

## COMMISSION REGULATION (EEC) No 86/79

of 18 January 1979

amending Regulation (EEC) No 232/75 on the sale of butter at reduced prices for use in the manufacture of pastry products and ice-cream

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 804/68 of 27 June 1968 on the common organization of the market in milk and milk products<sup>(1)</sup>, as last amended by Regulation (EEC) No 1761/78<sup>(2)</sup>, and in particular Articles 6 (7) and 28 thereof,

Whereas Commission Regulation (EEC) No 232/75 of 30 January 1975<sup>(3)</sup>, as last amended by Regulation (EEC) No 52/79<sup>(4)</sup>, provided for the sale by tender of butter intended for use in the manufacture of pastry products and ice-cream; whereas it is appropriate to adopt a corresponding measure for the sale of the butter concerned at a fixed price in order that the processing industry may temporarily obtain supplies, in certain special circumstances which exist particularly in the United Kingdom, and in a situation of rising stocks of butter, outside the tendering procedure;

Whereas, to this end, it is appropriate to supplement the provisions of Regulation (EEC) No 232/75 by laying down the rules for direct sale at a fixed price; whereas this price should be established in such a way as to ensure priority to sale by tender;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Milk and Milk Products,

HAS ADOPTED THIS REGULATION:

*Article 1*

Regulation (EEC) No 232/75 is amended in accordance with this Regulation.

*Article 2*

Article 2 is replaced by the following Article:

(<sup>1</sup>) OJ No L 148, 28. 6. 1968, p. 13.  
 (<sup>2</sup>) OJ No L 204, 28. 7. 1978, p. 6.  
 (<sup>3</sup>) OJ No L 24, 31. 1. 1975, p. 45.  
 (<sup>4</sup>) OJ No L 8, 12. 1. 1979, p. 10.

*Article 2*

The butter shall be sold:

- (a) by means of a standing invitation to tender opened by each intervention agency in respect of the quantities of butter in question held by it;
- (b) at a fixed price, ex cold store, in accordance with Article 13a (2) (b).'

*Article 3*

The following paragraph 3 is added to Article 5:

- '3. In the case of sale at a fixed price, referred to in Article 2 (b), the possibility of the sampling provided for in paragraph 2 shall also be open to the interested party before the conclusion of the contract to purchase referred to in Article 13a (1).'

*Article 4*

The following paragraph 4 is added to Article 6:

- '4. In the case of sale at a fixed price:
- (a) the butter shall be sold only to those persons who give the written undertakings referred to in paragraph 1;
  - (b) the provisions of paragraphs 2 and 3 shall apply;
  - (c) the date of taking over referred to in paragraph 1 (d) and in the first subparagraph of paragraph 2 which shall be taken into consideration shall be the date referred to in Article 13b (4).'

*Article 5*

The following Articles 13a and 13b are inserted:

*Article 13a*

In the case of sale at a fixed price, referred to in Article 2 (b):

1. Requests to purchase may be submitted to, and contracts to purchase may be concluded with, the intervention agency only during the week beginning the Monday following the closing date for the submission of the tenders referred to in Article 4 (2) (selling period).

2. The butter shall be sold :

- (a) in quantities of at least five tonnes ;
- (b) ex cold store at a price equal to the minimum selling price fixed, in accordance with Article 9 (1) for the particular invitation to tender immediately preceding the selling period, increased by three units of account per 100 kilograms. However, the reduction in price of 14 units of account per 100 kilograms provided for in the second subparagraph of Article 11 (2) shall apply to the purchaser who has undertaken to observe the conditions laid down in the said provisions.

3. Requests to purchase which reach the intervention agency on the same day shall be deemed to have been submitted at the same time. If, after taking such requests into account, it is found that they exceed the quantity available in a store, then, failing an amicable arrangement with the interested parties, the intervention agency shall allocate the available quantity by the drawing of lots.

4. The contracts to purchase shall incorporate :

- the undertakings laid down in Article 6 (4),
- an indication of the anticipated use to which the butter will be put, in accordance with Article 7 (2) (c),
- the declaration of the purchaser, laid down in Article 7 (4) (b), to forgo any claim.

#### Article 13b

1. The intervention agency shall sell the butter only if, no later than the date of conclusion of the contract of sale, a payment on account is made of five units of account per 100 kilograms in respect of the total quantity covered by the contract.

2. The receipt of each quantity which the purchaser intends to withdraw, shall be conditional on :

- (a) payment of the balance of the purchase price ;
- (b) the lodging of a processing security the amount of which shall be equal to that laid down pursuant to Article 9 (2) for the particular tendering procedure immediately preceding the selling period.

3. On payment of the purchase price and when the processing security has been lodged, the intervention agency shall issue a removal warrant indicating :

- the quantity in respect of which these conditions have been satisfied,
- the store in question,
- the latest date for taking delivery,
- the date of expiry of the selling period during which the butter has been purchased.

4. The purchaser shall take delivery of the butter within 30 days from the date of the conclusion of the contract of sale. Delivery may be taken in instalments.

5. Save in cases of *force majeure*, if the purchaser has not taken delivery of the butter within the prescribed period, the contract of sale shall be cancelled in respect of the quantities not taken and the payment on account shall be forfeited in respect of those quantities.'

#### Article 6

The following Article 20a is inserted :

#### 'Article 20a

The Member States shall communicate to the Commission, no later than the 15th day of every month, the quantities of butter which under this Regulation and during the preceding month :

- have been the subject of a contract of sale,
- have been allocated under the tendering procedure,
- have been removed from store, divided up according to the methods of sale laid down in this Regulation.'

#### Article 7

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

It shall be applicable until 4 March 1979.

The first period of sale referred to in Article 13a (1) of Regulation (EEC) No 232/75 shall commence, by way of derogation from the said provisions, on Friday, 19 January 1979 and shall terminate on Wednesday, 24 January 1979.

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

Done at Brussels, 18 January 1979.

*For the Commission*

Finn GUNDELACH

*Vice-President*

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