

Commission Regulation (EC) No 826/2008 of 20 August 2008 laying down common rules for the granting of private storage aid for certain agricultural products (repealed)

CHAPTER IV

Contracts

Article 19

Conclusion of contracts

Contracts shall be concluded between the competent authority of the Member State on whose territory the products are stored or will be stored and the successful tenderer or applicant who fulfils the requirements laid down in Article 8, hereafter referred to as the 'contracting party'.

Article 20

Information related to the place of storage

After the reception of the notification from the Member State referred to in Article 14(3) or after the conclusion of the contract referred to in Article 23(1) or after the notification or the publication of the decisions referred to in Article 23(2), the successful tenderer or applicant shall send to the competent authority of the Member State:

- (a) the name and address of the storage place or places and, for each storage place, details of the precise location of the silos or lots or vats or batches with the corresponding quantities;
- (b) notification of the date of entry into store of each of the lots which are not yet in place and the necessary time framework for placing the contractual quantity into store; for each lot entering the place of storage, the quantity and the precise location have to be indicated.

The competent authority may require that the information referred to above is given at least two working days before the placing in storage of each lot.

Article 21

Elements of the contract

The contract shall include the elements provided for in Article 22 of this Regulation, and either the elements provided for in the relevant provisions of the Regulation opening a tendering procedure and in the tender, or the elements provided for in the relevant provisions of the Regulation fixing the amount of aid in advance and in the application.

Article 22

Obligations of the contracting party

- 1 Contracts shall stipulate at least the following obligations for the contracting party:
 - a to place and to keep the contractual quantity in storage, during the contractual storage period, at his own risk and expense in conditions ensuring the maintenance of the characteristics of the products referred to in Annex I, without substituting the stored products or transferring them to another storage place. However, for cheeses where the contracting party submits a reasoned request, the competent authority may authorise a relocation of the stored products. For other products, where the contracting party submits a reasoned request the competent authority may authorise a relocation of the stored products only in exceptional cases;
 - b to retain the weighting-in documents established at the time of entry into the storage place;
 - c to send the documents relating to the operations for placing in storage to the competent authority not later than one month after the date of placing into storage referred to in Article 25(1);
 - d to allow the competent authority to check at any time that all the obligations laid down in the contract are being observed;
 - e to make the products stored easily accessible and individually identifiable: each unit individually stored shall be marked so that date of placing in storage, the contract number, the product and the weight are shown.
- 2 The contracting party shall make available to the authority responsible for checking all documentation, for each contract, allowing in particular the following information on the products placed in private storage to be verified:
 - a the approval number identifying the factory and the Member State of production, if necessary;
 - b the origin and the date of manufacture of the products or for sugar, the marketing year of manufacture and when appropriate the day of slaughtering;
 - c the date of placing into storage;
 - d the weight and the number of pieces packaged;
 - e the presence in the store and the address of the store;
 - f the expected date of the end of the contractual storage period and completed by the actual date of removal.

As regards point (d) of the first subparagraph, where meat is placed in storage after cutting, partial deboning or deboning, weighing shall be carried out on products actually placed in storage and may be done at the place of cutting, partial deboning or deboning. The determination of weights of products to be placed in storage shall not take place before the contract is concluded.

- 3 The contracting party or, where applicable the operator of the storage place, shall keep stock accounts available at the warehouse covering, by contract number:
 - a the identification of the products placed in private storage by lot/batch/vat/silo;
 - b the dates of placing in and removal from storage;
 - c the quantity indicated per storage in lot/batch/vat/silo;
 - d the location of the products in the store.

Article 23

Conclusion of contracts for the aid fixed in advance

1 For products already placed in storage, contracts shall be concluded within 30 days of the date of receipt of the information referred to in Article 17(2)(f) subject, where appropriate, to subsequent confirmation of the eligibility of the products as referred to in the second subparagraph of Article 36(2). If eligibility is not confirmed, the contract concerned shall be considered as null and void.

2 For products which are not yet stored, decisions on applications shall be notified by the competent authority to each applicant on the fifth working day following the day on which the application is submitted, provided that the Commission does not adopt special measures in accordance with paragraph 3 in the intervening period; the contract shall be deemed to have been concluded on the day of despatch of the notification of the decision referred to in this paragraph.

3 In the case of an aid fixed in advance for beef meat, pigmeat, sheepmeat and goatmeat, where an examination of the situation reveals that excessive use has been made of the aid scheme established by this Regulation, or that there is a risk of excessive use, the Commission may:

- a suspend the application of the scheme for not more than five working days; applications to conclude contracts submitted during that period shall not be accepted;
- b set a single percentage by which the quantities in the applications to conclude contracts are reduced, subject to observance of the minimum contractual quantity where appropriate;
- c reject applications made before the period of suspension whose acceptance would have been decided during the period of suspension.

Article 24

Conclusion of contracts for the aid granted by tendering procedure

After the complete transmission of information referred to in Article 20, the competent authority of the Member State shall notify the successful tenderer that all the necessary information has been provided and that from that moment on a contract is considered as being concluded.

The date of conclusion of the contract shall be that on which the competent authority of the Member States notifies the contracting party.

Article 25

Placing into storage for products not yet in storage

1 For products for which placing in storage takes place after the conclusion of a contract, the contractual quantity shall be placed into storage within 28 days following the date of conclusion of the contract.

2 The products shall be placed in storage in individual lots/batches/vats/silos, each lot/batch/vat/silo representing the quantity placed in storage on a given day by contract and by storage place.

3 Placing in storage shall end on the day on which the last individual lot/batch/vat/silo of the contractual quantity is placed in storage.

Article 26

Additional provisions concerning placing into storage for meat products

1 In the case of beef, contracting parties may, under the permanent supervision of the competent authority and during the period of placing in storage, cut, partially debone or debone all or part of the products, provided that a sufficient quantity of carcasses is employed to ensure that the tonnage for which the contract has been concluded is stored and that all the meat resulting from such operation is placed in storage. Contracting parties wishing to make use of this option shall notify the competent authority no later than the day on which placing in storage begins.

However, the competent authority may require that the notification referred to in the first subparagraph takes place at least two working days before the placing in store of each individual lot.

The large tendons, cartilages, bones, pieces of fat and other scraps left over from cutting, partial deboning or deboning shall not be stored.

2 For meat products, placing in storage shall begin, for each individual lot of the contractual quantity, on the day on which it comes under the control of the competent authority. That day shall be the day on which the net weight of the fresh chilled product is determined:

- a at the place of storage, where the product is frozen on the premises;
- b at the place of freezing, where the product is frozen in suitable facilities outside the place of storage;
- c at the place of deboning or cutting, where the meat is placed in storage after deboning or cutting.

Article 27

Contractual storage period

1 Where products are placed in storage after the conclusion of a contract, the contractual storage period starts on the day following that in which the last lot/batch/vat/silo has been placed into storage.

2 For products already placed in storage, the contractual storage period shall start on the day following that of receipt by the competent authorities of the information referred to in Articles 10(2)(f) and 17(2)(f).

3 For olive oil the contractual storage period shall not start until the vats are sealed after the taking of samples.

4 The last day of the storage period may be fixed in the Regulation opening the tendering procedure or in the Regulation fixing the amount of aid in advance, as referred to in Articles 9(2)(i) and 16(2)(f).

Article 28

Removal from storage

1 Removal from storage may start on the day following the last day of the contractual storage period or, as the case may be, from the date specified in the Regulation fixing the amount of aid in advance or opening the tendering procedure.

2 Removal from store shall be in whole storage lots or, if the competent authority so authorises, in smaller quantities.

However, in the case referred to in Article 27(3) and in Article 36(5)(a), only a sealed quantity may be removed from store.

3 It may be provided that on the expiry of a storage period of two months the contracting party may remove from storage all or part of the quantity of products under a given contract, subject to a minimum of 5 tonnes per contracting party and per storage place or, if less than 5 tonnes is available, the total quantity under contract in a storage place, provided that, within 60 days following their removal from storage, one of the following conditions is met:

- a the products left the Community's customs territory without further processing;
- b the products reached their destination without further processing, in the cases referred to in Article 36(1) of Commission Regulation (EC) No 800/1999⁽¹⁾; or
- c the products are placed without further processing in a victualling warehouse approved pursuant to Article 40(2) of Regulation (EC) No 800/1999.

The contractual storage period shall end for each individual lot intended for export on the day before:

- a the day of removal from storage; or
- b the day of acceptance of the export declaration, where a product has not been moved.

The amount of aid shall be reduced in proportion to the reduction in the storage period by applying daily amounts to be fixed by the Commission in accordance with the procedure referred to in Article 195(2) of Regulation (EC) No 1234/2007.

For the purposes of this paragraph, proof of export shall be furnished in accordance with Articles 7 and 8 of Regulation (EC) No 800/1999 in the case of products qualifying for a refund.

In the case of products not qualifying for a refund, proof of export shall be furnished in the cases provided for in Article 8 of Regulation (EC) No 800/1999 by producing the original T5 control copy, in accordance with Articles 912a, 912b, 912c, 912e and 912g of Commission Regulation (EEC) No 2454/93⁽²⁾. In box 107 of the control copy the number of this Regulation shall be mentioned.

Article 29

Notification of the removal

The contracting party shall notify the competent authority before it intends to begin removing products from storage, in accordance with the provisions laid down in Article 36(6).

Status: This is the original version (as it was originally adopted).

Where the requirement in the first paragraph is not complied with but the competent authority is satisfied that sufficient evidence has been furnished, within 30 days following removal from the storage place, of the date of removal from storage and the quantities concerned, the aid shall be reduced by 15 % and shall only be paid in respect of the period for which the contracting party supplies to the competent authority satisfactory proof that the product has been maintained in contractual storage.

Where the requirement in the first paragraph is not complied with and the competent authority is not satisfied that sufficient evidence has been furnished, within 30 days following removal from the storage place, of the date of removal from storage and the quantities concerned, no aid shall be paid in respect of the contract concerned, and where applicable, the whole of the security shall be forfeit in respect of the contract concerned.

Status: This is the original version (as it was originally adopted).

- (1) OJ L 102, 17.4.1999, p. 11.
- (2) OJ L 253, 11.10.1993, p. 1.