COMMISSION REGULATION (EC) No 1701/2005

of 18 October 2005

amending Regulation (EC) No 795/2004 laying down detailed rules for the implementation of the single payment scheme 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

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), (d) and (f) thereof,

Whereas:

(1) Commission Regulation (EC) No 795/2004 [2] introduces the implementing rules for the single payment scheme as from 2005. Experience of the administrative and operational implementation of that scheme at national level has shown that in certain respects further detailed rules are needed and in other respects the existing rules need to be clarified and adapted.

(2) In particular, it is appropriate to specify the application of the definition of permanent crops and multiannual crops in relation to the eligibility conditions for the single payment scheme in case of use of land set aside for the production of raw materials as laid down in Chapter 16 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] and in relation to the energy crops aid scheme referred to in Article 88 of Regulation (EC) No 1782/2003.

(3) In particular, under the previous regime for arable crops provided for by Council Regulation (EC) No 1251/1999 of 17 May 1999 establishing a support system for producers of certain arable crops [4], set-aside land which was planted with permanent crops used for the production of raw materials or land planted with multiannual crops were eligible to area payments. Article 54(2) of Regulation (EC) No 1782/2003 limits the eligibility to areas which were not under permanent crops at the date of application for 2003 whilst it does not exclude, in application of Article 53 of that Regulation those areas under permanent crops used for the production of raw materials from the establishment of the payment entitlements as those areas were granted direct payments in the reference period. It is therefore appropriate to allow farmers who cultivated in 2003 such crops under that specific regime for set-aside or multiannual crops to use that land respectively for the establishment of set-aside entitlements referred to in Article 53 of that Regulation and for the use of the established set-aside entitlements.

(4) Moreover, as far as in the regional model provided for by Article 59 of Regulation (EC) No 1782/2003, the reference year for the establishment of the payment entitlements is the first year of application of the scheme as provided for by Article 38(1) of Regulation (EC) No 795/2004, it is appropriate to specify that set-aside land planted with permanent crops used for the purposes referred to in Article 55(b) of Regulation (EC) No 1782/2003 and land planted with permanent crops and which are also subject to an application for the aid for energy crops provided for in Article 88 of that Regulation should be considered as eligible hectares for the establishment and use of payment entitlements.

(5) In addition, it is necessary to specify which crops are allowed on set-aside land and which crops are allowed for energy purposes on land subject to an application for the single payment scheme. It is therefore appropriate to provide for the possibility to use payment entitlements in accordance with the eligibility conditions set up for areas under permanent crops used for the production of raw materials as laid down in Chapter 16 of Regulation (EC) No 1973/2004 and for crops used for the production of energy products under the scheme provided for in Article 88 of Regulation (EC) No 1782/2003.

[1] OJ L 270, 21.10.2003, p. 1. Regulation last amended by Commission Regulation (EC) No 118/2005 (OJ L 24, 27.1.2005, p. 15).

[2] OJ L 141, 30.4.2004, p. 1. Regulation last amended by Regulation (EC) No 1085/2005 (OJ L 177, 9.7.2005, p. 27).

[3] OJ L 345, 20.11.2004, p. 1. Regulation last amended by Regulation (EC) No 1044/2005 (OJ L 172, 5.7.2005, p. 76).

[4] OJ L 160, 26.6.1999, p. 1. Regulation last amended by Regulation (EC) No 1782/2003.

(6) Regulation (EC) No 795/2004 should therefore be amended accordingly.

(7) Due to the fact that Regulation (EC) No 795/2004 applies as from 1 January 2005, it is appropriate to provide that this Regulation applies retroactively from that date and consequently authorise farmers concerned by the application in 2005 to modify their single application.

(8) 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 795/2004 is amended as follows:

1. In Article 2, points (c) and (d) are replaced by the following:

'(c) "permanent crops" shall mean non-rotational crops other than permanent pasture that occupy the land for five years or longer and yield repeated harvests, including nurseries as defined in point G/05 of Annex I to Commission Decision 2000/115/EC (*), and short rotation coppice (CN code ex 0602 90 41), with the exception of multiannual crops and nurseries of multiannual crops.

(d) "multiannual crops" shall mean crops of the following products and the nurseries of such multiannual crops:

CN code	
0709 10 00	Artichokes
0709 20 00	Asparagus
0709 90 90	Rhubarb
0810 20	Raspberries, blackberries, mulberries and loganberries
0810 30	Black-, white- or redcurrants and gooseberries
0810 40	Cranberries, bilberries and other fruits of the genus *Vaccinium*

(*) OJ L 38, 12.2.2000, p. 1.'

2. The following Article 3b is inserted:

'*Article 3*b

Eligibility

1. For the purpose of Article 44(2) of Regulation (EC) No 1782/2003, the following shall be considered as eligible hectares for the establishment and use of the payment entitlements:

(a) the areas planted with short rotation coppice (CN code ex 0602 90 41), *Miscanthus sinensis* (CN code ex 0602 90 51) or *Phalaris arundicea* (Reed canary grass) between 30 April 2004 and 10 March 2005;

(b) the areas planted with short rotation coppice (CN code ex 0602 90 41), *Miscanthus sinensis* (CN code ex 0602 90 51) or *Phalaris arundicea* (Reed canary grass) before 30 April 2004 and leased or acquired, between 30 April 2004 and 10 March 2005, in view of applying for the single payment scheme.

2. For the purpose of Article 51 of Regulation (EC) No 1782/2003, set-aside land planted with permanent crops used for the purposes referred to in Article 55(b) of that Regulation and land planted with permanent crops and which are also subject to an application for the aid for energy crops provided for in Article 88 of that Regulation shall be considered as eligible hectares for the use of, respectively, set-aside entitlements and payment entitlements.

3. For the purpose of Article 54(2) of Regulation (EC) No 1782/2003, set-aside land which was planted with permanent crops, to be used for the purposes referred to in Article 6(3) of Council Regulation (EC) No 1251/1999 (*) and which was granted the area payment referred to in Article 2(2) of that Regulation for 2003 shall be considered as eligible hectares for the use of set-aside entitlements referred to in Article 53 of Regulation (EC) No 1782/2003.

4. Without prejudice to Article 51 of Regulation (EC) No 1782/2003, for the purpose of Article 54(2) of that Regulation, land which was planted with multiannual crops, at the date provided for the area aid applications for 2003, shall be considered as eligible hectares for the use of set-aside entitlements referred to in Article 53 of that Regulation.

5. Without prejudice to Article 60 of Regulation (EC) No 1782/2003, where a Member State makes use of the option referred to in Article 59 of that Regulation,

(a) for the purpose of Article 63(2) of Regulation (EC) No 1782/2003 set-aside land which was planted with permanent crops, to be used for the purposes referred to in Article 6(3) of Regulation (EC) No 1251/1999 and which was granted the area payment referred to in Article 2(2) of that Regulation for 2003, shall be considered as eligible hectares for the establishment of set-aside entitlements;

(b) for the purpose of Article 63(2) of Regulation (EC) No 1782/2003 land which is planted with permanent crops used for the purposes referred to in Article 55(b) of Regulation (EC) No 1782/2003 shall be considered as eligible hectares for the establishment of set-aside entitlements;

(c) for the purpose of Article 59(4) of Regulation (EC) No 1782/2003 land planted with permanent crops and which is also subject to an application for the aid for energy crops provided for in Article 88 of Regulation (EC) No 1782/2003 shall be considered as eligible hectares for the establishment of payment entitlements;

(d) for the purpose of Article 59(4) of Regulation (EC) No 1782/2003 land planted with multiannual crops, shall be considered as eligible hectares for the establishment of payment entitlements.

6. The farmers concerned by the application in 2005 of paragraphs 2 to 5 of this Article may modify their single application within four weeks starting from 19 October 2005 or a date to be fixed by the Member States concerned.

(*) OJ L 160, 26.6.1999, p. 1.'

3. Article 48a is amended as follows:

1. Paragraph 4 is replaced by the following text:

'Any reference to Articles 58 and 59 or 58(1) and 59(1) of Regulation (EC) No 1782/2003 in Article 3b and Chapters 6 and 7 of this Regulation shall be construed as a reference to Article 71e of Regulation (EC) No 1782/2003'.

2. Paragraph 6 is replaced by the following text:

'Any reference to Article 60 of Regulation (EC) No 1782/2003 in Article 3b, Article 8(2), Article 9(1)(e), Article 41 and Article 50a of this Regulation shall be construed as a reference to Article 71g of Regulation (EC) No 1782/2003'.

3. Paragraph 7 is replaced by the following text:

'Any reference to Article 63(2) of Regulation (EC) No 1782/2003 in Articles 39, 43 and 48b of this Regulation shall be construed as a reference to Article 71j(2) of Regulation (EC) No 1782/2003'.

4. Paragraph 8 is replaced by the following text:

'Articles 3a, 3b(1), (3) and (4), 7, 10, 12 to 17, 27, 28, 30, 31, 31a, 40, 42, 45 to 46 and 49 shall not apply'.

5. A new Paragraph 10 is inserted as follows:

'Any reference to Article 59(4) of Regulation (EC) No 1782/2003 in Article 3b of this Regulation shall be construed as a reference to Article 71f(2) of Regulation (EC) No 1782/2003'.

Article 2

This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2005.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 18 October 2005.

For the Commission
Mariann FISCHER BOEL
Member of the Commission