COMMISSION REGULATION (EC) No 816/2004

of 29 April 2004

amending Regulation (EC) No 2707/2000 laying down rules for applying Council Regulation (EC) No 1255/1999 as regards Community aid for supplying milk and certain milk products to pupils in educational establishments

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1255/1999 of 17 May 1999 on the common organisation of the market in milk and milk products[1], and in particular Article 15 and Article 47, second indent thereof,

Whereas:

(1) During stays at holiday camps pupils are not authorised to benefit from the aid granted in accordance with Commission Regulation (EC) No 2707/2000[2]. In order to clarify the application of this provision it should be stressed that pupils should benefit from the aid during school days. Moreover, the total number of school days should be confirmed by the educational authority or by the educational establishment of each Member State, excluding holidays.

(2) In order to ensure that the products eligible for an aid under Regulation (EC) No 2707/2000 offer a high level of health protection, those products should be prepared in line with the requirements laid down in Council Directive 92/46/EEC of 16 June 1992 laying down the health rules for the production and placing on the market of raw milk, heat-treated milk and milk-based products, and carry the health mark required by that Directive**.**

(3) In view of the accession of new Member States certain new products should be made eligible, taking into account of the need to ensure market balance and of consumption habits in those Member States. The aid rates should be fixed taking into account the value of the milk components of those products.

(4) A transitional provision should be included in order to facilitate national administrations and those charged with implementing the scheme to process the aid payments in an appropriate manner in the case of a change in the aid rate at the end of the school year 2003/2004.

---

1 OJ L 160, 26.6.1999, p. 48. Regulation as last amended by Regulation (EC) No 1787/2003 (OJ L 270, p. 121)

2 OJ L 311, 12.12.2000, p. 37. Regulation as last amended by Regulation (EC) No 1787/2003 (OJ L 270, p. 122)

(5) In order to simplify administrative work of the Member States, the calculation of entitlement for the aid on the basis of applicant's roll should be made possible where the aid is applied by the supplier of the products or by organisation acting on behalf of one or more schools or education authorities.

(6) The maximum prices set by the Member States, which may be paid by the beneficiaries are transmitted to the Commission for monitoring purposes. The periodicity of such communications should be specified.

(7) Regulation (EC) No 2707/2000 provides for reporting of quantities subsidised but not for reporting maximum permissible quantities. The latter should be made available in order to assess take-up of the scheme.

(8) To ensure uniform application of the aid scheme, it should be clarified, as regards fresh cheese, that only non-flavoured cheese is eligible to the aid. . The annex to Regulation (EC) No 2707/2000 should therefore be amended. However, the application of the amended provision should follow the change of school year.

(9) Regulation (EC) No 2707/2000 should therefore be amended accordingly.

(10) The Management Committee for Milk and Milk Products has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 2707/2000 is amended as follows:

(1) Article 2(2) is replaced by the following:

"2. The beneficiaries specified in paragraph 1 shall benefit from the aid during all school days. The total number of school days shall be confirmed by the educational authority or by the educational establishment excluding holidays. Pupils shall not benefit from the aid during stays at holiday camps organised by the establishment or its education authority."

(2) Article 3 is amended as follows:

(a) Paragraphs 1 and 2 are replaced by the following:

"1. Member States shall pay the aid on the Category I and V products listed in the Annex I

2. Member States may pay the aid on products of categories II, III, IV and VI to XII listed in Annex I."

(b) Paragraph 4 is replaced by the following:

"4. Member States may authorise the addition of a maximum of 5 mg of fluorine per kilogram to Category I to VII products."

(c) The following paragraph 6 is added:

"6. An aid shall only be granted on the products listed in the Annex I to this Regulation if the products comply with the requirements of Council Directive 92/46/EEC**, and in particular the requirements concerning preparation in an approved establishment and the health marking requirements specified at A in Chapter IV of Annex C of that Directive.

** OJ L 268, 14.09.1992 "

(3) Article 4 is amended as follows:

(a) Paragraph 1 is replaced by the following:

"1. The aid rates for the periods from 1 May 2004 to 30 June 2004, from 1 July 2004 to 30 June 2005, from 1 July 2005 to 30 June 2006, from 1 July 2006 to 30 June 2007 and from 1 July 2007 on are set out in Annex II to this Regulation"

(b) Paragraph 3 is replaced by the following:

"3. If an aid rate in euro is altered, the rate in force on the first day of the month shall apply to all quantities supplied during that month.

However, for school year 2003/2004, the aid rate in force on the first day of June may be applied during the month of July if a school year of the Member State ends in July."

(4) Article 5 is replaced by the following:

"Article 5

1. In order to comply with the maximum 0.25 litre quantity referred to in Article 14(4) of Regulation (EC) No 1255/1999, the total quantity of milk products for which there is entitlement to the aid during the period covered by an application shall be calculated on the basis of the number of pupils entered on the establishment's roll, or in the cases of application of Article 6(2) (c) and (d), on the basis of applicant's roll.

2. For products of categories VIII to XII listed in Annex I the calculation shall use the following equivalences:

a) category VIII: 100 kg = 300 kg of whole milk

b) category IX: 100 kg = 765 kg of whole milk

c) category X: 100 kg = 850 kg of whole milk

d) category XI: 100 kg = 935 kg of whole milk.

e) category XII: 100 kg = 750 kg of whole milk"

(5) Article 14(1) is replaced by the following:

"1. Member States shall take whatever action is necessary to ensure that the amount of the aid is duly reflected in the price paid by the beneficiary.

To this end they shall set maximum prices to be paid by pupils for the various products listed in Annex I that are distributed on their territory. The Member State shall fix the maximum prices at the beginning of each school year, or, by 1 October at the latest. In the cases where the Member States provide these products free of charge, the maximum prices need not to be fixed."

(6) Article 15(2) is replaced by the following:

(a) Point (a) is replaced by the following:

"(a) the quantities on which aid has been paid during the previous school year as well as maximum permissible quantity";

(b) The following point c) is added:

"(c) The maximum prices referred to in the second subparagraph of Article 14(1) for the current school year with evidence in support of them."

(7) The Annex is replaced by the Annex I to this Regulation.

(8) The text set out in Annex II to this Regulation is added as Annex II.

Article 2

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

It shall apply from 1 May 2004.

However aid granted to flavoured fresh cheese under Category VI of the Annex to Regulation (EC) No 2707/2000, before the date of application of the present Regulation, may continue to be granted until 31 August 2004.

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

Done at Brussels, 29 April 2004.

For the Commission
Franz FISCHLER
Member of the Commission