COMMISSION REGULATION (EC) No 2162/1999

of 12 October 1999

amending Regulation (EC) No 2848/98 in the raw tobacco sector and laying down transitional provisions on use of the specific aid and on the relation between the variable part of the premium and the premium for Group VII (Katerini) in Italy for the 1999, 2000 and 2001 harvests

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2075/92 of 30 June 1992 on the common organisation of the market in raw tobacco [1], as last amended by Regulation (EC) No 660/1999 [2], and in particular Articles 7, 14a and 27 thereof,

Whereas:

(1) Article 3 of Commission Regulation (EC) No 2848/98 of 22 December 1998 laying down detailed rules for the application of Council Regulation (EEC) No 2075/92 as regards the premium scheme, production quotas and the specific aid to be granted to producer groups in the raw tobacco sector [3], as last amended by Regulation (EC) No 1373/1999 [4], lays down the requirements which producer groups must satisfy to be recognised. In order better to compare the quality of tobacco produced by each producer group and to ensure that its members are given technical assistance, producer groups should be allowed to restrict their activity to recognised production areas.

(2) In order to ensure that the variable part of the premium functions correctly and that effective checks are carried out, it should be laid down that the purchase price to be used for calculating the variable part of the premium must be that established on delivery, that tobacco must be replanted before 15 June for each harvest and that failure to comply with that provision should be penalised.

(3) The first subparagraph of Article 19(5) of Regulation (EC) No 2848/98 provides for payment to the producer of an advance on the premium equal to 50 % of the premium payable. In order to simplify the administrative procedures in the Member States, the maximum amount of the advance should be equal to the fixed part of the premium.

(4) The second subparagraph of Article 19(5) of Regulation (EC) No 2848/98 provides that the advance may be paid from 16 October of the year of harvest and must be paid within 30 days of submission of the application, save where it is submitted before 16 September, in which case that period is increased to 60 days. Since in certain Member States the harvest begins on 1 August, the payment period should be increased to 77 days.

(5) Article 31(1) of Regulation (EC) No 2848/98 provides that where a tobacco-producing holding is transferred to a third party for any reason whatsoever, the new incumbent is entitled to the production quota statement from the date of transfer for the entire reference period. In order to improve the efficiency of inspection procedures and to prevent evasion of the rules, in the case of transfers not due to death, Member States should be allowed to fix a date by which the new incumbent must obtain entitlement to the production quota statement for the current harvest year.

(6) The cultivation contract is concluded between a first processor, on the one hand, and a producer group or individual producer who does not belong to a group, on the other, as provided for in Article 9(1) of Regulation (EC) No 2848/98 and the contract includes details, *inter alia*, of the exact location where the tobacco is produced and the area of the parcel concerned. The fifth indent of Article 40(2) of that Regulation lays down that groups may use the specific aid to ensure that they comply with Community rules. Penalties should therefore be applied to individual producers where the parcel on which the tobacco is grown is different to that indicated in the cultivation contract and the penalties strengthened by imposing them not only on individual growers but also on the producer groups to which they belong.

(7) At least half of the amount of the specific aid must be used by producer groups for the expenditure referred to in the first, second and third indents of Article 40(2) of Regulation (EC) No 2848/98, as provided for in paragraph 3 of that Article. In view of the amended conditions for the recognition of producer groups due to take effect from the 1999 harvest, provision should be made for a two-year transitional period during which use of the specific aid is more flexible so as to enable producer groups to reorganise with a view to enhancing the value of products supplied by their members and ensuring that the group complies with Community rules.

[1] OJ L 215, 30.7.1992, p. 70.
[2] OJ L 83, 27.3.1999, p. 10.
[3] OJ L 358, 31.12.1998, p. 17.
[4] OJ L 162, 26.6.1999, p. 47.

(8) Council Regulation (EC) No 660/1999 fixes a guarantee threshold for group VII (Katerini and similar varieties) in Italy. The relation between the variable part and the premium should be fixed for that group of varieties in Italy, using the same relation as adopted for the group in Greece.

(9) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Tobacco,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 2848/98 is amended as follows:

1. The following text is added to Article 3(1)(g):

'However, producer groups may restrict their activities to certain production areas. However, in such cases, individual producers growing tobacco both inside and outside the production areas concerned may become members of that producer group for their entire production provided most of their crop is harvested within the production areas covered by the group'.

2. The following point (l) is added to Article 9(3):

'(l) an undertaking by the producer to replant the tobacco on the parcel concerned by 15 June of the harvest year: However, if replanting is delayed, the producer group or individual producer not belonging to a producer group must inform the processor and the competent authority of the Member State thereof by registered letter before that date, giving the reason for the delay and giving details of any change of parcel'.

3. The following paragraph 6 is added to Article 18:

'6. The purchase price to be used for calculating the variable part of the premium must be that established for each lot on delivery'.

4. Article 19(5) is replaced by the following:

'5. The advance, which may not exceed the fixed part of the premium payable, shall be paid subject to the lodging of a security equal to the advance plus 15 %.

The advance shall be paid from 16 October of the year of harvest and must be paid within 30 days of submission of the application referred to in paragraph 2 and of proof that the security has been lodged, except where the application is submitted before 16 September, in which case the period shall be increased to 77 days'.

5. Article 31(1) is replaced by the following:

'1. Where a tobacco producing holding is transferred to a third party for any reason whatsoever, the new incumbent shall be entitled to the production quota statement from the date of registration with the competent authority.Member States shall fix a time limit or a deadline for the registration of transfers with the competent authority. Except in the case of a transfer following the death of the incumbent, where the transfer is submitted to the competent authority for registration after the time limit fixed by the Member State, entitlement to the production quota statement shall take effect from the following harvest'.

6. Article 40(3) is replaced by the following:

'3. The expenditure referred to in the first, second and third indents of paragraph 2 must be at least 30 % of the total specific aid for the 1999 harvest, 40 % for the 2000 harvest and 50 % for subsequent harvests'.

7. In Article 50, paragraphs 1 and 2 are replaced by the following and the following paragraphs 2a and 2b are added:

'1. If checks reveal that the tobacco was not replanted on the parcel indicated in the cultivation contract until after 15 June of the year of harvest, the individual producer shall loser:

(a) 50 % of the premium for the current harvest, if replanting was carried out by 30 June,

(b) all entitlement to the premium for the current harvest, if replanting was, carried out after 30 June but by 30 July.

Where individual producers fail to grow tobacco or where replanting takes place after 30 July of the current harvest year, they shall lose all entitlement to the premium for the current harvest and to a production quota for the following harvest.

2. Where the area actually cultivated falls short of the area declared by more than 10 %, the premium to be paid to the producer in question for the current harvest and the quota for the subsequent harvest shall be reduced by twice the discrepancy found.

2a. Except where paragraph 2 applies, where the parcel on which the tobacco is grown is different from the parcel indicated in the registered cultivation contract, the premium to be paid to the producer concerned for the current harvest shall be reduced by 5 %.

2b. Where the penalties referred to in paragraphs 1, 2 and 2b are applied to an individual producer who is a member of a producer group, the specific aid to the producer group to which that producer belongs shall be reduced by an amount equal to half the reduction applied to the producer. Where such penalties are applied for more than two consecutive years, they shall be doubled from the third year'.

8. In Annex V, point B is replaced by the point B given in the Annex to this Regulation.

Article 2

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

Article 1 shall apply from the 1999 harvest, except for paragraphs 1, 2, 3, 5 and 7 which shall apply from the 2000 harvest.

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

Done at Brussels, 12 October 1999.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX

'(B) Relation between the variable part and the premium

1999

	I *(Flue-cured)*	II *(Light air-cured)*	III *(Dark air-cured)*	IV *(Fire-cured)*	V *(Sun-cured)*	Other		
						VI Basmas	VII Katerini	VIII K. Koulak
Italy	20 %	20 %	20 %	20 %	25 %		15 %	
Greece	20 %	20 %			25 %	15 %	15 %	15 %
Spain	20 %	20 %	20 %	20 %				
Portugal	20 %	20 %						
France	20 %	20 %	20 %					
Germany	20 %	20 %	20 %					
Belgium		20 %	20 %					
Austria	20 %	20 %	20 %					

2000

	I *(Flue-cured)*	II *(Light air-cured)*	III *(Dark air-cured)*	IV *(Fire-cured)*	V *(Sun-cured)*	Other		
						VI Basmas	VII Katerini	VIII K. Koulak
Italy	25 %	25 %	25 %	25 %	35 %		20 %	
Greece	25 %	25 %			35 %	20 %	20 %	20 %
Spain	25 %	25 %	25 %	25 %				
Portugal	25 %	25 %						
France	25 %	25 %	25 %					
Germany	25 %	25 %	25 %					
Belgium		25 %	25 %					
Austria	25 %	25 %	25 %					

2001 and subsequent harvests

	I *(Flue-cured)*	II *(Light air-cured)*	III *(Dark air-cured)*	IV *(Fire-cured)*	V *(Sun-cured)*	Other		
						VI Basmas	VII Katerini	VIII K. Koulak
Italy	35 %	35 %	40 %	32 %	45 %		30 %	
Greece	35 %	35 %			45 %	30 %	30 %	30 %’
Spain	35 %	35 %	40 %	32 %				
Portugal	35 %	35 %						
France	35 %	35 %	40 %					
Germany	35 %	35 %	40 %					
Belgium		35 %	40 %					
Austria	35 %	35 %	40 %					