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COMMISSION REGULATION (EC) No 2707/2000

of 11 December 2000

laying down rules for applying Council Regulation (EC) No 1255/1999 as regards Community aid for supplying milk and certain milk products to pupils in educational establishments

(OJ L 311, 12.12.2000, p. 37)

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laying down rules for applying Council Regulation (EC) No 1255/1999 as regards Community aid for supplying milk and certain milk products to pupils in educational establishments

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1255/1999 of 17 May 1999 on the common organisation of the market in milk and milk products ([1]), as last amended by Regulation (EC) No 1670/2000 ([2]), and in particular Article 15 thereof,

Whereas:

(1) Regulation (EC) No 1255/1999 replaced Council Regulation (EEC) No 804/68 ([3]), as last amended by Regulation (EC) No 1587/96 ([4]), and *inter alia* Council Regulation (EEC) No 1842/83 ([5]), as last amended by Regulation (EC) No 1958/97 ([6]), on the supply of milk and certain milk products to schoolchildren. The new Community aid scheme and experience acquired call for the amendment and simplification of Commission Regulation (EC) No 3392/93 of 10 December 1993 on detailed rules for the application of Council Regulation (EEC) No 1842/83 laying down general rules for the supply of milk and certain milk products at reduced prices to schoolchildren ([7]), as last amended by Regulation (EC) No 2235/97 ([8]). For the sake of clarity that Regulation should be recast.

(2) The aid should be targeted at nursery and primary schools, with Member States left to decide for themselves whether or not to include secondary schools. To simplify management, consumption by pupils in residence at school holiday camps should be excluded.

(3) There are policing difficulties over the use of subsidised milk products in the preparation of meals served to pupils, and this seems moreover not to be an effective way of attaining the purposes of the aid scheme. Aid should therefore be restricted to products distributed to pupils.

(4) The list of products qualifying for aid must give priority to some basic milk products consumption of which is essential for market balance. To take account of varying consumption habits in the Community, Member States should have the option of including certain low fat products and certain cheeses.

(5) Article 14(3) of Regulation (EC) No 1255/1999, as amended by Regulation (EC) No 1670/2000, specifies a new aid rate for whole milk of 75 % of the target price and for other products a rate set in line with the milk components of the product. The aid for the various products under these rules should be specified.

(6) As regards payment of the aid, the requirements to be met by applicants should be specified and rules on the lodging of applications, the checks to be made by the competent authorities and the payment procedure should be laid down. For the purposes of management and policing of the aid there should be an approval procedure for applicants. To simplify management of the scheme,

([1]) OJ L 160, 26.6.1999, p. 48.
([2]) OJ L 193, 29.7.2000, p. 10.
([3]) OJ L 148, 28.6.1968, p. 13.
([4]) OJ L 206, 16.8.1996, p. 21.
([5]) OJ L 183, 7.7.1983, p. 1.
([6]) OJ L 277, 10.10.1997, p. 1.
([7]) OJ L 306, 11.12.1993, p. 27.
([8]) OJ L 306, 11.11.1997, p. 11.

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the use of organisations that apply on behalf of a number of schools should be encouraged.

(7) Under Article 14(4) of Regulation (EC) No 1255/1999, the maximum daily quantity per pupil on which aid can be granted is the equivalent of 0,25 litres of milk. Equivalences between milk and the various other products should be specified.

(8) Policing rules for the aid scheme must be laid down, in order to guarantee that the aid is duly reflected in the price paid by recipients and that subsidised products are not deflected from their intended use.

(9) This Regulation should apply from 1 January 2001, since that is the date on which the new aid amount comes into force and this will give the competent authorities time to prepare the application of the new provisions.

(10) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Milk and Milk Products,

HAS ADOPTED THIS REGULATION:

Article 1

Purpose

This Regulation lays down rules for applying Regulation (EC) No 1255/1999 as regards Community aid under Article 14 thereof for supplying certain milk products to pupils in educational establishments.

Article 2

Beneficiaries

1. The beneficiaries of the aid shall be pupils in regular attendance at one of the following types of educational establishment:

(a) nursery schools/other pre-school establishments administered or recognised by the Member State's competent authority;

(b) primary schools;

(c) secondary schools (if the Member State chooses).

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2. The beneficiaries specified in paragraph 1 shall benefit from the aid during all school days. The total number of school days shall be confirmed by the educational authority or by the educational establishment excluding holidays. Pupils shall not benefit from the aid during stays at holiday camps organised by the establishment or its education authority.

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3. Aid shall be conditional on a written commitment to the competent authority, by the establishment or, as appropriate, its education authority, that subsidised milk products will not be used in the preparation of meals.

Where a Member State shows good reason, however, the Commission may authorise it not to apply the first subparagraph.

Article 3

Eligible products

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1. Member States shall pay the aid on the Category I and V products listed in the Annex I.

2. Member States may pay the aid on products of categories II, III, IV and VI to XII listed in Annex I.

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3. In the French overseas departments, milk flavoured with chocolate or otherwise may be reconstituted milk.

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4. Member States may authorise the addition of a maximum of 5 mg of fluorine per kilogram to Category I to VII products.

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5. The products listed in Article 3(2)(b) and (c) of Council Regulation (EC) No 2597/97 [1] shall be regarded, as appropriate, as whole, semi-skimmed or skimmed milk.

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6. An aid shall only be granted on the products listed in the Annex I to this Regulation if the products comply with the requirements of Council Directive 92/46/EEC [2], and in particular the requirements concerning preparation in an approved establishment and the health marking requirements specified in A in Chapter IV of Annex C of that Directive.

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Article 4

Rate of aid

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1. The aid rates for the periods from 1 May 2004 to 30 June 2004, from 1 July 2004 to 30 June 2005, from 1 July 2005 to 30 June 2006, from 1 July 2006 to 30 June 2007 and from 1 July 2007 on are set out in Annex II to this Regulation.

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2. Notwithstanding paragraph 1, where the aid is greater than the supplier's selling price before deduction of the aid, it shall be reduced so as not to exceed that price.

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3. If an aid rate in euro is altered, the rate in force on the first day of the month shall apply to all quantities supplied during that month.

However, for school year 2003/04, the aid rate in force on the first day of June may be applied during the month of July if a school year of the Member State ends in July.

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4. If the quantities supplied are expressed in litres, the coefficient 1,03 shall be used for conversion into kilograms.

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Article 5

1. In order to comply with the maximum 0,25 litre quantity referred to in Article 14(4) of Regulation (EC) No 1255/1999, the total quantity of milk products for which there is entitlement to the aid during the period covered by an application shall be calculated on the basis of the number of pupils entered on the establishment's roll, or in the cases of application of Article 6(2)(c) and (d), on the basis of applicant's roll.

2. For products of categories VIII to XII listed in Annex I the calculation shall use the following equivalences:

(a) category VIII: 100 kg = 300 kg of whole milk;

(b) category IX: 100 kg = 765 kg of whole milk;

(c) category X: 100 kg = 850 kg of whole milk;

(d) category XI: 100 kg = 935 kg of whole milk;

(e) category XII: 100 kg = 750 kg of whole milk.

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[1] OJ L 351, 23.12.1997, p. 13.
[2] OJ L 268, 14.9.1992.

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Article 6

General conditions for granting the aid

1. Aid shall be granted to applicants approved in accordance with Articles 7, 8 and 9 for the supply of Community products purchased in the Member State where the educational establishment is located.

2. Aid can be applied for by:

(a) the educational establishment;

(b) an education authority in respect of the products distributed to the pupils within its area;

(c) if the Member State so provides, the supplier of the products;

(d) if the Member State so provides, an organisation acting on behalf of one or more schools or education authorities and specifically established for that purpose.

Article 7

Approval of applicants

Applicants for aid must be approved for that purpose by the competent body of the Member State in which the educational establishment to which the products are supplied is located.

Article 8

General conditions for approval

Approval is conditional on the following written commitments by the applicant to the competent authority:

(a) not to use the products except for consumption by the pupils of its establishment or of the establishments in regard to which it will apply for aid;

(b) to repay any aid unduly paid, for the quantities concerned, should it be found that the products have not been distributed to the recipients indicated in Article 2 or that it has been paid for quantities larger than those given by applying Article 5;

(c) to make supporting documents available to the competent authorities on their request;

(d) to permit physical inspection.

Article 9

Specific conditions for the approval of certain applicants

1. If the aid is to be applied for by the supplier he must make the following written commitments in addition to those specified in Article 8:

(a) to keep records showing the makers of the products, the names and addresses of the educational establishments or, where appropriate, education authorities and the quantities sold or supplied to these establishments;

(b) to submit to any check decided on by the Member State's competent body, in particular scrutiny of the records.

2. If the aid is to be applied for by an organisation as referred to in Article 6(2)(d) it must make the following written commitments in addition to those specified in Article 8:

(a) to keep records showing the makers or suppliers of the products, the names and addresses of the educational establishments or, where appropriate, education authorities and the quantities sold or supplied to them;

(b) to submit to any check decided on by the Member State's competent body, in particular scrutiny of the records.

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Article 10

Suspension and withdrawal of approval

If it is found that an applicant for aid is no longer meeting the conditions laid down in Articles 8 and 9, or any other obligation under this Regulation, approval shall be suspended for one to twelve months or withdrawn, depending on the gravity of the irregularity.

Such action shall not be taken in cases of *force majeure* or if the Member State finds that the irregularity was not committed deliberately or by negligence or was of minor importance.

Approval, once withdrawn, can be restored at the applicant's request after a minimum period of six months.

Article 11

Payment applications

1. Payment applications must be made as specified by the Member State's competent authority and include at least the following information:

(a) the quantities distributed by category;

(b) the name and address of the educational establishment or education authority.

2. Member States shall specify the frequency of applications. These may cover periods of one to seven months according to the amount of aid applied for.

3. Except in cases of *force majeure*, aid applications must, in order to be valid, be lodged by the last day of the fourth month following the end of the period to which they relate.

If this time limit is overrun by less than two months the aid shall still be paid but reduced:

(a) by 5 % if the overrun is less than a month;

(b) by 10 % otherwise.

4. The amounts shown in the application must be supported by documentary evidence held available for the competent authorities. This must show separately the price of each product delivered and be receipted or accompanied by proof of payment.

Article 12

Payment of the aid

1. Without prejudice to Article 11(4), the aid shall be paid to suppliers only:

(a) on presentation of a receipt for the quantities actually delivered; or

(b) on the basis of the report of an inspection made by the competent authority before final payment of the aid, establishing that the payment requirements have been met; or

(c) if the Member State so authorises, on presentation of an extract from an account of the supplier by credit of which, and in no other way, the quantities delivered for the purposes of this Regulation are paid for.

2. The aid shall be paid by the competent authority within four months of the day of lodging of the application as referred to in Article 11(3), unless administrative inquiries have been initiated into entitlement to it.

3. Member States may delegate local authorities to pay the aid and to manage the scheme provided for in this Regulation.

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In cases to be determined by the Member State the local authority may be replaced by an association, approved by the Member State, to which the educational establishments belong.

Article 13

Payment of advances

1. Member States may pay an advance equal to the amount of the aid applied for, against security for 110 % of the amount advanced.

2. If a supplier applies for an advance the competent authority may pay it on the basis of the quantities delivered without requiring the documentary evidence indicated in Article 12(1). Within one month of its being paid, the supplier shall forward to the competent authority the documents required for final payment of the aid, unless the latter draws up a report as provided for in Article 12(1)(b).

3. Final payment of the aid shall be made by the end of the sixth month following the end of the school year concerned.

Article 14

Policing

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1. Member States shall take whatever action is necessary to ensure that the amount of the aid is duly reflected in the price paid by the beneficiary.

To this end they shall set maximum prices to be paid by pupils for the various products listed in Annex I that are distributed on their territory. The Member State shall fix the maximum prices at the beginning of each school year, or, by 1 October at the latest. In the cases where the Member States provide these products free of charge, the maximum prices need not to be fixed.

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2. Member States shall carry out the policing needed to ensure compliance with this Regulation.

Their action shall include checking of the supporting documents for product delivery and of compliance with the maximum quantities on which aid which can be paid.

3. The checks specified in paragraph 2 shall be supplemented by physical inspection to check in particular on:

(a) the impact of the aid on the price paid by the beneficiary and compliance with the maximum prices referred to in paragraph 1;

(b) the records referred to in Article 9;

(c) use of the subsidised products in accordance with this Regulation, particularly if there are grounds for suspecting deflection;

(d) the price paid to the supplier, in order to ensure that it is not less than the aid.

Article 15

Notifications

1. Within six months of entry into force of this Regulation, Member States shall notify to the Commission their measures for applying it, in particular the policing arrangements adopted.

2. Before 31 December each year they shall notify:

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(a) the quantities on which aid has been paid during the previous school year as well as maximum permissible quantity;

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(b) a brief account of any information and promotion measures for milk products undertaken in connection with distribution of the subsidised products in schools;

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(c) the maximum prices referred to in the second subparagraph of Article 14(1) for the current school year with evidence in support of them.

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Article 16

Repeal

Regulation (EC) No 3392/93 is hereby repealed.

References to that Regulation shall be taken as made to this one.

Derogations under Article 3(3) of Regulation (EC) No 3392/93 shall remain valid under this Regulation.

Approvals granted pursuant to Article 6 of Regulation (EC) No 3392/93 shall remain valid for the purposes of this Regulation.

Article 17

Entry into force

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

It shall apply from 1 January 2001.

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

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ANNEX I

List of products eligible for Community aid

Category I

(a) heat-treated whole milk which, with respect to fat content, meets the requirements provided for in Article 3(1)b of Regulation (EC) No 2597/97

(b) heat-treated whole milk flavoured with chocolate or otherwise, containing at least 90 % by weight of milk indicated in (a)

(c) whole milk yoghurt processed from milk indicated in (a)

Category II

(a) heat-treated milk with a 3 % minimum fat content

(b) heat-treated milk flavoured with chocolate or otherwise, containing at least 90 % by weight of the milk indicated in (a)

(c) *Piimä/filmjölk* or yoghurt processed from milk indicated in (a)

Category III

(a) heat-treated milk with a 2,5 % minimum fat content

(b) heat-treated milk flavoured with chocolate or otherwise, containing at least 90 % by weight of the milk indicated in (a)

(c) yoghurt processed from milk indicated in (a)

Category IV

(a) heat-treated milk with a 2,0 % minimum fat content

(b) heat-treated milk flavoured with chocolate or otherwise, containing at least 90 % by weight of the milk indicated in (a)

(c) yoghurt processed from milk indicated in (a)

Category V

(a) heat-treated semi-skimmed milk, which, with respect to fat content, meets the requirements provided for in Article 3(1)c of Regulation (EC) No 2597/97

(b) heat-treated semi-skimmed milk flavoured with chocolate or otherwise, containing at least 90 % by weight of semi-skimmed milk indicated in (a)

(c) semi-skimmed milk yoghurt processed from milk indicated in (a)

(d) *Piimä/fil* with a 1,5 % minimum fat content

Category VI

(a) heat-treated milk with a 1 % minimum fat content

(b) heat-treated milk flavoured with chocolate or otherwise, containing at least 90 % by weight of the milk indicated in (a)

(c) yoghurt processed from milk indicated in (a)

Category VII

(a) heat-treated skimmed milk, which, with respect to fat content, meets the requirements provided for in Article 3(1)d of Regulation (EC) No 2597/97

(b) heat-treated skimmed milk flavoured with chocolate or otherwise, containing at least 90 % by weight of milk indicated in (a)

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(c) skimmed milk yoghurt processed from milk indicated in (a)

(d) *Piimä/fil* with a less than 1,5 % fat content

Category VIII

Non-flavoured ([1]) fresh and processed cheeses with a fat content by weight in the dry matter of at least 40 %

Category IX

Cheeses other than fresh and processed, with a fat content by weight in the dry matter of at least 45 %

Category X

Grana Padano cheese

Category XI

Parmigiano-Reggiano cheese

Category XII

Halloumi cheese.

([1]) For the purpose of this category, non-flavoured cheese shall mean cheese exclusively derived from milk, it being accepted that substances necessary for their manufacture may be added, provided that these substances are not used to replace in part or in whole any milk constituent.

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ANNEX II

A. **Aid rates for the period from 1 May 2004 to 30 June 2004:**

(a) EUR 23,24/100kg for category I products

(b) EUR 21,82/100kg for category II products

(c) EUR 20,41/100kg for category III products

(d) EUR 19,00/100kg for category IV products

(e) EUR 17,58/100kg for category V products

(f) EUR 16,17/100kg for category VI products

(g) EUR 13,34/100kg for category VII products

(h) EUR 69,72/100kg for category VIII products

(i) EUR 177,79/100kg for category IX products

(j) EUR 197,54/100kg for category X products

(k) EUR 217,29/100kg for category XI products

(l) EUR 174,30/100kg for category XII products

B. **Aid rates for the period from 1 July 2004 to 30 June 2005:**

(a) EUR 21,69/100kg for category I products

(b) EUR 20,39/100kg for category II products

(c) EUR 19,08/100kg for category III products

(d) EUR 17,78/100kg for category IV products

(e) EUR 16,47/100kg for category V products

(f) EUR 15,17/100kg for category VI products

(g) EUR 12,56/100kg for category VII products

(h) EUR 65,07/100kg for category VIII products

(i) EUR 165,93/100kg for category IX products

(j) EUR 184,37/100kg for category X products

(k) EUR 202,80/100kg for category XI products

(l) EUR 162,68/100kg for category XII products

C. **Aid rates for the period from 1 July 2005 to 30 June 2006:**

(a) EUR 20,16/100kg for category I products

(b) EUR 18,95/100kg for category II products

(c) EUR 17,76/100kg for category III products

(d) EUR 16,57/100kg for category IV products

(e) EUR 15,39/100kg for category V products

(f) EUR 14,17/100kg for category VI products

(g) EUR 11,78/100kg for category VII products

(h) EUR 63,48/100kg for category VIII products

(i) EUR 161,87/100kg for category IX products

(j) EUR 179,86/100kg for category X products

(k) EUR 197,85/100kg for category XI products

(l) EUR 158,70/100kg for category XII products

D. **Aid rates for the period from 1 July 2006 to 30 June 2007:**

(a) EUR 18,61/100kg for category I products

(b) EUR 17,52/100kg for category II products

(c) EUR 16,43/100kg for category III products

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(d) EUR 15,34/100kg for category IV products

(e) EUR 14,25/100kg for category V products

(f) EUR 13,16/100kg for category VI products

(g) EUR 10,97/100kg for category VII products

(h) EUR 55,83/100kg for category VIII products

(i) EUR 142,37/100kg for category IX products

(j) EUR 158,19/100kg for category X products

(k) EUR 174,00/100kg for category XI products

(l) EUR 139,58/100kg for category XII products

E. **Aid rates for the period from 1 July 2007 on**

(a) EUR 18,15/100kg for category I products

(b) EUR 17,12/100kg for category II products

(c) EUR 16,10/100kg for category III products

(d) EUR 15,07/100kg for category IV products

(e) EUR 14,04/100kg for category V products

(f) EUR 13,01/100kg for category VI products

(g) EUR 10,96/100kg for category VII products

(h) EUR 54,45/100kg for category VIII products

(i) EUR 138,85/100kg for category IX products

(j) EUR 154,28/100kg for category X products

(k) EUR 169,70/100kg for category XI products

(l) EUR 136,13/100kg for category XII products