COMMISSION REGULATION (EC) No 531/2000

of 10 March 2000

amending Regulation (EC) No 2848/98 laying down detailed rules for the application of Council Regulation (EEC) No 2075/92 as regards the premium scheme, the production quotas and the specific aid to be granted to producer groups in the raw tobacco sector

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2075/92 of 30 June 1992 on the common organisation of the market in raw tobacco [1], as last amended by Regulation (EC) No 660/1999 [2], and in particular Articles 7, 9(5) and 11 thereof,

Whereas:

(1) Articles 18(4) and 20(4) of Commission Regulation (EC) No 2848/98 [3], as last amended by Regulation (EC) No 2637/1999 [4], stipulate that payments to producers and to producer groups of the premium paid by the Member State or by the first processor must be made by bank or postal transfer to a single account. Application of that provision is posing difficulties for producer groups because the system does not allow for fund management to be evenly spread throughout the territory or for operating loans to be obtained from banks not managing the premiums. Provision should therefore be made for the premiums to be paid into accounts earmarked for premium payments and for the account numbers to be communicated to the competent control body.

(2) Under Article 20 of the above Regulation certain Member States have, for a period of two years, been able to make premium payments to producers via the intermediary of the first processor without an advance payment facility. That situation has caused producers cash flow problems since they are not paid until after they have delivered their entire production. Those producers should therefore be given the opportunity to obtain advance payments via first processors under the same conditions as those laid down in Article 19 for producers receiving their premiums direct from the Member States.

(3) Article 29 of the same Regulation states that the national reserve may be made up, *inter alia*, of quotas released by a linear reduction of up to 2 % of the quantities that have been permanently transferred. The national reserve is to be allocated by the end of February pursuant to Article 22(3) and that time limit does not permit the use of quotas deriving from permanent transfers for the same production year. Provision should therefore be made for the permanently transferred quantities to be applied to the harvest in progress and, to that end, for those quantities to be allocated up to the time limit for the conclusion of cultivation contracts.

(4) Article 33(3) of the same Regulation stipulates that transfers of production quotas may not involve quantities of less than 100 kg. That provision should be relaxed to allow tobacco producers whose quota for the group of varieties in question is less than 100 kg to transfer it in its entirety.

(5) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Tobacco,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 2848/98 is amended as follows:

1. In Article 18, paragraph 4 is replaced by the following:

'4. Payment to producer groups of the amounts referred to in paragraphs 1 and 2, and payment of the purchase price to producers by first processors may be made only by bank or postal transfer, to accounts earmarked for such payments the numbers of which shall be communicated to the competent control body and which, in the case of a producer group, must be linked to payments to individual producer group members.'

2. Article 19 is replaced by the following:

'*Article 19*

1. Member States shall apply a system of advances on premiums for producers in accordance with paragraphs 2 to 8.

2. The advance referred to in paragraph 1 shall be paid, on application by the producer or, for the 2000 harvest, the first processor, on the basis of a statement of eligibility for the advance, prepared by the competent control body.

3. The following documents must accompany producers' applications for an advance save where a Member State provides otherwise on the grounds that they are already in its possession:

(a) a copy of the cultivation contract concluded by the producer issued in his name;

(b) a copy of the quota statement issued to the producer and covered by the said cultivation contract;

(c) a written declaration from the producer concerned specifying the quantities of tobacco he is in a position to deliver during the current harvest.

[1] OJ L 215, 30.7.1992, p. 70.
[2] OJ L 83, 27.3.1999, p. 10.
[3] OJ L 358, 31.12.1998, p. 17.
[4] OJ L 323, 15.12.1999, p. 8.

4. The statement referred to in paragraph 2 shall be issued by the control body once the documents referred to in paragraph 3 are verified and the written declaration supplied by the producer is substantiated.

Where a first processor is concerned, that statement shall be issued on the basis of the cultivation contracts concluded by him and of anticipated or effected deliveries.

5. Payment of the advance, the maximum amount of which shall be equal to the fixed part of the premium payable, shall be subject to the lodging of a security equal to the amount of the advance plus 15 %.

The advance shall be paid from 16 October of the year of the harvest and must be paid within 30 days of submission of the application referred to in paragraph 2 and of proof that the security has been lodged save where the application is submitted before 16 September, in which case the period shall be increased to 77 days.

6. Where the advance is granted to a producer group or a first processor but has not been paid to the members or producers entitled or reimbursed to the Member State within 30 days of receipt, interest shall be payable on the amount still available at a rate to be determined by the Member State. The interest shall be calculated from the date the advance was received, and booked to the European Agricultural Guidance and Guarantee Fund (EAGGF).

7. The advance paid shall be detected from the amount of the premium payable under Article 18(1) or 20(1), starting from the first delivery made.

The security lodged shall be released on presentation of the control certificate for the quantity of tobacco in question and of proof that the amount corresponding to the premium has been paid to the producers entitled thereto. Member States shall establish any further conditions, particularly the tobacco delivery periods or the minimum quantities for which a control certificate may be drawn up.

Once 50 % of the premium due has been paid, 50 % of the security shall be released.

The security lodged shall be released when the entire advance paid has been deducted from the premiums payable.

8. Where (except in cases of *force majeure*) deliveries are not made within the time limit laid down in Article 16(1) which would enable full deduction of the advance paid from the premiums payable, the security lodged shall be forfeited at a rate equal to the amount of the advance not recovered.

9. Member States shall determine any further conditions governing the grant of advances, and in particular the final date for lodging applications. Producers may not lodge an application for an advance once they have begun making deliveries.'

3. In Article 20, paragraph 4 is replaced by the following:

'4. Payment of the amounts referred to in paragraph 1 may be made only by bank or postal transfer, to accounts earmarked for such payments the numbers of which shall be communicated to the competent control body and which, in the case of a producer group, must be linked to payments to individual producer group members.'

4. In Article 29(3) the following subparagraph is added:

'Production quotas resulting from application of the first indent of the second subparagraph of paragraph 2 may be allocated up to the time limit for the conclusion of cultivation contracts.'

5. In Article 33, paragraph 3 is replaced by the following:

'3. Transfers of production quotas as referred to in paragraph 1 may not involve quantities of less than 100 kg except in the case of production quotas of less than 100 kg, which are to be transferred in their entirety. However, transfers of less than 100 kg must be notified to the Commission.'

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 with effect from the 2000 harvest.

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

Done at Brussels, 10 March 2000.

For the Commission

Franz FISCHLER

Member of the Commission