

## COMMISSION REGULATION (EEC) No 2385/91

of 6 August 1991

## laying down detailed rules for certain special cases regarding the definition of sheepmeat and goatmeat producers and producer groups

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 3013/89 of 25 September 1989 on the common organization of the market in sheepmeat and goatmeat<sup>(1)</sup>, as last amended by Regulation (EEC) No 1741/91<sup>(2)</sup>, and in particular Article 5 (9) thereof,

Having regard to Council Regulation (EEC) No 3493/90 of 27 November 1990 laying down general rules for the grant of premiums to sheepmeat and goatmeat producers<sup>(3)</sup>, and in particular Articles 1 and 2 (4),

Whereas Regulation (EEC) No 3493/90 establishes, in particular, the definitions of sheepmeat and/or goatmeat producer and producer group; whereas, furthermore, that Regulation lays down that the Commission, acting in accordance with the procedure laid down in Article 30 of Regulation (EEC) No 3013/89, is to lay down detailed rules for the application of those definitions and in particular special cases arising from contractual forms provided for in agricultural law or covered by national customs and practices under which the farmer, while assuming the risks and/or organization of the rearing, is not the owner of all or part of the flock, and detailed rules for the application of the limits provided for in Article 5 (7) of Regulation (EEC) No 3013/89 concerning producer groups;

Whereas, as regards the abovementioned contractual forms, provisions should be laid down in particular to cover cases of shared ownership, livestock lease and placing of ewes in agistment and certain situations where the shepherd of a flock is also owner of part of the latter; whereas, however, as regards livestock leases, special provisions must be laid down in the United Kingdom for the National Trust where it is the lessor in the Lake District area, since the said lessor imposes particularly strict conditions on lessees in order to ensure that the environment is protected;

Whereas the limits provided for in Article 5 (7) of Regulation (EEC) No 3013/89 may, in the case of producer groups, be applied correctly using a single premium

declaration signed by all the members and by means of certain provisions on penalties intended to ensure that the group assumes liability for declarations submitted;

Whereas, for the purposes of applying the abovementioned limits, rules should also be laid down for apportioning livestock in the case of groups where the animals belonging to each member cannot be identified; whereas the formula for apportionment applicable, in the case of disbanding, to the group's assets is suitable for the purpose;

Whereas, in order to prevent the limits in question from being circumvented, the concept of group should exclude any form of association featuring a lack of independence of or real participation by the members;

Whereas Regulation (EEC) No 3493/90 lays down the conditions under which farmers practising transhumance are to be considered producers in less-favoured areas; whereas that Regulation lays down in particular that, to that end, on farmers whose holdings are located in geographical areas to be determined according to certain criteria and in accordance with the procedure provided for in Article 30 of Regulation (EEC) No 3013/89 are to be taken into account; whereas those criteria lead to the determination of the areas given in the Annex hereto;

Whereas the Management Committee for Sheep and Goats has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

*Article 1*

1. Save as otherwise provided for in paragraph 4, in cases other than those referred to in Article 2 (1) where ownership of a flock of sheep and/or goats on the same farm is shared between two or more natural or legal persons, the producer within the meaning of point 1 of Article 1 (1) of Regulation (EEC) No 3439/90 shall be deemed to be the person who has the greatest share of the sale of products from the flock in question.

The limits referred to in Article 5 (7) of Regulation (EEC) No 3013/89 shall apply to the whole flock.

2. Where the owner of a flock of sheep and/or goats places the flock in agistment, the farmer in question shall remain the producer within the meaning of point 1 of

<sup>(1)</sup> OJ No L 289, 7. 10. 1989, p. 1.

<sup>(2)</sup> OJ No L 163, 26. 6. 1991, p. 41.

<sup>(3)</sup> OJ No L 337, 4. 12. 1990, p. 7.

Article 1 (1) of Regulation (EEC) No 3493/90. He shall identify the agister's holding in his premium application.

3. Where a flock of ewes and/or she-goats is held, in part or in whole, under a livestock lease and the lessee receives the product of the sale of the livestock products, the lessee shall be deemed to be the producer, with regard to the part in question, within the meaning of point 1 of Article 1 (1) of Regulation (EEC) No 3493/90.

The limits referred to in Article 5 (7) of Regulation (EEC) No 3013/80 shall apply to the whole of the flock belonging to the lessor, on the one hand, and to the whole of the flock held by the lessee, on the other hand.

To this end, the lessor shall indicate — if appropriate in his premium application — the identification of the lessee's holding and the number of ewes leased to the latter; the lessee shall indicate in his premium application the identification of the lessor's holding and the number of ewes leased from him.

However, in the case of the Lake District area of the United Kingdom, the third subparagraph shall not apply to the National Trust where it is the lessor; in such event, the limits referred to shall apply to each lessee concerned.

4. Where the shepherd of a flock of sheep and/or goats is an employee of a producer within the meaning of point 1 of Article 1 (1) of Regulation (EEC) No 3493/90 and at the same time is himself a producer within the meaning of the same Article with regard to a part of the flock:

— the limits referred to in Article 5 (7) of Regulation (EEC) No 3013/89 shall apply to the whole of the flock belonging to the two producers,

— the producers shall be jointly and severally liable where the penalties provided for in Article 6 of Commission Regulation (EEC) No 3007/84<sup>(1)</sup> are applied in the event of the two parts of the flock not being identified separately.

The premium application submitted by each producer must specify the employer-employee relationship and identify the other producer.

#### Article 2

1. Where a premium application is submitted by a producer group within the meaning of point 2 of Article 1 (1) of Regulation (EEC) No 3493/90, the producer group must submit a single premium application, which must be signed by all the producers within the meaning of point 1 of the said Article; such producers shall remain subject to the obligations imposed by Regulation (EEC)

No 3007/84. The premium shall be paid directly to the group.

The rules on penalties referred to in Article 6 of Regulation (EEC) No 3007/84 shall apply to the group as such. However, the penalty provided for in Article 6 (6) of that Regulation shall apply to those members who, while remaining producers in the following year, no longer form part of the group.

2. Premium applications must state the number of animals brought to the group by each producer.

However, where the nature of the group is such that ownership of individual animals cannot be assigned to each producer, the articles of association or the rules of procedure of the group must necessarily give a formula for apportioning the sheep and/or goat flock between the various producers concerned within the meaning of point 1 of Article 1 (1) of Regulation (EEC) No 3493/90. That formula must correspond to the way the group's assets would be apportioned were the group to be disbanded. Except in the case of a substantial change in the membership of the group which has been notified to the competent authority for granting the premium, this apportionment shall remain unaltered in the following marketing years. The annual premium application must specify the number of ewes attributed to each producer on the basis of the said formula.

3. The following may not be deemed to constitute producers who are members of producer groups eligible for the application of the limits referred to in Article 5 (7) of Regulation (EEC) No 3013/89:

(a) producer members having an employer-employee relationship with another producer member;

(b) producer members who do not contribute to the capital and labour of the enterprise and have no corresponding share in the profits.

#### Article 3

1. The geographical areas referred to in the second indent of Article 2 (3) of Regulation (EEC) No 3493/90 shall be as set out in the Annex hereto.

2. Premium applications submitted by producers the registered addresses of whose farms are in one of the areas referred to in paragraph 1 and who wish to qualify under the provisions of Article 2 (3) of Regulation (EEC) No 3493/90 must indicate:

— the place or places where transhumance is to be carried out for the current marketing year,

— the period of at least 90 days referred to in the said paragraph and laid down for the current marketing year.

<sup>(1)</sup> OJ No L 283, 27. 10. 1984, p. 28.

3. Premium applications from producers as referred to in paragraph 2 must be accompanied by documents certifying that transhumance has actually been carried out, except in cases of *force majeure* or duly justified natural circumstances, during two previous marketing years and in particular by an attestation from the local or regional authority at the place of transhumance certifying that the latter has actually taken place during at least 90 consecutive days.

4. In order to facilitate checks, the authority receiving the premium applications shall notify the authority responsible for verification of the place of transhumance.

5. The Member States shall monitor the application of the provisions of this Article in accordance with the detailed rules laid down in Article 5 of Regulation (EEC) No 3007/84. In addition, when carrying out administrative checks on applications, they shall ensure that the place of transhumance specified in the premium application is actually within one of the areas defined in Article 3 (3), (4) and (5) of Council Directive 75/268/EEC<sup>(1)</sup>.

6. Member States shall notify the Commission of the premium applications as referred to in paragraph 2, received for the current marketing year, broken down according to the list of regions referred to in Article 3 (4) of Regulation (EEC) No 3007/84 at the same time as the communication required in that Article.

#### Article 4

This Regulation shall apply to premium declarations submitted in respect of the 1992 and subsequent marketing years; however, the following shall apply from the 1991 marketing year:

- the second subparagraph of Article 2 (2) in the case of producer groups qualifying under Article 5 (7) of Regulation (EEC) No 3013/89; however, in that case and for the 1991 marketing year, the formula for apportionment contained in the group's articles of association or rules of procedure and the number of ewes assigned to each producer shall be notified before 31 August 1991 to the competent authority,
- Article 2 (3),
- Article 3; however, as regards applications submitted in respect of the 1991 marketing year, the particulars and documents referred to in paragraphs 2 and 3 of that Article shall be forwarded by 30 November 1991; furthermore, and by way of derogation for the said marketing year, the documents referred to in paragraph 3 shall relate to the 1990 marketing year only.

#### Article 5

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, 6 August 1991.

*For the Commission*

Ray MAC SHARRY

*Member of the Commission*

<sup>(1)</sup> OJ No L 128, 19. 5. 1975, p. 1.

## ANNEX

## LIST OF GEOGRAPHICAL AREAS REFERRED TO IN THE SECOND INDENT OF ARTICLE 3 OF REGULATION (EEC) No 3493/90

## I. SPAIN

Comunidad autónoma	Provincia	Comarcas
Andalucía	Almería	Nº 7: Campos Dalías Nº 8: Campos Níjar y Bajo Andárax
	Cádiz	—
	Córdoba	Nº 3: Campiña Baja
	Jaén	Nº 6: Campiña Sur
	Granada	Nº 1: De la Vega
	Huelva	Nº 3: Andevalo Oriental
	Málaga	Nº 1: Norte o Antequera Nº 3: Centro o Guadalorce
	Sevilla	Nº 2: La Vega Nº 5: La Campina
	Aragón	Huesca
Teruel		—
Zaragoza		Nº 1: Egea de los Caballeros Nº 2: Borja Nº 5: Zaragoza
Asturias		—
Baleares		—
Cantabria	Cantabria	—
Castilla y León	Ávila	—
	Burgos	—
	León	Nº 6: Tierras de León
	Palencia	Nº 2: Campos
	Salamanca	Nº 3: Salamanca
	Segovia	—
	Soria	—
	Valladolid	Nº 2: Centro
Zamora	Nº 4: Campos-Pan	
Castilla-La Mancha	Albacete	Nº 4: Centro
	Ciudad Real	Nº 2: Campos de Calatrava Nº 5: Pastos
	Cuenca	—
	Guadalajara	—
	Toledo	Nº 1: Talavera

Comunidad autónoma	Provincia	Comarcas	
Cataluña	Barcelona	Nº 2: Bages	
		Nº 3: Osona	
		Nº 5: Penedès	
		Nº 6: Anoia	
		Nº 8: Vallès Oriental	
		Nº 9: Vallès Occidental	
		Nº 10: Baix Llobregat	
		Girona	Nº 4: Alt Empordà
			Nº 7: La Selva
			Nº 6: Noguera
	Lérida	Nº 7: Urgell	
		Nº 9: Segrià	
	Tarragona	Nº 3: Baix Ebre	
Nº 4: Priorat — Prades			
Nº 7: Camp de Tarragona			
Nº 8: Baix Penedès			
Extremadura	Badajoz	Nº 3: Don Benito	
	Cáceres	Nº 6: Badajoz —	
Galicia		—	
Madrid	Madrid	—	
Murcia	Murcia	Nº 4: Río Segura	
		Nº 5: Suroeste y Valle de Guadalestín	
Navarra	Navarra	Nº 5: La Ribera	
La Rioja	La Rioja	—	
Valenciana	Alicante	—	
	Castellón	Nº 2: Bajo Maestrazgo	
	Valencia	Nº 3: Campo de Turia	
	Palencia	Nº 6: Sagunto Nº 9: Ribera del Júcar	
País Vasco		—	

## II. FRANCE

### *Provence-Alps-Côte d'Azur*

The non-less-favoured areas in the departments of Alpes-de-Haute-Provence, Alpes Maritimes, Var and Vaucluse, and the whole of the department of Bouches-du-Rhône.

### *Rhône-Alps*

The non-less-favoured areas in the departments of Ain, Ardèche, Drôme, Isère, Loire, Rhône, Savoie and Haute-Savoie.

### *Midi-Pyrénées*

The non-less-favoured areas in the departments of Haute-Garonne, Hautes-Pyrénées and Tarn-et-Garonne.

### *Aquitaine*

The non-less-favoured areas in the department of Pyrénées-Atlantiques.

*Alsace*

The non-less-favoured areas in the departments of Bas-Rhin and Haut-Rhin.

*Lorraine*

The non-less-favoured areas in the departments of Meurthe-et-Moselle, Moselle and the whole of the department of Meuse.

*Auvergne*

The non-less-favoured areas in the departments of Allier and Puy-de-Dôme.

*Languedoc-Roussillon*

The non-less-favoured areas in the departments of Aude, Gard, Hérault and Eastern Pyrénées.

## III. GREECE

Lowland areas from which animals are (by tradition) moved every year to mountain, hill and less-favoured areas, as specified in Articles 3 (3), 4 and 5 of Directive 75/268/EEC.

Νομός	Επαρχία
1. Νομός Λακωνίας	Λακεδαιμόνος, Επιδαύρου, Λιμήρας
2. Νομός Ιωαννίνων	Ιωαννίνων
3. Νομός Φωκίδος	Παρνασσίδος, Δωρίδος
4. Νομός Πρέβεζας	Νικοπόλεως
5. Νομός Κιλκίς	Κιλκίς
6. Νομός Αττικής	Μεγαρίδος, Αττικής, Πειραιώς
7. Νομός Αχαΐας	Πατρών, Αιγιαλείας
8. Νομός Αργολίδας	Άργους, Ναυπλίου
9. Νομός Βοιωτίας	Λιβαδειάς, Θήβας
10. Νομός Αρκαδίας	Κοινουρίας, Μαντινείας
11. Νομός Ημαθίας	Νάουσας, Βέροιας
12. Νομός Ηλείας	Ηλείας, Ολυμπίας
13. Νομός Μαγνησίας	Βόλου, Αλμυρού
14. Νομός Κορινθίας	Κορινθίας
15. Νομός Ροδόπης	Κομοτινής
16. Νομός Πέλλας	Έδεσσας, Αλμωπίας, Γιαννιτσών
17. Νομός Φθιώτιδας	Φθιώτιδος, Δομοκού, Λοκρίδος
18. Νομός Χανίων	Κυδωνίας, Κισάμου, Αποκορώνου
19. Νομός Ευβοίας	Χαλκίδας, Καριστίας, Ιστιαίας
20. Νομός Αιτωλοακαρνανίας	Μεσολογγίου, Τριχωνίδας, Βάλτου, Ξηρομέρου, Ναυπάκτου
21. Νομός Μεσσηνίας	Τριφυλίας, Μεσσήνης, Πυλίας
22. Νομός Τρικάλων	Τρικάλων
23. Νομός Ρεθύμνης	Ρεθύμνης
24. Νομός Πιερίας	Πιερίας
25. Νομός Δράμας	Δράμας
26. Νομός Άρτας	Άρτας
27. Νομός Θεσσαλονίκης	Θεσσαλονίκης, Λαγκαδά
28. Νομός Θεσπρωτίας	Θιάμιδος
29. Νομός Καρδίτσας	Καρδίτσας, Σοφάδων, Παλαμά, Μουζακίου
30. Νομός Καβάλας	Καβάλας, Παγγαίου
31. Νομός Λάρισας	Λάρισας, Φαρσάλων, Αγιάς, Ελασσώνας, Τυρνάβου

## IV. FEDERAL REPUBLIC OF GERMANY

**Baden-Württemberg** (in the following urban and rural districts)

Stuttgart (Stadt)	Rhein-Neckar-Odenwald-Kreis
Böblingen	Pforzheim (Stadt)
Esslingen	Enzkreis
Göppingen	Calw
Ludwigsburg	Freudenstadt
Rems-Murr-Kreis	Freiburg im Breisgau (Stadt)
Heilbronn (Stadt)	Breisgau Hochschwarzwald
Heilbronn	Emmendingen
Hohenlohekreis	Ortenaukreis
Schwäbisch Hall	Konstanz
Main-Tauber-Kreis	Lörrach
Heidenheim	Waldshut
Ostalbkreis	Reutlingen
Baden-Baden (Stadt)	Tübingen
Rastatt	Zollernalbkreis
Karlsruhe (Stadt)	Ulm Stadt
Karlsruhe	Alb-Donau-Kreis
Heidelberg (Stadt)	Biberach
Mannheim (Stadt)	Bodenseekreis
	Ravensburg

**Bayern** (in the following urban and rural districts)

Alchach-Friedberg	Landshut
Altötting	Lindau (west)
Ansbach (north-west)	Main-Spessart (south)
Aschaffenburg	Miesbach (north)
Augsburg	Miltenberg
Bad Tölz-Wolfratshausen (north)	Mühlendorf
Berchtesgadener Land (north)	München
Dachau	Neuburg-Schrobenhausen
Deggendorf	Neustadt/Aisch — Bad Windsheim (west)
Dillingen	Neu Ulm
Dingolfing-Landau	Nürnberger Land (west)
Donau-Ries	Ostallgäu (north)
Ebersberg	Passau (south-west)
Eichstätt (south)	Pfaffenhofen
Erding	Regensburg
Erlangen (south)	Rosenheim (north)
Freising	Rottal-Inn
Fürstenfeldbruck	Starnberg
Fürth	Straubing-Bogen
Günzburg	Schweinfurt
Kelheim	Traunstein (north)
Kitzingen	Unterallgäu
Landsberg/Lech	Würzburg

**Hessen** (in the following urban and rural districts)

Friedberg	Fulda
Gießen	Kassel
Marburg-Biedenkopf	Limburg-Weilburg

**Niedersachsen** (in the following urban and rural districts)

Gifhorn	Hameln
Göttingen	Nienburg
Peine	Schaumburg
Hannover	Uelzen
Hildesheim	Verden
Holzmünden	

**Rheinland-Pfalz** (in the following rural districts and towns)

Koblenz	Ludwigshafen (town and rural district)
Ahrweiler	Mainz
Bad Kreuznach	Neustadt a.d.W.
Cochem-Zell	Speyer
Mayen-Koblenz	Worms
Neuwied	Zweibrücken
Rhein-Lahn-Kreis	Alzey-Worms
Trier	Bad-Dürkheim
Bernkastel-Wittlich	Germersheim
Trier-Saarburg	Südliche Weinstraße
Frankenthal	Mainz-Bingen
Kaiserslautern (town and rural district)	Pirmasens
Landau i.d. Pfalz	

**Saarland** (in the following rural districts)

Saarlouis	Saar-Pfalz
Saarbrücken	Neunkirchen
Merzig-Wadern	

**Sachsen-Anhalt** (in the following rural districts)

Bördeteil in the Wernigerode rural district	Saalkreis
Wanzleben	Köthen
Haldensleben	Gardelegen
Staßfurt	Gräfenhainichen
Bernburg	Bitterfeld
Aschersleben	Hohenmölsen

## V. ITALY

**Non-less-favoured areas of the regions**

Toscana	Abruzzo
Umbria	Molise
Marche	Campania
Sicilia	Basilicata
Sardegna	Puglia
Lazio	Calabria

**Non-less-favoured areas of the provinces**

Cuneo	Pavia
Vercelli	Parma
Bergamo	Reggio Emilia
Brescia	Modena
Treviso	Bologna
	Forlì