COMMISSION REGULATION (EC) No 330/96

of 23 February 1996

amending Regulation (EEC) No 3929/87 on harvest, production and stock declarations relating to wine-sector products

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 822/87 of 16 March 1987 on the common organization of the market in wine (1), as last amended by Regulation (EC) No 1544/95 (2), and in particular Articles 3 (4), 36 (6), 39 (7) and 81 thereof,

Whereas the application of the rules concerning intervention measures in the wine sector makes it necessary to know not only the volume of production but also the area of vineyards and the yield per hectare; whereas this information is gathered by means of the declatations submitted by operators pursuant to Commission Regulation (EEC) No 3929/87 (3), as last amended by Regulation (EC) No 1991/94 (4);

Whereas information on yield and/or vineyard area may be inaccurate where the declarant did not have the necessary means of verification at his disposal; whereas provision should therefore be made in such cases for penalties varying according to the seriousness of the inaccuracies;

Whereas the arrangements currently in force do not allow a sufficient degree of proportionality between the penalties to be applied and the omissions or errors detected in a declaration submitted by a winegrower; whereas, therefore, Member States should be allowed to adjust the penalty according to the adjustment made; whereas the present rules on this matter should therefore be amended;

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

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 3929/87 is amended as follows:

1. Article 11 is replaced by the following:

'*Article 11*

Persons required to submit harvest, production or stock declarations who do not submit such declarations by the time limits specified in Article 5 shall not, except in the case of *force majeure,* benefit from the measures provided for in Articles 32, 38, 41, 45 and 46 of Regulation (EEC) No 822/87 for the wine year concerned nor for the following wine year.

However, exceeding the time limits referred to in the first paragraph shall entail a reduction of only 15 % of the amounts payable for the wine year in question where those time limits are exceeded by not more than five working days, and by 30 % where they are exceeded by not more than ten working days.'

2. The following Article 11a inserted:

'*Article 11a*

1. Persons required to submit harvest, production or stock declarations who submit declarations found to be incomplete or incorrect by the competent authorities of the Member State may benefit from the measures provided for in Articles 32, 38, 41, 45 and 46 of Regulation (EEC) No 822/87 only if the missing or incorrect details are not essential to the proper application of the measures in question.

2. Except in cases of *force majeure,* where the declarations by natural or legal persons or groups of such persons referred to in Article 2 concern the production of table wine and are found to be incomplete or incorrect by the competent authorities of the Member States, and where knowledge of the missing or incorrect details is essential for the proper application of the measures referred to in paragraph 1 and those errors are such as to produce under-estimates of yields, the Member State shall apply the following penalties without prejudice to national penalties:

(a) as regards the measures referred to in Article 32, 45 and 46 of Regulation (EEC) No 822/87, aid shall be reduced in the following proportions:

— by the same percenetage as the percentage of the adjustment of the yield where that adjustment is not more than 5 %,

— by twice the percentage of the adjustment of the yield where that adjustment is more than 5 % and not more then 20 %.

Neither this aid nor that for the following marketing year shall be granted where the adjustment of the yield is more than 20 %.

(1) OJ No L 84, 27. 3. 1987, p. 1.
(2) OJ No L 148, 30. 6. 1995, p. 31.
(3) OJ No L 369, 29. 12. 1987, p. 59.
(4) OJ No L 200, 3. 8. 1994, p. 10.

Where the error detected in the declaration arises from information supplied by other operators and/or associates whose names are entered in the required documents and that information cannot be checked *a priori* by the declarant, the aid shall only be reduced by the percentage of the adjustment made;

(b) as regards the measures referred to in Articles 38 and 41 of Regulation (EEC) No 822/87:

(i) where the wine delivered for distillation has not yet been paid for, the price payable by the distiller to the declaring producer shall be reduced as follows:

— by the same percentage as the percentage of the adjustment of the yield where that adjustment is not more than 5 %,

— by twice the percentage of the adjustment of the yield where that adjustment is more than 5 % and not more than 20 %.

Neither this aid nor that for the following wine year shall be granted where the error involves an adjustment of the yield of more than 20 %.

Where the error detected in the declaration arises from information supplied by other operators and/or associates whose names are entered in the required documents and that information cannot be checked *a priori* by the declarant, the aid shall be reduced only by the percentage of the adjustment made.

The competent authorities shall adjust the aid to be paid to the distiller in proportion to the price paid to the producer;

(ii) where the wine delivered for distillation has already been paid for, the competent authorities shall impose on the distiller the obligation to recover from the declaring producers the amounts referred to in point (i). The aid to be paid to the distiller shall be adjusted in proportion to the price finally owed to the producer;

(c) where the aid referred to under (a) and (b) has already been paid, the competent authorities shall recover the excess amount of aid paid plus interest at the rate current in the Member State from the date of payment of the aid until its recovery;

(d) any excess in the advance aid obtained in application of the rules on that matter must be returned to the competent agency plus interest at the rate current in the Member State from the date of the payment of the advance until its recovery.'

Article 2

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, 23 February 1996.

For the Commission

Franz FISCHLER

Member of the Commission