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L.N. 510 of 2010.

**AGRICULTURAL AND FISHING INDUSTRIES
(FINANCIAL ASSISTANCE) ACT
(CAP. 146)**

Single Payment Scheme (Amendment) Regulations, 2010

IN exercise of the powers conferred by article 7 of the Agricultural and Fishing Industries (Financial Assistance) Act, the Minister for Resources and Rural Affairs, in concurrence with the Minister of Finance, the Economy and Investment has made the following regulations:-

Citation.

1. The title of these regulations is the Single Payment Scheme (Amendment) Regulations, 2010 and they shall be read and construed as one with the Single Payment Scheme Regulations, hereinafter referred to as “the principal regulations”.

L.N. 151 of 2008.

Amends regulation
2 of the principal
regulations.

2. Regulation 2 of the principal regulations shall be amended as follows:

(a) immediately before the definition “agricultural activity” there shall be added the following new definition:

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

(b) for the definition agricultural parcel” there shall be substituted the following:

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

(c) in the definition “animal keeper” immediately after the words “person responsible for” there shall be added the word “rearing”;

(d) the definition “arable land” shall be deleted;

(e) for the definition “eligible hectare” there shall be substituted the following:

“ “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”;

(f) in the definition “Geographical information System (GIS)” for the words “Article 20 of Regulation (EC) No. 1782/2003” there shall be substituted the words “Article 17 of Regulation (EC) No. 73/2009”;

(g) for the definition “Integrated Administration and Control System” or “IACS” there shall be substituted the following:

“ “Integrated Administration and Control System” or “IACS” shall have the same meaning as that assigned to it in the Paying Agency Regulations (L.N. 126 of 2004) ;” ;

(h) the definition “livestock” shall be deleted;

(i) for the definition “livestock breeder” there shall be substituted the following:

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

(j) immediately after the definition “the Minister” there shall be added the following new definitions:

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

“Paying Agency” means the body established in terms of the Paying Agency Regulations, 2004;”;

“payment claim” means an application for direct payment in respect of entitlements submitted in terms of regulation 26 of these regulations;

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

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(k) for the definition “Single Application” there shall be substituted the following:

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

(l) in the definition “transfer or sale or lease of payment entitlement with land” for the words “Regulation 1782/2003” there shall be substituted the words “Regulation (EC) No. 73/2009”; and

(m) in the definition “used entitlements” the words “and for the year 2007 only, about which the ten-month rule has been met” shall be deleted.

Amends regulation 3 of the principal regulations.

3. In regulation 3 of the principal regulations, for the words “Dairy Premium.” there shall be substituted the words “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.”.

Amends regulation 4 of the principal regulations.

4. In regulation 4 of the principal regulations the words “, vine restructuring,” shall be deleted and immediately after the words “prior to 2007” there shall be added the words “and also national schemes”.

Amends regulation 5 of the principal regulations.

5. Regulation 5 of the principal regulations shall be amended as follows:

(a) in sub-regulation (1) thereof, for the word “applications” there shall be substituted the words “payment claims”;

(b) for sub-regulation (2) thereof, there shall be substituted the following:

“(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.” ; and

(c) immediately after sub-regulation (2) thereof, there shall be added the following new sub-regulation:

“(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. Regulation 6 of the principal regulations shall be amended as follows: Amends regulation 6 of the principal regulations.

(a) sub-regulation (1) thereof shall be amended as follows:

(i) for the word “three” there shall be substituted the word “five”;

(ii) in paragraph (b) the word “and” shall be deleted; and

(iii) immediately after paragraph (c) there shall be added the following new paragraphs:

“(d) normal tomato entitlements; and

(e) normal wine entitlements.” ;

(b) for sub-regulation (2) thereof, there shall be substituted the following:

“(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.” ;

(c) subregulation (4) shall be renumbered as subregulation (6) thereof;

(d) immediately after sub-regulation (3) there shall be added the following new subregulations:

“(4) Normal tomato entitlements shall apply to farmers who expressed interest to receive tomato entitlements during the applications campaign of 2008

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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.” ; and

(e) immediately after sub-regulation (6) as renumbered, there shall be added the following new sub-regulation:

“(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.” .

Deletes regulations 7 to 11 of the principal regulations.

7. Regulations, 7, 8, 9, 10 and 11 of the principal regulations shall be deleted.

Amends regulation 12 of the principal regulations.

8. For regulation 12 of the principal regulations there shall be substituted the following:

“ Allocation of entitlements.

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) hereof shall be required to reply, within 15 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) hereof stating approval by the farmer, a definitive entitlement shall be allocated;

(d) if no reply is received in terms of paragraph (b) hereof within the stipulated period, such application for entitlements shall be

cancelled;

(e) if a reply is received in terms of paragraph (b) hereof 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, 2004.”

8. Regulation 13 of the principal regulations shall be deleted. Deletes regulations 13 of the principal regulations.

9. Regulation 14 of the principal regulations shall be amended as follows: Amends regulation 14 of the principal regulations.

(a) in subregulation (1) thereof, for the words “Dispute Resolution Board” there shall be substituted the words “Paying Agency”, and for the words “the Board” there shall be substituted the words “the Paying Agency”; and

(b) in subregulation (2) thereof, for the words “Dispute Resolution Board” there shall be substituted the words “Paying Agency”.

10. Regulations 15, 16 and 17 of the principal regulations shall be deleted. Deletes regulations 15 to 17 of the principal regulations.

11. For the regulation 18 of the principal regulations, there shall be substituted the following: Substitutes regulation 18 of the principal regulations.

“18. (1) Unutilised entitlements shall revert to the National reserve in terms of Regulation (EC) 73/ 2009.

(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.” .

12. Regulation 19 of the principal regulations shall be amended as follows: Amends regulation 19 of the principal regulations.

(a) the whole regulation shall be renumbered as subregulation (1) thereof;

(b) in sub-regulation (1) as renumbered, for the words “Entitlements can be traded by using” there shall

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be substituted the words “Entitlements may only be traded between farmers, by”;

(c) immediately after sub-regulation (1) as renumbered there shall be added the following new sub-regulation (2):

“(2) Entitlements may only be traded in terms of the provisions of Regulation (EC) No 73/2009.”.

Amends regulation 20 of the principal regulations.

13. In regulation 20 of the principal regulations, for the words “Article 46(2) of Regulation 1782/2003” there shall be substituted the words “Article 43 of Regulation (EC) 73/2009”.

Amends regulation 21 of the principal regulations.

14. (1) Regulation 21 of the principal regulations shall be amended as follows:

(a) in sub-regulation (1) thereof, for the words “for the 2007 scheme year” there shall be substituted the words “in the year of allocation”; and

(2) in sub-regulation (2) thereof, for the words “in 2007” there shall be substituted the words “in the year of allocation”.

Substitutes regulation 23 of the principal regulations.

15. For regulation 23 of the principal regulations there shall be substituted the following regulation:

“Inheritance.

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.”.

Adds new regulations 25 to 30 to the principal regulations.

16. Immediately after regulation 24 of the principal regulations there shall be added the following new regulations:

“Transfer of dairy quota.

25. When a dairy breeder transfers his quota or a part thereof to another farmer for a period exceeding

12 months, he shall transfer the equivalent amount of Special Dairy entitlements to the transferee:

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.

Payment
claims.

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

(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.

Direct
Payment.

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

(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 €100.

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Further
conditions for
payment.

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

(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.

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.

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, 2004.” .

