Commission Regulation (EC) No 349/2005 of 28 February 2005 laying down rules on the Community financing of emergency measures and of the campaign to combat certain animal diseases under Council Decision 90/424/EEC

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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 1258/1999 of 17 May 1999 on the financing of the common agricultural policy[(1)], and in particular Article 3(4) thereof,

Whereas:

(1) Articles 3, 4, 6 and 11 of Council Decision 90/424/EEC of 26 June 1990 on expenditure in the veterinary field[(2)] provide for Member States to benefit, subject to compliance with certain rules, from a Community financial contribution for the eradication of diseases, in the situations described in those Articles.

(2) In accordance with Article 6(3) and Article 11(5) of Decision 90/424/EEC, decisions relating to such financial contributions must set out the eligible costs, and Articles 4 and 11 refer to the provisions, particularly the procedural provisions, of Article 3.

(3) By virtue of Article 40a of Decision 90/424/EEC, expenditure subject to funding under the terms of that Decision is managed directly by the Commission, in accordance with Article 148 of Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities[(3)].

(4) However, Regulation (EC) No 1258/1999 does not include any rules on the management of such appropriations. Furthermore, Decision 90/424/EEC lays down eligibility conditions for Community financial contributions. Those conditions need to be clarified.

(5) With a view to achieving simplification and transparency in the financial management of these appropriations, ensuring equal treatment for Member States and avoiding the risk of overvaluing animals or products eligible for compensation, it would appear appropriate to provide detailed clarifications and to lay down rules applicable to requests for reimbursement submitted by Member States, especially with regard to the period within which payment should be made to the owner of the animals or products, and the amounts eligible for Community financial support.

(6) In order to ensure sound financial management, rapid information on disease management is needed, and in particular regular estimates of the expenditure incurred by Member States.

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EC) No 349/2005. (See end of Document for details)*

(7) Under Article 3(2) of Regulation (EC) No 1258/1999, veterinary and plant health measures undertaken in accordance with Community rules must be financed by the Guarantee section of the European Agricultural Guidance and Guarantee Fund. Articles 8 and 9 of that Regulation apply for the purposes of financial control.

(8) In view of the special characteristics of equidae breeding and their consequences for the management of equidae diseases, it is necessary to exclude equidae from the scope of this Regulation, without prejudice to the provisions of Decision 90/424/EEC.

(9) It is necessary to specify the rate to be applied when converting requests for reimbursement submitted in national currencies within the meaning of Article 1(d) of Council Regulation (EC) No 2799/98 of 15 December 1998 establishing agrimonetary arrangements for the euro[(4)].

(10) The rules for the conduct of financial audits need to be specified.

(11) The Commission should have the possibility of adjusting the deadlines and reduction rates for eligible expenditure contained in this Regulation, where well-founded justifications are put forward by Member States, especially in connection with the adaptation of administrative provisions.

(12) The measures provided for in this Decision are in accordance with the opinion of the Committee of the European Agricultural Guidance and Guarantee Fund,

HAS ADOPTED THIS REGULATION:

Article 1

Scope

[[F1]1 This Regulation applies to Community financial contributions granted to Member States in respect of eligible expenditure as defined in Articles 3, 4 and 5, for disease eradication measures in the situations referred to in:

a Article 3(1) and Article 3a(1) of Decision 90/424/EEC, with the exception of equidae diseases; and

b Article 4(1) and (2), Article 6(2) and Article 11(1) of that Decision.**]**

2 Without prejudice to the adoption of additional eligibility criteria which may be laid down by decisions under Articles 3(4), 6(2) and (3) and 11(4) of Decision 90/424/EEC (hereinafter referred to as 'specific decisions'), application of this Regulation may be extended, through such decisions, to the financing of measures other than those referred to in paragraph 1 of this Article, and in particular:

a to compensation for losses referred to in point (a)(v) of Article 11(4) of Decision 90/424/EEC in the event of vaccination; and

b to operational expenditure associated with the measures referred to in Articles 3(2a) and 6(2) of Decision 90/424/EEC.

3 This Regulation shall not prejudice the principle that the eligibility of expenditure, incurred and covered by Member States, for a Community financial contribution is subject to compliance with Community rules.

Textual Amendments

F1 Substituted by Commission Regulation (EC) No 770/2008 of 1 August 2008 amending Regulation (EC) No 349/2005 laying down rules on the Community financing of emergency measures and of the campaign to combat certain animal diseases under Council Decision 90/424/EEC.

Article 2

Definitions

For the purposes of this Regulation the following definitions shall apply:

(a) 'swift and adequate compensation': payment, within 90 days of the slaughter of the animals, of compensation corresponding to the market value of the animals;

(b) 'market value': the price which the owner would normally have been able to obtain for the animal immediately before it became infected or was slaughtered, taking account of its fitness, quality and age;

(c) **[**[X1]'reasonable expenditure': costs incurred in purchasing equipment or services at prices that are not disproportionate to the market value before diagnosis of the disease;**]**

(d) **[**[F1]'necessary expenditure': costs incurred in purchasing equipment or services referred to in the first, second and third indents of Article 3(2) of Decision 90/424/EEC, in the second indent of Article 3a(3) of that Decision, and in points (a)(i) to (iv) and point (b) of Article 11(4) thereof, where their nature and direct link with eligible expenditure as defined in Article 3 of this Regulation have been shown;**]**

(e) 'compulsory slaughter': compulsory slaughter in declared areas and preventive slaughter if explicitly ordered and carried out owing to a specific health risk (as a result of contact, adjacent location, suspicion or suppressive vaccination).

The definitions in points (a) to (d) shall also apply in the event of compulsory destruction of eggs.

Editorial Information

X1 Substituted by Corrigendum to Commission Regulation (EC) No 349/2005 of 28 February 2005 laying down rules on the Community financing of emergency measures and of the campaign to combat certain animal diseases under Council Decision 90/424/EEC (Official Journal of the European Union L 55 of 1 March 2005).

Textual Amendments

F1 Substituted by Commission Regulation (EC) No 770/2008 of 1 August 2008 amending Regulation (EC) No 349/2005 laying down rules on the Community financing of emergency measures and of the campaign to combat certain animal diseases under Council Decision 90/424/EEC.

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EC) No 349/2005. (See end of Document for details)*

Article 3

Expenditure eligible for Community financial support

Member States shall benefit from Community financial support in respect of the following:

(a) **[**[F1]swift and adequate compensation to owners forced to slaughter their animals or, where applicable, destroy eggs, in accordance with the first and seventh indents of Article 3(2), the first indent of Article 3a(3), and point (a)(i) of Article 11(4) of Decision 90/424/EEC;

(b) operational expenditure paid out in connection with the compulsory slaughter and destruction of animals and contaminated products, cleaning and disinfecting of buildings, and cleaning and disinfecting or, where necessary, destruction of contaminated equipment, in accordance with the first, second and third indents of Article 3(2), the second indent of Article 3a(3), and points (a)(i) to (iv) and (b) of Article 11(4) of Decision 90/424/EEC;**]**

(c) expenditure paid out in connection with other measures capable of adoption in the context of, and in accordance with, the conditions laid down in specific decisions relating to the Community financial contribution to such measures, and in particular expenditure on any vaccination measures.

Textual Amendments

F1 Substituted by Commission Regulation (EC) No 770/2008 of 1 August 2008 amending Regulation (EC) No 349/2005 laying down rules on the Community financing of emergency measures and of the campaign to combat certain animal diseases under Council Decision 90/424/EEC.

Article 4

Calculation of the maximum eligible compensation per animal

1 The unit value per animal or product taken into account in calculating Community financial support shall be restricted to an average unit value calculated on the basis of the total amount of compensation for the animals or products concerned, divided by the number of corresponding animals or products. The amount shall not exceed:

a EUR 900 per bovine animal slaughtered;

b EUR 125 per pig slaughtered;

c EUR 100 per sheep or goat slaughtered;

d EUR 2,20 per laying hen slaughtered; EUR 1,20 per broiler hen slaughtered,

e EUR 0,20 per hatching egg destroyed; EUR 0,04 per table egg destroyed.

Where the average unit value calculated exceeds the maximum amounts stipulated in the first subparagraph, and where it is justified to do so on the basis of the market values communicated by Member States pursuant to Article 6(1) and the observations made in connection with the audits referred to in Article 10, the Commission shall take the calculated value as the basis for calculating the Community contribution.

2 The maximum amounts laid down in paragraph 1 shall be updated and supplemented by the Commission in respect of all or some of the animal categories or products, in order to take account of market trends and the inflation rate.

Article 5

Calculation of Community support for operational expenditure

1 Community financial support for the expenditure referred to in Article 3(b) and (c) shall cover only necessary and reasonable expenditure relating to the eligible items of expenditure set out in Annex I.

2 Calculation of the amount of Community financial support shall exclude expenditure presented by the Member State, and in particular:

a value added tax and other taxes;

b salaries of civil servants or public employees;

c expenditure arising from the use of public equipment, in particular means of transport, with the exception of consumables;

d compensation for non-compulsory slaughter;

e compensation paid in addition to other Community support, such as slaughter premiums, in contravention of Community rules;

f compensation linked to the destruction or renovation of farm buildings, infrastructure costs and costs linked to financial losses or unemployment associated with the presence of the disease or a ban on restocking.

Article 6

Information required prior to the granting of Community financial support

1 If one of the situations referred to in Article 1(1) is identified in the territory of a Member State, the Member State shall inform the Commission, within 30 days of official confirmation of the first outbreak, of the categories of animals or products concerned and the market values for each of those categories.

2 No later than two months after official confirmation of the first outbreak, and every two months thereafter, the Member State shall forward an electronic file in the format shown in Annex IIa containing the following core information on the cost of compensation: number of slaughtered animals per category; where applicable the number of eggs destroyed; and the total amount of compensation already granted for each category.

3 No later than three months after official confirmation of the first outbreak, and every two months thereafter, the Member State shall forward an electronic file in the format shown in Annex IIb containing the following core information on operational expenditure: amounts paid for slaughtered animals, transport and destruction of carcasses, eggs and milk, cleaning, disinfecting and disinsectisation of the holding, destruction of feedingstuffs and, where applicable, destruction of equipment.