

**COMMISSION REGULATION (EC) No 2814/98**  
**of 22 December 1998**  
**amending Regulation (EEC) No 1164/89 laying down detailed rules concerning**  
**the aid for fibre flax and hemp**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1308/70 of 29 June 1970 on the common organisation of the market in flax and hemp <sup>(1)</sup>, as last amended by the Act of Accession of Austria, Finland and Sweden and by Regulation (EC) No 3290/94 <sup>(2)</sup>, and in particular Article 4(5) thereof,

Having regard to Council Regulation (EEC) No 619/71 of 22 March 1971 laying down general rules for granting aid for flax and hemp <sup>(3)</sup>, as last amended by Regulation (EC) No 1420/98 <sup>(4)</sup>, and in particular Article 5(2) thereof,

Whereas in order to strengthen the administration and control of the aid scheme and avoid the risk of aid being paid twice for the same area, certain provisions of the integrated administration and control system provided for in Council Regulation (EEC) No 3508/92 of 27 November 1992 establishing an integrated administration and control system for certain Community aid schemes <sup>(5)</sup>, as last amended by Regulation (EC) No 820/97 <sup>(6)</sup>, should be made applicable to this scheme; whereas the detailed rules for submission of declarations of areas sown should be harmonised with the rules of the integrated administration and control system; whereas, therefore, provision should be made for Commission Regulation (EEC) No 3887/92 of 23 December 1992 laying down detailed rules for applying the integrated administration and control system for certain Community aid schemes <sup>(7)</sup>, as last amended by Regulation (EC) No 1678/98 <sup>(8)</sup>, to apply to declarations of areas sown;

Whereas, in some cases, some of the information and Annexes provided for in the declaration of areas referred to in Article 5 of Commission Regulation (EEC) No 1164/89 <sup>(9)</sup>, as last amended by Regulation (EC) No 2021/98 <sup>(10)</sup>, cannot be included in the area declarations under the integrated system; whereas, therefore, provision should be made for this information and these Annexes

to be supplied in a cultivation declaration specific to the aid scheme for fibre flax and hemp;

Whereas Article 8 of Regulation (EEC) No 3887/92 lays down the penalties to be applied for late submission of area declarations under the integrated system; whereas the penalties to be applied for late submission of cultivation declarations and/or aid applications as referred to in Articles 5 and 8 of Regulation (EEC) No 1164/89, respectively, should be aligned on Article 8 of Regulation (EEC) No 3887/92; whereas the penalties to be applied where a discrepancy is found between the area ascertained during a check and that declared in the cultivation declaration and/or aid application should also be aligned on Regulation (EEC) No 3887/92; whereas, in the interests of clarity, reference should be made to the provisions of Regulation (EEC) No 1164/89 likely to affect the area on the basis of which the amount of aid is calculated;

Whereas, for the purposes of granting aid for hemp, Regulation (EEC) No 619/71 provides for producers and primary processors to conclude a contract, except in specific cases, and for primary processors to make an undertaking to process and to have approval; whereas, therefore, detailed rules should be laid down regarding the undertaking and the conditions in which approval may be granted should be specified; whereas detailed rules should be laid down for verifying the performance of contracts and compliance with undertakings to process and conditions of approval and procedures should be specified in cases where cooperation is required between Member States; whereas approval should be withdrawn where the conditions for approval are no longer met or where irregularities are found; whereas the relevant provisions for flax are to be found in Articles 5a and 5b of Regulation (EEC) No 1164/89; whereas those provisions should be applied, *mutatis mutandis*, to hemp; whereas, however, the checks on compliance with the undertaking to process and conditions for approval during the first two marketing years of application should be strengthened in order to ensure that the scheme operates properly;

Whereas, in order to prevent any possible abuse, provision should also be made for approval to be withdrawn where it is found that the flax or hemp have not been processed for commercial purposes; whereas the concept of processing should be defined;

<sup>(1)</sup> OJ L 146, 4. 7. 1970, p. 1.

<sup>(2)</sup> OJ L 349, 31. 12. 1994, p. 105.

<sup>(3)</sup> OJ L 72, 26. 3. 1971, p. 2.

<sup>(4)</sup> OJ L 190, 4. 7. 1998, p. 7.

<sup>(5)</sup> OJ L 355, 5. 12. 1992, p. 1.

<sup>(6)</sup> OJ L 117, 7. 5. 1997, p. 1.

<sup>(7)</sup> OJ L 391, 31. 12. 1992, p. 36.

<sup>(8)</sup> OJ L 212, 30. 7. 1998, p. 23.

<sup>(9)</sup> OJ L 121, 29. 4. 1989, p. 4.

<sup>(10)</sup> OJ L 261, 24. 9. 1998, p. 8.

Whereas Article 3(1) of Regulation (EEC) No 619/71 lays down the maximum average tetrahydrocannabinol (THC) content for determining from which varieties seeds may be accepted; whereas, in order to strengthen the measures ensuring that production aid cannot be granted for areas used for illicit cultivation, provision should be made for the THC content to be determined also for a sufficient percentage of cultivated areas; whereas provision should be made for the Member States to forward a report on their findings to the Commission once every marketing year;

Whereas the method for determining the THC content of hemp is described in Annex C to Regulation (EEC) No 1164/89; whereas more modern methods have been developed; whereas, pending amendment of the above Annex, the Member States should be allowed to use these new methods provided they provide equivalent assurances;

Whereas, in order to avoid any abuse, provision must be made for the Member States to fix the minimum sowing rate compatible with good hemp-growing practice; whereas, in order to improve the monitoring of compliance with the conditions laid down in the third subparagraph of Article 3(1) of Regulation (EEC) No 619/71, it should also be laid down that in general no document may replace the official labels made out pursuant to Council Directive 69/208/EEC<sup>(1)</sup> as last amended by Directive 96/72/EC<sup>(2)</sup>, for the hemp seed used;

Whereas Article 4 of Regulation (EEC) No 619/71 provides for the introduction of an administration and control arrangement including, where the Member State deems it appropriate, a system of prior authorisation to sow areas for which production aid for hemp is to be granted; whereas provision should be made for the Member States to inform the Commission of the arrangements they introduce;

Whereas, if there is no contract between the producer and the primary processor, it is necessary to ensure that the hemp straw is actually processed without delaying payment of the aid to the producer; whereas provision should be made for a security to be lodged by the producer undertaking to process hemp straw or to have it processed on his behalf;

Whereas, in the interests of simple management, a final date should be laid down for lodging the performance security; whereas there must be a reasonable period between the deadline for lodging the security and that for payment of the aid;

<sup>(1)</sup> OJ L 169, 10. 7. 1969, p. 3.

<sup>(2)</sup> OJ L 304, 22. 11. 1996, p. 10.

Whereas Commission Regulation (EC) No 1614/98 of 24 July 1998 introducing transitional measures relating to the aid scheme for hemp for the 1998/99 marketing year<sup>(3)</sup> provides that the first and second subparagraphs of Article 3(1) of Regulation (EEC) No 619/71 should not apply to the aid scheme for hemp for the 1998/99 marketing year;

Whereas the Management Committee for Flax and Hemp has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

#### *Article 1*

Regulation (EEC) No 1164/89 is hereby amended as follows:

1. Article 2 is amended as follows:
  - (a) in the second paragraph, 'the declaration of areas sown' is replaced by 'the cultivation declaration';
  - (b) the fourth paragraph is deleted;
2. Article 3 is amended as follows:
  - (a) paragraph 2 is replaced by the following:

'2. For the purposes of monitoring compliance with the conditions laid down in the third subparagraph of Article 3(1) of Regulation (EEC) No 619/71, the cultivation declaration for hemp referred to in Article 5(1) shall be accompanied by the official labels made out pursuant to Council Directive 69/208/EEC<sup>(\*)</sup>, and in particular Article 10 thereof, or under provisions adopted on the basis thereof, for the seeds used.

The Member State may lay down that if one and the same label refers to seed used which is covered by more than one cultivation declaration, the label is to accompany one of the declarations in question and bear a reference to the other declarations. The other declarations shall be accompanied by a certified photocopy of the label in question. All the declarations concerned shall be accompanied by a description of the case in question.

<sup>(\*)</sup> OJ L 169, 10.7.1969, p. 3.;

- (b) paragraph 3 is replaced by the following:
  - '3. The competent authorities in the Member State shall determine the average tetrahydrocannabinol (THC) content of the variety cultivated on

<sup>(3)</sup> OJ L 209, 25. 7. 1998, p. 27.

a plot selected from a cultivation declaration in respect of not less than 5 % of the cultivation declarations referred to in Article 5, taking into account the geographical distribution of the areas concerned.

The determination of the THC content referred to in the third subparagraph of Article 3(1) of Regulation (EEC) No 619/71 and in the first subparagraph of this paragraph, and sampling for the purpose of determining such content, shall be carried out in accordance with the method described in Annex C. However, for areas to be harvested during the 1999/2000 marketing year, Member States may use another method, provided they inform the Commission thereof in advance and provided this method offers at least equivalent assurances, in particular with respect to precision and repeatability. Where there is any doubt, credence shall be given to the results obtained using the method described in Annex C.

Where the average THC content for a plot exceeds the limit laid down in the third subparagraph of Article 3(1) of Regulation (EEC) No 619/71, a thorough on-the-spot check shall be made on the holding to which the cultivation declaration applies of all the conditions conferring entitlement to the aid.

The Member States shall send the Commission, before 1 February of the marketing year, a report on the findings for the THC content. The report shall indicate, for each variety:

- the number of tests carried out,
- the results in terms of THC content, shown separately for each 0,1 %,
- the measures taken at the national level.;

(c) the following second subparagraph is added to paragraph 4:

‘The Member States shall establish the minimum sowing rate compatible with good growing practice and communicate this information to the Commission’;

3. Article 4 is amended as follows:

(a) point (b) is replaced by the following:

‘(b) for which a declaration of areas sown and a cultivation declaration as provided for in Articles 4a and 5 have been made.’;

(b) point (c) is replaced by the following:

‘(c) which are covered by a contract and/or an undertaking to process in accordance with Article 3(1) and (2) of Regulation (EEC) No 619/71.’;

4. the following Article 4a is added:

*Article 4a*

1. Producers of fibre flax and/or hemp shall submit each year a declaration of areas of fibre flax and hemp using the “area” aid application form provided for in Council Regulation (EEC) No 3508/92 (\*) under the integrated administration and control system, by the deadline set by the Member State.

However, growers as defined in Article 3a(b) of Regulation (EEC) No 619/71 shall not be required to submit the area declaration referred to in the above subparagraph.

The Member State may set a specific deadline for the introduction of changes to the declaration of areas under fibre flax and hemp, which may be no later than 15 June.

2. Without prejudice to this Regulation, Articles 3, 4, 5a, 6, 7, 8, 9, 11, 12, 13, 14, 15 and 18 of Commission Regulation (EEC) No 3887/92 (\*\*) shall apply to the area declarations referred to in paragraph 1.

The reduction in the aid referred to in Article 8 of Regulation (EEC) No 3887/92 and determination of the area to be taken into account for calculation of the aid under Article 9 of that Regulation shall be applied having regard to Article 12 of this Regulation.

(\*) OJ L 355, 5.12.1992, p. 1.

(\*\*) OJ L 391, 31.12.1992, p. 36.’;

5. Article 5 is amended as follows:

(a) in the first subparagraph of paragraph 1, ‘declaration of the areas sown’ is replaced by ‘cultivation declaration’;

(b) in paragraph 1, the second subparagraph is deleted;

(c) the following paragraph is added:

‘1a. Without prejudice to this Regulation, Articles 3, 5a, 6, 7, 8, 9, 11, 12, 13, 14, 15 and 18(1) of Regulation (EEC) No 3887/92 shall apply *mutatis mutandis* to the cultivation declarations referred to in paragraph 1.

The reduction in the aid referred to in Article 8 of Regulation (EEC) No 3887/92 and determination of the area to be taken into account for calculation of the aid under Article 9 of that Regulation shall be applied having regard to Article 12 of this Regulation.';

(d) in the first subparagraph of paragraph 3:

— the first indent is replaced by the following:

‘— the surname, the first name(s) and address of the person making the declaration and their identification in the integrated administration and control system,’

— in the second indent, ‘variety sown’ is replaced by ‘variety or varieties sown’,

— the third indent is replaced by the following:

‘— where more than one variety is cultivated, an indication of the location of the areas concerned’, and

— in the sixth indent, ‘their cadastral reference or’ is deleted;

(e) the following third subparagraph is added to paragraph 3:

‘Where the person making the declaration is a grower within the meaning of Article 3a(b) of Regulation (EEC) No 619/71, a copy of the area declaration submitted by the owner or farm operator under Article 4a must be attached to the declaration. However, the Member State may lay down that such copy may be replaced by indication of the identification number of the owner or farm operator in the integrated administrative and control system.’;

6. Article 5a is amended as follows:

(a) in paragraph 1, point (b) ‘These must be yielded by the process of separating the fibre and the woody parts of the stalk. If the stalk is submitted to a process which renders necessary any additional treatment to lead to the separation, this process shall not count as processing for the purposes of this Regulation.’ is deleted;

(b) the following paragraph 3a is added:

‘3a. To be regarded as having been obtained from the processing of flax straw or of hemp straw for the purposes of this Regulation, the products concerned must meet the following criteria:

— they must be of sound and fair marketable quality, and

— they must be the result of at least partial separation of the fibre and the woody parts of the stalk. If the stalk is subjected to a second process to separate the fibre and the woody parts of the stalk further, only the later operation shall be regarded as processing for the purposes of this Regulation.

However, in the case of hemp, directly obtaining a product of a nature different from straw by operations other than the separation of fibre from the woody parts of the stalk may be regarded as processing for the purposes of this Regulation if the processor proves to the satisfaction of the Member State that the said product is of sound and fair merchantable quality and subject to commercial or industrial use.’;

(c) paragraph 3 is replaced by the following:

‘3. The approval procedure referred to in paragraphs 1 and 2 shall apply *mutatis mutandis*:

(a) to processors of hemp straw;

(b) to growers as defined in Article 3a(a) or (b) of Regulation (EEC) No 619/71 who undertake to process their own flax straw or hemp straw;

(c) to primary processors who process flax straw on a grower’s behalf under Article 3(2)(b) or (d) of Regulation (EEC) No 619/71;

(d) to primary processors who process hemp straw on a grower’s behalf under the second subparagraph of Article 3(1) of Regulation (EEC) No 619/71.’;

(d) in paragraph 4, point (c) is replaced by the following:

‘(c) estimated processing losses;’

7. Article 5b is amended as follows:

(a) the first paragraph is amended as follows:

— ‘In cases covered by the first subparagraph of Article 3(2)’ is replaced by ‘In cases covered by the first subparagraph of Article 3(1) and the first subparagraph of Article 3(2)’;

— ‘or hemp straw’ is inserted after ‘flax straw’;

- (b) the following paragraph is inserted after the fourth paragraph:

'In cases covered by the second subparagraph of Article 3(1) of that Regulation, the undertaking to process must be made out by the grower and include a commitment by the grower either to process his own flax straw from the areas for which aid is requested or to have it processed on his behalf.'

8. Article 6 is amended as follows:

- (a) paragraph 1 is deleted;
- (b) in paragraph 1a, the following is inserted after the first subparagraph:
- 'However, for the 1999/2000 and 2000/01 marketing years, all approved primary processors of hemp straw shall be checked at least once each marketing year.'
- (c) in the first and third subparagraphs of paragraph 1b, 'and hemp straw' is inserted after 'flax straw';
- (d) in paragraph 2, the following second subparagraph is inserted:

'In the case of hemp, the Member States shall inform the Commission of the administrative control arrangements provided for in Article 4 of Regulation (EEC) No 619/71 and, where applicable, of the system of prior authorisation of sowing of the areas covered by production aid.'

9. Article 7 is amended as follows:

- (a) paragraph 1 is deleted;
- (b) in paragraph 2, the following subparagraph is added after the third subparagraph:

'If, during an inspection, the Member State finds:

- that a significant part of the flax straw or hemp straw is not processed within at most 12 months of the end of the marketing year, or
- that a significant part of the processed products is not of sound and fair marketable quality,

approval shall be withdrawn with effect from the beginning of the marketing year following the date of inspection and the primary processor or grower in question shall not be granted fresh approval before the second marketing year following the date of inspection.'

10. Article 8 is amended as follows:

- (a) in paragraph 1, the second subparagraph is deleted;
- (b) the following paragraph 1a is added:

'1a. Without prejudice to this Regulation, Articles 3, 5a, 6(1), the second subparagraph of 6(3), 6(4), (5), (7) and (8) and Articles 7, 8, 9, 11, 12, 13, 14, 15 and 18(1) of Regulation (EEC) No 3887/92 shall apply *mutatis mutandis* to the aid applications referred to in paragraph 1.

All the checks referred to in Article 6 of Regulation (EEC) No 3887/92 shall be carried out on at least 5 % of those applications.

The reduction in the aid referred to in Article 8 of Regulation (EEC) No 3887/92 and determination of the area to be taken into account for calculation of the aid under Article 9 of that Regulation shall be applied having regard to Article 12 of this Regulation. The distinction between the part under retted non-deseeded flax and the part under flax other than retted non-deseeded flax shall not be taken into account for the determination of the area referred to in Article 9 of Regulation (EEC) No 3887/92.'

- (c) paragraph 2 is amended as follows:

- In the second indent, 'the cadastral register number of those areas' is replaced by 'their identification under the Integrated Administration and Control System',
- the fourth indent is replaced by the following:
  - '— the date of gathering,'
- the fifth indent is replaced by the following:
  - '— the quantity of straw harvested/gathered,'
- the sixth indent is replaced by the following:
  - '— the storage location of the product concerned, where applicable separately for flax and hemp seed, or, if the product has been sold and delivered, the surname, the first name(s) and address of the buyer.'

- (d) in the first subparagraph of paragraph 3, 'Articles 3(2)' is replaced by 'Article 3(1) and (2)';

- (e) in the second subparagraph of paragraph 3, 'the date of 30 November referred to in paragraph 1' is replaced by 'the dates of 30 November in the case of flax and 31 December in the case of hemp referred to in paragraph 1';

- (f) paragraph 4 is deleted;
- (g) paragraph 5 is amended as follows:
- ‘the checks provided for in Article 5 of Regulation (EEC) No 619/71’ is replaced by ‘the checks provided for in Article 6 of Regulation (EEC) No 3887/92’;
  - point (a) is deleted;

11. Article 12 is replaced by the following:

*Article 12*

1. The amount of aid shall be calculated on the basis of the smallest of the following areas:

- the area indicated in the declaration of areas referred to in Article 4a, where applicable reduced pursuant to Article 9 of Regulation (EEC) No 3887/92,
- the area on which seedlings have emerged as indicated in the cultivation declaration referred to in Article 5(3), where applicable reduced pursuant to Article 9 of Regulation (EEC) No 3887/92,
- the area indicated in the aid application referred to in Article 8(2), where applicable reduced pursuant to Article 4 of this Regulation and Article 9 of Regulation (EEC) No 3887/92.

However, the amount of the aid shall, where appropriate, be subject to the reductions provided for under the following provisions:

- Article 8 of Regulation (EEC) No 3887/92, in the case of late submission of area declarations,
- Article 5(1a), in the case of late submission of cultivation declarations,
- Article 8(1a), in the case of late submission of aid applications.

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

Done at Brussels, 22 December 1998.

Any reduction in the area under flax eligible for aid shall first be applied to areas under flax other than non-deseeded retted flax.

2. If a false declaration was made deliberately, the person making the declaration in question shall be excluded from the aid scheme for fibre flax and hemp for the following marketing year for an area equal to that for which his declaration was rejected.

3. Once all the checks provided for have been carried out, Member States shall pay the aid for flax and hemp before 16 October following the end of the marketing year.

However, in cases where Article 12a(4) is applied this time limit shall apply only to the quarter of the aid to be paid to growers who concluded a contract as referred to in the first subparagraph of Article 3(2) of Regulation (EEC) No 619/71.’;

12. Article 12a is amended as follows:

- (a) ‘Not later than the last day of the marketing year’ is inserted at the beginning of paragraph 1;
- (b) ‘Not later than the last day of the marketing year’ is inserted at the beginning of paragraph 2;
- (c) the following paragraph 6 is added:
  - ‘6. Paragraphs 2, 3, 4 and 5 shall apply *mutatis mutandis* to hemp straw.’

*Article 2*

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

It shall apply from the 1999/2000 marketing year and in respect of areas to be harvested in that year.

*For the Commission*

Franz FISCHLER

*Member of the Commission*