

COMMISSION IMPLEMENTING REGULATION (EU) No 419/2012

of 16 May 2012

amending Implementing Regulation (EU) No 562/2011 adopting the plan allocating to the Member States resources to be charged to the 2012 budget year for the supply of food from intervention stocks for the benefit of the most deprived persons in the European Union

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) ⁽¹⁾, and in particular points (f) and (g) of Article 43, in conjunction with Article 4 thereof,

Having regard to Council Regulation (EC) No 2799/98 of 15 December 1998 establishing agri-monetary arrangements for the euro ⁽²⁾, and in particular Article 3(2) thereof,

Whereas:

- (1) Commission Implementing Regulation (EU) No 562/2011 ⁽³⁾ as amended by Implementing Regulation (EU) No 208/2012 ⁽⁴⁾ has set the deadlines for the submission of requests for payment and the execution of payments at 30 September 2012 and 15 October 2012 respectively and provides that the implementation period of the 2012 distribution plan is to end on 28 February 2013.
- (2) To enable the Member States to use those deadlines efficiently, it is necessary to allow the possibility of granting advance payments for the transport of products to the storage depots of the charitable organisations and for the transport, administrative and storage costs incurred by the charitable organisations designated to distribute the products. In order to ensure the efficient implementation of the annual plan, the same possibility should be allowed for the supply of products in duly justified cases. In addition it needs to be established how and when a security is required.
- (3) Taking into consideration the non-profit nature of the designated organisations referred to in Article 27(1) of Regulation (EC) No 1234/2007, the competent authorities of the Member States should be empowered to allow alternative guarantee instruments when advances are paid to those organisations in respect of their administrative, transport and storage costs.
- (4) For accounting purposes, Member States should be required to notify the Commission of certain information related to the advance payments.

(5) Implementing Regulation (EU) No 562/2011 should therefore be amended accordingly.

(6) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for the Common Organisation of Agricultural Markets,

HAS ADOPTED THIS REGULATION:

Article 1

In Implementing Regulation (EU) No 562/2011 the following Article 4a is inserted:

'Article 4a

1. For the purpose of implementing the annual distribution plan referred to in Article 1 of this Regulation, the operators selected in accordance with Article 4(4) and (6) of Regulation (EU) No 807/2010 and the designated organisations referred to in Article 27(1) of Regulation (EC) No 1234/2007 may submit to the competent authority of the Member State concerned an application for advance payments relating to the cost of transport of products to the storage depots of the designated organisations referred to in point (a) of the second subparagraph of Article 27(7) of Regulation (EC) No 1234/2007 and the administrative, transport and storage costs referred to in point (b) of the second subparagraph of that Article. In duly justified cases the Member States may also provide advance payments relating to the cost of the supply of the products to operators selected in accordance with Article 4(4) of Regulation (EU) No 807/2010 provided that, to the satisfaction of the Member States concerned, those operators have demonstrated that prior to 15 October 2012:

- (a) they have taken legally binding commitments to implement the operation;
- (b) they have significantly progressed with the implementation of the operation; and
- (c) they have taken all measures necessary to ensure that the implementation shall be completed no later than 28 February 2013.

2. The competent authority may grant an advance payment up to 100 % of the amount applied for, subject to the establishment of a security equal to 110 % of the advance referred to in paragraph 1. In the case of operators selected in accordance with Article 4(4) of Regulation (EU) No 807/2010, the security referred to in that Article shall be deemed sufficient for the purposes of this Article.

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 349, 24.12.1998, p. 1.

⁽³⁾ OJ L 152, 11.6.2011, p. 24.

⁽⁴⁾ OJ L 72, 10.3.2012, p. 32.

3. For the purposes of paragraph 2, Commission Implementing Regulation (EU) No 282/2012 (*) shall apply.

4. In the case of designated organisations referred to in paragraph 1, the paying agency may accept a written guarantee from a public authority, in accordance with provisions applied in the Member States, covering an amount equal to the percentage referred to in paragraph 2, provided that that public authority undertakes to pay the amount covered by that guarantee in case the entitlement to the advance paid is not established. Member States may also provide for an instrument of equivalent effect, in accordance with the provisions applied in the Member States, on condition that it ensures the repayment of the advance granted in case the entitlement to it is not established.

5. No later than 15 January 2013, Member States shall notify the Commission of the total amount of the advance payments made by 15 October 2012 in accordance with paragraph 2 which have not been cleared and which relate to operations that have not yet been completed by the final beneficiaries.

(*) OJ L 92, 30.3.2012, p. 4.'

Article 2

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

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

Done at Brussels, 16 May 2012.

For the Commission
The President
José Manuel BARROSO
