COMMISSION REGULATION (EEC) No 3005/85

of 29 October 1985

amending for the 10th 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 1298/85 (2), and in particular Article 5c (7) thereof,

Whereas Commission Regulation (EEC) No 1371/84 (3), as last amended by Regulation (EEC) No 1043/85 (4), laid down detailed rules for the application of the additional levy referred to in Article 5c of Regulation (EEC) No 804/68;

Whereas the Community reserve referred to in Article 5c (4) of Regulation (EEC) No 804/68 was raised by Council Regulations (EEC) No 1298/85 and (EEC) No 1306/85 (5) to 393 000 tonnes for the period 2 April 1984 to 31 March 1985 and the period 1 April 1985 to 31 March 1986; whereas the distribution of this Community reserve for each of the two 12-month periods should be ensured; whereas, in view of the objectives set for the allocation of these quantities and of the characteristics of dairy production in Ireland, an additional 58 000 tonnes should be allocated to that Member State for the period 2 April 1984 to 31 March 1985; whereas the situation referred to in connection with the distribution of the Community reserve for the first 12-month period has remained unchanged; whereas the quantities allocated for the second 12-month period should remain unchanged;

Whereas Regulation (EEC) No 804/68 and Council Regulation (EEC) No 857/84 (6) have enabled the guaranteed global quantities to be adapted provided the total of the two quantities is not exceeded; whereas, following such adaptations, one of the two original guaranteed global quantities will be increased; whereas the additional quantities in question should either be allocated to the producers referred to in paragraph 5 or, as the case may be, paragraph 6 of Article 4 of Regulation (EEC) No 1371/84 or, where necessary be added to the reserve referred to in Article 5 or 6 of Regulation (EEC) No 857/84, as the case may be;

Whereas, under Regulation (EEC) No 857/84, the definition of 'producer' was extended, under formula A, to producers' groups and their associations to which the 100 % levy rate is applicable as for formula B; whereas, at the same time, application to producers' groups and their associations of the penalty for exceeding the average fat content by more than 0,6 grams provided for in Article 9 (2) of Regulation (EEC) No 1371/84 for formula B is justified;

Whereas Articles 12 and 15 of Regulation (EEC) No 1371/84 set time limits for payment to the competent agency of any levy amount due at the end of each 12-month period; whereas in view of administrative problems in several Member States authorization should be given for the levy for the first 12-month period to be collected up to 15 November 1985;

Whereas, by Article 9 of Regulation (EEC) No 857/84, the Council has authorized annual payment of the levy, with retention of compulsory half-yearly declarations; whereas appropriate action must be taken in respect of implementing procedures; whereas it should be stipulated also that for producer's groups and their associations the accounts be kept for each of their members by these groups and associations;

Whereas the milk marketing year 1985/86 began on 27 May 1985; whereas two target prices therefore apply for the calculation of the levy for the period 1 April 1985 to 31 March 1986; whereas for purposes of simplification only the target price valid on the last day of the 12-month period concerned should be used;

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

(1) OJ No L 148, 28. 6. 1968, p. 13.
(2) OJ No L 137, 27. 5. 1985, p. 5.
(3) OJ No L 132, 18. 5. 1984, p. 11.
(4) OJ No L 112, 25. 4. 1985, p. 18.
(5) OJ No L 137, 27. 5. 1985, p. 14.
(6) OJ No L 90, 1. 4. 1984, p. 13.

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 1371/84 is hereby amended as follows:

1. Article 1 is replaced by the following:

'*Article 1*

For each of the two periods 2 April 1984 to 31 March 1985 and 1 April 1985 to 31 March 1986, the Community reserve referred to in Article 5c (4) of Regulation (EEC) No 804/68 shall be distributed as follows:

— Ireland:	303 000 tonnes
— Luxembourg:	25 000 tonnes
— United Kingdom (for the region of Northern Ireland):	65 000 tonnes'

2. The following Article 4a is inserted:

'*Article 4a*

Where, under the second subparagraph of Article 5c (7) of Regulation (EEC) No 804/68 and the second subparagraph of Article 6 (2) of Regulation (EEC) No 857/84, the guaranteed total quantities are adapted, the quantities added to a total quantity originally fixed shall either be allocated to the producers referred to in Article 4 (5) or, as the case may be, Article 4 (6), or, where appropriate be added to the reserve referred to in Article 5 of Regulation (EEC) No 857/84 or, as the case may be, in Article 6 (3) of that Regulation.'

3. In the first subparagraph of Article 9 (2), 'in Article 9 (1) (b)' is replaced by 'in Article 9 (1)'.

4. In Article 9 (2), the second subparagraph is replaced by the following:

'Where formula B is applied, the increase referred to above shall be made in respect of any positive difference exceeding 0,6 grams. This provision shall also apply in respect of producers' groups and their associations referred to in the second subparagraph of Article 12 (c) of Regulation (EEC) No 857/84.'

5. Article 10 is replaced by the following:

'*Article 10*

For the purpose of applying Articles 9 and 10 of Regulation (EEC) No 857/84, Member States may replace the 12-month period by a 52-week period. Should they do so, the first 52-week period shall begin on the Sunday or Monday following 2 April 1984.'

6. In Article 11 (1):

(a) the first subparagraph is replaced by the following:

'For the purposes of the application of formulas A and B, purchasers shall keep on file available to the Member State's competent agency, for at least three years, stock accounts showing, in respect of each producer:

(a) his name and address;

(b) all the reference quantities granted under Articles 2, 3, 4 and 7 of Regulation (EEC) No 857/84;

(c) the quantities of milk or milk equivalent purchased during each month or four-week period or during each six-month period.'

(b) The following third subparagraph is inserted:

'In addition, under formula A, where the second subparagraph of Article 12 (c) of Regulation (EEC) No 857/84 is applied, the stock accounts as described in the first subparagraph shall be kept on file available to the competent agency of the Member State by the producers' groups and their associations.'

7. Article 12 is replaced by the following:

'*Article 12*

1. Purchasers shall, within 45 days following the end of the first half of the year, transmit to the competent agency a statement indicating:

— in cases where formula A is applied, for each producer concerned, the quantities of milk or milk equivalent delivered during the first half of the year; the statement shall also indicate the quantities delivered by each producer during the first half of the year, expressed as a percentage of the latter's annual reference quantity,

— in cases where formula B is applied, for all producers taken together, the quantities of milk or milk equivalent purchased during the first half of the year; the statement shall also indicate the quantities bought by the buyer during the first half of the year, expressed as a percentage of the buyer's annual reference quantity.

2. Purchasers shall, within 45 days following the end of each 12-month period, transmit to the competent agency a statement indicating:

— in cases where formula A is applied, and separately for each producer concerned :

  — the total quantity of milk or milk equivalent delivered during the 12-month period concerned,

  — the quantities, if any, of milk or milk equivalent which exceed the buyer's annual reference quantity of the producer concerned,

— in cases where formula B is applied, and separately for all producers :

  — the total quantity of milk or milk equivalent purchased during the 12-month period concerned,

  — the quantities, if any, of milk or milk equivalent which exceed the annual reference quantity of the buyer concerned.

3. However, where formula A and the second subparagraph of Article 12 (c) are both applied, the statements specified in paragraphs 1 and 2 shall be transmitted to the competent agency by producers' groups and their associations.

4. The purchasers referred to in paragraphs 1, 2 and 3 shall pay any levy amount due to the competent agency within 60 days following the end of each 12-month period.

However, in the cases specified in paragraph 3, payments shall be made, within the same 60-day period, by producers' groups and their associations.

5. Member States may stipulate that the second statement as referred to in paragraph 2 be transmitted and the payment referred to in paragraph 4 be made on the same date within the 60-day period referred to in paragraph 4.

6. The statements specified in paragraphs 2 and 3 and the payment referred to in paragraph 4 shall, in respect of the first 12-month period, be transmitted and made respectively not later than 15 November 1985.

The statement specified in paragraph 1 shall, in respect of the first six months of the second 12-month period, be transmitted within 90 days of the end of the six-month period in question.'

8. The following is added to Article 13 (3) :

'However, the time limit laid down in paragraph 2 is, for the first 12-month period, hereby deferred until 15 November 1985.'

9. Article 14 is replaced by the following :

'Article 14

For the purposes of calculating the levy as referred to in Article 1 (1) of Regulation (EEC) No 857/84 :

— only the target price valid on the last day of the relevant 12-month period shall apply where, in this period, there have been two different successive target prices,

— the conversion rate to be used shall be the representative rate valid on the last day of the relevant 12-month period.'

10. Article 15 is replaced by the following :

'Article 15

By way of derogation from Article 12, in respect of the second 12-month period :

— the Member States, in respect of the mountain and hill regions as specified under Article 3 (3) of Directive 75/268/EEC and, where formula A is applied, for producers whose reference quantities do not exceed 20 000 kilograms,

— Greece, in respect of all of its territory, and

— Italy, in respect of all the regions listed in the Annex to Decision 77/711/EEC,

shall be authorized to have the statement referred to in Article 12 (2) made within 60 days following the end of the 12-month period concerned.

Where formula B is applied, this authorization shall apply to any purchaser of milk drawing at least 60 % thereof from the regions referred to in the preceding paragraph.'

11. Article 16 (3) shall read as follows :

'3. Member States shall transmit to the Commission :

— at the end of each 12-month period information on the cases of application of Article 6a of Regulation (EEC) No 857/84, a list of producers' groups and associations and/or a list of purchasers as referred to in Article 12 (c), second subparagraph and (e) respectively of that Regulation,

— before 1 January 1986, information on their intention to avail themselves of the authorization provided for in Article 9 (4) of Regulation (EEC) No 857/84, this to be done for the first 12-month period before 1 November 1985,

— at the end of the second 12-month period, all relevant information concerning the implementation of the provision referred to in the second indent and, in respect of the first 12-month period, before 1 February 1986,

— within three months of the end of each of the periods concerned, the information specified in Article 12 (1) and (2).'

Article 2

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

Article 1 (2) and (7), paragraphs 1, 3 and 5, shall apply from the second 12-month period of application of the additional levy scheme.

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

Done at Brussels, 29 October 1985.

For the Commission

Frans ANDRIESSEN

Vice-President