

EUROPEAN ECONOMIC  
COMMUNITY

THE COUNCIL  
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R E G U L A T I O N No. 9

CONCERNING

THE EUROPEAN SOCIAL FUND

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X/3901/60-E

CONCERNING THE EUROPEAN SOCIAL FUND

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THE COUNCIL OF THE EUROPEAN ECONOMIC COMMUNITY,

CONSIDERING the provisions of the Treaty establishing the European Economic Community, and in particular Article 127,

CONSIDERING the proposal of the Commission,

CONSIDERING the opinion of the Economic and Social Committee,

CONSIDERING the opinion of the European Parliament,

WHEREAS the European Social Fund is to make an essential contribution to raising the living standard of workers by improving their opportunities for employment and their geographical and occupational mobility,

WHEREAS an immediate task in connection with this objective has been entrusted to the Fund under Article 125 of the Treaty,

WHEREAS the provisions of the Protocol concerning Italy, appended to the Treaty, recommend the adequate utilization of the Fund's resources to facilitate the task of the Italian Government in reducing unemployment,

WHEREAS the object of the following Regulation is to fix the procedure for the activities and operation of the Fund in the discharge of its immediate tasks, without prejudice to other tasks which will be entrusted to it as provided for in the Treaty,

WHEREAS, by reason of the diversity of national legislative provisions and to give full effect to the action of the Fund in conformity with the general objectives of the Community, the implementation of the provisions of the Treaty makes it imperative to define in a uniform manner the concepts which shall underlie the granting by the Fund of assistance in the fields covered by Article 125,

WHEREAS uniform definitions alone make it possible to avoid the Fund reimbursing expenses in respect of operations incompatible with its task,

WHEREAS there is need to specify the limits within which the assistance of the Fund shall be granted as well as the transitional system for the reimbursement of expenses effected between 1 January 1958 and the date of the entry into force of this Regulation,

WHEREAS, in order to facilitate the examination of applications for reimbursement, the Member States must grant the Commission their full assistance, in particular by enabling the Commission to have all necessary information at its disposal.

HAS AGREED ON THE FOLLOWING REGULATION :

P A R T O N E  
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CONDITIONS FOR THE GRANTING OF AID BY THE FUND

Field of application

Article 1

The Fund, whose function is to promote within the Community employment facilities and the geographical and occupational mobility of workers, shall reimburse, under the conditions and within the limits laid down by the Treaty, and by this Regulation, 50 % of the expenses incurred by the Member States or by bodies under public law for:

- the occupational re-training of unemployed workers;
- the resettlement of unemployed workers;
- the maintenance of the same wage level for workers affected by conversion operations.

However, the Fund shall not reimburse expenses incurred by the Member States or by bodies under public law in respect of personnel participating in the exercise of public authority.

Similarly, the Fund shall not assist in covering the expenses referred to in paragraph 1 of this Article if the expenses incurred fulfil the conditions for the granting by the High Authority of non-reimbursable aid under the provisions of the Treaty establishing the European Coal and Steel Community or of its Convention containing the transitional provisions.

On a proposal of the Commission and in conformity with the Treaty, the Council shall have power to entrust the Fund with any task connected with action to improve opportunities of employment and the geographical and occupational mobility of workers or the implementation, in application of Article 128 of the Treaty, of a common occupational training policy.

Unemployed workers

Article 2

An unemployed worker within the meaning of Article 1 of this Regulation shall be any person aged at least sixteen registered with an official employment exchange as an applicant for employment and having no paid or independent employment.

However, a period of registration of three consecutive months is required in the case of workers under eighteen.

Any person noted by the official employment exchange concerned as falling within one of the categories in (a) and (b) below shall also be considered as an unemployed worker:

- a) Any wage-earner or independent worker in a manifest situation of prolonged under-employment and registered with an official employment exchange as an applicant for full-time employment or - for a period of two years beginning with the entry into force of this Regulation, and failing a similar registration in the case of workers under eighteen - certified by the official exchange concerned as having been in this situation of under-employment for at least six months;
- b) Any person affected by a conversion, within the meaning of Article 9 of this Regulation, to the extent that this conversion at the same time necessitates his occupational re-training.

### Occupational re-training

#### Article 3

Occupational re-training of unemployed workers within the meaning of Article 1 of this Regulation shall be any training provided under a pre-established programme which defines, among other conditions, its scope and duration for the purpose of ensuring to unemployed workers productive paid employment, implying either resettlement or change of occupation, trade, or work position. This change may concern either the nature of the employment previously carried on or the requisite degree of qualification, and apply to all workers, whatever their existing qualifications may be, who cannot be employed before they have undergone instruction to transform or improve their occupational qualifications.

This Article does not cover normal systems of teaching provided especially for young people.

Article 4

The assistance of the Fund for the occupational re-training of unemployed workers shall only be granted if the workers concerned fulfil the following conditions:

1. That they have been unable to obtain employment in an activity of a similar nature and equivalent level to those of the activity previously exercised, or corresponding to their normal qualifications for work if they have not already been in paid employment;
2. That after their re-training they take up a new paid productive employment within the Community, in the occupation, trade, or work position for which they have been re-trained, or in a similar activity;
3. That they have been in this productive employment for at least six months in the course of the twelve months following the end of the re-training period.

Article 5

Within the limits laid down in Article 1 of this Regulation, the assistance of the Fund for occupational re-training shall be granted:

- a) In respect of the expenses incurred by a State or a body under public law in the carrying out of group occupational re-training programmes in State establishments, bodies under public law, or private establishments placed under their effective supervision, for:
  1. Allowances for residence, board and lodging, travel expenses, bonuses for work, expenditure in connection with the complete maintenance of rights to family and social security benefits and also to unemployment benefits and any other benefit granted to the persons being re-trained during the period of such re-training and in the light of its requirements;
  2. Salaries and related social costs for the personnel of the centres;
  3. Expenditure on equipment;
  4. Expenditure on materials;
  5. Costs of administration, rent of premises, insurance, maintenance, heating, light;
  6. Amortization costs;

The total of the expenses referred to under (a) shall be estimated on each occasion as a lump sum equal to 155 % of those expenses incurred which are covered under sub-para 1 and 2;

b) In respect of expenses borne by a State or a body under public law for the carrying out, under its effective supervision, of a programme of occupational re-training with one or several private enterprises, for:

- expenses referred to in para(a)sub-para 1 above;
- where applicable, the wages and related social costs for the personnel providing the re-training, and the other expenses shown in paragraph(a)sub-para 3 to 5 actually borne by the State or by a body under public law, on condition that this is under independent management.

Should the practical work of occupational re-training necessitate direct participation in production, the value resulting from this shall be deducted from the total of the above-mentioned costs.

### Resettlement

#### Article 6

Resettlement of an unemployed worker within the meaning of Article 1 of this Regulation shall mean any change in the place of residence within the Community required to occupy a new paid productive employment of a non-seasonal nature offered or approved by the competent employment service(s). The old and the new place of residence shall be those recognized as such by the Member State(s) submitting the application for the assistance of the Fund under Article 17 of this Regulation.

#### Article 7

The assistance of the Fund in the resettlement of unemployed workers shall only be granted if the workers in question fulfil the following conditions:

1. That they have been unable, while they remained in their previous place of residence, to obtain employment in an activity of a similar nature and of equivalent level to those of the activity previously exercised or corresponding to their normal qualifications for work, if they have not already been in paid employment;

2. That, within six months reckoned from the time of leaving the previous place of residence, they have found a new paid productive employment in a new place of residence or have there undergone a period of occupational re-training within the meaning of Article 3 of this Regulation;
3. That in this new place of residence they have been in paid productive employment in one or more activities for at least six months of the twelve months following their departure from the previous place of residence or following the termination of their period of re-training.

#### Article 8

Within the limits laid down in Article 1 of this Regulation, the assistance of the Fund shall be granted for expenses arising from resettlement, i.e.:

1. Travelling expenses of the worker and those dependents who are recognized as such by the Member State(s) submitting the application for the assistance of the Fund under Article 17 of this Regulation;
2. Costs of furniture removal or a corresponding lump sum payment;
3. Compensation to cover the other expenses arising from the resettlement, including a possible separation allowance up to a maximum amount equal to three times the average weekly wage actually paid to the worker during the first six months of activity in his new place of residence, plus one and a half times this wage for every dependent; the compensation thus calculated may not, however, exceed twelve times the average of the weekly wage actually received.

#### Conversion

#### Article 9

Within the meaning of Article 1 of this Regulation, conversion shall be any change, which is not of a temporary nature, in the production programme of an enterprise or part of an enterprise having its own production programme, which affects the determinant elements of this programme and the purpose of which is the production of new commodities differing from the old otherwise than by improvements or additions.



This change must be accompanied by a temporary suspension or reduction of the paid activity of the personnel once the opportunities of appropriate employment offered by the enterprise itself are exhausted, and it must permit the re-employment, completely or in part, of this personnel after the conversion period.

Article 10

Within the meaning of Article 1 of this Regulation, a worker affected by conversion shall be any wage-earner who, before this conversion, was in permanent employment in an enterprise or part of an enterprise carrying out a conversion under the conditions laid down in Article 9 and whose employment is temporarily reduced or suspended.

Article 11

Within the meaning of Article 1 of this Regulation, the maintenance of the same wage level for workers affected by conversion shall be the maintenance of up to 90 % of the gross salary and of the payments necessary to preserve the statutory and fringe benefits attached thereto, to which these workers were entitled for a normal pay period. The gross salary calculated on the basis of the pay-slips and payrolls of the enterprise shall be the salary before any obligatory deduction for social security contributions or stoppages for taxation borne by the workers, to the extent that this deduction is not wholly or partly suspended during the conversion period.

It shall include:

1. The cash wage at time, piece or performance rates;
2. Individual and collective bonuses based on agreements, on condition that they constitute a direct addition to the wage, but excluding all bonuses and compensations in cash or in kind granted to defray expenses in connection with travel necessitated by the work or in connection with the carrying out of a collective task;
3. The equivalent value of benefits in kind which, since they are granted as a counterpart for work actually carried out, are not continued during the conversion period.

For workers paid at time rates, the cash wage shall be calculated in accordance with the hourly rates of the last pay-period preceding the submission under article 15 of the conversion project, and on the basis of the normal working hours for each worker customary in the enterprise. Nevertheless, this calculation may not be based on a working week longer than 48 hours, except where statutory or administrative exceptions of a permanent nature authorize a longer working week for specific tasks or occupations.

For workers on performance or piece rates, the basic salary element shall also be calculated in this way; the performance element shall be calculated on the basis of the average performance of the six months preceding the submission of the conversion project.

#### Article 12

The assistance of the Fund, within the limits of Article 1 of this Regulation, shall be granted for all expenses resulting from the maintenance of the same wage level of workers affected by a conversion, i.e.:

- a) In respect of workers whose employment is entirely suspended and who have no other temporary employment:

the whole of the gross wage and the payments necessary to preserve the statutory and fringe benefits attached to it calculated as indicated in Article 11;

- b) In respect of workers whose employment is reduced or who are temporarily occupied in another less lucrative employment:

the difference between the total provided for under (a) and the remuneration actually received.

Recourse to the Fund under sub-para(a) above implies that the State concerned has made sure that the workers affected by the conversion have registered with an official employment exchange and that the payment of remunerations has been suspended for a minimum period of four weeks in cases where the workers have refused, without sufficient grounds, to take up suitable employment offered them.

Should the conversion of an enterprise or part of an enterprise involve occupational re-training of the workers, the Fund shall grant its assistance for this re-training on condition that the conversion project, as provided for in Article 15, establishes that it is opportune and that the re-training takes place in accordance with the provisions of Articles 3 and 4 of this Regulation.

This assistance shall be granted in conformity with the provisions of Article 5 of this Regulation, excluding, however, from the expenses taken into account, residence allowances, bonuses for work, expenses in connection with the complete maintenance of rights to family and social security benefits and also unemployment benefits and any other advantage granted to the persons re-trained during the period of their re-training.

#### Article 14

In applying Articles 10 to 13 of this Regulation, account shall be taken only of cases of conversion of an enterprise or part of an enterprise within the meaning of Article 9, in which, during or immediately before the conversion operations, the average working hours have actually been reduced by at least 10 % or the labour force by at least 5 % for the whole body of workers employed.

#### Article 15

In the event of conversion, the assistance of the Fund shall only be granted if:

1. The government concerned has previously submitted to the Commission a project drawn up by the enterprise involved for the conversion in question and its financing, and if
2. The Commission has given its previous approval to this project.

The assistance shall only be granted for those of the workers affected by the conversion who have been fully re-employed in the enterprise for at least six months.

PART TWO

PROCEDURE FOR THE GRANTING OF ASSISTANCE BY THE FUND

General provisions

Article 16

At the latest on 1 July of each year, each Member State shall submit to the Fund a reasoned estimate of the approximate amount of the applications which it intends to submit to the Commission in the course of the following financial year.

Article 17

Every application for the assistance of the Fund must be submitted to the Commission by one or several Member States and must refer to expenses incurred by the Member States or by bodies under public law on or after 1 January 1958.

Article 18

Within the meaning of Article 1 of this Regulation, a body under public law shall be, in addition to decentralized public authorities, any body established or recognized as a body under public law by the national legislation, possessing legal entity and autonomous financial management, and supervised by the State or a decentralized public authority, on condition that this body has among its objectives activities which are within the purview of the Fund.

The Commission shall establish and keep up-to-date the list of bodies under public law covered by this Regulation, after having obtained the opinion of the Committee of the European Social Fund as provided in Article 27.

Enterprises and services of an essentially industrial and commercial character constituted in the form of bodies under public law shall not be included in this list.

The list and any possible amendments thereto shall be published in the official gazette of the European Communities.

Submission of applications concerning  
occupational re-training and resettlement

Article 19

Applications from the Member States to obtain the assistance of the Fund must be presented to the Commission:

- a) In respect of occupational re-training, at the latest within six months reckoned from the end of the twelfth month after the termination of the re-training period;
- b) In respect of resettlement, at the latest within six months reckoned from the end of the twelfth month after the departure from the previous place of residence or after the termination of the re-training period carried out in the new place of residence.

Applications submitted after the expiry of the time limits fixed above shall not be considered.

Article 20

Any application for the assistance of the Fund for a programme of occupational re-training which has been completed must show that the expenses as submitted conform with the provisions of this Regulation.

To this end, it must contain at least the following details:

- The origin, nature and purpose of the programme;
- All necessary information on the characteristics of the programme, in particular its scope and content, duration, time-table, degree of proficiency aimed at, examination papers, numbers of training staff and their conditions of employment;
- All information necessary to establish that the application concerns unemployed workers within the meaning of Article 2;

- The total number of workers concerned in the programme and the number of re-trained workers who have actually been in paid productive employment for at least six months under the conditions laid down in Article 4;
- Detailed expenses in connection with:
  1. Residence allowances, board and lodging, travel expenses, bonuses for work, expenditure in connection with the complete maintenance of rights to family and social security benefits and also unemployment benefits and any other benefit granted to the persons being re-trained during the period of such re-training and in the light of its requirements;
  2. The salaries and related social costs for the personnel referred to in Article 5;
  3. Expenses for equipment, materials, administrative costs, rent of premises, insurance, maintenance, heating and light, as the case may be;
- The value of practical work involving direct participation in production in the course of occupational re-training.

#### Article 21

Any application for the assistance of the Fund in respect of compensation for resettlement must show that the expenses as presented conform with the provisions of this Regulation.

To this end, it must contain at least the following details:

- All information necessary to establish that the application concerns unemployed workers within the meaning of Article 2;
- All information to establish the fact of the movement and the necessity for the resettlement of the worker, in particular his old and new place of residence, the date of his departure and that of his resettlement, the new employment offered or approved by the employment service(s) concerned and the date on which the work actually began;
- All information likely to show that the workers who have moved have been in paid productive employment for at least six months under the conditions in Article 7;
- Details of the expenses listed in Article 8.

Submission of applications  
concerning conversion

Article 22

The Member States shall submit to the Commission an application for prior approval in respect of any conversion project for which the assistance of the Fund is envisaged. This application shall contain, in addition to the reasoned opinion of the Government concerned, any data to make possible an appraisal of the conversion plan envisaged, and at least the following information:

- Need, purpose, scope and financing of the conversion;
- Planned duration of the conversion operations and pace at which they are to be carried out;
- Number of workers whose employment will be maintained by measures taken by the enterprise itself;
- Number of workers whose employment will be temporarily reduced or suspended wholly or in part, and description of the new employment planned for them; staggering of cuts in staff and re-employment;
- Financial repercussions of the maintenance, according to the provisions of Article 11, of the same wage level for the workers affected;
- Reasons why the programme of occupational re-training seems called for, and the number of workers concerned;
- Financial repercussions of carrying out this programme of occupational re-training.

Article 23

Applications from the Member States for the assistance of the Fund for a conversion already carried out shall be submitted to the Commission within the twelve months following termination of the conversion operations approved. Applications submitted after the expiry of the above time limit shall not be considered.

Every application must show that the expenses submitted conform with the provisions of this Regulation. To this effect they shall, in particular, contain the following details:

- All information showing that the conversion has been carried out in accordance with the project approved by the Commission;

- All information indicating that the workers who have benefited have been fully re-employed in the enterprise for at least six months;
- Detailed expenses in connection with:
  1. The maintenance of the gross wage and of the payments necessary to preserve the **statutory** and **fringe** benefits attached thereto;
  2. Where necessary, in cases of occupational re-training of workers:
    - wages and social costs in connection therewith paid to personnel referred to in Article 5, lodging and travel expenses of the workers re-trained;
    - equipment, materials, administrative costs, rent of premises, insurance, maintenance, heating and light.

Examination of applications and possible enquiries

Article 24

The Member States shall give every aid to the Commission to enable it to assemble all further information which it deems necessary to verify the details contained in the applications for assistance from the Fund. Where necessary, they shall facilitate contacts with the bodies or enterprises concerned.

Article 25

The Commission shall examine whether applications conform with the provisions of this Regulation. The Committee of the Fund shall be associated with it in this examination in the manner laid down in Articles 28 to 30.

Financial operations

Article 26

The financial regulations provided for in Article 207 of the Treaty lay down the methods and procedure of the financial operations as well as those whereby the contributions of Member States to meet the expenses of the Fund are made available. These regulations also establish the procedure for rendering and auditing accounts and fix the responsibility and relevant supervision of pay-commissioners and accountants.



PART THREE

COMMITTEE OF THE EUROPEAN SOCIAL FUND

Article 27

The Commission shall be assisted in its task by a Committee, consisting of representatives of the Governments and of trade union and employers' organizations, the statutes of which shall be decided upon by the Council.

Article 28

The Committee shall be consulted on all questions of general importance or of principle concerning the administration of the Fund. To this end it shall receive all necessary documents and information.

According to its statutes it is also empowered to express opinions to the Commission on its own initiative.

Furthermore, the Committee shall be regularly informed of the activities of the Fund and of the various aspects of the general policy of the Commission in economic and social matters relating to such activities.

Article 29

The prior opinion of the Committee must be obtained in the following matters:

1. The advance draft of the annual budget of the Fund;
2. The establishment and keeping up to date of the list of bodies under public law.
3. Applications for the assistance of the Fund, or the prior approval by the Commission of a conversion project;
4. Problems arising from any action by the Fund intended to achieve a common policy on occupational training;
5. Any action required for applying this Regulation;
6. The advisability of a revision of this Regulation and any proposals for such revision;
7. Any changes in the tasks of the Fund after the end of the transition period.

Article 30

The Committee may formulate opinions of a general nature on applications or categories of applications to the Fund for assistance when, to save repetition of the Committee's opinions, they are no longer considered to need separate submission.

FINAL PROVISIONS

Article 31

The Commission shall take the action required by this Regulation.

Article 32

Within two years of this Regulation coming into force, the Commission shall consider the advisability of revising it. It shall submit the conclusions of this examination to the Council within this time limit, in the form of a proposal if appropriate.

TRANSITORY PROVISION

Article 33

The six-month time limits provided for in Article 19 shall be extended until the expiry of the sixth month after this Regulation comes into force in those cases where the expiry of the twelfth month after the conclusion of the re-training period or the departure from the old place of residence occurred before it came into force, if the re-training period or the resettlement were subsequent to 1 January 1958.

This Regulation is mandatory in all its parts and directly applicable in every Member State.

Done at *Brussels*, on *25 August 1960*

By the Council

President

*J. M. A. H. Luns*