COMMISSION REGULATION (EEC) No 1089/77

of 25 May 1977

on detailed rules of application for granting special aid for skimmed milk for use as feed for animals other than young calves

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 of 27 June 1968 on the common organization of the market in milk and milk products [1], as last amended by Regulation (EEC) No 559/76 [2], and in particular Articles 10 (3) and 28 thereof,

Whereas Article 2a (4) of Council Regulation (EEC) No 986/68 of 15 July 1968 laying down general rules for granting aid for skimmed milk and skimmed-milk powder for use as feed [3], as last amended by Regulation (EEC) No 876/77 [4], provides that, in order to encourage the use of skimmed milk, a special aid may be granted for the products listed in Article 2 (1) (a) and (b) of that Regulation if used as feed for animals other than young calves; whereas, because of the present situation on the market in skimmed-milk powder, the abovementioned provisions should be applied and the relevant detailed rules of application laid down;

Whereas, in the case of skimmed milk supplied by dairies to farmers, the granting of the special aid should be subject to the conclusion of a contract between the dairy and the farmer which meets certain conditions; whereas such supplies should be subject to a maximum price;

Whereas, to ensure the effectiveness of this measure, farmers should be given some assurance as to the stability of the level of the special aid and the said maximum price by providing for them to be adjusted in the event of a change in the intervention price for skimmed-milk powder or in the prices of competing proteins;

Whereas, in order to ascertain the quantities of skimmed milk supplied by a dairy under this Regulation, the monthly record prescribed by Article 5 of Commission Regulation (EEC) No 1105/68 of 15 July 1968 on detailed rules for granting aid for skimmed milk for use as feed [5], as last amended by Regulation (EEC) No 541/76 [6], should be adapted; whereas, to ensure that the skimmed milk is used for the purpose intended, provision should be made for its denaturing or for an equivalent administrative control in addition to the treatment prescribed in Article 2 (2) of Regulation (EEC) No 986/68; whereas special rules should be made for skimmed milk supplied to mixed farms where calves are also kept; whereas, moreover, under Article 10 of Regulation (EEC) No 1105/68, Member States shall take the supervisory measures necessary to ensure that the conditions governing the granting of the special aid are fulfilled; whereas any breach should be punished by penal or administrative measures laid down by the Member States; whereas it is desirable that these consequences should be mentioned in the contracts;

Whereas the special aid may also be granted for skimmed milk used to feed animals other than young calves on the farm where it has been manufactured; whereas special provision should be made for this type of case to ensure that this use of skimmed milk is complied with;

Whereas, since Council Regulation (EEC) No 1807/76 of 20 July 1976 on the granting of special aid for liquid skimmed milk for use as feedingstuffs for certain animals in regions affected by drought [7], as amended by Regulation (EEC) No 877/77 [8], applies only until 31 May 1977, Commission Regulation (EEC) No 2067/76 of 20 August 1976 on detailed rules for the granting of special aid for skimmed milk for use as feed in regions particularly affected by drought [9], should be repealed;

Whereas, as regards the information concerning aids for skimmed milk to be communicated by the Member States, Commission Regulation (EEC) No 210/69 of 31 January 1969 on communications between Member States and the Commission with regard to milk and milk products [10], as last amended by Regulation (EEC) No 706/77 [11], should be amended accordingly;

(1) OJ No L 148, 28. 6. 1968, p. 13.
(2) OJ No L 67, 15. 3. 1976, p. 9.
(3) OJ No L 169, 18. 7. 1968, p. 4.
(4) OJ No L 106, 29. 4. 1977, p. 24.
(5) OJ No L 184, 29. 7. 1968, p. 24.
(6) OJ No L 64, 12. 3. 1976, p. 11.
(7) OJ No L 202, 28. 7. 1976, p. 1.
(8) OJ No L 106, 29. 4. 1977, p. 26.
(9) OJ No L 230, 21. 8. 1976, p. 9.
(10) OJ No L 28, 5. 2. 1969, p. 1.
(11) OJ No L 86, 2. 4. 1977, p. 13.

Whereas the Management Committee for Milk and Milk Products has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION :

Article 1

1. Special aid shall be granted for skimmed milk referred to in Article 2 (1) (a) and (b) of Regulation (EEC) No 986/68, if it is used as feed for animals other than young calves.

2. The amount of the special aid shall be 5·5 units of account per 100 kilograms of skimmed milk.

Article 2

1. For the purposes of this Regulation :

(a) 'specialized farm' means a farm keeping pigs and/or any other animals except young calves ;

(b) 'mixed farm' means a farm keeping both young calves and other animals ;

(c) 'young calves' means calves not more than five months old.

2. The rules contained in Regulation (EEC) No 1105/68 shall apply to the granting of the special aid, without prejudice to the special provisions contained herein.

Article 3

1. The following special provisions shall apply to the special aid for skimmed milk referred to in Article 2 (1) (a) of Regulation (EEC) No 986/68 :

The special aid shall only be granted to a dairy

(a) if it has entered into a supply contract with a farmer which meets the conditions referred to in Article 4 ;

(b) in respect of the skimmed milk supplied under such a contract, after deducting the quantity referred to in the second indent of Article 4 (2) (b) or in Article 4 (4) (b) ;

(c) if all the skimmed milk supplied under such a contract is, at the choice of the Member State concerned,

— denatured by acidification and, depending upon the method of analysis used, the minimum degree of acidity is :

Soxhlet Henkel : 20° SH,
Dornic : 45° Dornic,
Kruisher : 50° N,
British Standard 1741 : 0·45 % 'lactic acid',

— or denatured by the addition of 1 gram of E 122 (Azorubin) per 1 000 kilograms of skimmed milk,

or

— subject to an administrative control giving guarantees equivalent to the abovementioned denaturing ;

(d) if the dairy complied with a maximum ex-dairy selling price for the skimmed milk supplied under such a contract of

— 2 units of account per 100 kilograms for skimmed milk supplied to specialized farms and in the case of mixed farms, for skimmed milk other than that for use as feed for young calves,

— 3·5 units of account per 100 kilograms for skimmed milk supplied to mixed farms for use as feed for young calves under the provisions referred to under (b).

2. The record of milk sold by the dairy provided for in Article 5 (2) (e) of Regulation (EEC) No 1105/68 shall show separately the quantities sold under this Regulation and shall specify the quantities corresponding to each level of aid.

Article 4

1. The supply contract shall be concluded only with a farmer managing a farm within the meaning of Article 2 (1) (a) or (b).

The contract shall be concluded for a minimum of three months and for a period which does not go beyond 31 December 1980. At the choice of the Member State concerned, it may only start to be carried out on the first day of a month or on the first Monday of a month.

2. The contract shall contain :

(a) the selling price or prices of the skimmed milk agreed within the maximum price limits laid down in Article 3 (1) (d) and without prejudice to any adjustments under Article 6 (2) ;

(b) an undertaking by the farmer :

— to use skimmed milk supplied under the contract exclusively as animal feed on his farm,

— in the case of mixed farms, to take delivery during the duration of the contract of a minimum quantity of skimmed milk for young calves which does not qualify for special aid ; this minimum quantity shall be calculated on the basis of a daily consumption of 8 kilograms per head and a number equal to the maximum number referred to in the first indent of paragraph 3 (c),

— to forward to the dairy, before the 10th day of each month :

— a statement of the size of his herd on the last day of the previous month, showing where necessary calves not more than five months old separately from other animals,

— an estimate of his herd for the current month ;

(c) the penal or administrative consequences fixed by the Member State concerned to which the dairy and the farmer are liable in the case of a breach of this Regulation.

3. The contract shall also contain :

(a) an estimate of the quantity to be supplied by the dairy, either per week or per month or during the first three months of the carrying out of the contract, including where appropriate the quantity referred to in the second indent of paragraph 2 (b) ;

(b) in the case of specialized farms, an estimate of the minimum number of animals concerned during the first three months of the carrying out of the contract ;

(c) in the case of mixed farms,

— the maximum number of young calves which the farmer undertakes not to exceed during the first three months of the carrying out of the contract,

— an estimate of the average number of each species of animal consuming skimmed milk that will be kept during the first three months of the carrying out of the contract.

If the contract was concluded for a period exceeding three months, the farmer, at least 15 days before the end of each quarter, shall make to the dairy a declaration which shall become an integral part of the contract indicating the figures, referred to under (a), (b) and (c) valid for the following quarter or, as the case may be, for the remainder of the period if shorter.

4. Member States may decide not to apply the provisions referred to in the second and third indents of paragraph 2 (b) and in paragraph 3 for mixed farms where the farmer undertakes in the contract :

(a) not to keep calves other than those from his own dairy cows ; and

(b) during the validity of the contract, to take delivery of a quantity of skimmed milk not benefiting from the special aid, equal to

— 15 % of the milk delivered by the farm to the dairy during the said period of validity, if the farmer undertakes not to keep the calves referred to under (a) on his farm for more than 25 days after their birth, if they are made ; or

— 30 % of of the milk delivered by the farm to the dairy during the said period of validity, if he does not give such an undertaking.

5. The contract shall be drawn up in at least three copies, one of which shall, within 10 days of its conclusion, be deposited by the dairy with the competent authority in the Member State concerned for registration.

The statements referred to in the third indent of paragraph 2 (b) shall be kept by the dairy for at least two years.

Article 5

1. With regard to the special aid for skimmed milk referred to in Article 2 (1) (b) of Regulation (EEC) No 986/68,

(a) the farmers concerned shall forward to the competent body in their Member State :

— an application in which is given the information referred to in Article 4 (3) (b) or (c),

— an undertaking immediately to notify any change in this information which might involve a change in the rate of aid ;

(b) the undertakings referred to in Article 4 (2) (b) shall apply by analogy, without prejudice to the provisions of Regulation (EEC) No 1105/68.

2. However, for the dairies referred to in Article 5a of Regulation (EEC) No 1105/68, Member States may dispense with the undertakings referred to in Article 4 (2) (b) if, without prejudice to the said Article 5a, the dairies undertake,

(a) to keep only a pig herd and

(b) to use the skimmed milk of their own production as feed exclusively for this herd.

Article 6

1. The amount of the aid referred to in Article 1 (2) and the level of the maximum prices referred to in Article 3 (1) (d) shall remain unchanged at least until 30 September 1977. With effect from this date, taking particular account of the price developments for competing proteins and of any changes to the intervention price of skimmed-milk powder, they shall be reviewed every three months and, if necessary, amended.

2. In the case of an amendment under paragraph 1, the contracts between the dairies and the farmers shall be adapted accordingly with effect from the date of application of the said amendment.

Article 7

In Article 4 (1) of Regulation (EEC) No 210/69 there shall be added under A. I. (a) 1. the words : 'indicating separately the quantities of skimmed milk benefiting from the special aid provided for in Regulation (EEC) No 1089/77'.

Article 8

Regulation (EEC) No 2067/76 is hereby repealed with effect from 1 June 1977.

Article 9

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

It shall apply with effect from 1 June 1977.

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

Done at Brussels, 25 May 1977.

For the Commission

Finn GUNDELACH

Vice-President