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COUNCIL REGULATION (EC) No 1554/97

of 22 July 1997

amending Regulation (EEC) No 1696/71 on the common organization of the market in hops

(OJ L 208, 2.8.1997, p. 1)

Corrected by:

►**C1** Corrigendum, OJ L 230, 21.8.1997, p. 19 (1554/97)

NB: This consolidated version contains references to the European unit of account and/or the ecu, which from 1 January 1999 should be understood as references to the euro — Council Regulation (EEC) No 3308/80 (OJ L 345, 20.12.1980, p. 1) and Council Regulation (EC) No 1103/97 (OJ L 162, 19.6.1997, p. 1).

▼B

COUNCIL REGULATION (EC) No 1554/97

of 22 July 1997

amending Regulation (EEC) No 1696/71 on the common organization of the market in hops

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 42 and 43 thereof,

Having regard to the proposal from the Commission [1],

Having regard to the opinion of the European Parliament [2],

Having regard to the opinion of the Economic and Social Committee [3],

(1) Whereas aid to producers should be used principally to ensure higher and more stable incomes; whereas any amount withheld with a view to attaining the aims of producer groups as laid down in Article 7 (1) (a) to (d) of Regulation (EEC) No 1696/71 [4] must accordingly be subject to a fair ceiling; whereas Article 7 (1a) of that Regulation must be amended accordingly;

(2) Whereas increasing aid for other varieties is likely to result in a considerable rise in the areas under those varieties to the detriment of the quality produced; whereas, given overplentiful supply and weak demand, prices for such varieties could plummet, forcing producer groups to exercise their right of veto and to buy back the hops; whereas such hops may not find purchasers on the market and major stocks of varieties of poorer quality are liable to build up within producer groups; whereas this could destabilize the market; whereas, to prevent such a situation from arising, producer groups should decide what varieties can be grown by their members; whereas, to that end, Article 7 (1) (d) and the first subparagraph of Article 7 (3) (b) should be amended;

(3) Whereas Article 7 (3) (b) of Regulation (EEC) No 1696/71 provides for an obligation in principle on producers who are members of groups and on recognized producer groups which are members of unions to sell all their produce through the group or union; whereas the application of that principle has proved highly problematic for Community producers, a majority of whom are members of one and the same group; whereas the transitional period laid down in the last subparagraph of the abovementioned provision, during which the members of a recognized group may, on condition they are so authorized by the latter, market all or part of their produce themselves in accordance with the rules laid down and under the group's supervision, expires on 31 December 1996; whereas, as a consequence, a decision should be taken on the arrangements to apply from 1 January 1997 and Article 7 (3) (b) should be amended accordingly;

(4) Whereas it would be detrimental to withdraw recognition from producer groups, which, moreover, diligently perform all their other tasks, such as the administration of aid to producers and the attainment of their aims as referred to above; whereas members of recognized producer groups should accordingly be granted the option of marketing all or part of their produce themselves, without suffering any reduction in the aid by way of a penalty, where they are so authorized by the group and on condition that the latter enjoys the right to monitor prices negotiated between

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[1] OJ No C 127, 24. 4. 1997, p. 11.
[2] Opinion delivered on 18 July 1997 (not yet published in the Official Journal).
[3] Opinion delivered on 29 May 1997 (not yet published in the Official Journal).
[4] OJ No L 175, 4. 8. 1971, p. 1. Regulation as last amended by Regulation (EC) No 3290/94 (OJ No L 349, 31. 12. 1994, p. 105).

▼B

producers and traders and can veto them; whereas in the same connection producers so desiring should be allowed to sell part of their produce through another producer group designated by their own group where products with special characteristics not necessarily covered by the commercial activities of the latter are concerned;

(5) Whereas each producer group has its own special characteristics as regards conditions of production and marketing; whereas it is accordingly in the best position to take a decision at any time on behalf of its members as to what steps should be taken quickly to adapt production to market requirements; whereas this latitude presupposes the introduction of some flexibility as regards budget funds and management;

(6) Whereas, to that end, the aid must be paid at the time of the harvest concerned, no distinction being made between groups of varieties; whereas this implies abandoning the method of calculation laid down in Article 12 (5) (a) and (b), which is based on declarations by the Member States; whereas it should be replaced by flat-rate aid per hectare calculated on the basis of historical averages; whereas, in the event of market disturbance, the aid can be paid in respect of only part of the areas under hops; whereas it should also be possible in such cases to vary the aid; whereas paragraph 6 of that Article should be amended and paragraph 7 deleted;

(7) Whereas producer groups should be able to decide whether to pay the flat-rate aid in full to their members in proportion to area cultivated or only a percentage of between 80 % and 100 % thereof; whereas Article 7 (1) (e) relating to the administration of the aid scheme should accordingly be adapted;

(8) Whereas producer groups should be able to withhold up to 20 % of the aid with a view to achieving the aims set out in ►C1 Article 7 (1) (a) - (d) ◄, mainly or exclusively for purposes of varietal conversion, where there is still a need; whereas, among the other special measures, it is possible to develop research in the plant health field; whereas that research should concentrate on the use of environmentally-friendly techniques and methods; whereas to that end the expression 'Integrated Crop Protection' can be used;

(9) Whereas, where producer groups do not market all the produce of their members, the abovementioned option becomes an obligation; whereas it should be incorporated in Article 12 (5);

(10) Whereas the aid withheld can be accumulated over a maximum period of five years; whereas at the end of that period all aid withheld must have been spent; whereas this point should be incorporated in Article 12 (5);

(11) Whereas, with a view to rationalization and simplification, payments should henceforth be made once a year only and should cover both aid to producers and aid for varietal conversion; whereas such payments should be made soon after the harvest and in any case by 31 December of the year concerned; whereas, however, that date has already passed as regards the 1996 harvest and a suitable solution should therefore be found; whereas Article 17 should be amended to that end;

(12) Whereas provision should be made to assess the measures introduced and their impact on the economic situation of the sector and proposals should be made, if appropriate; whereas that obligation should be incorporated in Article 18,

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HAS ADOPTED THIS DECISION:

Article 1

Regulation (EEC) No 1696/71 is amended as follows:

1. in Article 7:

(a) paragraph 1 (a) shall be replaced by the following:

'(a) concentrating supply and stabilizing the market by marketing all the produce of the members or, if necessary, by purchasing hops at a higher price than that laid down in Article 7 (3) (b);'

(b) paragraph 1 (b) shall be replaced by the following:

'(b) adapting such production jointly to the requirements of the market and improving the product by converting to other varieties, by reorganizing hop gardens, by carrying out promotion, and by conducting research into production, marketing and integrated protection;'

(c) paragraph 1 (c) shall be replaced by the following:

'(c) promoting the rationalization and mechanization of cultivation and harvesting operations in order to render production more profitable and better protect the environment;'

(d) paragraph 1 (d) shall be replaced by the following:

'(d) deciding what varieties of hops may be grown by its members and adopting common rules on production;'

(e) paragraph 1 (e) shall be replaced by the following:

'(e) managing the aid system provided for in Article 12 by allocating the share of the aid to each member of the group in proportion to area cultivated, subject to the application of paragraph 5 of that Article;'

(f) paragraph 1a shall be replaced by the following:

'1a. Producer groups may use up to 20 % of the aid for measures designed to attain the aims referred to in paragraph 1 (a) to (d);'

(g) paragraph 3 (b) shall be replaced by the following:

'(b) include an obligation in their statutes on producers who are members of groups and on recognized producer groups which are members of unions to:

— comply with the common rules on production and decisions on the varieties to be grown,

— market all their produce through the group or the union.

That obligation shall not apply, however, to products covered by sales contracts concluded by producers before they joined the group, provided that the latter is informed of and has approved such contracts.

However, where the producer group so authorizes and under the conditions it lays down, member producers may:

— replace the obligation to have all their production marketed by the producer group with marketing in accordance with common rules incorporated in the statutes to ensure that the producer group has the right to monitor selling prices, which it must approve, failure to do so requiring the group to take over the hops at a higher price;

— market, through the offices of another producer group designated by their own group, products which by virtue of their characteristics are not necessarily covered by the commercial activities of the latter.';

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2. Article 9 shall be deleted;

3. Article 10 shall be replaced by the following:

'Article 10

1. The Council, acting in accordance with the voting procedure laid down in Article 43 (2) of the Treaty on a proposal from the Commission, shall adopt general rules for the application of Article 8.

2. Detailed rules for the application of Article 8 shall be adopted in accordance with the procedure provided for in Article 20.';

4. in Article 12:

(a) paragraph 3 shall be replaced by the following:

'3. (a) In those Community regions in which recognized producer groups are able to ensure a fair income for their members and to achieve rational management of supply, the aid shall be granted to such producer groups alone.

(b) In the specific case where a producer is established in a Member State other than that of the group of which he is a member, the full amount of the aid shall be paid directly to that producer by the competent authorities of the Member State in which he is established.

(c) In the other regions, aid shall also be granted to individual producers.';

(b) paragraph 5 shall be replaced by the following:

'5. (a) The aid per hectare shall be the same for all groups of varieties. For five years from the 1996 harvest, it shall amount to ECU 480/ha.

(b) Where the aid is granted to a recognized producer group in accordance with the first subparagraph of paragraph 3, the group shall be able to decide whether to pay the full aid each year, to its members in proportion to the area they cultivate or only a percentage of at least 80 % thereof, depending on whether there are still applications pending for varietal conversion or possibly other aims to be attained in accordance with ►C1 Article 7 (1) (a) - (d). ◄

(c) Where the aid is granted to a recognized producer group and where that body does not market all the produce of its members, it shall each year withhold 20 % of the aid to producers to attain the aims referred to in (b).

(d) The aid withheld may be accumulated for a maximum period of five years; at the end of that period all aid withheld must have been spent.

(e) In the case referred to in paragraph 3 (b) of this Article, the producer in question must pay to the producer group of which he is a member an amount equivalent to the amount withheld in accordance with points (b) or (c) above.';

(c) paragraph 6 shall be replaced by the following:

'6. Where the report referred to in Article 11 shows that there is a risk of creating structural surpluses or disturbance in the supply structure of the Community hop market, the Council, acting on a proposal from the Commission in accordance with the procedure laid down in Article 43 (2) of the Treaty, may adjust the amount of the aid set in paragraph 5 either:

(a) by granting the aid solely in respect of part of the area under hops registered for the year in question, adjusting the aid where the need arises; or

(b) by declaring ineligible for aid those areas under hops which are in their first and/or second year of production.';

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(d) paragraph 7 shall be deleted;

5. Article 12a shall be deleted;

6. Article 16 shall be replaced by the following:

'Article 16

Except where otherwise provided for in this Regulation, Articles 92, 93 and 94 of the Treaty shall apply to production of and trade in the products referred to in Article 1 (1).';

7. Article 17 shall be replaced by the following:

'Article 17

1. The Regulations on the financing of the common agricultural policy shall apply to the market in the products referred to in Article 1 (1) from the date of implementation of the arrangements laid down herein.

2. The aid granted by the Member States pursuant to Article 8 shall constitute a common measure within the meaning of Article 2 (1) of Regulation (EEC) No 4256/88 ([1]). It shall be covered by the annual expenditure forecasts referred to in Article 31 (1) of Regulation (EEC) No 2328/91 ([2]).

Article 1 (3) of Regulation (EEC) No 2328/91 shall apply to the aid covered by this paragraph.

The aid shall be paid in accordance with Article 21 of Regulation (EEC) No 4253/88 ([3]).

3. The Member States shall pay the aid to the producers as soon as possible after the harvest and by no later than 15 October 1997 in respect of the 1996 harvest and, as from the 1997 harvest on, between 16 October and 31 December of the marketing year in respect of which the aid is applied for.

4. The Commission shall adopt detailed rules for the application of this Article.

([1]) Council Regulation (EEC) No 4256/88 of 19 December 1988 laying down provisions for implementing Regulation (EEC) No 2052/88 as regards the EAGGF Guidance Section (OJ No L 374, 31. 12. 1988, p. 25). Regulation as amended by Regulation (EEC) No 2085/93 (OJ No L 193, 31. 7. 1993, p. 44).

([2]) Council Regulation (EEC) No 2328/91 of 15 July 1991 on improving the efficiency of agricultural structures (OJ No L 218, 6. 8. 1991, p. 1). Regulation as last amended by Commission Regulation (EC) No 2387/95 (OJ No L 244, 12. 10. 1995, p. 50).

([3]) Council Regulation (EEC) No 4253/88 of 19 December 1988 laying down provisions for implementing Regulation (EEC) No 2052/88 as regards coordination of the activities of the different Structural Funds between themselves and with the operations of the European Investment Bank and the other existing financial instruments (OJ No L 374, 31. 12. 1988, p. 1). Regulation as last amended by Regulation (EC) No 3193/94 (OJ No L 337, 24. 12. 1994, p. 11).';

8. Article 18 shall be replaced by the following:

'Article 18

The Member States and the Commission shall send each other such information as is necessary for the implementation of this Regulation. The procedure for forwarding, assessing and disseminating such information shall be adopted in accordance with the procedure laid down in Article 20.

On the basis of that information the Commission shall undertake to draw up an assessment of the sector for the Council of the European Union before 1 September 2000; that assessment may, if appropriate, be accompanied by proposals.'

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Article 2

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

It shall apply from 1 January 1997.

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