REGULATION (EEC) No 2790/74 OF THE COMMISSION

of 31 October 1974

laying down detailed rules for the application of the system of premiums for the retention of cattle

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community;

Having regard to Council Regulation (EEC) No 805/68 [1] of 27 June 1968 on the common organization of the market in beef and veal, as last amended by Regulation (EEC) No 1855/74 [2], and in particular Articles 22a (3) and 25 thereof;

Whereas Council Regulation (EEC) No 2502/74 [3] of 2 October 1974 introduced a system of premiums for the retention of cattle which may in certain circumstances be granted in place of the premiums provided for in Council Regulation (EEC) No 1967/74 [4] of 23 July 1974 introducing a system of premiums for the orderly marketing of certain adult bovine animals for slaughter;

Whereas detailed rules should be adopted for the application of the system of premiums for the retention of cattle;

Whereas, in particular, the date from which applications for premiums may be submitted should be laid down, whereas certain particulars should be given in the applications;

Whereas if the system is to function properly, it is essential that the accuracy of the particulars given be verified;

Whereas the system can operate effectively by means of an arrangement for the payment of the premium in two instalments, provided that the recipient is required to prove that he has complied with the undertaking provided for in Article 3 (3) of Regulation (EEC) No 2502/74 should enable the system to achieve its objective;

Whereas Member States must recover any premium paid out if the undertaking provided for in that Article is not complied with over the period specified therein;

Whereas Articles 8, 10 and 11 of Council Regulation (EEC) No 1353/73 [5] of 15 May 1973 introducing a premium system for the conversion of dairy herds to meat production and a development premium for the specialized raising of cattle for meat production defined the terms 'producer', 'producers' association' and 'holding' and laid down certain conditions for the grant of premiums to producers belonging to a producers' association and to persons taking over a holding; whereas those provisions should be incorporated in this Regulation;

Whereas it may happen that by reason of *force majeure* the receipt of a premium is unable to fulfil his obligations; whereas a Community definition of *force majeure* is provided by the judgments of the Court of Justice of the European Communities in Cases 4/68 [6], 11/70 [7] and 158/73 [8] whereas, lest in such cases the economic consequences for a recipient's holding of the refusal or the recovery of a premium be unduly severe, provision should be made for special measures which, as appropriate, would either release the recipient from his obligations without requiring him to repay amounts already received or would grant him a period of grace during which his obligations would be suspended;

Whereas in certain circumstances premiums should be recovered from or refused to persons who have taken advantage of the possibilities afforded by the Council Directive of 17 April 1972 [9] concerning measures to encourage the cessation of farming and the reallocation of utilized agricultural area for the purposes of structural improvement;

Whereas the measures provided for in this Regulation are in accordance with the Opinion of the Management Committee for Beef and Veal,

HAS ADOPTED THIS REGULATION:

Article 1

Member States shall before 15 November 1974 supply the Commission with a list of the regions in which they intend to grant premiums for the retention of cattle as provided in Regulation (EEC) No 2502/74.

Article 2

Applications for premiums may be lodged at any time, on or after the date fixed by the Member State concerned, and during the period specified in Article 1 of Regulation (EEC) No 1967/74. Applications shall

(1) OJ No L 148, 28. 6. 1968, p. 24.
(2) OJ No L 195, 18. 7. 1974, p. 14.
(3) OJ No L 268 3. 10. 1974, p. 12.
(4) OJ No L 206, 27. 7. 1974, p. 1.
(5) OJ No L 141, 28. 5. 1973, p. 18.
(6) 1968 Record, 549.
(7) 1970 Record, 1125.
(8) 1974 Record.
(9) OJ No L 96, 23. 4. 1972, p. 9.

be lodged with the competent authority designated by the Member State concerned.

Applications shall include, in respect of each producer, the following:

(a) particulars of the number of bovine animals kept by the producer on his holding on the day the application is lodged, with separate figures for the number of cows and in-calf heifers as defined in Article 7;

(b) a declaration by the producer stating that he is aware of the terms of Regulation (EEC) No 2502/74 and of this Regulation and of the terms of the relevant implementing measures adopted in the Member State concerned;

(c) the undertaking required under Article 3 (3) of Regulation (EEC) No 2502/74.

Article 3

Following receipt of the application the competent authority shall take steps to verify the particulars referred to in Article 2 (a).

Article 4

If it allows the application, the competent authority shall:

(a) register the undertaking required under Article 3 (3) of Regulation (EEC) No 2502/74;

(b) determine the total number of bovine animals and the number of cows and in-calf heifers to be kept on the recipient's holding for the period to which the undertaking relates.

Article 5

A first instalment of 16·5 units of account per cow or in-calf heifer qualifying for the premium shall be paid within 30 days following the date on which the application is approved by the competent authority.

The balance shall be paid during the eighth month following the date on which the application is lodged, the competent authority having first ascertained that the undertaking required under Article 3 (3) of Regulation (EEC) No 2502/74 has been complied with.

Article 6

1. Member States shall, by the end of each month at the latest, inform the Commission of the number of applications approved by the competent authorities during the preceding month. They shall indicate separately the number of applications submitted through a producers' association.

2. The applications referred to in paragraph 1 shall be classified according to the number of bovine animals kept on each holding, and in each case the number of cows and in-calf heifers in respect of which the premium has been granted shall be indicated.

Article 7

For the purposes of Regulation (EEC) No 2502/74:

(a) 'cow' means a female animal of the domestic bovine species having calved at least once;

(b) 'in-calf heifer' means a female animal of the domestic bovine species in respect of which the successful applicant can establish to the satisfaction of the competent authority concerned that calving took place during the six months following the date on which the animal was taken into consideration for the purposes of the rights and obligations arising under this Regulation.

Article 8

The provisions of Articles 8, 10 and 11 of Regulation (EEC) No 1353/73 shall apply in respect of the system of premiums provided for in this Regulation.

Article 9

In the case provided for in Article 11 of Regulation (EEC) No 1353/73, where a person having taken over a holding and having given an undertaking to the competent authority to continue to fulfil the obligations entered into by his predecessor fails to establish to the satisfaction of that authority that he has fulfilled those obligations, the Member State concerned shall take steps to recover from that person the sums already paid to his predecessor.

Article 10

1. In any case where the recipient of a premium fails to prove to the satisfaction of the competent authority that he has complied with the undertaking required under Article 3 (3) of Regulation (EEC) No 2502/74 the Member State concerned shall take steps to recover all sums already paid in respect of that premium. Provided that entitlement to the premium shall not be lost if the recipient was prevented from complying with his undertaking by *force majeure*.

2. Where a beneficiary ceases farming in accordance with Council Directive No 72/160/EEC of 17 April 1972 steps shall be taken to recover all sums already paid in respect of the premium during the nine months preceding the application to cease farming.

Article 11

1. The following circumstances *inter alia* may be treated by the competent authority as cases of *force majeure* and accordingly entitling it to take no action for the recovery of sums already paid in respect of premiums:

(a) death of the recipient ;

(b) an extended period of disability on the part of the recipient such as to prevent him from carrying on his occupation ;

(c) compulsory purchase of 50 % or more of the utilized agricultural area of the holding farmed by the recipient, provided that such compulsory purchase was not foreseeable at the date when the undertaking was given.

2. The following circumstances *inter alia* may be treated by the competent authority as cases of *force majeure* entitling it to suspend for up to one year the application of Article 3 (3) of Regulation (EEC) No 2502/74 :

(a) serious flooding of land normally used by the recipient for cattle raising purposes ;

(b) accidental destruction of buildings belonging to the recipient normally used by him for cattle raising purposes ;

(c) an outbreak of epizootic disease affecting all or part of the recipient's herd.

3. Member States shall inform the Commission of all cases treated by their competent authorities as cases of *force majeure*.

Article 12

The Member States shall within 10 days following the date on which such measures take effect inform the Commission of the measures taken by them for the purpose of implementing the premium arrangements, and in particular of the provisions adopted by them to ensure compliance with the undertaking referred to in Article 3 (3) of Regulation (EEC) No 2502/74.

Article 13

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

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

Done at Brussels, 31 October 1974.

For the Commission

The President

François-Xavier ORTOLI