COMMISSION REGULATION (EC) No 2134/95

of 7 September 1995

amending Regulation (EEC) No 2814/90 and laying down certain detailed rules for the application of Council Regulation (EEC) No 3013/89 as regards the transfer of premium rights between members of the same producer groups and increasing the premium rights of certain sheepmeat and goatmeat producers in Italy and Greece

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 Regulation (EC) No 1265/95 [2], and in particular Article 5 (1) and (9) and Article 5a (4) thereof,

Having regard to Council Regulation (EEC) No 3901/89 of 12 December 1989 defining lambs fattened as heavy carcases [3], as last amended by Regulation (EC) No 1266/95 [4],

Whereas the last subparagraph of Article 5a (4) (b) of Regulation (EEC) No 3013/89 stipulates that the provision whereby, in the case of a transfer of premium rights without transfer of the holding, a part of the premium rights is to be surrendered without compensation to the national reserve does not apply to members of the same producer groups meeting certain conditions to be determined by the Commission in accordance with the procedure provided for in Article 30; whereas, in order to prevent irregularities, minimum conditions should consequently be laid down, the Member States being authorized, where applicable, to lay down additional conditions; whereas the penalties applying where such conditions are not met should also be specified;

Whereas the third and following subparagraphs of Article 5b (1) of Regulation (EEC) No 3013/89 provide for the establishment of special reserves with a ceiling of 600 000 rights for both Italy and Greece to permit them to grant additional rights to certain producers; whereas that Regulation lays down criteria for identifying such producers and for determining their additional rights and provides for a verification procedure by the Commission; whereas to that end provision should be made for a single centralized register to be kept by each Member State so that the producers concerned can be located and all the details needed for such verification are available; whereas, in addition, the penultimate subparagraph of the abovementioned Article 5b (1) provides that such verification must ensure that the additional rights will be allocated in such a way that such producers do not ultimately obtain more rights than would have been granted them had the situation which led to the creation of additional rights not occurred; whereas to that end provision should be made for the contribution referred to in the first subparagraph of abovementioned Article 5b (1) not to be included in the national reserve so that producers other than those referred to above may not benefit under the measure provided for in this Regulation;

Whereas the newly created additional rights constitute compensation by virtue of the fact that in Italy and Greece, 1991, which was the reference marketing year for determining rights, coincided with the switchover between two different premium systems resulting in under-estimation of rights; whereas the producers receiving such additional rights should not therefore be penalized by applying to them the condition laid down in Article 6 (1) of Commission Regulation (EEC) No 3567/92 [5], as last amended by Regulation (EC) No 1847/95 [6];

Whereas the second subparagraph of Article 1 (1) of Regulation (EEC) No 3901/89 provides for the introduction of a simplified procedure for verification of fattening as heavy carcases with regard to lambs belonging to a limited number of meat breeds reared in geographically well-defined areas; whereas to that end Commission Regulation (EEC) No 2814/90 of 28 September 1990 laying down detailed rules for the definition of lambs fattened as heavy carcases [7], as last amended by Regulation (EC) No 277/94 [8], should be amended to simplify the administrative verification procedure laid down while maintaining the obligation on producers to show they have actually fattened as heavy carcases all lambs born on

[1] OJ No L 289, 7. 10. 1989, p. 1.
[2] OJ No L 123, 3. 6. 1995, p. 1.
[3] OJ No L 375, 23. 12. 1989, p. 4.
[4] OJ No L 123, 3. 6. 1995, p. 3.
[5] OJ No L 362, 11. 12. 1992, p. 41.
[6] OJ No L 177, 28. 7. 1995, p. 32.
[7] OJ No L 268, 29. 9. 1990, p. 35.
[8] OJ No L 36, 8. 2. 1994, p. 3.

their holdings; whereas that obligation may be deemed to have been fulfilled where a check shows that the lambs present as a percentage of the ewes is above a minimum threshold determined by reference to normal breeding practice for the breeds and areas concerned;

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

HAS ADOPTED THIS REGULATION:

Article 1

1. To be eligible under the fourth subparagraph of Article 5a (4) (b) of Regulation (EEC) No 3013/89, members concerned of the same producer group must meet the following conditions:

— they must continue to be members of the group for at least the three marketing years following that in respect of which the transfer of rights is notified by the producer surrendering his rights;

— they must have the status of producers as defined in Article 1 of Council Regulation (EEC) No 3493/90 [1] and fulfil the obligations laid down in Article 2 of Commission Regulation (EEC) No 2385/91 [2] throughout the abovementioned period.

However, the above conditions shall not apply where, during the said period, the producer concerned transfers to another member of the group his remaining rights with his holding.

Furthermore, the Member States shall lay down additional conditions where necessary to avoid jeopardizing the application of the third subparagraph of Article 5a (4) (b) of Regulation (EEC) No 3013/89; they shall inform the Commission thereof.

2. Where, during the period referred to in paragraph 1, it is observed that at least one of the conditions laid down therein is not fulfilled, the third subparagraph of Article 5a (4) (b) of Regulation (EEC) No 3013/89 shall apply as from the marketing year during which failure to fulfil the condition(s) is observed; in such cases, the Member States shall immediately recover the corresponding rights. This measure shall apply without prejudice to additional penalties laid down nationally.

3. By 30 April each marketing year, the Member States shall notify the Commission of the number of producers and of animals falling within the scope of paragraph 1 during the preceding marketing year and, where applicable, the penalties as referred to in paragraph 2 and the number of rights recovered where such penalties are applied.

Article 2

The areas of Italy referred to in the second indent of Article 5b (1) (a) of Regulation (EEC) No 3013/89 shall be as listed in the Annex.

Article 3

1. The national reserve shall not receive the percentage provided for in the first subparagraph of Article 5b (1) of Regulation (EEC) No 3013/89 following the allocation of the additional rights provided for in the third subparagraph of that paragraph.

2. Before the end of the 1995 marketing year, Italy and Greece shall complete the administrative procedure for identifying the producers referred to in the third and following subparagraphs of Article 5b (1) of Regulation (EEC) No 3013/89.

To that end, those Member States shall in particular each keep a single centralized register enabling the producers concerned to be located by administrative unit; the registers shall in particular show in respect of each producer:

— the producer's name and address,

— the number of premium rights originally granted,

— the number of premium rights already granted from the national reserve, the conditions applying and the increase provided for under this Regulation,

— the number of premiums already granted for the 1991 and 1992 marketing years,

— the producer's category in accordance with the abovementioned subparagraphs under (a) first and second indent and under (b) first and second indent.

As soon as this identification procedure has been completed, Italy and Greece shall so inform the Commission; the latter shall carry out the requisite verifications and shall notify the two Member States concerned of the number of additional rights that have been newly created. On the basis of such notification, Italy and Greece shall be authorized to pay out the advances on and the balance of the premiums corresponding to such additional rights as fixed for the 1995 marketing year; they shall inform the Commission thereof.

Article 4

Notwithstanding Article 6 (1) and Article 7 (2) of Regulation (EEC) No 3567/92, producers who have obtained additional rights under this Regulation shall be authorized to transfer such rights and/or lease them temporarily. Those paragraphs shall, however, continue to apply to rights held before such additional rights were obtained.

[1] OJ No L 337, 4. 12. 1990, p. 7.
[2] OJ No L 219, 7. 8. 1991, p. 15.

Article 5

Article 2 of Regulation (EEC) No 2814/90 is hereby replaced by the following:

'*Article 2*

1. Producers marketing sheep's milk or sheep's milk products who wish to benefit under the derogation provided for in the second subparagraph of Article 1 (1) of Regulation (EEC) No 3901/89 with regard to lambs in the geographical areas and belonging to the breeds listed in the Annex hereto shall provide the following details in their premium applications, which must be submitted in the course of a set period between 1 November and 31 December preceding the beginning of the marketing year to which the premium relates:

— the actual or expected lambing periods when the lambs to be fattened as heavy carcases during the marketing year are born; if the actual lambing periods subsequently turn out to be significantly different from those expected as referred to above, the producer shall so notify the competent authoritiy in writing within one month of the change,

— the number of lambs expected to be born during each period as referred to above as a percentage of total lambs born during the marketing year,

— an undertaking to rear on the holding all lambs born to ewes declared in the premium application and to fatten them as heavy carcases.

Notwithstanding the first subparagraph of Article 1 (1) of Regulation (EEC) No 3901/89, lambs present with the ewes at the time of the inspection shall be considered to be fattened as heavy carcases, the inspection being carried out during a period which allows the lambs to fulfil the conditions on fattening laid down in paragraph 1 (c) of that Article.

2. Producers complying with the obligations set out in paragraph 1 shall receive the premium for the heavy category referred to in Article 5 (4) of Regulation (EEC) No 3013/89 in respect of all their eligible ewes; to that end the undertaking to rear on their holdings all lambs born to ewes declared shall be considered to have been fulfilled if, at the time of the inspection, except in duly justified exceptional circumstances, the number of lambs present as a percentage of ewes which have lambed during the lambing period covering the lambs subject to the inspection is at least 70 %; otherwise, the premium for the light category shall be paid for the eligible ewes provided that, in the view of the competent authority, the difference is not due to a false declaration made deliberately or through serious negligence.

Where the competent authority finds that the information contained in a premium application pursuant to paragraph 1 constitutes a false declaration made deliberately or through serious negligence, the producer concerned shall also loss the right to the premium in accordance with Article 5 (3) of Regulation (EEC) No 3013/89 for the marketing year in respect of which the false declaration is found to have been made.'

Article 6

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 premiums to be granted in respect of 1995 and subsequent marketing years.

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

Done at Brussels, 7 September 1995.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX

List of areas of Italy referred to in the second indent of Article 5b (1) (a) of Regulation (EEC) No 3013/89

Regions:

- Marche, Sardinia } whole territory
- Piedmont: provinces of Novara and Vercelli
- Provincia Autonoma di Trento: whole territory