

COMMISSION REGULATION (EEC) No 2293/92

of 31 July 1992

laying down detailed rules for the application of Council Regulation (EEC) No 1765/92 with regard to the set-aside scheme referred to in Article 7

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1765/92 of 30 June 1992 establishing a support system for producers of certain arable crops⁽¹⁾, and in particular Article 12 thereof,

Whereas, to be eligible for the compensatory payments referred to in Article 2 (5) of Regulation (EEC) No 1765/92, the producers concerned are required to set aside part of their holding; whereas detailed rules for the application of the scheme should be laid down;

Whereas, to ensure that the set-aside of land contributes to stabilizing markets, the detailed rules of application should be laid down in such a way as to ensure the necessary effectiveness of the scheme and maintain consistency with the entire set-aside scheme established by Regulation (EEC) No 1765/92; whereas, to that end, while not permanently excluding from the scheme other areas than those referred to in Article 9 of the said Regulation, it should be laid down that the areas taken into consideration for set aside are to be comparable with those that have been taken into consideration for calculating the regional base area; whereas it may help the effectiveness of the scheme to lay down also that set-aside is to be applied to continuous land of a minimum area and that its duration must cover a period corresponding to the growing cycle of the arable crops referred to in Regulation (EEC) No 1765/92; whereas provisions should also be laid down regarding maintenance and use of the areas set aside and regarding rotation;

Whereas the effectiveness of the scheme also requires that risks of abuse be avoided; whereas, except in social situations which Member States are to assess on a case-by-case basis, restricting set-aside undertaking by one and the same person to land he has farmed for the previous two years is likely to avoid such risks;

Whereas it should also be laid down that set-aside is to be undertaken in a manner respectful of the environment;

whereas, to that end, it is the task of the Member States to adopt appropriate provisions and penalties;

Whereas the areas set aside should be subject to declaration; whereas, to permit the set-aside of whole parcels and allow for a certain margin of error in the declaration, some flexibility must be accepted; whereas the limits to this flexibility should be established, while at the same time avoiding the negative consequences it might have for the Community budget as regards the maximum area eligible for compensatory payments;

Whereas the detailed rules provided for by this Regulation shall apply without prejudice to subsequent provisions to be adopted pursuant to the third and fourth sentences of the second subparagraph of Article 7 (1) of Regulation (EEC) No 1765/92;

Whereas the Management Committee for Cereals, Oils and Fats and Dried Fodder did not give an opinion within the time required by its President,

HAS ADOPTED THIS REGULATION:

Article 1

This Regulation lays down detailed rules for the application of Regulation (EEC) No 1765/92 with regard to rotational set-aside.

Article 2

Without prejudice to Article 7 (4) of Regulation (EEC) No 1765/92, 'set-aside' shall mean the leaving fallow of an area which has been cultivated in the previous year with a view to a harvest. However, areas set aside the previous year under Council Regulations (EEC) Nos 1703/91⁽²⁾ and 2328/91⁽³⁾ shall be treated as areas under cultivation.

⁽¹⁾ OJ No L 181, 1. 7. 1992, p. 12.

⁽²⁾ OJ No L 162, 26. 6. 1991, p. 1.

⁽³⁾ OJ No L 218, 6. 8. 1991, p. 1.

TITLE I

Conditions relating to land set aside

Article 3

1. Land set aside under this Regulation must cover an area of at least 0,3 contiguous hectares and have a width of at least 20 metres. Smaller areas shall not be considered unless they involve whole fields with permanent boundaries such as walls, hedges or watercourses.

2. The areas set aside must be cared for so as to maintain good cropping conditions. They may not be used for agricultural production of any sort other than that referred to in Article 7 (4) of Regulation (EEC) No 1765/92, nor put to any lucrative use incompatible with the growing of an arable crop.

3. Member States shall apply the appropriate measures which correspond to the specific situation of the land set aside so as to ensure the protection of the environment. These measures may also concern a green cover. Member States shall decide the penalties which are appropriate and proportional to the seriousness of the environmental consequences of not observing the said measures. These penalties may provide for a reduction or, where appropriate, cancellation of the benefits accruing from the scheme provided for in Regulation (EEC) No 1765/92. Member States shall inform the Commission of the measures taken to apply this provision.

4. To be considered under the scheme provided for in Regulation (EEC) No 1765/92, the areas set aside must:

- have been farmed by the applicant during the previous two years, save in special cases, duly justified according to objective criteria laid down by the Member State concerned, such as circumstances relating to the type of tenure, installation, or expansion of the holding by succession,
- remain set aside for a minimum period of seven months commencing, at the choice of the Member State on 15 December at the earliest and ending on 15 August at the latest.

5. A plot which has been set aside to fulfil the obligation imposed in Article 7 of Regulation (EEC) No 1765/92 may not be reused for that purpose for a subsequent five-year period.

TITLE II

Declarations and monitoring

Article 4

1. For the purposes of this Regulation, the producers concerned must submit a set-aside declaration to the competent authorities. This declaration sets the maximum

area eligible for the various compensatory payments to producers of arable crops.

2. Each producer shall submit a single set-aside declaration, which may be broken down by region within the meaning of Article 3 of Regulation (EEC) No 1765/92.

For each declaration of land set aside in a given region three must be a corresponding application for a compensatory payment for the corresponding number of hectares cultivated in that region.

Derogations may be allowed from the second subparagraph according to objective criteria laid down by the Member State.

3. The time limit for the submission of the declaration, the contents of the declaration, the monitoring and inspection procedures and the penalties applying in the case of false declarations will be adopted at a later date.

Article 5

1. If the land actually set aside exceeds the percentage laid down in Article 7 of Regulation (EEC) No 1765/92, the compensation provided for in paragraph 5 of that Article shall be limited to the areas corresponding to that percentage plus 10 %, or at most one hectare.

The first subparagraph shall not affect the extent of the maximum area eligible for compensatory payments to producers of arable crops.

2. If the set-aside undertaken is smaller than the area corresponding to the percentage laid down in Article 7 of Regulation (EEC) No 1765/92 by 10 % or less, or at most one hectare, the compensation provided for in paragraph 5 of that Article shall apply to the land actually set aside. In that case the maximum area eligible for compensatory payments to producers of arable crops shall be calculated on the basis of the land actually set aside and pro rata to the various crops.

TITLE III

General provisions

Article 6

Member States shall notify the Commission of the measures taken to apply this Regulation by 31 December 1992 at the latest.

Article 7

This Regulation shall enter into force on the seventh day following 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, 31 July 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission
