COMMISSION REGULATION (EC) No 789/2005

of 25 May 2005

amending Regulation (EEC) No 1858/93 laying down detailed rules for applying Council Regulation (EEC) No 404/93 as regards the aid scheme to compensate for loss of income from marketing in the banana sector

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 404/93 of 13 February 1993 on the common organisation of the market in bananas [1], and in particular Article 14 thereof,

Whereas:

(1) Article 7 of Commission Regulation (EEC) No 1858/93 [2] lays down the detailed rules for applying Regulation (EEC) No 404/93 as regards the submission of applications for advances and payment of the balance of the compensatory aid for loss of income from marketing in the banana sector, as provided for by Article 12 of Regulation (EEC) No 404/93. With a view to sound management and to obtaining by year-end all the data and information needed to fix the aid in particular, penalties should be provided for where there is a delay in the submission of applications for payment of the balance.

(2) The supporting documents that must accompany the payment applications should also be specified and these documents must include proof of the goods' actual sale, in particular their acceptance by the buyer.

(3) Regulation (EEC) No 1858/93 should therefore be amended accordingly.

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

HAS ADOPTED THIS REGULATION:

Article 1

Article 7 of Regulation (EEC) No 1858/93 is hereby amended as follows:

1. The third subparagraph of paragraph 2(b) is replaced by the following:

'Where applications for payment of the balance are submitted after the date referred to in point (b) of the first subparagraph, a 1 % reduction per working day shall be applied to the amount of the balance to which the producer would have been entitled had the application been submitted in time. Where the delay exceeds 15 days, the application shall be inadmissible.

In duly justified exceptional cases, the competent authority may accept applications for payment of the balance after the date referred to in point (b) of the first subparagraph, if this delay does not prevent the checks under Article 10(1) from going ahead. In such cases the provisions of the preceding subparagraph shall not apply.'

2. Paragraph (4) is replaced by the following:

'4. Applications shall be accompanied by the following:

— the certificates of conformity or, if appropriate, the certificate of exemption referred to in Article 7 of Commission Regulation (EC) No 2898/95 (*),

— sales invoices,

— the transport documents, in the case of bananas marketed outside the production region.

The documents submitted must prove that the goods have been accepted by the buyer.

(*) OJ L 304, 16.12.1995, p. 17.'

3. The following paragraph 4a is inserted:

'4a. Applications without the information referred to in paragraph 3 and not accompanied by the supporting documents and proofs mentioned in paragraph 4 shall be inadmissible.'

[1] OJ L 47, 25.2.1993, p. 1. Regulation as last amended by the 2003 Act of Accession.
[2] OJ L 170, 13.7.1993, p. 5. Regulation as last amended by Commission Regulation (EC) No 471/2001 (OJ L 67, 9.3.2001, p. 52).

Article 2

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

However, Article 1(2) and (3) shall apply for the first time to applications for advances relating to the quantities marketed in May and June 2005.

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

Done at Brussels, 25 May 2005.

For the Commission
Mariann FISCHER BOEL
Member of the Commission