

COMMISSION REGULATION (EC) No 1145/98

of 2 June 1998

amending Regulation (EC) No 1169/97 laying down detailed rules for the application of Council Regulation (EC) No 2202/96 introducing a Community aid scheme for producers of certain citrus fruits

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2202/96 of 28 October 1996 introducing a Community aid scheme for producers of certain citrus fruits⁽¹⁾, and in particular Articles 2(2) and 6 thereof,

Whereas certain provisions should be added to Commission Regulation (EC) No 1169/97⁽²⁾ in order to make management of the new scheme introduced by Regulation (EC) No 2202/96 more flexible; whereas, to that end, it should be made possible to include in contracts covering one marketing year a written amendment within each delivery period and to include in multiannual contracts the opportunity to carry a limited percentage of the quantities to be supplied during one delivery period forward to the following period in the same marketing year; whereas, also, the time for notifying delivery to the designated body should be put back;

Whereas experience gained in processing contracts shows that it is necessary to lay down proportional financial penalties if the quantities contracted by the producer organisations are not complied with; whereas, where a producer organisation markets products intended for processing from members of other producer organisations and/or makes individual producers eligible for the aid scheme, the financial responsibility for non-compliance with the quantities contracted and the consequences resulting therefrom are to be established in accordance with the provisions of Article 8(3)(c) of Regulation (EC) No 1169/97;

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

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1169/97 is hereby amended as follows:

1. Article 5(2) is replaced by the following:

'2. In the case of contracts covering one marketing year, the quantities of the products referred to in Article 3(3)(d) may be altered by written amendment, except in the first period where the products referred to in paragraph 1(a) are concerned.

Such amendments shall show the identification number of the contract to which they relate. They shall be concluded by no later than the 45th day after the beginning of the delivery period in question.

The quantities to be delivered in each delivery period as stipulated in such amendments may not differ by more than 40 % from those originally laid down in the contract for that period. However, they may differ by up to 50 % in the case of deliveries of lemons and oranges in the third and fourth periods.

The quantities delivered by the new members referred to in Article 8(5) shall be included in those amendments.'

2. the following subparagraph is added to Article 5(3):

'Up to 15 % of the quantities to be delivered in each delivery period may be carried forward to the following period by means of a written agreement between the parties and provided that the overall quantity for the marketing year in question is respected.

That agreement shall be forwarded by the producer organisation to the body referred to in Article 6(1) to arrive no later than 15 working days before the end of the period in question.'

3. in Article 10(1), 'noon' is replaced by '6 p.m.'

4. (only concerns the other language versions);

5. the following paragraph is added to Article 20:

'7. If the quantities actually delivered during a marketing year under each contract referred to in

⁽¹⁾ OJ L 297, 21. 11. 1996, p. 49.

⁽²⁾ OJ L 169, 27. 6. 1997, p. 15.

Article 3(2)(a) and (b) are found to be less than the contracted quantities, including any amendments, for the marketing year in question, the aid for the contract in question shall be reduced by:

- 20 % if the difference between the quantities actually delivered and the quantities contracted is greater than or equal to 20 % but less than 30 %,
- 30 % if the difference between the quantities actually delivered and the quantities contracted is greater than or equal to 30 % but less than 40 %,
- 40 % if the difference between the quantities actually delivered and the quantities contracted is greater than or equal to 40 % but less than 50 %.

No aid shall be granted if the difference between the quantities actually delivered and the quantities contracted is greater than or equal to 50 %.

In the case of multiannual contracts, this paragraph shall not apply if paragraph 5 is applied.

The producer organisation signing the contracts shall reimburse the difference between the aid or advance

actually paid and the aid or advance due plus interest calculated in accordance with paragraph 1.

The aid reduction referred to in this paragraph shall not be applied if the producer organisation signing the contracts can prove to the satisfaction of the competent national authority that failure to comply with the contracts was not deliberate or the result of serious negligence on its part or on the part of members of other producer organisations and/or individual producers;

6. in the Annex, the minimum degree Brix for mandarins shall be 9° Brix.

Article 2

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

It shall apply from the 1998/99 marketing year.

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

Done at Brussels, 2 June 1998.

For the Commission

Franz FISCHLER

Member of the Commission
