COMMISSION REGULATION (EEC) No 1307/77

of 15 June 1977

laying down rules for the application of the system of premiums for the non-marketing of milk and milk products and the conversion of dairy herds

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1078/77 of 17 May 1977 introducing a system of premiums for the non-marketing of milk and milk products and for the conversion of dairy herds [1], and in particular Article 7 thereof,

Whereas under Article 7 of Regulation (EEC) No 1078/77 certain rules are to be adopted for implementing the system of premiums for the non-marketing of milk and milk products and the conversion of dairy herds; whereas, in order to ensure that the system is applied uniformly, it is desirable, especially in view of experience with such systems in the past, to specify as precisely as possible the conditions for the granting of premiums;

Whereas, in order to ensure that a check can be kept throughout the period to which the obligations under the scheme relate, it is necessary to provide a means of identification in respect not only of dairy cows but of all female animals suitable for milk production; whereas all such animals must therefore be registered and marked and their particulars entered on an identity card, by means of which it may be checked whether the use of the animal has been in accordance with the rules; whereas, however, since a system of identity cards is open to abuse in the event of the animals being sold, it is desirable that it be clearly brought home to farmers that they are to be responsible for its return, thus ensuring that they will not sell their animals without making the necessary provisions for the card to be returned to them;

Whereas, in order where possible to avoid extra administrative work, existing national marks and identity cards may be used, provided cross-frontier trade is not involved;

Whereas, when comparing quantities of milk and milk products delivered, it is desirable to cover as long a period as possible in order to exclude short-term variations in supplies; whereas account should be taken of the fact that the reduction in milk deliveries caused by the exceptional drought in the second half of 1976 continued in many parts of the Community into the first half of 1977;

Whereas this should accordingly be regarded as a special case as referred to in Article 2 (1) and in the second subparagraph of Article 3 (1) of Regulation (EEC) No 1078/77, a variation of up to 10 % being permitted without the premium being reduced;

Whereas, for purposes of the conversion premium, the number of the various animals which the farmer may keep must be calculated in terms of a livestock unit equal to one adult bovine animal; whereas a change in the herd caused by seasonal factors or by the replacement of animals, but which overall does not affect the farmer's ability to fulfil his obligation, should be taken into account by calculating the number of livestock units for each calendar year in such a way that animals kept for a short period and animals whose classification changes in the course of the year as a result of age are counted on a calendar year basis;

Whereas, in order that a check may be kept on compliance with the obligation not to use areas under forage for milk production, all such areas must be registered and, since an unforeseen change of use is possible, all areas belonging to the holding must in fact be registered;

Whereas premiums already paid must be recovered if the obligations under the premium system are not met; whereas, however, in certain cases, and in particular if the recipient is temporarily or permanently not in a position to fulfil these obligations by reason of circumstances beyond his control and which he cannot remedy save at disproportionate cost to himself [2], it appears justified to release him temporarily or permanently from those obligations; whereas, however, the obligations under the premium system should continue to apply where the holding is transferred;

[1] OJ No L 131, 26. 5. 1977, p. 1.

[2] Recueil 1968, 549; 1970, 1125.

Whereas regular communications from the Member States as to the number of applications submitted and approved are necessary in order that a check may be kept on the operation of the premium system and its uniform application ; whereas such communications are also necessary for purposes of the report to the Council provided for in Article 13 of Regulation (EEC) No 1078/77 ;

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

Applications for premiums for the non-marketing of milk and milk products or for the conversion of dairy herds shall be lodged between 1 July 1977 and 31 March 1978 with the competent authority appointed by the Member State concerned.

Applications shall for each producer include at least the following particulars :

(a) the type of premium applied for ;

(b) the total number of bovine animals and sheep kept on the holding at the time of the application, with separate particulars as follows :

  (aa) the number of dairy cows as defined in Article 5 (1) (a),

  (bb) the number of other female bovine animals as defined in Article 5 (1) (b),

  (cc) in the case of the conversion premium, the numbers of other animals, classified in accordance with Article 4 (2) ;

(c) the quantities of milk and milk products supplied to other persons in the course of the calendar year 1976 ; in the case of supplies to dairies, such quantities must be confirmed by the purchasers, or by a competent authority ;

(d) the quantities of milk and milk products supplied in 1977 up to the end of the month preceding the month in which the application was lodged and during the same period in 1976 ; in the case of applications lodged in 1978 the particulars shall be given in respect of the calendar year 1977 ; in the case of supplies to dairies the quantities must be confirmed by the purchasers or by a competent authority ;

(e) a declaration by the producer stating that he is aware of the rules governing the premium system for the non-marketing of milk and milk products or the conversion of dairy herds to meat production.

Article 2

1. On receipt of the application the competent authority shall verify the particulars supplied pursuant to Article 1 (b) to (d).

2. The competent authority shall :

(a) determine the quantity of milk and milk products, expressed as kilograms of milk, to be taken as having been supplied by the producer in the course of the calendar year 1976 for the purposes of calculating the premium ; this quantity shall be determined by reference to the number of dairy cows as indicated in accordance with Article 1 (b) (aa) and the number as determined at the time the application is approved ; a fall of 10 % or less in supplies as referred to in Article 1 (d) shall not, however, have the effect of reducing the quantity of milk to be taken into account ;

(b) mark and register the holding's dairy herd and issue for the animals concerned the identity cards provided for in Article 7 ; if an appropriate mark or registration exists under national provisions this may be used, supplemented as necessary for the purposes of the premium system.

  Where, after the date on which the application was lodged, animals have been slaughtered by order of the public authorities under a disease eradication programme, and the slaughter was carried out within the period prescribed in such order, the animals in question shall be regarded as present on the holding at the time when the application is approved ;

(c) determine, in the case of the reconversion premium, the number of other animals as specified in Article 4 (2) present on the holding when the application is approved ;

(d) register the written undertaking required under Article 2 (2) or 3 (2) of Regulation (EEC) No 1078/77 ;

(e) register the total area farmed by the applicant.

3. In the case of producers having supplied more than 120 000 kilograms of milk in 1976 the premium shall be reduced in accordance with paragraph 2 (a) only if the deliveries in 1977 as indicated in accordance with Article 1 (d) give a quantity of milk of less than 120 000 kilograms.

4. For the purpose of calculating the premium where the applicant is participating in a disease eradication programme, the increases provided for in the first indent of the second subparagraph of Article 4 (4) of Regulation (EEC) No 1078/77 shall be calculated, as in the case of the quantity of milk determined in accordance with paragraph 2 (a), by reference to the number of diseased animals ;

Where both the alternatives set out in the second subparagraph of Article 4 (4) of Regulation (EEC) No 1078/77 are applicable the second alternative shall apply.

5. The producer shall notify the competent authority, before the beginning of the non-marketing or reconversion period, of the date of its commencement, and this date shall be recorded on each identity card.

Article 3

For the purpose of calculating the quantities of milk and milk products the following conversion factors shall apply in respect of milk products :

(a) 1 kilogram of milk equals 1 litre of milk,

(b) 1 kilogram of butter equals 23 litres of milk,

(c) 1 kilogram of cheese equals 10 litres of milk,

(d) 1 kilogram of milk fat equals 27 litres of milk.

Article 4

1. For the purposes of Article 3 (2) (c) of Regulation (EEC) No 1078/77 :

(a) the reference date shall be the date when the application for the conversion premium is approved ;

(b) the number of animals shall be calculated in livestock units in accordance with paragraph 2 ;

(c) a corresponding number of livestock units shall be considered to be kept when the producer presents satisfactory proof, for each year of the conversion period, that having regard to the period for which each animal is kept and to its livestock value in that year as determined in accordance with paragraph 2, the number as calculated on an annual average basis is not less than the number of livestock units at the reference date.

2. A livestock unit shall mean :

(a) one domestic bovine animal at least 12 months old ;

(b) two domestic bovine animals between six and 12 months old ;

(c) five sheep at least 12 months old.

Article 5

1. For purposes of the premium system :

(a) 'dairy cow' means a female domestic bovine animal suitable for the production of milk for marketing purposes and having calved at least once ; this definition shall include in-calf heifers ;

(b) 'dairy herd' means all female domestic bovine animals at least six month old suitable for the production of milk for marketing ;

(c) 'cow of a beef breed' means a female domestic bovine animal having calved at least once and belonging to one the breeds recognized as fit for meat production by the competent authority of the Member State concerned ; the definition shall include in-calf heifers of a beef breed ;

(d) 'area under forage' means the total farmed agricultural area.

2. Only a heifer in respect of which the recipient has presented proof to the competent authorities that it calved or aborted nine months after it was counted in for the purposes of the rights and obligations arising under this Regulation shall be recognized as a dairy cow or cow of a beef breed.

3. For purposes of the premium system, the dates of lodging and approval of the application shall be determined in accordance with national law.

Article 6

The amount of the premium granted shall be that applicable on the date of approval of the application.

Article 7

1. For purposes of checking compliance with the obligations under the premium scheme, an identity card shall be issued in at least one original and one copy for each animal marked and registered in accordance with Article 2 (2) (b) ; the original shall accompany the animal concerned throughout the non-marketing or reconversion period, or until slaughter or export ; the copy shall be kept by the issuing authority.

2. The identity card shall conform with the specimen set out in the Annex hereto. The size of the form shall be 210 × 148 mm. The paper used for the original shall be white and weigh at least 100 grams per square metre.

The Member States shall be responsible for printing their own identity cards. Each identity card shall bear a serial number permitting identification.

3. Each Member State may use on its own territory an identity card issued under national law, provided that such card contains the particulars required under this Regulation.

In the event of slaughter in another Member State on export, the identity card issued under national law may not be used to claim entitlement to the premium. In such cases an identity card in accordance with paragraphs 1 and 2 shall be used.

4. Applicants for aid must obtain an identity card for each bovine animal as defined in Article 5 (1) (a) and (b) and shall keep such card for as long as they are subject to the obligations arising out of the premium system.

5. On each change of ownership the name, address and signature of the new owner shall be inserted on the identity card if the obligations arising under the premium system still apply to the animal concerned.

6. Save in the cases provided for in Article 6 of Regulation (EEC) No 1078/77, in case of sale the animal shall be slaughtered or exported immediately. Slaughtering shall take place in a slaughter-house approved by the competent Member State.

7. In case of export, the customs office through which the animal leaves the Community shall stamp and date the identity card after having checked the identity of the animal. The identity card shall then be returned to the exporter for transmission to the recipient of the premium, or returned direct to the latter.

8. In the event of the slaughter or death of the animal during the non-marketing or reconversion period, the competent authority shall certify the date of slaughter or death on the identity card and after checking the identity of the animal, return the card to the holder for transmission to the recipient.

9. Death or export shall not be regarded as proved until the recipient of the premium returns the original of the identity card stamped or certified in accordance with paragraphs 7 and 8.

10. The approval of the application for a premium shall state expressly that the recipient of the premium is responsible for returning the identity card and suggest that, in the event of the animal being sold, he makes appropriate contractual provision to ensure its return.

Article 8

1. Where the recipient of a premium fails to prove to the satisfaction of the competent authority that he has complied with the obligations laid down in Article 2 or 3 of Regulation (EEC) No 1078/77, the Member State concerned shall take all necessary steps to recover all sums already paid in respect of that premium.

2. The like provision shall apply where a person has taken over a holding and given an undertaking to the competent authority to continue to fulfil the obligations entered into by his predecessor.

3. Where the applicant fails to provide proof in accordance with Article 7 that the animals have been used for the prescribed purposes, entitlement to the premium shall be forfeited in respect of those animals for which such proof is not furnished.

4. Where the recipient of a premium intends to transfer his holding, or part thereof, to another person, he shall first notify the competent authority and indicate to what extent, if any, the transferee is to take over his obligations under the premium scheme.

The competent authority shall inform the transferee as to the exact scope of the rights and obligations taken over by him. If necessary the competent authority shall recover all sums already paid to the transferor.

Article 9

1. The Member States shall, not later than the end of each month, inform the Commission of the number of applications approved by the competent authority during the previous month, including details of the quantities of milk and milk products as referred to in Article 2 (2) (a).

2. Applications shall be classified according to the quantity of milk marketed by the holdings — the number of dairy cows actually kept being indicated in each case — and separated according to whether they come within the terms of Article 2 (2), 2 (3) or 4 (4) of Regulation (EEC) No 1078/77.

Article 10

1. In case of *force majeure*, the Member States may provide that the premiums already paid shall not be recoverable even if the obligations under the scheme have not been fulfilled and, if necessary, the non-marketing or reconversion period may be suspended for a specified period and extended accordingly.

2. Provision for non-recovery of the premium may, in particular, be made in the following cases:

(a) death of the recipient, provided that he farmed his holding himself;

(b) an extended period of disability such as to prevent the recipient from carrying on his occupation, provided that he farmed his holding himself;

(c) compulsory purchase of a substantial part 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 application was approved.

3. Provision for suspension of the relevant period may, in particular, be made in the following cases:

(a) a serious natural disaster substantially affecting the land farmed by the recipient;

(b) accidental destruction of buildings normally used by the recipient for cattle or sheep farming purposes;

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

4. The Member States shall inform the Commission of all cases of *force majeure* accepted as such by them.

Article 11

This Regulation shall enter into force on 1 July 1977.

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

Done at Brussels, 15 June 1977.

For the Commission

Finn GUNDELACH

Vice-President

EUROPEAN COMMUNITIES *ANNEX* Front

NB: Section No 5 to be completed according to case by the slaughter-house, the veterinary surgeon, the meat inspector or the customs office where the animal left the Community.

NON-MARKETING PREMIUM (*) **CONVERSION PREMIUM (*)**	**IDENTITY CARD No .....** **ORIGINAL**
1. Issuing authority :	2. Producer :
3. Exact description of animal : Mark : Breed : External features : ..... , ... 19 ..... (Place) (Date) (Signature and stamp of issuing authority)	4. Beginning of : non-marketing period (*) conversion period (*) ..... 19 ..... (Date) (Signature of producer) 5. The animal identified in section 3 — has been slaughtered (*) — has died (*) — has left the Community (*) on ..... 19 ..... (Signature and stamp)

(*) Delete as appropriate.

Back

6. **Change of ownership of animal identified on front of card**	
7. Name, forename and address of new owner :	8. Date of change of ownership and signature of new owner :

Important note

1. This identity card is valid only for such period as the non-marketing or conversion premium scheme under Regulation (EEC) No 1078/77 applies to the abovementioned animal.
2. The return of this identity card to the issuing authority is a condition of entitlement to the premium.

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NON-MARKETING PREMIUM (*) **CONVERSION PREMIUM (*)**	**IDENTITY CARD No .....** **COPY**
1. Issuing authority :	2. Producer :
3. Exact description of animal : Mark : Breed : External features : ..... , ... 19 ..... (Place) (Date) (Signature and stamp of issuing authority)	4. Beginning of : non-marketing period (*) conversion period (*) ..... 19 ..... (Date) on ..... 19 ..... (date)

(*) Delete as appropriate.