REGULATIONS

COMMISSION REGULATION (EU) No 34/2011

of 18 January 2011

amending Regulation (EC) No 288/2009 laying down detailed rules for applying Council Regulation (EC) No 1234/2007 as regards the Community aid for supplying fruit and vegetables, processed fruit and vegetables and banana products to children in educational establishments, in the framework of a School Fruit Scheme

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) ([1]), and in particular Article 103h(f) in conjunction with Article 4 thereof,

Whereas:

(1) Commission Regulation (EC) No 288/2009 ([2]) lays down detailed rules for the European School Fruit Scheme established by Article 103ga of Regulation (EC) No 1234/2007. In the light of the experience of the School Fruit Scheme's first year of implementation and in order to facilitate its implementation by the Member States, a number of provisions of Regulation (EC) No 288/2009 should be amended.

(2) Article 4 of Regulation (EC) No 288/2009 lays down rules on aid for the supply of fruit and vegetables, processed fruit and vegetables and banana products to children in the framework of the School Fruit Scheme, including rules on the allocation and reallocation of the aid. In order to assist the Member States in making their aid application and to ensure that there are no doubts in respect of the amount of aid applied for, an aid application should be submitted by the Member States together with their strategy using a precise form.

(3) Value added tax should under no circumstances be considered as expenditure eligible for the Union aid referred to in Article 103ga of Regulation (EC) No 1234/2007. As clear rules on the eligibility of expenditure are necessary for financial management and control purposes, the rules on the eligible costs under the School Fruit Scheme should be clarified in this respect.

(4) Article 5(1)(b)(ii) and (iii) of Regulation (EC) No 288/2009 provides for the eligibility of costs related to monitoring and evaluation and communication, respectively. Article 7 provides for the general conditions for approval of aid applicants. In order to ensure a more flexible implementation of the School Fruit Scheme, Article 7 should be amended, so as to ensure that services related to monitoring, evaluation and communication may be provided by aid applicants that do not themselves use or deliver the products financed under the School Fruit Scheme.

(5) Article 14 of Regulation (EC) No 288/2009 provides for the use of a European 'School Fruit Scheme' poster. Following the entry into force of the Lisbon Treaty, references to the 'European Community' should be replaced by 'European Union'. At the same time, Member States should be allowed to continue using previously produced posters and other tools of information during a reasonable period of time.

(6) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for the Common Organisation of Agricultural Markets,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 288/2009 is amended as follows:

(1) Article 4(1) is replaced by the following:

'1. Member States setting up a School Fruit Scheme may apply for the aid referred to in Article 103ga of Regulation (EC) No 1234/2007 for one or more periods running from 1 August to 31 July, by notifying the Commission of their strategy by 31 January of the year in which the first period starts. The strategy shall be accompanied by the aid application drawn up in accordance with the model set out in Annex IIa, also where a strategy covers more than one year.';

([1]) OJ L 299, 16.11.2007, p. 1.
([2]) OJ L 94, 8.4.2009, p. 38.

(2) in Article 5(1), the introductory phrase is replaced by the following:

'The following costs, excluding value added tax (VAT), are eligible for the Union aid referred to in Article 103ga of Regulation (EC) No 1234/2007:';

(3) in Article 6(2)(e), point (ii) is replaced by the following:

'(ii) the monitoring, evaluation and/or communication.';

(4) in the first paragraph of Article 7, the following new point (aa) is inserted:

'(aa) to use the aid for the monitoring and evaluation of the School Fruit Scheme as referred to in Article 12 or for communication;';

(5) Article 10(1) is amended as follows:

(a) at the end of point (b) the term 'and' is deleted;

(b) the following new point (d) is added:

'(d) the supporting documents to be defined by the Member States.';

(6) Article 14 is replaced by the following:

'*Article 14*

European "School Fruit Scheme" poster

1. Member States participating in the European "School Fruit Scheme" shall communicate to the public that the scheme has received financial support from the European Union. In this respect, Member States may make use of a poster produced in accordance with the minimum requirements laid down in Annex III, which shall be permanently situated at a clearly visible and legible place at the main entrance of the participating educational establishment.

2. Where Member States decide not to make use of the poster referred to in paragraph 1, they shall clearly explain in their strategy how they will inform the public about the European Union's financial contribution to their scheme. Websites or any other instrument of information or publicity on a Member State's School Fruit Scheme shall in any event exhibit the European flag and mention the European "School Fruit Scheme" and the financial support of the European Union.

3. References to the financial contribution made available by the European Union shall receive at least the same visibility as contributions from other private or public entities supporting a Member State's scheme.

4. Member States may continue to use posters and the other tools of information printed prior to 31 January 2011 on the basis of the legislation applicable at the time of their production, until 31 August 2012.';

(7) Article 15 is amended as follows:

(a) in paragraph 1, second subparagraph, point (a) is replaced by the following:

'(a) the results of the monitoring exercise, as provided for in Article 12(1);';

(b) paragraph 4 is replaced by the following:

'4. Where a Member State changes the strategy referred to in Article 3, it shall notify the Commission of its new strategy, by e-mail to the address referred to in the first subparagraph of paragraph 1 and at the latest by 31 January of the following year.';

(8) a new Annex IIa, as set out in the Annex to this Regulation, is inserted;

(9) in Annex III, the last indent is replaced by the following:

' "Our [type of educational establishment (e.g. nursery/pre-school/school)] participates in the European 'School Fruit Scheme' with the financial support of the European Union." The poster shall bear the emblem of the European Union.'.

Article 2

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

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

Done at Brussels, 18 January 2011.

For the Commission
The President
José Manuel BARROSO

ANNEX

'ANNEX IIa

Aid application to be submitted by the Member States as referred to in Article 4(1)

	Member State		
	School year		
	Indicative allocation of aid referred to in Article 4(3) and Annex II, expressed in EUR.		
Q1	Availability to use more than the indicative allocation referred to in Article 4(3) and Annex II.	Yes	No
Q2	If No to Q1, allocation requested, in EUR	(in figures)	(in letters)
Q3	If Yes to Q1 maximum additional allocation requested, in EUR (in addition to the indicative allocation).	(in figures)	(in letters)'