COMMISSION REGULATION (EEC) No 3858/88

of 12 December 1988

amending Regulation (EEC) No 1432/88 laying down detailed rules for applying the co-responsibility levy in the cereals sector and laying down certain provisions for the 1988/89 marketing year

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2727/75 of 29 October 1975 on the common organization of the market in cereals (1), as last amended by Regulation (EEC) No 2221/88 (2), and in particular Articles 4 (6) and 4b (5) thereof,

Having regard to Council Regulation (EEC) No 1676/85 of 11 June 1985 on the value of the unit of account and the conversion rates to be applied for the purposes of the common agricultural policy (3), as last amended by Regulation (EEC) No 1636/87 (4), and in particular Article 5 (3) thereof,

Whereas, in the interest of the producers and to simplify the administrative work of the Member States, provision should be made that after cereals production in the marketing year is ascertained, the definitive additional levy is to be applied and additional levies collected in excess are to be reimbursed as soon as possible to the producers; whereas, for the same reasons, Member States should also be able to make provision for reimbursement directly by operators of additional co-responsibility levies collected in excess; whereas, where the Member States avail themselves of this possibility, the amounts in question must not be paid to them and whereas the first payment by the operators should therefore be made after the additional co-responsibility levy actually applicable to the marketing year in question is fixed;

Whereas, as regards the time limits for payment to Member States of the co-responsibility levies, Commission Regulation (EEC) No 1432/88 (5), as last amended by Regulation (EEC) No 2869/88 (6), should be amended to make provision for the same time limits for the Community as a whole and to ensure that all payments tally with the amounts collected during the same marketing year;

Whereas provision must also be made for measures applicable to the current marketing year;

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

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 1432/88 is hereby amended as follows:

1. Article 3 is replaced by the following:

'*Article 3*

1. After ascertaining production as provided for in Article 4b (4) of Regulation (EEC) No 2727/75, in accordance with the procedure laid down in Article 28 of that Regulation, the difference between the additional co-responsibility levy paid and that resulting from the figure ascertained as referred to above shall be fixed together with the additional co-responsibility levy to be paid thereafter.

2. The competent authorities designated by the Member States shall reimburse *to producers* under the national provisions laid down for the purpose the difference provided for in paragraph 1 subject to proof of payment of the *provisional* additional levy. Such reimbursement shall be made *at the end of June at the latest following the fixing referred to in paragraph 1.*

However, the Member States may provide before the beginning of the marketing year that that reimbursement is to be made directly by the operators who have received the additional co-responsibility levy applicable before the fixation referred to in paragraph 1. *Such reimbursement shall take place within one month after such fixing.*

In that case:

— operators shall make available to the authorities referred to in the first subparagraph a list of persons to whom such reimbursements have been made,

— Member States shall take the measures required to ensure that in any event the producers obtain the reimbursement referred to in the first subparagraph *within the time limit laid down therein.*

3. Where Member States make the reimbursement, they may fix a minimum amount per tonne and/or per producer below which reimbursement shall not be made. Such amounts may not exceed Ecu 0,5 per tonne or Ecu 25 per producer.

4. The reimbursements provided for in paragraph 2 shall be made on the basis of the agricultural conversion rate in force at the time the additional co-responsibility levy is collected.'

(1) OJ No L 281, 1. 11. 1975, p. 1.
(2) OJ No L 197, 26. 7. 1988, p. 16.
(3) OJ No L 164, 24. 6. 1985, p. 1.
(4) OJ No L 153, 13. 6. 1987, p. 1.
(5) OJ No L 131, 27. 5. 1988, p. 37.
(6) OJ No L 257, 17. 9. 1988, p. 22.

2. The second subparagraph of Article 4 (1) is replaced by the following :

'The co-responsibility levies provided for in Article 4 of Regulation (EEC) No 2727/75 shall be paid to the authorities designated for the purpose by each Member State for the transactions referred to in Article 2 (1) of this regulation according to the following timetable :

— 31 October at the latest for levies collected in respect of transactions taking place from the beginning of the marketing year to 30 September,

— 31 January at the latest for levies collected in respect of transactions taking place from 1 October to 31 December,

— 30 April at the latest for levies collected in respect of transactions taking place from 1 January to 31 March,

— 31 July at the latest for levies collected in respect of other transactions taking place during the preceding marketing year.

The additional co-responsibility levies provided for in Article 4b of Regulation (EEC) No 2727/75 shall be paid within the time limits laid down in the preceding subparagraph. However, in Member States making use of the provisions of the second subparagraph of Article 3 (2) of this Regulation the first payment shall be made at the latest on the fifteenth day following the publication in the *Official Journal of the European Communities* of the measure provided for in paragraph 1 of that Article.'

Article 2

Without prejudice to Regulation (EEC) No 1432/88, the following provisions shall apply for the 1988/89 marketing year :

1. Member States may decide to avail themselves of the provisions of the second subparagraph of Article 3 (2) of Regulation (EEC) No 1432/88 within eight days following the publication of the measure provided for in Article 3 (1) thereof. However, they shall make a reimbursement in accordance with the first subparagraph of Article 3 (2) of that Regulation where the amounts of the additional levy have been paid to them.

2. Co-responsibility levies collected in respect of transactions taking place between 1 September and 31 December 1988 shall be paid by 31 January 1989 at the latest.

Article 3

This Regulation shall enter into force on the third day following that of 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, 12 December 1988.

For the Commission

Frans ANDRIESSEN

Vice-President