COMMISSION REGULATION (EEC) No 1738/89

of 19 June 1989

laying down detailed rules on production aid for durum wheat

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Regulation (EEC) No 2727/75 of the Council of 29 October 1975 on the common organization of the market in cereals (1), as last amended by Regulation (EEC) No 1213/89 (2), and in particular Article 10 (5) thereof,

Whereas Council Regulation (EEC) No 3103/76 of 16 December 1976 on aid for durum wheat (3), as last amended by Regulation (EEC) No 1216/89 (4), laid down genereal rules on aid for durum wheat; whereas the Commission must lay down the detailed rules for their application;

Whereas Regulation (EEC) No 3103/76 laid down criteria for determining qualitative and technical characteristics; whereas such characteristics must be such that the durum wheat is capable of being made into semolina or pasta meeting certain requirements for human consumption; whereas the best indicator of these is the stickiness of the pasta when cooked;

Whereas Article 4 of Regulation (EEC) No 3103/76 provides that Member States are to introduce a system of administrative supervision to ensure that a product for which aid is applied for meets the requirements for granting such aid; whereas an application for aid must contain at least certain particulars to enable Member States to make the necessary checks; whereas Article 5 of Regulation (EEC) No 3103/76 provides for random on-the-spot checks to ascertain the accuracy of particulars declared; whereas, if such checks are to be effective, they must be carried out on a sufficiently representative number of applications for aid;

Whereas experience in policing the current system indicates that stricter supervision and sanctions should be provided for;

Whereas, under Article 2 (1) of 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 (5), as last amended by Regulation (EEC) No 1636/87 (6), the amount of the aid is to be converted into national currency at the rate prevailing on the date the transaction or part transaction was carried out;

Whereas Regulation (EEC) No 1676/85 provides that the time when a transaction is carried out is considered as being the date of the event by which the aid becomes due and payable; whereas in the case of durum wheat that event is harvest; whereas, in view of the difficulty of determining the exact date of harvest in each case, the date to be taken as the representative date of harvest should be the first day of the marketing year in respect of which the entitlement to aid arises;

Whereas the measures provided for in this Regulation are to supersede those provided for in Commission Regulation (EEC) No 2835/77 of 19 December 1977 laying down detailed rules with respect to aid for durum wheat (7), as last amended by Regulation (EEC) No 2039/86 (8);

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

The aid referred to in Article 10 of Regulation (EEC) No 2727/75 shall be granted for durum wheat produced in the Community in accordance with the conditions set out in the following Articles.

TITLE I

Conditions for and terms of the aid

Article 2

In order to be eligible for the aid the durum wheat shall either:

— have qualitative or technical characteristics such that the pasta made therefrom is not sticky when cooked, or

— have been produced from seed of certain varieties whose possession of such characteristics can be verified by the Member States.

(1) OJ No L 281, 1. 11. 1975, p. 1.
(2) OJ No L 128, 11. 5. 1989, p. 1.
(3) OJ No L 351, 21. 12. 1976, p. 1.
(4) OJ No L 128, 11. 5. 1989, p. 5.
(5) OJ No L 164, 24. 6. 1985, p. 1.
(6) OJ No L 153, 13. 6. 1987, p. 1.
(7) OJ No L 327, 20. 12. 1977, p. 9.
(8) OJ No L 173, 1. 7. 1986, p. 64.

Article 3

Without prejudice to Article 8, the aid may be granted, within the regions of the Community where it is provided for, only for areas:

(a) which have been fully sown and had normal cultivation work carried out upon them;

(b) for which an application has been submitted in accordance with Article 4, such application to be treated as equivalent to a declaration of the areas cultivated.

Article 4

1. Any producer of durum wheat wishing to obtain aid shall submit an application to the competent agency in the Member State concerned before a date to be fixed by that Member State and in any event not later than 30 April each year for the following marketing year.

2. The application for aid shall include at least the following particulars:

— the name, forenames and address of the applicant,

— the areas cultivated in hectares and in ares, the cadastral reference of such areas or an indication recognized as equivalent by the agency responsible for checking the areas,

— the variety of seed used.

Article 5

1. The Member States shall pay the aid for durum wheat by 30 April of the marketing year for which it is granted.

2. The operative event within the meaning of Article 5 of Regulation (EEC) No 1676/85 as regards entitlement to the aid shall be regarded as occurring on 1 July of the marketing year in question.

TITLE II

Supervision

Article 6

1. The checks provided for in Article 5 of Regulation (EEC) No 3103/76 shall, in each competent administrative unit, cover a percentage of applications submitted which is representative both of the various sizes of holding and of the geographical and topographical distribution of the areas concerned. All declarations of more than 40 hectares shall be checked, other applications to be checked being selected at random.

2. The total percentage of applications to be checked may in no case be less than 15 % and shall be increased when a significant number of false declarations are discovered or the total area declared in the administrative unit concerned exceeds by more than 15 % that indicated by available official figures for the preceding marketing year.

Article 7

1. When a check is carried out, all areas included in the application shall be visited and it shall be verified that durum wheat is grown on them.

2. Areas shall be measured as follows:

(a) an area consisting of a single block shall always be measured;

(b) areas consisting of different plots shall be measured as follows:

— from two to five plots: the largest plot and one medium-sized plot,

— from six to 10 plots: the two largest and one medium-sized plot,

— over 10 plots: the two largest and three medium-sized plots.

In the case referred to in (b), the results of measurement shall be grossed up to all the areas covered by the declaration. However, the applicant may demand that all the said areas be measured.

TITLE III

General provisions

Article 8

1. If the check indicates an excess of up to 10 % but of not more than one hectare in the area declared, aid shall be calculated on the area measured less that excess.

2. If the excess exceeds the limits provided for in paragraph 1, the application for the marketing year in question shall be rejected. Moreover, the areas forming part of the applicant's holding during the marketing year in question shall be ineligible for aid in the following marketing year.

Article 9

Each visit for checking purposes shall be recorded in a report which shall indicate the number of plots visited, those measured, the measurement instruments used and all grounds on which the declared area is reduced or the application rejected.

Article 10

If, for reasons attributable to the applicant, a check cannot be carried out, Article 8 (2) shall apply, except in cases of *force majeure*. Grounds for *force majeure* shall be supplied by the interested party in writing, whithin 10 days from the planned date of the check.

Article 11

Member States shall take such steps as are necessary to implement this Regulation, including steps to avoid more than one application being lodged for a given area. These steps shall be communicated to the Commission.

Article 12

Regulation (EEC) No 2835/77 is hereby repealed.

Article 13

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

It shall apply to applications for aid for the 1989/90 markeing year. However:

— for the 1989/90 marketing year the total percentage of applications provided for in Article 6 (2) shall be fixed at 5 %,

— Articles 7 (2) and 8 shall apply from the 1990/91 marketing year.

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

Done at Brussels, 19 June 1989.

For the Commission

Ray MAC SHARRY

Member of the Commission