COMMISSION REGULATION (EEC) No 714/89

of 20 March 1989

laying down detailed rules applying to the special premium for beef producers

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 805/68 of 27 June 1988 on the common organization of the market in beef and veal (1), as last amended by Regulation (EEC) No 571/89 (2), and in particular Article 4a (3) thereof,

Having regard to Council Regulation (EEC) No 468/87 of 10 February 1987 laying down general rules applying to the special premium for beef producers (3), as amended by Regulation (EEC) No 572/89 (4), and in particular Articles 3 (2) and 5 thereof,

Whereas pursuant to Article 3 (2) of Regulation (EEC) No 468/87 Member States may be authorized, for administrative reasons, to stipulate that applications cover a minimum number of animals ; to conditions under which such authorizations may be granted should be laid down ;

Whereas Article 5 of the same Regulation states that the detailed rules of application for the special premium are to deal with the lodging of applications and payment of the premium, identification of animals, the control, in respect of the number of animals declared and the retention period ; procedures and special provisions to be applied when live animals from Member States granting the premium on slaughter are exported from the Community or consigned to other Member States and the various conditions to be respected at the time when the slaughter premium is granted or when the animals are first marketed ;

Whereas, in view of the difficulties of furnishing evidence of compliance with the requirements laid down, it should be specified that applications be accompanied by declarations and undertakings by recipients and that these be subject to both administrative and on-the-spot checks by Member States regarding a minumum number of holdings, and give rise to total recovery of the sums paid should they turn out to be inexact ;

Whereas in the light of experience and taking account in an appropriate manner, of infractions of minor importance it is necessary to reinforce the measures for preventing and sanctioning irregularities and frauds ;

Whereas to this end it is appropriate to exclude applicants for the premium for a period of 12 months in the case of a false declaration made deliberately or through serious negligence ;

Whereas, so that the checks can be carried out, Member States should specify a period during which cattle are to be retained on the farm following lodging of the application that suits their administrative requirements and is long enough to permit adequate checking without excessively delaying marketing of the cattle ;

Whereas the premium must be paid within a time limit that while permitting the required conditions to be complied with does not result in any reduction of the producer income support that the Council intended to provide by granting the special premium ;

Whereas in view of the control requirements for the special premium scheme animals should be visibly identified by means of marks or other, numerical, identification systems accompanied by documents or registers ; whereas animals consigned alive from Member States granting the premium on slaughter to other Member States or exported live from the Community must also be marked in a special way ; whereas in the case of these animals presentation must be required of a document certifying that they have left the Member State in question for another Member State or have left the customs territory of the Community ;

Whereas, in view of the marketing requirements for male cattle held by producers at the time when this Regulation enters into force, a temporary exception to the obligation to the application should be granted, on condition however that the cattle two months ; whereas it is necessary, furthermore, to lay down for these animals, which by virtue of their age are difficult to handle, an exception to the marking system ;

Whereas Commission Regulation (EEC) No 859/87 (5), as last amended by Regulation (EEC) No 675/89 (6), is replaced by this Regulation and can therefore be repealed ; whereas it must, however, remain applicable in

(1) OJ No L 148, 28. 6. 1968, p. 24.
(2) OJ No L 61, 4. 3. 1989, p. 43.
(3) OJ No L 48, 17. 2. 1987, p. 4.
(4) OJ No L 63, 7. 3. 1989, p. 1.
(5) OJ No L 82, 26. 3. 1987, p. 25.
(6) OJ No L 73, 17. 3. 1989, p. 16.

respect of applications for premiums lodged before 3 April 1989 and applications concerning animals consigned or exported prior to that date;

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

HAS ADOPTED THIS REGULATION:

Article 1

1. Applications for the premium referred to in Article 4a of Regulation (EEC) No 805/68 shall be lodged by producers with the competent authority designated by the Member State and shall include the number of animals for which the premium is requested.

Member States may determine the period or periods during which applications for the premium may be lodged. They may restrict the number of applications lodged by the same producer per period or per calendar year.

2. The total number of animals for which application for the premium may be made may not exceed 90 eligible animals per calendar year per holding.

Animals for which an application was lodged during the period from 1 January to 2 April 1989 shall be part of the number for the 1989 calendar year.

3. The authorization provided for in Article 3 (2) of Regulation (EEC) No 468/87 may not be granted unless the minimum number of animals laid down:

— is no more than five,

— will not give rise to any discrimination between producers within the Member State,

— is applicable for one or more calendar years.

4. To be valid, applications must include a declaration by the producer of the number of animals for which be has applied for the premium in the course of the calendar year.

5. After marking the necessary checks the competent authority shall inform each applicant of outcome of his application. If the application is accepted it may however pay the premium without first informing the applicant of the outcome.

Article 2

Applications for the premium in respect of live animals lodged pursuant to Article 3 of Regulation (EEC) No 468/87 shall, in addition to the declarations required pursuant to that Article and pursuant to Article 1 (4) of this Regulation:

— indicate the age of the animals, and

— include an undertaking by the producer to retain the male animals for which he applies for the premium on his holding for the period fixed pursuant to Article 8 (2), without prejudice to the provisions of the third subparagraph of Article 2 (1) of Regulation (EEC) No 468/87, and at least until they are nine months old.

Article 3

1. Premium applications lodged pursuant to Article 4 of Regulation (EEC) No 468/87 shall be presented as specified in that Regulation, and in particular paragraph 3 of the said Article 4.

2. Member States, in agreement with the Commission, may decide that where a single application in respect of one calendar year is lodged in advance, an indication of the number of animals to which the application applies shall not be necessary. The application shall be completed progressively by the competent authority on the basis of documents completed by the slaughterhouse attesting to the slaughter of each animal and the identity of its producer.

Notwithstanding Article 4, the date of slaughter shall be used to determine the year for the purposes of the headage limit.

Article 4

The date on which the application shall be lodged is used to determine the year for the purpose of complying with the annual headage limit.

Article 5

1. Animals for which the premium is granted in accordance with Article 4 (2) of Regulation (EEC) No 468/87 must be slaughtered within 21 days from the date on which they are first marketed.

2. The carcase weight referred to in Article 4 (1) (a) of Regulation (EEC) No 468/87 shall be established on the basis of a carcase meeting the requirements laid down in Annex II to Commission Regulation (EEC) No 2226/78 [1]. If the carcase presented differs from the above definition, the correction coefficients laid down in the Annex to Commission Regulation (EEC) No 563/82 [2] shall apply.

3. When the premium is paid back by an intermediary to the producer in accordance with Article 4 (3) (a) of Regulation (EEC) No 468/87, the amount repaid must be indicated on the invoice; it may not be included in the price paid to the producer.

Article 6

1. The amounts fixed in Article 4(a) (1) of Regulation (EEC) No 805/68 shall be paid no later than nine months or where Article 3 (2) is applied, 15 months following the date on which the application was lodged. In no case shall they be paid before expiry of the retention period referred to in the second indent of Article 2.

[1] OJ No L 261, 26. 9. 1978, p. 5.
[2] OJ No L 67, 11. 3. 1982, p. 23.

2. Premiums improperly paid shall be recovered, plus

2. The conversion rate to be applied to the amounts referred to in paragraph 1 shall be the agricultural conversion rate applicable on the day when the application was lodged. However, for applications lodged during a period fixed pursuant to the second subparagraph of Article 1 (1), the agricultural conversion rate shall be that applicable on the first day of this period.

Article 7

1. Animals for which a premium application as mentioned in Article 2 is lodged shall, within the time limits fixed by the Member States and at the latest within five weeks from the date when the application was lodged, bear a clerly visible permanent identification consisting of either perforation or marking of the ear or of an ear notch.

Methods of identification used by the Member States other than in specific connection with the special premium may also be used to identify the animals eligible for the premium, providing that such methods enable each animal to be identified by a number on the ear or on an ear tag. Where this is the case, the number of the animals in question must be stated on the premium application and this applications must be furnished:

— by a document which shall accompany the animal throughout its life and shall bear the identification number of the animal concerned,

— or, provided that the Member States take the necessary measures to avoid the risk of the premium being granted twice, by a register in which the animal is registered under its number, and which is kept by the competent authorities or, if national legislative and administrative rules permit and in agreement with the Commission, by the producer.

However, animals so identified which are consigned, after payment of the premium, to another Member State must be marked in a specific way at the time of consignment.

2. Member States may require that carcases presented pursuant to Article 4 (1) of Regulation (EEC) No 468/87 be marked.

3. Animals which are the subject of a premium application pursuant to Article 4 (2) of Regulation (EEC) No 468/87 shall be marked by an ear punch when first marketed.

4. Member States shall adopt national provisions for the identification provided for in paragraph 1 and the marking provided for in paragraphs 2 and 3. They shall inform the Commission of these provisions before 3 April 1989.

Article 8

1. The competent authority appointed by each Member State shall operate administrative checks and on-farm inspection in order to verify that the provisions governing the special premium are complied with. These inspections must be carried out at a minimum number of holdings to be determined by the Commission in accordance with the procedure laid down in Article 27 of Regulation (EEC) No 805/68. The control measures shall cover in particular:

(a) the presence on the holding run by the producer of the number of male cattle covered by the application or the observance of the 90-head limit per calendar year and per farm for the purposes of Article 4 of Regulation (EEC) No 468/87;

(b) the correctness of the required declarations and fulfilment of the undertakings made by the producer;

(c) compliance with the provisions on identification and marking specified in Article 7.

2. In order to enable them to exercise adequate control of applications lodged pursuant to Article 2, Member States shall set a minimum period during which male cattle must be kept on the holding following the date of lodging of the application. This period may not be less than two nor more than five months.

3. For the purposes of Article 4 of Regulation (EEC) No 468/87, the checks must show that the producer has produced finished animals for slaughter or for first marketing with a view to slaughter and that the means of production have allowed for the fattening, for a period of at least two months on the holding, of the number of animals for which a, or the, application(s) were lodged by the producer for the year concerned.

The checks shall be carried out on the basis of the accounts of the holding and any other available document as well as a technical assessment of the means of production used by the producer. In cases of doubt, it shall be the responsibility of the producer to prove that he did fatten the number of animals in question.

Article 9

1. Without prejudice to paragraphs 2, 3 and 4, where the number of eligible animals ascertained at the time of inspection is lower than the number in respect of which the premium application was lodged, no premium shall be paid.

2. If the reduction in the number of animals can be ascribed to natural circumstances affecting the herd, the premium shall be paid for the number of animals actually eligible, provided that the recipient has informed the competent authority in writing of the circumstances in question within 10 days of the incident.

3. Entitlement to the premium shall subsist for the number of animals effectively eligible where, for reasons of *force majeure*, and especially those listed in Article 5 of Commission Regulation (EEC) No 1244/82 [1] the producer has not been able to comply with the undertaking provided for in Article 2. The producer shall duly inform the competent authorities within 10 days of the incident.

[1] OJ No L 143, 20. 5. 1982, p. 20.

4. In cases other than those referred to in paragraphs 2 and 3 where the difference in the number of effectively eligible animals is less than 5 % of the declared number or, at most, one animal if the number of animals declared is equal or less than 20 head, the premium less 20 % shall be paid for the number of eligible animals provided that according to the competent authority, where is no suggestion that a false declaration has been made either deliberately or through serious negligence.

5. Premiums improperly paid shall be recovered, plus interest, to be fixed by the Member State in respect of the period between payment of the premium and its recovery.

6. In cases where paragraph 1 is applied, if the competent authority determines that a false declaration has been made either deliberately or through negligence the producer in question shall be excluded from the premium system for a period of 12 months from the date such determination was made.

Article 10

Where eligible live animals are consigned from a Member State applying the arrangement specified in Article 4 of Regulation (EEC) No 468/87 to another Member State or exported to a third country, the special premium may be granted when the animals leave the Member State in question.

In such cases :

(a) the application shall be accompanied :

— by a declaration by the producer that the animals are at least nine months old on the date of consignment or export and that they have been kept on his holding for at least two months, and

— by the proof of consignment or export of the animals, as specified in Article 12 (1) and (2).

(b) the animals shall be marked as specified in Article 7 (1).

Article 11

1. Notwithstanding Article 2, producers in Member States or regions of a Member State applying the special premium for the first time may, during a transition period from 3 April to 4 June 1989, lodge applications for the premium without making the undertaking referred to in the second indent of the said Article.

In such cases the producer must declare on his application that the animals concerned are at least nine months old on the date on which the application is lodged and that be has kept them on his holding for at least two months before that date.

2. Member States, not concerned by the application of paragraph 1, may open, from 3 April to 4 June 1989, a period for the lodging of transitional premium applications for animals whose fattening is almost completed.

In this case, the producer must declare in his application :

— that the animals concerned are at least 12 months old at the date of lodging of the application,

— that he is keeping them on his holding for at least one month,

— that the animals will be slaughtered or exported to third countries before 3 September 1989.

3. The animals concerned must have a clearly visible and permanent identification mark.

Article 12

1. Proof that animals have been consigned shall be considered to be furnished by presentation of an attestation issued by the competent authorities of the Member State of departure certifiying that the animals have left the Member State.

Use of the internal Community transit procedure for consignment of the animals shall be compulsory in order to allow the abovementioned attestation to be issued. The attestation shall be stamped on request after the office of departure has received the transit document in return.

In the case of animals consigned under cover of an international consignment note equivalent to a T2 document, the attestation shall on request be issued after the consignment note has been presented showing that the animals have been accepted for transport by the railway authorities. Unless the attestation has not been delivered or will be returned, the office of departure may not authorize any change in the transport contract the effect of which would be that the transport operation would be terminated in a Member State other than the Member State of destination.

In cases of export, proof that the animals have left the Community shall be the same as that required in cases of application for export refunds.

Article 13

1. Member States shall notify the Commission of the measures taken to implement Regulation (EEC) No 468/87 and this Regulation, not more than 10 days after the date on which they are implemenred.

2. Member States shall notify the Commission not later than 31 March of each year of the number of animals for which the special premium was granted during the previous calendar year.

Article 14

Regulation (EEC) No 859/87 is hereby repealed. However, it shall remain applicable to applications for the premium lodged prior to 3 April 1989 and to applications concerning animals consigned or exported before that date.

Article 15

This Regulation shall enter into force on 3 April 1989. It shall apply to applications lodged on and after 3 April 1989.

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

Done at Brussels, 20 March 1989.

For the Commission
Ray MAC SHARRY
Member of the Commission