

WORKING DOCUMENT**DELEGATED ACT FOR DIRECT PAYMENTS**

Legal draft of the Articles related to the **provisions on active farmer**

DISCLAIMER

This working document has been prepared by DG AGRI staff in order to facilitate the discussion in the Expert group for direct payments. It has not yet been subject of an inter-service consultation nor revised by the Legal Service

SECTION 1**ACTIVE FARMER***Article 1*

Cases where agricultural areas are mainly areas naturally kept in a state suitable for grazing or cultivation

1. For the purposes of Article 9(1) of Regulation (EU) No [DPR], a natural or legal person, or a group of natural or legal persons, shall be considered as having agricultural areas which are mainly areas naturally kept in a state suitable for grazing or cultivation, where such areas represent more than 50% of all agricultural area declared in accordance with Article 73(1)(a) of Regulation (EU) No [HZR].
2. For the purposes of paragraph 1, agricultural areas shall only be considered as areas naturally kept in a state suitable for grazing or cultivation if such areas are not overgrown with vegetation in the absence of grazing or human intervention.

*[Article 2**Receipts obtained from non-agricultural activities*

1. For the purpose of point (a) of the third subparagraph of Article 9(2) of Regulation (EU) No [DPR], receipts obtained from non-agricultural activities shall be receipts other than those received by a farmer as the Union support under the EAFG and the EAFRD, as well as any receipts he has received in connection with the production of his agricultural products within the meaning of Article 4(1)(d) of that Regulation.
2. For the purposes of paragraph 1, 'receipts' means gross receipts from sales before deduction of related costs and taxes.]

Article 3

Annual amount of direct payments referred to in Article 9(2) of Regulation (EU) No [DPR]

1. For the purposes of point (a) of the third subparagraph of Article 9(2) of Regulation (EU) No [DPR], the annual amount of direct payments shall be the total amount of direct payments to be granted to a farmer before the application of Article 65 of Regulation (EU) No [HZR] for the relevant year.

2. In the year 2015, the total amount of direct payments shall be established by multiplying the national average direct support payment per hectare by the number of eligible hectares declared by a farmer in accordance with Article 73(1)(a) of Regulation (EU) No [HZR] in that year.

The national average direct support payment per hectare referred to in the first subparagraph shall be established by dividing the national ceiling for the year 2015 set out in Annex II to Regulation (EU) No [DPR] by the total number of eligible hectares declared in that Member State for the year 2015 in accordance with Article 73(1)(a) of Regulation (EU) No [HZR].

Article 4

Amount of direct payments referred to in Article 9(4) of Regulation (EU) No [DPR]

1. The annual amount of direct payments of a farmer referred to in Article 9(4) of Regulation (EU) No [DPR] shall be the total amount of direct payments granted to that farmer in accordance with that Regulation before the application of Article 65 of Regulation (EU) No [HZR] for the previous year.
2. In respect of a farmer who, for the previous year, did not submit an aid application for direct payments in accordance with Regulation (EU) No [DPR], Member States shall establish the total amount of direct payments for the previous year by multiplying the number of eligible hectares declared by that farmer in the year of submitting the aid application with the national average direct support payment per hectare for the previous year.

The national average direct support payment per hectare for the previous year referred to in the first subparagraph shall be established by dividing the national ceiling for the previous year set out in Annex II to Regulation (EU) No [DPR] by the total number of eligible hectares declared in that Member State for the previous year in accordance with Article 73(1)(a) of Regulation (EU) No [HZR].

3. By way of derogation from paragraph 1, in the year 2015 the annual amount of direct payments of a farmer shall be the total amount of direct payments granted to that farmer pursuant to Regulation (EC) No 73/2009 before the reductions and exclusions provided for in Articles 21 and 23 of that Regulation.
4. By way of derogation from paragraph 2, where a farmer did not submit an aid application for direct payments for the year 2014 in accordance with Regulation (EC) No 73/2009, Member States shall establish the annual amount of direct payments of that farmer by multiplying the number of eligible hectares declared by that farmer for the year 2015 in accordance with Article 73(1)(a) of Regulation (EU) No [HZR] by the national average direct support payment per hectare for the year 2014.

The national average direct support payment per hectare for the year 2014 referred to in the first subparagraph shall be established by dividing the national ceiling for the year 2014 set out in Annex VIII to Regulation (EU) No 73/2009 by the total number of eligible hectares declared in that Member State for the year 2014 in accordance with Article 19(1)(a) of that Regulation.

*Article 5**Criteria for proving that agricultural activities are not insignificant and that principal business or company object consist of exercising an agricultural activity*

1. For the purposes of Article 9(2) and (3) of Regulation (EU) No [DPR], the criteria that farmers are to meet in order to prove that their agricultural activities are not insignificant and that their principal business or company objects consist of exercising an agricultural activity shall not be linked to type or volume of production of agricultural products, to production factors employed by a farmer in a given year for exercising agricultural activities or to requirements for production, rearing or growing of agricultural products.
2. Member States shall establish further criteria necessary for the implementation of point (b) of the third subparagraph of Article 9(2) and of point (i) of Article 9(3) of Regulation (EU) No [DPR].
3. For the purposes of point (c) of the third subparagraph of Article 9(2) and of point (ii) of Article 9(3) of Regulation (EU) No [DPR], an agricultural activity shall be considered to be the principal business or company object of a legal person if so recorded as a principal business or company object in the official business register of a Member State. In case of a natural person, equivalent evidence shall be required.