COMMISSION REGULATION (EEC) No 1729/78

of 24 July 1978

laying down detailed rules of application in respect of the production refund for sugar used in the chemical industry

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 3330/74 of 19 December 1974 on the common organization of the market in sugar (1), as last amended by Regulation (EEC) No 1396/78 (2), and in particular Article 9 (6) thereof,

Whereas Council Regulation (EEC) No 1400/78 of 20 June 1978 laying down general rules governing the production refund for sugar used in the chemical industry (3) has introduced a new system of payment; whereas, consequently, the relevant rules of application should be changed and Commission Regulation (EEC) No 835/68 of 28 June 1968 laying down detailed rules for the application of the production refund on sugar used in the chemical industry (4), as last amended by Regulation (EEC) No 2478/74 (5), should be replaced;

Whereas Article 4 of Regulation (EEC) No 1400/78 provides that the production refund is to be calculated per 100 kilograms of dry matter of glucose, using a yield coefficient to be determined;

Whereas the production refund cannot be granted unless precise information is available; whereas persons qualifying for the refund should therefore be requested to submit a prior application in writing giving certain information;

Whereas, for the purposes of proof and control, a refund certificate must be introduced which is valid for a period which is long enough to allow the trade to make long-term arrangements and gives the information necessary to fix the production refund; whereas, in order to ensure that the sugar concerned is used for the purpose for which the refund certificate was issued, it should be provided that only the applicant may claim on the certificate and only after the basic production in question has been processed;

Whereas, in order to make it possible to check that the basic products are put to the intended use, a competent body having access to all necessary information must be set up in each Member State; whereas, in order to counteract the effects of delays in payment of the refund, provisions should be made for an advance to be paid to the holder of a certificate as soon as the basic products have been placed under control; whereas, in return, the holder should be required to provide a security as guarantee to the Member State concerned should processing of the basic product not be carried out in accordance with the conditions laid down in the refund certificate; whereas, however, the Member State concerned should be free to decide on appropriate measures to deal with cases of *force majeure* which prevent a certificate holder from fulfilling his obligations;

Whereas, since final payment of the production refund may be made only after processing has taken place and since the trade has an interest in being paid as soon as possible, provision should be made for such payment to be effected shortly after processing;

Whereas, henceforth, the refund is paid for the quantity of basic product processed without reference to a conversion ratio; whereas Commission Regulation (EEC) No 891/69 of 13 May 1969 fixing a uniform conversion ratio for granting the production refund on white sugar used in the manufacture of fructose (6) should therefore be repealed;

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

HAS ADOPTED THIS REGULATION:

Article 1

The coefficient referred to in Article 4 of Regulation (EEC) No 1400/78 is hereby fixed at 2·00.

Article 2

1. Application for a production refund shall be made in writing.

(1) OJ No L 359, 31. 12. 1974, p. 1.
(2) OJ No L 170, 27. 6. 1978, p. 1.
(3) OJ No L 170, 27. 6. 1978, p. 9.
(4) OJ No L 151, 30. 6. 1968, p. 35.
(5) OJ No L 264, 1. 10. 1974, p. 72.
(6) OJ No L 115, 14. 5. 1969, p. 11.

2. Every application shall state :

(a) the name and address of the processor ;

(b) the quantity of basic products to be processed, expressed in terms of white sugar ;

(c) the nature of the basic products to be processed ;

(d) the use to which the basic products are to be put ; and

(e) the place of processing.

3. Member States may require applicants to furnish additional information.

Article 3

1. Member States shall issue a refund certificate on receipt of the application.

2. Member States shall use national forms for the refund certificate, which, without prejudice to the provisions of other Regulations, Directives or Decisions adopted by Community institutions, shall contain at least the information specified in paragraph 3.

3. The refund certificate shall indicate :

(a) the name and address of the holder ;

(b) the date on which the application was lodged ;

(c) the quantity of basic products to be processed, expressed in terms of white sugar ;

(d) the use to which the basic product is to be put ;

(e) the production refund for white sugar applicable the day on which the application was lodged ;

(f) the last day of validity of the certificate ;

(g) the place of processing.

Article 4

1. The issue of a refund certificate shall give entitlement to payment of the production refund indicated in the certificate after the basic products have been processed in accordance with the conditions laid down in the certificate.

2. Rights under the certificate shall not be transferable.

Article 5

The refund certificate shall be valid from its day of issue to the end of the month following that of issue.

Article 6

1. Member States shall designate the authorities responsible for control of the processing of basic products.

2. The holder of a refund certificate shall give the authorities referred to in paragraph 1 the following information in writing in sufficient time to enable them to effect the control :

(a) his name and address ;

(b) the nature and quantity of the basic products to be processed ;

(c) the place where the basic products in question are located when the information is furnished.

Member States may require certificate holders to furnish additional information.

Article 7

When the basic products have been placed under control, Member States may make an advance payment to the certificate holder amounting to not more than 80 % of the production refund indicated on the certificate.

Article 8

1. If an advance is paid, Member States shall require a security or recognized equivalent guarantee calculated to ensure repayment of the advance plus 5 %.

2. The security shall be released once processing has taken place in accordance with the conditions laid down in the refund certificate or when the advance plus 5 % has been repaid.

3. Subject as provided in paragraph 4, the repayment referred to in paragraph 1 shall be in proportion to the quantities of basic products which have not been processed under the conditions laid down in the refund certificate.

If the advance is not repaid, the security shall be forfeited in proportion to the amount of the advance to be recovered.

4. If processing cannot be carried out under the conditions laid down in the refund certificate owing to circumstances to be regarded as constituting *force majeure,* and if an application is made to have such circumstances taken into consideration, the Member State concerned shall take such measures as it considers necessary having regard to the circumstances invoked.

Article 9

After the party concerned has informed the competent agency of the chemical product in the manufacture of which the sugar has been used, the production refund or, where an advance has been paid, the difference between the amount advanced and the amount of the production refund shall be paid :

1. at the earliest, after it has been established that the basic products have been processed under the conditions laid down in the refund certificate ;

2. at the latest, at the end of the months following the month in which it was established that processing was completed.

Article 10

The production refund shall be paid in respect of the quantity of basic product processed.

Article 11

For the purposes of this Regulation, syrup containing sucrose shall be treated as equivalent to a quantity of white sugar corresponding to the amount of sucrose contained in that syrup.

Article 12

Regulations (EEC) No 835/68 and (EEC) No 891/69 are hereby repealed.

Article 13

This Regulation shall enter into force on 1 August 1978.

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

Done at Brussels, 24 July 1978.

For the Commission

Finn GUNDELACH

Vice-President