COMMISSION REGULATION (EEC) No 2167/83

of 28 July 1983

laying down detailed rules for the supply of milk and certain milk products to schoolchildren

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 804/68 of 27 June 1968 on the common organization of the market in milk and milk products (1), as last amended by Regulation (EEC) No 1600/83 (2), and in particular Article 26 (4) thereof,

Whereas Council Regulation (EEC) No 1842/83 (3) laid down general rules for the supply of milk and certain milk products to schoolchildren;

Whereas there is a need for detailed rules, taking account, where possible, of schemes already implemented in some Member States and the experience thus gained; whereas it is necessary *inter alia* to define the beneficiaries of the scheme in question and the characteristics of the products;

Whereas, in order to take account of problems involving conservation and transport, it would be appropriate, in the case of schools in the French overseas departments, to provide that chocolate-flavoured or flavoured milk for which a subsidy is granted may be reconstituted milk;

Whereas it would be appropriate also to specify the cases in which, under Article 2 (2) of Regulation (EEC) No 1842/83, the quantity of milk distributed daily may exceed 0,25 litre;

Whereas, it is necessary to determine for each product the amount corresponding to 125 % of the target price;

Whereas Member States must ensure that the products in question are not used for a purpose other than that for which they are intended;

Whereas it is essential to specify that the aid is granted in respect of the use of Community products; whereas, moreover, provision should be made, for control purposes, for the products to be purchased in the Member State in which the school is located from approved suppliers in that Member State; whereas, for the same reasons and in view of the purposes of the measure, the commitments to be entered into by suppliers and schools should be determined;

Whereas the provisions of Commission Regulation (EEC) No 1598/77 of 15 July 1977 laying down detailed rules for the sale of milk and certain milk products at reduced prices to schoolchildren (4), as last amended by Regulation (EEC) No 1440/83 (5), no longer apply; whereas, for reasons of clarity, that Regulation should be expressly repealed;

Whereas Council Regulation (EEC) No 1842/83 is applicable from 1 August 1983; whereas application of the new detailed rules introduced by this Regulation may cause implementing difficulties in some Member States; whereas Member States should therefore be authorized to derogate from it during the 1983/84 school year;

Whereas the Management Committee for Milk and Milk Products has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

The beneficiaries of the Community aid referred to in Article 1 (2) of Regulation (EEC) No 1842/83 shall be schoolchildren and students regularly attending a school of any grade or category including nursery schools but excluding universities and institutes of further education comparable with universities.

The schoolchildren referred to above shall qualify for Community aid during periods spent at holiday camps organized by a school, an association, a group or a local authority as referred to in Article 7 (1).

Article 2

1. The milk products referred to in Article 2 (1) of Regulation (EEC) No 1842/83 are listed by category in the Annex.

(1) OJ No L 148, 28. 6. 1968, p. 13.
(2) OJ No L 163, 22. 6. 1983, p. 56.
(3) OJ No L 183, 7. 7. 1983, p. 1.
(4) OJ No L 177, 16. 7. 1977, p. 22.
(5) OJ No L 146, 4. 6. 1983, p. 11.

2. In the case of French overseas departments, chocolate-flavoured or flavoured milk for which a subsidy is granted, as referred to in Article 2 of Regulation (EEC) No 1842/83, may be reconstituted milk.

Article 3

1. The maximum quantity of 0,25 litre of milk referred to in Article 2 (2) of Regulation (EEC) No 1842/83 distributed per pupil per school day shall be increased to 0,50 litre in the case of schools which have particular consumption requirements, due notably to the sporting activities of their pupils or to the fact that they operate as boarding establishments or provide lunches or canteen facilities, and which possess appropriate distribution and monitoring facilities, as well as in the case of establishments for handicapped children.

2. In the case of category IV, V, VI, VII and VIII products, calculation of the maximum quantities referred to in paragraph 1 shall be based on the quantities given in Article 4 (1) (d).

3. For purposes of calculating the Community aid and for compliance with the limits laid down in paragraph 1, reference shall be made to the total quantities of milk products eligible for aid during the period for which the aid has been requested.

Article 4

1. Community aid shall be :

(a) 34,29 ECU per 100 kilograms for category I 'whole milk' products ;

(b) 19,79 ECU per 100 kilograms for category II 'semi-skimmed milk' products ;

(c) 8,49 ECU per 100 kilograms for category III 'buttermilk' products ;

(d) in the case of category IV, V, VI and VII products, an amount calculated per 100 kilograms of the product in question on the basis of :

— the amount fixed at (a) for whole milk and, as relevant,

— 450 kilograms of whole milk for category IV, or

— 1 000 kilograms of whole milk for categories V and VI, or

— 1 100 kilograms of whole milk for category VII.

2. Notwithstanding paragraph 1, in the event of Community aid being higher than the selling price charged by the supplier before application of the aid, such aid shall be reduced to ensure that it does not exceed the price of the product in question.

3. In the event of adjustments being made to the amount of Community aid expressed in ECU or in national currency, the amount of such aid for quantities sold at reduced prices during the current month shall be the amount applicable on the first day of that month.

4. In the event of the quantities referred to in paragraph 1 being expressed in litres, conversion from litres to kilograms for the products in question shall be carried out by applying a weighting of 1,0300.

Article 5

1. Community aid shall be granted solely for the supply of goods produced in the Community and listed in the Annex which are purchased in the Member State in which the school is located from a supplier approved for the purpose by the competent body in that Member State.

2. Suppliers may be approved for the purposes of paragraph 1 only if they undertake :

(a) to keep records showing in particular the manufacturer of the milk products, the names and addresses of the schools or other applicants referred to in Article 7 (1), and the quantities of milk products sold to them ;

(b) submit to any checks determined by the Member States concerned, particularly as regards verification of the records and control of the quality of the products concerned.

Approval shall be withdrawn if a serious infringement of this Regulation is established.

Article 6

1. With due regard to the provisions of Article 3 the competent authority of the Member State shall draw up and issue for one school year and for the duration of any holiday camp a voucher bearing a serial number in respect of each school applicant referred to in Article 7 (1).

2. Issuing of the vouchers shall be subject to :

(a) a written commitment from the applicant to the competent authority to make the milk products available only to consumers for which his school or the school in respect of which he is applying for aid, as the case may be, is responsible and to pay back the amount of the aid should it be established :

— that amounts have been paid for quantities higher than those resulting from application of Article 3,

— that the products purchased under this Regulation have been deflected from their intended use ;

(b) a written commitment to provide the competent authorities on request with the supporting documents.

3. Vouchers shall include in particular the following information :

(a) name and address of the school or schools concerned and, where appropriate, the applicant ;

(b) maximum number of beneficiaries within the meaning of Article 1 for which the school or schools concerned is or are responsible ;

(c) maximum quantity in whole milk equivalent to which they confer entitlement ;

(d) period of validity.

4. Vouchers shall be valid from the first day of the calendar month indicated thereon to the last day of the school year or the last day of any holiday camp. The school or the applicant must take delivery of products in question during this period.

Article 7

1. Aid shall be granted to the school or to the group, association or local authority applying on behalf of the school for aid in respect of the products distributed to the schoolchildren. Such applicants must be approved by the authority responsible for supervision.

However, at the request of the applicant, the competent authority of the Member State may make the aid payment to the suppliers of the products listed in the Annex.

2. Applications for aid must be made on a standard form produced by the competent authority of the Member State and must at least include the quantities distributed by product category, the address of the supplier(s), the price paid and the corresponding amount of aid. The amounts must be substantiated by receipted invoices kept at the disposal of the inspection authorities. Such invoices must show separately the prices for each of the products supplied as listed in the Annex.

3. Except in cases of *force majeure,* applications for aid must be submitted not later than the last day of the fourth month following that in which the product was supplied. Where the above deadline is exceeded by less than two months, aid shall still be paid but it shall be subject to a reduction of 10 %.

4. Payment of the aid shall be made by the competent authorities within 60 days from the date on which the application referred to in paragraph 3 was lodged, except in cases of *force majeure* or where administrative inquiries concerning entitlement to the aid had been initiated.

Article 8

Member States may empower local authorities to pay the aid and/or to administer the measure. In certain cases determined by the Member State, the local authorities may be replaced by an association approved by the Member State to which the schools in question belong.

Article 9

With regard to the financing of the Community aid, the measure provided for by this Regulation shall constitute, to the extent of three-quarters of the expenditure incurred, one of the measures referred to in Article 4 of Regulation (EEC) No 1079/77.

Article 10

1. Member States shall take the necessary steps to ensure that the amount of the aid is reflected in the price paid by the beneficiary.

2. Member States shall take the necessary supervisory measures to ensure that the provisions laid down in this Regulation are complied with, notably by means of on-the-spot checks conducted without warning.

Member States shall inform the Commission :

(a) within three months from entry into force of this Regulation, of the supervisory procedure adopted to ensure that this Regulation is implementerd ;

(b) before 1 March and 1 September each year, of the quantities in respect of which aid has been paid in the course of the previous six months.

Article 11

During the 1983/84 school year Member States may derogate from Articles 5 (2), 6 and 7 on condition that they arrange for measures offering guarantees equivalent to the provisions of the said Articles and that they notify the Commission of such measures before 1 October 1983.

Article 12

Regulation (EEC) No 1598/77 is hereby repealed.

Article 13

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

It shall apply from 1 August 1983.

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

Done at Brussels, 28 July 1983.

For the Commission

Poul DALSAGER

Member of the Commission

ANNEX

List of products eligible for the Community aid referred to in Article 2 (1) of Regulation (EEC) No 1842/83

Category I:

(a) untreated whole milk;

(b) whole milk which has been pasteurized or subjected to a UHT process;

(c) chocolate-flavoured or flavoured whole milk which has been pasteurized, sterilized or subjected to a UHT process, with a whole milk content, by weight, of at least 90 %;

(d) whole milk yoghourt falling within heading No 04.01 of the Common Customs Tariff;

(e) yoghourt containing sugar, cocoa or fruit, of a whole milk content, by weight, of at least 85 %.

Category II:

(a) semi-skimmed milk which has been pasteurized, sterilized or subjected to a UHT process;

(b) chocolate-flavoured or flavoured semi-skimmed milk which has been pasteurized, sterilized or subjected to a UHT process, of a semi-skimmed milk content, by weight, of at least 90 %;

(c) semi-skimmed milk yoghourt falling within heading No 04.01 of the Common Customs Tariff;

(d) yoghourt containing sugar, cocoa or fruit, of a semi-skimmed milk content, by weight, of at least 85 %.

Category III:

Buttermilk.

Category IV:

Fresh and processed cheeses of a fat content, by weight, in the dry matter, of 40 % or more.

Category V:

Other cheeses of a fat content, by weight, in the dry matter, of 45 % or more.

Category VI:

Grana Padano cheese.

Category VII:

Parmiggiano-Reggiano cheese.