

COMMISSION REGULATION (EEC) No 1799/79
of 13 August 1979

amending Regulations (EEC) No 1391/78 and (EEC) No 2962/78 concerning the rules for the application of the system of premiums for the non-marketing of milk and milk products and for the conversion of dairy herds

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION :

Having regard to the Treaty establishing the European Economic Community,

Article 1

Having regard to 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⁽¹⁾, as last amended by Regulation (EEC) No 1270/79⁽²⁾, and in particular Article 7 thereof,

Regulation (EEC) No 1391/78 is hereby amended as follows :

1. Article 12 shall be replaced by the following :

Whereas the application of the system of premiums for the non-marketing of milk and milk products and for the conversion of dairy herds was extended until the end of the 1979/80 milk year; whereas, in the light of experience, certain provisions of Commission Regulation (EEC) No 1391/78 of 23 June 1978 laying down amended rules for the application of the system of premiums for the non-marketing of milk and milk products and for the conversion of dairy herds⁽³⁾, as amended by Regulation (EEC) No 2962/78⁽⁴⁾ should be adjusted;

'Article 12

1. Where, by reason of a case of *force majeure* occurring after the day on which the application for a premium has been approved, the beneficiary or his successor referred to in Article 9 (2) is unable, or would be able only at the cost of excessive sacrifices, to fulfil an obligation arising from the system of premiums, the Member State concerned shall determine the measures which it shall deem necessary with regard to the circumstances invoked.

Whereas it has proved necessary to specify in particular the provisions relating to cases of *force majeure* and to provide for only partial recovery of the conversion premium where the beneficiary no longer keeps the required stock numbers at the end of the conversion period; whereas, on the other hand, the beneficiary, having entered into the undertakings governing receipt of that premium, should be allowed subsequently to choose the system of non-marketing premiums, although, in such event, the amounts of the premium and the non-marketing period must be adjusted accordingly;

Such measures may, according to the case, entail postponing the beginning of the non-marketing or conversion period referred to in Article 5 (3) or the suspension of the obligations for a specific length of time during that period and the non-recovery of the premiums already paid, which would have to be refunded in accordance with Article 9 (1).

Whereas, as regards the identity cards issued as from 24 June 1978, Article 8 (5) of Regulation (EEC) No 1391/78 (inserted by Regulation (EEC) No 2962/78) allows a duplicate to be issued in the event of loss of the original; whereas it has proved advisable to apply that provision, at the request of any interested parties, to the identity cards issued prior to the above date;

2. Without prejudice to specific circumstances to be taken into consideration in individual cases, the following situations in particular may be deemed to justify one of the measures referred to in paragraph 1 :

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

- (a) decease of the beneficiary if he ran the holding himself;
- (b) prolonged occupational incapacity of the beneficiary if he ran the holding himself;
- (c) compulsory purchase of a substantial part of the utilized agricultural area of the holding farmed by the beneficiary, provided that such compulsory purchase was not foreseeable on the day on which the application was approved;

⁽¹⁾ OJ No L 131, 26. 5. 1977, p. 1.

⁽²⁾ OJ No L 161, 29. 6. 1979, p. 10.

⁽³⁾ OJ No L 167, 24. 6. 1978, p. 45.

⁽⁴⁾ OJ No L 352, 16. 12. 1978, p. 23.

- (d) a natural disaster substantially affecting the agricultural area farmed by the beneficiary ;
- (e) the accidental destruction of the beneficiary's buildings which were used for the rearing of cattle or sheep ;
- (f) an outbreak of epizootic disease affecting some or all of the beneficiary's stock of cattle or sheep.

3. The Member States shall inform the Commission of all cases of *force majeure* accepted as such by them.

4. By way of derogation from Article 9 (1), in a case which cannot be deemed a case of *force majeure* and in which the beneficiary of the conversion premium no longer fulfils, during the fourth year of the conversion period, the undertaking referred to in Article 3 (2) (c) of Regulation (EEC) No 1078/77, the amount of the premium to be recovered or, if the balance has still not been paid to him, the amount to be withheld shall be equal to 25 % of the total amount of the premium to which he would have been entitled, this percentage being reduced in proportion to the difference between the number of livestock units kept and the required number of livestock units.

2. The following Article 12a shall be inserted :

'Article 12a

1. Before the end of the third year of the conversion period, each recipient of the conversion

premium may declare in writing to the competent authority that he wishes to be considered as a recipient of the non-marketing premium, by accepting the conditions referred to in Article 2 and Article 4 (1) of Regulation (EEC) No 1078/77.

2. In such cases, the competent authority shall make the necessary adjustments to the approval initially issued and in particular shall adjust the non-marketing period and the amounts of the premium still not paid, on the basis of the situation which would have existed if the interested party had applied for the non-marketing premium from the beginning.'

3. The following paragraph shall be added to Article 15 :

'The provision contained in Article 8 (5) shall apply, at the request of interested parties, to the identity cards issued pursuant to Regulation (EEC) No 1307/77.'

Article 2

The second paragraph of Article 2 of Regulation (EEC) No 2962/78 shall be deleted.

Article 3

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

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

Done at Brussels, 13 August 1979.

For the Commission

Finn GUNDELACH

Vice-President