

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Council Regulation (EC) 247/2006 laying down specific measures for agriculture in the outermost regions of the Union (repealed)

TITLE III

MEASURES TO ASSIST LOCAL PRODUCTS

CHAPTER I

Marketing outside the production region

Article 22

Amount of aid

1 The amount of aid granted under Title III of Regulation (EC) No 247/2006 for marketing products of the outermost regions elsewhere in the Community shall not exceed 10 % of the value of the production marketed, delivered to destination zone, calculated in accordance with paragraph 2.

This limit shall be raised to 13 % of the value of the production marketed where the contractor for the producers is a producer association, union or organisation.

2 For the purpose of calculating the aid, the value of marketed production, delivered to destination zone, shall be evaluated on the basis of the annual contract (where applicable), the particular transport documents and any other supporting documents submitted to justify the application for payment.

The value of the marketed production to be taken into account shall be that of delivery to the first port or airport of unloading.

The competent authorities may request any information or additional supporting documentation appropriate for calculating the aid.

3 The conditions for granting aid, the products and the amounts concerned shall be specified in the programmes approved in accordance with Article 24(2) of Regulation (EC) No 247/2006.

Article 23

Tomatoes

For tomatoes from the Canary Islands falling within CN code 0702 00 the amount of aid granted under Title III of Regulation (EC) No 247/2006 shall be EUR 3,6/100 kg, up to a limit of 250 000 tonnes per year.

Article 24

Rice

The maximum quantity of rice harvested in French Guiana which may be eligible for marketing support in Guadeloupe, Martinique and the rest of the Community, in accordance with Title III of Regulation (EC) No 247/2006, shall not exceed 12 000 tonnes per year of milled rice equivalent.

For marketing in the rest of the Community outside Guadeloupe and Martinique, this amount may not exceed 4 000 tonnes per year.

CHAPTER II

Aid applications

Article 25

Submission of applications

Aid applications for a calendar year shall be submitted to the office designated by the competent authorities of the Member State in accordance with the specimens drawn up by the latter and within the periods they have laid down. Those periods shall be fixed so as to allow time for the necessary on-the-spot checks and shall not run beyond 28 February of the following calendar year.

Article 26

Correction of manifest errors

An aid application may be rectified at any time after its submission where a manifest error is recognised by the competent authority.

Article 27

Late submission of applications

Except in cases of *force majeure* and exceptional circumstances, submission of an aid application after the time limit laid down in accordance with Article 25 shall lead to a 1 % reduction per working day in the amounts to which the grower would have been entitled if the aid application had been lodged within the time limit. If the delay amounts to more than 25 calendar days, the application shall be considered inadmissible.

Article 28

Withdrawal of aid applications

1 An aid application may be totally or partially withdrawn at any time.

However, where the competent authority has already informed the grower of irregularities in the aid application or has given notice to the grower of its intention to carry out an on-the-spot check and this check reveals irregularities, withdrawal shall not be authorised in respect of the parts of the aid application affected by those irregularities.

2 Withdrawal under paragraph 1 shall return the claimant to the situation prior to submitting the aid application or part of the aid application in question.

Article 29

Aid payments

After verifying the aid applications and relevant supporting documents, and calculating the amounts to be granted under the Community support programmes provided for in Article 9 of Regulation (EC) No 247/2006, the competent authorities shall pay the aid for a calendar year as follows:

- in the case of the specific supply arrangements, throughout the year,
- in the case of direct payments, in accordance with Article 28 of Council Regulation (EC) No 1782/2003⁽¹⁾,
- in the case of other payments, during the period beginning on 16 October of the current year and ending on 30 June of the following year.

CHAPTER III

Checks

Article 30

General principles

Verification shall be by administrative and on-the-spot checks.

Administrative checks shall be exhaustive and shall include cross-checks with, *inter alia*, data from the integrated administration and control system provided for in Chapter 4 of Title II of Regulation (EC) No 1782/2003.

On the basis of a risk analysis in accordance with Article 32(1) of this Regulation, the competent authorities shall perform on-the-spot checks by sampling at least 5 % of aid applications. The sample must also represent at least 5 % of the amounts covered by the aid.

In all appropriate cases, Member States shall make use of the integrated administration and control system.

Article 31

On-the-spot checks

1 On-the-spot checks shall be unannounced. However, provided that the purpose of the check is not compromised, advance notice limited to the strict minimum necessary may be given. Such notice shall not exceed 48 hours, except in duly justified cases.

2 Where applicable, the on-the-spot checks provided for in this Chapter shall be carried out in conjunction with any other checks provided for by Community legislation.

3 The aid application or applications concerned shall be rejected if growers or their representatives prevent an on-the-spot check from being carried out.

Article 32

Selection of growers to be subjected to on-the-spot checks

1 Growers shall be selected to undergo on-the-spot checks by the competent authority on the basis of a risk analysis and the representativeness of the aid applications submitted. The risk analysis shall take account of:

- a the amount of aid;
- b the number of agricultural parcels, the surface area and the number of animals covered by the aid application, or the quantity produced, transported, processed or marketed;
- c changes on the previous year;
- d the findings of checks performed in the preceding years;
- e other parameters to be defined by the Member States.

To provide the element of representativeness, Member States shall randomly select between 20 and 25 % of the minimum number of growers to be subjected to on-the-spot checks.

2 The competent authority shall keep records of the reasons why specific growers were selected for on-the-spot checks. The inspector performing the on-the-spot check shall be informed of those reasons before beginning the check.

Article 33

Inspection report

1 Every on-the-spot check shall be the subject of an inspection report relating the details of the checks carried out. Reports shall indicate in particular:

- a the aid schemes and applications checked;
- b the persons present;
- c the agricultural parcels checked, the agricultural parcels measured, the results of the measurements per parcel measured and the measuring methods used;
- d the number and type of animals found and, where applicable, the ear tag numbers, entries in the register and in the computerised database for bovine animals and any supporting documents checked, the results of the checks and, where applicable, particular observations in respect of individual animals or their identification code;
- e the quantities produced, transported, processed or marketed which are covered by the check;
- f whether advance notice was given to the grower of the visit and, if so, how much;
- g any further control measures carried out.

2 Growers or their representatives shall be given the opportunity to sign the report to attest their presence at the check and to add observations. Where irregularities are found the grower shall receive a copy of the inspection report.

Where the on-the-spot check is carried out by remote-sensing, the Member States may decide not to give the growers or their representatives the opportunity to sign the inspection report if no irregularities are revealed during the check by remote-sensing.

CHAPTER IV

Reductions and exclusions, and undue payments

Article 34

Reductions and exclusions

In the event of a discrepancy between the information declared in the context of aid applications and the findings of the inspections referred to in Chapter III, the Member State shall apply reductions and exclusions to the aid. Those reductions and exclusions shall be effective and proportionate and shall act as a deterrent.

Article 35

Exceptions to the application of reductions and exclusions

1 The reductions and exclusions provided for in Article 34 shall not apply where the beneficiary submitted factually correct information or can otherwise show that he or she is not at fault.

2 The reductions and exclusions shall not apply with regard to those parts of the aid application which the beneficiary informs the competent authority in writing are incorrect or have become incorrect since it was lodged, provided that the competent authority has not already informed the beneficiary of its intention to carry out an on-the-spot check or of any irregularity in the application.

On the basis of the information given by the beneficiary as referred to in the first subparagraph, the aid application shall be rectified to reflect the actual situation.

Article 36

Recovery of undue payments and penalties

1 In the event of undue payment, Article 73 of Commission Regulation (EC) No 796/2004⁽²⁾ shall apply *mutatis mutandis*.

2 Where the undue payment has been made as a result of a false declaration, false documents or serious negligence on the part of the beneficiary, a penalty shall be imposed equal to the amount unduly paid, with interest calculated in accordance with Article 73(3) of Regulation (EC) No 796/2004.

Status: This is the original version (as it was originally adopted).

Article 37

Force majeure and exceptional circumstances

Cases of *force majeure* or exceptional circumstances within the meaning of Article 40(4) of Regulation (EC) No 1782/2003 shall be notified to the authority in accordance with Article 72 of Regulation (EC) No 796/2004.

Status: This is the original version (as it was originally adopted).

- (1) OJ L 270, 21.10.2003, p. 1.
- (2) OJ L 141, 30.4.2004, p. 18.