COUNCIL REGULATION (EEC) No 1183/90

of 7 May 1990

amending Regulation (EEC) No 857/84 adopting general rules for the application of the levy referred to in Article 5c of Regulation (EEC) No 804/68 in the milk and milk products sector

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 804/68 of 27 June 1968 on the common organization of the market in milk and milk products [1], as last amended by Regulation (EEC) No 3879/89 [2], and in particular Article 5c (6) thereof,

Having regard to the proposal from the Commission [3],

Whereas the Commission report on the operation of the milk quotas scheme indicates that the structural development of agricultural holdings should continue; whereas, as a result of the 1 % increase in the Community reserve applicable for the sixth period of the scheme, certain quantities have been made available which are intended in principle for priority producers whose situation continues to give grounds for concern; whereas this measure should be supplemented in favour of small producers in order to bring them as a whole up to a level of production better adapted to market requirements;

Whereas in order to take account of the particular structure of production in certain Member States, the latter should, under certain conditions, be authorized to establish a specific definition of the characteristics of small producers or grant, after allocation to small producers, quantities still available to producers whose partially unused production capacity places them in a difficult specific situation;

Whereas the objective of the measure can be achieved only if holdings continue to produce milk;

Whereas, under the arrangements to curb production, additional quantities can be granted only if, in this particular case, they have first been released by other producers; whereas a new Community programme for financing the cessation of milk production should therefore be established, particularly for those Member States where the comparative situation of the various collection areas so warrants, whereby producers who fulfil certain eligibility requirements will be paid compensation following the total and definitive cessation of their activities;

Whereas, account being taken of the various aspects of dairy farming today, the compensation should be fixed at ECU 36 per 100 kg; whereas it may prove necessary in some Member States, however, to raise the level of the compensation; whereas the Member States concerned should therefore be authorized to provide additional financing, the amount of which can be adjusted in line with specific regional requirements;

Whereas the compensation is granted in principle in respect of the total reference quantity; whereas for logical reasons there should be deducted from it those quantities which the producer has received pursuant to Article 3b of Regulation (EEC) No 857/84 [4], as last amended by Regulation (EEC) No 3880/89 [5], since this programme is not to apply to the producers referred to in Article 3a of that Regulation or to those who, prior to the entry into force of these provisions, have benefited under Article 4 (1) (a) in respect of all or part of their reference quantity, as the case may be,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 857/84 is hereby amended as follows:

1. The following Article 3c is inserted:

'*Article 3c*

1. Reference quantities released under the conditions laid down in Article 4 (1) (b) shall be entered in the reserve referred to in Article 5 and granted to producers as defined in Article 12 (c) to whom the actual individual reference quantity available, at the beginning of the seventh 12-month period of application of the scheme, less the quantities withdrawn pursuant to Regulation (EEC) No 775/87 (*) is less than 60 000 kg or 100 000 kg in the mountain areas defined in accordance with Article 3 (3) of Directive 75/268/EEC (**).

However, Member States may increase the abovementioned amounts provided that the number of producers concerned remains less than 25 % of the overall number of producers and that the amounts so fixed do not exceed 75 % of the average individual reference quantity available.

2. Producers may receive pursuant to this Article a quantity equal to the difference between 60 000 kg or 100 000 kg, or the amount fixed pursuant to the second subparagraph of paragraph 1 as the case may be and the reference quantity defined in the first subparagraph of paragraph 1.

[1] OJ No L 148, 28. 6. 1968, p. 13.
[2] OJ No L 378, 11. 12. 1989, p. 1.
[3] OJ No C 49, 28. 7. 1990, p. 51.
[4] OJ No L 90, 1. 4. 1984, p. 13.
[5] OJ No L 378, 27. 12. 1989, p. 3.

They shall undertake not to seek to benefit under any programme for the cessation of milk production until the end of the additional levy arrangements either as regards the basic individual reference quantity or as regards the quantity received pursuant to the first subparagraph.

3. If after allocation to the producers defined in paragraph 1 released quantities remain available, the Member State concerned may grant such quantities to producers whose partially unused production capacity places them in a difficult specific situation. However, this provision shall only apply if the compensation of ECU 36 per 100 kg referred to in Article 4 (1) (b), point (d), has not been increased by the Member State concerned.

4. The Commission, acting in accordance with Article 30 of Regulation (EEC) No 804/68, shall adopt rules for the application of this Article.

(*) OJ No L 78, 20. 3. 1987, p. 5.
(**) OJ No L 128, 19. 5. 1975, p. 1.'

2. In Article 4:

(a) paragraph 1 (a) is hereby replaced by the following:

'(a) — grant to producers undertaking to discontinue definitively all of their milk production compensation to be paid in one or more annual instalments,

— grant to producers undertaking to discontinue definitively part of their milk production compensation to be paid in one or more annual instalments;'

(b) the following paragraph is added:

'1b. Member States shall grant to producers as defined in the first indent of Article 12 (c) or to each associated producer where the second indent of Article 12 (c) applies, who undertake before 1 November 1990 to discontinue milk production totally and definitively before 1 April 1991, compensation in the form of a single payment before 1 July 1991.

Member States need not, however, decide to operate the milk production abandonment programme on the basis that the comparative situation of the various collection areas does not so warrant.

(a) Producers shall be eligible provided that:

— they possess a reference quantity pursuant to Article 5c of Regulation (EEC) No 804/68 under either formula A or formula B,

— and their holding is located outside areas defined in accordance with Article 3 (3), (4) and (5) of Directive 75/268/EEC; that condition shall not apply in Member States in which the usable agricultural surface area contains more than 75 % of the abovementioned areas.

However, Member States:

— may decide not to pay the compensation to producers possessing less than six dairy cows or whose actual individual reference quantity available is less than 25 000 kg per year,

— shall be authorized to take any steps necessary to ensure that the reductions in quantities applied under this paragraph are, as far as possible, evenly distributed among the regions and the collection areas.

(b) The compensation shall be granted in respect of the reference quantity to which the producer is entitled on the entry into force of this Regulation, including the quantities suspended under Regulation (EEC) No 775/87 but excluding the quantities received under Article 3b of this Regulation.

(c) In the case of agricultural leases, the application for compensation shall be submitted by the leaseholder.

Member States may, however, determine the conditions under which a leaseholder may submit an application for compensation and the terms on which the compensation may be granted.

(d) Community financing for this programme shall be limited to a quantity of 500 000 tonnes. Within that limit it shall be allocated among the Member States as and when applications are submitted to the Commission.

The compensation shall be ECU 36 per 100 kilograms of milk or milk equivalent. Member States may contribute to the Community financing by increasing the amount of the compensation. The level of the supplement may be adjusted within their territory to take account of local conditions regarding:

— the trend of milk production,

— the average level of deliveries per producer,

— the need to ensure that the restructuring of milk production is not impeded,

— the prospects for converting to other productive activities.

The financing provided for in the first subparagraph shall be deemed to be intervention within the meaning of Article 3 of Regulation (EEC) No 729/70.

(e) The Commission, acting in accordance with the procedure laid down in Article 30 of Regulation (EEC) No 804/68, shall adopt measures for the implementation of this paragraph.'

Article 2

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, 7 May 1990.

For the Council

The President

G. COLLINS