Whereas:

(1) Administrative Refusals and withdrawals of Rural Development support and administrative penalties should be established having regard to the principle of proportionality and the specific problems linked to cases of force majeure as well as exceptional and natural circumstances. Administrative Refusals and withdrawals of Rural Development support and administrative penalties should be graded according to the seriousness of the non-compliance committed and should go as far as the total exclusion from one or several aid schemes or support measures for a specified period. They should, with regard to the eligibility criteria, commitments and other obligations, take into account the particularities of the various aid schemes or support measures. The administrative penalties under this regulation are considered proportional enough to discourage intentional over-declaration.

(2) In order to enable Member States to carry out controls effectively, in particular controls on the respect of cross-compliance obligations, beneficiaries shall, in accordance with Article 73(1)(a) of Regulation (EU) No […] [HZR], declare all the areas at their disposal whether or not they claim aid for such areas. It is necessary to provide for a mechanism to ensure that beneficiaries comply with that obligation.

(3) For the sake of determination of areas and calculation of reductions, it is necessary to define the areas falling within the same crop-group. An area should be taken into account several times if it is declared for aid under more than one aid scheme or support measure. For the purpose of greening, however, it is necessary to distinguish the areas falling within different distinct crop groups.

(4) In order to harmonise the implementation of the integrated system, rules need to be established for the basis of the calculation in respect of areas declared under direct payment aid schemes and/or under area-related support measures.

(5) Payment of aid under the basic payment scheme requires an equal number of payment entitlements and eligible hectares. For the purpose of this scheme it is therefore appropriate to provide that the calculation of the payment in the case of discrepancies between the number of payment entitlements declared and the area declared should be based on the lower figure. To avoid that calculation be based on non-existing entitlements, it should be provided that the number of payment entitlements used for the calculation should not exceed the number of payment entitlements at the beneficiary’s disposal.
(6) In relation to area aid applications and/or payment claims, non-compliances usually affect parts of areas. Over-declarations in respect of one parcel may, therefore, be offset against under-declarations of other parcels of the same crop-group. Within a certain margin of tolerance, it should be foreseen that aid applications and/or payment claims are only adjusted to the area actually determined while administrative penalties only become applicable once this margin has been exceeded.

(7) Furthermore, in relation to aid applications and/or payment claims for area-related payments, differences between the total area declared in the aid application and/or payment claim and the total area determined as eligible are often insignificant. To avoid a high number of minor adjustments of applications it should be provided that the aid application and/or payment claims should not be adjusted to the area determined unless a certain level of differences is exceeded.

(8) Given the particularities of the aid scheme for cotton, special provisions for administrative penalties should be established.

(9) Administrative Refusals and withdrawals of Rural Development support and administrative penalties should be established having regard to the principle of proportionality for cases where a) the beneficiary divides his holding or his holding results form that division with the sole purpose of benefiting from the redistributive payment or payment under the small farmer scheme, b) the beneficiary, applying for the young farmer scheme, does not comply with his obligations or c) the beneficiary artificially created the conditions to avoid the effects of progressive reductions and capping.

SECTION I
NON-DECLARATION OF AREAS

Article 1
Non-declaration of all areas

1. If, for a given year, a beneficiary does not declare all the agricultural parcels related to the areas referred to in Article 13(8) of Regulation (EU) No […] [IA on IACS] and the difference between the overall area declared in the single application and/or payment claim on the one hand and the area declared plus the overall area of the parcels not declared, on the other, is more than 3% of the area declared, the overall amount of direct payments and/or support under area-related support measures payable to that beneficiary for that year shall be reduced by up to 3% depending on the severity of the omission, taking into account any administrative penalty applied in accordance with Article 13(2).

2. Paragraph 1 shall also apply to payments related to schemes provided for in Articles 44 and 45 of Regulation (EU) No […] [sCMO], where the beneficiary is subject to cross-compliance obligations in accordance with Article 92 of Regulation (EU) No [HZR]. The reduction percentage shall apply to the total amount of payments related to measures under Articles 44 and 45 of the Regulation (EU) No […] [sCMO] divided by 3 for restructuring and conversion.

3. Paragraph 1 shall not apply to payments under the small farmers scheme according to Title V of Regulation (EU) No […] [DPR].
**SECTION II**

**BASIC PAYMENT SCHEME, SINGLE AREA PAYMENT SCHEME AND OTHER AREA-RELATED AID SCHEMES, EXCEPT THE PAYMENT FOR AGRICULTURAL PRACTICES BENEFICIAL FOR THE CLIMATE AND THE ENVIRONMENT OR AREA-RELATED SUPPORT MEASURES**

**Article 2**

*General principles*

1. For the purposes of this Section, the following crop groups shall be distinguished as appropriate:

   (a) areas declared for the purposes of activation of payment entitlements under the basic payment scheme or for the purpose of being granted the single area payment scheme;

   (b) a group for each of the different categories of areas declared as permanent grassland for which the concerned Member State decided to apply a reduction coefficient in accordance with the xth subparagraph of Article 25(2) of Regulation (EU) No […] [DPR], for which a different reduction coefficient is applicable;

   (c) a group for each of the areas declared for the purpose of any other area-related aid scheme or area-related support measure, for which a different rate of aid is applicable;

   (d) areas declared under the heading ‘other uses’.

2. Where the same area serves as the basis for an aid application and/or payment claim under more than one area-related aid scheme or area-related support measure, that area shall be taken into account separately for each of those aid schemes or support measures.

**Article 3**

*Basis of calculation in respect of area-related payments*

1. With regard to an aid application for aid under the basic payment scheme and, in Member States that apply the basic payment scheme, with regard to an aid application for aid under the small farmers scheme, the re-distributive payment, the payment for areas with natural constraints and, where applicable, the young farmer scheme, in those Member States that apply the basic payment scheme:

   - if there is a discrepancy between the number of payment entitlements declared and the area declared, the calculation of area declared shall be reduced to the number of payment entitlements declared;

   - if the number of payment entitlements declared exceeds the number of payment entitlements at the beneficiary's disposal, the number of payment entitlements declared shall be reduced to the number of payment entitlements at the beneficiary's disposal.

   This paragraph shall not apply in the first year of allocation of payment entitlements.

2. In case of the payment for young farmers and where the Member State opts for the payment method laid down in Article 36(5) of Regulation (EU) No […] [DPR]; if the
area declared under the basic payment scheme or the single area payment scheme exceeds the limit set by the Member State, the area declared shall be reduced to that limit.

3. In case of the re-distributive payment, if the area declared under the basic payment scheme or the single area payment scheme exceeds the limits set by the Member State in accordance with Article 28g(4) of Regulation (EU) No [...] [DPR], the area declared shall be reduced to that limit.

4. In case of the payment for areas with natural constraints and where the Member State opts for the payment method laid down in Article 34(4) of Regulation (EU) No [...] [DPR], if the area declared under the basic payment scheme or the single area payment scheme exceeds the maximum number of hectares set by the Member State, the area declared shall be reduced to that number.

2.5. In the case of aid applications and/or payment claims under area-related aid schemes or area-related support measures, if the area of a crop group determined is established to be greater than the area declared in the aid application, the area declared shall be used for the calculation of the aid.

3.6. Without prejudice to undue payments and administrative penalties in accordance with Article 4, in the case of aid applications for aid and/or payment claims under area-related aid schemes or area-related support measures, if the area declared exceeds the area determined for a crop group as referred to in Article 2(1), the aid shall be calculated on the basis of the area determined for that crop group.

However, without prejudice to Article 62 of Regulation (EU) No [...] [HZR], if the difference between the total area determined and the total area declared for payment under the direct aid schemes established in Titles III, IV and V of Regulation (EU) No [...] [DPR] or the total area declared for payment under an area-related support measure is less than or equal to 0.1 hectare, the area determined shall be set equal to the area declared. For this calculation only over-declarations of areas at the level of a crop group as referred to in Article 2(1) shall be taken into account.

The second subparagraph shall not apply where that difference represents more than 20 % of the total area declared for payments.

4. As regards to areas under permanent grassland for which the concerned Member State decided to apply a reduction coefficient according to Article 25(2) of Regulation (EU) No [...] [DPR], the area determined per category of permanent grassland after application of the relevant reduction coefficient shall be used for calculation of the aid.

5. In case of the payment for young farmers and where the Member State opts for the payment method laid down in Article 36(5) of Regulation (EU) No [...] [DPR]; if the area declared under the basic payment scheme or the single area payment scheme exceeds the limit set by the Member State, the calculation of the payment shall be based on that limit.

6. In case of the re-distributive payment, if the area declared under the basic payment scheme or the single area payment scheme exceeds the limits set by the Member State in accordance with Article 28g(4) of Regulation (EU) No [...] [DPR], that limit shall be used for the calculation of the payment.

7. In case of the payment for areas with natural constraints and where the Member State opts for the payment method laid down in Article 34(4) of Regulation (EU) No [...] [DPR], if the area declared under the basic payment scheme or the single area payment
scheme exceeds the maximum number of hectares set by the Member State, the calculation of the payment shall be based on that number.

8. For the purpose of calculating the aid under the basic payment scheme, the average of the values of different payment entitlements in relation to the respective area declared shall be taken into account.

**Article 4**

**Administrative penalties in cases of over-declaration**

If, in respect of a crop group as referred to in Article 2(1), the area declared for the purposes of any area-related aid schemes or area-related support measures exceeds the area determined in accordance with Article 3, the aid shall be calculated on the basis of the area determined reduced by twice the difference established if that difference is more than either 3 % or two hectares, but no more than 20 % of the area determined.

If the difference is more than 20 % of the area determined, no area-related aid or area-related support shall be granted for the crop group concerned.

If the difference is more than 50 %, the beneficiary shall be excluded once again from receiving aid or support equal the amount corresponding to the difference between the area declared and the area determined in accordance with Article 3 of this Regulation. That amount shall be off-set in accordance with Article 10 [...] of Commission Regulation (EU) No [...] [IA HZR]. If the amount cannot be fully off-set by applying that provision in the course of the three calendar years following the calendar year of the finding, the outstanding balance shall be cancelled.

**Article 5**

**Administrative penalties concerning the crop specific payment for cotton**

Without prejudice to any administrative penalties to be applied in accordance with Article 4 of this Regulation, where it is established that the beneficiary does not respect the obligations resulting from Articles 6(1) and (2) of Regulation (EU) No [...] [DA on cotton] [former Article 29(1) and (2) of Regulation (EC) No 1121/2009], the beneficiary shall lose the right to the increase of the aid provided for in Article 46(2) of Regulation (EU) No [...] [DPR]. Moreover, the aid for cotton per eligible hectare pursuant to Article 43 of Regulation (EU) No [...] [DPR] shall be reduced by the amount of the increase that the beneficiary would have otherwise been granted in accordance with Article 46(2) of that Regulation.

**Article 6**

**Administrative penalties [other than over-declarations of areas] concerning the payments under Title III and V of Regulation (EU) No [DPR]**

1. Without prejudice to any administrative penalties to be applied in accordance with Article 4, where it is established that the beneficiary divided his holding with the sole purpose of benefitting from the redistributive payment as referred to in Article 28g(5) of DPR, this annual payment shall not be made or shall be withdrawn in full. Moreover, a penalty corresponding to 20% of the amount the beneficiary has, or would have otherwise, received as a redistributive payment pursuant to Article 28g of Regulation (EU) No [DPR] shall be applied.

2. Without prejudice to any administrative penalties to be applied in accordance with Article 4, where it is established that the beneficiary does not comply with the
obligations referred to in Article 36(2) of Regulation (EU) No [DPR] and Article […] of Regulation (EU) No […] [DA on YFS], the aid for young farmers shall not be paid or shall be withdrawn in full. Moreover, where it is established that the beneficiary provided false evidence for the purpose of proving compliance with the obligations, a penalty corresponding to 20% of the amount the beneficiary has, or would have otherwise, received as a payment for young farmers pursuant to Article 36(1) of Regulation (EU) No [DPR] shall be applied.

3. Without prejudice to any administrative penalties to be applied in accordance with Article 4 Regulation, where it is established that the beneficiary artificially created the conditions to benefit from the small farmer scheme under Title V of Regulation (EU) No [DPR] as referred to in Article 47(4) of Regulation (EU) No [DPR], the aid for small farmers shall not be paid or shall be withdrawn in full. Moreover, a penalty corresponding to 20% of the amount the beneficiary has, or would have otherwise, received as a payment under the small farmer scheme pursuant to Article 49 of Regulation (EU) No [DPR] shall be applied.

4. The amount of the administrative penalties referred to in the previous three paragraphs shall be off-set in accordance with Article […] of Commission Regulation (EU) No […] [IA HZR]. If the amount cannot be fully off-set by applying that provision in the course of the three calendar years following the calendar year of the finding, the outstanding balance shall be cancelled.

Article 7

Administrative penalties concerning the reduction of payments

Without prejudice to any administrative penalties to be applied in accordance with Article 4, where it is established that the beneficiary artificially created the conditions to avoid the effects of the reduction of payments as referred to in Article 11(4) of Regulation (EU) No [DPR], the amount of direct payments pursuant to Chapter 1 of Title III [BPS and SAPS] of Regulation (EU) No [DPR] shall not be paid or shall be withdrawn in full. Moreover, a penalty corresponding to 20% of the amount the beneficiary has, or would have otherwise, received pursuant to Article 11(1) of Regulation (EU) No [DPR] shall be applied.

The amount of the administrative penalties referred to in the previous paragraph shall be off-set in accordance with Article […] of Commission Regulation (EU) No […] [IA HZR]. If the amount cannot be fully off-set by applying that provision in the course of the three calendar years following the calendar year of the finding, the outstanding balance shall be cancelled.