

Commission Regulation (EC) No 793/2006 of 12 April 2006 laying down certain detailed rules for applying Council Regulation (EC) 247/2006 laying down specific measures for agriculture in the outermost regions of the Union (repealed)

COMMISSION REGULATION (EC) No 793/2006

of 12 April 2006

laying down certain detailed rules for applying Council Regulation (EC) 247/2006 laying down specific measures for agriculture in the outermost regions of the Union (repealed)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 247/2006 of 30 January 2006 laying down specific measures for agriculture in the outermost regions of the Union<sup>(1)</sup>, and in particular Article 25 thereof,

Whereas:

- (1) In view of the changes introduced by Regulation (EC) 247/2006 and the experience gained, and in the interests of legislative simplification, Commission Regulations (EEC) No 388/92<sup>(2)</sup>, (EEC) No 2174/92<sup>(3)</sup>, (EEC) No 2233/92<sup>(4)</sup>, (EEC) No 2234/92<sup>(5)</sup>, (EEC) No 2235/92<sup>(6)</sup>, (EEC) No 2039/93<sup>(7)</sup>, (EEC) No 2040/93<sup>(8)</sup>, (EC) No 1418/96<sup>(9)</sup>, (EC) No 2054/96<sup>(10)</sup>, (EC) No 20/2002<sup>(11)</sup>, (EC) No 1195/2002<sup>(12)</sup>, (EC) No 43/2003<sup>(13)</sup>, (EC) No 995/2003<sup>(14)</sup>, (EC) No 14/2004<sup>(15)</sup> and (EC) No 188/2005<sup>(16)</sup> should be repealed and replaced by a single Regulation laying down rules for applying Regulation (EC) No 247/2006.
- (2) Detailed implementing rules should be laid down for drawing up and amending the forecast supply balances for products eligible under the specific supply arrangements.
- (3) Certain agricultural products which are exempt from import duties already require an import licence. In the interests of administrative simplification, the import licence should be used to support the arrangements for exemption from import duties.
- (4) A document should also be adopted to support the arrangements for exemption from import duties for other agricultural products which do not require an import licence. An exemption certificate, drawn up on the import licence form, should be used for this purpose.
- (5) Detailed rules should be laid down for fixing the amount of aid for the supply of products under the specific supply arrangements. Such rules should take account of the additional costs of supply to the outermost regions due to their remote and insular nature, which constitute a burden that severely handicaps them. In order to maintain the competitiveness of Community products, this aid should take account of the prices applied to exports.

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- (6) The aid scheme for Community products should be managed by means of a certificate, called an 'aid certificate', using the import licence form.
- (7) Management of the specific supply arrangements requires the introduction of detailed rules on the issue of the aid certificate, which derogate from the normal rules applicable to import licences pursuant to Commission Regulation (EC) No 1291/2000 of 9 June 2000 laying down common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products<sup>(17)</sup>.
- (8) Management of the specific supply arrangements must allow two objectives to be pursued. First, it should promote the rapid issue of licences and certificates, particularly by no longer requiring a security to be lodged beforehand in all cases, and the rapid payment of aid for supplies of Community products. Second, it should guarantee the control and monitoring of operations and provide the administrative authorities with the instruments they need to ascertain that the objectives of the scheme are being attained, those being to secure a regular supply of certain agricultural products and to offset the effects of the geographical situation of the outermost regions by ensuring that the advantages of the scheme are actually passed on to the stage at which the products destined for the end#users are placed on the market.
- (9) One of the those instruments consists in registering operators pursuing an economic activity under the specific supply arrangements. Registered operators are entitled to benefit from the arrangements, provided they meet the obligations laid down in Community and national rules. Applicants should be entitled to registration provided that they meet a certain number of objective requirements designed to facilitate administration of the scheme.
- (10) The detailed rules for the administration of the specific supply arrangements must ensure that, within the framework of the quantities laid down in the forecast supply balances, registered operators obtain a licence or certificate for the products and quantities involved in the commercial transactions which they carry out on their own account, on presentation of documents certifying that the operation is genuine and that the application for a licence or certificate is in order.
- (11) Monitoring of operations qualifying under the specific supply arrangements requires, *inter alia*, the period of validity of licences and certificates to be suited to the requirements of air or sea transport, proof to be furnished that the supply operation covered by the licence or certificate has been carried out in a short time-span, and the transfer of the rights and obligations conferred on the holder of the licence or certificate in question to be prohibited.
- (12) The benefits granted in the form of exemption from import duties and aid for Community products must be passed on so that they are reflected in production costs and in the prices paid by the end#users. Checks are therefore needed to ensure that the benefits are actually passed on.
- (13) Regulation (EC) No 247/2006 stipulates that products covered by the specific supply arrangements may not be exported to third countries or dispatched to the rest of the Community. However, that Regulation provides for a limited number of derogations

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to that principle, which vary according to the region concerned. Detailed rules should be laid down on the granting and monitoring of such derogations. In particular, it is expedient to lay down the maximum quantities of processed products which may be the subject of traditional exports or consignments, as well as the quantities of products and the destinations of exports of products processed locally, with a view to encouraging regional trade.

- (14) In order to protect consumers and the commercial interests of operators, products which are not of sound and fair marketable quality, within the meaning of Commission Regulation (EC) No 800/1999 of 15 April 1999 laying down common detailed rules for the application of the system of export refunds on agricultural products<sup>(18)</sup>, should be excluded from the specific supply arrangements no later than the time when they are first placed on the market and appropriate steps should be taken where this requirement is not met.
- (15) In the context of the partnership procedures in force for the outermost regions, the competent authorities should lay down the detailed administrative rules needed to ensure the management and monitoring of the specific supply arrangements. Moreover, to ensure that the arrangements are properly monitored, rules are needed to specify the checks to be carried out. Administrative penalties to ensure the smooth functioning of the mechanisms implemented should therefore be specified.
- (16) In order to be able to assess how the arrangements are being implemented, the competent authorities should be required to report to the Commission at regular intervals.
- (17) The coverage of aid applications and the documents to be attached with a view to assessing their justification should be specified for each aid scheme directed at local production.
- (18) It should be possible to amend at any time aid applications containing manifest errors.
- (19) The deadlines for submitting and amending aid applications must be complied with to enable the national authorities to programme and subsequently carry out effective checks on the correctness of applications for aid for local production. Time limits should therefore be fixed beyond which submissions can no longer be accepted. Moreover, a reduction should be applied to encourage growers to respect the time limits.
- (20) Growers should be allowed to withdraw their applications for aid for local production or parts thereof at any time, provided that the competent authority has not yet informed the grower of any errors contained in the aid application or announced an on-the-spot check which reveals errors in the part concerned by the withdrawal.
- (21) Compliance with the rules on aid schemes managed under the integrated administration and control system should be effectively monitored. To this end, and to achieve a harmonised level of monitoring in all Member States, the criteria and technical procedures for carrying out administrative and on-the-spot checks should be set out in detail. Where appropriate, the Member States should strive to combine the various checks under this Regulation with those provided for under other Community provisions.

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- (22) The minimum number of growers to undergo on-the-spot checks under the various aid schemes should be determined.
- (23) The sample for the minimum rate of on-the-spot checks should be selected partly on the basis of a risk analysis and partly at random. The main factors to be taken into consideration for the risk analysis should be specified.
- (24) Where significant irregularities are found, the rate of on-the-spot checks should be increased during the current and following years in order to attain an acceptable level of assurance that the aid applications concerned are correct.
- (25) For on-the-spot checks to be effective, it is important for the inspectors to be informed of the reasons for which the growers concerned have been selected for an on-the-spot check. The Member States should keep records of such information.
- (26) In order to enable the national authorities and any competent Community authority to follow up on-the-spot checks carried out, the details of checks should be recorded in an inspection report. Growers or their representatives should be given the opportunity to sign the report. However, in the case of remote-sensing checks, the Member States should be allowed to provide for this right only in cases where the check reveals irregularities. Moreover, irrespective of the kind of on-the-spot check carried out, the grower should receive a copy of the report if irregularities are found.
- (27) To protect the Community's financial interests effectively, adequate measures should be adopted to combat irregularities and fraud.
- (28) Reductions and exclusions should be determined having regard to the principle of proportionality and the special problems arising in cases of *force majeure*, exceptional circumstances and natural disasters. Such reductions and exclusions should be graded according to the gravity of the irregularity committed and should go as far as the total exclusion from one or more aid schemes for local production for a specified period.
- (29) As a general rule, reductions and exclusions should not be applied where growers have submitted factually correct information or can otherwise show that they are not at fault.
- (30) Growers who notify the competent national authorities at any time of incorrect aid applications should not be the subject of reductions or exclusions, irrespective of the reason for the incorrectness, provided the grower concerned has not been informed of the competent authority's intention to carry out an on-the-spot check and provided the authority has not already informed the grower of any irregularity in the application. The same should apply to incorrect data contained in the computerised database.
- (31) Where various reductions are to be applied to the same grower, they should be applied independently of each other. Moreover, the reductions and exclusions provided for in this Regulation should be applied without prejudice to additional penalties under any other provisions of Community or national law.
- (32) Growers who are unable to fulfil the obligations provided for under the detailed rules for implementing the programmes as a consequence of *force majeure* or exceptional circumstances should not lose their entitlement to the aid. It should be specified which

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cases, in particular, may be recognised by the competent authorities as exceptional circumstances.

- (33) In order to ensure uniform application of the principle of good faith throughout the Community, where unduly paid amounts are recovered, the conditions under which that principle may be invoked should be laid down without prejudice to the treatment of the expenditure concerned in the context of the clearance of accounts.
- (34) The detailed rules required to apply the graphic symbol aimed at ensuring greater awareness and consumption of processed and unprocessed quality agricultural products specific to the outermost regions of the Community should be adopted.
- (35) The conditions for the use of the graphic symbol, namely the drafting of the list of natural and processed agricultural products which may bear the symbol and the definition of the quality characteristics, methods of production, packaging and manufacture of processed products should be proposed by the trade organisations in the outermost regions. It should be specified that it must be possible to adopt these requirements by reference to existing standards under Community rules or, failing these, to international standards, or by reference to traditional methods of cultivation and manufacture.
- (36) In order to make the best possible use of this specific promotional instrument available to producers and manufacturers of quality products specific to the outermost regions, and in the interests of simplifying management and control and making them more effective, the right to use the graphic symbol should be conferred on operators established in those regions who are directly responsible for the production, packaging for marketing purposes and manufacture of the products concerned and who give an undertaking to fulfil certain obligations.
- (37) It is the responsibility of the competent authorities in the regions concerned to adopt the additional administrative requirements needed to ensure the correct operation of the mechanisms put in place and to guarantee compliance with those obligations.
- (38) Provision should be made for the Commission to be notified of the information it requires in order to ensure that the conditions for the use of the graphic symbol are as uniform as possible throughout the different outermost regions.
- (39) For the purposes of exempting tobacco imported into the Canary Islands from customs duties, it is necessary to define the annual period for calculating the maximum quantity of tobacco products referred to in Article 22 of Regulation (EC) No 247/2006 and to define the term 'local manufacture of tobacco products'. In addition, in order to ensure maximum flexibility, permission should be granted for the overall quantity of unmanufactured stemmed/stripped tobacco to be used for imports of other products, on the basis of a coefficient of equivalence, depending on the requirements of the local industry.
- (40) As a general rule, the Member States should take any further measures necessary to ensure that this Regulation is properly implemented.

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- (41) Where appropriate, the Commission should be informed of any measures taken by the Member States to implement the aid schemes provided for in this Regulation. In order to enable the Commission to monitor effectively, the Member States should regularly send it certain statistics on the aid schemes.
- (42) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Direct Payments,

HAS ADOPTED THIS REGULATION:

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- (1) [OJ L 42, 14.2.2006, p. 1.](#)
- (2) [OJ L 43, 19.2.1992, p. 16.](#) Regulation as last amended by Regulation (EC) No 1526/2001 ([OJ L 202, 27.7.2001, p. 6.](#))
- (3) [OJ L 217, 31.7.1992, p. 64.](#) Regulation as last amended by Regulation (EC) No 1802/95 ([OJ L 174, 26.7.1995, p. 27.](#))
- (4) [OJ L 218, 1.8.1992, p. 100.](#) Regulation as last amended by Regulation (EC) No 1802/95.
- (5) [OJ L 218, 1.8.1992, p. 102.](#) Regulation as last amended by Regulation (EC) No 1194/2002 ([OJ L 174, 4.7.2002, p. 9.](#))
- (6) [OJ L 218, 1.8.1992, p. 105.](#) Regulation as last amended by Regulation (EC) No 1742/2004 ([OJ L 311, 8.10.2004, p. 18.](#))
- (7) [OJ L 185, 28.7.1993, p. 9.](#)
- (8) [OJ L 185, 28.7.1993, p. 10.](#)
- (9) [OJ L 182, 23.7.1996, p. 9.](#)
- (10) [OJ L 280, 31.10.1996, p. 1.](#)
- (11) [OJ L 8, 11.1.2002, p. 1.](#) Regulation as last amended by Regulation (EC) No 127/2005 ([OJ L 25, 28.1.2005, p. 12.](#))
- (12) [OJ L 174, 4.7.2002, p. 11.](#)
- (13) [OJ L 7, 11.1.2003, p. 25.](#) Regulation as last amended by Regulation (EC) No 261/2005 ([OJ L 46, 17.2.2005, p. 34.](#))
- (14) [OJ L 144, 12.6.2003, p. 3.](#)
- (15) [OJ L 3, 7.1.2004, p. 6.](#) Regulation as last amended by Regulation (EC) No 2022/2005 ([OJ L 326, 13.12.2005, p. 3.](#))
- (16) [OJ L 31, 4.2.2005, p. 6.](#)
- (17) [OJ L 152, 24.6.2000, p. 1.](#) Regulation as last amended by Regulation (EC) No 410/2006 ([OJ L 71, 10.3.2006, p. 7.](#))
- (18) [OJ L 102, 17.4.1999, p. 11.](#) Regulation as last amended by Regulation (EC) No 671/2004 ([OJ L 105, 14.4.2004, p. 5.](#))

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