COMMISSION REGULATION (EC) No 882/2001

of 3 May 2001

derogating from certain provisions of Regulation (EEC) No 3887/92 laying down detailed rules for applying the integrated administration and control system for certain Community aid schemes, as a consequence of foot-and-mouth disease and of exceptional weather conditions

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 3508/92 of 27 November 1992 establishing an integrated administration and control system for certain Community aid schemes [1], as last amended by Commission Regulation (EC) No 495/2001 [2], and in particular Article 12 thereof,

Whereas:

(1) Veterinary measures taken to combat and prevent the spread of foot-and-mouth disease may include regional restrictions on the movement of persons and animals. This may lead to a situation where Member States are no longer able to comply with some of their obligations under Commission Regulation (EEC) No 3887/92 of 23 December 1992 laying down detailed rules for applying the integrated administration and control system for certain Community aid schemes [3], as last amended by Regulation (EC) No 2721/2000 [4].

(2) It is therefore necessary to allow Member States to deviate from the control practice to be applied under normal circumstances. Where it is not possible to comply with the normal rates of on-the-spot-checks, Member States should be allowed to reduce those rates. In that case *ex post*, on-the-spot checks should, where appropriate, be increased in the following control period. Any such deviation should be limited to that which is strictly necessary in order to preserve the effectiveness of the veterinary measures in question.

(3) Alternative means for submission of claims and other notifications should be made possible. Provision should be made for the possibility to replace female animals after the lifting of animal movement restrictions.

(4) The outbreak of foot-and-mouth disease may, for the regions affected, result in the prohibition to sow seeds or have the effect that areas originally foreseen as forage areas be declared as set-aside areas after the 'area' aid-application has been submitted. Moreover, due to bad weather conditions, it is in certain regions no longer economically viable for a large number of producers to sow seeds.

(5) In order to relieve producers of the burdens resulting from such special agronomic and veterinary circumstances, it is appropriate, for the 2001/02 marketing year, to derogate from certain provisions of Regulation (EEC) No 3887/92 by allowing amendments to be made to area aid applications that have already been submitted or by withdrawing areas declared as being used for 'arable crops' and adding them to the set-aside areas. It should also be allowed that areas may be added to such areas that have been declared as forage, in certain cases even after the latest date for sowing. Under certain conditions, Member States should be given the possibility to derogate from the provision in Article 2(1)(c) of Regulation (EEC) No 3887/92 setting the minimum period of the availability of forage land for rearing animals.

(6) The Commission should regularly be informed by the Member States of the situation and the measures they have taken.

(7) In view of the situation facing the competent authorities for the integrated administration and control system for certain Community aid schemes, this Regulation should enter into force immediately. Because of the exceptional character of the measures, the application of the Regulation should be limited in time.

(8) The measures provided for in this Regulation are in accordance with the opinion of the Committee for the Agricultural Guidance and Guarantee Fund,

HAS ADOPTED THIS REGULATION:

Article 1

To the extent necessary to preserve the effectiveness of veterinary measures taken in conformity with Community legislation to combat and prevent the spread of foot-and-mouth disease, Member States shall be permitted to act in derogation from Regulation (EEC) No 3887/92 under the conditions set out in this Regulation.

[1] OJ L 355, 5.12.1992, p. 1.
[2] OJ L 72, 14.3.2001, p. 6.
[3] OJ L 391, 31.12.1992, p. 36.
[4] OJ L 314, 14.12.2000, p. 8.

Article 2

1. By way of derogation from Article 6 of Regulation (EEC) No 3887/92, Member States may modify their control programmes for on-the-spot checks. Such modifications may include, in particular:

(a) postponing on-the-spot-checks in the regions concerned until such time that access to the holdings selected for on-the-spot checks is possible;

(b) de-selecting holdings in the regions concerned that were initially selected for on-the-spot checks;

(c) decreasing the number of on-the-spot checks in the regions concerned while, at the same time, increasing the number of such checks in other regions;

(d) extending checks via means of databases and/or any other documentary means, including veterinary records and documents;

(e) where appropriate, carrying out checks in conjunction with veterinary measures on holdings where those measures are applied;

(f) increasing *ex post* documentary checks, which may include such checks to be conducted on the spot, in the regions concerned once the veterinary restrictions have been lifted.

2. Where, after applying the measures provided for in paragraph 1, it is still not possible to achieve the rates of on-the-spot checks required under Article 6(3), (5) and (6a) of Regulation (EEC) No 3887/92 by the end of the control period in question, Member States may reduce those rates for the regions concerned. Where appropriate, *ex post*, on-the-spot checks should be increased in the following control period.

3. The measures provided for in this Article shall be limited to those which are strictly necessary to preserve the effectiveness of the veterinary measures taken to combat and prevent the spread of foot-and-mouth disease.

Article 3

By way of derogation from Article 5a of Regulation (EEC) No 3887/92, Member States may provide that applications may also be submitted by telephone. In this case, the accompanying documents shall be transmitted to the competent authority as soon as possible. Under the same condition, Member States may allow other notifications provided for in Regulation (EEC) No 3887/92 to be transmitted by telephone or electronic means.

Article 4

By way of derogation from Article 10a(5) of Regulation (EEC) No 3887/92, a remplacement as referred to in that provision may be made within 60 days of the end of animal movement restrictions applied as a result of veterinary measures in the region concerned.

Article 5

1. By way of derogation from the first subparagraph of Article 4(2)(a) of Regulation (EEC) No 3887/92:

(a) 'area' aid applications submitted in respect of the 2001/02 marketing year in regions affected by foot-and-mouth disease or by bad weather conditions, may be amended by withdrawing areas declared as being 'arable crops' and/or forage, and adding them to the set-aside areas, provided that the conditions for the recognition of such areas as set-aside are being met.

In regions affected by foot-and-mouth diesease, areas may, moreover, be added to areas declared as forage;

(b) where the veterinary measures taken in conformity with Community legislation in respect of regions affected by foot-and-mouth disease, reduce the time period for which forage areas are available for rearing animals and delay the date at which the areas become available, Member States may, for the 2001/02 marketing year, allow areas to be added to areas declared as forage even after the latest date for sowing provided that the same area had not already been declared in any 'area' aid declaration.

2. By way of derogation from Article 2(1)(c) of Regulation (EEC) No 3887/92, Member States may, under the same conditions as set out in paragraph 1(b), determine a later starting date and a shorter period of availability.

Article 6

Member States shall regularly inform the Commission of the situation and the measures taken on the basis of this Regulation.

Article 7

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

It shall apply from 20 February to 31 December 2001.

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

Done at Brussels, 3 May 2001.

For the Commission
Franz FISCHLER
Member of the Commission