COMMISSION REGULATION (EEC) No 3322/82

of 10 December 1982

amending for the second time Regulation (EEC) No 2192/82 laying down detailed rules for the application of the special measures for peas and field beans

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1431/82 of 18 May 1982 laying down special measures for peas and field beans [1], and in particular Article 3 (7) thereof,

Whereas Article 7 (1) of Commission Regulation (EEC) No 2192/82 [2], as amended by Regulation (EEC) No 2659/82 [3], lays down that where products are sold by the producer the competent agency, after verifying the contract between the first purchaser and the producer and, in particular, checking that the producer has obtained at least the minimum price, is to issue a certificate ; whereas, in the light of experience gained since the entry into force of the Community rules on the matter, the Community provisions governing the conditions for drawing up the said certificate should be amended ;

Whereas Article 8 of the abovementioned Regulation lays down that the form of Community certificate is to be determined by 31 December 1982 ; whereas, owing to difficulties in the implementation of the system provided for, the form of Community certificate cannot be determined in time ; whereas the time limit for the determination of the form of certificate should therefore be extended ;

Whereas Article 15 of the abovementioned Regulation provides for certain derogations during a specified period for the purposes of transition from the old to the new system ; whereas other difficulties have come to light ; whereas provision should thus be made notwithstanding Article 22, in the case of products entering the undertaking from August to October 1982, for the aid application to be lodged after the products have entered the undertaking ;

Whereas Article 16 of the abovementioned Regulation further defines the concept of products actually used ; whereas, for the sake of proper administrative management and in order to prevent products from benefiting from aid not corresponding to the use to be made of them, provision should be made in certain cases for an obligation to indicate the proposed use of the product on the packaging ;

Whereas the abovementioned Article 16 sets out the actual uses of the products that may qualify for the aid ; whereas other actual uses of these products have come to light ; whereas the uses should therefore be extended to include products for the preparation of soups or of other foods ;

Whereas Article 18 (1) of the abovementioned Regulation fixed the time of placing under supervision as the time when the products entered the undertaking ; whereas this created difficulties for some operators because they were unable to determine, at the time the products entered the undertaking, to what use they were to be put ; whereas these operators should therefore be given more time to determine what quantities are actually to be placed under supervision and used in their undertakings ;

Whereas Article 18 (4) of the abovementioned Regulation lays down that products placed under supervision may not leave the undertaking until they have been processed ; whereas it had already become apparent that certain types of processing could not be carried out in the same undertaking ; whereas experience has shown that there are other types of processing that cannot be carried out in the same undertaking ; whereas the measure should therefore be extended to allow other products to be processed outside the undertaking in question ;

Whereas Article 20 of the abovementioned Regulation lays down that the obligation relating to the actual use of the products is to be considered to have been fulfilled when the quantity used is not more than 2 % less than the quantity indicated on the application to place under supervision ; whereas it should be laid down that the obligation can be considered to have been fulfilled in relation to the quantities actually used, provided that these quantities are not less than 90 % ;

(1) OJ No L 162, 12. 6. 1982, p. 28.
(2) OJ No L 233, 7. 8. 1982, p. 5.
(3) OJ No L 282, 5. 10. 1982, p. 5.

Whereas Article 22 of the abovementioned Regulation fixes the time limit for lodging the aid application; whereas the aid application may actually be lodged at the same time as the application to place the products under supervision; whereas the day on which the application to place under supervision is lodged means the day on which the application is actually lodged, even if it is lodged after 4 p.m.; whereas it should therefore be laid down that the aid application may be regarded as being lodged on the same day as the application to place under supervision even if the aid application is lodged on the first working day after the application to place under supervision;

Whereas the third subparagraph of Article 29 (1) of the abovementioned Regulation lays down that for peas and field beans containing more than 10 % of skins or skinnned seeds, whether or not broken, aid is to be reduced in proportion to the percentage in excess of 10 %; whereas experience has shown that various processing methods are used in some undertakings; whereas these processes may result in a greater percentage of skins or skinned seeds, whether or not broken; whereas, in order to ensure uniform application of the aid system between economic operators, the provision in question should be deleted;

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

Regulation (EEC) No 2192/82 is hereby amended as follows:

1. Article 7 (3) is replaced by the following:

'3. The certificate must bear a reference enabling it to be compared with the delivery contracts and declarations to which it refers. The certificate must also show the quantity, as calculated in accordance with the method laid down in the Annex, of the products appearing in the relevant delivery declaration or declarations.'

2. In Article 8 (1) '31 December 1982' is replaced by '31 March 1983'.

3. The following paragraph is added to Article 15:

'4. Notwithstanding Article 22, for products entering the undertaking from August to October 1982 inclusive, the aid application referred to in Article 22 (1) may be submitted by the party concerned not later than 31 December 1982 provided that the products for which the aid application has been lodged have not actually been used.'

4. In Article 16 (b) and (e):

(a) '0·25 %' and '1 %' are replaced by '0·50 %' and '3 %' respectively;

(b) 'broken' is replaced by 'seeds in pieces'.

5. In Article 16 (d) the following indent is added:

'— pre-cooking or cooking and, possibly, milling and drying for the preparation of soups or other foods;'

6. The following paragraph is added to Article 16:

'The proposed use of the product shall be indicated on the packaging of the products referred to in point (b).'

7. Article 18 (1) is replaced by the following:

'1. Not later than when the products enter the undertaking, the party concerned shall immediately inform the competent agency of the Member State in writing.'

8. The following paragraph 3a is inserted in Article 18:

'3a. The notification referred to in paragraph 1 shall constitute an application to place the products under supervision. However, the party concerned may delay the placing under supervision of the product entering the undertaking where it has not yet been determined to what use all of the product is actually to be put in the undertaking. In such cases the party concerned shall be allowed a period of 30 working days in which to inform the competent agency of the Member State what quantity he intends actually to place under supervision and thus use in his undertaking and what quantity he envisages removing. The product may under no circumstances be placed under supervision once it has actually been used.'

9. The second subparagraph of Article 18 (4) is replaced by the following:

'However, at the request of the party concerned, products to be incorporated into animal feed may be authorized to undergo milling, flaking or toasting outside the undertaking and products to be used in the preparation of soups or other foods may be authorized to undergo cooking or pre-cooking outside the undertaking.'

10. Article 20 is replaced by the following:

'*Article 20*

Except in cases of *force majure,* an application to place products under supervision shall carry with it the obligation actually to use the products within the meaning of Article 16 within 150 days of the date on which the application is lodged.

The obligation shall be considered to have been fulfilled when the quantity actually used, as determined in accordance with the method set out in the Annex, is not more than 2 % less than the quantity placed under supervision.

If the quantity actually used is not less than 90 % and less than 98 % of the quantity placed under supervision, the obligation shall be considered to have been fulfilled in proportion to the quantities actually used.

Except in cases of *force majeure,* if the quantity actually used is less than 90 % of that placed under supervision, the obligation shall be considered not to have been fulfilled.

If, following a case of *force majeure,* only part of the quantity placed under supervision is used during this period, the obligation shall be considered to have been fulfilled in proportion to the quantities actually used.'

11. The following subparagraph is added to Article 22 (1):

'However, if the aid application is lodged on the first working day following the day on which the application to place under supervision is lodged, such aid application shall be regarded as having been lodged on the same day as the application to place under supervision.'

12. The first paragraph of Article 23 is replaced by the following:

'The day on which the aid application is lodged shall mean the day on which it is actually lodged, provided that this is a working day and that it is lodged not later than 4 p.m. Belgian time.'

13. Article 29 is amended as follows:

(a) in paragraph 1, the third subparagraph is deleted;

(b) in paragraph 2, the second indent is replaced by the following:

'— the agency responsible for supervision pursuant to Article 19 has checked that the quantity placed under supervision has actually been used within the period referred to in Article 20'.

Article 2

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

However, Article 1 (6) shall apply from 1 January 1983.

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

Done at Brussels, 10 December 1982.

For the Commission

Poul DALSAGER

Member of the Commission