

COMMISSION REGULATION (EEC) No 4115/88

of 21 December 1988

laying down detailed rules for applying the aid scheme to promote the
extensification of production

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 797/85 of 12 March 1985 on improving the efficiency of agricultural structures⁽¹⁾, as last amended by Regulation (EEC) No 1137/88⁽²⁾, and in particular Article 1b (6) thereof,

Having regard to Council Regulation (EEC) No 1676/85 of 11 June 1985 on the value of the unit of account and the conversion rates to be applied for the purposes of the common agricultural policy⁽³⁾, as last amended by Regulation (EEC) No 1636/87⁽⁴⁾, and in particular Article 5 (3) thereof,

Whereas under the terms of the first subparagraph of Article 1b (1) of Regulation (EEC) No 797/85 surplus products are defined as products for which there are consistently, at Community level, no normal unsubsidized outlets; whereas, in order to define these products, reference should be made, in particular, to the products in respect of which the Council decided in 1987 and 1988 to introduce or strengthen the various mechanisms for stabilizing the agricultural markets of the Community; whereas, however, in the present situation, it would be advisable to exclude certain products for which it does not seem appropriate that the scheme in question should be applied, given the existing systems for controlling production;

Whereas the obligations of the beneficiary of the aid should be determined in the case of extensification of production, in particular, the undertaking to be given by him to reduce his output of one or more surplus products;

Whereas, in order to take account of the characteristics of arable and/or livestock farming in the different regions of the Community, provision should be made for the reduction in output to be ensured according to alternative and/or complementary methods based either on the establishment of a reduction in output in quantitative terms on individual holdings or on the adoption of less intensive production methods in respect of given product groups leading, under normal circumstances, to an equivalent reduction in output; whereas it is for Member States to determine the method or methods best suited to the local production conditions;

Whereas, as regards the adoption of less intensive production methods in respect of given product groups,

the Member States concerned must demonstrate the effectiveness of such methods to the Commission and must prove, in the light of the appropriate references and the diverse farming situations, that their implementation regularly leads to a reduction in output of at least 20 % as compared with the output achieved by conventional methods; whereas the Commission must approve the measures providing for such methods;

Whereas the purpose of the scheme is firstly to reduce the volume of production attained intensively; whereas, therefore, to ensure that the measures are properly applied subject to clearly determined conditions, the possibility should be provided for laying down special conditions in respect of types of production or production systems that are already extensive;

Whereas the aid applications, to be submitted by the producers, must contain such information as will enable the output situation of their holdings to be assessed and must be accompanied by their undertaking to reduce output according to the reduction methods chosen by the Member State;

Whereas, in order to compensate for the loss in income, Member States should be left to determine the amount of the aid and to differentiate it by reference to common criteria, taking account, where appropriate, of the complementary measures existing at Community level, the operation of which must not be impeded; whereas such criteria may be adopted by reference to the various products, the regional or local situation, the total area covered by the undertaking and the extensification method applied;

Whereas the inspections to be carried out by the Member States must be determined; whereas, moreover, it would seem vital for the Member States to take effective measures to penalize any failure by the beneficiary to comply with the undertaking he has given;

Whereas the Standing Committee on Agricultural Structures has not delivered an opinion within the time limit set by its Chairman,

HAS ADOPTED THIS REGULATION:

Article 1

This Regulation lays down detailed rules for applying the aid scheme to promote the extensification of production.

⁽¹⁾ OJ No L 93, 30. 3. 1985, p. 1.

⁽²⁾ OJ No L 108, 29. 4. 1988, p. 1.

⁽³⁾ OJ No L 164, 24. 6. 1985, p. 9.

⁽⁴⁾ OJ No L 153, 13. 6. 1987, p. 1.

Article 2

1. The products eligible for aid for the extensification of production shall be those listed in Annex I.

With regard to wine, Member States may exclude quality wine psr from the scheme.

2. Where mixed crops are grown, the utilized agricultural area shall be divided among the crops concerned in proportion to the area of land used for individual crops; aid shall be granted only if the crop of the product eligible for aid accounts for at least 60 % of the agricultural area concerned.

Article 3

1. In order to qualify for extensification aid, producers must give an undertaking to make a real reduction in their output of one or more of the products referred to in Annex I. They must provide adequate guarantees that the undertaking will be complied with throughout its entire duration.

2. Member States may restrict the duration of the undertaking to five years.

Article 4

1. The reduction in output shall be ensured by the farmer according to the procedure laid down by the Member States in relation to the normal output of his agricultural holding on the basis of average annual output during a given reference period.

The detailed rules to be determined by the Member States may provide for the following two methods:

- a 'quantitative' method, based on the actual reduction in quantitative terms, in accordance with Article 6, and/or
- a 'production methods' method, based on the adoption of less intensive production methods for the product or products in question, in accordance with Article 8.

2. The reference period to be fixed by the Member States must be such that it is possible to determine the normal annual level of production of the holding concerned to be used as a reliable basis for calculating the reduction in each producer's output and for verifying, where appropriate, the effect of the conversion of production to less intensive methods.

The normal annual level of production of the agricultural holding shall be established on the basis of technical and economic administrative documents; when the 'production methods' method is used the normal annual level of production may be estimated on a flat-rate basis by reference to appropriate technical criteria in the various production sectors.

3. The Commission may authorize a Member State, following a justified request from the latter, to determine specific conditions for the granting of aid in areas where production or production systems are already extensive.

Article 5

Member States shall take the necessary action to ensure that the implementation of the extensification scheme takes account of the need to protect the environment and natural resources and of consumer interest in better quality agricultural products, while at the same time taking care to avoid any disturbance of the market.

Article 6

Where the 'quantitative' method is applied, the reduction of at least 20 % in output for each individual holding shall be calculated, for each of the products covered by the undertaking, in terms of the holdings entire output of those products.

For products eligible for the set-aside incentive scheme for arable land within the meaning of Title 01 of Regulation (EEC) No 797/85 or for a permanent abandonment premium in respect of wine-growing areas within the meaning of Council Regulation (EEC) No 1442/88⁽¹⁾, the reduction in output may not be achieved through a reduction in the area planted.

2. Member States may accept exceptional cases of output in excess of the undertaking given by the farmer, on condition that his average annual output, calculated over no more than five years, complies with the undertaking given.

However, the rate of overproduction, to be approved by the Commission, may not exceed a threshold to be determined by the Member States with reference to cultivation conditions.

Article 7

Where the 'quantitative' method is applied in the beef and veal sector, the reduction in output may be achieved via an equivalent reduction in the number of livestock units comprising the herd. In this case, Member States shall:

- ensure that the livestock that are the subject of the reduction are slaughtered or exported permanently to a third country;
- see that the remainder of the herd is not subject to any intensification of production.

Article 8

Where the 'production methods' method is applied, producers shall undertake to convert their farming systems in such a way as to comply with these methods.

These methods may involve, in particular, the use of appropriate farming techniques or varieties and the reduction of intermediate inputs.

⁽¹⁾ OJ No L 132, 28. 5. 1988, p. 3.

Member States must demonstrate beforehand to the Commission that the adoption of the methods referred to in the first subparagraph and the conditions of their application will, under normal circumstances, lead to a reduction in output of at least 20 %.

Article 9

1. In their aid applications, producers shall provide information characterizing the situation on their holdings during the reference period, with particular reference to :

- (a) a breakdown of the output of the holding and average yield levels ;
- (b) for the products affected by extensification :
 - where the 'quantitative' method is applied, the average annual output of the holding,
 - where the 'production methods' method is applied, the production methods being used.

2. In the event of extensification of livestock production, the applicant shall also specify :

- the average composition of the grazing stock during the reference period and its annual feed needs,
- the average amounts of feed purchased outside the holding during the reference period.

3. The application for aid shall be accompanied by :

- the technical or economic data on the basis of which the average output within the meaning of the first indent of paragraph 1 (b) was determined or, in the absence of such data, a detailed assessment of that average output ;
- the undertaking given by the producer, subject to aid being granted, in accordance with Article 10.

Article 10

1. The producer shall undertake on the basis of the rules laid down by the Member States either

- where the 'quantitative' method is applied, to reduce output of the product or products affected by extensification by at least 20 % as compared with the annual level of output determined during the reference period, or ;
- where the 'production methods' method is applied, to adopt less intensive cultivation or livestock farming methods.

2. The undertaking shall also include :

- an indication of the period covered by the undertaking ;
- the obligation for the beneficiary to allow the authority concerned to verify that the undertakings have been fulfilled and, in particular, to allow such persons access to the holding for the purpose of verification ;

- the obligation for the beneficiary to accompany, or to instruct a representative to accompany, the persons responsible for making inspections.

3. Where extensification is applied to livestock farming, the producer shall undertake to see that :

- production capacity, in particular buildings and fixed plant and equipment, released as a result of extensification, is not used either by the farmer or by any third party to increase the output of the products referred to in Annex I or of pigmeat or poultry products,
- fodder production areas continue to be used to provide feed for the livestock on the holding.

Article 11

1. Any holding affected by the extensification scheme shall attract aid only if :

- it is farmed by the producer at the time of submission of the application and will continue to be farmed by him throughout the period of the undertaking ;
- it has been farmed by the producer for a minimum period. This period will be determined by the Member States. It may vary according to the type of occupancy but may not exceed five years ;
- the producer has the right, under national law, at the time of submission of the application, to farm the holding concerned throughout the period of undertaking.

2. Should the producer not fulfil the condition laid down in the third indent of paragraph 1 above, the Member States shall determine the conditions under which he may make an application.

Article 12

1. If agronomic and economic conditions so require, Member States shall differentiate the rate of aid :

- according to the products affected by extensification,
- in particular regions or areas.

Member States may also differentiate the rate of aid according to other criteria, including :

- the proportion of the total area of the holding which is covered by the undertaking,
- where the 'quantitative' method is applied, the rate of reduction in output,
- where the 'production methods' method is applied, the cultivation or livestock farming method applied.

2. Member States shall fix aid in the wine sector in the light of the different yield categories laid down in Article 2 of Regulation (EEC) No 1442/88 in order not to impede the proper functioning of the permanent abandonment scheme laid down by the said Regulation in respect of winegrowing areas.

3. The maximum amounts of aid eligible for assistance from the Fund are set out in Annex II.

4. In order to promote the permanent changeover to more extensive production systems, Member States may introduce a degressive aid scheme. The same phased reduction shall then apply to the maximum amounts of aid, whereby the annual average thereof, calculated over the entire duration of the undertaking, may not exceed the maximum eligible amounts set out in Annex II.

Article 13

The amounts referred to in Annex II shall be converted into national currencies according to the agricultural exchange rates in force on 1 January of the year during which the decision is taken to grant the aid.

When, in accordance with Community rules, payment of the aid is spread over several years, and when the agricultural conversion rate in force for a currency when the grant is made is subsequently lowered, the instalments shall be determined on the basis of the relevant agricultural conversion rate in force on 1 January of the year during which the aid instalment is payable.

Article 14

1. Where the total area of the holding is increased during the period of the undertaking, output on the additional land of the product affected by extensification may not be increased.

The farmer may, for the remaining period of the undertaking, receive aid under the extensification scheme for the additional land, provided he reduces the output from such land as provided in this Regulation.

2. During the first three years of his undertaking the beneficiary may apply to make changes in the procedures for reducing output.

3. If, after the aid has been granted, some or all of the holding is transferred during the period of the undertaking to another person, the aid beneficiary or his successors shall remain responsible for the transferee's execution of the original undertaking, except where the transferee himself gives an equivalent undertaking for the remainder of the period.

Member States shall determine the consequences of the death of a beneficiary who does not satisfy the condition laid down in the third indent of Article 11 (1).

4. Paragraph 3 shall not apply in cases of expropriation or compulsory sale of land affected by extensification.

Article 15

1. Member States shall take the necessary action to ensure that beneficiaries fulfil their undertakings. They shall, for this purpose, use in particular the information available in the context of other Community aid schemes.

2. Member States shall hold an inspection, each year, of a representative sample of beneficiary holdings every year taking account of the geographical distribution of the land concerned; the sample must not be less than 5 %.

Where significant irregularities are discovered in respect of at least 5 % of the aid applications inspected, Member States shall immediately inform the Commission thereof.

3. The inspections provided for in paragraph 2 shall comprise at least:

- verification of all the aspects of the beneficiary's undertaking and the supporting documents and/or evidence relating to his compliance therewith;
- on-site verification in the form of an inspection of holdings that are in receipt of the aid, and a check of the accuracy of the particulars given in the aid application;
- where the 'production methods' method is applied, the verification referred to above shall be such as to check proper compliance with the production methods the producer has undertaken to implement. Where necessary, samples of soil and intermediate and final products, processed and unprocessed, may be taken in order to be analyzed by the relevant authorities.

A detailed report on the fulfilment of the undertakings given by aid beneficiaries shall be drawn up on the basis of these inspections.

Article 16

1. Member States shall apply financial penalties as a minimum measure in the case of failure to comply with undertakings made, except in cases of *force majeure*. Where serious irregularities are discovered, Member States shall decide on the levels of financial penalty to apply. Member States shall proceed to recover the aid wrongfully paid, with the addition of interest charged on the basis of the time elapsed between the payment of the aid and its recovery from the beneficiary. Where appropriate, Member States shall determine this rate of interest annually.

2. Aid recovered shall be paid to the paying departments or agencies and deducted by them from expenditure claimed from the European Agricultural Guidance and Guarantee Fund, in proportion to the Community contribution.

3. Where the sums paid cannot be recovered, the relevant losses shall be borne by the Community in proportion to its contribution.

Article 17

Before 1 July each year Member States shall send the Commission a report on the operation of the scheme, showing in particular:

- (a) the year covered by the report;

- (b) a statement of the number of applications received, broken down by size of holding and of the number of applications accepted for each of these size categories ;
- (c) an assessment of the reduction in output achieved for each of the products concerned during the preceding year in relation to :
- the size of the holdings and, where possible, the type of farming practised on the holdings and the type of occupancy ;
 - the number of beneficiary farmers ;
 - the procedures for reducing output (quantitative method or 'production methods' method) ;
- (d) a summary of the findings set out in the inspection reports referred to in Article 15 ;
- (e) a record of any action taken against failure to fulfil undertakings ;
- (f) any conclusions to be drawn from the experience gained as regards the contribution of the extensification scheme towards adjusting production to the needs of the market.

Article 18

This Regulation shall enter into force on 1 January 1989.

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

Done at Brussels, 21 December 1988.

For the Commission

Frans ANDRIESEN

Vice-President

ANNEX I

PRODUCTS ELIGIBLE FOR THE AID

Livestock :

- Cattle (beef/veal)
- Sheep and goats

Annual crops :

- Cereals
- Oilseed crops (rape, sunflower and soya)
- Peas and field beans
- Tobacco
- Cotton
- Vegetables ⁽¹⁾

Perennial crops :

- Vines (wine)
- Olive oil
- Fruit ⁽¹⁾

ANNEX II

MAXIMUM AMOUNTS ELIGIBLE PER YEAR

Livestock

(ECU)

- | | |
|----------------------|---|
| — Cattle (beef/veal) | 210/LU by which the herd is actually reduced ⁽²⁾
or
65/LU in the herd before the undertaking was given ⁽³⁾ |
| — Sheep and goats | 185/LU by which the flock was actually reduced ⁽²⁾
or
55/LU in the flock before the undertaking was given ⁽³⁾ |

Annual crops

- | | | |
|---|---|--------|
| <ul style="list-style-type: none"> — Cereals — Oilseed crops (rape, sunflower and soya) — Peas and field beans — Tobacco — Cotton — Vegetables ⁽¹⁾ | } | 180/ha |
|---|---|--------|

Perennial crops

- | | |
|--|----------|
| — Olive oil (specialized olive groves) | 300/ha |
| — Citrus fruit | 900/ha |
| — Other fruit ⁽¹⁾ | } 600/ha |
| — Wine | |

⁽¹⁾ Listed in Annex II to Council Regulation (EEC) No 1035/72 (OJ No L 118, 20. 5. 1972, p. 1).

⁽²⁾ Where the procedures for reducing output provide that the number of livestock units be reduced by at least 20 %.

⁽³⁾ Where the procedures for reducing output provide for methods.