COMMISSION REGULATION (EEC) No 2349/91

of 31 July 1991

laying down detailed rules for the application of Regulation (EEC) No 1637/91 fixing compensation with regard to the reduction of the reference quantities referred to in Areticle 5c of Regulation (EEC) No 804/68 and compensation for the definitive discontinuation of milk production

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Regulation (EEC) No 1637/91 of 13 June 1991 fixing compensation with regard to the reduction of the reference quantities referred to in Article 5c of Regulation (EEC) No 804/68 and compensation for the definitive discontinuation of milk production [1], and in particular Article 5 thereof,

Whereas Regulation (EEC) No 1637/91 provides for compensation for the reduction of the reference quantities for the eigth period of application of the additional levy scheme; whereas this reduction will probably be maintained, at least in part, for later periods; whereas the quantity for which compensation is, or is to be, paid should be specified in each case;

Whereas the above Regulation provides for the possibility of the definitive disconinuation of milk production by producers against payment of compensation; whereas the procedures, obligations and timetable involved both with regard to the competent national authorities and to the producers themselves should be adopted;

Whereas, where the total of the applications eligible for compensation exceeds the amount of Community financing provided, the Member State concerned must be able to draw up rules for acceptance of applications according to objective criteria taking account of milk production structures;

Whereas, where the obligations laid down are not fulfilled, the producer is liable for payment of the additional levy for all deliveries or direct sales after the dates laid down for the definitive discontinuation of milk production; whereas, in addition, Member States should be obliged to take all the measures necessary for the implementation and control of the measure, including penal or administrative sanctions, in particular, to ensure the reimbursement of compensation wrongly paid;

Whereas the list of information to be submitted to the Commission for assessment of the effectiveness of the measures implemented should be drawn up and the submission dates set; whereas any decision taken by a Member State not to apply the programme for the discontinuation of milk production on its territory must, as an exception to the rule, be examined in the light of the general principles of Community law applicable in the sector; whereas this decision must therefore set out the grounds on which it is based;

Whereas for Milk and Milk Products has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

TITLE I

Compensation for the reduction of the reference quantities

Article 1

The reduction to be taken into consideration for the calculation of the compensation referred to in Article 1 of Regulation (EEC) No 1637/91 shall be equal to the difference between reference quantity available before 15 June 1991 and the reference quantity available at the end of the eighth twelve month period, less transfers of reference quantities referred to in Article 7 of Council Regulation (EEC) No 857/84 [1], as last amended by Regulation (EEC) No 1639/91 [2], or which have comparable legal effects, carried out from the eighth period, or, where the Member State so chooses from the date on which the producer is notified of the reduction of his reference quantity.

The amount of compensation shall be converted into national currency using the agricultural conversion rate in force on 17 June 1991.

Article 2

The reduction to be taken into consideration for the calculation of the compensation referred to in Article 2 (5) of Regulation (EEC) No 1637/91 shall be that referred to in Article 1 less the reference quantities allocated to the producer pursuant to Article 2 (4) (a) or (b) of Regulation (EEC) No 1637/91.

[1] OJ No L 150, 15. 6. 1991, p. 30.

[2] OJ No L 90, 1. 4. 1984, p. 13.
[3] OJ No L 150, 15. 6. 1991, p. 35.

The amount of compensation shall be converted into national currency using the agricultural conversion rate in force on the first day of each monetary year concerned.

TITLE II

Compensation for the definitive discontinuation of milk production

Article 3

Member States shall lay down the rules for the submission and acceptance of applications in accordance with Article 2 (2) (a) and (d) of Regulation (EEC) No 1637/91 and fix the amount and procedures for the payment of the compensation in accordance with Article 2 (3) of the above Regulation.

Article 4

1. Applications for compensation must be submitted by the producers concerned to the competent authority before a date to be laid down by the Member State the granting of and include, in particular, in addition to the information necessary for the calculation of the compensation referred to in Article 2 (2) (b) and (c) of Regulation (EEC) No 1637/91, a declaration by the producer certifying that he undertakes :

— not to withdraw the application after a time limit laid down by the Member State and, where the application is accepted :

— to discontinue milk production totally and definitively on the holding, within the meaning of Article 12 (d) of Regulation (EEC) No 857/84 before 1 April 1992 provided that the compensation provided for is paid,

— to give up any entitlement to a reference quantity in the context of the arrangements provided for in Article 5c of Regulation (EEC) No 804/68.

2. By milk production shall be understood all production of cows' milk by a producer as defined in the first subparagraph of Article 12 (c) of Regulation (EEC) No 857/84.

Article 5

1. The competent authority shall :

— verify the information referred to in Article 2 (2) (b) and (c) of Regulation (EEC) No 1637/91 and record the details of the undertaking referred to in Article 4,

— inform the producers concerned, no later than 1 March 1992, whether their application has been accepted or not and, where appropriate, inform the purchasers concerned.

2. Where the total of the applications eligible for compensation exceeds the amount laid down in the Annex to Regulation (EEC) No 1637/91 converted into national currency using the agricultural conversion rate in force on 17 June 1991, the Member State concerned shall determine rules for the acceptance of applications on the basis of one or more of the following criteria :

— the date of receipt of the application,

— the age of the producer,

— the size of the reference quantity,

— the criteria referred to in the fourth subparagraph of Article 2 (3) of Regulation (EEC) No 1637/91.

Article 6

1. For accepted applications, the first payment of the compensation shall only be made where the producer proves, to the satisfaction of the competent authority, that he has totally and definitively discontinued milk production by 31 March 1992 at the latest.

2. The compensation shall be paid on 16 October of each of the five years laid down at the earliest, without prejudice to the right of Member States to pay the compensation earlier and/or as a lump sum, provided that they prefinance the payments.

3. In the event of the death of the recipient of the compensation, his successors may receive the amounts of the compensation which remain due, on condition that the said successors give an undertaking to the competent authority to assume the obligations entered into by the deceased producer.

Article 7

Member States shall take all the measures required to recover any compensation already paid where the undertakings laid down have not been complied with and to ensure that interested parties are informed of the penal or administrative sanctions to which they will be subject if they fail to comply with the provisions of this Regulation.

Member States shall inform the Commission of the measures adopted to ensure compliance with the undertakings given and shall inform it every six months, beginning on 1 April 1993, of the position as regards administrative and legal proceedings relating thereto.

The sums recovered shall be transferred to the payment agencies or services and shall be debited by the latter from the expenditure financed by the Guarantee Section of the European Agricultural Guidance and Guarantee Fund.

TITLE III

Communications

Article 8

Where a Member State applies the second subparagraph of Article 2 (1) of Regulation (EEC) No 1637/91, it shall communicate to the Commission, before 1 November 1991, its reasoned decision and the rate of reduction applied pursuant to Article 2 (3) and Article 6 (3) and (4) of Regulation (EEC) No 857/84.

Article 9

Member States shall notify the Commission of the following :

— before 1 February 1992, the procedures for the submission and acceptance of applications, the amount of compensation and, where appropriate, the amount of the increase and the measures taken pursuant to the second subparagraph of Article 2 (2) (a) of Regulation (EEC) No 1637/91 ;

— where appropriate, before 1 March 1992, measures taken pursuant to Article 5 (2) of this Regulation,

— before 1 April 1992,

(a) the number of applications accepted according to the size of the reference quantities concerned, the reference quantities released in each region and the quantities intended for the producers referred to in Article 2 (4) (a), (b) and (c) and, in the case referred to in Article 2 (5) of Regulation (EEC) No 1637/91, the rate of reduction applied pursuant to Article 2 (3) and 6 (3) and (4) of Regulation (EEC) No 857/84 ;

(b) a report assessing the results of the measure giving, in particular, the impact on the regional development of milk production and, if possible, the reasons for producers' participation in the measure.

Article 10

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, 31 July 1991.

For the Commission

Ray MAC SHARRY

Member of the Commission