COMMISSION REGULATION (EC) No 455/95

of 28 February 1995

amending Regulation (EEC) No 1547/87 and (EEC) No 1589/87 as regards the buying-in of butter by the intervention agencies and Regulations (EEC) No 2191/81 and (EEC) No 570/88 as regards the grant of aid for the purchase and sale of butter at a reduced price to certain categories of consumers and industries

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 804/68 of 27 June 1968 on the common organization of the market in milk and milk products [1], as last amended by the Act of Accession of Austria, Finland and Sweden, and in particular Article 6 (6), the first subparagraph of Article 7a (1), Article 7a (3), Article 12 (3) and Article 28 thereof,

Whereas Council Regulation (EEC) No 985/68 of 15 July 1968, laying down general rules for intervention on the market in butter and cream [2], as last amended by Regulation (EEC) No 2045/91 [3], has been repealed with effect from 1 March 1995 by Council Regulation (EC) No 2807/94 [4]; whereas some of the rules in Regulation (EEC) No 985/68 have been incorporated into Article 6 of Regulation (EEC) No 804/68, as last amended by Regulation (EC) No 2807/94; whereas Commission Regulation (EEC) No 685/69 of 14 April 1969, detailing rules of application for intervention on the market in butter and cream [5], as last amended by Regulation (EC) No 393/94 [6], was recast when being amended as a result of the repeal of Regulation (EEC) No 985/68; whereas it has also been repealed with effect from 1 March 1995, as a result;

Whereas Commission Regulation (EEC) No 1547/87 of 3 June 1987, laying down detailed rules for applying Regulation No 777/87 as regards the buying-in of intervention butter [7], as last amended by Regulation (EC) No 1634/94 [8], Commission Regulation (EEC) No 1589/87 of 5 June 1987, on the sale by tender of butter to intervention agencies [9], as last amended by Regulation (EC) No 3337/94 [10], Commission Regulation (EEC) No 2191/81 of 31 July 1981, on the granting of aid for the purchase of butter by non-profit making institutions and organizations [11], as last amended by Regulation (EC) No 3337/94, Commission Regulation (EEC) No 570/88 of 16 February 1988, on the sale of butter at reduced prices and the granting of aid for cream, butter and concentrated butter for use in the manufacture of pastry products, ice-cream and other food products, as last amended by Regulation (EC) No 3337/94, make reference to the provisions of Regulations (EEC) No 985/68 and (EEC) No 685/69; whereas the above Regulations should be amended by substituting therein references to Commission Regulations (EEC) No 804/68 and (EC) No 454/95 [12] applicable from 1 March 1995; whereas, furthermore, Regulation (EEC) No 1589/87 should be amended so that butter manufactured in a Member State other than that of the purchasing intervention agency can be bought into intervention and the reference to Commission Regulation (EEC) No 777/87 [13] should be corrected in Regulation (EEC) No 1547/87;

Whereas Regulation (EEC) No 2191/81 lays down that the same amount of aid shall be granted for the buying-in of butter irrespective of the butter's minimum fat content; whereas, given the sales achieved and the situation on the market in butter, the amount of aid for butter of a minimum fat content of 82 % should be reduced and a coefficient should be determined to apply to this aid in the case of butter with a minimum fat content of 80 %; whereas the aid is granted to the butter supplier upon written application and upon presentation of a numbered voucher valid for one month; whereas the Member States should be given the option of lengthening the validity of the voucher to three calendar months with a view to facilitating the administrative work involved;

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

[1] OJ No L 148, 28. 6. 1968, p. 13.
[2] OJ No L 169, 18. 7. 1968, p. 1.
[3] OJ No L 187, 13. 7. 1991, p. 1.
[4] OJ No L 298, 19. 11. 1994, p. 1.
[5] OJ No L 90, 15. 4. 1969, p. 12.
[6] OJ No L 53, 24. 2. 1994, p. 11.
[7] OJ No L 144, 4. 6. 1987, p. 12.
[8] OJ No L 150, 15. 6. 1991, p. 26.
[9] OJ No L 146, 6. 6. 1987, p. 27.
[10] OJ No L 350, 31. 12. 1994, p. 66.
[11] OJ No L 213, 1. 8. 1981, p. 20.
[12] OJ No L 55, 1. 3. 1988, p. 31.
[13] See page 1 of this Official Journal.

HAS ADOPTED THIS REGULATION :

Article 1

1. Regulation (EEC) No 1547/87 is hereby amended as follows :

(a) The reference to 'the last subparagraph of Article 2 (2) of Regulation (EEC) No 685/69' in the second subparagraph of Article 1 (1) is replaced by 'Article 4 (5) of Regulation (EC) No 454/95'.

(b) Article 2 is amended as follows :

1. in the first sentence, the reference to 'Article 1 (4) of Regulation (EEC) No 777/87' is replaced by 'Article 1 (3) of Regulation (EEC) No 777/87' ;

2. in the first indent the reference to 'Article 1 (3) of Regulation (EEC) No 985/68' is replaced by 'Article 6 (1) of Regulation (EEC) No 804/68'.

(c) The following indent is added to the second subparagraph of Article 4 (1) :

'— where the transactions relating to butter of the quality referred to in the first indent of Article 2 are not considered to cover a sufficiently large volume to be representative, the criteria for establishing the ratio between the prices of butter for which there is a sufficient number of transactions and those for the butter referred to in Article 2'.

(d) The second indent of Article 5 is replaced by the following :

'— the quantities of butter subject to an offer to sell recorded in accordance with Article 4 (5) of Regulation (EC) No 454/95'.

2. Regulation (EEC) No 1589/87 is amended as follows :

(a) The second and third subparagraphs of Article 1 are replaced by the following :

'Title I of Regulation (EC) No 454/95 shall apply to the purchases made under this Regulation, with the exception of Articles 2 (c), 4 (5) and 5 (1).'

(b) Article 3 is amended as follows :

(i) the second indent of paragraph 1 is replaced by the following :

'if they undertake in writing to comply with Article 5 (3) and (4) of Regulation (EC) No 454/95' ;

(ii) paragraph 2 is replaced by the following :

'2. Interested parties shall participate in the invitations to tender issued by the intervention agency of a Member State either by lodging a written tender against advice of receipt or by any other means of written communication with advice of receipt.'

(c) Article 7 (1) (c) is replaced by the following :

'(c) The cold storage depot where it is to be delivered.'

(d) The following is added to Article 9 :

'provided that the conditions laid down in Article 2 of Regulation (EC) No 454/95 have been complied with.'

3. Regulation (EEC) No 2191/81 is amended as follows :

(a) The first indent of Article 1 (3) (b) is replaced by the following :

'— butter which, in the manufacturing Member State, satisfies the conditions laid down in Article 6 (2) of Regulation (EEC) No 804/68 and the requirements of the national quality class listed in Annex II to Regulation (EC) No 454/95 and the packaging of which is marked accordingly.'

(b) Article 2 (1) is replaced by the following :

'1. The amount of the aid shall be ECU 139 per 100 kg of butter.

In the case of the butter referred to in the third indent of Article 6 (2) of Regulation (EEC) No 804/68, the amount of the aid laid down in the preceding subparagraph shall be multiplied by 0,9756.

Should the aid amount be changed, the new amount shall apply to all deliveries of butter made on the basis of the voucher valid for the month following the month in which the new amount was fixed.

However, in the case of a voucher that is valid for more than one month, if the new amount is fixed before the last month in which the voucher is valid, the new amount shall apply to all deliveries of butter made after the beginning of the month following the month in which the new amount was fixed.'

(c) Article 3 (5) is replaced by the following :

'5. The voucher shall be valid for the calendar month indicated on it. However, taking over may be done from the 20th day of the month preceding the calendar month indicated on the voucher up to the 10th day of the month following the calendar month indicated thereon.

The previous subparagraph notwithstanding, the Member States may provide for a voucher validity of two or three calendar months. In such cases, the months of validity must be indicated on the voucher and taking over may be done from the 20th day of the month preceding the first calendar month indicated on the voucher up to the 10th day of the month following the last calendar month indicated thereon.'

4. The first sentence of Article 1 (1) (a) of Regulation (EEC) No 570/88 is replaced by the following:

'(a) butter produced directly and exclusively from pasteurized cream and which, in the manufacturing Member State, satisfies the conditions laid down in Article 6 (2) of Regulation (EEC) No 804/68 and the requirements of the national quality class listed in Annex II to Regulation (EC) No 454/95 and the packaging of which is marked accordingly.'

Article 2

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

It shall apply from 1 March 1995.

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

Done at Brussels, 28 February 1995.

For the Commission

Franz FISCHLER

Member of the Commission