COMMISSION REGULATION (EC) No 709/98

of 30 March 1998

amending Regulation (EEC) No 1686/72 on certain detailed rules for aid for seed as regards checking procedures and laying down rules for application of the stabiliser mechanism for rice seed production

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2358/71 of 26 October 1971 on the common organisation of the market in seeds [1], as last amended by Regulation (EC) No 192/98 [2], and in particular Articles 3(5) and 11 thereof,

Whereas Council Regulation (EEC) No 1674/72 [3], as last amended by Regulation (EEC) No 3795/85 [4], lays down general rules for granting and financing aid for seed;

Whereas Article 3(4a) of Regulation (EEC) No 2358/71 establishes a stabiliser mechanism for rice seed production; whereas this involves setting a maximum quantity on which the Community seed aid may be granted that is consistent with potential seed sales given the existence of the base area set in Article 6 of Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organisation of the market in rice [5], as last amended by Regulation (EC) No 192/98;

Whereas for determining agronomic yields for rice seed production in the various Member States it is appropriate to use the same period as that considered representative for the purposes of Regulation (EC) No 3072/95; whereas, accordingly, the three-year average that is obtained when for the period 1990/91 to 1994/95 the year with the highest and the year with the lowest yield are eliminated has been used;

Whereas the seed harvested in one marketing year is normally used to sow paddy rice and rice seed production areas in the next marketing year; whereas in the period considered as representative the quantity of seed used in the Community to sow one hectare was 0,2 tonnes, i.e. to sow the base area of 433 123 hectares set in Article 6 of Regulation (EC) No 3072/95, 86 624,600 tonnes of seed were needed;

Whereas the maximum quantity on which rice seed aid can be granted in the Community must be split up by producer Member State on the basis of production in the Member States in the same representative period; whereas, in order to allow for annual variation in yield, provision should be made for adjustment of the maximum aidable quantity in individual Member States provided that the overall quantity for the Community is not exceeded;

Whereas operation of the stabiliser mechanism will require that a time limit be set for lodging of aid applications for rice seed and for notification by the Member States to the Commission of the quantities covered by these so that any percentage reduction applicable in the Member State can be calculated;

Whereas payment of the aid for rice seed must be subsequent to determination by the Commission of any percentage reduction applicable;

Whereas compliance with the provisions governing Community aids must be adequately checked; whereas to this end detailed criteria and technical rules covering administrative and on-the-spot checks are required; whereas as regards the latter previous experience indicates that it is desirable, in addition to specifying minimum volumes of checks to be carried out, to require the use of risk analysis and to specify the criteria to be used in it;

Whereas experience also indicates the need to adopt suitably graded provisions, that also allow for cases of *force majeure*, to prevent and punish irregularity and fraud; whereas graded penalties in line with the gravity of the irregularity should be set that extend to total exclusion from aid for the year in question and the following year;

Whereas arrangements are required to guarantee that only legitimate aid payments are made and to reduce the aid when applications are lodged late; whereas these should be modelled on the integrated administration and control system specified in Council Regulation (EEC) No 3508/92 of 27 November 1992 establishing an integrated

[1] OJ L 246, 5. 11. 1971, p. 1.
[2] OJ L 20, 27. 1. 1998, p. 16.
[3] OJ L 177, 4. 8. 1972, p. 1.
[4] OJ L 367, 31. 12. 1985, p. 21.
[5] OJ L 329, 30. 12. 1995, p. 18.

administration and control system for certain Community aid schemes [1], as last amended by Regulation (EC) No 820/97 [2], and in Commission Regulation (EEC) No 3887/92 of 23 December 1992 laying down detailed rules for applying the integrated administration and control system for certain Community aid schemes [3], as last amended by Regulation (EC) No 2015/95 [4];

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

HAS ADOPTED THIS REGULATION:

Article 1

Commission Regulation (EEC) No 1686/72 [5] is hereby amended as follows:

1. the following Article 1a is added:

'Article 1a

For the purposes of this Regulation "marketing" shall mean holding available or in stock, displaying for sale, offering for sale, sale or delivery to another person.';

2. the following Article 2a is added:

'Article 2a

1. Aid shall be granted only on condition that the seed has in fact been marketed by the recipient for sowing by the date the request is submitted. He must prove this to the satisfaction of the Member State.

2. Member States shall make unannounced checks to verify the first destination of seed on which aid has been given and on compliance with the aid conditions and shall notify to the Commission action taken following such checks.';

3. Article 3 is replaced by the following:

'Article 3

1. Except for rice seed, the aid shall be granted to the seed grower on application to be lodged after the harvest and before a date set by the Member State for each species or variety group.

2. Except for rice seed, the Member State shall pay the aid to the seed grower within two months of lodging of the application and at the latest by 31 July of the year following that of harvest.';

4. the following Articles 3a, 3b and 3c are added:

'Article 3a

1. For rice seed a maximum quantity of 86 624,600 tonnes per year is set on which aid may be granted in the Community. It is allocated to producer Member States as follows:

— Spain:	29 625,613 tonnes,
— France:	3 031,861 tonnes,
— Greece:	1 472,618 tonnes,
— Italy:	50 242,268 tonnes,
— Portugal:	2 252,240 tonnes.

The quantity per Member State may be adjusted within the maximum quantity set for the Community, on the terms set in paragraph 3.

2. Subject to Article 2a, aid on rice seed shall be granted to producers, within the maximum limit set for the Community, on application to be lodged after the harvest but before 20 June of the following year. By 15 July of the year following the harvest producer Member States shall notify to the Commission the quantities for which aid applications were made.

3. If the sum total of the quantities for which aid is applied for in producer Member States exceeds the maximum quantity set for the Community the aid shall be reduced in each Member State in proportion to the overrun of its national quantity. The Commission shall set the reduction percentages applicable.

4. The Member State shall pay the aid to the producer between 31 July and 30 September of the year following that of harvest.

Article 3b

1. The checks referred to in Article 2a(2) shall comprise:

(a) administrative checks, notably cross-checks to prevent aid being paid twice for the same calendar year. These cross-checks shall cover plots subjected to official examination that have been found to comply with the requirements set by the directives indicated in the first indent of Article 1(1) of Regulation (EEC) No 1674/72;

(b) checks on documents to verify at least the first destination of seed on which aid has been granted;

[1] OJ L 355, 5. 12. 1992, p. 1.
[2] OJ L 117, 7. 5. 1997, p. 1.
[3] OJ L 391, 31. 12. 1992, p. 36.
[4] OJ L 197, 22. 8. 1995, p. 2.
[5] OJ L 177, 4. 8. 1972, p. 26.

(c) any other checks that the Member State deems necessary in order to guarantee that aid is not paid on uncertified seed or seed from third countries.

Checks shall cover a significant sample of applications and at least 5 % of applications for each species. The applications to be checked shall be determined by the competent authority on the basis of risk analysis plus an element of representativeness of the applications made. Risk analysis shall take account of:

— the aid amount,

— the quantity of certified seed in relation to the area checked,

— change from the previous year,

— other parameters to be defined by the Member State.

2. Where appropriate, Member States shall make checks at the premises of breeders, other seed establishments and end users.

3. The following Articles of Commission Regulation (EEC) No 3887/92 (*) shall apply:

— Article 6(1) (verification of compliance with terms on which aid is granted),

— Article 11 (additional national penalties; *force majeure*),

— Article 12 (inspection visit report),

— Article 13 (check on the spot),

— Article 14 (undue payment).

Article 3c

1. Except in cases of *force majeure* late lodging of an application shall give rise to a 1 % reduction per day of the aid to which the seed producer would otherwise have been entitled. Applications shall be invalid if lodged, in the case of rice seed, after 30th June of the year following that of harvest and, in the case of other species or variety groups, after the 10th day following the time limit set by the Member State.

2. If it is found that seed covered by an application was not in fact marketed by the applicant for sowing, the aid to the producer for the species concerned shall be reduced by 50 % if the quantity not marketed for sowing amounts to more than 2 % but not more than 5 % of the quantity covered by the application. If the quantity not marketed exceeds 5 % no seed production aid shall be granted to the producer for the marketing year in question.

3. If an aid application is made for seed not officially certified or not harvested within the Member State in question during the calendar year in which the marketing year for which the aid has been set begins, no seed production aid shall be granted to the producer for that or the following marketing year.

(*) OJ L 391, 31. 12. 1992, p. 36.'

Article 2

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

It shall apply from the 1998/99 marketing year.

Requests for aid relating to contracts or seed production declarations registered prior to the 1998/99 campaign are not subject to the checks listed in paragraph 1(a) of Article 3b of Regulation (EEC) No 1686/72.

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

Done at Brussels, 30 March 1998.

For the Commission

Franz FISCHLER

Member of the Commission