COMMISSION REGULATION (EC) No 1426/2002

of 2 August 2002

amending Regulation (EC) No 449/2001 laying down detailed rules for applying Council Regulation (EC) No 2201/96 as regards the aid scheme for products processed from fruit and vegetables

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2201/96 of 28 October 1996 on the common organisation of the markets in processed fruit and vegetable products [1], as last amended by Commission Regulation (EC) No 453/2002 [2], and in particular Articles 6 and 25 thereof,

Whereas:

(1) Commission Regulation (EC) No 449/2001 [3], as amended by Regulation (EC) No 1343/2001 [4], lays down detailed rules for applying Council Regulation (EC) No 2201/96 as regards the aid scheme for products processed from fruit and vegetables.

(2) Council Regulation (EC) No 2200/96 [5], as last amended by Regulation (EC) No 545/2002 [6], establishes a common organisation of the markets in fruit and vegetables.

(3) The dates by which certain information must be sent to the competent authority should be amended to bring them into line with the dates laid down for the integrated administration and control system by Commission Regulation (EC) No 2419/2001 of 11 December 2001 laying down detailed rules for applying the integrated administration and control system for certain Community aid schemes established by Council Regulation (EEC) No 3508/92 [7], as amended by Regulation (EC) No 2550/2001 [8], and to allow delivery certificates to be sent by telex, fax or electronic mail.

(4) Checks on the quantities delivered for processing should be tightened and provision should be made for cross-checks on areas, and certain changes should also be made to the system of checks and penalties in view of the anomalies found during on-the-spot checks and in order to differentiate between cases where the area declared is larger than the area actually determined, on the one hand, and where it is smaller, on the other.

(5) In view of the problems found during implementation, provision should be made for some amended rules in this Regulation to apply, at the request of the interested parties, to cases occurring before its entry into force.

(6) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Processed Fruit and Vegetables,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 449/2001 is hereby amended as follows.

1. In the last paragraph of Article 4, 'before 20 May' is replaced by 'by 31 May at the latest'.

2. In the last subparagraph of Article 5(5), 'before 20 May' is replaced by 'by 31 May at the latest'.

3. In the last sentence of Article 6, 'during on-the-spot checks as provided for in Article 18' is replaced by 'during the area checks provided for in Article 18'.

4. The second sentence of the third subparagraph of Article 11(1) is replaced by the following:

   'The producer organisation shall also forward a copy, or a telex, fax or electronic mail containing the information laid down in the first subparagraph, no later than the fifth working day following the week of delivery, to the body designated by the Member State where its head office is situated and, where applicable, to the body designated, by the Member State where processing is carried out, to facilitate checks.'

5. The second indent of Article 18(1)(i) is replaced by the following:

   '— 7 % of quantities delivered for processing, in order to check that they tally with the certificates referred to in Article 11 and comply with the minimum quality requirements;'.

6. Article 18(1)(v) is replaced by the following:

   '(v) checks on all aid applications and supporting documents and, in the case of tomatoes, cross-checks on all declared parcels of land.'

[1] OJ L 297, 21.11.1996, p. 29.
[2] OJ L 72, 14.3.2002, p. 9.
[3] OJ L 64, 6.3.2001, p. 16.
[4] OJ L 181, 4.7.2001, p. 16.
[5] OJ L 297, 21.11.1996, p. 1.
[6] OJ L 84, 28.3.2002, p. 1.
[7] OJ L 327, 12.12.2001, p. 11.
[8] OJ L 341, 22.12.2001, p. 105.

7. Article 20(5) is replaced by the following:

'5. In the case of tomatoes, if the area checks referred to in Article 18(1)(i) and/or (v) show a discrepancy between the area declared and that actually determined, at the level of the total area checked, the aid payable to the producer organisation shall be reduced, unless the difference is clearly due to error:

— by the percentage of the discrepancy established, if it is more than 5 % but no more than 20 % of the area determined,

— by 30 % if the discrepancy is more than 20 % of the area determined.

Notwithstanding the first subparagraph, where the area declared is less than the area actually determined, the aid payable to the producer organisation shall be reduced by half the percentage of the discrepancy established, and this reduction shall apply only if the discrepancy is more than 10 % of the area determined.'

8. The second and third subparagraphs of Article 21(1) are replaced by the following:

'In addition, the processor's approval as provided for in Article 3(1) shall be suspended:

— for the marketing year following the finding, if the difference referred to in the first subparagraph is more than 10 % but less than 20 %,

— for two marketing years following the finding if the difference is more than 20 %.

For the purposes of applying the first and second subparagraphs, any quantities of finished products, in excess of an 8 % tolerance, not complying with the minimum quality requirements shall be treated as quantities not processed.'

Article 2

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

At the request of the producer organisation or processor concerned, the provisions of Article 1(5), (7) and (8) shall apply to cases occurring before the entry into force of this Regulation.

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

Done at Brussels, 2 August 2002.

For the Commission

Franz FISCHLER

Member of the Commission