

COUNCIL REGULATION (EEC) No 1094/88

of 25 April 1988

amending Regulations (EEC) No 797/85 and (EEC) No 1760/87 as regards the set-aside of arable land and the extensification and conversion of production

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 42 and 43 thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the European Parliament ⁽²⁾,

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

Whereas the situation of agricultural markets has changed, and will change further, as a result of the new direction imposed on the common agricultural policy by the need to secure a gradual drop in output in those sectors where there is a surplus;

Whereas, in this context, structural policy must be used to help farmers adapt to this new situation and to cushion the effects that the new markets and prices policy is likely to have on agricultural incomes in particular;

Whereas, in order that the objectives of the structural policy may be attained, the common measure introduced by Council Regulation (EEC) No 797/85 of 12 March 1985 on improving the efficiency of agricultural structures ⁽⁴⁾, as last amended by Regulation (EEC) No 1760/87 ⁽⁵⁾, should be adjusted and amplified;

Whereas arrangements for the set-aside of arable land may assist the various sectors, and in particular those with surplus production, to adjust to market requirements;

Whereas the set-aside arrangements should cover all arable land, since from one year to another the use made of such land varies with the rotation of crops; whereas, however, land so far used for crops not subject to a common organization of the market should be excluded from the scheme; whereas, to achieve tangible results in terms of the stabilization of supply, it should be stipulated

that at least 20 % of a farmer's arable land must be set aside for a period of at least five years, with provision for him to terminate his commitments after three years;

Whereas, given the greater need to protect the environment and to maintain the countryside, Member States should take the necessary measures, if necessary to be defrayed by the beneficiary, to keep set-aside land in good agricultural condition;

Whereas, in the interests of making efficient use of the Community's farming resources, Member States should be allowed, for a three-year experimental period, to authorize land which has been set aside to be used for grazing for extensive live-stock farming or for growing lentils, chick-peas or vetches; whereas, in both cases, the amount of the aid should allow for the reduction in the loss of income;

Whereas it should be left to Member States to set the amount of the aid per hectare of land set aside, in the light of the income losses actually sustained and in accordance with criteria to be laid down within the framework of the detailed rules for applying these arrangements; whereas, on the one hand, the level of aid must be fixed so that it is sufficiently high to provide farmers with a real incentive to set aside some of their land; whereas, on the other hand, the aid should not exceed the level necessary to offset the loss of income resulting from the set-aside of the land; whereas, to this end, a farmwork should be laid down for setting minimum and maximum amounts;

Whereas, to provide an additional incentive to those farmers who set aside large areas, that is, at least 30 % of their arable land, such farmers should be exempted, in respect of a quantity of 20 tonnes, from the co-responsibility levy provided for in Article 4 and the additional co-responsibility levy provided for in Article 4 b (2) of Council Regulation (EEC) No 2727/75 of 29 October 1975 on the common organization of the market in cereals ⁽⁶⁾, as last amended by Regulation (EEC) No 3989/87 ⁽⁷⁾;

⁽¹⁾ OJ No C 51, 23. 2. 1988, p. 6.

⁽²⁾ OJ No C 94, 11. 4. 1988.

⁽³⁾ OJ No C 95, 11. 4. 1988, p. 7.

⁽⁴⁾ OJ No L 93, 30. 3. 1985, p. 1.

⁽⁵⁾ OJ No L 167, 26. 6. 1987, p. 1.

⁽⁶⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽⁷⁾ OJ No L 377, 31. 12. 1987, p. 1.

Whereas, to take account of the different situations obtaining in the various regions of the Community, provision should be made for the adjustment, by successive amounts, of the rate of reimbursement from the European Agricultural Guidance and Guarantee Fund;

Whereas the introduction of set-aside arrangements necessitates certain changes in the aid arrangements for conversion and extensification as introduced by Regulation (EEC) No 1760/87; whereas, for the sake of clarity, adjustments should be made to the provisions currently in force without altering in any essential respect the existing aid arrangements for conversion and extensification;

Whereas, although the scheme for set-aside falls within the common measure for improving the efficiency of agricultural structures provided for in Regulation (EEC) No 797/85, its main aim is nonetheless to help in re-establishing the balance between output and the market's capacity to absorb it;

Whereas the scheme is thus intended to supplement measures adopted by the Council under the various market organizations in order to stabilize those markets; whereas it should therefore be laid down that the scheme for set-aside is to be considered as a common measure within the meaning of Article 6 (1) of Council Regulation (EEC) No 729/70 of 21 April 1970 on the financing of the common agricultural policy⁽¹⁾, as last amended by Regulation (EEC) No 3183/87⁽²⁾, and as intervention within the meaning of Article 3 of that Regulation and is thus to be financed in equal parts from the Guarantee and Guidance Sections of the European Agricultural Guidance and Guarantee Fund; whereas, however, in order to facilitate the administrative and financial management of the scheme and by way of exception, the financial methods applying to the Guarantee Section should be applied for expenditure financed by the Guidance Section,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 797/85 is hereby amended as follows:

1. In Article 1:

(a) the following subparagraph shall be added to paragraph 1:

'The common measure shall include measures considered to be intervention within the meaning of Article 3 of Regulation (EEC) No 729/70.'

(b) the following subparagraph shall be added to paragraph 2:

'In accordance with Title VIII, the Guidance and Guarantee Sections of the Fund shall make equal contributions to the common measure referred to in paragraph 1 concerning the scheme for encouraging set-aside of land; with regard to that part of expenditure financed by the Guidance Section Fund, the financial procedures for applying the common measure shall, by way of exception, be those which apply to the Guarantee Section.'

2. Title 01, 'Conversion and extensification of production', is replaced by the following Titles:

TITLE 01

Set-aside of arable land

Article 1a

1. Member States shall introduce an aid scheme designed to encourage the set-aside of arable land.

2. Aid for set-aside may be granted for all arable land, irrespective of the crops grown, provided that the land has in fact been cultivated for a reference period to be determined. Land growing crops not covered by a common market organization are excluded from the said scheme.

3. The arable land withdrawn from production must represent at least 20 % of the arable land referred to in paragraph 2 on the farm concerned. For a period of at least five years, with the possibility of termination after three years, such land must be withdrawn from cultivation that is:

- left fallow with rotation possibilities,
- wooded, or
- used for non-agricultural purposes.

Member States shall take the necessary measures to keep the land in good agricultural condition. These measures may include an obligation on the farmer to ensure that the agricultural land withdrawn from production is maintained with a view to protecting the environment and natural resources.

Member States may, within all or some of their territory, authorize the use of set-aside arable land for:

- (a) grazing for extensive live-stock farming,
- (b) growing lentils, chick-peas and vetches.

Authorization by the Member States as provided for in the third subparagraph shall be limited to three years from 30 April 1988. By then the Commission shall have reported to the Council on the results of such authorization.

⁽¹⁾ OJ No L 94, 28. 4. 1970, p. 1.

⁽²⁾ OJ No L 304, 27. 10. 1987, p. 1.

4. Member States shall determine :

- (a) the amount of the aid to be paid per hectare of land set aside, on the basis of the loss of income resulting from the land being set aside, whilst ensuring that the amount of the aid is sufficient to make it effective, on the one hand, and that it does not provide excessive compensation, on the other. They shall also determine the way in which that aid is to be paid. The maximum amount of aid to be paid shall be set at 600 ECU per hectare, per annum, and the minimum amount shall be set at 100 ECU per hectare, per annum. The Commission can, in exceptional cases in accordance with the procedure laid down in Article 25, set the maximum amount at 700 ECU per hectare, per annum.

In the case of authorization, as provided for in the third subparagraph of paragraph 3, the amount of the aid shall be adjusted to take account of the reduction in the loss of income ;

- (b) the reference period referred to in paragraph 2 ;
- (c) the undertaking to be given by the beneficiary for the purposes in particular of verifying that, throughout the entire farm, the area farmed has in fact been reduced.

5. Producers who, for the land set aside, receive aid within the meaning of this Title may not receive aid within the meaning of Titles 02 or 03 for such land.

6. Producers who set aside at least 30 % of their arable land shall be exempted, in respect of a quantity of 20 tonnes, from the co-responsibility levy referred to in Article 4 of Regulation (EEC) No 2727/75 and from the additional co-responsibility levy provided for in Article 4 b (2) of Regulation (EEC) No 2727/75.

Detailed rules for applying this exemption shall be adopted in accordance with the procedure laid down in Article 4 and 4b of Regulation (EEC) No 2727/75.

7. The Commission, acting in accordance with the procedure laid down in Article 25, shall, before 30 April 1988, adopt detailed rules for applying this Title, specifying in particular :

- the minimum area to be set aside,
- in the case of authorization so provided for in the third subparagraph of paragraph 3, the maximum stocking rate per hectare of grazing and the rate by which the aid is to be reduced in accordance with the second subparagraph of paragraph 4 (a),

- the criteria to be complied with by the Member States when fixing the aid,
- the criteria for defining the beneficiary and for determining the reference period referred to in paragraph 2.

TITLE 02

Extensification of production

Article 1b

1. Member States shall introduce an aid scheme to promote extensification for surplus products. Surplus products shall be defined as products for which there are consistently, at Community level, no normal unsubsidized outlets.

Until 31 December 1989, Member States may restrict the scheme to beef, veal and wine.

2. Extensification shall be defined as a reduction of at least 20 %, for a period of at least five years, in the output of the product concerned without any increase in other surplus production capacity. However, such an increase shall be permitted in proportion to any increase in the utilized agricultural area of the farm.

3. Member States shall determine :

- (a) the conditions for granting the aid, including those for reducing output of the various products. In the case of beef and veal, it may be stipulated that, in order to achieve the reduction in output referred to in paragraph 2, the number of livestock units must be reduced by at least 20 %. In the case of wine, it may be stipulated that the yield per hectare must be reduced by at least 20 % ;
- (b) the amount of the aid, on the basis of the undertaking given by the beneficiary and the loss of income incurred, and the way in which it is to be paid ;
- (c) the reference period for the product concerned, for the purposes of calculating the reduction ;
- (d) the undertaking to be given by the beneficiary for the purposes of, in particular, verifying that production has in fact been reduced.

4. Where the scheme is applied in the milk sector, the reduction in output shall be calculated on the basis of the reference quantity allocated under Council Regulation (EEC) No 804/68 of 27 June 1968 on the common organization of the market in milk and milk products ⁽¹⁾, as last amended by Regulation (EEC) No 773/87 ⁽²⁾. Reference quantities suspended pursuant to this paragraph may not be reused or reallocated for the duration of the suspension.

The eligible amount of the compensation paid under Council Regulation (EEC) No 775/87 of 16 March 1987 temporarily withdrawing a proportion of the reference quantities mentioned in Article 5c (1) of Regulation (EEC) No 804/68 on the common organization of the market in milk and milk products⁽³⁾ shall be deducted from the eligible amount of the aid.

5. Producers who receive aid within the meaning of this Title may not receive aid within the meaning of Titles 01 or 03 for the land affected by extensification.

6. The Commission, acting in accordance with the procedure laid down in Article 25, shall lay down detailed rules for applying this Title, specifying in particular the maximum amounts of yearly aid eligible under the Fund.

TITLE 03

Conversion of production

Article 1c

1. Member States shall introduce an aid scheme designed to encourage the conversion of production towards non-surplus products.

2. The Council, acting on a proposal from the Commission in accordance with the voting procedure laid down in Article 43 (2) of the Treaty, shall adopt a list of products towards which production may be converted and shall lay down the conditions and procedures for the granting of the aid.

3. Producers who receive aid within the meaning of this Title may not receive aid within the meaning of Titles 01 or 02 for the land in question.

4. The Commission, acting in accordance with the procedure laid down in Article 25, shall adopt detailed rules for applying this Title.

(1) OJ No L 148, 28. 6. 1968, p. 13.

(2) OJ No L 78, 20. 3. 1987, p. 1.

(3) OJ No L 98, 20. 3. 1987, p. 5.

3. In the second subparagraph of Article 20 (1), the words 'the extensification aid provided for in Article 1a' are replaced by 'the aids to the set-aside of arable land and extensification established in Articles 1a and 1b'.

4. In Article 26,

(a) paragraph 1 is replaced by the following:

'1. The expenditure incurred by Member States in connection with the measures provided for in Articles 1b, 1c, 3 to 7, 9 to 17 and 19 to 21 shall be eligible for aid from the Guidance Section of the Fund. The expenditure incurred by Member States in connection with the measures provided for in

Article 1a shall be eligible for aid from the Guarantee and Guidance Section of the Fund.'

(b) in paragraph 2 the first sentence is replaced by the following:

'The Fund shall reimburse to Member States 25 % of their eligible expenditure on the measures provided for in Article 1b, 1c, 3 to 7, 13 to 17, and 19 and 20.'

(c) the following subparagraph is added to paragraph 2:

'The Fund shall reimburse to Member States the eligible expenditure on the measures provided for in Article 1a. The following rates shall apply:

— 50 % for that portion of the aid which does not exceed 200 ECU per hectare, per annum,

— 25 % for that portion of the aid between 200 and 400 ECU per hectare, per annum,

— 15 % for that portion of the aid between 400 and 600 ECU per hectare, per annum,

and in the case of authorization as provided for in the third subparagraph of Article 1a(3):

— 50 % for that portion of the aid which does not exceed 100 ECU per hectare, per annum,

— 25 % for that portion of the aid between 100 and 200 ECU per hectare, per annum,

— 15 % for that portion of the aid between 200 and 300 ECU per hectare, per annum.'

5. In Article 31 (1) and (2), the words 'by Articles 3 to 6' are replaced by 'by Articles 1 a, 3 to 6'.

6. In Article 32 (1) the following subparagraphs are inserted after the first subparagraph:

'Where Title 01 is concerned, Member States shall bring into force the measures necessary to comply with this Regulation within two months of the entry into force of the procedures for applying these schemes, as referred to in Article 1a(7).

Where Titles 02 and 03 are concerned, Member States shall bring into force the measures necessary to comply with this Regulation by 1 January 1989.'

7. The following Article shall be inserted:

Article 32a

1. On receipt of a reasoned application, the Commission, acting in accordance with the procedure laid down in Article 25, may authorize a Member State not to apply the aid schemes provided for in Titles 01, 02 and 03 in those regions or areas where, because of natural conditions or the threat of depopulation, production should not be reduced. In the case of Spain, the Commission may also take account of the particular socio-economic situations of certain regions or areas.

The Commission, acting in accordance with the procedure laid down in Article 25, shall adopt the criteria for defining the regions or areas referred to in the first subparagraph.

2. The Portuguese Republic is hereby authorized not to apply the schemes referred to in paragraph 1 until 31 December 1994.

Article 2

Article 5 of Regulation (EEC) No 1760/87 is hereby repealed.

Article 3

This Regulation shall enter into force on the third day following that of 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 Luxembourg, 25 April 1988.

For the Council

The President

H.-D. GENSCHER
