# COMMISSION REGULATION (EC) No 1846/95

## of 26 July 1995

## amending Commission Regulation (EEC) No 3886/92 of 23 December 1992 laying down detailed rules for the application of the premium schemes provided for in rules on the common organization of the market in beef

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 805/68 of 27 June 1968 on the common organization of the market in beef and veal (1), as last amended by Regulation (EC) No 424/95 (2), and in particular Article 4b (8), Article 4e (5), Article 4f (4), and Article 4g (5) thereof,

Whereas Commission Regulation (EEC) No 3886/92 (3), as last amended by Regulation (EC) No 3269/94 (4), provides for certain rules with respect to the granting of the special premium on slaughter, the transfer of suckler cow premium rights, the utilization of rights from the reserve and the method for calculating the density factor;

Whereas in the framework of the special premium granted on slaughter, option B, as referred to in section 2 of Regulation (EEC) No 3886/92, has not been applied by any Member State; whereas it is opportune, in the interests of administrative simplification, to proceed to the deletion of the aforementioned option; whereas, in the same framework of the granting of the special premium, it may be accepted that, also in the interests of administrative simplification, Member States may reasonably, accept that the statement of participation referred to in Article 9 of Regulation (EEC) No 3886/92 may remain valid as long as the producer does not wish to change it;

Whereas, in order to simplify the administration of premium rights and to allow further tolerance with regard to the current rule according to which producers who receive rights from the national reseve must avail themselves of 90 % of all their rights in the course of three calendar years, the abovementioned rule should be repealed;

Whereas, in order to ensure better mobilization of the premium rights which are available but not used by producers, the minimum percentage and frequency of use of rights should be increased, taking into account the particular situation of small producers;

Whereas provision should be made to allow flexibility in meeting the administrative deadline for the transfer of rights when a producer can prove that he has legally inherited rights from a deceased producer;

Whereas present provisions on the temporary leasing of rights to the suckler cow premium may lead to a number of such rights remaining frozen, yet inaccessible to other producers who might need them; whereas it is opportune to encourage the mobilization of these rights, and equally to foresee measures that will lead to rights being restored to producers who will benefit from them;

Whereas, in order to avoid, as far as possible, inequality of treatment amongst producers by aligning the administration of premium rights of producers who receive rights from the national reserve with those of producers who are compensated in the form of additional rights because of their participation in a Community extensification programme, the conditions governing the rules which prevent producers previously involved in an extensification programme from transferring or temporarily leasing his rights should be modified, and the obligation on those producers to use all their rights should be repealed;

Whereas, in order to ensure a proper monitoring of the number of additional rights granted to the abovementioned producers involved in an extensification programme, it is requried that Member States communicate the necessary information to the Commission, including that relating to previous marketing years;

Whereas Article 42 of Regulation (EEC) No 3886/92 provides for the determination of the number of animals that may be eligible for a premium; whereas, to facilitate controls and conversion calculations, a suckler cow should correspond to 1 LU in the same way as a dairy cow;

Whereas Regulation (EEC) No 3886/92 should be amended accordingly;

Whereas the Management Committee for Beef and Veal has not delivered an opinion within the time limit set by its chairman,

(1) OJ No L 148, 28. 6. 1968, p. 24.
(2) OJ No L 45, 1. 3. 1995, p. 2.
(3) OJ No L 391, 31. 12. 1992, p. 20.
(4) OJ No L 339, 29. 12. 1994, p. 46.

HAS ADOPTED THIS REGULATION:

*Article 1*

Regulation (EEC) No 3886/92 is amended as follows:

1. Article 8 is replaced by the following:

'*Article 8*

**Form of granting**

1. Member States may decide to grant the special premium at the time of slaughter or when the animals are first placed on the market with a view to being slaughtered, by granting the premium for the first age or second age bracket and by combining the granting of the premium for the two age brackets together, provided that their production structure so allows.

2. Member States which avail themselves of the system of granting premium provided for in paragraph 1 shall provide that the premium is to be granted also when eligible animals are being dispatched to another Member State or being exported to a third country.

3. Notwithstanding the provisions of Articles 2, 3 and 4 in the case of the applying the system referred to in paragraph 1, the grant of the premium shall be subject to compliance with the following-provisions.'

2. The following paragraph is added to Article 9:

'However, where the producer does not wish to make any changes to the statement of participation, the Member State may accept that the previous statement remains valid.'

3. In Article 15 the title 'Option A' and the following words 'Where option A is applied' are replaced respectively by the title 'Details of the system of granting' and by the words 'Where applying the system of granting premium referred to in the present section'.

4. Article 16 is repealed.

5. Article 18 is replaced by the following:

'*Article 18*

**Notification**

Member States shall notify the Commission before the start of the calendar year concerned their decision to apply the system of granting premium referred to in the present section and the relevant procedures.'

6. Article 32 is replaced by the following:

'*Article 32*

**Rights obtained free of charge**

Where a producer has obtained premium rights free of charge from the national reserve and except in duly justified exceptional cases he shall not be authorized to transfer and/or temporarily lease his rights during the three following calendar years.'

7. Article 33 is replaced by the following:

'*Article 33*

**Use of rights**

1. A producer holding rights may make use of them by either availing himself of those rights and/or leasing those rights to another producer.

2. Where a producer has not made use of at least 70 % of his rights during each calendar year, the part not used shall be transferred to the national reserve, except:

— in the case of a producer holding a maximum of seven rights to premium. Where this producer has not made use of at least 70 % of his rights during each of two consecutive calendar years, the part not used during the last calendar year shall be transferred to the national reserve,

— in the case of a producer participating in an extensification programme recognized by the Commission,

— in the case of a producer participating in an early retirement scheme recognized by the Commission in which the transfer and/or temporary lease of rights is not obligatory,

or

— in duly justified exceptional cases.

3. Temporary leasing shall only be in respect of whole calendar years and shall involve at least the minimum number of animals provided for in Article 34 (1). Over a period of five years from the first leasing a producer, except in the event of a transfer of rights, shall recover all his rights for himself, for at least two consecutive calendar years. During the abovementioned two-year period, the producer shall not be permitted to lease out any right. If the producer does not avail himself of at least 70 % of his rights during each year of this period, the Member State shall, except in duly justified exceptional cases, transfer annually to the national reserve that part of the rights not used by the producer.

However, for producers participating in early retirement schemes or who have, prior to the entry into force of Commission Regulation (EC) No 1719/94 (*), undertaken to participate in extensification programmes recognized by the Commission, Member States may provide for an extension of the total duration of the temporary lease on the basis of such programmes.

Producers who, subsequent to the entry into force of Regulation (EC) No 1719/94, undertake to participate in an extensification programme in accordance with the measure referred to in Article 2 (1) (c) of Council Regulation (EEC) No 2078/92 (**) shall not be authorized to temporarily lease and/or to transfer their rights throughout the period of that participation. However, this provision shall not apply:

— in cases where the extensification programme permits the transfer and/or temporary lease of rights to producers whose participation in the measures other than the extensification measure referred to in Article 2 of Regulation (EEC) No 2078/92 requires the acquisition of rights,

— to producers able to prove to the satisfaction of the competent authorities that, prior to the entry into force of Regulation (EC) No 1719/94, they had already notified those authorities of the transfer and/or temporary lease of rights in accordance with Article 34 (2).

(*) OJ No L 181, 15. 7. 1994, p. 4.
(**) OJ No L 215, 30. 7. 1992, p. 85.'

8. In Article 34:

(a) The following subparagraph is added to the end of paragraph 2:

'except in those cases where the transfer of rights takes effect through an inheritance. In that case, the producer who receives the rights must be in a position to furnish appropriate legal documents to prove that he or she is the beneficiary of the deceased producer.';

(b) paragraph 3 is deleted.

9. Article 35 is replaced by the following:

*'Article 35*

**Change of individual ceiling**

In the case of transfers or temporary leasing of premium rights, Member States shall set the new individual ceiling and shall notify the producers concerned not later than 60 days after the last day of the period during which the producer submitted his premium application, of the number of premium rights to which they are entitled.

This measure does not apply in the case where the transfer takes effect throught an inheritance.'

10. Article 38 (3) is replaced by the following:

'3. A producer who during the reference year chosen by the Member State participated in a programme of extensification of production pursuant to Council Regulation (EEC) No 797/85 (*) may, at his request, be granted at the end of his participation an additional number of premium rights equal to the difference between the number of premiums granted for the reference year and the number of premiums granted for the reference year and the number of premiums granted for the preceding year during the course of which the producer commenced his participation in the said programme. In that case, except in duly justified exceptional cases, the producer shall not be authorized to transfer or temporarily lease his rights during the following three calendar years.

Member States shall notify the Commission by 30 April of each year at the latest, of the number of premium rights granted to producers who have decided to take up the additional rights available to them as a consequence of their having participated in the abovementioned extensification programme. However, for 1993, 1994 and 1995, these communications shall take place by 31 July 1995 at the latest.

(*) OJ No L 93, 30. 3. 1985, p. 1.'

11. The second subparagraph of Article 42 (4) is replaced by the following:

'For the purposes of the conversion table in Annex I to Council Regulation (EEC) No 2328/91 (*) suckler cows and dairy dows shall count as 1,0 LU.

(*) OJ No L 218, 6. 8. 1991, p. 1.'

*Article 2*

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

It shall apply to premium rights relating to the 1996 and subsequent years with the exception of the measures provided for in:

— Article 1 (8) point 1 and Article 1 (9), which shall apply to premium rights relating to 1995 and subsequent years,

— Article 1 (10), which shall apply to premium rights relating to 1993 and subsequent years.

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

Done at Brussels, 26 July 1995.

*For the Commission*

Franz FISCHLER

*Member of the Commission*