COMMISSION REGULATION (EEC) No 704/83

of 28 March 1983

amending Regulation (EEC) No 685/69 on detailed rules of application for intervention on the market in butter and cream

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 1183/82 (2), and in particular Article 6 (7) thereof,

Whereas Commission Regulation (EEC) No 685/69 (3), as last amended by Regulation (EEC) No 2680/82 (4), lays down detailed rules of application for intervention on the market in butter and cream;

Whereas for administrative and control purposes the day on which offers to sell butter are received should be registered by intervention agencies;

Whereas it should be specified who is liable for the various costs incurred in removal from storage;

Whereas for every sale of butter and cream special provisions are fixed applying to the disposal of the products; whereas Articles 10 to 21 of Regulation (EEC) No 685/69, which are not applied, should therefore be repealed;

Whereas in view of the minimum storage period imposed replacement of the system of payment on account referred to in Article 24 (2) of Regulation (EEC) No 685/69 by a system of advance payment involving the lodging of a security appears warranted;

Whereas Article 27 of Regulation (EEC) No 685/69 provides for systematic checking of the fat content; whereas experience indicates that in certain cases it is desirable to lighten the administrative burden by providing for sample checks; whereas in this connection it should be specified that the storer must undertake to guarantee during the storage period a minimum fat content fixed in advance; whereas since it is impossible to check with precision the fat content of butter after freezing, it should be specified that if this requirement is not met no aid will be paid for lots taken into storage since the last satisfactory check;

Whereas experience of the various arrangements for private storage of agricultural products indicates that the extent to which Council Regulation (EEC, Euratom) No 1182/71 (5) is applicable for the determination of periods, dates and time limits should be specified and that the dates of commencement and termination of contractual storage should be indicated exactly;

Whereas Article 3 (4) of Regulation (EEC, Euratom) No 1182/71 states that when the last day of a period is a public holiday, a Sunday or a Saturday the period shall end with the expiry of the last hour of the following working day; whereas application of this provision to storage contracts may not be in the interests of operators and may in fact give rise to inequality of treatment; whereas an exception thereto should therefore be made as regards determination of the last day of storage;

Whereas Article 29 of Regulation (EEC) No 685/69 should be amended; whereas for the sake of clarity Commission Regulation (EEC) No 1442/82 (6), which suspended the application of certain provisions of that Article, should be repealed;

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

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 685/69 is hereby amended as follows:

1. The following paragraph is added to Article 2:

'The day on which the offer to sell is received shall be registered by the intervention agency.'

(1) OJ No L 148, 28. 6. 1968, p. 13.
(2) OJ No L 140, 20. 5. 1982, p. 1.
(3) OJ No L 90, 15. 4. 1969, p. 12.
(4) OJ No L 284, 7. 10. 1982, p. 15.
(5) OJ No L 124, 8. 6. 1971, p. 1.
(6) OJ No L 158, 9. 6. 1982, p. 16.

2. Article 9 is replaced by the following:

'Article 9

1. At the time of removal from store the intervention agency shall, in the case of delivery ex-cold store, make the butter available:

— loaded at the store's loading bay on to the means of transport, where this is a lorry or a railway wagon,

— at the store's loading bay, in the case of another means of transport, such as a container.

In the case referred to in the first indent the loading costs shall be borne by the intervention agency; any stowage costs shall be borne by the purchaser of the butter. In the case referred to in the second indent the loading costs and any stowage costs shall be borne by the purchaser.

2. Where butter is supplied as food aid the provisions of paragraph 1 shall apply.

3. Other provisions on the disposal of butter held by intervention agencies shall be determined case by case.'

3. Articles 10 to 21 are repealed.

4. Article 23 is replaced by the following:

'Article 23

1. A private storage contract may be concluded only if the butter or cream was manufactured during the 28 days preceding the day of commencement of storage under the contract but not earlier than 1 April of the year concerned.

A storage contract as referred to in paragraph 6 may not be concluded for butter or cream:

(a) in respect of which an application for a direct consumption aid has been made under other Community provisions; or

(b) which has been placed under the procedure referred to in Article 5 (1) of Regulation (EEC) No 565/80; subsequent placing under this procedure shall be regarded as removal from store within the meaning of paragraph 7.

2. The minimum quantity of butter or cream referred to in Article 9 (1) (e) of Regulation (EEC) No 985/68 shall be 1 000 kilograms per lot. For the purposes of this Regulation a lot shall be a quantity of butter or cream of homogeneous composition and quality taken into storage in a single warehouse on a single day.

3. The conditions relating to inspection of the lot under contract provided for in Article 9 (1) (f) of Regulation (EEC) No 985/68 shall be the subject of a schedule of terms and conditions.

4. The schedule shall provide, in respect of butter, that the packaging is to bear at least the following information, which may be coded:

(a) identification number of the factory;

(b) date of manufacture;

(c) date of entry into store;

(d) number of the lot;

(e) Member State of manufacture;

(f) the words "sweet cream butter" or "sweet cream salted butter" as appropriate in the case of butter as referred to in Article 1 (3) (a) (bb) of Regulation (EEC) No 985/68.

Member States may provide that the obligation to indicate the date of entry into store on the packaging does not apply if the store manager undertakes to keep a register in which the particulars referred to in the preceding subparagraph will be entered on the date of entry into store.

5. Where the butter is stored in a Member State other than the Member State of manufacture conclusion of the storage contract shall be conditional on the furnishing of proof that the butter fulfils the conditions required for the grant of private storage aid in the Member State of manufacture.

6. Storage contracts shall be concluded in writing for one or more lots. The date of commencement of contractual storage shall be the day following that of entry into store. The said date shall fall within the period 2 April to 16 September of the same year.

Applications for aid by storers may relate only to lots of butter or cream the entry into store of which has been completed.

Applications must reach intervention agencies within at most 30 days of the date of entry into store. Intervention agencies shall register their dates of arrival.

Storage contracts shall be concluded within at most 30 days of the date of registration of the application.

7. At the end of the period of 120 days mentioned in Article 24 (1) and on 16 September at the earliest the storer may remove all or part of the quantities under contract from store. The

minimum quantity that may be removed from store shall be 250 kilograms. Member States may however increase this quantity up to a maximum of one tonne.

The last day of the period of contractual storage shall be that preceding the day of removal from storage.'

5. Article 24 is replaced by the following:

'*Article 24*

1. The private storage aid provided for in Article 6 (2) of Regulation (EEC) No 804/68 may be granted only where the storage period is at least 120 days.

2. Entry into store may take place only between 1 April and 15 September of the same year. Removal from store may take place only between 16 September of the year of storage and 31 March of the following year.

3. The aid referred to in paragraph 1 shall be calculated as follows per tonne of butter or butter equivalent:

(a) 23,83 ECU for fixed costs;

(b) 0,44 ECU per day of contractual storage for cold storage costs;

(c) an amount per day of contractual storage calculated by reference to the buying-in price for butter, expressed in national currency, applied by the intervention agency of the Member State concerned on the day of commencement of contractual storage and an annual interest rate of 13 %;

(d) 7,50 ECU in respect of any product stored under contract for at least 120 days.

The amount may not exceed an amount corresponding to a storage period of 210 days.

The amounts referred to in (a), (b) and (d) shall be converted into national currency at the representative rate in force on the last day of contractual storage.

4. The aid shall be paid on application by the interested party at the latest within 120 days of the last day of contractual storage. However, if it has been necessary to commence an administrative inquiry into entitlement to the aid, payment shall not be made until entitlement has been recognized.

After 60 days of contractual storage a single advance payment of the aid may be made, at the storer's request, on condition that he lodges a security equal to the advance payment plus 10 %.

The advance payment shall be calculated on the basis of a storage period of 120 days and shall include all the aid components referred to at (a), (b) and (c) of paragraph 3, account being taken, where appropriate, of the application of Article 29, and shall be converted into national currency by applying the representative rate in force on the day of commencement of contractual storage.

5. The security referred to in paragraph 4 shall be lodged at the tenderer's choice either in cash or in the form of a guarantee given by an establishment satisfying criteria fixed by the Member State in which the security is lodged.

The security for a lot shall be released on application by the interested party when it is established to the satisfaction of the competent authority that the butter has remained in store until 15 September, always provided that it has remained in store for the minimum period mentioned in paragraph 1. If one or other of these conditions is not met the security for the quantity in question shall be forfeited.'

6. Article 25 is replaced by the following:

'*Article 25*

1. Where, during the first 60 days of storage, the deterioration in the quality of the butter or cream is greater than is normal in store, storers may be authorized to replace the defective quantity, at their own expense, by an equal quantity of butter or cream as specified in Article 8 (4) of Regulation (EEC) No 985/68.

2. In the case referred to in paragraph 1, for the purpose of establishing:

(a) the aid components referred to in Article 24 (3) (a), (b), and (c), the first day of contractual storage shall be the date of commencement of storage indicated in the contract in accordance with the first subparagraph of Article 23 (6);

(b) the aid component referred to in Article 24 (3) (d), the first day of contractual storage shall, by way of derogation from the first subparagraph of Article 23 (6), be taken to be the day following the day on which the replacement butter or cream enters into store.'

7. Article 26 is repealed.

8. Article 27 is replaced by the following:

'*Article 27*

1. Aid for the storage of cream may be granted only for pasteurized cream produced directly from milk the fat content of which is not less than 35 % and not more than 80 %.

However, Member States may permit storers to undertake voluntarily to observe throughout the storage period, for all lots of all contracts concluded during the milk year, a single minimum fat content fixed in advance within the limits specified in the preceding subparagraph.

2. For the purpose of calculating the aid the quantities of cream shall be converted into butter equivalent by reference to butter with a fat content of 82 % by multiplying the fat content of the cream by 1,20.

3. The fat content specified in the first subparagraph of paragraph 1 shall be checked prior to freezing of the cream by a laboratory approved by the Member States or by the intervention agency.

4. Where the second subparagraph of paragraph 1 is applied, the aid shall be granted on the basis of the minimum fat content fixed in advance.

In such cases Member States shall check the fat content in accordance with paragraph 3 by random sampling in the course of frequent unannounced visits.

If such a check reveals a minimum fat content less than that fixed in advance the following provisions shall apply to all lots taken into store since the last satisfactory check :

(a) no aid shall be paid for these lots. However, if that fat content is found to be less than 2 % lower than the minimum content fixed in advance the aid shall be paid on the basis of the fat content found but 10 % of the amount shall be deducted ;

(b) the second subparagraph of paragraph 1 shall not be applicable to the storer concerned for the remainder of the storage period.'

9. Article 28 is repealed.

10. Article 29 is replaced by the following :

'*Article 29*

Should the intervention agencies change the buying-in price of butter expressed in national currency the aid referred to in Article 24 for the quantities of butter and cream expressed as butter equivalent for which the first day of the contractual storage period is prior to the date on which the change in the buying-in price takes effect and which are still in store when the buying-in price is changed :

(a) shall be increased by an amount equal to any reduction in the buying-in price ;

(b) shall be reduced by an amount equal to any increase in the buying-in price.

If the amount by which the buying-in price has increased as higher than the amount of the aid, no aid shall be granted.

In cases where, for butter bought in by intervention agencies before a new buying-in price is applied, the Council agrees to the payment of an amount supplementing the buying-in price in force, that supplement shall be considered an increase in the buying-in price within the meaning of this Article. In such cases the Commission shall decide that the aid for butter covered by a storage contract at the time of the abovementioned agreement of the Council shall not be paid until the change in the buying-in price has become effective.'

11. The following Article 29a is inserted :

'*Article 29a*

The periods, dates and time limits mentioned in this Regulation shall be determined in accordance with Council Regulation (EEC, Euratom) No 1182/71.

However, Article 3 (4) of the said Regulation shall not apply for determination of the duration of contractual storage.'

Article 2

Regulation (EEC) No 1442/82 is hereby repealed.

Article 3

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 April 1983.

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

Done at Brussels, 28 March 1983.

For the Commission

Poul DALSAGER

Member of the Commission