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(Acts whose publication is obligatory)

COMMISSION REGULATION (EEC) No 1526/78

of 30 June 1978

laying down detailed rules for the application of the special measures for peas and field beans used in the feeding of animals

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1119/78 of 22 May 1978 laying down special measures for peas and field beans used in the feeding of animals (1), and in particular Article 2 (6), the second subparagraph of Article 3 and Article 5 thereof,

Whereas, in view of the normal fluctuations of world market prices, the average world market price for soya cakes should be determined at least once a month ;

Whereas provision should be made for adjusting offers and quotations to compensate for any differences in presentation, quality, conditions and place of delivery compared with the product for which the average world market price must be fixed ;

Whereas the information which needs to be included in the declarations of areas shown in order to identify those areas, should be specified ; whereas, however, it is not possible to require such a declaration for areas which have already been sown ;

Whereas Article 2 of Regulation (EEC) No 1119/78 provides that the standard conditions which contracts concluded by feedingstuffs manufacturers must contain are to be determined ;

Whereas, in order to facilitate checks on entitlement to aid, the contract must show the quantity in respect of which it is concluded or the area on which the product concerned has been sown, together with the price paid or to be paid to the farmer ; whereas, for the same reason, provision should be made for lodging the contracts before a certain date ;

Whereas Article 11 of Council Regulation (EEC) No 1418/78 of 19 June 1978 laying down general rules regarding the special measures for peas and field beans used in animal feed (2), provides that the producer Member States are to make random on-farm checks to determine that the areas indicated in the declarations are accurate ; whereas, in order to be effective, this check must cover a representative number of declarations ;

Whereas, it is necessary to specify the information which Member States must give each other to identify areas on which peas and field beans used in a Member State other than the producing State have been grown ;

Whereas Article 12 of Regulation (EEC) No 1418/78 provides that Member States are to check the delivery of products to feedingstuffs manufacturers and their use ; whereas, to ensure the effectiveness of such checks, the term 'feedingstuffs manufacturer' should be defined and the checking procedure laid down ;

Whereas the stock records of the manufacturers should be used as a basis for this check ;

Whereas, in order to facilitate the marketing of peas and field beans, the amount of aid applicable should be that in force on the day when the feedingstuffs manufacturers ask the competent agency to check the products at the factory ;

Whereas, to ensure the efficient functioning of the aid system, provision should be made for the Member States to issue a certificate stating the quantity entitled to aid and the amount thereof ; whereas, for administrative reasons, provision should be made for the peas and field beans to be incorporated in feedingstuffs within a certain period ;

(1) OJ No L 142, 30. 5. 1978, p. 8.

(2) OJ No L 171, 28. 6. 1978, p. 5.

Whereas, in order to ensure the uniform application of the aid system, the method of payment should be defined ;

Whereas it is necessary to specify the minimum frequency with which the aid should be fixed ; whereas it appears sufficient to apply aid once a month ;

Whereas the system at present in force in France provides for payment by the manufacturer of a minimum price slightly lower than that fixed in Council Regulation (EEC) No 1120/78 of 22 May 1978 [1] ; whereas it appears fair to derogate from the latter minimum price in respect of products delivered under contracts concluded before the entry into force of the Community system ;

Whereas, if Community aid were fixed at a lower level than national aid, abolition of that aid would be prejudicial to manufacturers who had concluded contracts before the entry into force of the Community system ;

Whereas France should be authorized, subject to certain conditions, to retain its national aid for the 1978/79 marketing year ;

Whereas, in view of the delay to the starting date of the 1978/79 marketing year, the implementation at that date of the system provided for in this Regulation could meet with certain difficulties ; whereas, to overcome those problems, the Member States should be authorized to take, for a limited period, measures derogating from those provided for in this Regulation ;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Dried Fodder,

HAS ADOPTED THIS REGULATION :

Article 1

For the purposes of this Regulation :

1. 'feedingstuffs manufacturer' shall mean any undertaking possessing the necessary equipment for milling peas and field beans and for incorporating them in feedingstuffs ;
2. 'producer' shall mean any natural or legal person growing peas or field beans for use in the manufacture of feedingstuffs ;
3. 'buyers' shall mean any natural or legal person other than the feedingstuffs manufacturer who concludes a contract with a producer meeting the conditions laid down in the second indent of Article 2 (2) of Regulation (EEC) No 1119/78 ;
4. 'contract' shall mean a contract between a feedingstuffs manufacturer and a producer or a buyer, in which the manufacturer agrees to take, and the other party to supply, peas and field beans which are of sound, genuine and merchantable quality :

   — to be harvested on a given area, or

   — if the contract is concluded with a buyer, the corresponding quantity stated therein.

[1] OJ No L 142, 30. 5. 1978, p. 11.

World price

Article 2

1. The average world price for soya cakes shall be determined once a month. However, if the market situation changes significantly, it shall be changed as necessary.

It shall be fixed per 100 kilograms and shall be equal to the arithmetical average of the offers and quotations recorded during the five working days preceding the day of determination.

2. The Commission shall take account only of the most favourable offers and quotations for deliveries within 30 days following the date on which they are recorded.

Article 3

1. Where the offers and quotations used relate to :

(a) products presented otherwise than in bulk, they shall be adjusted by deducting the additional value resulting from that presentation ;

(b) a quality other than the standard quality for whch the target price was fixed, they shall be adjusted on the basis of the coefficient shown in the Annex ;

(c) products delivered c. and f., they shall be increased by 0·2 % to take insurance costs into account ;

(d) products delivered cif to a frontier crossing point other than Rotterdam, they shall be adjusted on the basis of transport and insurance costs ;

(e) a product delivered cif Rotterdam, they shall be increased by 0·325 unit of account to take unloading and forwarding costs into account ;

(f) products delivered fas, fob or otherwise, they shall be increased, as appropriate, by loading, transport and insurance costs from the point of shipment or loading to the frontier crossing point.

2. For the purposes of applying paragraph 1, the Commission shall only take account of the lowest loading, transport and insurance costs.

Article 4

Where Article 2 of Regulation (EEC) No 1418/78 applies, the most favourable offers and quotations shall be taken into account :

— for soya cakes in bulk, obtained by the processing of soya seed in the Community and delivered to Rotterdam,

— for other oil cakes offered on the world market, adjusted as appropriate to take into account the difference between their value and the value of soya cakes.

Declaration and contract

Article 5

1. The declaration referred to in Article 4 of Council Regulation (EEC) No 1418/78 shall be lodged with the agency appointed for this purpose by the Member State where the product has been sown before a date to be determined by the Member State concerned. This date shall be fixed in relation to the period during which the check referred to in Article 11 (1) of the said Regulation took place in the Member State concerned.

2. The declaration shall include :

— the name, forenames and address of the person making the declaration,

— the areas sown with peas or field beans for use as animal feed, expressed in hectares and ares,

— the number in the land register of the areas sown, or an indication recognized as equivalent by the agency responsible for the check.

3. The competent agency shall give a control number to each declaration and shall inform the producer concerned.

4. By way of derogation from paragraph 1, no declaration shall be required for peas and field beans harvested before 31 October 1978.

Article 6

1. The contract shall be concluded in writing and lodged by the feedingstuffs manufacturer with the agency appointed for this purpose in the Member State where the peas and field beans will be used for the manufacture of feedingstuffs at least 60 days before the day on which the peas and field beans are delivered to him. Member States may determine the minimum area and/or the minimum quantity for which the contract may be lodged.

2. However, where peas and field beans are delivered to the manufacturer :

— in July 1978, the contract shall be lodged by the day on which the products are so delivered,

— in August and September 1978, the contract shall be lodged at least one week before the day on which the products are so delivered.

Article 7

Every contract shall include :

(a) the names, forenames, addresses and signatures of the contracting parties ;

(b) the date of signature ;

(c) except in the case of products harvested up to 3 October 1978, the control number of the declaration referred to in Article 5 ;

(d) the place to which the harvested product is to be delivered ;

(e) the quantity of peas and field beans covered by the contract, or, in the absence thereof, the area, in hectares and ares, where the crop covered by the contract will be harvested ;

(f) where the contract is between the manufacturer and the producer, the price to be paid to the producer per unit of weight ;

(g) where the contract is between the manufacturer and a buyer, a statement that the producer has received at least the minimum price given in the second indent of Article 2 (2) of Regulation (EEC) No 1119/78.

Article 8

1. The producer shall be paid for sound, genuine and merchantable goods of the quality specified in Article 8 of Regulation (EEC) No 1418/78, loaded into the purchaser's vehicle at the farm gate.

2. The selling price shall be reduced or increased by 1 % for each point of moisture and/or impurity content above or below the quality referred to in paragraph 1. If, however, the water content exceeds 18 %, or if the amount of inert matter exceeds 1·5 %, or the impurity content, including the inert matter, exceeds 5 %, the reductions applying for the rates exceeding the above percentages shall be agreed between the contracting parties.

3. By way of derogation from paragraph 2, and in the case of contracts lodged up to 31 July 1978, any reduction or increase shall be agreed between the contracting parties.

Control measures

Article 9

1. The agency appointed for this purpose in the Member State where the contract is lodged shall check that the contract satisfies all the conditions laid down in Articles 1, 6, 7 and 8, and in particular that the minimum price is observed.

2. If the contract has been signed with a buyer, the competent agency shall require the submission of a copy of the contract between the buyer and the producer, in order to check that the contract lodged corresponds to the contract in question, particularly as regards the observance of the minimum price.

Article 10

1. The random checks on the areas indicated in the declarations referred to in Article 5 shall cover at least 5 % of the declarations lodged.

2. For the purposes of Article 11 (2) of Regulation (EEC) No 1418/78, the competent agency of the Member State where the contract is lodged shall communicate the control number of the declaration given on the contract to the competent agency of the Member State where the peas and field beans were grown.

The latter Member State shall verify :

— whether a declaration bearing the same control number has in fact been lodged,

— whether another contract has already been lodged concerning the same declaration,

— whether the areas indicated in the declaration have been the subject of the check referred to in paragraph 1,

and shall inform the former Member State of the results of this verification using one of the folowing phrases :

(a) 'The declaration was made in respect of the following areas : ... hectares' ;

(b) 'There is no declaration bearing the stated control number' ;

(c) 'Another contract has already been lodged in respect of this declaration'.

In case (a), one of the following statements shall be added if a random check has been made in respect of the areas :

'The check showed that the area indicated in the contract is correct'

or

'The check showed that the area indicated in the contract is ... hectares'.

3. In order to permit the verifications referred to in paragraph 2 to be effected, each Member State shall inform the Commission of the names and addresses of the authorities appointed to implement the special measures for peas and field beans used in the feeding of animals. The Commission shall inform the other Member States.

Article 11

1. For the purposes of this Article and the following Articles, 'premises' shall mean :

(a) any building or other place within the precincts of an establishment manufacturing feedingstuffs, and

(b) if the products concerned cannot be stored in those precincts, any building situated outside them which is sufficiently secure for the purposes of controlling the stored products and which has been approved in advance by the agency responsible for control.

2. The determination of the weight and the sampling referred to in Article 8 (2) of Regulation (EEC) No 1418/78 shall be carried out on entry into the premises where the peas and field beans are to be used.

The competent agency shall verify :

— if the contract refers to a quantity, that the quantity supplied does not exceed by more than 5 % the quantity indicated in the contract,

— if the contract refers to areas, that the quantity supplied corresponds to the quantity which can be produced on the area indicated.

If the quantity supplied exceeds the percentage specified in the first indent, or does not correspond to that which can be produced on the area indicated, the competent agency shall grant aid only in respect of the quantity referred to in the two abovementioned indents. The weight of the peas and field beans shall be expressed in kilograms and adjusted in accordance with the method defined in the Annex.

3. The taking of samples, the reduction of laboratory samples to samples for analysis and the determination of the moisture content and impurities shall be carried out by a uniform method for the whole Community. However, until a Community method is adopted, the Member States may continue to use methods of their choice.

Article 12

Except in cases of *force majeure,* peas and field beans whose entry into the premises has been verified pursuant to Article 11 may not leave those premises until they have been processed.

Article 13

The checks referred to in Article 12 of Regulation (EEC) No 1418/78 shall be such as to establish that the quantity of peas and field beans which entered the premises is the same as the quantity milled and actually incorporated in feedingstuffs.

For the purposes of these checks, the manufacturer shall keep separate accounts for peas and field beans harvested in the Community and imported peas and field beans, which shall include details of :

— the quantities which have entered the manufacturer's premises, specifying the net weight of the product as received, and for products harvested in the Community the moisture content and the impurities content ;

— movements of products between the buildings or other places referred to in Article 11 (1) (a) and buildings referred to in Article 11 (1) (b) ;

— the quantities of peas and field beans used in the manufacture of feedingstuffs, the quantities of feedingstuffs produced and the quantities which left the manufacturer's premises.

Article 14

1. The application referred to in Article 5 (b) of Regulation (EEC) No 1418/78 shall be submitted by the manufacturer at the earliest when the products referred to in Article 11 of this Regulation enter his premises, and in any case before they are incorporated into feedingstuffs. This application shall be made in writing.

2. The application shall be equivalent to an application for aid.

Article 15

1. The application referred to in Article 5 (b) of Regulation (EEC) No 1418/78 may be made only in respect of one or more lots. 'Lots' shall mean a specific quantity of peas and field beans, to which a number is given at the time of entry into the manufacturer's premises and in respect of which an analysis is carried out in accordance with Article 11.

2. This application shall give at least the following information :

— surname, forenames and address of the applicant,

— the quantity of peas and field beans in respect of which the application is made,

— the number of the lot or lots concerned.

Article 16

The aid granted shall be that applying on the day on which the application referred to in Article 5 (b) of Regulation (EEC) No 1418/78 is lodged.

Article 17

1. After verifying the application referred to in Article 5 (b) of Regulation (EEC) No 1418/78, the competent agency shall issue an aid certificate showing :

— the quantity of peas and field beans entitled to aid pursuant to Article 11,

— the amount of aid granted.

2. The certificate shall be made out in at least two copies, of which one is issued to the applicant and the second kept by the issuing agency.

3. Issue of this certificate shall give entitlement to an advance of the aid referred to in Article 7 of Regulation (EEC) No 1418/78, provided that adequate guarantees are given..

4. Except in cases of *force majeure,* the certificate shall carry with it the obligation to incorporate the quantity indicated in the certificate in feedingstuffs within 270 days of its date of issue.

The obligation shall be considered to be fulfilled when the processed quantity, determined in accordance with the method set out in the Annex, is no more than 2 % less than the quantity indicated.

This quantity shall refer to a product with moisture and impurity contents corresponding to those in respect of which aid is fixed.

Aid

Article 18

1. Aid shall be granted only for peas and field beans which are of sound, genuine and merchantable quality.

2. Aid shall be paid out on presentation of the certificate and after attestation by the agency responsible for control that the seeds specified in the certificate were processed during the period referred to in Article 17 (4).

Aid shall be paid out within 120 days of the presentation of the certificate. If the total quantity is not processed within the period referred to in Article 17 (4), aid shall be paid *pro rata* in respect of the quantities which have been so processed.

Article 19

1. Aid shall be fixed once a month and in such a way as to ensure its application from the first day of the month following the date on which it is fixed. However, if the market situation changes significantly, it shall be changed as often as necessary.

2. The Commission shall communicate to the Member States the amount of aid to be granted per 100 kilograms of products, as soon as it is fixed, and in any case before the date from which it is to be applied.

Article 20

1. In the case of contracts concluded in France before 1 July 1978, and lodged there until 31 August 1978, the price payable to the producer shall be not less than that provided for by the system in force in France before 1 July 1978.

2. Until 30 June 1979, the French Republic is authorized to retain the national system of aid for peas and field beans harvested on its territory and used in the feeding of animals.

The amount of aid referred to above may not, however, exceed the difference between the amount valid on 1 July 1978 resulting from application of the national system and the aid referred to in Article 2 of Regulation (EEC) No 1119/78.

Article 21

1. If at the start of the 1978/79 marketing year the implementation of the aid system provided for in this Regulation meets with serious difficulties, Member States may, for the period 1 to 31 July 1978, derogate from the measures provided for in this Regulation with the object of ensuring that only those products that qualify for aid benefit from it.

2. When paragraph 1 is applied, the Member States in question shall forthwith inform the Commission of the measures taken by them.

Article 22

This Regulation shall enter into force on 1 July 1978.

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

Done at Brussels, 30 June 1978.

For the Commission

Finn GUNDELACH

Vice-President

ANNEX A

Method of calculating the weight of peas and field beans

$$\frac{100 - (i + h)}{100 - (i_1 + h_1)} \times q = X$$

i = impurity of peas and field beans the weight of which is to be determined

h = moisture of peas and field beans the weight of which is to be determined

i_1 = impurities, h_1 = moisture } of the quality for which the aid is fixed

q = quantity of the products as received, expressed in kg, the weight of which is to be determined

X = weight of the products expressed in kg

Note :

Only the first two decimal places shall be taken into consideration for the moisture and impurities content.

ANNEX B

Coefficients of equivalence for the different qualities of soya meal

Soya meal having a protein content of	Coefficients of equivalence Percentage to be deducted from the price
46 to 48 %	— 0·560
49 to 50 %	— 1·120