COMMISSION REGULATION (EEC) No 2689/90

of 19 September 1990

laying down detailed rules for applying the system of production aid for certain cereals

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2727/75 of 29 October 1975 on the common organization of the market for cereals (1), as last amended by Regulation (EEC) No 1340/90 (2), and in particular Article 10b (4) thereof,

Whereas Article 10b of Regulation (EEC) No 2727/75 provides for aid to be granted for the production in the Community of buckwheat, canary seed and millet; whereas that aid is granted by the Member States per hectare sown and harvested up to 10 hectares per holding subject to a cultivation contract;

Whereas correct operation of the aid scheme requires supervision by the Member State to ensure that aid is granted only for the areas concerned and in respect of eligible products; whereas such supervision must include checks on the areas during the growing period and on delivery of the cereals produced on those areas;

Whereas experience in policing systems of production aid indicates that provisions providing for supervision and sanctions should be laid down;

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

HAS ADOPTED THIS REGULATION:

Article 1

The aid referred to in Article 10b of Regulation (EEC) No 2727/75 shall be granted for the production of buckwheat, canary seed and millet in accordance with the conditions set out herein.

Article 2

1. In order to be eligible for aid, the producer shall submit an application constituting a declaration of the areas under cultivation in accordance with Article 4.

2. Aid shall be granted only:

— for areas sown under a cultivation contract and where all normal cultivation work has been carried out,

— if the producer has delivered the harvest from that area to the purchaser.

3. The Member States may:

— determine a minimum area for the granting of aid. In no circumstances may such an area exceed one hectare,

— restrict the granting of aid to certain varieties.

Article 3

For the purposes of this Regulation, a cultivation contract means any written undertaking by the producer to sow and cultivate one or more of the crops referred to in Article 1 on a designated area and to deliver the product to a named purchaser.

Article 4

1. Any producer of buckwheat, canary seed or millet shall submit the application for aid referred to in Article 2 to the competent agency in the Member State before a date to be fixed by that Member State for each of the cereals and in any event not later than 31 May each year of the current marketing year. However in the case of buckwheat, Member States may put this date back to 30 June in regions where buckwheat is grown as a main crop.

2. The application for aid shall include at least the following particulars:

— the name, forenames and address of the applicant,

— the areas cultivated in hectares and in ares, the cadastral reference of the said areas or an indication recognized as equivalent by the agency responsible for checking the areas, and

— the variety of seed used, in so far as this is possible.

3. The application for aid shall be valid only if accompanied by the cultivation contract.

(1) OJ No L 281, 1. 11. 1975, p. 5.
(2) OJ No L 134, 28. 5. 1990, p. 1.

Article 5

1. The Member State shall pay the aid not later than 30 April following the end of the relevant marketing year, providing that the producer has provided proof of sale of his product in support of his application.

2. The operative event within the meaning of Article 5 of Council Regulation (EEC) No 1676/85 [1] as regards entitlement to the aid shall be regarded as occurring on 1 July of the marketing year in question.

Supervision

Article 6

1. Checks on applications shall, in each competent administrative department, cover a percentage of applications submitted. The applications to be checked shall be selected at random.

2. The total percentage of applications to be checked may not be less than 5 %. It shall be increased to 10 % where, in an administrative department, checks on applications reveal that the area actually cultivated is less than 96 % of the area declared in the applications checked.

Article 7

1. When a check is carried out, all areas included in the application must be visited and the state of the cereal grown on them must be verified.

2. Areas shall be measured as follows:

(a) an area consisting of one parcel: systematic measurement;

(b) areas consisting of several parcels: measurement as follows:
- from two to five parcels: the largest parcel and one medium-sized parcel,
- from six to 10 parcels: the two largest and one medium-sized parcel,
- over 10 parcels: the two largest and three medium-sized parcels.

In the case referred to in (b), the results of measurement shall be extrapolated to all the areas covered by the declaration. However, the applicant may require all the said areas to be measured.

Article 8

The proof of sale of the cereals referred to in Article 5 (1) may be provided in the form of a copy of the sale contract.

[1] OJ No L 164, 24. 6. 1985, p. 1.

General provisions

Article 9

1. If the check indicates an excess of up to 10 % but not more than one hectare over the area declared, aid shall be calculated on the area measured less the excess.

2. If the excess exceeds the limits provided for in paragraph 1, the application for the marketing year in question shall be rejected. Moreover, the applicant shall be ineligible for aid in the following marketing year.

3. Amounts wrongly paid shall be recovered, together with interest to be determined by the Member State from the date of payment of the aid to the date it was recovered. The Member States shall inform the Commission of the rate of interest used.

Article 10

Each field visit must be recorded in a report which must include the number of parcels visited, those measured, the measuring instruments used and, where applicable, the reasons why a declared area is reduced or an application rejected.

Article 11

If, for reasons attributable to the applicant, a check cannot be carried out, Article 9 (2) shall apply, except in cases of *force majeure*. Grounds for *force majeure* must be supplied by the party concerned in writing, within 10 days from the planned date of the check.

Article 12

1. Member States shall take such further steps as are necessary to apply this Regulation, including steps to avoid more than one application being lodged for a given area. Such steps shall be communicated to the Commission.

2. The Member States shall notify the areas in respect of which aid is granted.

Article 13

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

It shall apply from the 1990/91 marketing year.

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

Done at Brussels, 19 September 1990.

For the Commission

Ray MAC SHARRY

Member of the Commission