

**WORKING DOCUMENT**

**DELEGATED ACT FOR DIRECT PAYMENTS**

Legal draft of the Articles related to the **payment for young farmers**

**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

Whereas:

- (1) Regulation (EU) No [...] [DPR] lays down eligibility conditions for the payment for young farmers. In particular, the payment is subject to the condition that the young farmer is setting up for the first time an agricultural holding as head of the holding, or has already set up such a holding during the five years preceding the first application for the payment, and that the farmer is no more than 40 years of age in the year of submitting the first application for the payment. In the case of legal persons it is appropriate that these conditions are fulfilled by all natural persons having control over the legal person. It is further necessary to clarify which conditions are to be fulfilled by the legal person and the natural person(s) in control of that legal person. In order to avoid possible circumvention of the scheme, it should be provided that the payment is granted to a legal person only for as long as at least one of the natural persons having control over the legal person in the first year of application for the scheme remains in such control and that such control is not shared with a third person not complying with the conditions defining a young farmer. For the purposes of determining the maximum period for payment pursuant to Article 36(4) of Regulation (EU) No [...] [DPR], it is necessary to set rules for cases where a legal person is controlled by more than one natural person.
- (2) In order to ensure the correct application of the options chosen under Articles 36(5) and (6) of Regulation (EU) No [...] [DPR] it is appropriate to require Member States to notify the Commission of their decisions made under those provisions.

*Article 1*

*Access of legal persons to the payment for young farmers*

1. The annual payment for young farmers referred to in Article 36(1) of Regulation (EU) No [DPR] shall be granted to a legal person irrespective of its legal form if the following conditions are fulfilled:
- (a) the legal person is entitled to a payment under the basic payment scheme or the single area payment scheme referred to in Chapter 1 of Regulation (EU) No [DPR] and has activated payment entitlements or declared eligible hectares, as referred to in Article 36(3) of Regulation (EU) No [DPR];
  - (b) all natural persons having control over the legal person in the first year of the legal person's application for the basic payment scheme or the single area

payment scheme shall be young farmers within the meaning of the first subparagraph of Article 36(2) of Regulation (EU) No [DPR];

- (c) at least one of the natural persons fulfilling the condition set out in point (b) meets the eligibility criteria established by Member States pursuant to the second subparagraph of Article 36(2) of Regulation (EU) No [DPR], if any, unless Member States have decided that those criteria shall apply to all such natural persons.

2. The payment referred to in Article 36(1) of Regulation (EU) No [DPR] shall no longer be granted if:

(a) all natural persons complying with the criteria set out in paragraph 1(b) and, where appropriate, in paragraph 1(c) have ceased control over the legal person, or

(b) the natural person(s) complying with the criteria set out in paragraph 1(b) and, where appropriate, in paragraph 1(c) remain(s) in control over the legal person, but such control is shared with a third person who is not a young farmer within the meaning of the first subparagraph of Article 36(2) of Regulation (EU) No [DPR].

3. For the purposes of this Article, any reference in Article 36(3) to (6) of Regulation (EU) No [DPR] to 'farmer' shall be construed as a reference to the legal person referred to in this Article.

4. Where several natural persons as referred to in paragraph 1(b) have acquired control over the legal person at different moments of time, the earliest acquisition of control shall be considered as the time of 'setting up' referred to in the second sentence of Article 36(4) of Regulation (EU) No [DPR].

5. For the purpose of this Article, 'natural person having control over the legal person' means a natural person controlling a legal person in terms of management, benefits and financial risks.

Where a legal person is solely or jointly controlled by another legal person, the definition laid down in the first subparagraph shall apply to any natural person having control over that other legal person.

## Article 2 Notifications

1. Where a Member State decides to apply Article 36(5) of Regulation (EU) No [DPR] for the calculation of the payment for young farmers, it shall notify the Commission by 31 January 2015 of the method for calculating the payment chosen and the maximum limit set in accordance with the last subparagraph of that Article.

2. Where a Member State decides to apply Article 36(6) of Regulation (EU) No [DPR] for the calculation of the payment for young farmers, it shall notify the Commission by 31 January 2015 of such a decision.

3. Where a Member State decides to make use of the option to recalculate the fixed number of hectares as provided for in the second subparagraph of Article 36(6) of Regulation (EU) No [DPR], it shall notify the Commission by 1 August of the year for which such a recalculation would apply of such a decision and provide a

justification as well as the objective criteria on the basis of which the decision has been made.

4. Member States shall notify the Commission of the decision taken in accordance with the last subparagraph of Article 36(2) of Regulation (EU) No [DPR] within a period of four weeks after which the decision has been made.