Commission Implementing Regulation (EU) No 957/2011 of 26 September 2011 amending Regulation (EU) No 1272/2009 as regards the buying-in and sale of butter and skimmed milk powder

COMMISSION IMPLEMENTING REGULATION (EU) No 957/2011

of 26 September 2011

amending Regulation (EU) No 1272/2009 as regards the buying-in and sale of butter and skimmed milk powder

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation)[(1)], and in particular Article 43(d), (f) and (j) in conjunction with Article 4 thereof,

Whereas:

(1) In accordance with Article 4(1)(b) of Commission Regulation (EC) No 884/2006 of 21 June 2006 laying down detailed rules for the application of Council Regulation (EC) No 1290/2005 as regards the financing by the European Agricultural Guarantee Fund (EAGF) of intervention measures in the form of public storage operations and the accounting of public storage operations by the paying agencies of the Member States[(2)], the EAGF finances expenditure on the physical operations referred to in Annex V to that Regulation on the basis of standard amounts, provided the corresponding expenditure has not been fixed under the applicable sectoral agricultural legislation.

(2) The standard amounts set and notified to the Member States for 2010 were calculated on the basis of the rules applicable before 1 March 2010. On that date the rules regarding the buying-in and the sales of products for and from intervention, including new rules regarding the costs to be borne by intervention agencies and operators, as established by Commission Regulation (EU) No 1272/2009 of 11 December 2009 laying down common detailed rules for the implementation of Council Regulation (EC) No 1234/2007 as regards buying-in and selling of agricultural products under public intervention[(3)] became applicable for the dairy sector.

(3) In order to take account of this situation regarding sales, Commission Regulation (EU) No 569/2010 of 29 June 2010 derogating from Regulation (EU) No 1272/2009 as regards sales by tender of butter and skimmed milk powder provided for respectively by Regulation (EU) No 446/2010 and Regulation (EU) No 447/2010[(4)] introduced a derogation from Regulation (EU) No 1272/2009 on the relevant rules for the sales by tender of butter and skimmed milk powder for tenders submitted until 21 September 2010.

Changes to legislation: *Commission Implementing Regulation (EU) No 957/2011 is up to date with all changes known to be in force on or before 24 March 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(4) In order to provide time for the further examination of the uniform application of the rules regarding the costs to be borne by the intervention agencies and operators regarding the buying-in and the sale of butter and skimmed milk powder for and from intervention, the derogation introduced by Regulation (EU) No 569/2010 was extended until the end of the 2011 accounting year by Commission Regulation (EU) No 826/2010 of 20 September 2010 derogating from Regulation (EU) No 1272/2009 as regards buying-in and sales of butter and skimmed milk powder[(5)].

(5) An on-the-ground examination of the physical operations involved when butter and skimmed milk powder are removed from an intervention storage site was carried out. It showed that the movement of the product from the storage cell and the subsequent loading of vehicles has to be considered as a single operation. It also showed that it is not appropriate to disaggregate the cost of moving the product from the storage cell from the cost of loading of the vehicle. The same situation applies when the products are delivered to the intervention store, unloaded from vehicles and moved to the storage cell. Therefore, it is necessary to amend Regulation (EU) No 1272/2009 to reflect this situation and to ensure coherence with Regulation (EC) 884/2006.

(6) In order to provide for continuity of application, this Regulation should apply from the day following the expiry of Regulation (EU) No 826/2010.

(7) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Common Organisation of Agricultural Markets,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EU) 1272/2009 is amended as follows:

1. In Article 28(3), the third subparagraph is replaced by the following:

   The cost incurred in unloading the butter or skimmed milk powder at the loading bay of the storage place shall be borne by the paying agency.

2. In Article 42(1), point (e) is replaced by the following:

   (e) it indicates the price in euro tendered per unit of measure, rounded to no more than two decimal places, exclusive of VAT:

      (i) in the case of cereals and rice, for the product loaded onto the means of transport;

      (ii) in the case of butter or skimmed milk powder, for the product supplied on pallets at the loading bay of the storage place or, if necessary, supplied on pallets loaded onto the means of transport where this concerns a lorry or railway wagon; or

      (iii) for the other products delivered to the loading-bay of the storage place;

3. In Article 52, paragraph (1) is replaced by the following: