COMMISSION REGULATION (EC) No 587/2001

of 26 March 2001

amending Regulation (EC) No 2461/1999 laying down detailed rules for the application of Council Regulation (EC) No 1251/1999 as regards the use of land set aside for the production of raw materials for the manufacture within the Community of products not primarily intended for human consumption

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1251/1999 of 17 May 1999 establishing a support system for producers of certain arable crops [1], as last amended by Regulation (EC) No 1672/2000 [2], and in particular Article 9 thereof,

Whereas:

(1) Hemp falling within CN code 5302 has found some new industrial uses, for example in insulating panels or in brick manufacture, without there being a need, in certain cases, to separate the fibre from the woody portion of the stalk. This is a non-food use meeting the objectives of Commission Regulation (EC) No 2461/1999 of 19 November 1999 laying down detailed rules for the application of Council Regulation (EC) No 1251/1999 as regards the use of land set aside for the production of raw materials for the manufacture within the Community of products not primarily intended for human consumption [3], as last amended by Regulation (EC) No 2555/2000 [4].

(2) Until the end of the 2000/01 marketing year, hemp intended for this kind of use qualifies for Community aid under the common organisation of the market in flax and hemp governed by Council Regulations (EEC) No 1308/70 [5], as last amended by Regulation (EC) No 2826/2000 [6], and (EEC) No 619/71 [7], as last amended by Regulation (EC) No 1420/98 [8], and Commission Regulation (EEC) No 1164/89 [9], as last amended by Regulation (EC) No 1313/2000 [10]. With effect from the 2001/02 marketing year, hemp will be included in the support system for producers of certain arable crops established by Regulation (EC) No 1251/1999. However, only hemp intended for fibre production will qualify for the area aid provided for in that Regulation and the processing aid provided for in Council Regulation (EC) No 1673/2000 of 27 July 2000 on the common organisation of the markets in flax and hemp grown for fibre [11]. As there is no risk under the circumstances of multiple payments of Community aid as excluded by Regulation (EC) No 2461/1999, hemp for processing into products not covered by Regulation (EC) No 1673/2000 can be added to Annex I to Regulation (EC) No 2461/1999.

(3) To prevent the growing of illegal varieties of hemp, the cultivation terms and specific control measures laid down for hemp for fibre production under Regulation (EC) No 1251/1999 and Commission Regulation (EC) No 2316/1999 [12], as last amended by Regulation (EC) No 2860/2000 [13], should be imposed.

(4) Moreover, new heating technology has been developed whereby heaters can now use totally unprocessed cereals or certain oilseeds such as soya beans or rape, colza or sunflower seeds as fuel. Those raw materials can also be processed on farm for the production of biofuels such as raw colza oil or for power production, for example electricity. The use of those raw materials, which have a high heat value, is a non-food use meeting the objectives of Regulation (EC) No 2461/1999.

(5) To facilitate the use of those raw materials as fuel, Member States should be allowed to authorise the burning of cereals or certain oilseeds harvested on an applicant's set-aside land in heaters used on the applicant's agricultural holding.

(6) To prevent those raw materials being used for other purposes, the Member States must take the necessary steps to ensure that the measures laid down for the grant of aid are properly applied and provide in particular for the denaturing of the cereals or oilseeds.

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

[1] OJ L 160, 26.6.1999, p. 1.
[2] OJ L 193, 29.7.2000, p. 13.
[3] OJ L 299, 20.11.1999, p. 16.
[4] OJ L 292, 21.11.2000, p. 18.
[5] OJ L 146, 4.7.1970, p. 1.
[6] OJ L 328, 13.12.2000, p. 2.
[7] OJ L 72, 26.3.1971, p. 2.
[8] OJ L 19, 4.7.1998, p. 7.
[9] OJ L 121, 29.4.1989, p. 4.
[10] OJ L 148, 22.6.2000, p. 34.
[11] OJ L 193, 29.7.2000, p. 16.
[12] OJ L 280, 30.10.1999, p. 43.
[13] OJ L 332, 28.12.2000, p. 63.

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 2461/1999 is amended as follows:

1. The following paragraph 1a is added to Article 3:

'1a. In the case of a hemp crop, payment shall also be subject to the use of varieties whose tetrahydrocannabinol content does not exceed 0,2 % and which are listed in Annex XII to Regulation (EC) No 2316/1999 on 15 May preceding the marketing year for which the payment is sought. The seeds of these varieties must have been certified in accordance with Council Directive 69/208/EEC (*).

With a view to the controls laid down in Article 21a of this Regulation, the hemp must continue growing for at least a further 10 days after flowering. However, the Member State may permit the hemp to be harvested before this 10-day deadline if the producer in question has already been checked under Article 21a or if all the controls under Article 21a have been completed.

(*) OJ L 169, 10.7.1969, p. 3.'

2. Article 3(4) is replaced by the following:

'4. Paragraphs 2 and 3 notwithstanding, Member States may permit applicants:

(a) to use all the cereals or all the oilseeds falling within CN codes 1201 00 90, ex 1205 00 90 and 1206 00 91 harvested on certain set-aside land:

(i) as fuel for heating their agricultural holding,

(ii) for the production on the holding of power or biofuels;

(b) to process into biogas falling within CN code 2711 29 00, on their holdings, all the raw material harvested on certain set-aside land.

In this case applicants shall undertake, by way of a declaration in place of the contract referred to in Article 4, to use or process directly the raw material covered by the declaration.

Member States applying the first subparagraph shall introduce adequate control measures to ensure that the raw material is directly used on the holding or is processed into biogas falling within CN code 2711 29 00. Furthermore, cereals or oilseeds used directly on the holding as fuel must be denatured in accordance with the method laid down by the Member State.

The measures as provided for in the preceding subparagraphs and any amendments thereto shall be notified to the Commission by 30 November of the year preceding the harvest year to which these measures apply. In the case of the 2001/02 marketing year, the measures shall be communicated before 31 May 2001.

Articles 4 to 21 shall apply *mutatis mutandis*.'

3. The following paragraph is added to the end of Article 5:

'In the case of a hemp crop, the application must also:

(a) provide information on the quantities of seed used, in kilograms per hectare;

(b) be accompanied by the official labels introduced under Article 10 of Directive 69/208/EEC or by provisions adopted pursuant to that Article, appearing on the packaging of the seed used.

Where sowing takes place after the final date for lodging payment applications, the labels must be lodged no later than 30 June following the lodgement of the application.

Member States may lay down that the labels are to be returned to the grower after their presentation to the competent authorities in cases where they need to be presented to other national authorities.'

4. The following Article 21a is added to Section 9 of Chapter II:

'*Article 21a*

In the case of hemp crops, the system for checking the hemp's tetrahydrocannabinol content established by the Member States for hemp for fibre production in accordance with Article 5a(2) of Regulation (EC) No 1251/1999 and Article 7b(1) and (2) of Regulation (EC) No 2316/1999 shall also apply.'

5. The following CN code is added to Annex I:

'ex 5302 10 00	True hemp, raw or retted for processing into products not covered by Regulation (EC) No 1673/2000 (*Cannabis sativa* L.)'

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, 26 March 2001.

For the Commission

Franz FISCHLER

Member of the Commission