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(Acts whose publication is not obligatory)

COUNCIL REGULATION (EEC) No 2893/77

of 20 December 1977

amending Regulation (EEC) No 2396/71 implementing the Council Decision of 1 February 1971 on the reform of the European Social Fund

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 127 thereof,

Having regard to Council Decision 71/66/EEC of 1 February 1971 on the reform of the European Social Fund [1], as amended by Decision 77/801/EEC [2],

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament [3],

Having regard to the opinion of the Economic and Social Committee [4],

Whereas, in view of the amendments made to Decision 71/66/EEC, Council Regulation (EEC) No 2396/71 of 8 November 1971 implementing the Council Decision of 1 February 1971 on the reform of the European Social Fund [5], as amended by the Act of Accession, should be adopted;

Whereas, in the light of experience and the development of the employment situation in the Community, the general rules governing the action and operation of the Fund should be improved;

Whereas the categories of aid that may benefit from Fund assistance should be defined so that they may become immediately operational; whereas, therefore, Council Regulation (EEC) No 2397/71 of 8 November 1971 on aid which may qualify for assistance from the European Social Fund [6], as amended by Regulation (EEC) No 1761/74 [7], must be repealed;

Whereas, to make it possible to take future requirements of the labour market into account, other categories of aid should be determined and defined according to requirements;

Whereas Fund assistance for the various types of intervention should be granted on the basis of unit costs defined in collaboration with the Member States;

Whereas it is desirable to facilitate the assessment and selection of applications on the basis of multiannual guidelines determined by the Commission after consultation with the European Social Fund Committee;

Whereas the procedure for presenting applications for assistance should be adapted and provision made for their grouping together by field of intervention to enable the Commission to manage the Fund more rationally;

Whereas Article 1 (2) of Decision 77/801/EEC extends the scope of the Fund to persons who are to pursue activities as self-employed persons; whereas, consequently, Council Regulation (EEC) No 2398/71 of 8 November 1971 on assistance from the European Social Fund for persons who are to pursue activities in a self-employed capacity [8] must be repealed,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 2396/71 shall be amended as follows:

1. Article 1 shall be replaced by the following:

'*Article 1*

1. Assistance may be granted from the Fund pursuant to Article 5 (1), first subparagraph, (a), (b) or (c) of Decision 71/66/EEC for operations which:

(1) OJ No L 28, 4. 2. 1971, p. 15.
(2) See page 8 of this Official Journal.
(3) OJ No C 133, 6. 6. 1977, p. 39.
(4) OJ No C 126, 28. 5. 1977, p. 2.
(5) OJ No L 249, 10. 11. 1971, p. 54.
(6) OJ No L 249, 10. 11. 1971, p. 58.
(7) OJ No L 185, 9. 7. 1974, p. 1.
(8) OJ No L 249, 10. 11. 1971, p. 61.

(a) are directed towards eliminating long-term structural unemployment or under-employment, for the benefit of persons who are unemployed or who would become so after a specific period, or those who are under-employed or have had to cease pursuing an activity as a self-employed person;

(b) are aimed at the training of workers whose qualifications must be adapted to permit the pursuit of occupations requiring high qualifications.

2. Assistance may be granted from the Fund pursuant to Article 5 (1), first subparagraph, (d) of Decision 71/66/EEC for operations in favour of handicapped persons who it is assumed may be able to pursue an occupation after functional rehabilitation, vocational adaption or re-adaption.

3. Save in exceptional cases, the operations referred to in this Article shall contribute towards the implementation of a specific programme directed at remedying the causes of the imbalance of employment; such programme shall be set up for the region, branch of the economy, groups of undertakings or categories of handicapped persons concerned. It shall, in particular, indicate clearly the economic context of the operations being planned and shall state the objectives and methods for attaining them.'

2. Article 2 shall be replaced by the following:

'*Article 2*

For each financial year at least 60 % of the appropriations available for assistance from the Fund pursuant to Article 5 of Decision 71/66/EEC shall be reserved as a matter of priority for operations which are aimed at eliminating long-term structural unemployment or under-employment in those regions referred to in Article 5 (1), first subparagraph, (a) of Decision 71/66/EEC.'

3. The following Article shall be inserted:

'*Article 2a*

Assistance from the Fund may not be granted to finance the initial training of young people immediately after completion of their compulsory schooling; nevertheless, assistance from the Fund may be granted for young people who, although available on the labour market, are unable to find work because of lack of qualifications or because there is no demand for the qualifications they possess.'

4. Article 3 shall be replaced by the following:

'*Article 3*

1. Assistance may be granted from the Fund pursuant to Articles 4 and 5 of Decision 71/66/EEC for the following categories of aid:

(a) aid to facilitate the training of persons who need to acquire, widen, adapt or improve occupational knowledge or ability, and which is intended to cover:

— expenditure in respect of the preparation, operation and management of training courses, including the training of instructors. In the regions referred to in Article 5 (1), first subparagraph, (a) of Decision 71/66/EEC depreciation costs relating to operations carried out in such regions may be calculated over a six-year period;

— the cost of attendance at courses, including the cost of providing trainees with an income;

(b) aid to facilitate the transfer of persons, together with members of their families, who are obliged to change their place of residence in order to pursue an occupation;

(c) aid to facilitate the integration into a new social and working environment of persons, together with members of their families, who are obliged to change their place of residence in order to pursue an occupation;

(d) aid to eliminate obstacles which make access to available employment difficult:

— for handicapped persons, to facilitate the adaptation of jobs to their requirements or to facilitate their vocational adaptation or re-adaptation;

— for workers more than 50 years old, to maintain their salary levels during the first six months of their vocational re-adaptation;

(e) aid to promote better conditions of employment in the regions referred to in Article 5 (1), first subparagraph, (a) of Decision 71/66/EEC with a view to covering expenses incurred in the payment by undertakings of an allowance to newly-engaged workers. The aim of paying such allowances shall be to ensure that workers are fully remunerated; the cost of the allowance may be met for a maximum period

of six months and be equal to 30 % of the average gross wage or salary established in the undertaking in respect of corresponding occupations. The workers concerned must be receiving further vocational training in the undertaking or, owing to lack of practical experience, be unable to ensure the output expected from the qualifications recorded at the time of their engagement.

2. The following expenditure shall not be eligible for the aid referred to in paragraph 1:

(a) social security benefits including benefits hitherto normally granted under an unemployment insurance scheme provided for under the social security legislation of the Member States;

(b) medical expenses incurred in the functional rehabilitation of handicapped persons;

(c) capital expenditure;

(d) depreciation of that part of capital expenditure for which non-returnable aid would have been granted by another Community instrument;

(e) costs incurred in the normal education of the children of migrant workers.

3. Assistance from the Fund may also be granted, in the light of developments in requirements of the labour market, and under the conditions and within the limits to be defined by the Council on a proposal from the Commission, for categories of aid not referred to in paragraph 1, particularly the following categories of aid designed to:

(a) maintain, for a fixed period, the income of persons who have lost their employment, or have been put on short time, or temporarily suspended and who are awaiting training or employment;

(b) help to inform and guide persons seeking employment or re-employment;

(c) promote employment in the regions referred to in Article 5 (1), first subparagraph, (a) of Decision 71/66/EEC.

4. Assistance from the Fund shall be granted on the basis of unit costs per person and per unit of time determined by the Commission after consultation with the Member State concerned when approving the application.

The Commission shall determine these unit costs on the basis of information provided by the Member State concerned and of expenditure for which assistance from the Fund has already been received in the context of similar operations carried out in the same Member State.

If the Commission does not have sufficient data to enable it to determine unit costs, assistance from the Fund shall be granted on the basis of actual costs.'

5. The following Article shall be inserted:

'*Article 3a*

1. The Commission shall each year adopt guidelines for the administration of the Fund during the following three calendar years. It shall forward them to the European Parliament and to the Council for information.

The Commission shall publish these guidelines in the *Official Journal of the European Communities* before 1 May of each year.

2. The guidelines shall be geared to the economic and social situation in the Community. They shall take account, with a view to ensuring the harmonious development of the Community, of the extent of the imbalances in the labour market and the economic capacity available for correcting them.'

6. Article 5:

(a) The following paragraph shall be inserted:

'1a. The Member State shall describe how, in qualitative and quantitative terms, the operations fit into the overall context of the labour market.'

(b) Paragraph 2:

— The following text shall be added to the second sentence of the first subparagraph:

'... it shall also give the information necessary for the assessment of its conformity with the Regulations and Decisions governing this matter.'

— The third subparagraph is hereby deleted.

(c) The following paragraph shall be added:

'3. The Member States shall submit their applications grouped together by fields of intervention:

— before 21 October each year in the case of operations due to begin in the first half of the succeeding year,

— before 1 April each year in the case of operations due to begin in the second half of the same year, provided that the nature and size of the operations planned are announced before 21 October of the preceding year.

Member States may submit applications which are not grouped together in as much as they:

— cover operations to be undertaken in response to unforeseen developments affecting the labour market, or

— take the place of grouped applications or parts of grouped applications where the applications have been approved but where the operations covered by them have not been carried out.

7. Article 10:

(a) The present text shall become paragraph 1.

(b) Paragraph 1:

— The following shall be added to (d):

'... including the assessment of the unit costs.'

— The following subparagraph shall be inserted:

'(fa) guidelines for the administration of the Fund;'

(c) The following paragraph shall be added:

'2. Where the Commission receives an application for assistance relating to an exceptional and urgent case, it may take a decision on receipt of the application. When it exercises this option, it shall inform the Committee of its decision.'

8. Article 12 is hereby deleted.

9. The following subparagraph shall be added to Article 13:

'The Commission shall adopt provisions concerning the evaluation, from the point of view of the labour market policy, of the results of measures which have been the object of assistance from the Fund.'

10. Article 14 is hereby deleted.

Article 2

Subject to Article 3, Regulations (EEC) No 2397/71 and (EEC) No 2398/71 are hereby repealed.

Article 3

Regulation (EEC) No 2396/71, in the version in force before the date of entry into force of this Regulation, and Regulations (EEC) No 2397/71 and (EEC) No 2398/71 shall continue to apply to operations the scheme of which or application for which is submitted before 1 January 1978 and which receive the approval of the Commission before 1 April 1978.

Article 4

Article 1 (6) (c) shall apply for the first time to applications relating to operations due to begin during the first half of 1980.

Article 5

This Regulation shall enter into force on 1 January 1978.

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

Done at Brussels, 20 December 1977.

For the Council
The President
H. SIMONET