COMMISSION REGULATION (EEC) No 1043/85

of 24 April 1985

amending for the ninth time Regulation (EEC) No 1371/84 laying down detailed rules for the application of the additional levy referred to in Article 5c of Regulation (EEC) No 804/68 in the milk and milk products sector

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 591/85 (2), and in particular Article 5c (7) thereof,

Having regard to Council Regulation (EEC) No 857/84 of 31 March 1984 adopting general rules for the application of the levy referred to in Article 5c of Regulation (EEC) No 804/68 in the milk and milk products sector (3), as last amended by Regulation (EEC) No 590/85 (4), and in particular Article 7 (5) thereof,

Whereas pursuant to Article 6 of Regulation (EEC) No 857/84 Member States may, for the purpose of determining producers' reference quantities in the case of direct sales, choose as a reference year the 1982 or 1983 calendar year and differentiate the figures applicable according to structural criteria; whereas therefore the field of application of the detailed rules previously adopted as regards deliveries should be extended so as to include direct sales;

Whereas pursuant to the second subparagraph of paragraph 1 and paragraph 4 of Article 7 of Regulation (EEC) No 857/84 Member States may, where land is transferred to the public authorities or where a non-renewable lease expires and cannot be extended on similar terms, provide that all or part of the reference quantity corresponding to the holding or to the part of the holding concerned is to be put at the disposal of the departing producer; whereas that right constitutes a derogation from the principle laid down in the first subparagraph of Article 7 (1) whereby a reference quantity may not be transferred without the land; whereas the said derogation was introduced in order to overcome certain economic and social problems and allow producers to continue milk production; whereas the extent of that derogation should therefore be specified;

Whereas Commission Regulation (EEC) No 1371/84 (5), as last amended by Regulation (EEC) No 562/85 (6), should be amended accordingly;

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 1371/84 is hereby amended as follows:

1. Article 2 (2) is replaced by the following:

'2. Where Member States make use of the option referred to in Article 6 (1) of Regulation (EEC) No 857/84 in order to modify the percentage used for determining the reference quantities of producers in the case of direct sales to consumers, the provisions of paragraph 1 above shall apply and "deliveries" shall in such cases be replaced by "direct sales".'

2. The following paragraph 3 is added to Article 2:

'3. Member States which make use of the option referred to in paragraphs 1 and 2 of this Article shall notify the Commission of the arrangements which they adopt.'

3. In the first subparagraph of Article 4 (1), 'during the 1981 calendar year' is replaced by 'during the reference calendar year'.

4. Article 4 (4) (a) is replaced by the following:

'(a) to producers to whom paragraph 1 applies, a reference quantity corresponding to their direct sales in the 1981 calendar year plus 1 % or, as the case may be, in the 1982 or 1983 calendar year, corrected by a uniform percentage in

(1) OJ No L 148, 28. 6. 1968, p. 13.
(2) OJ No L 68, 8. 3. 1985, p. 5.
(3) OJ No L 90, 1. 4. 1984, p. 13.
(4) OJ No L 68, 8. 3. 1985, p. 1.
(5) OJ No L 132, 18. 5. 1984, p. 11.
(6) OJ No L 64, 5. 3. 1985, p. 9.

order to comply with the abovementioned Article 6 (2) and, in cases where the 1982 or 1983 calendar year is chosen, without prejudice to Article 2 (2) of this Regulation ;'

5. In the first paragraph of Article 5, 'For the purposes of applying Article 7 (1)' is replaced by 'For the purposes of applying Article 7'.

6. The following point 4 is added to the first paragraph of Article 5 :

'4. In the event of the application of the second subparagraph of Article 7 (1) of Regulation (EEC) No 857/84, concerning the transfer of land to the public authorities and/or for public use, and Article 7 (4) of the said Regulation, concerning rural leases which are due to expire and which cannot be extended on similar terms, all or part of the reference quantity corresponding to the holding or to the part of the holding which is the subject of the transfer or of the said lease shall be put at the disposal of the producer concerned if he intends to continue milk production, provided that the sum of the reference quantity thus made available to him and the quantity corresponding to the holding which he takes over or on which he continues milk production does not exceed the reference quantity which was available to him before the land was transferred or before the lease expired.'

7. The last paragraph of Article 5 is replaced by the following :

'Member States may apply the provisions of points 1, 2 and 4 in respect of transfers during and after the reference period.'

8. The following paragraph 3 is added to Article 16 :

3. Member States shall, at the end of each 12-month period, notify the Commission of the cases in which the provisions of Article 6a of Regulation (EEC) No 857/84 have been applied and shall send it a list of the groups of purchasers referred to in Article 12 (e) of the said Regulation.'

Article 2

This Regulation shall enter into force on the day following 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, 24 April 1985.

For the Commission
Frans ANDRIESSEN
Vice-President