

COMMISSION REGULATION (EEC) No 2321/86

of 24 July 1986

laying down detailed rules for the application of Council Regulation (EEC) No 1336/86 fixing compensation for the definitive discontinuation of milk production

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1336/86 of 6 May 1986 fixing compensation for the definitive discontinuation of milk production ⁽¹⁾, and in particular Article 5 thereof,

Whereas Regulation (EEC) No 1336/83 fixes the dates by which the producers who will receive the compensation for the discontinuation of milk production must have effectively ceased this activity; whereas the procedures to be followed for the implementation of the programme and their timetable should be determined both for the producer and for the competent national authorities;

Whereas Article 2 (2) of the abovementioned Regulation fixes the amount of the compensation at a maximum of 4 ECU per year and per 100 kilograms of milk or milk equivalent; whereas, in the case where the sum of the eligible requests concerns a quantity which exceeds the quantity fixed in Annex I to the same Regulation, the Member State concerned must lay down rules for the acceptance of the requests, varying if necessary the amount of the compensation, according to objective criteria in order to take account of the structures of milk production;

Whereas the consequence of the acceptance of the requests may be that the sum of the non-discontinued reference quantities for deliveries is lower than the guaranteed total quantities fixed in the third subparagraph of Article 5c (3) under (b) and (c) of Council Regulation (EEC) No 804/68 ⁽²⁾, as last amended by Regulation (EEC) No 1335/86 ⁽³⁾, or that the sum of the non-discontinued reference quantities for direct sales is lower than the quantities referred to in the Annex to Council Regulation (EEC) No 857/84 ⁽⁴⁾, as last amended by Regulation (EEC) No 2316/86 ⁽⁵⁾, for the periods 1 April 1987 to 31 March 1988 and 1 April 1988 to 31 March 1989; whereas, in this case, the guaranteed total quantities for deliveries and the total quantities for direct sales will be adapted in accordance with Article 5c (7) of Regulation (EEC) No 804/68 and the second subparagraph of Article 6 (2) of Regulation (EEC) No 857/84.

Whereas in cases where the obligations laid down are not respected, the producer will render himself liable to the

payment of the additional levy which may be due for any delivery or direct sale to consumption of milk or milk equivalent carried out after the date specified for the definitive discontinuation of milk production; whereas it should also be laid down that Member States must, on the one hand, take all the necessary steps for the implementation of the action and for its supervision, including the penal or administrative measures for the recovery of compensation which has been improperly paid, and, on the other hand, make the required communications to the Commission, whether for statistical purposes or for the assessment of the results of the programme;

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:

TITLE I

Determination of the compensation*Article 1*

Before the opening of the period for the submission of requests and without prejudice to the application of Article 3 (3), Member States shall:

- fix the amount of the compensation in accordance with Article 2 (2) of Regulation (EEC) No 1336/86 and the amounts of the increase where Article 2 (3) of that Regulation is applied,
- lay down, where appropriate, the rules for the acceptance of requests in accordance with Article 3 (2) of this Regulation.

TITLE II

Submission and acceptance of requests*Article 2*

1. Requests for the granting of the compensation must be submitted by the producers concerned to the competent authority designated by the Member State:

- during the period 28 July to 30 November 1986 as regards the first year of application referred to in the first indent of the third subparagraph of Article 1 (1) of Regulation (EEC) No 1336/86,

⁽¹⁾ OJ No L 119, 8. 5. 1986, p. 21.

⁽²⁾ OJ No L 148, 28. 6. 1968, p. 13.

⁽³⁾ OJ No L 119, 8. 5. 1986, p. 19.

⁽⁴⁾ OJ No L 90, 1. 4. 1984, p. 13.

⁽⁵⁾ See page 3 of this Official Journal.

- during the period 1 December 1986 to 31 October 1987 as regards the second year of application referred to in the second indent of the third subparagraph of Article 1 (1) of Regulation (EEC) No 1336/86.

Each Member State may fix the opening and closing dates of the period for the submission of requests within the periods referred to in the first subparagraph.

2. For each producer, as defined in the first subparagraph of Article 12 (c) of Regulation (EEC) No 857/84, the request shall include at least the following information :

- (a) the reference quantity referred to in Article 5c (1) of Regulation (EEC) No 804/68, to which the producer is entitled on the date when the request is presented, showing separately, where appropriate, the quantities granted in accordance with Article 3 (1) and (2) or Article 4 (1) (b) and (c) of Regulation (EEC) No 857/84, accompanied by the express mention that the aforesaid quantities are not taken into account for the calculation of the compensation ;
- (b) the reference quantity, referred to in Article 5c (2) of Regulation (EEC) No 804/68, to which the producer is entitled on the date when the request is presented, showing separately, where appropriate, the quantities granted in accordance with Article 3 (1) and (2) or Article 4 (1) (b) and (c) of Regulation (EEC) No 857/84, accompanied by the express mention that the aforesaid quantities are not taken into account for the calculation of the compensation ;
- (c) a declaration by the producer certifying that he undertakes :
 - to discontinue milk production definitively no later than 31 March following the date of acceptance of his request,
 - to give up any entitlement to a reference quantity in the context of the arrangements provided for in Article 5c of Regulation (EEC) No 804/68.

Article 3

1. Upon receipt of the request, the competent authority shall :
 - (a) verify the information referred to in Article 2 (2) (a) and (b) and record the written undertaking referred to in Article 2 (2) (c) ;
 - (b) inform the producers concerned, no later than 31 January 1987 as regards requests submitted during the period referred to in the first indent of Article 2 (1), or no later than 31 December 1987 as regards requests submitted during the period referred to in the second indent of Article 2 (1), whether the request has been

accepted or not and inform the purchasers concerned accordingly.

2. Where in a Member State the sum of the requests eligible for the compensation relates to a quantity which exceeds the quantity laid down in Annex I to Regulation (EEC) No 1336/86, the Member State concerned shall determine rules for the acceptance of requests varying, if necessary, the amount of the compensation on the basis of one or more of the following criteria :

- the date of receipt of the request,
- the age of the producer,
- the level of his reference quantity,
- the criteria referred to in the second subparagraph of Article 2 (3) of Regulation (EEC) No 1336/86.

3. Where in a Member State the sum of the requests eligible for the compensation does not reach the quantity referred to in Annex I to Regulation (EEC) No 1336/86, the Member State concerned shall extend the period for the submission of requests referred to in the second subparagraph of Article 2 (1) in order for this quantity to be reached in accordance with the first subparagraph of Article 2 (5) of Regulation (EEC) No 1336/86.

TITLE III

Payment of the compensation

Article 4

1. For accepted requests, the amount of the compensation shall be paid each year for seven years to the producers concerned during the period 1 April to 30 June of the year in question and in respect of the quantities defined in Article 1 (3) of Regulation (EEC) No 1136/86.

The first payment of the compensation shall be made during the period 1 April to 30 June following the date of acceptance of the request. However, this first payment may be made during the period 1 January to 31 March, if the producer proves, to the satisfaction of the competent authority, that he has definitively discontinued milk production before the beginning of this period.

Where Article 2 (3) of Regulation (EEC) No 1336/86 is applied, Member States shall determine the period or periods for the payment of the increase.

2. Without prejudice to the spreading of payment of the Community financing over eight years, as provided for in Article 2 (1) of Regulation (EEC) No 1336/86, Member States may, by way of derogation from the first and second subparagraphs of paragraph 1, pay the compensation in one or two instalments to all the producers concerned.

3. In the event of the death of the recipient of the compensation, his successors may receive the amounts of the compensation which remain due, on condition that the said successors give an undertaking to the competent authority to assume the obligations entered into by the deceased producer.

Article 5

Where Article 2 (5) of Regulation (EEC) No 1336/86 applies, the available part of the amounts set out in Annex II to that Regulation shall be allocated to the Member States for the first and second years of application during the two months which follow the acceptance of the requests referred to in Article 3 (1) of this Regulation to be assigned for the financing of the measures referred to in Article 4 (1) (a) of Regulation (EEC) No 857/84. For the other years, the available part shall be allocated to Member States in January of each year concerned.

The reference quantities thus released shall, as necessary, be added to the reserve referred to in Article 5 or in Article 6 (3) of Regulation (EEC) No 857/84 to be used in application of Article 3 (2) and of Article 4 (1) (b) and (c) of the same Regulation.

Article 6

The amounts of the compensation referred to in Article 2 (2) and the amounts referred to in Annex II to Regulation (EEC) No 1336/86 shall be converted into national currencies by using the agricultural conversion rate in force on:

- 28 July 1986 for requests accepted no later than 31 January 1987,
- 1 February 1987 for requests accepted after 31 January 1987 and no later than 31 December 1987.

TITLE IV

Supervisory measures

Article 7

1. Member States shall take all the measures required to recover any compensation already paid where the undertakings laid down have not been complied with and to ensure that interested parties are informed of the penal or administrative sanctions to which they will be subject if they fail to comply with the provisions of this Regulation.

Member States shall inform the Commission of the measures adopted to ensure compliance with the undertakings given and shall keep it periodically informed of the position as regards administrative and legal proceedings relating thereto.

2. The sums recovered shall be transferred to the payment agencies or services and shall be debited by the

latter from the expenditure financed by the Guarantee Section of the EAGGF.

TITLE V

Final provisions

Article 8

For the purposes of this Regulation, the following definitions shall apply:

- (a) milk production: all production of cows' milk by a producer as defined in Article 12 (c) of Regulation (EEC) No 857/84;
- (b) definitive discontinuation of milk production: the cessation of milk production, as defined under (a), throughout the period of application of the discontinuation arrangements provided for by Regulation (EEC) No 1336/86 or until the end of the scheme provided for in Article 5c of Regulation (EEC) No 804/68, where the latter falls on a later date.

Article 9

1. Within the time limits laid down in Article 4 of Regulation (EEC) No 1336/86, Member States shall notify the Commission of the following:

- the amounts of the compensation granted in accordance with Article 2 (2) of Regulation (EEC) No 1336/86,
- where appropriate, the amount of the increase referred to in Article 2 (3) of Regulation (EEC) No 1336/86 and the detailed rules of application where the amount of the increase is adapted to take account of different local conditions,
- where appropriate, the measures taken pursuant to Article 3 (2) of Regulation (EEC) No 1336/86,
- the number of requests submitted by producers who have exclusively a reference quantity under Article 5c (1) of Regulation (EEC) No 804/68 for deliveries to purchasers and the sum of the corresponding reference quantities,
- the number of requests submitted by producers who have exclusively a reference quantity under Article 5c (2) of Regulation (EEC) No 804/68 for direct sales and the sum of the corresponding reference quantities,
- the number of requests submitted by producers who have both a reference quantity for deliveries and for direct sales, showing separately the sum of the corresponding reference quantities,
- the number of requests referred to in the fourth indent, accepted for payment of compensation, the sum of the corresponding reference quantities and the sum of the quantities of milk and milk equivalent delivered by the producers concerned to one or more purchasers during the 12-month period of application of the additional levy system preceding the date of submission of the request,

- the number of requests referred to in the fifth indent, accepted for payment of compensation, the sum of the corresponding reference quantities and the sum of the quantities of milk and milk equivalent sold directly to consumption by the producers concerned during the 12-month period of application of the additional levy system preceding the date of submission of the request,
- the number of requests referred to in the sixth indent, accepted for payment of compensation, the sum of the corresponding reference quantities and the quantities of milk and milk equivalent delivered by the producers concerned to one or more purchasers, on the one hand, and sold directly to consumption by those same producers, on the other hand, during the 12-month period of application of the additional levy system preceding the date when the request was lodged,
- all data concerning the number of milk cows and heifers in calf suitable for milk production and the agricultural area used for milk production on the holding at the date of the request, by the producers referred to in the seventh, eighth and ninth indents.

2. Accepted requests, as referred to in the seventh, eighth, ninth and tenth indents of paragraph 1, shall be classified as follows :

- according to the size of the reference quantities concerned,
- according to the regions of the Member State where the applicants are located.

Article 10

By 31 May 1988 at the latest, Member States shall submit to the Commission a report assessing the results of the measure, containing in particular all information on the reasons for the participation of producers in the scheme and its impact on the regional or national development of milk production in the Member State concerned.

Article 11

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

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

Done at Brussels, 24 July 1986.

For the Commission

Frans ANDRIESEN

Vice-President
