COMMISSION REGULATION (EC) No 2467/97

of 11 December 1997

laying down detailed rules for the application of Council Regulation (EC) No 2200/97 on the improvement of the Community production of apples, pears, peaches and nectarines

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2200/97 of 30 October 1997 on the improvement of the Community production of apples, pears, peaches and nectarines (1), and in particular Article 6 thereof,

Whereas, in order to meet the objectives of Regulation (EC) No 2200/97, the conditions should be laid down for granting the premium for the grubbing up of apple trees, pear trees, peach trees and nectarine trees provided for in that Regulation, hereinafter called 'the grubbing up premium'; whereas, to that end, the areas and the fruit trees which may be grubbed up and the level of the premium should be determined;

Whereas, in order to ensure the effectiveness of the scheme and to permit an assessment of the results of its implementation, it is essential that the particulars which are to appear in the application for the premium should be specified and that the accuracy of such information should be checked; whereas the undertakings to be given by the applicant with regard to the planting of apple trees, pear trees, peach trees and nectarine trees on his holding after grubbing up should be laid down; whereas the information to be provided by the Member States to the Commission after grubbing up should be specified; whereas that information should be broken down by variety and area of production as set out in Annexes II and III to Commission Decision 77/144/EEC of 22 December 1976 laying down the standard code and rules governing the transcription into a machine-readable form of the data of the surveys of plantations of certain species of fruit trees, and laying down the boundaries of the production areas for these surveys (2), as last amended by Decision 96/689/EC (3);

Whereas, in accordance with Article 1 (2) of Regulation (EC) No 2200/97, the conditions under which the Commission may alter the allocation by Member State mentioned in that Article and the conditions under which the Member States determine the areas which may receive the grubbing up premium should be established;

Whereas, in order to avert the risk of the grubbed up trees being replanted, provision should be made for them to be rendered unsuitable for such use;

Whereas, before the premium is paid, it should be established that grubbing up has actually taken place;

Whereas all the provisions necessary to ensure compliance with the undertakings given by the recipient of the grubbing-up premium and the penalties to be imposed in the event of non-compliance should be laid down;

Whereas the operative event for the conversion rate is set at 1 January of the year to which the decision to pay the aid relates, in accordance with Article 11 (2) of Commission Regulation (EEC) No 1068/93 (4), as last amended by Regulation (EC) No 1482/96 (5);

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

HAS ADOPTED THIS REGULATION:

Article 1

1. For the purposes of applying Regulation (EC) No 2200/97, regard shall be had only to healthy apple trees, pear trees, peach trees and nectarine trees capable of producing a normal crop of apples, pears, peaches and nectarines, but not to cider-apple trees or perry-pear trees.

2. The grubbing up must relate to complete parcels or, where necessary to satisfy the requirements of Article 2 (1) (a) of Regulation (EC) No 2200/97, a continuous part of a single parcel.

Article 2

1. For each of the products referred to in Article 1 (1) the grubbing up premium shall be ECU 5 000 per hectare where the whole orchard of the product concerned is grubbed up and ECU 4 000 per hectare in other cases.

2. For the purposes of paragraph 1, the orchard shall be that worked by the applicant at 30 October 1997.

(1) OJ L 303, 6. 11. 1997, p. 3.
(2) OJ L 47, 18. 2. 1977, p. 52.
(3) OJ L 318, 7. 12. 1996, p. 14.
(4) OJ L 108, 1. 5. 1993, p. 106.
(5) OJ L 188, 27. 7. 1996, p. 22.

Article 3

1. Applications for the grubbing up premium shall be submitted to the competent authorities of the Member States before commencement of the grubbing up operations and not later than 15 February 1998. Member States may set an earlier deadline for submission. Applications shall contain the following:

(a) the name and address of the applicant;

(b) the name, if any, and address of the holding concerned;

(c) for each parcel planted with apple trees, pear trees, peach trees and/or nectarine trees, the total area planted with those species, broken down by species, and the information, of an administrative nature, from the land register and/or in graphic form, required to identify and locate the parcel and the area planted;

(d) for each of the parcels on which grubbing up operations are to take place and for which the premium is applied for, the total number of trees within the meaning of Article 1 (1), broken down by species, and the breakdown by variety of the area planted;

(e) where necessary, the information, of an administrative nature, from the land register and/or in graphic form, required to identify and locate the parcels on which a grubbing up operation has been carried out pursuant to Council Regulation (EEC) No 1200/90 [1] as regards apple trees or pursuant to Council Regulation (EC) No 2505/95 [2] as regards peach trees and nectarine trees.

2. Applications shall be accompanied:

(a) by a written undertaking by the applicant to refrain for a period of 15 years, first, from planting any apple trees (other than cider-apple trees), pear trees (other than perry-pear trees), peach trees and/or nectarine trees on the areas of his holding affected by the grubbing up operation and, second, from extending the other areas of his holding planted with apple trees (other than cider-apple trees), pear trees (other than perry-pear trees), peach trees and/or nectarine trees;

(b) under the conditions laid down by national law, by the written consent to the grubbing up operation of the owner of the parcels planted with apple trees, pear trees, peach trees and/or nectarine trees. Such consent of the owner or owners shall constitute an undertaking by the same, in the event of the sale, leasing or transfer by any other method of such parcels during the period referred to in point (a), to transfer to any new grower the undertaking referred to therein.

Article 4

1. Following receipt of an application for a grubbing up premium, the competent authority shall, by on-the-spot inspection, check the information contained in it. It shall record the undertaking referred to in Article 3. It shall establish, where appropriate, that the application complies with Regulation (EC) No 2200/97, with this Regulation and with the provisions adopted by the Member State concerned pursuant to Articles 1 (3) and 4 of Regulation (EC) No 2200/97.

2. Not later than 31 March 1998 Member States shall forward to the Commission a list of applications deemed admissible pursuant to paragraph 1. The list shall contain the total area for which a grubbing up premium has been requested, broken down by species.

3. On the basis of the lists referred to in paragraph 2 and under the conditions referred to in the second subparagraph of Article 1 (2) of Regulation (EC) No 2200/97, the Commission shall, where necessary, alter the allocation referred to in the first subparagraph of Article 1 (2) of that Regulation.

Article 5

1. Where the competent authority finds that the total number of applications deemed admissible pursuant to Article 4 (1) relates, for a product group, to an area less than or equal to that provided for in Article 1 (2) of Regulation (EC) No 2200/97, acceptance of the applications shall be notified to the applicants without delay.

2. Where the competent authority finds that the total number of applications deemed admissible pursuant to Article 4 (1) relates, for a product group, to an area greater than that provided for in Article 1 (2) of Regulation (EC) No 2200/97, where necessary altered in accordance with Article 4 (3) of this Regulation, the Member State shall determine, in the form of one or more decisions and on the basis of criteria which it shall define in accordance with Article 1 (3) of Regulation (EC) No 2200/97, the areas which shall be eligible for the grubbing up premium, and it shall notify them to the applicants without delay.

Article 6

1. The grubbing up operation shall be carried out within two months of the notification referred to in Article 5, and not later than 30 June 1998.

2. Grubbed up trees shall be rendered unsuitable for replanting.

3. The person concerned shall notify the competent authority in writing of the date on which the grubbing-up operations are to take place. Not later than three months after that date the authority shall establish by an on-the-spot inspection of all parcels that grubbing up has been carried out in accordance with this Regulation and shall certify the period at which it took place.

[1] OJ L 119, 11. 5. 1990, p. 63.
[2] OJ L 258, 28. 10. 1995, p. 1.

4. The grubbing up premium shall be paid not later than four months following the establishment of the facts as referred to in paragraph 3.

Article 7

1. Member States shall check whether the undertaking referred to in Article 3 (2) has been fulfilled, by periodic on-the-spot inspections in such a way that each holding is inspected at least every five years.

2. Member States shall notify the Commission of the results of the checks referred to in paragraph 1.

3. Where the Member States find that the undertaking referred to in Article 3 (2) has not been fulfilled:

— they shall take steps to recover the grubbing up premium paid, plus interest calculated on the basis of the time between the payment of the premium and its reimbursement by the beneficiary,

and

— they shall require the offender to pay an amount equal to that of the grubbing up premium paid.

The rate of the interest referred to in the first subparagraph shall be the rate applied by the European Monetary Institute to its transactions in ecus as published in the 'C' series of the *Official Journal of the European Communities,* in force on the date of the undue payment and increased by three percentage points.

4. The amounts recovered and the interest shall be paid to the competent paying agency and shall be deducted from the expenditure financed by the European Agricultural Guidance and Guarantee Fund.

Article 8

1. Member States shall notify to the Commission, no later than 30 November 1998:

(a) the areas for which applications for the grubbing up premium have been submitted;

(b) the areas for which applications for the grubbing up premium have been accepted pursuant to Article 5;

and

(c) the areas actually grubbed up for which a grubbing up premium has been paid;

broken down by species, variety and area of production.

2. Member States shall notify to the Commission, no later than 30 November 1998, and for each area of production in respect of which a grubbing up premium has been granted:

(a) an estimate of the area planted with apple trees, pear trees, peach trees and/or nectarine trees before the grubbing-up operation;

(b) production and withdrawals during the last five marketing years;

and

(c) the average yield, or production, during the last five marketing years of all the areas actually grubbed up for which the grubbing-up premium was paid;

broken down by species.

3. For the purposes of paragraphs 1 and 2:

(a) the varieties and areas of production shall be those set out in Annexes II and III to Decision 77/144/EEC;

(b) 'the last five marketing years' shall mean the marketing years 1992/93 to 1996/97 for apples and pears and the marketing years 1993 to 1997 for peaches and nectarines.

Article 9

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, 11 December 1997.

For the Commission

Franz FISCHLER

Member of the Commission