

**COMMISSION REGULATION (EC) No 131/2009****of 13 February 2009****amending Regulation (EC) No 105/2008 laying down detailed rules for the application of Council Regulation (EC) No 1255/1999 as regards intervention on the market in butter**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION:

Having regard to the Treaty establishing the European Community,

*Article 1*

Regulation (EC) No 105/2008 is amended as follows:

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) <sup>(1)</sup>, and in particular Article 43 in conjunction with Article 4 thereof,

1. Article 6 is replaced by the following:

*'Article 6*

Buying-in of butter at 90 % of the reference price pursuant to Article 18(1)(b) of Regulation (EC) No 1234/2007 shall be carried out in accordance with the provisions of this Section.'

Whereas:

(1) Article 10(1)(e) of Regulation (EC) No 1234/2007 provides for public intervention of butter.

2. In Article 7(5) the following subparagraph is added:

'Offers submitted on a Saturday, Sunday or public holiday shall be deemed to be received by the competent body on the first working day following the day on which they were submitted.'

(2) Commission Regulation (EC) No 105/2008 <sup>(2)</sup> has laid down the detailed rules concerning the public intervention of butter.

(3) Article 13(1)(c) in conjunction with Article 18(2)(d) of Regulation (EC) No 1234/2007 limit public intervention of butter at fixed price to a quantity offered of 30 000 tonnes for the period 1 March to 31 August.

3. Article 9 is amended as follows:

(a) Paragraph 1 is replaced by the following:

'1. After checking the offer, and on the fifth working day following the day of receipt of the offer to sell, the competent body shall issue a delivery order, provided that the Commission does not adopt special measures in accordance with Article 12(2).

The delivery order shall be dated and numbered and shall show:

(4) In order to comply with the limit of 30 000 tonnes it is appropriate to provide for a reflection period during which, before a decision is taken on the offers, special measures can be taken applying in particular to pending offers. Those measures may consist of closure of intervention, application of an allocation percentage and rejection of pending offers. They require swift action and the Commission should be enabled to take all necessary measures without delay.

(a) the quantity to be delivered;

(5) Regulation (EC) No 105/2008 should be amended accordingly.

(b) the final date for delivery of the butter;

(6) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for the Common Organisation of Agricultural Markets,

(c) the cold store to which it must be delivered.

<sup>(1)</sup> OJ L 299, 16.11.2007, p. 1.

<sup>(2)</sup> OJ L 32, 6.2.2008, p. 3.

Delivery orders shall not be issued for quantities that had not been notified in accordance with Article 12(1).'

(b) Paragraph 5 is replaced by the following:

'5. For the purpose of this Article, the butter shall be deemed to be delivered to the competent body on the day when the full quantity of butter covered by the delivery order enters the cold store designated by the competent body, but no earlier than the day following that on which the delivery order was issued.'

4. Article 12 is replaced by the following:

'Article 12

1. Not later than 14.00 (Brussels time) each working day, the competent body shall inform the Commission of the quantities of butter which, during the preceding working day, have been the subject of an offer to sell in accordance with Article 7.

2. In order to comply with the limits referred to in Article 13(1)(c) of Regulation (EC) No 1234/2007 the Commission shall decide, without assistance of the Committee referred to in Article 195(1) of the same Regulation:

- (a) to close intervention buying-in at fixed price;
- (b) where acceptance of the full quantity offered on a certain day would lead to the maximum quantity being exceeded, to set a single percentage by which the quantities in the offers received on that day are reduced;
- (c) where appropriate, to reject offers for which no delivery order has been issued.

By way of derogation from Article 7(6), a seller which is subject to a reduced acceptance of his offer as referred to in point (b) of this paragraph may decide to withdraw his offer within five working days from the publication of the regulation fixing the reduction percentage.'

5. In Article 13, paragraph 1 is replaced by the following:

'1. Where the Commission decides in accordance with the procedure referred to in Article 195(2) of Regulation (EC) No 1234/2007 to start buying-in butter by means of a tendering procedure pursuant to Articles 13(3) and 18(2)(d) of that Regulation, Article 2 and Article 3(1)(2)(4)(5) and (6) and Articles 4, 5, 9, 10 and 11 of this Regulation shall apply unless otherwise provided in this Section.'

6. In Article 16(2), the first subparagraph is replaced by the following:

'In the light of the tenders received for each invitation to tender, the Commission shall fix a maximum buying-in price, in accordance with the procedure referred to in Article 195(2) of Regulation (EC) No 1234/2007.'

7. In Article 18 the following paragraph is added:

'2a. Delivery orders shall not be issued for quantities that had not been notified in accordance with Article 16(1).'

8. In Article 20, paragraph 1 is replaced by the following:

'1. The competent body shall choose the nearest available cold store to the place where the butter is stored.

However, the competent body may choose another store situated within a distance of 350 km, provided that the choice of that cold store does not result in additional storage costs.

The competent body may choose a cold store situated beyond that distance if the resulting expenditure, including storage and transport costs, is lower. In that case the competent body shall notify the Commission of its choice forthwith.'

#### Article 2

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

It shall apply from 1 March 2009.

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

Done at Brussels, 13 February 2009.

For the Commission  
Mariann FISCHER BOEL  
Member of the Commission