COMMISSION REGULATION (EC) No 1847/95

of 26 July 1995

amending Regulation (EEC) No 3567/92 as regards detailed rules for the use and transfer of rights in the sheepmeat and goatmeat sector

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 3013/89 of 25 September 1989 on the common organization of the market in sheepmeat and goatmeat [1], as last amended by Council Regulation (EC) No 1265/95 [2], and in particular Article 5a point 4 and Article 5b point 4 thereof,

Whereas Commission Regulation (EEC) No 3567/92 [3], as last amended by Regulation (EC) No 2527/94 [4], provides for certain rules with respect to the transfer of premium rights and the use of rights from the reserve;

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 reserve must avail themselves of 90 % of all of their rights in the course of three marketing years, the abovementioned rule should be repealed;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 the frequency of use of rights should be increased;

Whereas the actual provisions relating to the leasing of premium rights may lead to a freezing of a certain number of rights, whilst other producers needing rights may not be able to abtain them; whereas it is opportune to encourage the mobilization of premium rights and equally to foresee measures that will lead to rights being restored to producers who will benefit from them;

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

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 previsouly involved in an extensification programme from transferring or temporarily leasing their 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 required that Member States communicate the necessary information to the Commission, including that relating to previous marketing years;

Whereas Regulation (EEC) No 3567/92 should be amended accordingly;

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

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 3567/92 is hereby amended as follows:

1. Article 6 is replaced by the following:

'Article 6

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 marketing years.'

[1] OJ No L 289, 7. 10. 1989, p. 1.
[2] OJ No L 123, 3. 6. 1995, p. 1.
[3] OJ No L 362, 11. 12. 1992, p. 41.
[4] OJ No L 269, 20. 10. 1994, p. 11.

2. The following Article 6a is inserted:

'Article 6a

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

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

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

— in the case 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 marketing years and shall involve at least the minimum number of animals provided for in Article 7 (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 years. During the abovementioned two-year period, the producer shall not be permitted to lease out any rights. 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 1720/94 (*) 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 1720/94 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 Artcile 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 1720/94, they had already notified those authorities of the transfer and/or temporary lease of rights in accordance with Article 7 (2).

(*) OJ No L 181, 15. 7. 1994, p. 6.
(**) OJ No L 215, 30. 7. 1992, p. 85.'

3. In Article 7:

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

'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 4 is deleted.

4. Article 9 is replaced by the following:

'Article 9

In the case of transfers or temporary leasing of premium rights, Member States shall set the new individual limit and shall notify the producer 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 through an inheritance under the conditions referred to in Article 7 (2).'

5. In Article 12 (3) is replaced by the following:

'3. A producer who during the 1991 marketing year 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 1991 marketing year and the number of premiums granted for the marketing year preceding the marketing year during the course of which the producer commenced his participation in the said programme. In that case, except under duly justified exceptional cases, the producer shall not be authorized to transfer or temporarily lease his rights during the following three marketing years.

Member States shall notify the Commission by 30 April of each marketing 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 the 1993, 1994 and 1995 marketing years, these communications shall take place by 31 July 1995 at the latest.

(*) OJ No L 93, 30. 3. 1985, 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 marketing years with the exception of the measures provided for in :

— Article 1 (3) (a) and Article 1 (4) which shall apply to premium rights relating to the 1995 and subsequent marketing years,

— Article (1) (5) which shall apply to premium rights relating to the 1993 and subsequent marketing 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