COMMISSION REGULATION (EEC) No 1224/90

of 10 May 1990

amending Regulation (EEC) No 1799/76 laying down detailed rules for the application of special measures in respect of linseed

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 569/76 of 15 March 1976 laying down special measures for linseed [1], as last amended by Regulation (EEC) No 4003/87 [2], and in particular Article 2 (4) thereof,

Whereas Article 4 of Commission Regulation (EEC) No 1799/76 [3], as last amended by Regulation (EEC) No 3163/89 [4], provides that an average world market price is to be determined each week on the basis of the most favourable offers and quotations; whereas, as such offers and quotations are not always available each week, provision should be made for the possibility of determining the average price twice a month only;

Whereas Article 3 of Regulation (EEC) No 1774/76 of 20 July 1976 on special measures for linseed [5] provides that the producer Member States are to introduce a checking sytem to ensure, in the case of each linseed grower, that the crop area in respect of which a subsidy has been applied for corresponds to the area on which the linseed has actually been sown and harvested; whereas, in order to facilitate such checks, in the case of seed flax, certain provisions of Regulation (EEC) No 1799/76 adopted pursuant to Article 3 of Regulation (EEC) No 1774/76 should be made more precise;

Whereas, to avoid the risk of fraudulent operations, certain conditions under which the subsidy is granted should be specified; whereas, to the same end, uniform provisions should be laid down on the grant of the subsidy where the areas ascertained during a check differ from those indicated in declarations of areas sown and harvested;

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

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 1799/76 is hereby amended as follows:

1. The words 'for which normal cultivation work has been carried out and' are added to Article 3 (1) (a).

2. In Article 4 (1), 'each week' is replaced by 'at least twice a month'.

3. In Article 4 (2), 'weekly' is deleted.

4. Article 8 (1) is replaced by the following:

'1. Except in cases of *force majeure*, all growers of linseed shall submit a declaration of areas sown not later than 15 June each year for the following marketing year.

If the area on which seeds emerge proves to be smaller than that indicated in the declaration, the declarant must forward the relevant figures to the competent authorities within the same time limit.'

5. The following paragraph is inserted in Article 8:

'3. A declaration relating to an area of at least three hectares shall be admissible only if:

— it is endorsed by a body designated by the Member State concerned,

or

— it is accompanied by a document certifying to the satisfaction of the Member State concerned that the declaration is accurate.

Member States may provide that declarations relating to an area of less than three hectares shall be admissible only if they are endorsed by a body designated by them.'

6. The following Article 8a is inserted:

'Article 8a

1. The checks provided for in Article 3 of Regulation (EEC) No 1774/76 shall be carried out on at least 5 % of the declarations of areas sown referred to in Article 8 and on a representative percentage of the crop declarations referred to in Article 9, having regard to the geographical distribution of the areas concerned.

2. The checks shall comprise inspection and measurement of the areas in question.

Each visit for checking purposes shall be recorded in a report indicating in particular the area measured, the measuring instruments used and, where applicable, that the check could not be made for reasons attributable to the declarant.

[1] OJ No L 67, 15. 3. 1976, p. 29.
[2] OJ No L 377, 31. 12. 1987, p. 46.
[3] OJ No L 201, 27. 7. 1976, p. 14.
[4] OJ No L 307, 24. 10. 1989, p. 20.
[5] OJ No L 199, 24. 7. 1976, p. 1.

3. Where significant irregularities arise relating to 6 % or more of the checks carried out, Member States shall notify the Commission thereof forthwith and shall state what measures have been taken.'

7. The following Article 8b is inserted :

'Article 8b

If a check as provided for in Article 3 of Regulation (EEC) No 1774/76 shows that the area declared is :

(a) less than that ascertained by the check, the area ascertained shall be used ;

(b) greater than that ascertained by the check, the area used shall be the ascertained area minus the difference between the area originally declared and that ascertained, without prejudice to any penalties laid down under national law.

However, if the difference is considered justified by the Member States concerned the ascertained area shall be used.

Member States shall notify the Commission of action taken pursuant to this Article including decisions under the second subparagraph of point (b).'

8. The following paragraph is added to Article 9 :

'3. Without prejudice to paragraph 4, if the area indicated in the crop declaration is greater than that indicated in the declaration of areas sown, the latter area shall be used.'

9. The following paragraph is added to Article 9 :

'4. If a check as provided for in Article 3 of Regulation (EEC) No 1774/76 shows that the area indicated in the crop declaration is :

(a) less than that ascertained by the check, the area ascertained shall be used ;

(b) greater than that ascertained by the check, the area used shall be the ascertained area minus the difference between the area indicated in the crop declaration and that ascertained, without prejudice to any penalties provided for under national law and the provisions of (c).

However if the difference is considered justified by the Member State the ascertained area shall be used ;

(c) greater than that ascertained by the check and if, for the declarant in question, areas indicated in the declaration of areas sown or harvested have been reduced during the same marketing year or the preceding one in accordance with Article 8b or point (b) of this paragraph, the aid application shall be rejected.

However, if the difference is considered justified by the Member State the ascertained area shall be used.

Member States shall notify the Commission of action taken pursuant to this paragraph, including decisions under the second subparagraph of points (b) or (c).'

10. The following Article 12a is inserted in Chapter V :

'Article 12a

Except in cases of *force majeure,* if a check cannot be carried out for reasons attributable to the declarant the application for the subsidy for linseed shall be rejected.'

11. Article 14 is deleted.

12. In Article 17 (1), 'Article 11 (2) (d)' is replaced by 'the second indent of Article 11 (2)'.

Article 2

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

It shall apply from the 1990/91 marketing year.

However, Article 1 (5) shall apply from the 1991/92 marketing year.

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

Done at Brussels, 10 May 1990.

For the Commission

Ray MAC SHARRY

Member of the Commission