

COUNCIL REGULATION (EEC) No 3493/90

of 27 November 1990

laying down general rules for the grant of premiums to sheepmeat and goatmeat producers

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 3013/89 of 25 September 1989 on the common organization of the market in sheepmeat and goatmeat⁽¹⁾, and in particular Article 5 (8) thereof,

Having regard to the proposal from the Commission,

Whereas Article 5 of Regulation (EEC) No 3013/89 lays down that to offset any income loss by sheepmeat and goatmeat producers a premium is to be granted; whereas the beneficiaries under the said measure should therefore be specified;

Whereas the same Article lays down limits as regards eligibility for the premium which vary according to whether the beneficiary's holding is located in a less-favoured area within the meaning of Council Directive 75/268/EEC of 28 April 1975 on mountain and hill farming and farming in certain less-favoured areas⁽²⁾, as last amended by Regulation (EEC) No 797/85⁽³⁾ or not; whereas, so as to ensure equal treatment of applicants, rules should be laid down for the application of the said limits where the holding is located partly in a less-favoured area and, by analogy, in cases where the beneficiary practises transhumance of his flock to a less-favoured area during a sufficiently long period; whereas, to that end, the criteria on which a beneficiary is to be regarded as being engaged in farming on terms similar to those of farmers whose holdings are located entirely in less-favoured areas should be laid down; whereas, therefore, the term 'holding' must be defined; whereas the conditions for the application of the abovementioned limits in the case of producer groups should also be specified;

Whereas the practical application of the present definitions of the terms 'eligible ewe', 'eligible she-goat' and 'eligible female of the ovine species other than eligible ewe' laid down in Council Regulation (EEC) No 872/84 of 31 March 1984 laying down general rules for the granting of premiums to sheepmeat producers⁽⁴⁾, as last amended by Regulation (EEC) No 1970/87⁽⁵⁾, results in difficulties of control; whereas those terms must be re-

defined in view of experience gained; whereas discussions on formulating new definitions have revealed administrative difficulties that are as yet unresolved; whereas it should therefore be stipulated that the present definitions will remain in force for the 1991 marketing year, pending a Council decision to be taken not later than 31 May 1991;

Whereas, for reasons of efficient management, provisions should be made to postpone payment of premiums to the following marketing year in cases where the unit amount is very small; whereas, however, where the amount of the advance payments made during a marketing year is higher than the amount of the premium payable in respect of the marketing year in question, provision should be made for the difference to be deducted from the amount of the premium payable in respect of the following marketing year,

HAS ADOPTED THIS REGULATION:

Article 1

For the purposes of this Regulation:

1. 'sheepmeat and/or goatmeat producer' means: an individual farmer, whether a natural or a legal person, who, on a permanent basis, assumes the risks and/or organizes the rearing of at least 10 ewes or, in the case of the areas referred to in Article 5 (5) of Regulation (EEC) No 3013/89, 10 ewes and/or she-goats within the territory of a single Member State. For the purposes of applying this Regulation, the farmer is the owner of the flock, except for special cases still to be determined which arise from contractual forms provided for in agricultural law or covered by national customs and practices under which the farmer, while assuming the risks and/or organization of the rearing, is not the owner of all or part of the flock;
2. 'producer group' means: any form of group, association or cooperation involving reciprocal rights and obligations between producers of sheepmeat and/or goatmeat. Associations the object of which is the joint rearing of the flock in a such a manner that ownership of it cannot be attributed to its members individually are also considered to be producer groups, provided that it is established that those members personally assume the risks and/or the organization of rearing;

⁽¹⁾ OJ No L 289, 7. 10. 1989, p. 4.

⁽²⁾ OJ No L 128, 19. 5. 1975, p. 1.

⁽³⁾ OJ No L 93, 30. 3. 1985, p. 1.

⁽⁴⁾ OJ No L 90, 1. 4. 1984, p. 40.

⁽⁵⁾ OJ No L 184, 3. 7. 1987, p. 23.

3. 'holding' means : all production units managed by the producer or made available to him and located within the territory of one and the same Member State.

The Commission shall, acting in accordance with the procedure laid down in Article 30 of Regulation (EEC) No 3013/89, adopt the implementing provisions for this Article and in particular for the special cases referred to in point 1 thereof and the arrangements for fixing the limits provided for in Article 5 (7) of Regulation (EEC) No 3013/89 with regard to the producer groups.

Article 2

1. The limits laid down in Article 5 (7) of Regulation (EEC) No 3013/89 shall apply individually to each producer even where the latter is a member of one or more producer groups. In the latter case a producer may qualify only once for the premium at the full rate within the abovementioned limits.

2. 'Producer in a less-favoured area' means any producer of sheepmeat or goatmeat within the meaning of Article 1 (1) whose holding is located in the areas defined pursuant to Article 3 (3), (4) and (5) of Directive 75/268/EEC.

A producer of sheepmeat or goatmeat whose holding has at least 50 % of its agricultural area utilized for farming within the meaning of Article 5b of Council Regulation (EEC) No 571/88 of 29 February 1988 on the organization of Community surveys on the structure of agriculture holdings between 1988 and 1997 ⁽¹⁾ as amended by Regulation (EEC) No 807/89 ⁽²⁾ in such areas and is used for sheep and/or goat production shall also be regarded as a producer in a less-favoured area.

3. Furthermore, a farmer practising transhumance shall be regarded as a producer in a less-favoured area provided that :

- at least 90 % of the animals for which the premium is applied are grazed for at least 90 consecutive days in the areas defined in Article 3 (3), (4) and (5) of Directive 75/268/EEC, and
- the seat of the holding is situated in a well-defined geographical area for which it has been established that transhumance is a traditional practice of sheep and/or goat rearing and that these animal movements

are necessary owing to the absence of forage in sufficient quantity during the transhumance period.

4. The Commission shall, acting in accordance with the procedure laid down in Article 30 of Regulation (EEC) No 3013/89, determine in particular the geographical areas referred to in paragraph 3.

Article 3

The ewe premiums referred to in Article 5 of Regulation (EEC) No 3013/89 shall be paid only if they exceed an amount to be determined in accordance with the procedure laid down in Article 30 of the said Regulation ; where a premium is less than this amount, it shall be added to the premium payable per ewe in respect of the following marketing year in the region or regions concerned.

Article 4

Where it is noted, after the end of a marketing year, that the amount of the advance payments aid pursuant to Article 5 (6) of Regulation (EEC) No 3013/89 is higher than the amount of the premium payable per ewe in respect of the marketing year in question, an amount corresponding to the difference shall be deducted from the amount of the premium payable per ewe to be paid in respect of the following marketing year.

Article 5

Regulation (EEC) No 872/84 is hereby repealed, with the exception of Article 1 (2), (3) and (4), and of the Annex, application of which shall be limited to the premiums to be paid in respect of the 1991 marketing year.

Not later than 31 May 1991 the Council shall adopt the definitions of the terms 'eligible ewe', 'eligible she-goat' and 'eligible female of the ovine species other than eligible ewe', which will apply to the premiums to be paid in respect of future marketing years.

Article 6

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

It shall apply to premiums paid in respect of the 1991 marketing year and subsequent marketing years.

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

Done at Brussels, 27 November 1990.

For the Council

The President

V. SACCOMANDI

⁽¹⁾ OJ No L 56, 2. 3. 1988, p. 1.

⁽²⁾ OJ No L 86, 31. 3. 1989, p. 1.