# COMMISSION REGULATION (EEC) No 2353/89

## of 28 July 1989

## laying down detailed rules for the grant of aid for certain grain legumes

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 762/89 of 20 March 1989 introducing a specific measure for certain grain legumes [1], and in particular Article 4 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 [2], as last amended by Regulation (EEC) No 1636/87 [3], and in particular Article 5 (3) thereof,

Whereas pursuant to Article 2 (1) of Regulation (EEC) No 762/89 the aid is granted per hectare of area sown and harvested; whereas in this connection it is reasonable to assume that all areas entirely sown with grain legumes and on which all normal cultivation work is carried out will be harvested; whereas, however, it is necessary to ensure that the aid is not paid until after harvest, so that national authorities are given every opportunity to make the checks which prove to be necessary;

Whereas the smooth operation of the aid scheme requires checks to be carried out by the Member States to ensure that aid is granted only for the areas in question and for the products set out in Article 1 of Regulation (EEC) No 762/89 in respect of which no other aid has been applied for pursuant to other Community rules, in püarticular Council Regulation (EEC) No 797/85 of 12 March 1985 on improving the efficiency of agricultural structures [4], as last amended by Regulation (EEC) No 2156/89 [5]; whereas a scheme for declaring areas sown and crops sown must serve as the basis for such checks; whereas, nevertheless, applications for aid, accompanied by all the necessary information, may also be accepted;

Whereas it is necessary to ensure that the checks carried out by the Member States relate to a sufficiently representative number of applications for aid and include sanctions which can be applied if irregularities are discovered;

Whereas pursuant to Article 2 (2) of Regulation (EEC) No 762/89 a maximum guaranteed area of grain legumes sown and harvested in the Community, which if exceeded will result in a reduction of the aid for the following marketing year, should be determined; whereas this maximum area is the average of the areas cultivated in the Community during the 1985/86 to 1987/88 marketing years;

Whereas for the 1989/80 marketing year, whereas the aid should be converted using the agricultural conversion rate fixed for 'all other products', for conversion of the amount of aid into national currency the operative event as defined in Article 5 of Regulation (EEC) No 1676/85 should be deemed to occur on the first day of the marketing year for which the aid is granted;

Whereas Commission Regulation (EEC) No 1956/89 [6] fixed the amount of aid for certain grain legumes for the 1989/90 marketing year;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for products processed from fruit and vegetables,

HAS ADOPTED THIS REGULATION:

*Article 1*

The aid provided for in Regulation (EEC) No 762/89 shall be granted under the conditions laid down in this Regualtion during the 1989/90 to 1991/92 marketing years.

*Article 2*

The aid shall be granted for areas:

(a) which have been completely sown and harvested and on which all normal cultivation work has been carried out; and

(b) which have been the subject of a declaration to the authority designated by the Member State. However, an application for aid submitted in accordance with Article 3 may take the place of this declaration.

[1] OJ No L 80, 23. 3. 1989, p. 76.
[2] OJ No L 164, 24. 6. 1985, p. 1.
[3] OJ No L 153, 13. 6. 1987, p. 1.
[4] OJ No L 93, 30. 3. 1985, p. 1.
[5] OJ No L 207, 19. 7. 1989, p. 12.
[6] OJ No L 187, 1. 7. 1989, p. 108.

*Article 3*

1. Applications for aid shall be submitted by producers to the competent authority designated by the Member State on whose territory the areas in question are situated no later than 15 May of each year for the following marketing year. However, the Member States may set an earlier submission date in order to enable the necessary checks to be carried out. Applications for aid for the 1989/90 marketing year shall be submitted no later than 14 August 1989.

2. Applications for aid shall contain at least the following information:

(1) the surname, forenames and address of the applicant;

(2) the areas sown and cultivated in order to grow the product or products in question (in hectares and areas) and the land registry reference for those areas or a reference recognized as equivalent by the body responsible for checking the areas;

(3) species and, if necessary, the variety of seed used;

(4) a declaration by the producer that the areas in question or the products harvested thereon are not the subject of applications for aid under other rules, in particular under Regulation (EEC) No 797/85;

(5) an estimate of likely harvested production;

(6) the holding's statuts and type of occupancy.

*Article 4*

The maximum guaranteed Community area provided for in Article 2 (2) of Regulation (EEC) No 762/89 shall be 300 000 hectares.

*Article 5*

1. The Member State shall pay the aid no later than 30 April of the marketing year for which the aid is granted. The aid may not be paid before the harvest period.

2. For the 1989/90 marketing year, aid shall be granted in national currency at the agricultural conversion rate fixed for 'all other products', applying on the first day of the marketing year for which the aid is granted.

*Article 6*

1. Member States shall verify be investigations and on-the-spot checks the accuracy of the information provided in support of applications for aid, in particular as regards the areas declared and the products concerned. Member States shall also verify that aid is not granted for areas in respect of which aid is being applied for pursuant to other Community rules.

2. The checks undertaken by each Member State shall, in each competent administrative unit, cover a representative percentage of applications submitted based on the averge size of the holdings, the surface areas sown and cultivated with grain legumes, and their geographical distribution.

All declarations relating to a surface area of 30 hectares or more shall be checked, other applications to be checked to be selected at random.

In any case, the checks shall cover a percentage of not less than 5 % of applications. This percentage is increased to 15 % when a significant number of false declarations is discovered.

3. When an application is selected for checking, all the areas sown and cultivated with grain legumes covered by that application shall be checked. The checks shall involve the measurement of the areas declared and the verification that eligible grain legumes are being cultivated.

Areas shall be measured as follows:

(a) an area in a single block:

systematic measurement;

(b) areas broken up into different plots as follows:

— from two to five plots:
  — the largest plot and one medium plot to be measured,

— from six to 10 plots:
  — the two largest and one medium plot to be measured,

— more than 10 plots:
  — the two largest and three medium plots.

Each visit for checking purposes shall be recorded in a report which shall indicated the areas and plots visited and measured, the measuring instruments used and the observations made.

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;

The provisions of this paragraph are not applicable during the 1989/90 marketing year.

4. Each producing Member State shall notify the Commission, not later than 1 October, of the national measures laid down for verifying applications and avoiding the payment of more than are type of aid for the cultivation for carrying out checks.

*Article 7*

1. If for a given application the checks show that the area declared is:

(a) less than that recorded, the declared area shall be used for the calculation of aid. However, if the difference is significant, the Member State may accept a supplementary application for the aid which shall cover, at most as a maximum, the difference between the area recorded and that declared;

(b) in excess of that recorded, without prejudice to possible peralties provided for in national legislation, the area used for the calculation of aid shall be that recorded reduced by the difference between this latter area and the areas declared. However, where a Member State considers the difference to be a justifiable one, the area recorded shall be used.

2. No aid shall be paid if the checks reveal the area declared to be more than 25 % higher than that recorded.

3. If the checks provided for in Article 6 cannot be carried out, for reasons attributable to the applicant, despite a formal notification to allow checks to be caried out, no aid shall be paid for that marketing year.

*Article 8*

In cases where aid is incorrently paid, or received, Member States shall recover the amounts incorrectly paid, together with current interest from the date of payment to the date of recovery. The rate of interest to be applied shall be that in force for similiar recovery transactions under national law.

*Article 9*

Each producing Member State shall notify the Commission not later than :

— 15 September :
  — of the area (expressed in hectares and ares) in respect of which aid has been applied for, broken down by product,
  — of estimated total production, broken down by product ;
— 15 May :
  — of the areas in respect of which aid has actually been paid,
  — of the quantities harvested on land in respet of which aid has been paid, broken down by product harvested.

*Article 10*

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

It shall apply whith effect from 1 July 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*