

REGULATION (EEC) No 835/68 OF THE COMMISSION

of 28 June 1968

laying down detailed rules for the application of the production refund on sugar used in the chemical industry

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community;

Having regard to Council Regulation No 1009/67/EEC¹ of 18 December 1967 on the common organisation of the market in sugar, and in particular Article 9 (8) thereof;

Whereas Council Regulation (EEC) No 765/68/EEC² of 18 June 1968 laid down general rules for the production refund on sugar used in the chemical industry; whereas detailed rules for the application of that Regulation appear to be necessary;

Whereas no decision on the granting of the production refund can be taken unless precise information is available; whereas persons qualifying for the refund should therefore be requested to submit a prior application in writing which would give certain information;

Whereas, for the purposes of documentation and control, a refund certificate must be introduced which is valid for a period which is long enough to allow the trade to make long-term arrangements and gives the information necessary to fix the production refund; whereas, in order to guarantee that the sugar concerned is used for the purpose for which the refund certificate was issued, only the applicant should be able to claim on the basis of the certificate after the basic product in question has been processed;

Whereas, in order to make it possible to check that the basic products have been put to the intended use, a competent body which would have access to all necessary information must be set up in each Member

State; whereas, in order to counteract the effects of delays in payment of the refund, provision should be made for an advance to be paid to the holder of the certificate as soon as the basic products have been placed under control; whereas, correspondingly, provision should be made for the lodging of an adequate deposit to serve as a guarantee to the Member State concerned, should processing of the basic product not be carried out in accordance with the conditions laid down in the refund certificate; whereas, however, the Member State concerned should be free to decide on appropriate measures to deal with cases of *force majeure* which prevent a certificate holder from fulfilling his obligations;

Whereas since final payment of the production refund may be made only after processing has taken place and since the trade has an interest in being paid as early as possible, this must be effected shortly after processing;

Whereas the production refund applies only to the quantities of basic products actually used; whereas payment is therefore limited to these quantities; whereas, however, where a conversion ratio is used, it acts as a ceiling for payment;

Whereas the amount of the production refund should be adjusted under certain circumstances in the light of alterations in the intervention prices used as a basis for fixing the amount of that refund;

Whereas the measures provided for in this Regulation are in accordance with the Opinion of the Management Committee for Sugar;

HAS ADOPTED THIS REGULATION:

Article 1

1. Application for a production refund shall be made in writing.

¹ OJ No 308, 18.12.1967, p. 1.

² OJ No L 143, 25.6.1968, p. 1.

2. The application shall state:

- (a) the name and address of the processor;
- (b) the quantity of basic products to be processed, expressed in terms of white sugar;
- (c) the nature of the basic products to be processed;
- (d) the use to which the basic products are to be put; and
- (e) the place of processing.

The statement of the use to which the basic products are to be put shall indicate the Annex to Regulation (EEC) No 765/68/EEC which lists the chemical product into which the basic product will be processed.

3. Member States may require applicants to furnish additional information.

Article 2

1. Member States shall issue a refund certificate on receipt of the application.

2. Member States shall use national forms for the refund certificate which, without prejudice to the provisions of other Regulations, Directives or Decisions adopted by Community institutions, shall contain at least the information set out in paragraph 3.

3. The refund certificate shall indicate:

- (a) the name and address of the holder;
- (b) the date on which the application was lodged;
- (c) the quantity of basic products to be processed, expressed in terms of white sugar;
- (d) the use to which the basic product is to be put;
- (e) the production refund for white sugar applicable the day on which the application was lodged;
- (f) the last day of validity of the certificate;
- (g) the place of processing.

Article 3

1. The issue of a refund certificate confers the right to payment of the production refund indicated in the certificate after the basic products have been processed in accordance with the conditions laid down in the certificate.

1. The rights conferred by the certificate are not transferable.

Article 4

The refund certificate shall be valid from the day of issue to the end of the fifth month following the month of issue.

Article 5

1. Member States shall designate the competent authorities to effect control of the processing of basic products.

2. The holder of a refund certificate shall give the following information in writing in time to enable the authorities referred to in paragraph 1 to effect the control:

- (a) his name and address;
- (b) the nature and quantity of the basic products to be processed;
- (c) the place where the basic products in question are located when the information is furnished.

Member States may require certificate holders to furnish additional information.

Article 6

As soon as the basic products have been placed under control, Member States may make an advance payment to the certificate holder amounting to not more than 80% of the production refund indicated on that certificate.

Article 7

1. If an advance is paid, Member States shall require a deposit or recognised equivalent guarantee to be lodged, ensuring repayment of the advance plus 5%.

2. The deposit shall be released once processing has taken place in accordance with the conditions laid down in the refund certificate or when the advance plus 5% has been repaid.

3. Subject to the provisions of paragraph 4, the repayment referred to in paragraph 1 shall be in proportion to the quantities of basic products which have not been processed under the conditions laid down in the refund certificate.

If the advance is not repaid, the deposit shall be forfeited in proportion to the amount of the advance to be recovered.

4. If processing cannot be carried out under the conditions laid down in the refund certificate owing to circumstances to be considered to constitute cases of *force majeure*, and if an application is made to have such circumstances taken into consideration, the Member State concerned shall adopt the measures which it considers necessary in the light of the circumstances invoked.

Article 8

The production refund or, where an advance has been paid, the difference between the amount advanced and the amount of the production refund, shall be paid:

- (1) at the earliest, after it has been established that the basic products have been processed under the conditions laid down in the refund certificate;
- (2) at the latest, at the end of the month following the month in which it was established that processing was completed.

Article 9

1. The production refund shall be paid in respect of the quantity of basic product processed.

2. However, where a conversion ratio is used, the production refund may not exceed an amount calculated by multiplying the quantity of chemical products obtained by that ratio.

For the purposes of this Regulation, 'conversion ratio' means the coefficient equal to the quantity of basic product, expressed in kilogrammes of white sugar, needed for the manufacture of one kilogramme of chemical product.

Article 10

If between the date on which the application for the production refund is lodged and the date on which the basic products are processed:

(1) there is an alteration in the intervention price for white sugar valid for the area in which the place of processing is situated, in the case of basic products used in the manufacture of products listed in Annexes I and II to Regulation (EEC) No 756/68;

(2) there is an alteration in the arithmetic mean of the intervention price for white sugar valid for the Community area having the largest surplus and the intervention price for white sugar valid for the area in which the place of processing is situated, in the case of basic products used in the manufacture of products listed in Annexes I and II to Regulation (EEC) No 765/68;

the production refund to be paid shall be equal to that indicated in the refund certificate, adjusted in the light of the alteration in question. The refunds shall not however be adjusted in the case of basic products which are still under processing control when the alteration occurs.

Article 11

For the purposes of this Regulation, syrup containing sucrose shall be treated as equivalent to a quantity of white sugar corresponding to the amount of sucrose contained in that syrup.

Article 12

This Regulation shall enter into force on 1 July 1968.

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

Done at Brussels, 28 June 1968.

For the Commission

The President

Jean REY