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*(Acts whose publication is obligatory)*

**COUNCIL REGULATION (EC) No 1460/95**

of 22 June 1995

**amending Regulation (EEC) No 1765/92 establishing a support system for producers of certain arable crops**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 42 and 43 thereof,

Having regard to the proposal from the Commission <sup>(1)</sup>,

Having regard to the Opinion of the European Parliament <sup>(2)</sup>,

Whereas withdrawal of arable land from cultivation, the main instrument for balancing the agricultural markets introduced by the common agricultural policy reforms, may be effected by the following three methods: (a) by set-aside in return for compensation under Regulation (EEC) No 1765/92 <sup>(3)</sup>; (b) by set-aside for environmental reasons under Council Regulation (EEC) No 2078/92 of 30 June 1992 on agricultural production methods compatible with the requirements of protection of the environment and maintenance of the countryside <sup>(4)</sup>; or (c) by afforestation under Council Regulation (EEC) No 2080/92 of 30 June 1992 instituting a Community aid scheme for forestry measures in agriculture <sup>(5)</sup>;

Whereas afforestation or set-aside for environmental reasons of land set-aside on a non-rotational basis is an attractive option for arable crop growers for linking CAP reform effectively with the accompanying measures;

Whereas producers who take advantage of the aid schemes under Regulation (EEC) No 2078/92 and Regulation (EEC) No 2080/92 will contribute to the reduction of surpluses; whereas it should therefore be possible in future, on certain conditions, in particular as regards

compensation, to count land for which aid is paid under those Regulations as being set aside under Regulation (EEC) No 1765/92; whereas such a possibility should be opened in relation only to land which has not yet been entered into either of those schemes; whereas Member States should not be obliged to apply this provision in any region where there is a continuing risk of a significant overshoot of the regional base area; whereas it should be possible for Member States to impose a limit on the amount of such land which may be counted as being set aside if this is necessary in order to avoid a disproportionate amount of the available budget for the scheme in question being concentrated only on a small number of farms;

Whereas land counted as being set aside should be included when calculating whether the base area has been exceeded notwithstanding the fact that payment in respect of it is not made under Regulation (EEC) No 1765/92;

Whereas Member States should be allowed to prohibit or restrict transfers of a set-aside obligation to a producer who counts against his set-aside obligation land for which he receives aid under Regulation (EEC) No 2078/92 or Regulation (EEC) No 2080/92, if such a transfer would be likely to frustrate the objective of encouraging a more balanced uptake of schemes under Regulation (EEC) No 2078/92 and Regulation (EEC) No 2080/92 as between areas comprising predominantly, or only, arable land and those comprising predominantly, or only, non-arable land;

Whereas the Commission should review the operation of the scheme on the basis of the reports of Member States as to its implementation and publish a report on or before 30 June 1998 accompanied, if necessary, by a proposal;

Whereas land set aside under Regulation (EEC) No 1765/92 may be used for production other than for human or animal consumption, including short rotation

<sup>(1)</sup> OJ No C 48, 25. 2. 1995, p. 6.

<sup>(2)</sup> OJ No C 151, 19. 6. 1995.

<sup>(3)</sup> OJ No L 181, 1. 7. 1992, p. 12. Regulation as last amended by the 1994 Act of Accession and by Regulation (EC) No 3290/94 (OJ No L 349, 31. 12. 1994, p. 105).

<sup>(4)</sup> OJ No L 215, 30. 7. 1992, p. 85.

<sup>(5)</sup> OJ No L 215, 30. 7. 1992, p. 96.

forest trees and shrubs; whereas in certain regions growing of these offers a positive environmental benefit; whereas national authorities should be enabled to promote this use of set-aside land by granting aid covering part of the cost of the necessary investment;

Whereas it should be possible to derogate from the normal dates provided in Article 10 (1), in order to help producers facing severe financial problems as a result of exceptionally bad climatic conditions in the year concerned,

HAS ADOPTED THIS REGULATION:

#### *Article 1*

Regulation (EEC) No 1765/92 is hereby amended as follows:

- (1) In Article 2 (6), first subparagraph, the text preceding the indents shall be replaced by the following:

'6. In the case of a regional base area, and when the sum of the individual areas for which aid is claimed under the arable producers' scheme, including the set-aside provided for under that scheme, land counted as being set aside under Article 7 (2) and set-aside provided for under Council Regulation (EEC) No 2328/91 of 15 July 1991 on improving the efficiency of agricultural structures (\*), is in excess of the regional base area, the following will be applied in the region in question.

(\*) OJ No L 218, 6. 8. 1991, p. 1. Regulation as last amended by Regulation (EC) No 2843/94 (OJ No L 302, 25. 11. 1994, p. 1).'

- (2) The following subparagraphs shall be added to Article 7 (2):

'Without prejudice to Article 9, areas set aside pursuant to Regulation (EEC) No 2078/92 which are neither put to any agricultural use nor used for any lucrative purposes other than those accepted for other land set-aside under this regulation and areas afforested pursuant to Regulation (EEC) No 2080/92, as a result of an application made under either of those Regulations on or after the date of publication of Regulation (EC) No 1460/95 (\*), may, up to any limit per holding which may be set by the Member State concerned, be counted as being set aside for the purposes of the set-aside requirement indicated in paragraph 1. Such limit shall be set only to the extent necessary to avoid a disproportionate amount of the

available budget relating to the scheme in question being concentrated on a small number of farms.

However:

- the compensation specified in paragraph 5 shall not be granted on these areas,
- the compensation for income losses for land set aside in the framework of Regulation (EEC) No 2078/92 and the payment for the incentive element which are referred to in Article 5 (1) (b) of that Regulation and the compensation for income losses indicated at point (c) in Article 3 of Regulation (EEC) No 2080/92 shall be limited for the areas in question to an amount equal at most to the compensation specified for that land in paragraph 5 of this Article, and
- a Member State may prohibit or restrict transfers under paragraph 7 of a set-aside requirement to a producer who makes use of the possibility in the second subparagraph if such transfers would be likely to frustrate the objective of encouraging a more balanced uptake of schemes under Regulation (EEC) No 2078/92 and Regulation (EEC) No 2080/92 as between areas which comprise predominantly, or only, arable land and areas which comprise predominantly, or only, non-arable land.

Member States may decide not to apply the scheme provided for in the second subparagraph to a new applicant in any region in which there is a continuing risk of a significant overshoot of the regional base area.

Member States shall report to the Commission on or before 31 December 1997 on the way in which they have applied the scheme, if at all, together with the relevant statistics. On the basis of those reports the Commission shall review the operation of the scheme and shall publish a report as to its implementation and effects, on or before 30 June 1998 accompanied, if necessary, by a proposal.

(\*) OJ No L 144, 28. 6. 1995, p. 1.'

- (3) The following subparagraph shall be added to Article 7 (4):

'Member States are authorized to grant national aid to producers to help them to cover the costs of planting multiannual crops for biomass production. The aid may not, however, be more than the equivalent of the interest to be paid on a loan, repayable in five equal annual instalments, taken out for an amount not exceeding five years of compensatory payments for the land in question.'

(4) The following shall be added at the end of the eighth indent of Article 12 :

'and the conditions to be applied in cases covered by Article 7 (2), second subparagraph.'

(5) The following indent shall be added after the tenth indent of Article 12 :

— those allowing the Commission, subject to the budgetary situation, to authorize, in derogation from Article 10 (1), and on the basis of the results of the administrative controls and any on-the-spot checks already made, carried out under Article 8 of Council Regulation (EEC) No 3508/92, payments prior to 16 October in certain regions,

of up to 50 % of the compensatory payments for cereals, protein crops and linseed and the compensation granted by virtue of the set aside obligation in years in which exceptional climatic conditions have so reduced yields that producers face severe financial difficulties.'

*Article 2*

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

Article 1 (3) shall however apply to the 1994/1995 marketing year.

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

Done at Brussels, 22 June 1995.

*For the Council*

*The President*

Ph. VASSEUR

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