COMMISSION REGULATION (EEC) No 2048/90

of 18 July 1990

laying down detailed rules for the application of the system of aid in favour of small cotton producers

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1152/90 of 27 April 1990 instituting a system of aid in favour of small cotton producers (1), and in particular Articles 3 (2) and 7 (1) thereof,

Whereas Article 3 (2) of Regulation (EEC) No 1152/90 provides for the Community maximum guaranteed area to be determined for the three marketing years concerned by that Regulation; whereas that area is equal to the average area given over to cotton by small producers in 1987 and 1988; whereas, in view of the information received from the Member States, the area in question should be determined;

Whereas Article 3 (1) of Regulation (EEC) No 1152/90 provides for the aid to be granted in respect of areas sown and harvested; whereas, to ensure that the scheme functions correctly, some form of check on areas eligible for aid is required; whereas provision should be made for each small producer to submit an application for aid containing the information needed for verification that the areas in respect of which an application has been lodged have actually been harvested; whereas the check should take the form of random, on-the-spot inspections covering a sufficiently representative number of aid applications; whereas, however, in the case of applications lodged in respect of the 1989/90 marketing year, instead of making on-the-spot inspections, Member States should verify the extent to which the areas in respect of which applications have been lodged tally with the quantities of unginned cotton placed under supervised storage in ginning plants;

Whereas in order to ensure that the system of aid is applied correctly, it is necessary to provide for a penalty in cases where applications for aid are submitted by producers who are not eligible because the area they have given over to cotton exceeds the 2,5 hectare limit;

Whereas under Article 7 (2) of Regulation (EEC) No 1152/90 the Commission must record any overrun in the maximum guaranteed area and determine the resulting reduction in the aid; whereas, to facilitate such recording and determination, Member States should notify to the Commission after the check has been made the areas in respect of which aid is to be granted;

Whereas, to reduce the disadvantages to interested parties of late payment of the aid, time limits should be laid down for the recording of overruns in the maximum guaranteed area, the determination of any reduction in the aid and payment of the aid;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Flax and Hemp,

HAS ADOPTED THIS REGULATION:

Article 1

The Community maximum guaranteed area under cotton referred to in Article 3 (1) of Regulation (EEC) No 1152/90 shall be 73 093 hectares.

Article 2

1. The aid shall be granted only in respect of areas which:

(a) have been fully sown and harvested and tended in the normal way;

(b) are the subject of

— a declaration of areas sown in accordance with Article 8 (1) of Commission Regulation (EEC) No 1201/89 (2),

— an application for aid in accordance with Article 3 of this Regulation.

2. Member States shall grant aid only in respect of harvested areas in their territory.

Article 3

1. Small producers within the meaning of Article 4 of Regulation (EEC) No 1152/90 shall lodge an aid application each year after harvest but not later than 15 days after their entire crop is placed under supervised storage as referred to in Article 9 (1) of Regulation (EEC) No 1201/89.

However, all applications must be lodged not later than 30 April of the marketing year in question.

(1) OJ No L 116, 8. 5. 1990, p. 1.

(2) OJ No L 123, 4. 5. 1989, p. 23.

2. For the 1989/90 marketing year, submission of the declaration of areas sown referred to in Article 8 (1) of Regulation (EEC) No 1201/89, adjusted where applicable in accordance with Article 8 (2) of the said Regulation, shall be considered to be an aid application.

3. Except in cases of *force majeure* and without prejudice to the second subparagraph of paragraph 1, where the aid application is lodged :

— after the 15th but not later than the 30th day after the entire crop is placed under supervised storage, 66 % of the aid shall be granted,

— after the 30th but not later than the 60th day after the entire crop is placed under supervised storage, 33 % of the aid shall be granted.

4. The aid application referred to in the first subparagraph of paragraph 1 shall contain at least the following information :

— the name, forenames and address of the applicant,

— the area harvested, in hectares and ares,

— reference to the declaration of areas sown referred to in Article 8 (1) of Regulation (EEC) No 1201/89,

— the cadastral reference of the areas sown or a description recognized as equivalent by the body responsible for checking the areas,

— the place where the harvested product is stored or, if it has been delivered, the name, forenames and address of the consignee.

Article 4

1. The agency appointed by the Member State shall carry out random inspections to verify that the area which is the subject of the aid application has been harvested.

2. The inspections provided for in paragrah 1 shall relate to not less than 5 % of the applications and take account of the geographical distribution of the areas in question.

Where significant irregularities arise relating to 6 % or more of the checks carried out, the Member State shall notify the Commission forthwith and shall increase the percentage given in the first subparagraph to 15.

Article 5

1. For the purposes of checking the aid applications for the 1989/90 marketing year, the control agency shall verify that the quantities placed into supervised storage in accordance with Article 9 of Regulation (EEC) No 1201/89 coincide with the quantities obtained by applying the yield recorded for the marketing year in question in the region concerned for unginned cotton of sound and fair merchantable quality to the areas which are the subject of aid applications. If necessary the yield shall be differentiated to take account of growing methods.

2. If the quantity placed into supervised storage in a ginning plant :

(a) is 70 % or more of the quantity obtained by applying the yields referred to in paragraph 1, the competent agency shall grant the aid in respect of the area indicated in the declaration of areas sown, adjusted where necessary ;

(b) is less than 70 % of the quantity obtained by applying the yields referred to in paragraph 1, the competent agency shall grant the aid in respect of the area indicated in the declaration of areas sown, adjusted where necessary and multiplied by a coefficient obtained by dividing the quantities placed into supervised storage by the quantities obtained by applying the yield referred to in paragraph 1 reduced by 30 % ; however, the aid shall be granted in respect of the area indicated in the declaration of areas sown, adjusted where necessary, if proof of harvest has been supplied to the satisfaction of the Member State on the basis of other information.

Article 6

1. Aid applications for the 1990/91 and 1991/92 marketing years shall be checked by means of random inspection on the spot. Inspections shall be carried out not later than six weeks after the aid application is lodged.

2. The inspection shall consist in the measuring of harvested areas. Without prejudice to Article 7, an additional check in accordance with Article 5 may be carried out, particularly where there is some doubt as to the harvested area.

3. Each inspection must be the subject of a written report indicating the area measured and the instruments used or that the inspection could not be carried out for reasons attributable to the applicant.

4. Except in cases of *force majeure*, where the control cannot be carried out for reasons attributable to the applicant, the aid application shall be rejected.

Article 7

1. If an inspection as provided for in Article 6 shows that the area in respect of which the aid is applied for is :

(a) less than that ascertained during the inspection, the area ascertained shall be used ; however, if the area ascertained is greater than 2,5 hectares, the application shall be rejected and the applicant shall be required to pay an amount equal to 50 % of the amount of the aid for the marketing year in question multiplied by the area ascertained, except where the difference is considered justified by the Member State concerned ;

(b) greater than that ascertained during the inspection, without prejudice to any penalties provided for under national law, the area used shall be the ascertained area minus the difference between the area initially declared and that ascertained.

However, where the difference is considered justified by the Member State concerned, the area ascertained shall be used.

2. Member States shall notify the Commission of the measures taken in compliance with paragraph 1, and in particular of the decisions taken pursuant to the second subparagraph of (b).

Article 8

Producer Member States shall inform the Commission not later than 15 July of each year of the number of small producers, the yield or yields referred to in Article 5 and the hectares in respect of which aid is to be granted for the marketing year in question.

However, for the 1989/90 marketing year, Member States shall inform the Commission not later than 15 August 1990.

Article 9

1. Where the Community maximum guaranteed area is exceeded, the recording and determination of the overrun referred to in Article 7 (2) of Regulation (EEC) No 1152/90 shall be carried out before the end of each marketing year.

2. The reduction in the amount of the aid shall be determined using the following formula:

$$A1 \times \frac{SMG}{SCE} = A2$$

Where:

A1 is the amount of the aid referred to in Article 3 (1) of Regulation (EEC) No 1152/90,

SMG is the Community maximum guaranteed quantity,

SCE is the area sown and harvested by small producers in the Community in the marketing year in question,

A2 is the aid to be paid.

Article 10

Member States shall pay the aid, reduced where applicable pursuant to Article 9, not later than 31 October following the end of the marketing year.

Article 11

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

It shall apply from the 1989/90 marketing year.

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

Done at Brussels, 18 July 1990.

For the Commission

Ray MAC SHARRY

Member of the Commission