Commission Regulation (EC) No 1468/2006 of 4 October 2006 amending Regulation (EC) No 595/2004 laying down detailed rules for applying Council Regulation (EC) No 1788/2003 establishing a levy in the milk and milk products sector

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THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1788/2003 of 29 September 2003 establishing a levy in the milk and milk products sector[(1)], and in particular Articles 3(3) and 24 thereof,

Whereas:

(1) In order to ensure harmonised implementation of the rules regarding the period of notice and conditions for withdrawal of the individual reference quantity or approval provided for in Articles 8(4) and 11(4) of Commission Regulation (EC) No 595/2004[(2)], the relevant provisions need clarification. Furthermore, to facilitate management by Member States the deadlines set up in those Articles need to be adapted.

(2) Article 10 of Regulation (EC) No 595/2004 provides for the way the fat content of milk is to be taken into account when drawing up the definitive statement of quantities. The experience has shown that some producers whose reference fat content is very high and not representative for their current dairy herd and milk production can benefit from a significant fat correction. In order to prevent the unfair use of the fat correction mechanism, a limit for the negative correction of fat should therefore be set up. It is however appropriate to apply this provision as from the 12 month period, as referred to in Article 1(1) of Regulation (EC) No 1788/2003, starting on 1 April 2007 so that the quantities of milk marketed during the current 12 month period are not affected by the new arrangements.

(3) In accordance with Article 3(1) of Regulation (EC) No 1788/2003 as amended by Regulation (EC) No 1406/2006, the levy due shall be paid by Member States in the period between 16 October to 30 November of each year. Therefore the deadline set in Article 15 of Regulation (EC) No 595/2004 in which the levy due to the European Agricultural Guarantee Fund (EAGF) has to be paid and declared should be changed.

(4) Article 26(3) of Regulation (EC) No 595/2004 provides for an update of the questionnaire in Annex I to that Regulation, duly completed pursuant to Article 8(2)(b) of Regulation (EC) No 1788/2003, to be communicated to the Commission before 1 December, 1 March, 1 June and 1 September each year. Such updates may give rise to a different amount of levy due. The way the adjusted amounts due to the European

Agricultural Guarantee Fund (EAGF) in accordance with Article 3 of Regulation (EC) No 1788/2003 have to be declared should therefore be laid down.

(5) In accordance with Article 16(1) of Regulation (EC) No 595/2004, Member States determine priority categories of producers for redistributing the excess levy on the basis of one or more objective criteria. Experience has shown that Member states need more clarity and more flexibility for the definition of priority categories.

(6) In accordance with Article 3(1) of Regulation (EC) No 1788/2003, Member States are to pay the levy into the EAGF within the limit of 99 % of the amount due. In cases where the remaining 1 % is not fully needed for cases of bankruptcy or definitive inability of producers to pay the levy, Member States should be allowed to use the remaining amount in accordance with the criteria for the distribution of the excess levy provided for in Article 13(1) of that Regulation.

(7) In accordance with Article 24(6) of Regulation (EC) No 595/2004 producers making direct sales have to keep available all records of milk and milk products which have been produced including those which have been produced but not sold or transferred. These book-keeping requirements are considered as disproportionate for some small direct sellers producing marginal quantities of less than 5 000 kg milk equivalent. These producers should therefore be exempted from the obligation of keeping records of milk or milk products not sold or transferred.

(8) Regulation (EC) No 595/2004 should therefore be amended accordingly.

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

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 595/2004 is amended as follows:

1. In Article 8, paragraph 4 is replaced by the following:

4. Where no declaration is submitted before 15 June, Member States shall within 15 working days give formal notice to the purchaser to submit such declaration within 15 days. Where no declaration is submitted at the end of that period, Member States shall either withdraw approval or require payment of an amount in proportion to the volume of milk involved and the seriousness of the irregularity.

Paragraph 3 shall continue to apply during the period of notice.

2. In Article 10, paragraph 1, the following subparagraph is inserted after the third subparagraph:

Where in application of the third subparagraph the adjusted quantity of milk delivered by the producer is less than 75 % of the quantity of the actual milk delivered and where the producer's reference fat content is above 4,5 %, the individual statement shall be drawn up on the basis of 75 % of the actual quantity delivered.

3. In Article 11, paragraph 4 is replaced by the following:

4. Where no declaration is submitted before 15 June, Member States shall within 15 working days give formal notice to the producer to submit the declaration within 15 days. Where no declaration is submitted at the end of that period, the reference quantity for direct sales of the producer concerned shall revert to the national reserve. The first subparagraph of paragraph 3 of this Article shall continue to apply during the period of notice.

4. Article 15 is amended as follows:

(a) in paragraphs 1 and 2, 'September' is replaced by 'October';

(b) paragraph 3 is replaced by the following:

3. The Member States shall declare to the European Agricultural Guarantee Fund (EAGF) the amounts resulting from the application of Article 3 of Regulation (EC) No 1788/2003 together with the expenditure declared in respect of November each year.

Where pursuant to Article 26(3) of this Regulation, the Member States communicate an update of the questionnaire provided for in paragraph 1 of that Article, the resulting adjusted amounts shall be declared to the EAGF at the latest together with the expenditure declared in respect of the month before which the questionnaire shall be communicated.

5. Article 16 is replaced by the following:

Article 16

Criteria for redistributing the excess levy

1 Where appropriate, Member States shall determine the priority categories of producers referred to in Article 13(1)(b) of Regulation (EC) No 1788/2003, on the basis of one or more of the following objective criteria:

a formal acknowledgement by the competent authority of Member State that all or part of the levy has been wrongly charged;

b the geographical location of the holding and primarily mountain areas within the meaning of Article 18 of Council Regulation (EC) No 1257/1999[(3)];

c the maximum stocking density on the holding for the purpose of extensive livestock production;

d the individual reference quantity is exceeded by less than 5 % or less than 15 000 kg, whichever is the lowest;

e the level of individual reference quantity is less than 50 % of the national average individual reference quantity;

f other objective criteria adopted by the Member State after consulting the Commission.

2 The redistribution of the excess levy shall be completed 15 months after the end of the 12 month period in question at the latest.

6. The following Article 16a is inserted: