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(Acts whose publication is obligatory)

REGULATION (EEC) No 1237/73 OF THE COMMISSION

of 10 May 1973

amending Regulation (EEC) No 1259/72 on the disposal of butter at a reduced price to certain Community processing undertakings

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community;

Having regard to Council Regulation (EEC) No 804/68 (1) of 27 June 1968 on the common organization of the market in milk and milk products, as last amended by the Act (2) annexed to the Treaty (3) concerning the Accession of new Member States to the European Economic Community and the European Atomic Energy Community, signed at Brussels on 22 January 1972, and in particular Article 6 (7) thereof;

Having regard to Council Regulation (EEC) No 985/68 (4) of 15 July 1968 laying down general rules for intervention on the market in butter and cream as last amended by Regulation (EEC) No 2714/72 (5), and in particular Article 7a thereof;

Whereas experience of the application of Commission Regulation (EEC) No 1259/72 (6) of 16 June 1972, as last amended by Regulation (EEC) No 1175/73 (7), has shown that certain control documents which must accompany the product should be altered and may be specified; whereas the conditions for the refund of the processing deposit must consequently be altered; whereas, furthermore, the third indent of Article 6 (1) (c) lays down that powder for the preparation of edible ices shall have a milk-fat content of less than 32 %; whereas it appears that this content may be as high as 33 %;

Whereas the measures provided for in this Regulation are in accordance with the Opinion of the Management Committee for Milk and Milk Products;

HAS ADOPTED THIS REGULATION:

Article 1

In the third indent of Article 6 (1) (c) of Regulation (EEC) No 1259/72 the words '33 % or less' are substituted for the words 'less than 32 %'.

Article 2

1. In Article 17 (1) (a) (aa) of Regulation (EEC) No 1259/72 the following is substituted for the text of the second and third indents;

'The date on which the butter was taken over and one of the following phrases shall be entered in section 106;

— 'for smør, der har været genstand for den i rubrik 104 nævnte forarbejdning, skal der:

  — enten udstedes et eller flere nye kontroleksemplarer nr. 5, hvis det skal sendes til en anden medlemsstat,

  — eller i modsat fald foretages en toldkontrol eller en administrativ kontrol, der giver tilsvarende sikkerhed.'

— 'für die Butter, die wie in Feld 104 angegeben verarbeitet worden ist,

  — sind entweder ein oder mehrere neue Kontrollexemplare Nr. 5 zu erteilen, wenn sie in einen anderen Mitgliedstaat versandt wird,

(1) OJ No L 148, 28. 6. 1968, p. 13.
(2) OJ No L 73, 27. 3. 1972, p. 14.
(3) OJ No L 73, 27. 3. 1972, p. 5.
(4) OJ No 169, 18. 7. 1968, p. 1.
(5) OJ No 291, 28. 12. 1972, p. 15.
(6) OJ No L 162, 18. 7. 1972, p. 1.
(7) OJ No L 119, 5. 5. 1973, p. 12.

— oder ist andernfalls eine Zollkontrolle oder eine Verwaltungskontrolle mit gleichwertiger Sicherheit durchzuführen.'

— 'in the case of butter which has undergone the processing referred to in section 104, either :

— one or more new No 5 control copies should be issued if the butter is to be sent to another Member State ;

— if the opposite is true, the butter must be subject to customs or equivalent administrative control ;

— 'le beurre ayant subi la transformation visée dans la case 104 doit faire l'objet :

— soit de la délivrance d'un ou de plusieurs nouveaux exemplaires de contrôle n° 5, s'il doit être expédié vers un autre État membre,

— soit d'un contrôle douanier ou d'un contrôle administratif présentant des garanties équivalentes dans le cas contraire.'

— 'il burro che ha subito la trasformazione di cui alla casella 104 deve essere oggetto :

— o del rilascio di uno o di più nuovi esemplari di controllo n. 5, se deve essere spedito verso un altro Stato membro,

— ovvero di un controllo doganale o di un controllo amministrativo che presenti garanzie equivalenti nel caso contrario.'

— 'voor de boter die de in vak 104 bedoelde verwerking heeft ondergaan :

— moeten of één of meer nieuwe controle-exemplaren nr. 5 worden afgegeven, indien zij wordt vervoerd naar een andere Lid-Staat,

— of moet in het tegenovergestelde geval een douanecontrole of een administratieve controle met gelijke waarborg plaatsvinden.'

The number(s) of the new control copy or copies of the national document(s) shall be placed under the heading 'Remarks' in the 'Control as to use and/or destination section of the form.'

2. The following indent is to be added to Article 17 (1) (a) (bb) of Regulation (EEC) No 1259/72 :

'When one or more national documents are used, they must include the same phrases as those appearing in sections 103, 104 and 106 of the control copy referred to above.'

Article 3

The text of Article 18 (2) of Regulation (EEC) No 1259/72 is replaced by the following :

'2. Except in cases of *force majeure* the processing deposit referred to in Article 12 shall be released only for quantities in respect of which the successful tenderer has furnished the proof that the conditions referred to in Article 6 have been met.

This proof shall be furnished, according to each case, in accordance with the following provisions :

(a) where the operations referred to in subparagraphs (a) (b) and (c) Article 6 (1) or in Article 6 (2) have been carried out in the selling Member State, proof shall be furnished by the production of a document drawn up by the selling Member State ;

(b) where the operations referred to in subparagraphs (a) and (b) of Article 6 (1) have taken place in the selling Member State, and the operations referred to in subparagraph (c) of Article 6 (1) have taken place in another Member State, or the operation referred to in Article 6 (2) has taken place in a Member State other than the selling Member State, proof shall be furnished by the control copy or copies referred to in subparagraph (b) of Article 17 (1) and in Article 17 (2) ;

(c) where the operations referred to in subparagraphs (a) (b) and (c) of Article 6 (1) have taken place in a Member State which is not the selling Member State, proof shall be furnished by the production of a document drawn up by the Member State in which the processing has taken place ;

(d) where the operations referred to in subparagraphs (a) and (b) of Article 6 (1) have taken place in a Member State other than the selling Member State and the operations referred to in subparagraph (c) of Article 6 (1) takes place in a Member State other than the one in which the transactions referred to in subparagraphs (a) and (b) of Article 6 (1) have taken place, proof shall be furnished by the control copy or copies referred to in Article 17 (1) (a) (bb).

The Member States may provide for the proof to be considered as furnished if the seller submits a statement from the final user in which the latter

— confirms his undertaking, appearing in the contract of sale, to process the products referred to in subparagraph (b) of Article 6 (1) into the products referred to in the three indents of subparagraph (c) of Article 6 (1) within the prescribed time limit, and

— states that he is aware of the sanctions he may incur, determined by the Member State concerned, if it transpires that he has not fulfilled the conditions to which he has agreed.

The Member States shall determine the maximum quantity for which they shall decide that this statement may apply.'

Article 4

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

However, at the request of those concerned, the undertakings made pursuant to Article 6 of Regulation (EEC) No 1259/72, with regard to tenders made after that date, shall be adapted to the provisions of Article 1.

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

Done at Brussels, 10 May 1973.

For the Commission

The President

François-Xavier ORTOLI