COMMISSION REGULATION (EEC) No 1279/90

of 15 May 1990

amending Regulation (EEC) No 3813/89 laying down detailed rules for the application of the system of transitional aids to agricultural income

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 768/89 of 21 March 1989 establishing a system of transitional aids to agriculture (1), and in particular Article 12 thereof,

Whereas Commission Regulation (EEC) No 3813/89 (2) provides *inter alia* for special conditions on checks;

Whereas in granting income aids the authorities concerned have to rely to a considerable extent on information provided by potential beneficiaries; whereas such information covers a variety of factors of relevance in determining both eligibility and the level of payments per holding; whereas great care must be taken to minimize abuse of the system and to prevent fraud; whereas it is therefore necessary to apply appropriate provisions which are sufficiently severe in order to be dissuasive; whereas account must be taken of the varying administrative traditions in the different Member States;

Whereas it is therefore necessary to amend certain provisions of Regulation (EEC) No 3813/89;

Whereas the Management Committee for Agricultural Income Aids has not delivered an opinion within the time limit set by the Chairman,

HAS ADOPTED THIS REGULATION:

Article 1

Article 13 of Regulation (EEC) No 3813/89 is hereby amended as follows:

1. The heading is replaced by the following:

'Control and related provisions'

2. Paragraph 3 is replaced by the following text:

'3. Whenever an AIA is found to have been granted on the basis of inaccurate data provided by the farmer who certified it, the following measures shall be taken by the Member State concerned:

(a) The amount of the aid unduly paid shall be recovered from the farmer, plus the interest thereon from the date when the aid was paid until the date when it is recovered. The rate of interest to be applied shall be that in force for similar recovery operations under national law.

(b) In addition where the competent authority determines that the amount was wrongfully paid as a result of serious irregularities on the part of the farmer, the Member State shall either:

— in all such cases charge the farmer an amount equal to 30 % of the aid wrongfully paid, or

— as a general rule charge the farmer an amount equal to 30 % of the aid wrongfully paid but have the possibility to apply on the basis of the gravity of the particular case of charging an amount not less than 20 % nor greater than 40 % of the aid wrongfully paid.

(c) Furthermore a farmer who is responsible for inaccurate data giving rise to a charge as provided for in paragraph (b) shall be excluded from eligibility for all payments under any PAIA for a period of 12 months from the date that the charge was determined. In instances where the aid has been capitalized the Member State concerned shall take the steps necessary to ensure equivalent treatment to that applying had payments not been capitalized.

(d) The provisions of Article 8 (2) of Council Regulation (EEC) No 729/70 (*) shall apply to amounts recovered under paragraph (a) and to the financial consequences arising from inability to recover sums unduly paid.'

(1) OJ No L 84, 29. 3. 1989, p. 8.
(2) OJ No L 371, 20. 12. 1989, p. 17.

(*) OJ No L 94, 28. 4. 1970, p. 13.'

3. The following paragraphs 4 and 5 are hereby added :

'4. When notifying a draft programme Member States shall indicate which of the two options under paragraph 3 (b) will apply.

5. By every anniversary of approval of the PAIA concerned until the year following its last year of implementation, the Member State concerned shall provide the Commission with a detailed report of controls carried out by the organizations mentioned under paragraph 1 (b). This report shall also include information on the application of paragraph 3 and in particular information characterizing and quantifying the instances where a charge has been applied in accordance with the provisions of paragraph 3 (b).'

Article 2

This Regulation shall enter into force on the third day following 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, 15 May 1990.

For the Commission

Ray MAC SHARRY

Member of the Commission