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► **B** **COUNCIL REGULATION (EEC) No 1078/77**
of 17 May 1977
introducing a system of premiums for the non-marketing of milk and milk products and for the
conversion of dairy herds
(OJ L 131, 26.5.1977, p. 1)

Amended by:

	Official Journal		
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► <u>M1</u> Council Regulation (EEC) No 506/78 of 7 March 1978	L 69	2	11.3.1978
► <u>M2</u> Council Regulation (EEC) No 1041/78 of 22 May 1978	L 134	9	22.5.1978
► <u>M3</u> Council Regulation (EEC) No 640/79 of 29 March 1979	L 82	2	31.3.1979
► <u>M4</u> Council Regulation (EEC) No 1270/79 of 25 June 1979	L 161	10	29.6.1979
► <u>M5</u> Council Regulation (EEC) No 1365/80 of 5 June 1980	L 140	18	5.6.1980
► <u>M6</u> Council Regulation (EEC) No 1300/84 of 7 May 1984	L 125	3	12.5.1984

Corrected by:

- **C1** Corrigendum, OJ L 275, 27.10.1977, p. 26 (1078/77)

▼B**COUNCIL REGULATION (EEC) No 1078/77****of 17 May 1977****introducing a system of premiums for the non-marketing of milk and milk products and for the conversion of dairy herds**

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 43 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament ⁽¹⁾,

Having regard to the opinion of the Economic and Social Committee ⁽²⁾,

Whereas the products covered by Council Regulation (EEC) No 804/68 of 27 June 1968 on the common organization of the market in milk and milk products ⁽³⁾, as last amended by Regulation (EEC) No 559/76 ⁽⁴⁾, are at present substantially and increasingly in surplus; whereas it therefore seems justified to encourage the trend noted among certain groups of holdings in the Community to cease milk production, or the marketing of milk and milk products;

Whereas this aim may be achieved by granting premiums to farmers who cease to market milk and milk products or who convert their dairy herds to meat production; whereas, however, in the case of a Member State where the increase of cattle numbers is difficult and consequently dairy herds have already been considerably reduced, it may prove advisable to authorize that Member State not to apply the provisions concerning the non-marketing and conversion premium;

Whereas the amount of the premiums should be fixed at a level such that they may be considered as some compensation for loss of income from the marketing of the products in question; whereas it therefore appears necessary to fix the amount of the premiums according to the quantity of products marketed in 1976;

Whereas the total amount of the premiums granted to a holding should be limited, so as to improve the structure of dairy farming on holdings that are economically more viable; whereas, however, provision should be made for certain exceptions to these limits where the applicant is taking part in a programme to eradicate brucellosis, tuberculosis and leucosis;

Whereas to facilitate checks on compliance with the obligations arising from the application of this Regulation, the premiums should be paid in several instalments;

Whereas these measures are designed on the one hand to restore the balance on the market in the products concerned and therefore may be regarded as intervention within the meaning of Article 3 of Council Regulation (EEC) No 729/70 of 21 April 1970 on the financing of the common agricultural policy ⁽⁵⁾, as last amended by Regulation (EEC) No 2788/72 ⁽⁶⁾, and on the other to achieve the objectives set out in Article 39 (1) (a) of the Treaty, including the changes necessary for the proper working of the common market; whereas they therefore constitute common measures within the meaning of Article 6 of the said Regulation;

Whereas the Community financing of the expenditure should therefore be provided by the Guidance and the Guarantee Sections of the European Agricultural Guidance and Guarantee Fund,

⁽¹⁾ OJ No C 93, 18. 4. 1977, p. 11.

⁽²⁾ OJ No C 77, 30. 3. 1977, p. 15.

⁽³⁾ OJ No L 148, 28. 6. 1968, p. 13.

⁽⁴⁾ OJ No L 67, 15. 3. 1976, p. 9.

⁽⁵⁾ OJ No L 94, 28. 4. 1970, p. 13.

⁽⁶⁾ OJ No L 295, 3. 12. 1972, p. 1.

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Whereas, in order to facilitate the administrative and financial management of the system of premiums, the dispositions laid down by Commission Regulation (EEC) No 2697/70 of 29 December 1970, on the procedure for making Community funds available to Member States under the Guarantee Section of the EAGGF ⁽¹⁾ and by Commission Regulation (EEC) No 1723/72 of 26 July 1972 on making up accounts for the European Agricultural Guidance and Guarantee Fund, Guarantee Section ⁽²⁾ should be applied, by way of exception, to the expenses financed by the Guidance Section; whereas, however, the normal system of reimbursement by the EAGGF, Guidance Section may, during a transitional period, be applied at the request of a Member State,

HAS ADOPTED THIS REGULATION:

TITLE I

Conditions for and amounts of the non-marketing and conversion premiums*Article 1*

1. On request applicants shall be granted at their option either a premium for the non-marketing of milk and milk products (non-marketing premium) or a premium for the conversion of dairy herds to meat production (conversion premium).
2. However, where it is established that in a Member State the number of dairy cows has been reduced by more than 20 % between 1 January 1969 and 31 December 1975, that Member State shall be authorized not to implement this Regulation.

▼M2*Article 2*

1. To obtain the non-marketing premium, each producer must satisfy the competent authorities that he still has dairy cows on his holding in numbers appropriate to the quantities of milk or the equivalent in milk products delivered by him during the 12 calendar months preceding the month of application. This condition must be satisfied on the date of approval of the application; failing this, the premium shall be reduced accordingly.

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2. The grant of the non-marketing premium shall be conditional upon a written undertaking by the producer that:
 - (a) during the non-marketing period neither milk nor milk products from his holding will be disposed of, whether for a consideration or free of charge;
 - (b) from the date on which the application is lodged until the end of the non-marketing period:
 - he will not allow his holding or any part thereof to be used by others for dairy farming,
 - he will not lease his dairy cattle or entrust them to others, whether for a consideration or free of charge,
 - he will not dispose of his dairy cattle except for slaughter or for export.

The non-marketing period shall span five years and shall begin at the latest at the end of the sixth month following the date on which the application was approved.

3. Producers who cease farming in accordance with Directive 72/160/EEC ⁽³⁾ and after completing a period of at least two years of

⁽¹⁾ OJ No L 285, 31. 12. 1970, p. 63.

⁽²⁾ OJ No L 186, 16. 8. 1972, p. 1.

⁽³⁾ OJ No L 96, 23. 4. 1972, p. 9.

▼B

non-marketing milk and milk products shall be relieved of the obligations laid down in paragraph 2.

4. Producers who cease farming in accordance with Directive 72/160/EEC and at the end of their third year of non-marketing of milk and milk products shall be relieved of the obligations laid down in paragraph 2. In this case, the payment for the third year shall be equal to 37.5 % of the non-marketing premium and shall become due once the application submitted pursuant to the abovementioned Directive has been approved and proof furnished to the competent authority that the dairy cattle have been slaughtered.

5. In the cases referred to in paragraphs 3 and 4, no sum received as a non-marketing premium shall be repayable. Producers may not subsequently receive a non-marketing premium.

▼M2*Article 3*

1. To obtain the conversion premium, the producer must satisfy the competent authorities:

— that he has delivered at least 50 000 kilograms of milk or the equivalent in milk products during the 12 calendar months preceding the month of application, that he still has an appropriate number of dairy cows on his holding,

or

— that he has at least 15 dairy cows, including in-calf heifers, on his holding.

This condition must be satisfied on the date of approval of the application; failing this, the premium shall be reduced accordingly.

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2. The grant of the conversion premium shall be conditional upon an undertaking by the producer that:

- (a) during the conversion period, neither milk nor milk products from his holding will be disposed of, whether for a consideration or free of charge;
- (b) from the date on which his application is lodged until the end of the conversion period, he will comply with the conditions laid down in the first subparagraph of Article 2 (2) (b);
- (c) he will keep on his holding during the conversion period an average number of bovine or ovine units equal to or greater than the number kept on the same holding on the reference date.

The conversion period shall span four years and shall begin at the latest at the end of the sixth month following the date of approval of the application.

3. In cases where the producer retains cows, to obtain the premium he must also satisfy the competent authorities that he has so husbanded his herd that, at the latest at the end of the third year after the date of approval of the application, at least 80 % of the cows or in-calf heifers on the holding either possess the characteristics of one of the recognized meat-producing breeds or are cross-breeds sired by a bull either registered in the herd book of one of those breeds or else with sufficient guarantees of its capability to transmit the essential characteristics of such breed to its progeny.

▼M2*Article 4*

1. The non-marketing premium shall be calculated on the basis of the quantity of milk or its equivalent in milk products delivered by the producer during the 12 calendar months preceding the month of application.

▼M2

The premium per 100 kilograms of the abovementioned quantity shall be:

- 20 units of account for quantities up to and including 30 000 kilograms,
- 18 units of account for quantities exceeding 30 000 kilograms and up to and including 50 000 kilograms,
- 13.5 units of account for quantities exceeding 50 000 kilograms and up to and including 120 000 kilograms,
- 11 units of account for quantities exceeding 120 000 kilograms.

50 % of the premium shall be paid during the first three months of the non-marketing period.

The balance shall be paid in the third and fifth years in two equal instalments of 25 % of the premium, provided the recipient satisfies the competent authorities that the undertakings provided for in Article 2 have been fulfilled.

2. The conversion premium shall be calculated in proportion to the quantity of milk or its equivalent in milk products delivered by the producer during the 12 calendar months preceding the month of application.

The premium per 100 kilograms of the abovementioned quantity shall be:

- 17.5 units of account for quantities up to and including 120 000 kilograms,
- 11 units of account for quantities exceeding 120 000 kilograms.

However, the amount of the conversion premium may in no case be lower than that obtained from the application of paragraph 1. 60 % of the premium shall be paid in the first three months of the conversion period.

The balance shall be paid in the third and fourth years in two equal instalments of 20 % of the premium, provided the recipient satisfies the competent authorities that the undertakings provided for in Article 3 have been fulfilled.

3. By way of derogation from paragraphs 1 and 2, the non-marketing premium or the conversion premium shall, however, be paid on irrevocable election by the producer according to the type of premium in five or four successive equal annual instalments. In this case, the recipient must prove to the competent authorities, before the third and any further instalments are paid, that the undertakings provided for in Article 2 or 3 have been fulfilled; in the case referred to in Article 2 (4), the final payment in the third year shall then be 47.5 % instead of 37.5 % of the non-marketing premium.

4. The two premiums shall be added to aid granted in connection with programmes to eradicate brucellosis, tuberculosis and leucosis.

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TITLE II

General and financial provisions*Article 5*

For the purposes of this Regulation:

(a) 'Producer' shall mean:

- a farmer, whether a natural or a legal person, whose holding is located in the territory of the Community and who raises cattle,
- a group of natural or legal persons who jointly operate means of agricultural production to raise cattle in the territory of the Community;

(b) 'Holding' shall mean:

all the production units managed by the producer and located in the territory of the Community.

▼B*Article 6*

1. Any person who takes over an agricultural holding may undertake in writing to continue to carry out the undertakings given by his predecessor.

In such case, the sums already paid shall remain the property of the latter and the balance shall be paid to his successor.

Otherwise, the sums already paid shall be refunded by the predecessor.

2. Where only part of a holding is transferred, the applicant shall retain his right to the premium if the person to whom he has transferred the property undertakes in writing to continue to fulfil the undertakings entered into by his predecessor. Otherwise, a proportion of the sums already paid shall be refunded by the predecessor, such proportion to be calculated by reference to the area under forage transferred.

Article 7

The following shall be laid down in accordance with the procedure laid down in Article 30 of Regulation (EEC) No 804/68:

- (a) the time limit for submitting applications for the granting of premiums;
- (b) a definition of the terms 'in numbers appropriate' and 'corresponding quantities' in Articles 2 (1) and 3 (1);
- (c) the conditions relating to the recognition of breeds referred to in Article 3 (3);
- (d) a definition of the term 'equivalent in milk products' in the first subparagraph of Article 4 (1);
- (e) rules for verifying that undertakings arising from the grant of the premium have been fulfilled;
- (f) the equivalences to be used in calculating adult bovine and ovine units;
- (g) the conditions for the retention, in exceptional circumstances, of sums already paid, in particular where the recipient ceases farming;
- (h) a tolerance margin to be used in calculating the average number referred to in Article 3 (2) (c);
- (i) the definition of the term 'area under forage' in Article 6 (2);
- (j) the other detailed rules for implementing Articles 1 to 6 and 7a.

▼M6*Article 7a*

1. A reduced non-marketing or conversion premium shall be granted to producers who, notwithstanding the undertakings specified in Articles 2 (2) (a) and 3 (2) (a), disposed of, whether for a consideration or free of charge, milk or milk products from their holdings after the beginning of the non-marketing or conversion period, provided such deliveries were completed before the end of the sixth month following the beginning of the non-marketing or conversion period.

2. A reduced conversion premium shall be granted to producers, who, notwithstanding Article 3 (3):

- (a) have so husbanded their herds that, at the latest at the end of the third year after the date of approval of the application, less than 80 % but more than 70 % of the cows or in-calf heifers on the holding possess the characteristics required under the said paragraph 3, or
- (b) retain a dairy cow to meet the requirements of their own holdings, provided that there are fewer than five cows or in-calf heifers on the holding.

3. The reduction in the premium shall be equal:

- in the case referred to in paragraph 1, to 4 % of the total amount of the premium to which the producer would have been entitled for

▼M6

- each month or fraction of a month for which the undertaking in question has not been fulfilled,
- in the case referred to in paragraph 2 (a), to 2 % of the total amount of the premium to which the producer would have been entitled for each percentage or fraction of a percentage point in respect of which the undertaking in question has not been fulfilled,
 - in the case referred to in paragraph 2 (b), to 400 ECU.
4. The provisions of this Article shall be applied without prejudice to measures adopted by the Member States in respect of cases where the beneficiary is not in a position, for reasons of *force majeure*, to comply with an obligation under the system of premiums concerned.

▼B*Article 8*

1. By way of derogation from Article 3 of Regulation (EEC) No 729/70, 60 % of the expenditure arising out of the measures provided for in this Regulation shall be financed by the Guarantee Section of the EAGGF. In addition, the Guidance Section of the EAGGF shall refund to the Member States 40 % of the eligible expenditure.
2. With particular reference to the expenditure chargeable to the Guarantee Section and the Guidance Section of the EAGGF, the measures shall, respectively, be considered as intervention within the meaning of Article 3 of Regulation (EEC) No 729/70 and constitute common measures within the meaning of Article 6 (1) of the same Regulation.

Article 9

The total estimated cost of the common measures chargeable to the Guidance Section of the EAGGF is ► **M2** 330 million units of account ◀.

▼M5

- The measure provided for in this Regulation shall be applied until:
- (a) 15 September 1980 as regards the non-marketing premium, and
 - (b) the end of the 1980/81 milk year as regards the conversion premium.

▼B*Article 10*

For that part of the expenses financed by the EAGGF, Guidance Section, the detailed rules for the financial application of the common measures shall, by way of exception, be those laid down by Regulations (EEC) No 2697/70 and (EEC) No 1723/72.

However, during 1977, the system of reimbursements shall be applied thereto at the request of a Member State. The request for reimbursement from that Member State shall concern the expenses incurred during that year and shall be submitted to the Commission before 1 July of the following year.

The Commission shall decide on the request in accordance with the procedure laid down in Article 7 (1) of Regulation (EEC) No 729/70.

Article 11

1. Without prejudice to the provisions adopted pursuant to Article 7 (g), the Member States shall, subject to Article 8 of Regulation (EEC) No 729/70, take the measures necessary for the recovery of premiums already paid, in cases where the undertakings provided for have not been fulfilled.

They shall inform the Commission of the measures taken, and in particular shall notify it periodically of the position as regards administrative and judicial proceedings relating thereto.

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2. Sums recovered shall be reimbursed to the agencies or departments which made the payments and deducted by them from the expenditure financed respectively by the Guarantee and Guidance Sections of the EAGGF and in proportion to the amount financed by the Community.
3. Where it is impossible to recover sums paid, the financial consequences shall be borne by the Guarantee and Guidance Sections of the EAGGF in proportion to their financial participation.
4. Interest may be charged on sums to be recovered.

Article 12

Where necessary, detailed rules for the application of Articles 8 to 11 shall be adopted in accordance with the procedure laid down in Article 13 of Regulation (EEC) No 729/70.

Article 13

1. By ►**M5** 31 January 1981 ◀ at the latest, the Commission shall submit to the Council and the European Parliament, on the basis of the information supplied by the Member States, a report on the operation of the premium system.
2. After examining this report, the Council, acting by a qualified majority on a proposal from the Commission, may decide, in the light of experience and of economic trends in the sectors in question, to maintain or to amend the ►**M5** system of conversion premiums ◀ and to adapt its period of application and the total estimated cost accordingly.

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