Commission Regulation (EC) No 1432/2004 of 10 August 2004 amending Regulations (EC) No 2366/98 laying down detailed rules for the application of the system of production aid for olive oil for the 1998/99 to 2003/04 marketing years and (EC) No 2768/98 on the aid scheme for the private storage of olive oil

COMMISSION REGULATION (EC) No 1432/2004

of 10 August 2004

amending Regulations (EC) No 2366/98 laying down detailed rules for the application of the system of production aid for olive oil for the 1998/99 to 2003/04 marketing years and (EC) No 2768/98 on the aid scheme for the private storage of olive oil

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 136/66 of 22 September 1966 on the establishment of a common organisation of the market in oils and fats[(1)], and in particular Articles 5 and 12a thereof,

Having regard to Council Regulation (EC) No 1638/98 of 20 July 1998 amending Regulation No 136/66/EEC on the establishment of a common organisation of the market in oils and fats[(2)], and in particular Article 4 thereof,

Whereas:

(1) Commission Regulation (EC) No 2366/98[(3)] lays down detailed rules for applying the system of production aid for olive oil provided for in Article 5 of Regulation 136/66/EEC for the 1998/99 to 2003/04 marketing years.

(2) Since Council Regulation (EC) No 865/2004 of 29 April 2004 on the common organisation of the market in olive oil and table olives and amending Regulation (EEC) No 827/68 amends Article 5 of Regulation 136/66/EEC to continue the existing production aid scheme for the 2004/05 marketing year, application of Regulation (EC) No 2366/98 should be extended to cover that marketing year also.

(3) Only areas planted to olives before 1 May 1998, areas under replacement olive trees and areas covered by a programme approved by the Commission are eligible for the aid, in accordance with Article 4 of Regulation (EC) No 1638/98. In the case of Cyprus and Malta, the final date is set at 31 December 2001, following an amendment made by the Act of Accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia. The implementing rules relating to Article 4 of that Regulation should be adapted accordingly.

(4) Article 5 of Regulation (EC) No 2366/1998 requires olive growers to submit declarations when they plant new trees and Member States to provide the Commission with information on such planting and to impose penalties for infringements. For the purposes of these obligations, the above Article 5 lays down a timetable based, in particular, on the date of entry into force of Regulation (EC) No 2366/1998 and 1 May

1998 as the date from which new planting is excluded from all future aid schemes, unless covered by a programme approved by the Commission. Certain of the dates provided for in Article 5 should be adapted to enable the new producer Member States to apply it, taking account of the final date fixed for Cyprus and Malta.

(5) Article 12a of Regulation (EC) No 2366/1998 should also be adjusted in order to calculate the production of additional olive trees not eligible for aid during the 2003/04 marketing year.

(6) Commission Regulation (EC) No 2768/98[4] lays down special terms for implementing the private storage arrangements for olive oil provided for in Article 12a of Regulation 136/66/EEC until 31 October 2004.

(7) Since that scheme is to continue for the 2004/05 marketing year, the date referred to in Article 1(2) of Regulation (EC) No 2768/98 should be amended.

(8) Regulations (EC) Nos 2366/98 and 2768/98 should therefore be amended accordingly.

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

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 2366/98 is hereby amended as follows:

1. in the title, '2003/04' is replaced by '2004/05';

2. Article 4 is amended as follows:

   (a) the first subparagraph of paragraph 1 is replaced by the following:

   > 1. To constitute a basis for the payment of aid to olive growers under the common organisation of the market in oils and fats in force from 1 November 2001, additional olive trees planted after 1 May 1998, except in the case of Cyprus and Malta, for which the date shall be 31 December 2001, must be identified geographically and included in a national or regional programme approved by the Commission under the procedure laid down in Article 38 of Regulation No 136/66/EEC.;

   (b) the first sentence of the first subparagraph of paragraph 2 is replaced by the following:

   > 2. For the purposes of Article 4 of Regulation (EC) No 1638/98, "additional olive tree" means an olive tree planted after 1 May 1998, except in the case of Cyprus and Malta, for which the date shall be 31 December 2001, other than one replacing an olive tree grubbed after 1 May 1998, except in the case of Cyprus and Malta, for which the date shall be 31 December 2001:;

3. Article 5 is amended as follows:

   (a) the following subparagraph is inserted after the first subparagraph:

   > However, in the case of Cyprus, Malta and Slovenia, the declaration referred to in the first subparagraph shall be lodged before 1 December

2004 and shall cover new planting from 1 November 1999 to 31 October 2004 for Cyprus and Malta and from 1 November 1995 to 31 October 2004 for Slovenia. The declaration shall be accompanied by documents proving to the satisfaction of the Member State that:

— either the planting or part thereof was carried out before 31 December 2001 in the case of Cyprus and Malta or before 1 May 1998 in the case of Slovenia,

— or the planting accompanied by grubbing as referred to in the second indent of the first subparagraph was carried out after 31 December 2001 and before 1 November 2004 in the case of Cyprus and Malta, or after 1 May 1998 and before 1 November 2004 in the case of Slovenia.;

(b) the first subparagraph of paragraph 2 is replaced by the following:

2. From 1 November 1998, the olive growers concerned shall lodge prior declarations of intention to plant, indicating the number and location of the olive trees in question and, where applicable, the number and location of olive trees to be grubbed, or which have been grubbed and not replaced after 1 May 1998, except in the case of Cyprus and Malta, for which the date shall be 31 December 2001.;

(c) Paragraph 4 is replaced by the following:

4. Member States shall communicate to the Commission the measures taken to monitor the application of paragraphs 2 and 3 and to penalise offenders before 31 October of the marketing year concerned, except in the case of Cyprus, Malta and Slovenia, for which the date shall be 30 June 2005.;

4. the following subparagraphs are added to Article 12a:

For the 2003/04 marketing year, the estimate of virgin olive oil production of additional olive trees as referred to in the first subparagraph shall be determined by multiplying the average yield per adult olive tree by the sum of:

— the number of additional olive trees planted between 1 May and 31 October 1998, multiplied by 0,90, and

— the number of additional olive trees planted between 1 November 1998 and 31 October 1999, multiplied by 0,70, and

— the number of additional olive trees planted between 1 November 1999 and 31 October 2000, multiplied by 0,35.

For the 2003/04 marketing year, the average yield per adult olive tree shall be calculated by dividing the quantity of virgin olive oil produced, as referred to in Article 12(1)(b), by the sum of:

— the number of olive trees in production planted before 1 May 1998, and

— the number of olive trees in production planted between 1 May and 31 October 1998, multiplied by 0,90, and

— the number of additional olive trees planted between 1 November 1998 and 31 October 1999, multiplied by 0,70, and

— the number of olive trees in production planted between 1 November 1999 and 31 October 2000, multiplied by 0,35.;

5. in the second subparagraph of Article 14(1), ‘2003/04’ is replaced by ‘2004/05’;