COMMISSION REGULATION (EEC) No 2352/89

of 28 July 1989

amending Regulation (EEC) No 3105/88 laying down detailed rules for the application of compulsory distillation as provided for in Articles 35 and 36 of Regulation (EEC) No 822/87

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 822/87 of 16 March 1987 on the common organization of the market in wine (1), as last amended by Regulation (EEC) No 1236/89 (2), and in particular Articles 35 (5) and 36 (6) thereof,

Whereas certain provisions relating in particular to the conditions under which aids for and the price of alcohol delivered to intervention agencies set out in Commission Regulation (EEC) No 3105/89 (3) are to be paid must be brought closer into line with those of Council Regulation (EEC) No 2179/83 of 25 July 1983 laying down general rules for distillation operations involving wine and the by-products of wine-making (4), as last amended by Regulation (EEC) No 2505/88 (5);

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

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 3105/88 is hereby amended as follows:

1. Article 11 is replaced by the following:

'*Article 11*

1. The amount of the aid provided for in the first indent of Article 35 (6) and the first indent of 36 (4) of Regulation (EEC) No 822/87 shall be fixed annually before 1 August in respect of the following wine year. The amount of the aid applicable where Article 18 (3) of Regulation (EEC) No 2179/83 is applied shall also be fixed at the same time.

2. Distillers who wish to receive the aid provided for in paragraph 1 shall submit an application and the documents specified in Article 17 of Regulation (EEC) No 2179/83 at the latest by 31 December following the wine year in question.

3. The proof referred to in Article 17 (1) (c) of Regulation (EEC) No 2179/83 may be replaced by proof that a security has been lodged in favour of the intervention agency. Such security shall be equal to 110 % of the aid applied for.

In that case, proof that the distiller has paid in full the buying-in price referred to in Article 10 shall be provided to the intervention agency at the latest by 31 March following the wine year in question.

Within three months at the latest of such proof being supplied, the intervention agency shall release the security. If the proof referred to in the second subparagraph is presented after 31 March but before 1 June of the following year and if that delay is not due to serious negligence on the part of the distiller, the intervention agency shall release 80 % of the security.

4. In the case referred to in the second subparagraph of Article 10 (2), proof of payment of the buying-in price shall be replaced by proof that payment on account has been made.

5. If the proof referred to in Article 17 (1) (c) of Regulation (EEC) No 2179/83 shows that the time limit provided for in Article 10 (2) has not been met but that the overrun does not exceed 30 days, the aid to be paid to the distiller shall be reduced by 20 %. No aid shall be due where the overrun exceeds 30 days.

6. If it is found that the distiller has not paid the producer the buying-in price, the intervention agency shall pay the producer, before 1 June following the wine year in question, an amount equal to the aid, where appropriate through the intervention agency of the Member State of the producer.'

'*Article 13*

1. Products with an alocholic strength of at least 92 % vol shall be delivered by the distiller to the intervention agency at the latest by 30 November following the wine year in question or, if Article 11 (2) of Regulation (EEC) No 2179/83 applies; by the date fixed by the competent national authority.

(1) OJ No L 84, 27. 3. 1987, p. 1.
(2) OJ No L 128, 11. 5. 1989, p. 31.
(3) OJ No L 277, 8. 10. 1988, p. 21.
(4) OJ No L 212, 3. 8. 1983, p. 1.
(5) OJ No L 225, 15. 8. 1988, p. 14.

2. The price to be paid to the distiller for neutral alcohol and for other products of distillation which may be delivered to the intervention agency shall be fixed each year, in accordance with Article 18 of Regulation (EEC) No 2179/83, before 1 August in respect of the following wine year.

If the distiller has not received aid, Article 11 (2) to (6) shall apply *mutatis mutandis.*

If the proof referred to in Article 17 (1) (c) of Regulation (EEC) No 2179/83 shows that that time limit laid down in Article 10 (2) has not been met but the the overrun does not exceed 30 days, the price to be paid to the distiller for the alcohol delivered shall be reduced by 20 %. No amount shall be paid for the alcohol where the overrun exceeds 30 days.

3. Payment by the intervention agency to the distiller shall be made within three months at the latest of the day on which the alcohol is delivered.'

3. The second and third subparagraphs of Article 15 (5) are replaced by the following:

'To receive the aid, fortifiers shall submit, at the latest by 31 December following the wine year in question, an application to the competent intervention agency together with proof that the security referred to in Article 26 (4) of Regulation (EEC) No 2179/83 has been lodged.'

4. Article 15 (6) is replaced by the following:

'6. Subject to Article 23 of Regulation (EEC) No 2179/83, the security shall be released only if, within the 12 months following submission of the application, the documents referred to in Article 17 of Regulation (EEC) No 2179/83 are produced to the competent intervention agency.

The security shall be released in proportion to the quantities in respect of which the documents are produced.

If the proof referred to in Article 17 of Regulation (EEC) No 2179/83 shows that the time limit laid down in Article 10 (2) has not been met but that the overrun does not exceed 30 days, the amount to be released shall be equal to 80 % of the security. The Security shall be forfeit where the overrun exceeds 30 days.

If it is found that the fortifier has not paid the buying-in price to the producer, the intervention agency shall pay the producer, before 1 July of the wine year following that of delivery of the wine, an amount equal to the aid, where appropriates through the intervention agency of the Member State of the producer.'

5. Article 17 (1) and (2) are replaced by the following:

'1. Member States shall communicate to the Commission, together with the information referred to in Article 20 of Regulation (EEC) No 2179/83, the quantities of wine, wine lees and fortified wine distilled.'

Article 2

This Regulation shall enter into force on 1 September 1989.

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

Done at Brussels, 28 July 1989.

For the Commission

Ray MAC SHARRY

Member of the Commission