

COMMISSION REGULATION (EC) No 1763/2001**of 6 September 2001****amending Regulation (EC) No 1750/1999 laying down detailed rules for the application of Council Regulation (EC) No 1257/1999 on support for rural development from the European Agricultural Guidance and Guarantee Fund (EAGGF)**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

flexibility where compliance with the condition on the age of the young farmer is concerned.

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1257/1999 of 17 May 1999 on support for rural development from the European Agricultural Guidance and Guarantee Fund (EAGGF) and amending and repealing certain Regulations ⁽¹⁾, and in particular Articles 34 and 50 thereof,

Whereas:

(1) In the first year in which the provisions on rural development applied it was found that some provisions of Commission Regulation (EC) No 1750/1999 ⁽²⁾, as last amended by Regulation (EC) No 672/2001 ⁽³⁾, did not cover all the situations which can arise.

(2) Article 8 of Regulation (EC) No 1257/1999 provides for aid to help young farmers to set up in farming. If this aid is to constitute a real incentive to young people to take over an agricultural holding the decision to grant the aid must be taken close to when the young farmer takes over the holding. To enable the Member States to implement this new requirement it should not apply until 1 January 2002.

(3) Some Member States' programming documents approved by the Commission provide for setting-up aid to be granted to young farmers who have set up in farming several years before the grant decision. In view of the new deadline for individual decisions from 1 January 2002, those Member States which wish to provide support in such cases before the new condition applies must take the necessary steps before the end of 2002.

(4) Furthermore, for budget or administrative reasons due to the end of the old programming period and the start of the new one, some young farmers who set up in 1999, 2000 or 2001 have not yet received setting-up aid. Member States should be authorised to take the necessary steps to grant such support before the end of 2001 or, as appropriate, not more than 12 months after the young farmers have set up, and to provide for some

(5) Article 16 of Regulation (EC) No 1257/1999 provides for farmers to receive support to offset the costs and loss of income resulting, in areas where there are environmental constraints, from the imposition of restrictions based on Community provisions to protect the environment. Council Directive 91/676/EEC of 12 December 1991 concerning the protection of waters against pollution caused by nitrates from agricultural sources ⁽⁴⁾ is intended to reduce the pollution of waters by nitrates from agriculture and to prevent it spreading. In line with the 'polluter pays' principle in Article 174(2) of the Treaty, there should be no compensation for the costs and income losses resulting from the application of the restrictions imposed by that Directive, which should therefore be excluded from the scope of Article 16 of Regulation (EC) No 1257/1999.

(6) Under Article 39(1) of Regulation (EC) No 1750/1999, for each Member State, expenditure declared for any given financial year is financed up to the limit of the amounts notified to the Commission under Article 37(1)(b) which are covered by the appropriations entered in the budget for the financial year in question. Where the total of the expenditure forecasts notified under Article 37 exceeds the appropriations entered in the budget for the financial year in question it is necessary to lay down a method for determining the maximum amounts which can be financed by the appropriations available for each Member State, based on the amount of the annual allocation as defined in Commission Decision 1999/659/EC ⁽⁵⁾, as amended by Decision 2000/426/EC ⁽⁶⁾.

(7) Some rural development measures, in particular agri-environmental measures, are multiannual. In the interest of sound management and for control purposes, it is necessary to specify that the beneficiary must apply for support each year, unless the Member State provides for another procedure for verifying the conditions for the grant of aid.

⁽¹⁾ OJ L 160, 26.6.1999, p. 80.

⁽²⁾ OJ L 214, 13.8.1999, p. 31.

⁽³⁾ OJ L 93, 3.4.2001, p. 28.

⁽⁴⁾ OJ L 375, 31.12.1991, p. 1.

⁽⁵⁾ OJ L 259, 6.10.1999, p. 27.

⁽⁶⁾ OJ L 165, 6.7.2000, p. 33.

- (8) Article 48 of Regulation (EC) No 1750/1999 refers, as regards support granted on the basis of areas and on the basis of livestock, to Article 14 of Commission Regulation (EEC) No 3887/92 of 23 December 1992 laying down detailed rules for applying the integrated administration and control system for certain Community aid schemes ⁽¹⁾, as last amended by Regulation (EC) No 2721/2000 ⁽²⁾, which, in the event of undue payments, makes it compulsory to reimburse the amounts involved, plus interest. For the sake of consistency, this procedure should be made compulsory in the case of all rural development support measures financed by the EAGGF Guarantee Section.
- (9) Article 55(4) of Regulation (EC) No 1257/1999 lays down that the Directives adopting or amending lists of less-favoured areas are to remain in force unless further amended in the framework of programmes. Point 9 of the Annex to Regulation (EC) No 1750/1999 specifies the descriptive information, broken down into main features and other elements, which must be given for each measure in the programming document. The amendments made to the lists of less-favoured areas adopted by the Council and the Commission, and the list of areas with environmental constraints, must appear under 'other elements'.
- (10) The measures provided for in this Regulation are in accordance with the opinion of the Committee on Agricultural Structures and Rural Development,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1750/1999 is amended as follows:

1. Article 5 is amended as follows:

- (a) The following paragraphs are inserted before the first paragraph:

'The individual decision to grant aid for the setting-up of young farmers under Article 8 of Regulation (EC) No 1257/1999 must be taken no later than 12 months after they have set up as defined by the provisions in force in the Member States.

Where young farmers have set up before the date from which the above paragraph applies and could receive support more than 12 months after setting up under the arrangements in the programming document approved by the Commission, Member States may take the indi-

vidual decision to grant support no later than 31 December 2002.

Where young farmers have set up in 1999, 2000 or 2001 and have not yet received support for budget or administrative reasons, Member States may take the individual decision to grant support no later than 31 December 2001 or within not more than twelve months after the farmers have set up.;

- (b) The second sentence in the first paragraph is replaced by the following:

'In the case of applications lodged no later than 31 December 2001 for farmers who have set up as described in the third paragraph, the condition laid down in the first indent of Article 8(1) of Regulation (EC) No 1257/1999 must be met when the farmer sets up.;

2. the following Article is added to Section 5 of Chapter II:

'Article 11a

The support provided for in Article 16 of Regulation (EC) No 1257/1999 cannot offset the costs and loss of income resulting from the implementation of restrictions based on Council Directive 91/676/EEC (*) concerning the protection of waters against pollution caused by nitrates from agricultural sources.

(*) OJ L 375, 31.12.1991, p. 1.;

3. Article 39 is amended as follows:

- (a) The following paragraph 1(a) is inserted:

'1(a) Where the total amount of the forecasts notified under Article 37(1)(b) exceeds the total of the appropriations entered in the budget for the financial year in question the maximum amount of expenditure to be financed by each Member State shall be limited based on the allocation formula used to establish the amount of the corresponding annual allocation as defined in Commission Decision 1999/659/EC (*).

If, after this reduction, appropriations remain available because some Member States have made forecasts which are below their annual allocation the surplus amount shall be distributed in proportion to their respective annual allocations while ensuring that the amount forecast for each Member State in the first paragraph is not exceeded. The Commission shall notify the forecasts thus adjusted to the Member States in the month following the adoption of the budget for the financial year in question.

⁽¹⁾ OJ L 391, 31.12.1992, p. 36.

⁽²⁾ OJ L 314, 14.12.2000, p. 8.

(*) OJ L 259, 6.10.1999, p. 27.;

(b) Article 39(2) is replaced by the following:

'2. Where expenditure actually incurred by a Member State in any given financial year exceeds the amounts notified in accordance with Article 37(1)(b) or the amounts resulting from the application of paragraph 1(a), the overruns on expenditure in that financial year shall be entered in the accounts on a *pro rata* basis, up to the limit of the appropriations remaining available after reimbursing the expenditure incurred by the other Member States.'

(c) Article 39(3) is replaced by the following:

'3. Where expenditure actually incurred by a Member State in a given financial year is less than 75 % of the amounts referred to in paragraph 1, the expenditure to be recognised for the following financial year shall be reduced by a third of the difference between this threshold, or the amounts resulting from the application of paragraph 1(a) if they are below it, and the actual expenditure incurred during the financial year in question.

This reduction shall not be taken into account when establishing actual expenditure in the financial year following that in which the reduction was made.'

4. the following paragraph 5 is added to Article 46:

'5. Where the support is multiannual, payments subsequent to that made in the first year an application was

submitted shall be made on the basis of an annual application for payment, except where a procedure for effective annual verification as referred to in Article 47(1) of this Regulation has been introduced by the Member State.'

5. Article 48(1) is amended as follows:

(a) The second subparagraph is replaced by the following:

'In addition, Article 11(1a) of Regulation (EEC) No 3887/92 shall apply to such support.'

(b) The following subparagraph is added:

'In the event of undue payment, the individual beneficiary of a rural development measure shall be obliged to repay the amount in accordance with Article 14 of Regulation (EEC) No 3887/92.'

6. the following indent is added to point 9.3.V.B of the Annex:

'— amendments to the lists of less-favoured areas adopted or amended by Council and Commission Directives, and the list of areas with environmental constraints.'

Article 2

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

The first paragraph of Article 1(1)(a) shall apply from 1 January 2002.

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

Done at Brussels, 6 September 2001.

For the Commission

Franz FISCHLER

Member of the Commission