

Commission Regulation (EC) No 2647/98 of 9 December 1998 laying down detailed rules for the application of Council Regulation (EC) No 2330/98 providing for an offer of compensation to certain producers of milk and milk products temporarily restricted in carrying out their trade and establishing the form for applications for compensation

COMMISSION REGULATION (EC) No 2647/98

of 9 December 1998

laying down detailed rules for the application of Council Regulation (EC) No 2330/98 providing for an offer of compensation to certain producers of milk and milk products temporarily restricted in carrying out their trade and establishing the form for applications for compensation

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2330/98 of 22 October 1998 providing for an offer of compensation to certain producers of milk and milk products temporarily restricted in carrying out their trade<sup>(1)</sup>, and in particular Articles 9 and 16 thereof,

Whereas, pursuant to Article 9 of Regulation (EC) No 2330/98, applications for compensation must be addressed by the producers concerned to the competent authority designated for that purpose in each Member State, using a standard form; whereas such forms must be drawn up to serve as working documents for the competent authorities, each of those authorities having the right, having regard to the differences in administrative requirements, to adapt the content;

Whereas, pursuant to Article 16 of that Regulation, the Commission was instructed to adopt detailed rules for its application and, in particular, the provisions regarding payment of the costs of the agents of the producers in question;

Whereas it is necessary to take account in the compensation offer of the fees of agents incurred by producers in pursuing their claims against the Community institutions prior to the entry into force of Regulation (EC) No 2330/98; whereas the reasons which led the Council to determine that the compensation should be calculated on a flat-rate basis apply also with regard to the costs of agents; whereas, moreover, a single agent has frequently represented a large number of producers; whereas therefore the reimbursement of fees on a flat-rate basis is considered appropriate;

Whereas those producers who brought proceedings before the Court of First Instance will have incurred higher agents' fees and should therefore receive a higher flat-rate amount; whereas in certain specific cases the possibility should also be foreseen to reimburse costs in excess of the flat-rate amount;

Whereas it is considered appropriate to introduce, by way of receipt in full and final settlement, a single document for the whole of the Community, without prejudice to the Commission's right to adjust the wording thereof in respect of a Member State if necessary;

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*Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 2647/98. (See end of Document for details)*

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Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Milk and Milk Products,

HAS ADOPTED THIS REGULATION:

*Article 1*

The form referred to in Article 9 of Regulation (EC) No 2330/98 shall be as set out in Annex I.

The competent authority may adapt the form to take account of information already at its disposal, or in order to obtain additional information or evidence necessary for the purpose of implementing the provisions of Regulation (EC) No 2330/98, and in particular Article 5(3) and (4) thereof.

*Article 2*

The costs incurred by a producer in respect of payment of an agent who has acted in his name and on his behalf in dealing with the Community institutions shall be reimbursed on a flat-rate basis at the rate of 0,5 % of the amount of the compensation referred to in Article 10 of Regulation (EC) No 2330/98, subject to a minimum of ECU 500 in the case of producers who have brought proceedings against the Community in the Court of First Instance, and a minimum of ECU 250 in other cases.

The reimbursement shall be made by the competent authority only on request by the producer in the form referred to in Article 1 and upon presentation of the bill for the agent's fees.

However, the sum paid to the producer may not exceed the amount shown on the bill and each producer may claim only the fees of one agent.

*Article 3*

Notwithstanding the provisions of Article 2, in those cases which have been the subject of a ruling by the Court of First Instance on the issue of the liability of the Community Institutions, the amount of costs may be agreed directly between the Community Institutions and the agents of the producers concerned.

*Article 4*

For the purposes of this Regulation, a body which renders services solely against payment of dues shall not be considered an agent.

*Article 5*

Subject to verifying that the agent's bill concerns costs relating to services performed prior to the entry into force of Regulation (EC) No 2330/98, the competent authority shall indicate and include in the compensation offer made to the producer the amount determined in accordance with Article 2 or, where appropriate, the amount agreed in accordance with Article 3 and notified to the competent authority.

Articles 11 and 12 of Regulation (EC) No 2330/98 shall also apply to the aforementioned sum.

*Article 6*

The statement of receipt in full and final settlement referred to in Article 13(3) of Regulation (EC) No 2330/98 shall be made on the standard form in Annex II.

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At the request of a Member State, the Commission may decide to alter the standard form in respect of that Member State in order to take account of specific relevant national provisions.

*Article 7*

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

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

Done at Brussels, 9 December 1998.

*For the Commission*

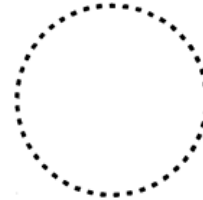
Franz FISCHLER

*Member of the Commission*

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## ANNEX I

Received on ..... 199



.....  
(Official stamp and signature of the competent authority)

**Important:** This form must reach the competent authority at the following address not later than 31 January 1999

## Application for compensation pursuant to Regulation (EC) No 2330/98

1. *Personal details*

1. Name: .....
2. First name: .....
3. Address/telephone number: .....
4. Name and address of the holding (if different from above): .....
5. Bank details (where applicable): .....

2. *Grounds for the application*

1. Did you receive a special reference quantity under Regulation (EEC) No 2055/93 ("SLOM III milk quota")?
  - yes
  - no

If the special reference quantity was not allocated to you personally, in what capacity and on what grounds are you submitting your application? Please attach relevant documents. The answers to subsequent questions should where appropriate provide the information applicable to the person who received the special reference quantity.

2. Did you still have your entire SLOM III milk quota on 1 October 1996?
  - yes
  - no

If not, why did you no longer have your SLOM III milk quota or why had your quota been reduced at that date?

- (a) Participation in a programme for the cessation of milk production?
  - yes
  - no

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If yes:

- when? .....
- for what quantity? .....

(b) Sale or lease of the whole or part of the holding?

- yes
- no

If yes:

- when? .....
- for what quantity? .....
- name and address of transferee: .....

(c) Other reason:

- give details: .....
- date: .....
- quantity: .....

If you answered yes to point (a) or (b) or (c), please attach all the relevant documents.

3. Is the SLOM III milk quota subject to re-assessment as a result of the judgment of the Court of Justice in case C-165/95 (Lay and Gage)?

- yes
- no

3. Information concerning the holding which was subject to the provisions of Regulation (EEC) No 1078/77 (SLOM holding)

1. (a) What was the date of the transfer to you of the SLOM holding or part thereof? .....
- (b) Who was the transferor? .....
- (c) In the case of a part transfer, what was the area of the SLOM holding and what was the area transferred? .....

Please attach relevant documents.

2. When did the non-marketing/conversion obligation expire? .....
3. What was the quantity on which the non-marketing/conversion premium was calculated? .....
4. Did you transfer any part of the SLOM holding, or of the part of the SLOM holding transferred to you, prior to the expiry of the non-marketing/conversion obligation?

- yes
- no

If yes:

- (a) to whom? .....
- (b) what area of land? .....

Please attach relevant documents.

5. Did you transfer any part of the SLOM holding, or of the part of the SLOM holding transferred to you, between the end of the non-marketing/conversion obligation and the allocation of the SLOM III milk quota?

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If yes:

(a) to whom? .....

(b) what area of land? .....

Please attach relevant documents.

4. *Other information required for calculating the compensation*

1. Have you applied to the Council or the Commission of the European Communities for compensation?

yes

no

If yes, when? .....

Please attach a copy of the application.

Did you receive a reply from the Council or the Commission in which it was accepted that your application interrupted the time bar laid down by Article 43 of the Statute of the Court of Justice?

yes

no

Please attach a copy of the application.

2. Have you brought an action before the Court of First Instance in Luxembourg?

yes

no

If yes, when (date of registration by the Court)? .....

Please attach a copy of the initial action.

3. Did you, before the allocation of a SLOM III milk quota, increase production in excess of the reference quantity available to you as determined under Article 8 of Regulation (EC) No 2330/98?

yes

no

If yes:

(a) for which period? .....

(b) what were the excess quantities produced? .....

(c) did you pay the levy? .....

5. *Reimbursement of costs of agents*

Do you claim reimbursement of costs of an agent?

yes

no

If yes, please attach the original bill of the agent.

I, the undersigned, hereby certify that the information given above is correct. I understand that if it is subsequently established that any of the information is incorrect, I may be liable to repay the whole or part of any compensation which I receive.

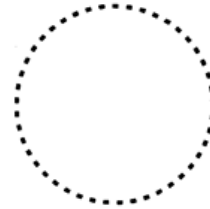
..... 199

(Signature)

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ANNEX II

Received on ..... 199



.....  
(Stamp and signature of the competent authority)

Receipt in full and final settlement, as laid down in Article 13(3) of Regulation (EC) No 2330/98

I, ....., the undersigned, hereby declare that the offer of compensation made on ..... in the sum of ..... is accepted in respect of injury incurred as a result of my participation in the non-marketing/conversion scheme introduced by Council Regulation (EEC) No 1078/77 (!) by acquiring land subject to the scheme and I expressly renounce any present or future claim in the matter, on my part or that of any of my assignees or beneficiaries, including any claim for interest or costs.

I am aware that if I have introduced proceedings against the Community institutions before the Court of First Instance, payment of the compensation will only be made after I have presented proof of the withdrawal of the proceedings to the competent authority.

Done at ....., the .....

.....  
(Signature)

**Important:** Failure to accept the offer within three months of its transmission shall mean that it shall not be binding in the future on the Community institutions concerned.

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- (1) OJ L 291, 30. 10. 1998, p. 4.



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