COMMISSION REGULATION (EEC) No 3075/78

of 20 December 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 in certain cases peas and field beans are processed into flakes for incorporation into animal feedingstuffs by undertakings other than those which carry out such processing; whereas products thus processed should also be considered eligible for aid;

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, in order to ensure that the aid system operates properly in cases where the manufacturer does not conclude the contract with the agricultural producer or the contract is concluded with a producer in another Member State, provision should be made for the issue of a certificate stating that the minimum price due to the producer has been paid;

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;

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[1] OJ No L 142, 30. 5. 1978, p. 8.

[2] OJ No L 171, 28. 6. 1978, p. 5.

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;

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 this Regulation is intended to replace Commission Regulation (EEC) No 1526/78 [2], as amended by Regulation (EEC) No 2286/78 [3]; whereas Regulation (EEC) No 1526/78 should therefore be repealed;

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. 'first buyer' 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:

   — the peas and/or field beans of sound, genuine and merchantable quality that will be harvested on a specified area, or

   — a specified quantity of peas and/or field beans of sound, genuine and merchantable quality

or else a contract between a first buyer and a producer, in which the first buyer agrees to take, and the other party to supply,

   — the peas and/or field beans of sound, genuine and merchantable quality that will be harvested on a specified area, or

   — a specified quantity of peas and/or field beans of sound, genuine and merchantable quality.

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.

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[1] OJ No L 142, 30. 5. 1978, p. 11.
[2] OJ No L 179, 1. 7. 1978, p. 1.
[3] OJ No L 275, 30. 9. 1978, p. 77.

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 which the target price was fixed, they shall be adjusted on the basis of the coefficient shown in Annex A hereto;

(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 according to the period during which the check referred to in Article 9 of the said Regulation is made 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 concluded by the feedingstuffs manufacturer shall be lodged by him 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 one week before the day on which the peas and field beans are delivered to him. In the cases referred to in paragraphs 2 and 3 of this Article the certificate described in Article 10 (2) shall accompany the contract. However, for peas and field beans delivered between 1 July 1978 and 15 February 1979, and for which the copy of the contract concluded between a buyer and a producer has not been presented before this Regulation enters into force, in accordance with the provisions of Article 9 (2) of Regulation (EEC) No 1526/78, the ceertificate shall be lodged by 15 February 1979 at the latest. Member States may determine the minimum area and/or the minimum quantity for which the contract may be lodged.

2. In cases where the contract to be lodged by the feedingstuffs manufacturer has been concluded with a producer in a Member State other than that in which the products in question are to be used, a copy of it shall be lodged with the competent agency of the Member State of production.

However, for peas and field beans delivered between 1 July 1978 and 15 February 1979, the copy shall be lodged by 31 January 1979 at the latest.

3. In cases where the contract to be lodged by the feedingstuffs manufacturer has been concluded with a person other than the producer, the first buyer shall lodge his contract with the producer with the competent agency of the Member State where the peas and field beans have been produced.

However, for peas and field beans delivered to the manufacturer between 1 July 1978 and 15 February 1979, the contract concluded between the first buyer and the producer shall be lodged by 31 January 1979 at the latest.

Article 7

Every contract concluded with a producer 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 31 October 1978, the control number of the declaration referred to in Article 5;

(d) the marketing year of the harvest;

(e) if the contract has been concluded by a manufacturer, the place to which the crop will be delivered;

(f) the quantity of peas and field beans covered by the contract, or alternatively, the area, in hectares and ares, where the crop covered by the contract is to be harvested;

(g) the price to be paid to the producer per unit of weight.

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.

Control measures

Article 9

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

These checks shall be carried out at a date which is as close as possible to the anticipated harvest date.

Article 10

1. The competent agency in the Member State where the peas and field beans are produced shall check, with regard to the contract concluded with the producer:

(a) that the provisions of Article 7 have been observed;

(b) except in cases where the contract concerns products harvested by 31 October 1978:

— 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 Article 9,

— if the contract refers to a quantity, that the quantity corresponds to the amount which can be produced on the area indicated in the declaration;

(c) that the price paid to the producer, as arrived at by application of Article 8, is at least equal to the minimum price referred to at the second indent of Article 2 (2) of Regulation (EEC) No 1119/78.

2. In the cases referred to in paragraphs 2 and 3 of Article 6, when the contract meets the conditions referred to in paragraph 1 (a) and (c) above and the checks referred to in paragraph 1 (b) have been carried out to the satisfaction of the competent agency, that agency shall, within 10 days of the date of lodging of the contract, issue to the person having lodged it a certificate that the checks specified in paragraph 1 have been carried out, indicating the quantity or area of peas and field beans covered by the contract.

3. The certificate referred to in paragraph 2 shall, when it is issued, be marked with a number by the issuing body and signed and stamped by that body. The number shall be preceded by a letter, or letters, indicating the country of issue of the document. The letters to be used shall be: B for Belgium, D for Germany, DK for Denmark, F for France, I for Italy, IR for Ireland, L for Luxembourg, NL for the Netherlands and UK for the United Kingdom. The certificate itself shall be given to the applicant and a copy kept by the issuing body.

4. Member States shall transmit to the Commission imprints of the stamps of the issuing bodies and facsimiles of the certificates used. The Commission shall immediately communicate particulars of these to other Member States.

5. On request by any holder of a certificate the body having issued the certificate shall, on its return by the holder, replace it with certificates in respect of smaller amounts of peas and field beans equal in total to the quantity shown on the certificate returned.

Each such replacement certificate shall be marked with the same number as the original certificate plus a supplementary number.

Article 11

In any case of doubt as to the authenticity of a certificate or the statements or stamps thereon, the competent national authorities shall send it or a photocopy thereof to the issuing body to be checked.

Authorities sending a certificate for checking shall on request issue its holder with a receipt therefor.

Article 12

1. For the purposes of this Regulation, '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.

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.

4. The competent agency of the Member State where the peas and field beans are processed shall check that the quantity or area indicated in the certificate and that indicated in the contract concluded by the manufacturer correspond. When the certificate refers to an area and the contract to a quantity the agency shall check that the quantity corresponds to the amount that can be produced on the area indicated. When the contract refers to a quantity and the certificate to an area situated in another Member State, the competent agency may request the assistance of the competent agency of that Member State in checking that the quantity corresponds to the amount that can be produced on the area indicated.

The competent agency shall verify:

— in the case of contracts concluded by a manufacturer in respect of a specified quantity, that the quantity delivered does not exceed by more than 7 % of that indicated in the contract,

— in the case of contracts concluded by a manufacturer in respect of a specified crop area, that the quantity delivered corresponds to the amount that can be produced on the area specified.

If the quantity delivered 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, as appropriate, 107 % of the quantity indicated in the contract or the quantity that can be produced on the said area. If the contract refers to an area situated in another Member State, the competent agency may request the assistance of the competent agency of that Member State in checking the correspondence between the area indicated in the contract and the quantity delivered. The weight of the peas and field beans shall be expressed in kilograms and adjusted by the method given in Annex B hereto.

Article 13

Except in cases of *force majeure*, peas and field beans whose entry into the premises has been verified pursuant to Article 12 may not leave those premises until they have been processed, with the exception of peas and field beans to be processed into flakes for incorporation into feedingstuffs, on condition that the flakes produced return to the same premises which the peas and field beans left.

Article 14

The checks referred to in Article 12 of Regulation (EEC) No 1418/78 must be capable of establishing that the quantity of peas and field beans which entered the premises is the same as the quantity thereof milled, and/or of flakes, 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 12 (1) (a) and buildings referred to in Article 12 (1) (b), as well as of peas and field beans which leave to be processed into flakes and of the return of the said flakes,

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

Article 15

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 12 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 considered equivalent to an application for aid.

Article 16

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. 'Lot' 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 12 (3).

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 17

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 18

1. When it has made the checks specified in Articles 10 and 12 (4) and checked 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 12,

— 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 in feedingstuffs, within 270 days of the date of issue of the certificate, the quantity indicated therein.

The obligation shall be considered to be fulfilled when the processed quantity, as determined in accordance with the method set out in Annex B has attained a level not more than 2 % below 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.

If, following a case of *force majeure,* only a portion of the quantity declared in the certificate is used during this period, the aid shall be paid in proportion to the quantities effectively used.

The aid shall be paid within 120 days of presentation of the certificate.

Aid

Article 19

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 products indicated in the certificate have been processed within the period indicated in Article 18 (4).

Article 20

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 product, as soon as it is fixed, and in any case before the date from which it is to be applied.

Article 21

Until 30 June 1979, France 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 22

Regulation (EEC) No 1526/78 is hereby repealed.

Article 23

This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Communities.*

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

Done at Brussels, 20 December 1978.

For the Commission

Finn GUNDELACH

Vice-President

ANNEX A

Coefficients of equivalence for the different qualities of soya meal

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

ANNEX B

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 kilograms, the weight of which is to be determined.

X = weight of the products expressed in kilograms.

Note:

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