# COMMISSION REGULATION (EEC) No 2793/77

## of 15 December 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 2560/77 [2], and in particular Article 10 (3) thereof,

Whereas the granting of special aid under the first indent of 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 2624/77 [4], is no longer subject to the conclusion of a supply contract between the dairy and the farmer; whereas 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 [5], as last amended by Regulation (EEC) No 2196/77 [6], should therefore be amended; whereas such amendment must include the introduction of other mechanisms to ensure that the skimmed milk concerned is used for the purpose intended; whereas, moveover, certain other provisions of Regulation (EEC) No 1089/77 must be amended in order to remedy the administrative difficulties encountered in practice and to render the measure more effective; whereas, in view of the large number of amendments required and in the interests of clarity, Regulation (EEC) No 1089/77 should be repealed and a new text adopted;

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 maximum prices fixed 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 in Article 5 of Commission Regulation (EEC) No 1105/68 of 27 July 1968 on detailed rules for granting aid for skimmed milk for use as feed [7], as last amended by Regulation (EEC) No 541/76 [8], 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 laid down 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 will have to 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 provision should be made to ensure that dairies and farmers are informed of such consequences;

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, as regards the information concerning aid 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 [9], as last amended by Regulation (EEC) No 1089/77, should be amended accordingly;

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

(1) OJ No L 148, 28. 6. 1968, p. 13.
(2) OJ No L 303, 28. 11. 1977, p. 1.
(3) OJ No L 169, 18. 7. 1968, p. 4.
(4) OJ No L 306, 30. 11. 1977, p. 4.
(5) OJ No L 131, 26. 5. 1977, p. 34.
(6) OJ No L 254, 5. 10. 1977, p. 10.
(7) OJ No L 184, 29. 7. 1968, p. 24.
(8) OJ No L 64, 12. 3. 1976, p. 11.
(9) OJ No L 28, 5. 2. 1969, p. 1.

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 6·2 units of account per 100 kilograms of skimmed milk referred to in paragraph 1.

3. For the purposes of this Regulation, 100 litres of skimmed milk shall be equivalent to 103 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,

or

— a mixed farm within the meaning of (b) where the farmer undertakes to take delivery only of skimmed milk denatured according to the formula set out in the third indent of Article 3 (1) (b) ;

(b) 'mixed farm' means a farm keeping both young calves and other animals which does not satisfy the condition referred to in the second indent of (a) ;

(c) 'young calves' means calves not more than, at the choice of the Member State concerned, either four months or 120 days 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 be granted to a dairy only :

(a) in respect of the skimmed milk covered by an undertaking on the part of the farmer which satisfies the conditions under Article 4 (1) and, where appropriate, Article 4 (2) ;

(b) if the skimmed milk concerned has been, at the choice of the Member State concerned :

— denatured by acidification and, depending on 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

— denatured by the addition of 200 grams of pentahydrate copper sulphate per 1 000 kilograms of milk, or

— subjected to an administrative control giving guarantees equivalent to the denaturing referred to in the first and second indents ;

(c) if the dairy has complied with

— a maximum ex-dairy selling price for the skimmed milk of 1·5 units of account per 100 kilograms,

— a maximum ex-dairy selling price for the skimmed milk referred to in the third indent of Article 4 (1) (c) and the third indent of Article 4 (2) of 3·5 units of account per 100 kilograms.

2. No farm may obtain skimmed milk qualifying for special aid from more than one dairy.

Member States may, however, derogate from this provision in respect of specialized farms provided that the Member States lay down additional conditions to ensure effective control.

3. The record of skimmed 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, the date of sale and the name and address of the consignee.

*Article 4*

1. The undertaking referred to in Article 3 (1) (a) shall be a document drawn up in at least three copies whereby the farmer undertakes to the dairy and the competent authority :

(a) to use the skimmed milk exclusively as animal feed on his farm, which must be situated on the territory of the same Member State as the dairy concerned ; and

(b) in the case of a specialized farm :

— not to keep young calves or, if he keeps young calves, to take delivery from the dairy only of skimmed milk denatured in accordance with the third indent of Article 3 (1) (b),

— to forward to the dairy, before the beginning of each quarter, a statement of the size of his herd ; or

(c) in the case of a mixed farm :

— to forward to the dairy, together with the undertaking, a statement of the size of his herd at the time of application for delivery,

— to declare to the dairy, before the beginning of each quarter, the maximum number of calves less than four months old which will be kept on the farm during the quarter in question ; this undertaking may be replaced by an undertaking to make such declaration before the beginning of each month for the month in question,

— to take delivery, for each calf declared pursuant to the above indent, of a minimum quantity of skimmed milk not qualifying for special aid equal to six kilograms per day or 180 kilograms per month.

2. However, in the case of mixed farms keeping only calves from their own dairy cows, Member States may decide to replace the undertakings provided for in paragraph 1 (c) by the following undertakings on the part of the farmer concerned :

— an undertaking not to keep calves other than those from his own dairy cows,

— an undertaking to forward to the dairy, before the beginning of each quarter, a statement of the size of his herd,

— an undertaking to take delivery each month of a quantity of skimmed milk not qualifying for special aid equal to at least 15 % of the quantity of milk delivered to the dairy during the month in question.

Member States may also decide that farmers must, in addition, undertake not to keep male calves for more than 25 days ; in that case the percentage set out in the third indent shall be reduced to 10 %.

*Article 5*

1. The dairy shall deposit one copy of the undertaking referred to in Article 4 with the competent authority for registration, and shall keep one copy for at least two years from the date of expiry of the period of validity referred to in paragraph 4.

The statements provided for in Article 4 (1) (b) and (c) and in Article 4 (2) shall also be kept by the dairy for at least two years from the same date.

2. Member States shall determine the earliest date on which skimmed milk produced and treated in a dairy and qualifying for special aid may be delivered, having regard to the date on which the undertaking was deposited for registration.

3. Any application fo the payment of special aid submitted by the dairy to the competent authority shall include references to the undertakings deposited for registration, and shall be accompanied by a declaration that the dairy :

(a) has complied, in respect of skimmed milk concerned, with the conditions referred to in Article 3 (1) (a), (b) and (c),

(b) will, as appropriate, forgo or repay the special aid wholly or in part to the competent authority if it is found that the farmer has not abided by one of the undertakings referred to in Article 4,

(c) is aware, and has informed the farmers concerned, of the penal or administrative consequences fixed by the Member State concerned to which the dairy and the farmers are liable in case of a breach of this Regulation.

4. The undertaking referred to in Article 4 shall remain valid for the whole period during which skimmed milk qualifying for special aid is supplied to the farmer concerned.

The dairy shall inform the competent authority of any subsequent alteration to the undertaking.

*Article 6*

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 agency in their Member State :

— an application including a statement of the size of their herd at the beginning of each month in question,

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

(b) the undertakings provided for in Article 4 (1) (a), (b) and (c) shall apply by analogy, without prejudice to the provisions of Regulation (EEC) No 1105/68.

2. Where Article 4 (2) applies, the percentages, referred to herein for determining the quantity not qualifying for special aid, shall apply to the quantity respectively referred to in Articles 8 and 8a of Regulation (EEC) No 1105/68.

3. However, Member States may exempt from the obligation to provide the communications referred to in Article 4 (1) the dairies referred to in Article 5a of Regulation (EEC) No 1105/68 which undertake, without prejudice to the said Article 5a :

(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 7*

The amount of the aid specified in Article 1 (2) and the level of the maximum prices specified in Article 3 (1) (c) shall remain unchanged at least until 31 March 1978. With effect from this date, taking particular account of price trends for competing proteins and of any changes in the intervention price for skimmed-milk powder, they shall be reviewed every three months and, if necessary, amended.

*Article 8*

In Article 4 (1) of Regulation (EEC) No 210/69, under A I (a) 1 the words 'Regulation (EEC) No 1089/77' are hereby amended to read 'Regulations (EEC) No 1089/77 and (EEC) No 2793/77'.

*Article 9*

1. Regulation (EEC) No 1089/77 is hereby repealed with effect from 1 January 1978.

2. Any undertakings by farmers and dairies made before the said date pursuant to the said Regulation and any relevant national measures shall be adapted to the provisions of this Regulation with effect from its date of application.

*Article 10*

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 January 1978.

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

Done at Brussels, 15 December 1977.

*For the Commission*

Finn GUNDELACH

*Vice-President*