

COMMISSION REGULATION (EEC) No 3886/92

of 23 December 1992

laying down detailed rules for the application of the premium schemes provided for in Council Regulation (EEC) No 805/68 on the common organization of the market in beef and repealing Regulations (EEC) No 1244/82 and (EEC) No 714/89

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 805/68 on the common organization of the market in beef and veal⁽¹⁾, as last amended by Regulation (EEC) No 2066/92⁽²⁾, and in particular Articles 4b (8), 4c (4), 4d (6) and (8), 4e (1) and (5), 4f (4), 4g (5) 4h (2), 4i (4) and 4k (2) thereof,

Whereas the premium schemes referred to in Articles 4a to 4h of Regulation (EEC) No 805/68 fall within the field of application of Council Regulation (EEC) No 3508/92 of 27 November 1992 establishing an integrated administration and control system for certain Community aid schemes⁽³⁾ (hereinafter referred to as 'integrated system'); whereas, as a result, this Regulation should be restricted to the horizontal regulation of outstanding matters within the framework of the said integrated system;

Whereas provision should be made for the administrative document provided for in Article 4b (7) of Regulation (EEC) No 805/68 for the administration of the special premium to be drawn up and issued, in principle, at national level; whereas, in order to take account of particular administration and control conditions in the Member States, different forms of administrative document should be allowed; whereas in cases where animals are exported from one Member State to another, however, a single administrative trade document uniform for the entire Community must be issued in order to ensure reliable monitoring;

Whereas the grant of the special premium should be subject to compliance with the provisions on administrative documents and animal identification; whereas the objectives of the regional ceiling and the density factor dictate that the special premium may no longer be applied for in respect of the same age bracket for those animals affected by application of these instruments; whereas, for the purposes in particular of the deseasonalization premium, these animals should be deemed to have received the premium;

Whereas, in view of the experience gained, the periods for granting the special premium at the time of slaughter should be defined as the same as those under the previous system; whereas, in order to take account of the new element of the two age brackets, it is, however, necessary to make provision for two distinct grant options; whereas the choice of option A presupposes a stable production structure, in particular as regards the presence of the animals on the holding; whereas the special characteristics of these two options make it necessary and advisable to provide for derogations from some of the provisions applicable under the general scheme;

Whereas the special control problems linked to the lodging of application after expiry of the retention period make special precautions necessary such as, in particular, a prior statement of participation, additional requirements as to the contents of applications and the proof to be submitted therewith, as well as special animal registration requirements;

Whereas the conditions for granting the deseasonalization premium must be laid down so as to make it possible for this premium to be fully operational from 1993 onwards in accordance with Article 4c (1) of Regulation (EEC) No 805/68;

Whereas the concept of suckler cow must be defined in accordance with the second indent of Article 4d (8); whereas, in this respect, the same breeds as those under the previous scheme should be taken, with the exception of two breeds which up to now have not been considered to be suckler-cow breeds; whereas, furthermore, essentially the same administration rules which already applied to suckler cows under the old scheme should continue to be applied, in particular as regards the average milk yield and the additional national premium;

Whereas, with a view to implementing the system of individual ceilings as introduced by the new Articles of Regulation (EEC) No 805/68, the rules governing the determination of those ceilings and their communication to the producers should be specified; whereas, also, certain terms should be defined so as to give effect to the said Articles;

Whereas, bearing in mind the regulating effect which the system of individual ceilings 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

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 24.

⁽²⁾ OJ No L 215, 30. 7. 1992, p. 49.

⁽³⁾ OJ No L 355, 5. 12. 1992, p. 1.

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 undertaking provided for in Article 4e (1) of Regulation (EEC) No 805/68 to surrender, each time that 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 possibility of choosing 1990 or 1991 as the reference year will cause transitional problems which need to be regulated ; whereas, while ensuring that the total number of existing rights is not increased above the number of acquired or potential rights corresponding to the reference year chosen, 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 the year or years following the reference year, while having obtained a premium for the reference year, 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 ceiling 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 suckler cow premium arrangements, since 1 July 1992 ; whereas, therefore, the individual ceilings for producers located in that territory may not be established by reference to premiums granted for the reference year ; whereas, in order to stay as close as possible to the economic situation in the reference year, the individual ceilings should be established on the basis and within the limits of the herds counted in that territory in the reference year while taking into account the premiums granted to producers for 1992 ;

Whereas the transition from the system existing when Regulation (EEC) No 2066/92 entered into force to the system of individual ceilings may cause special problems in certain Member States linked 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 Articles 4d to 4f of Regulation (EEC) No 805/68 ;

Whereas the method for calculating the density factor should be determined ; whereas, in order to simplify practical application of this factor, a time limit should be laid down for taking the reference milk quantity into consideration ;

Whereas the special premium and suckler cow premium schemes are based on the calendar year as the period of reference ; whereas, therefore, it is necessary to fix the date determining the elements to be taken into consideration for application of the said schemes ; whereas, in order to ensure sound and coherent administration, the date of the submission of applications should be chosen ;

Whereas, for the purposes of applying the processing premium, certain terms as well as detailed rules for the lodging of applications must be defined ; whereas, in order to achieve both simple and effective control of processing operations, provision should be made for the Member States to be able to designate authorized establishments and specify the days on which processing is to take place ;

Whereas abuse of the processing premium scheme must be prevented; whereas, to this end, the conditions for granting the premium must be defined and, in particular, imported animals and those presenting anomalies should be excluded from entitlement thereto; whereas the Member States' control obligations should also be specified;

Whereas, for the purposes of monitoring the measures taken under the reform of the premium schemes in the beef and veal sector, the Commission needs to be fully informed of the implementation measures taken by the Member States and the quantitative results of the application of the said schemes; whereas, therefore, provision should be made for the Member States to be subject to certain notification obligations;

Whereas the transition from the existing schemes to the new premium schemes will entail numerous administrative and practical difficulties for the Member States; whereas, in order to make this transition easier for them, certain transitional provisions should be laid down; whereas, in particular, male bovines which already received the special premium under the former scheme should not be fully excluded from entitlement to the premium pursuant to Article 4b of Regulation (EEC) No 805/68;

Whereas, furthermore, a certain degree of flexibility should be allowed with regard to the identification and registration of animals, given that the corresponding mechanisms provided for in the integrated system will not be operational until the entry into force of this Regulation;

Whereas, for the purposes of applying the regional ceiling to the Canary Islands, provisions should be laid down similar to those adopted for the individual ceiling for the suckler cow premium;

Whereas the new definition of suckler cow excludes certain breeds from entitlement to the premium which were previously allowed; whereas, in order to avoid the producers concerned suffering unfair losses and facilitate the conversion of their herds, these breeds should continue to be entitled to the premium for a transitional period for 1993 and 1994, the conditions for this exemption being strictly defined;

Whereas Commission Regulations (EEC) No 1244/82⁽¹⁾ and (EEC) No 714/89⁽²⁾ should be repealed;

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

HAS ADOPTED THIS REGULATION:

Article 1

This Regulation lays down detailed rules for the application of the premium schemes referred to in Articles 4a, 4b, 4c, 4d, 4e, 4f, 4g, 4h, 4i, 4j and 4k of Regulation (EEC) No 805/68, without prejudice to the provisions adopted under the integrated administration and control system (hereinafter referred to as 'integrated system') provided for in Regulation (EEC) No 3508/92.

CHAPTER I

SPECIAL PREMIUM

(Article 4b of Regulation (EEC) No 805/68)

Section 1

General scheme

Article 2

Applications⁽³⁾

1. In addition to the requirements introduced as part of the integrated system, each 'livestock' aid application (hereinafter called 'application') shall contain:

- (a) a breakdown of the number of animals by age bracket;
- (b) the reference to the administrative documents accompanying the animals which are the subject of the application.

2. Applications may be submitted in respect only of animals which on the date of commencement of the retention period are:

- not less than eight months and not more than 20 months old in the case of the first age bracket,
- not less than 21 months old in the case of the second age bracket.

Article 3

Administrative documents

1. Member States shall adopt the measures necessary to ensure that each animal is accompanied, at the latest from the date on which the first premium application is made, by a national administrative document. Such document shall in particular enable steps to be taken to ensure that one premium only is granted per animal and per age bracket.

⁽³⁾ See Article 6 (1) of the draft Council Regulation of the integrated system. The other components of the application will be specified in the detailed rules for the application of the integrated system.

⁽¹⁾ OJ No L 143, 20. 5. 1982, p. 20.

⁽²⁾ OJ No L 78, 21. 3. 1989, p. 38.

2. Member States may provide that the national administrative document shall take the form of:

- a document accompanying each individual animal,
- a comprehensive list, held by the producer, of all the information required for the administrative document, on condition that the animals concerned remain, from the date on which the first application is made, with the same producer until they are placed on the market for the purpose of being slaughtered,
- a comprehensive list, held by the central authorities, of all the information required for the administrative document, on condition that the Member State availing itself of this possibility carries out on-the-spot checks on all the animals covered by an application, checks the movements of those animals and makes a distinctive mark (ear punching) on each animal checked which the producers shall be required to permit.

Member States which decide to avail themselves of one of these possibilities shall notify the Commission thereof in due time and forward to it the relevant implementing provisions. For the purposes of this paragraph, Great Britain and Northern Ireland alone shall be considered to be regions of a Member State.

3. For each animal likely to qualify for a premium and which is the subject of intra-Community trade, the Member State from which the animal comes shall issue, on request to be submitted prior to the transaction, an administrative trade document, a model of which is set out in Annex I.

On the basis of the administrative trade document, the Member State of arrival shall issue, on request, a national administrative document.

However, where the national administrative document of a Member State corresponds in all ways with the above-mentioned model, it may be used directly as an administrative trade document provided that it bears a heading to that effect.

4. Member States shall assist one another in ensuring that the authenticity of administrative trade documents submitted is effectively checked.

Article 4

Retention period

The duration of the retention period shall be two months starting on the date following the date of submission of the application.

However, Member States may provide that other starting dates may be set by the producer provided that they do not occur more than two months after the date of submission of the application.

Article 5

Regional ceiling

1. Where the application of the proportional reduction gives a number of eligible animals which is less than a whole number, there shall be granted in respect of the decimal part a corresponding fraction of the unit amount of the premium. For this purpose account shall be taken of the first decimal place only.

2. Member States shall inform the Commission

(a) by 30 June 1993 at the latest:

- of the regions specified
- of the number of male bovine animals in each region constituting the regional ceiling;

(b) by 30 June at the latest of each calendar year, of the number of animals broken down by age bracket for which the special premium has not been granted in respect of the previous calendar year on account of the application of the regional ceiling.

Article 6

Individual ceiling

Before deciding to allocate individual ceilings, Member States shall notify the Commission thereof and shall inform them of the criteria adopted in this connection.

Article 7

Grant of premium

1. For the grant of the premium, account shall be taken:

- only of animals which are accompanied by their national administrative document, and
- which are duly identified in accordance with the relevant national and Community provisions.

2. Animals which have not qualified for the premium either on account of the application of the proportional reduction referred to in Article 4b (3) of Regulation (EEC) No 805/68 or of the application of the density factor may no longer be the subject of an application for the same age bracket and shall be considered to have received the premium.

Section 2

Grant of premium at the time of slaughter (Article 4b (5) of Regulation (EEC) No 805/68)

Article 8

Grant options

1. Member States may decide to grant the special premium at the time of slaughter or when the animals are first placed on the market with a view to being slaughtered, on the basis of one of the following options:

- grant of premium for the first age bracket and combined grant for the two age brackets together provided that their production structure so allows (option A), or
- grant of premium for the second age bracket only (option B).

2. Member States which have availed themselves of one of the options provided for in paragraph 1 shall provide that the premium is to be granted also when eligible animals are being dispatched to another Member State or are being exported to a third country.

3. Notwithstanding the provisions of Articles 2, 3 and 4, where one of the two options referred to in paragraph 1 is applied, the grant of the premium shall be subject to compliance with the following provisions.

Article 9

Statement of participation

In order to qualify for the premium for a given calendar year, each producer shall, before making the first application for that calendar year, submit a statement of participation.

The statement shall contain:

- the name and address of the producer,
- an approximate indication of the number of animals for which it is planned to apply for the premium for the calendar year concerned.

Article 10

Applications

1. Applications for 'livestock' aid shall be submitted not later than 30 days following slaughter or the date on which the animal is first placed on the market. Where the animal is dispatched to another Member State or exported to a third country, the application shall be submitted before the animal leaves the territory of the Member State concerned.

Member States may permit applications to be submitted through a person other than the producer. In such case the application shall bear the name and address of the producer who is liable to qualify for the premium.

2. In addition to the requirements introduced as part of the integrated system, each application shall contain:

(a) in cases where the grant is made at the time of slaughter, a certificate from the slaughterhouse showing:

- the name and address of the slaughterhouse;
- the date of slaughter and the identity and slaughter numbers of the animal;
- that the weight of the carcase is not less than 200 kg.

Member States shall make regular, unannounced checks to verify the accuracy of the certificates issued;

(b) in cases where an animal is being placed on the market for the first time:

- the name and address of the buyer,
- the identity number of the animal,
- a statement that the live weight of the animal is not less than 370 kg;

(c) in cases where the animal is dispatched to another Member State or exported to a third country:

- the name and address of the consignor or exporter,
- the identity number of the animal,
- a statement that the animal is not less than 10 months old.

Without prejudice to Article 15 (a), applications shall be accompanied by the national administrative document.

3. Where the animal is dispatched to another Member State or exported to a third country, the proof of dispatch or exportation of the animal referred to in Article 13 shall be submitted within 30 days following the date on which the animal leaves the territory of the Member State concerned.

Article 11

Slaughter

Where the premium is granted at the time the animals are first placed on the market, they shall be slaughtered within 15 days of the date on which they are first placed on the market.

Member States shall ensure that this requirement is met.

Article 12

Weight and presentation of carcase

1. The carcase weight shall be established on the basis of a carcase which meets the requirements set out in Annex III to Commission Regulation (EEC) No 859/89⁽¹⁾.

Where the carcase presentation differs from that definition, the corrective factors shown in the Annex to Commission Regulation (EEC) No 563/82⁽²⁾ shall apply.

⁽¹⁾ OJ No L 91, 4. 4. 1989, p. 5.

⁽²⁾ OJ No L 67, 11. 3. 1982, p. 23.

2. Where slaughter takes place in a slaughterhouse which is not subject to the application of the Community grading scale for carcasses of adult bovine animals, Member States may permit the weight to be established on the basis of the live weight of the slaughtered animal. In such case the carcass weight shall be considered to be more than 200 kg if the live weight of the slaughtered animal was greater than 370 kg.

Article 13

Dispatch or exportation

1. Where an animal is dispatched to another Member State, proof of the transaction shall be shown by means of a statement by the consignor indicating in particular the destination of the animal.

2. Where an animal is exported, proof that it has left the customs territory of the Community shall be shown in the same manner as for an export refund.

Article 14

Register

Without prejudice to the requirements introduced under the integrated system, the identity number of each male bovine animal on a holding shall be entered in the producer's special register not later than the third day following its arrival at the holding.

Article 15

Option A

Where option A is applied:

- (a) Member States may suspend the application of the national administrative document. In such case they shall take the measures necessary to prevent the premium being granted twice in respect of the same age bracket for animals which have been the subject of intra-Community trade;
- (b) Member States shall provide for the grant of the premium in respect of the second age bracket for animals which, after reaching the age of 196 months, have been the subject of intra-Community trade;
- (c) the retention period shall be
 - two months before slaughter or from the date on which animals for which an application has been made in respect of the first age bracket are first placed on the market,
 - four months from the first day of the 20th month in the life of animals for which a combined application has been made in respect of the two age brackets;
- (d) in the context of the calculation of the density factor each animal which is the subject of a combined appli-

cation for the two age brackets shall be taken into consideration twice.

Article 16

Option B

Where option B is applied, the retention period shall be two months at the earliest from the first day of the 22nd month in the life of the animals concerned.

Article 17

Grant and payment of premium

The premium shall be granted and paid to the producer who submitted the application or whose name is shown thereon.

Article 18

Notification

Member States shall notify the Commission before the start of the calendar year concerned of the option selected and the relevant procedures.

CHAPTER II

DESEASONALIZATION PREMIUM

(Article 4c of Regulation (EEC) No 805/68)

Article 19

Application of the premium

The Commission shall decide, by 1 July at the latest of each calendar year, in which Member States the deseasonalization premium may be granted for the following calendar year. For the 1993 calendar year the Commission shall take its decision not later than 31 December 1992.

Article 20

Entitlement to the premium

1. The premium may be granted in respect only of bovine animals which have already received the special premium in a Member State applying the deseasonalization premium either pursuant to the former Article 4a of Regulation (EEC) No 805/68 or pursuant to Article 4b of that Regulation, and which are slaughtered in a Member State applying the deseasonalization premium.
2. The premium may be granted only to the producer who last held the animal prior to slaughter.

Article 21

Premium application

1. The producer shall submit an application to the competent authority of the Member State in whose territory the holding is situated.

2. Each application shall contain a certificate from the slaughterhouse showing:

- (a) the name and address of the slaughterhouse in which the animals declared have been slaughtered;
- (b) the identity and slaughter numbers of the animals and their date of slaughter.

The application shall be accompanied by the national administrative documents, save in the case of animals which have received the special premium exclusively pursuant to former Article 4a of Regulation (EEC) No 805/68.

Member States shall take the measures necessary to verify that the special premium has been granted and shall carry out regular, unannounced checks on the accuracy of the abovementioned certificates.

CHAPTER III

SUCKLER COW PREMIUM

(Article 4d of Regulation (EEC) No 805/68)

Section 1

General scheme

Article 22

Cows belonging to a meat breed

Cows belonging to the bovine breeds set out in Annex II to this Regulation shall not be considered to be cows belonging to a meat breed within the meaning of the third indent of Article 4a of Regulation (EEC) No 805/68.

Article 23

Retention period

The six-month retention period referred to in Article 4d (5) of Regulation (EEC) No 805/68 shall start on the day following that on which the application is submitted.

Article 24

Applications

1. In addition to the requirements introduced as part of the integrated system, where an application is made for the premium pursuant to Article 4d (6) of Regulation (EEC) No 805/68, the 'livestock' aid application (hereinafter referred to as 'application') shall contain:

- (a) a statement setting out the individual reference quantity of milk allocated to the producer at the beginning of the 12-month period of application of the additional levy scheme starting in the calendar year

concerned. Where this quantity is unknown on the date of submission of the application it shall be notified to the competent authority at the earliest opportunity;

- (b) an undertaking by the producer not to increase his individual reference quantity above the legal ceiling during the 12-month period starting on the date of submission of the application.

2. Without prejudice to Article 41 (2) (a), applications may be submitted within an overall period of six months during a calendar year to be determined by the Member State.

Article 25

Average milk yield

The average milk yield shall be calculated on the basis of the average yields set out in Annex III to this Regulation. However, for this calculation Member States may use a document recognized by the Member States certifying the producer's dairy herd's average yield.

Article 26

Additional national premium

1. An additional national premium may be granted only:

- to a producer who, in respect of the same calendar year, receives the Community suckler cow premium, and
- within the limit of the number of animals qualifying for this premium.

2. Member States may lay down additional conditions for the grant of the additional premium. They shall inform the Commission thereof in good time before these conditions are brought into effect.

Section 2

Individual ceiling, reserves, transfers
(Articles 4d, 4e and 4f of Regulation (EEC) No 805/68)

Article 27

Individual ceiling

1. Member States shall determine an individual ceiling per producer under the conditions laid down in Article 4d (2) and (3) of Regulation (EEC) No 805/68.

2. To this end, the number of suckler cows qualifying for the premium in respect of the period for lodging applications as referred to in Article 1 (1) of Regulation (EEC) No 1244/82 which began in the selected reference year shall be taken as the basis.

3. Each producer shall be informed of the amount of his individual ceiling as soon as possible and at the latest by 31 October 1993. Where the number of premiums to be paid in respect of the reference year 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 ceiling.

4. Producers who, as a result of their loss of entitlement to the premium pursuant to Article 4a (8) of Regulation (EEC) No 1244/82, did not apply for the premium :

- for the reference year, shall be deemed to have received the premium for the number of eligible animals established during the check which gave rise to applicatin of the abovementioned provision,
- for one of the years following the reference year up to and including 1992, shall be deemed to have lodged an application for the number of eligible animals established during the check which gave rise to application of the abovementioned provision.

Article 28

Definitions

For the purposes of Article 4d (3) of Regulation (EEC) No 805/68 :

- (a) 'the nearest reference year' means the reference year nearest to both the reference year selected and to 1993 in which the circumstances invoked did not obtain ;
- (b) 'natural circumstances' means circumstances which have resulted in application of Article 4a (2) of Regulation (EEC) No 1244/82 and the following occurrences, provided these took place prior to submission of the application, or before the final date for submission of premium applications in respect of the reference year, and are recognized by the competent authority :

- a serious natural disaster having a major effect on the producer's holding,
- accidental destruction of the producer's forage resources or buildings intended for rearing his suckler cow herd,
- an epizootic which led to the slaughter of at least half of the producer's suckler cow herd.

Article 29

Notification

Member States shall notify the Commission by 31 August 1993 at the latest of :

- the total sum of the individual ceilings, broken down by type of region (less-favoured or not) ; 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 reference year,

- the number of additional premium rights granted to producers pursuant to Article 4d (3) of Regulation (EEC) No 805/68, specifying the type of natural circumstances invoked.

Article 30

National reserves

1. Member States shall notify the Commission by 31 December 1992 at the latest of the percentage reduction decided pursuant to Article 4f (1) of Regulation (EEC) No 805/68.

2. As from the 1994 calendar year, Member States shall notify the Commission :

- by 30 April at the latest of each calendar year, of the number of premium rights paid to the national reserve following transfers of rights without transfers of holdings during the preceding calendar year,
- by 30 April at the latest of each calendar year, of the number of premium rights granted pursuant to Article 4f (2) of Regulation (EEC) No 805/68 during the preceding calendar year,
- by 30 April at the latest of each calendar year, of the total number of premium rights granted to producers in less-favoured areas from the additional reserve during the preceding calendar year.

Article 31

Less-favoured areas

For the purposes of Article 4f (3) of Regulation (EEC) No 805/68 and of this Regulation, 'producer in a less-favoured area' means any producer of beef and/or veal :

- whose holding is in the areas defined pursuant to Article 3 of Council Directive 75/268/EEC⁽¹⁾, or
- at least 50 % of whose utilized agricultural area on the holding within the meaning of Article 5 (b) of Council Regulation (EEC) No 571/88⁽²⁾ is in the said areas and is used for bovine production.

Article 32

Rights obtained free of charge

Where a producer has obtained premium rights free of charge from the national reserve :

- (a) he shall not be authorized to transfer the said rights or to lease them temporarily during the three following calendar years ;

⁽¹⁾ OJ No L 128, 19. 5. 1975, p. 1.

⁽²⁾ OJ No L 56, 2. 3. 1988, p. 1.

- (b) where the producer does not avail himself of all his rights during the three following calendar years, the Member States shall withdraw and repay to the national reserve the average of the rights not used in the course of those three years.

Article 33

Use of rights

Without prejudice to the preceding Article and except in duly justified exceptional cases, where producers have not made use of at least 50 % of their rights during two consecutive calendar years, the part not used during the last calendar year shall be paid to the national reserve.

Article 34

Transfer of rights and temporary leasing

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 :

- five in the case of producers holding more than 25 premium rights,
- three in the case of producers holding at least 10 and a maximum of 25 premium rights.

In the case of producers holding less than 10 rights, Member States may lay down, on the basis of their production structures, a minimum number of rights not exceeding three premium rights.

2. Transfers of premium rights and temporary leasing of such rights shall be effective only after they have been notified jointly 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 not less than two months before the first day of the period for submitting applications laid down by each Member State. However, for 1993, notification shall be made before a date to be fixed by the Member State.

3. Temporary leasing shall be for whole calendar years only 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, except in the event of a transfer, must use all his rights for himself in the course of at least two consecutive calendar years. Where one of these conditions is not fulfilled the leasing shall lapse. However, for producers participating in extensification programmes recognized by the Commission, the Member States may provide for an extension of the total duration of the temporary leasing on the basis of these programmes.

Article 35

Change of individual ceiling

In the case of transfers or temporary leasing of premium rights, the Member States shall set the new individual ceiling 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 premium rights to which they are entitled.

Article 36

Producers who do not own the land they farm

Producers farming publicly or collectively owned land only who decide to stop farming this land 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 37

Transfer through national reserve

Where Member States provide that the transfer of rights without transfer of the holding is to take place through the national reserve, they shall apply national provisions along the lines of those in Articles 33 to 37 of this Regulation. In addition, in this case :

- the Member States may provide that temporary leasing is to take place through the national reserve,
- when premium rights are transferred, or temporarily leased in cases where the first indent is applied, transfers to the reserve shall be effective only after they have been notified by the competent authorities of the Member State to the producer transferring and/or leasing the rights, and transfers from the reserve to another producer shall be effective only after they have been notified to that producer by these authorities.

In addition, such provisions must ensure that a payment must be made by the Member State for that part of the rights other than that referred to in the second subparagraph of Article 4e (1) of Regulation (EEC) No 805/68 corresponding to that which would have resulted from a direct transfer between producers, account being taken in particular of the trend of production in the Member State concerned. This payment shall be equal to the payment which will be claimed from producers receiving equivalent rights from the national reserve.

Article 38

Special provisions

1. Where producers have applied for the premium for the first time in respect of 1991 or 1992 :

- (a) these producers shall obtain, where they have inherited or taken over the holding of another producer who, after receiving the premium in respect of the reference year, ceased cattle production the rights to the premium which the latter would have enjoyed if he had continued to produce until 1992. For the purposes of this point (a), only applications submitted in respect of inherited or taken-over holdings shall be entertained ;
- (b) where this year followed directly the reference year chosen by the Member State, the Member State may grant, in addition to use of the reserves provided for in Article 4f (1) and (3) of Regulation (EEC) No 805/68, premium rights to these producers, on condition that they do not receive any under point (a).

However, the total number of rights thus granted in each Member State may in no circumstances exceed the total number of potential rights corresponding to the producers who, having obtained the premium in respect of the reference year, ceased production without having passed on their holdings to a successor or other person in the calendar year following, and to the producers referred to in paragraph 2. Where the number of rights thus granted is less than the number of the said potential rights, the difference may be paid to the national reserve.

2. Producers who obtained premiums in respect of the reference year but who, owing to exceptional circumstances, did not apply for them in respect of the 1991 and/or 1992 calendar years, but who have nevertheless continued to produce may, where applicable, receive premium rights from the national reserve.

3. At his request, a producer who during the reference year chosen by the Member State participated in a production extensification programme pursuant to Regulation (EEC) No 797/85⁽¹⁾ shall be allocated, at the end of this participation, an additional number of premium rights equal to the difference between the number of premiums paid in respect of the reference year and the number of premiums paid in respect of the year preceding the year during which the producer began participating in the said programme. In this case :

- (a) the producer shall not be authorized to transfer his rights or to lease them temporarily during the three following calendar years ;
- (b) where the producer does not avail himself of all his rights during the three following calendar years the Member State shall withdraw and repay to the national reserve the average of the rights not used in the course of those three years.

4. Producers in the Canary Islands who applied for the premium for the first time in respect of the 1992 calendar

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 suckler cows present in the reference year chosen by Spain in this territory ; however, this ceiling shall not exceed a total of 8 000 head ;
- (b) within this regional ceiling, an individual ceiling per producer shall be set taking account of the number of animals for which the premiums was granted in respect of the 1992 calendar year and the corrective factors referred to in Article 4d (2) of Regulation (EEC) No 805/68.

5. The Member States shall inform the Commission by 30 April 1993 at the latest of their national implementing provisions and of the number of premium rights granted pursuant to paragraphs 1 to 4.

6. Any application submitted in respect of 1993 for a number of animals in excess of the individual ceilings determined in accordance with Article 27 (1) of this Regulation shall be reduced to the number corresponding to the said ceiling.

Article 39

Special problems

Where necessary, Member States shall adopt the appropriate transitional measures in order to find fair solutions to any problems which may arise on entry into force of this Regulation in the existing contractual relations between producers who are not owners of all the land which they farm and the owners of this land in the event of the transfer of premium rights or other actions having equivalent effect. Such measures may be taken only to resolve difficulties involved in the introduction of a producer-linked premium rights scheme, and in any event must comply with the principles governing such link.

3. Where with the principles governing such link.

Article 40

Partial rights

1. Where calculations to be made pursuant to the provisions of this Section produce numbers which are not whole, only the first decimal place shall be taken into account.

2. Where application of the provisions of this Section results in partial premium rights, either for producers or the national reserve, these partial rights shall be added up.

3. Where a producer holds a partial right, this partial right shall entitle only to the grant of the corresponding fraction of the unit amount of the premium.

⁽¹⁾ OJ No L 93, 30. 3. 1985, p. 1.

CHAPTER IV

COMMON PROVISIONS ON THE SPECIAL PREMIUM
AND THE SUCKLER COW PREMIUM*Article 41*

Applications

1. Member States may, for administrative reasons, provide that applications must be for a minimum number of animals, providing this number is not greater than 3.
2. Member States may determine :
 - (a) the periods and dates for submission of premium applications ;
 - (b) the number of applications that producers may submit per premium scheme and calendar year.

Article 42

Density factor

1. For each producer who, in respect of the same calendar year, submits
 - the 'area' aid application referred to in Article 6 (1) of Regulation (EEC) No 3508/92, and
 - at least one special premium or suckler cow premium application

the competent authorities shall establish the number of LU corresponding to the number of for which a premium may be granted, taking account of the forage area of his holding.

2. The number of animals to be considered in applying the limit of 15 LU shall be calculated in accordance with the first indent of Article 4 g (3) of Regulation (EEC) No 805/68.
3. In establishing the density factor :
 - (a) account shall be taken of the individual reference quantity of milk allocated to the producer at the beginning of the period of 12 months of application of the additional levy scheme beginning in the calendar year concerned ;
 - (b) the number of dairy cows needed to produce this reference quantity shall be calculated in accordance with Article 25 of this Regulation.
4. In determining the number of animals eligible for a premium :
 - (a) the number of hectares determined in accordance with the rules laid down in the integrated system shall be multiplied by the density factor applicable in the calendar year in question ;
 - (b) the number of LU corresponding to the number of dairy cows needed to produce the reference quantity of milk allocated to the producer shall be deducted from the figure thus obtained ;
 - (c) the number of LU corresponding to the number of sheep and/or goats for which a premium application

is lodged shall be deducted from the figure thus obtained.

For the purposes of the conversion table in Annex I to Council Regulation (EEC) No 2328/91 ⁽¹⁾, dairy cows shall count as 1,0 LU. The final figure thus obtained shall correspond to the maximum number of LU for which the special premium and the suckler cow premium may be granted.

5. The Member States shall inform each producer concerned of the density factor established for him and of the resultant number of LU for which a premium may be granted.

Article 43

Additional amount

1. The competent authorities shall identify those producers who, in respect of a given calendar year, are to receive the special premium and the suckler cow premium and in whose case the density factor established for their holdings in respect of the same calendar year is less than 1,4 LU per hectare.

2. Without prejudice to paragraph 1, producers who, as a result of the limit of 15 LU, are exempt from application of the density factor may receive the additional amount provided they have submitted an 'area' aid application in accordance with Article 6 (1) of Regulation (EEC) No 3508/92.

3. The additional amounts shall be paid to eligible producers together with the amounts for definitive payment of the premium.

Article 44

Payment of advances

1. On the basis of the results of administrative checks and on-the-spot checks, the competent authority shall pay to the producer, for the number of animals deemed to be eligible, an advance equal to 60 % of the special premium and to the suckler cow premium.

The advance may not be paid before 1 November of the calendar year in respect of which the premium is applied for.

2. The definitive payment of the premium shall be an amount equal to the difference between the advance payment and the premium amount to which the producer is entitled.

Article 45

Allocation year

The date of submission of applications constitutes the operative event for determining the year to which animals covered by premium schemes are allocated and the number of LU to be used for calculating the density factor.

⁽¹⁾ OJ No L 218, 6. 8. 1991, p. 1.

CHAPTER V

PROCESSING PREMIUM

(Article 4i of Regulation (EEC) No 805/68)

Article 46

Definitions

For the purposes of this Chapter:

- 'operator' means any producer or other physical or legal person exercising commercial activities in the live cattle sector listed in a public register of the Member State concerned by the measure in whose territory he has his registered place of business,
- 'processing' means the slaughter of an animal with a view to the use of the products thus obtained in accordance with point V of Article 5 (1) (a) of Council Directive 64/433/EEC⁽¹⁾,
- 'dairy breed' means one of the breeds listed in Annex II to this Regulation.

Article 47

Premium applications

1. Operators shall submit premium applications to the competent authority at the latest three days before the animal is processed.
2. All applications shall specify:
 - (a) the number of animals intended for processing;
 - (b) the processing centre and the date planned for processing of the animals declared;
 - (c) that the animals were born in the Community.

Article 48

Processing conditions

1. Processing of an animal with a view to the grant of the premium may take place only in a processing centre approved by the Member State in whose territory it is located.
2. Member States may determine the days on which those animals covered by applications may be presented and processed in the aforementioned centres.

Article 49

Grant of the premium, controls

1. The premium shall be granted on condition that each animal covered by an application:

- satisfies the conditions laid down in Article 4i of Regulation (EEC) No 805/68,
- was born in the Community,
- is presented in a general condition not indicating, in particular, health anomalies or malformations, and
- is presented and processed in the processing centre specified in the application on the date indicated therein. However, in cases of *force majeure*, the premium shall be granted on condition that, within a time limit of 10 days following the event in question, the operator proves to the satisfaction of the competent authority that the animal was processed in an approved processing centre before passing the age of 10 days.

2. Each Member State shall ensure that permanent physical checks are made in the processing centres on the days laid down for presentation and processing of animals. These checks shall be on all the conditions for granting the premium.

The checks made shall be listed in a report on each animal checked.

3. Where it is established that the number of animals indicated in the application is greater than the number of animals presented for processing, the premium shall be granted for the number of animals presented less the difference established.

Article 50

Payment of the premium

Premiums for animals processed over one month shall be paid in a single amount at the latest two months after the end of the month in question.

Article 51

Undue payment

In the case of undue payment of the premium, the provisions on the recovery of undue amounts laid down in the integrated system⁽²⁾ shall apply.

Article 52

Notification

1. Member States shall notify the Commission of the measures taken to implement the processing premium.
2. Member States which decide not to apply the premium shall inform the Commission thereof at the latest one month in advance.

⁽¹⁾ OJ No 121, 29. 7. 1964, p. 2012/64.

⁽²⁾ See the Commission Regulation laying down detailed rules for the application of the integrated system to be adopted later.

3. Member States shall notify the Commission :

- of the processing centres they have approved, and any withdrawals of approval,
- each Wednesday, of the number of animals for which the premium was applied for during the preceding week.

(6) of Regulation (EEC) No 805/68, and indicating the grant, where applicable, of the additional amount available for holdings with a density factor of less than 1,4 LU per hectare.

2. From 1993 onwards, the Member States concerned shall notify the Commission annually at the latest on 1 August of each year of the number of animals for which the deseasonalization premium was actually granted.

Chapter VI

TRANSITIONAL AND FINAL PROVISIONS

Article 53

(Conversion into national currency)

Conversion of premium amounts into national currency shall be made :

- (a) for deseasonalization and processing premiums, at the agricultural conversion rate applicable on 1 January of the calendar year during which the animal was slaughtered ;
- (b) for the other premiums and the additional amount, at the agricultural conversion rate applicable on 1 January of the calendar year in respect of which the premium and/or amount is granted.

Article 54

New German *Länder*

When Article 4k of Regulation (EEC) No 805/68 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 55

National implementing measures

Member States shall adopt all other suitable measures necessary to ensure that this Regulation is applied properly. They shall inform the Commission thereof.

Article 56

Notification

1. From 1994 onwards, the Member States shall notify the Commission annually by 30 June at the latest of each year and for the preceding calendar year of :

- the number of male bovines for which the special premium was actually granted, broken down by age bracket, and indicating the grant, where applicable, of the additional amount provided for holdings with a density factor of less than 1,4 LU per hectare,
- the number of suckler cows for which the suckler cow premium was actually granted, broken down according to the schemes referred to in Article 4d (5) and

Article 57

Transition to the new special premium scheme

1. Animals for which the special premium was granted pursuant to the former Article 4a of Regulation (EEC) No 805/68 shall not be eligible for the grant of the special premium referred to in Article 4b of Regulation (EEC) No 805/68 in respect of the first age bracket.

2. Member States which, with a view to implementing the provisions of Article 4b of Regulation (EEC) No 805/68, decide to change from the general scheme for granting the special premium to the scheme for granting it on slaughter or on the animals' first being placed on the market with a view to their slaughter, or *vice versa*, may, for applications submitted until 31 March 1993 at the latest, apply the two schemes side by side under the conditions laid down in Articles 4b and 4g of Regulation (EEC) No 805/68 and in this Regulation. In this case the Member States may lay down that withdrawal provisions similar to those existing under the scheme provided for in Council Regulation (EEC) No 468/87⁽¹⁾ shall apply.

They shall take the measures necessary to avoid application of this Article leading to the premium being granted twice for the same age bracket.

3. Until application of the alphanumeric identification and registration system for bovine animals referred to in Article 5 of Regulation (EEC) No 3508/92, producers shall indicate in the application for the special premium for the second age bracket whether the application relates to non-castrated animals.

4. Notwithstanding Article 4 :

- (a) the Member States may reduce the retention period to one month per age bracket for applications submitted from 1 January to 28 February 1993 ;
- (b) for applications submitted in January 1993, the Member States may lay down that the retention period began in December 1992. In this case, the application must be accompanied by a declaration by the producer that he actually fattened the animal for at least one month and that his holding has the means of production allowing such fattening during the said period.

⁽¹⁾ OJ No L 48, 17. 2. 1987, p. 4.

5. Producers in the Canary Islands who applied for the special premium for the first time in respect of the 1992 calendar year may qualify for the premium rights under the following conditions:

- (a) a regional ceiling shall be set in line with the statistics concerning the number of eligible animals present in the preference year chosen by Spain in that territory; however, this ceiling shall not exceed a total of 25 000 head;
- (b) if the total number of animals covered by an application and satisfying the conditions for the grant of the special premium exceeds the regional ceiling mentioned above, the number of animals eligible per producer during the year concerned shall be reduced in proportion.

Article 58

Transition to the new suckler cow premium scheme

Notwithstanding Article 22, and for applications to be submitted in respect of 1993 and 1994, cows belonging to the breeds listed in Annex II or which are the result of cross-breeding between these breeds shall be considered to belong to a meat breed on condition that:

- they have been covered or inseminated by bulls of a meat breed, and
- the producer in question received the suckler cow premium in respect of 1990 or 1991.

The number of cows eligible under the above provisions may not exceed the number of suckler cows for which the producer received the premium in respect of 1990 or 1991.

Article 59

Identification of animals

Until application of the alphanumeric identification and registration system for bovine animals referred to in Article 5 of Regulation (EEC) No 3508/92:

- (a) without prejudice to the identification and registration obligations laid down in Article 4g (4) of Regulation

(EEC) No 805/68, Member States shall ensure proper identification and registration of the animals covered by applications for the special premium and suckler cow premium, where necessary by analogous application of Article 7 of Regulation (EEC) No 714/89 and Article 1 (5) of Regulation (EEC) No 1244/82 respectively;

- (b) where the age of the animal cannot be established on the basis of documents, the competent authorities may use the age declared by the producer whilst still being obliged, in cases of doubt, to use other sources of information, in particular in the case of applications for the special premium for the second age bracket for non-castrated bovine animals.

Article 60

Repeal of Regulations

Regulations (EEC) No 1244/82 and (EEC) No 714/89 are hereby repealed with effect from 1 January 1993. They shall remain applicable to applications submitted by 31 December 1992 at the latest. However, Article 7 of Regulation (EEC) No 714/89 and Article 1 (5) of Regulation (EEC) No 1244/82 shall continue to apply until implementation of the alphanumeric identification and registration system for animals referred to in Article 2 (a) of Regulation (EEC) No 3508/92.

Article 61

Entry into force

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

It shall apply from 1 January 1993, except Articles 18 and 30 (1), which shall apply on entry into force of this Regulation.

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

Done at Brussels, 23 December 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

ANNEX I

ADMINISTRATIVE TRADE DOCUMENT REFERRED TO IN ARTICLE 3 (3)

Document No : (a)

1. Male bovine born on (b):

2. Identification

Earmark :

Previous mark (c) :

3. Premium situation (d)

Application/grant first age bracket Yes/No

Application/grant second age bracket Yes/No

4. Person applying for document :

(address) :

5. Issue authority

stamp

date

-
- (a) Alphanumeric number the first two characters of which indicate the issuing Member State (e.g. 01 = Belgium, 02 = Denmark, 03 = Germany, 04 = Greece, 05 = Spain, 06 = France, 07 = Ireland, 08 = Italy, 09 = Luxembourg, 10 = Netherlands, 11 = Portugal and 12 = United Kingdom).
- (b) Pending the implementation of a harmonized identification system, it is sufficient to indicate the month (year) of birth.
- (c) Where applicable.
- (d) Animals for which no premium was granted as a result of the application of the proportional reduction are deemed to have received it (Article 7 (2) of this Regulation).

*ANNEX II***LIST OF BOVINE BREEDS REFERRED TO IN ARTICLE 22**

- Angler Rotvieh (Angeln) — Rød dansk mælkerace (RMD),
- Ayreshire,
- Armoricaïne,
- Bretonne Pie-noire,
- Fries-Hollands (FH), Française frisonne pie noire (FFPN), Friesian-Holstein, Holstein, Black and White Friesian, Red and White Friesian, Frisona española, Frisona Italiana, Zwartbonten van België/Pie noire de Belgique, Sortbroget dansk mælkerace (SDM), Deutsche Schwarzbunte, Schwarzbunte Milchrasse (SMR).
- Groninger Blaarkop,
- Guernsey,
- Jersey,
- Kerry,
- Malkeborsthorn,
- Reggiana,
- Valdostana Nera.

*ANNEX III***AVERAGE MILK YIELD REFERRED TO IN ARTICLE 25**

Belgium	4 350 kg
Denmark	6 150 kg
Germany	4 850 kg
Greece	3 000 kg
Spain	3 600 kg
France	4 950 kg
Ireland	3 950 kg
Italy	4 150 kg
Luxembourg	4 800 kg
Netherlands	6 000 kg
Portugal	3 550 kg
United Kingdom	5 200 kg
