

COMMISSION REGULATION (EEC) No 2069/91

of 11 July 1991

laying down detailed rules for the application of the temporary set-aside scheme for arable land for the 1991/92 marketing year

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1703/91 of 13 June 1991 introducing a temporary set-aside scheme for arable land for the 1991/92 marketing year and laying down special measures for that marketing year under the set-aside scheme provided for in Regulation (EEC) No 797/85 ⁽¹⁾, and in particular Article 8 thereof,

Whereas, in accordance with Article 1 (2) of Regulation (EEC) No 1703/91, certain crops may be excluded from the scheme in question; whereas by drawing up a list of the major arable crops concerned, the scope of the scheme in question can be clearly specified and monitoring facilitated;

Whereas, in accordance with Article 3 of Regulation (EEC) No 1703/91, the amounts of aid to be granted in the regions where the set-aside scheme provided for in Council Regulation (EEC) No 797/85 of 12 March 1985 on improving the efficiency of agricultural structures ⁽²⁾, as last amended by Regulation (EEC) No 3577/90 ⁽³⁾, does not apply, must be determined taking into account the criteria set out in Article 1a of Regulation (EEC) No 797/85; whereas the amounts of the premium should be fixed on the basis of those criteria;

Whereas fixing the minimum area to be set aside at 0,5 ha will ensure that the scheme is effective; whereas the provisions on plant cover laid down in Article 1 (4) (a) of Regulation (EEC) No 1703/91 granting the Member States to a large extent the choice of cover to be used enable account to be taken of differences in climatic and farming conditions;

Whereas the detailed rules on monitoring must take account of the differences arising from the options granted to the Member States by Article 5 of the above-mentioned Regulation; whereas, in particular as regards the second of those options, the Member States must be

given the task of setting up, in cooperation with the Commission, a suitable remote-sensing-assisted system for verifying utilization plans and aid applications and provision should be made for the remote-sensing operations to be carried out and financed by the Commission;

Whereas monitoring requirements make it necessary both to specify the particulars which must appear in utilization plans and aid applications and to determine the minimum percentage of checks to be carried out and the consequences to be drawn from any irregularities recorded;

Whereas, for the purpose of the plausibility monitoring provided for in Article 8 of Regulation (EEC) No 1703/91, the utilization of the official documents submitted by the producers under a specific scheme provides sufficient guarantees by virtue of the checks normally conducted in connection with such schemes;

Whereas detailed rules should be laid down on reimbursement as provided for in Article 2 (b) of Regulation (EEC) No 1703/91;

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

HAS ADOPTED THIS REGULATION:

Article 1

1. Any natural or legal person farming arable land may qualify under the temporary set-aside scheme for arable land provided for in Regulation (EEC) No 1703/91 on the terms laid down herein.

2. For the purposes of this Regulation, 'arable land' means all land given over, with a view to the 1991 harvest, to production of the products listed in:

— Article 1 (a) and (b) of Council Regulation (EEC) No 2727/75 ⁽⁴⁾,

⁽¹⁾ OJ No L 162, 26. 6. 1991, p. 1.

⁽²⁾ OJ No L 93, 30. 3. 1985, p. 1.

⁽³⁾ OJ No L 353, 17. 12. 1990, p. 23.

⁽⁴⁾ OJ No L 281, 1. 11. 1975, p. 1.

- Article 1 of Council Regulation (EEC) No 1431/82⁽¹⁾,
- Article 1 (2) (a) of Council Regulation No 136/66/EEC⁽²⁾ and falling within CN codes 1201 00 90, 1205 00 90 and 1206 00 90,
- Annex I hereto.

In the five new *Länder* of Germany, arable land subject in 1991 to the national set-aside scheme shall be deemed arable land within the meaning of this Regulation.

3. The percentages specified in Article 1 (3) of Regulation (EEC) No 1703/91 shall apply to arable land farmed in preparation for the 1991 harvest.

TITLE I

Conditions relating to land set aside

Article 2

1. For the purposes of this Regulation, 'fallowing' means leaving uncultivated arable land as referred to in Article 1 (2). Arable land fallowed in accordance with this Regulation must cover an area of at least 0,5 ha in one plot.

2. Areas fallowed must, in accordance with Article 1 (4) (a) of Regulation (EEC) No 1703/91, be subject to maintenance by means of suitable plant cover. They may not be used for any agricultural or non-agricultural profit-making purpose.

3. At the reasoned request of a Member State, the Commission may, in accordance with the procedure provided for in Article 26 of Regulation (EEC) No 2727/75, authorize the obligation to maintain plant cover to be replaced by an obligation to carry out necessary mechanical work on the land, in particular to conserve water reserves and combat weeds or to prevent fire risk. Such authorization shall be granted in regions where weather conditions do not permit suitable plant cover to be maintained.

4. In accordance with Article 1 (4) (a) of Regulation (EEC) No 1703/91, plant cover shall consist, at the choice of the Member State, in:

- spontaneous cover; in that case, the last subparagraph of Article 1 (4) (a) of Regulation (EEC) No 1703/91 shall apply, and/or

- plant cover comprising one or more species; in this case, the plant species authorized shall be determined by the Member State.

Plant cover as referred to in this subparagraph must be cut in good time, in particular in order to prevent weeds from spreading. The cut plant matter must remain on the spot until 31 August 1992.

If weather conditions so require, the Member State may authorize the cut material to be ploughed in before 31 August 1992. In that case, the Member State concerned shall inform the Commission thereof immediately.

5. Suitable measures to protect the environment as referred to in Article 1 (4) (b) of Regulation (EEC) No 1703/91 may relate in particular to the protection of water and the safeguarding of wild flora and fauna. To that end a Member State may require specific plant cover and particular treatment of the latter.

TITLE II

1991 cultivation declaration and monitoring arrangements

Article 3

To qualify under the scheme provided for in Article 1, the producers concerned must submit a utilization plan for the total utilized agricultural area of their holdings in 1991 to the competent authorities before the deadline set by the Member State concerned, in accordance with Article 5 (2) of Regulation (EEC) No 1703/91. Such plans must indicate in particular:

- the first and family names and address of the farmer,
- the total utilized agricultural area of the holding with the land register reference or a document recognized as equivalent by the body responsible for monitoring, such as a map or aerial photograph, enabling the areas to be identified precisely,
- the use to which each parcel is to be put, with details, where applicable, of the successive crops.

Article 4

1. Member States which choose the option provided for in the first indent of Article 5 (2) of Regulation (EEC) No 1703/91 shall introduce a system of on-the-spot random checks covering at least 3% of the utilization plans submitted.

2. The presence of the crops indicated in utilization plans shall be verified as a priority.

3. Verification of the areas concerned shall be carried out by any suitable means.

⁽¹⁾ OJ No L 162, 12. 6. 1982, p. 28.

⁽²⁾ OJ No 172, 30. 9. 1966, p. 3025/66.

Article 5

1. Without prejudice to the provisions of Article 6, Member States which choose the option provided for in the second indent of Article 5 (2) of Regulation (EEC) No 1703/91 shall verify utilization plans submitted using aerial or satellite-borne means of remote sensing.

2. Member States shall inform the Commission before 31 December 1991 of the number of utilization plans per administrative or agricultural region.

3. The checks necessary shall be organized in accordance with Article 13.

Article 6

1. Member States which choose the option provided for in the second indent of Article 5 (2) of Regulation (EEC) No 1703/91 may fulfil the requirements on verification of utilization plans by conducting plausibility monitoring in accordance with the second indent of Article 8 of Regulation (EEC) No 1703/91.

2. Within the meaning of Article 8, second indent, of Regulation (EEC) No 1703/91, 'binding official document' means any document submitted before 31 July 1991 by a producer within the framework of a specific administrative system and providing at least the same details as those stipulated in Article 3.

The administrative system referred to above must provide for on-the-spot checks of the documents in question and for suitable penalties in the event of false declarations. Member States making use of the possibility provided for in this Article shall submit proof, at the request of the Commission, of the checks conducted.

Article 7

Declarants shall be excluded from the temporary set-aside scheme if:

- verification of their utilization plans shows a difference of more than 10 % in arable land eligible,
- part of a parcel declared as cultivated is found to have been fallow.

TITLE III

Applications for aid for the temporary set-aside of land and monitoring arrangements*Article 8*

All farmers of arable land who have submitted utilization plans for the agricultural area of their holdings as referred to in Article 3 shall submit aid applications before the

date set by the Member State and by 15 December 1991 at the latest.

Article 9

Aid applications shall contain at least the following particulars:

- the first and family names and address of the applicant,
- the total utilized agricultural area of the holding in hectares and ares, land farmed in owner occupation being distinguished from that utilized for tenant farming,
- the area in hectares and ares under the various crops,
- the area in hectares and ares per parcel of land fallowed and the type of plant cover chosen,
- unless such information has already been provided pursuant to the second indent of Article 3, the land register references of the areas referred to in the preceding indents or documents recognized as equivalent by the body responsible for monitoring the areas, such as maps or aerial photographs enabling the authorities responsible for monitoring to identify the areas precisely,
- a declaration by the applicant, failing which the application shall be inadmissible, to the effect that his aid application covers all the agricultural areas of the holding belonging to the categories referred to in the second, third and fourth indents.

Article 10

1. The Member States referred to in Articles 4 and 6 shall introduce a system of administrative on-the-spot checks ensuring that the conditions for granting the aid are met. They shall conduct random on-the-spot checks to verify the accuracy of applications submitted.

2. The on-the-spot checks shall cover at least 5 % of applications submitted in each competent administrative unit.

Article 11

When the checks referred to in Article 10 are conducted, all the areas of the applicant's holding must be inspected and the crops present must be verified.

The area of eligible arable land and the areas fallowed shall be determined by any appropriate means.

Article 12

The percentage in Article 10 (2) shall be increased to 10 % where, in an administrative unit, checks on aid applications indicate that 20 % of applications verified have resulted in a correction to the detriment of the recipients. Member States shall inform the Commission thereof immediately.

Article 13

1. The monitoring provided for in Article 5 shall be introduced by Member States in conjunction with the Commission and shall involve a remote-sensing-assisted combined system for verifying the 1991 utilization plans and the 1992 aid applications.

2. The system provided for in paragraph 1 shall involve at least, in each Member State :

- selecting a sample of at least 8 % of the total declarations to be verified,
- interpreting photographs or other images enabling plant cover in 1991 and 1992 to be recognized and the areas of all the parcels for checking to be estimated,
- on-the-spot verification by the competent authorities of all applications where photo-interpretation does not conclusively show that the declaration is accurate.

3. The Commission shall be responsible for carrying out and financing the operations referred to in the second indent of paragraph 2.

Article 14

The maximum amount of the aid referred to in Article 3 of Regulation (EEC) No 1703/91 is laid down in Annex II hereto. That amount shall be converted into national currency using the agricultural conversion rate applying to cereals on 1 July 1991.

Article 15

1. In accordance with Article 1 (3) of Regulation (EEC) No 1703/91, the area to be taken into account for the payment of the aid shall comprise fallowed parcels of the minimum size laid down in Article 2 (1).

2. The Member State shall pay the aid by 31 December 1992 at the latest.

Article 16

If checks show a significant excess of up to 10 % but not more than one hectare in aid applications between the area in respect of which the aid is applied for and that determined, the aid shall be calculated on the basis of the area determined minus the excess noted.

Where that excess is greater than these limits, applications shall be rejected.

Article 17

Each inspection visit must be described in a report indicating *inter alia* the reasons for the inspection in cases where Article 13 applies, the number of parcels inspected, those measured, the measurement methods used and any reasons which result in the rejection or partial acceptance of the application.

Article 18

Where checks cannot be conducted owing to the fault of the applicant, the application shall be rejected. In cases of *force majeure*, the grounds therefor must be given in

writing by the party concerned within 10 days of the date scheduled for the check.

TITLE IV

Reimbursement of the co-responsibility levy collected in respect of the 1991/92 marketing year*Article 19*

Any farmer who has submitted an aid application as provided for in Article 8 shall be eligible for reimbursement of the co-responsibility levy payable during the 1991/92 marketing year under the conditions laid down in this Title

Article 20

1. Farmers referred to in Article 19 shall complement their applications with an application for reimbursement of the co-responsibility levy collected on their sales of cereals during the 1991/92 marketing year. Such applications must be accompanied by supporting documents certifying that the applicant has paid the co-responsibility levy provided for in Article 4 of Regulation (EEC) No 2727/75.

2. Applications as provided for in paragraph 1 shall cover all reimbursements to be made in respect of cereals sold in 1991/92. They shall be submitted by 31 August 1992 at the latest.

3. The co-responsibility levy shall be reimbursed by 31 December 1992 at the latest.

TITLE V

General provisions*Article 21*

1. In the case of undue payment of the aid and/or undue reimbursement of the co-responsibility levy, the amounts concerned shall be recovered, plus interest calculated on the basis of the length of the period which has elapsed between the payment of those sums and their reimbursement by the recipient. Member States shall fix the interest rate to be applied for such calculation on the basis of the inter-bank interest rates applicable on the last working day of the month of payment to the applicants, plus two percentage points.

2. In cases of serious irregularities relating to the amount of the co-responsibility levy, the applicant concerned shall also be excluded from the scheme provided for in this Regulation.

3. The amounts referred to in paragraph 1 shall be paid to the paying agencies or departments and shall be deducted by the latter from the expenditure financed by the EAGGF Guarantee Section in proportion to the Community financing.

Article 22

Member States shall adopt any additional measures required for the application of this Regulation and in particular they shall conduct documentary checks and take steps to intercept more than one application in respect of the same area. To that end Member States shall, as far as possible, computerize data in aid applications and reimbursement applications.

Article 23

Member States shall notify the Commission of the measures adopted pursuant to this Regulation. In addition,

they shall send the Commission a full report on the application of this Regulation before 31 January 1993.

Article 24

This Regulation shall enter into force on the seventh 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, 11 July 1991.

For the Commission

Ray MAC SHARRY

Member of the Commission

ANNEX I

Additional products eligible under the temporary set-aside scheme for arable land

Arable land sown in preparation for the 1991 harvest with the following products is also eligible :

CN code	Description
1001 90 10	Spelt for sowing
1005 10	Maize (corn) seed
1007 00 10	Grain sorghum, hybrids for sowing
1201 00 10	Soya beans for sowing
0713 10 11	Peas for sowing
0713 10 19	
0713 50 10	Broad beans and horse beans for sowing
1205 00 10	Rape or colza seeds for sowing
1206 00 10	Sunflower seeds for sowing

ANNEX II

Pursuant to Article 3 of Regulation (EEC) No 1703/91, the maximum amounts of the premium to be granted are as follows :

	<i>(in ecus/ha)</i>
— Spain : Regions covered by Regulation (EEC) No 777/89 ⁽¹⁾ :	
— unirrigated zones	
— in less favoured areas :	123,8
— in other areas :	143,3
— irrigated zones	
— extensive cropping :	228,8
— semi-intensive cropping :	260,6
— intensive cropping :	345,3
— France : regions covered by Regulation (EEC) No 778/89 ⁽²⁾ :	100,0
— Italy : the region covered by Regulation (EEC) No 2157/89 ⁽³⁾ :	380,0
— Portugal :	100,0

⁽¹⁾ OJ No L 84, 28. 3. 1989, p. 25.

⁽²⁾ OJ No L 84, 28. 3. 1989, p. 27.

⁽³⁾ OJ No L 207, 19. 7. 1989, p. 14.