

COMMISSION REGULATION (EEC) No 3779/88

of 2 December 1988

on the reimbursement of the co-responsibility levy in the cereals sector provided for in Regulations (EEC) No 2040/86 and (EEC) No 1432/88 in respect of first-stage processing undertaken on a producer's account

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2727/75 of 29 October 1975 on the common organization of the market in cereals⁽¹⁾, as last amended by Regulation (EEC) No 2221/88⁽²⁾, and in particular Articles 4⁽³⁾ and 4b thereof,

Whereas, in its judgment of 29 June 1988 in Case 300/86, the Court of Justice of the European Communities declared invalid the second subparagraph of Article 1 (2) of Commission Regulation (EEC) No 2040/86 of 30 June 1986 laying down detailed rules for the application of the co-responsibility levy in the cereals sector⁽⁴⁾, as then amended by Regulation (EEC) No 2572/86⁽⁵⁾, inasmuch as that provision distinguished between first-stage processing of cereals with a view to utilization on the farm depending on whether processing was carried out directly by the producer or by a third party on the latter's account; whereas, in accordance with the abovementioned provision, only first-stage processing operations carried out directly by the producer were exempt from the co-responsibility levy;

Whereas the same difference in treatment arises in Regulation (EEC) No 1432/88⁽⁶⁾, as last amended by Regulation (EEC) No 2869/88⁽⁷⁾, which replaces Regulation (EEC) No 2040/86 from 1 July 1988;

Whereas the Court ruled that it is for the Community legislator to take appropriate measures to re-establish equality of treatment of operators; whereas it is sufficient to note that the burden of the levy is borne by cereals producers only, through the fact that it is passed on; whereas the equality of treatment of operators should therefore be re-established by reimbursing sums collected from producers who have not benefited from the aid provided for in Commission Regulation (EEC) No 2096/86 of 3 July 1986 laying down detailed rules for the

application of a direct aid scheme for small producers of cereals⁽⁷⁾, as last amended by Regulation (EEC) No 3852/87⁽⁸⁾;

Whereas the conditions under which the sums collected are to be reimbursed and the proof required for the purpose should be specified;

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

HAS ADOPTED THIS REGULATION:

Article 1

1. The competent agencies designated by the Member States shall reimburse before 30 June 1989 to producers, on application by the latter, the amounts of co-responsibility levies withheld:

- on processing operations on the producer's account as referred to in the second sentence of Article 1 (2) of Regulation (EEC) No 2040/86, the product obtained from which has been used on the holding of the producer for animal feed,
- on operations for the processing of cereals delivered or made available to an undertaking by a producer (work under contract) for subsequent utilization on his holding by 26 July 1988 pursuant to Article 1 (2) of Regulation (EEC) No 1432/88.

2. Paragraph 1 shall not apply where the amounts which it provides for have been compensated for by grant of the aid provided for by Regulation (EEC) No 2096/86.

Article 2

Operators who have collected co-responsibility levies for operations referred to in Article 1 but who have not yet paid the relevant sums to the Member States shall pay the said sums before the end of the month following the date of entry into force of this Regulation.

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 197, 26. 7. 1988, p. 16.

⁽³⁾ OJ No L 173, 1. 7. 1986, p. 65.

⁽⁴⁾ OJ No L 229, 15. 8. 1986, p. 25.

⁽⁵⁾ OJ No L 131, 27. 5. 1988, p. 37.

⁽⁶⁾ OJ No L 257, 17. 9. 1988, p. 22.

⁽⁷⁾ OJ No L 180, 4. 7. 1986, p. 19.

⁽⁸⁾ OJ No L 363, 23. 12. 1987, p. 18.

The preceding paragraph shall not apply where the operators have reimbursed the sums in question to the producers. In such case:

- the said operators shall forward to the competent authorities a list of reimbursements made with the names of the persons concerned, and
- the Member State shall not make the reimbursement provided for in Article 1 to the producers.

Article 3

Applications for reimbursement must be lodged before 31 March 1989 and shall include at least the following information:

- the amounts concerned and the date on which collection took place,
- the names and addresses of the processors.

Applications as referred to above must be accompanied by:

- proof, to the satisfaction of the competent authority, that the cereals in question have undergone the operations referred to in Article 1 and that the amounts applied for have actually been paid,
- a statement by the producer to the effect that the cereals used were produced on his holding and that the amounts concerned do not comprise sums compensated for under Regulation (EEC) No 2096/86.

Article 4

Member States shall take additional measures required, in particular as regards controls, to ensure reimbursement in accordance with this Regulation. They may also request operators to provide any information in addition to that set out in Article 3.

Article 4

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, 2 December 1988.

For the Commission

Frans ANDRIESEN

Vice-President