

COMMISSION REGULATION (EEC) No 3567/92
of 10 December 1992

laying down detailed rules for the application of the individual limits, national reserves and transfer of rights provided for in Articles 5a to 5c of Council Regulation (EEC) No 3013/89 on the common organization of the market in sheepmeat and goatmeat

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⁽¹⁾, as last amended by Regulation (EEC) No 2069/92⁽²⁾, and in particular Articles 5a (4) (b) and (f), 5b (4) and 5c (2) thereof,

Whereas, with a view to implementing the system of individual limits as introduced by Article 5a of Regulation (EEC) No 3013/89, the rules governing the determination of those limits and their communication to the producers should be specified, taking account of the specific problems linked to producer groups and to the different rates of premium in the sheep and goat sector; whereas also certain terms should be defined so as to give effect to the said Article 5a;

Whereas, bearing in mind the regulating effect which the system of individual limits will have on the market, provision should be made for premium rights not used by their holder during a specific period to revert to the national reserve; whereas appropriate measures should also be taken to ensure that rights granted free of charge from the national reserve are used by the beneficiaries solely for the intended purposes;

Whereas the uniform implementation of the provisions relating to the transfer and temporary leasing of rights entails the laying-down of certain administrative rules; whereas, in order to avoid excessive administrative work, the minimum number of rights which may be transferred or temporarily leased should be set at a sufficiently high level, taking into account the special situation of small producers; whereas such rules must also prevent infringement of the obligation under Article 5a (4) of Regulation (EEC) No 3013/89 to surrender, whenever rights are transferred without transfer of the holding, a certain percentage of such transferred rights to the national

reserve; whereas, moreover, provision should be made for this temporary surrender to be limited in time so as to avoid abuse of the transfer rules;

Whereas the special case where a producer only uses publicly or collectively owned land for grazing and transfers all his rights to another farmer, thus ceasing production, should be deemed equivalent to the transfer of a holding;

Whereas application of an administrative system of transfers in which all transfers of rights without transfer of the holding are conducted solely via the national reserve necessitates the establishment of a legal framework designed to preserve economic consistency with the system of direct transfers between producers; whereas objective criteria should be established for the determination of the sum to be paid by the national reserve to the producer who has transferred his rights and the sum to be paid by the producer who receives equivalent rights from the national reserve;

Whereas the choice of 1991 as the reference year will cause transitional problems which need to be resolved; whereas, while ensuring that the total number of existing rights is not increased above the number of acquired or potential rights corresponding to 1991 alone, provision should be made for an initial allocation of rights to farmers in well-defined situations; whereas, in order to take account of the exceptional circumstances which prevented producers from applying for a premium for 1992 while having obtained a premium for 1991, provision should be made for such producers to receive rights from the national reserve; whereas, moreover, in conformity with the principle of legitimate expectations, compensation in the form of the allocation of additional rights should be provided for in the case of producers whose individual limit does not reach its normal level because of their participation in a Community extensification programme;

Whereas the Canary Islands have only been subject to the provisions of the common agricultural policy, including the ewe premium arrangements, since 1 July 1992; whereas, therefore, the individual limits for producers located in that territory may not be established by reference to premiums granted for 1991; whereas, in

⁽¹⁾ OJ No L 289, 7. 10. 1989, p. 1.

⁽²⁾ OJ No L 215, 30. 6. 1992, p. 59.

order to stay as close as possible to the economic situation in 1991, the individual limits should be established on the basis and within the limits of the flocks counted in that territory in 1991 while taking into account the premiums granted to producers for 1992;

Whereas the transition from the system existing when Regulation (EEC) No 2069/92 entered into force to the system of individual limits may, in certain Member States, cause special problems due to the transfer of premium rights by producers who do not own the land on which their holdings are situated; whereas, in order to ensure the smooth operation of the market, provision should be made for those Member States to take appropriate measures to resolve the problems while respecting the link between producer and premium rights under the system established by Article 5a of Regulation (EEC) No 3013/89;

Whereas if the Commission is to monitor the new arrangements it needs to be properly provided by the Member States with the essential information regarding its implementation; whereas it is therefore vital to require the Member States to communicate the necessary information to the Commission;

Whereas the Management Committee for Sheepmeat and Goatmeat has not issued an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

TITLE I

Individual limits

Article 1

This Regulation lays down detailed rules for the application of the individual limits per producer introduced by Articles 5a, 5b and 5c of Regulation (EEC) No 3013/89.

Article 2

1. The Member States shall determine an individual limit per producer or member of a producer group under the conditions laid down in Article 5a of Regulation (EEC) No 3013/89. That limit may in no case be less than 10.

2. In the case of producer groups set up during the 1992 marketing year, premiums shall be paid to the group for up to the total number of animals in respect of which the premium was granted to producer members for the

1991 marketing year and under the conditions laid down in Article 5a of Regulation (EEC) No 3013/89.

An individual limit shall be set for each producer member in respect of the 1993 marketing year. Where the type of group involved does not enable the individual animals belonging to each producer to be identified, the limit shall be calculated by applying the apportionment formula notified by the group in respect of the 1992 marketing year to the total number of animals referred to in the first subparagraph.

3. Each producer shall be informed of his individual limit not later than 15 days before the end of the period laid down by the Member State for the submission of premium applications for the 1993 marketing year.

The notification shall state the number of animals in respect of which the producer is entitled, respectively to the full premium and to the reduced premium (50 %).

Where the number of premiums to be paid in respect of 1991 has not been definitively established as a result of a dispute between the producer and the competent authority, the notification may refer to a provisional individual limit.

Where Article 6 (6) of Commission Regulation (EEC) No 3007/84⁽¹⁾ is applied in respect of the 1991 marketing year, entailing loss of entitlement under the premium scheme for 1992, the individual limit shall be based on the number of eligible animals recorded during the check which gave rise to the application of the abovementioned provision.

4. The coefficient referred to in Article 5a (5) of Regulation (EEC) No 3013/89 shall not become definitive until the total numbers of eligible animals referred to in the said paragraph are compared with the total number of premiums granted in response to applications deemed to be acceptable.

Article 3

For the purposes of Article 5a (2) of Regulation (EEC) No 3013/89:

(a) 'the most recent marketing year' means the marketing year prior to 1991 in which the relevant circumstances did not obtain; however, the most recent marketing year for Italy and Greece shall be 1992;

(b) 'natural circumstances' means circumstances which have resulted in the application of Article 6 (2) of Regulation (EEC) No 3007/84 and the following conditions provided that these occurred prior to submission of the application or prior to the deadline for submission of applications for premiums under the 1991 marketing year and that they are recognized by the competent authorities:

⁽¹⁾ OJ No L 283, 27. 10. 1984, p. 28.

- a serious natural disaster having a major effect on the producer's holding,
- the accidental destruction of the producer's fodder stocks or facilities intended for the rearing of his sheep and/or goat stock,
- an epizootic disease entailing the slaughter of at least half the producer's sheep and/or goat stock.

Article 4

By 30 April 1993 at the latest, the Member States shall notify the Commission of:

- the total sum of the individual limits, broken down by type of region (less-favoured or not) and by rate of premium (full rate and reduced rate); the Commission shall compare this sum with the result of the premiums granted in response to applications deemed to be acceptable in respect of the 1991 marketing year,
- the number of additional premium rights granted to producers pursuant to Article 5a (2) of Regulation (EEC) No 3013/89, specifying the type of natural circumstances invoked.

TITLE II

National reserves

Article 5

1. The Member States shall notify the Commission:
 - by 31 December 1992 at the latest, of the percentage reduction adopted pursuant to Article 5b (1) of Regulation (EEC) No 3013/89,
 - by 31 December 1992 at the latest, whether and to what extent they have decided to increase their reserves in accordance with the third subparagraph of Article 5a (1) of Regulation (EEC) No 3013/89.
2. As from the 1994 marketing year, the Member States shall notify the Commission:
 - by 30 April of each marketing year at the latest, of the number of premium rights surrendered without compensation to the national reserve following transfers of rights without transfers of holdings during the preceding marketing year,
 - by 30 April of each marketing year at the latest, of the number of premium rights granted pursuant to Article 5b (2) of Regulation (EEC) No 3013/89 during the preceding marketing year,

- by 30 April of each marketing year at the latest, of the total number of premium rights granted to producers in less-favoured areas from the additional national reserve during the preceding marketing year.

Article 6

1. Where a producer has obtained premium rights free of charge from the national reserve:
 - (a) he shall not be authorized to transfer his rights or to lease them temporarily during the three following marketing years;
 - (b) where the producer does not avail himself of all of his rights during the three following marketing years the Member State shall withdraw and surrender to the national reserve the average of the rights not used in the course of those three marketing years.
2. Without prejudice to paragraph 1 and except in duly justified, exceptional cases, where producers have not made use of at least 50 % of their rights during two consecutive marketing years, the part not used during the last marketing year shall be transferred to the national reserve.

TITLE III

Transfer of rights and temporary leasing

Article 7

1. The minimum number of premium rights which may be the subject of a partial transfer not involving the transfer of a holding shall be:
 - 10 % of the number representing the size of the flock of eligible animals, with a maximum of 50, in the case of producers holding at least 50 premium rights,
 - five rights in the case of producers holding between 20 and 49 rights.

In the case of producers holding less than 20 rights, no minimum is set.
2. Transfers of premium rights and temporary leasing of such rights shall be effective only after they have been notified to the competent authorities of the Member State by the producer transferring and/or leasing the rights and by the producer receiving the rights.

The deadline for notification shall be set by the Member State and shall expire no more than two months before the first day of the period for submitting applications laid down by each Member State, or the first period in the case of two. However, for the 1993 marketing year notification shall be made before a date to be fixed by the Member State.

3. In the case of a transfer without a transfer of the holding, the number of rights transferred without compensation to the national reserve may in no case be less than one.

4. Temporary leasing shall only be in respect of whole marketing years and shall involve at least the minimum number of animals provided for in paragraph 1. Over a period of five years from the first leasing a producer must, except in the event of a transfer of rights, use all his rights for himself in the course of at least two consecutive marketing years. Where one of these conditions is not fulfilled the leasing shall lapse. However, in respect of producers participating in an extensification programme recognized by the Commission, Member States may provide for an extension of the total temporary leasing time on the basis of such programmes.

Article 8

If producers who transfer or lease premium rights are subject to the limits laid down in Article 5 (7) of 3013/89 and if:

- (a) they transfer or lease rights at the reduced rate (50 %) to another producer who continues to fall short of those limits, the number of rights acquired by the latter shall be reduced by 50 % and they shall become full premium rights;
- (b) they transfer or lease full premium rights to another producer who already exceeds the abovementioned limits, the number of rights acquired by the latter on transfer or leasing shall be doubled and they shall become reduced premium rights (50 %).

Article 9

In the case of transfers or temporary leasing of premium rights, the Member States shall set the new individual limit and shall notify the producers concerned, before the beginning of the first period laid down by the Member State for the submission of premium applications, of the number of full premium rights and reduced premium rights (50 %) to which they are entitled.

Article 10

Producers farming only publicly or collectively owned land who decide to stop using that land for grazing and to transfer all their rights to another producer shall be treated in the same way as producers selling or transferring their holdings. In all other cases such producers shall be treated in the same way as producers transferring their premium rights only.

Article 11

Where Member States provide that the transfer of rights without transfer of the holding is to take place via the

national reserve, they shall apply national provisions analogous to those in this Title. Moreover, in such cases:

- Member States may provide for temporary leasing to be carried out via the national reserve,
- in the event of the transfer of premium rights or temporary leasing pursuant to the above indent, transfer to the reserve shall not become effective until after notification by the competent authorities of the Member State to the transferring/leasing producer and transfers from the reserve to another producer shall not become effective until after notification to that producer by the authorities.

In addition, such provisions must ensure that the part of the rights not covered by the third subparagraph of Article 5a (4) (b) of Regulation (EEC) No 3013/89 must be offset by a payment by the Member State corresponding to the payment which would have resulted from a direct transfer between producers, account being taken in particular of the trend in production in the Member State concerned. This payment shall be equal to the payment charged to a producer who receives equivalent rights from the national reserve.

TITLE IV

Transitional and final provisions

Article 12

1. Producers applying for the premium in 1992 after inheriting or taking over the holding of another producer who received the premium in 1991 and ceased sheepfarming in 1992 shall obtain the rights which the latter would have enjoyed if he had continued to produce in 1992.

In addition to using of the reserves provided for in Article 5b (1) and (3) of Regulation (EEC) No 3013/89, the Member States may grant premium rights to producers who applied for the premium for the first time in 1992 other than those referred to in the preceding subparagraph. However, the total number of the rights thus granted in each Member State may under no circumstances exceed the total number of potential rights corresponding to producers having obtained the premium in 1991 and ceasing production in 1992 without having passed their holdings on to a successor or other person in 1992 and to the producers referred to in paragraph 2 hereof. If the number of rights thus granted is less than the potential rights the difference may be returned to the national reserve.

2. Producers who obtained premiums in 1991 without applying for them in respect of 1992 owing to exceptional circumstances but who have nevertheless continued to produce may, where applicable, receive premium rights from the national reserve.

3. A producer who during the 1991 marketing year participated in a programme of extensification of production pursuant to Council Regulation (EEC) No 797/85⁽¹⁾ may, at his request, be granted at the end of his participation and additional number of premium rights equal to the difference between the number of premiums granted for the 1991 marketing year and the number of premiums granted for the marketing year preceding the marketing year during the course of which the producer commenced his participation in the said programme. In that case:

- (a) the producer shall not be authorized to transfer or temporarily lease his rights during the following three marketing years;
- (b) if the producer does not use all his rights during the three following marketing years the Member State shall withdraw and return to the national reserve the average of the rights not used during the said three marketing years.

4. Notwithstanding Article 3 of Regulation (EEC) No 3007/84 and Article 1 of Commission Regulation (EEC) No 2814/90⁽²⁾ and with regard to the 1993 marketing year, the Member States may lay down a specific period for the submission of premium applications for:

- the producers referred to in Article 5b (2) of Regulation (EEC) No 3013/89,
- producers to which the limits referred to in Article 2 (1) hereof were notified after the deadline set by the Member State for the submission of applications where the limit is higher than the application initially submitted.

The specific period, however, must not go beyond 30 June 1993.

5. Producers in the Canary Islands applying for premiums for the first time in respect of the 92 marketing year shall be granted premium rights under the following conditions:

- (a) a regional ceiling shall be set in line with the statistics concerning the number of ewes and goats present in 1991 in that territory; however, that ceiling shall not exceed a total of 178 000 head;
- (b) within that regional ceiling, an individual limit per producer shall be set taking account of the number of animals for which the premium was granted in respect of the 1992 marketing year and the correcting coefficients referred to in Article 5a (1) of Regulation (EEC) No 3013/89.

6. The Member States shall inform the Commission by 30 June 1993 at the latest of national implementing

provisions and of the number of premium rights granted pursuant to paragraphs 1 to 5 above.

7. Any application submitted in respect of 1993 for a number of animals in excess of the individual limits determined in accordance with Article 2 (1) of this Regulation shall be reduced to the number corresponding to the said limits.

Article 13

Member States may, if necessary, take appropriate transitional measures with a view to finding equitable solutions to problems which might arise in contractual relationships existing at the time this Regulation enters into force between producers who do not own all the land they farm, in the event of a transfer of premium rights or of other actions having equivalent effect. Such measures may only be taken in order to resolve the difficulties connected with the introduction of a premium rights system linked to the producer and must in any event respect the principles governing that link.

Article 14

Only whole numbers shall be used in the initial calculations and in subsequent adjustments to individual limits on premium rights.

To that end, where the final result of the arithmetical calculations is not a whole number, the nearest whole number shall be used. However, where that whole number falls exactly between the whole numbers, the higher whole number shall be used.

Article 15

Member States shall adopt all other suitable measures necessary to ensure that the system of individual limits is applied properly. They shall inform the Commission thereof.

Article 16

When Article 5c of Regulation (EEC) No 3013/89 is applied Germany shall take account of agricultural structures in the new *Länder* and of the foreseeable trend as regards their agricultural production structures.

Article 17

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

⁽¹⁾ OJ No L 93, 30. 3. 1985, p. 1.

⁽²⁾ OJ No L 268, 29. 9. 1990, p. 35.

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

Done at Brussels, 10 December 1992.

For the Commission
Ray MAC SHARRY
Member of the Commission
