claims to the Paying Agency made under these regulations shall be referred to arbitration in terms of regulation 13 of the Paying Agency Regulations.
