

Commission Delegated Regulation (EU) No 907/2014 of 11 March 2014 supplementing Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to paying agencies and other bodies, financial management, clearance of accounts, securities and use of euro

CHAPTER IV

SECURITIES

SECTION 1

Scope and Use of terms

Article 15

Scope

This Chapter shall apply in all cases where the sectoral agricultural legislation provides for a security whether or not the particular term ‘security’ is used.

This Chapter shall not apply to securities given to ensure payment of import and export duties referred to in Council Regulation (EEC) No 2913/92⁽¹⁾.

Article 16

Terms used in this Chapter

For the purposes of this Chapter:

- (a) ‘competent authority’ means either a party authorised to accept a security or a party authorised to decide in accordance with the relevant regulation if a security is to be released or forfeited;
- (b) ‘block security’ means a security made available to the competent authority with the purpose of ensuring that more than one obligation is met;
- (c) ‘the relevant part of the sum secured’ means the part of the sum secured corresponding to the quantity for which a requirement has been breached.

Status: Point in time view as at 31/01/2020.

Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) No 907/2014, CHAPTER IV. (See end of Document for details)

SECTION 2

Requirement of a Security

Article 17

Responsible party

A security shall be given by or on behalf of the party responsible for paying the sum of money due if an obligation is not met.

Article 18

Waiver of a security requirement

1. The competent authority may waive the security requirement where the party responsible for meeting the obligation is either:

- (a) a public body responsible for executing the duties of a public authority; or
- (b) a private body executing duties referred to in point (a) under State supervision.

2. The competent authority may waive the security requirement where the value of the sum secured is less than EUR 500. In that case, the party concerned shall undertake in writing to pay a sum equal to the security waived if the corresponding obligation is not met.

In applying the first subparagraph, the value of the security shall be calculated as comprising all the relevant obligations linked with a same operation.

Article 19

Conditions applying to securities

1. The competent authority shall refuse to accept or shall require the replacement of any security which it considers inadequate or unsatisfactory or which does not provide cover for a sufficient period.

2. Where cash is deposited by transfer, it shall not be regarded as establishing a security until the competent authority is satisfied that it has the amount at its disposal.

3. A cheque for a sum whose payment is guaranteed by a financial institution recognised for that purpose by the Member State of the competent authority concerned shall be treated as a cash deposit. The competent authority need not to present such a cheque for payment until the period for which it is guaranteed is about to expire.

A cheque, other than as referred to in the first subparagraph, shall constitute a security only when the competent authority is satisfied that it has the amount at its disposal.

- 4. Any charges by a financial institution shall be borne by the party giving the security.
- 5. No interest shall be paid to the party giving a security in the form of a cash deposit.

Status: Point in time view as at 31/01/2020.

Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) No 907/2014, CHAPTER IV. (See end of Document for details)

Article 20

Use of euro

1. Securities shall be constituted in euro.
2. If the security is accepted in a Member State which has not adopted the euro, the amount of the security in euro shall be converted into the applicable national currency in accordance with the provisions of Chapter V. The undertaking corresponding to the security and any amount withheld in the event of irregularities or breaches shall remain fixed in euro.

Article 21

The guarantor

1. The guarantor shall have his officially registered residence or an establishment in the Union and, subject to the provisions of the Treaty concerning freedom to supply services, be approved by the competent authority of the Member State in which the security is given. The guarantor shall be bound by a written guarantee.
2. The written guarantee shall state at least:
 - (a) the obligation or, in the case of a block security, the type(s) of obligation against whose fulfilment it guarantees the payment of a sum of money;
 - (b) the maximum liability to pay that the guarantor accepts;
 - (c) that the guarantor undertakes jointly and severally with the party responsible for meeting the obligation to pay, within 30 days upon demand by the competent authority, any sum, within the limit of the guarantee, due once a security is declared forfeit.
3. Where a written block security has already been given, the competent authority shall determine the procedure to be followed by which all or part of the block security shall be allocated to a particular obligation.

Article 22

Application of force majeure

Any person responsible for an obligation covered by a security claiming that the non-respect of the obligation is due to *force majeure* shall prove to the satisfaction of the competent authorities that *force majeure* applies. If the competent authority recognises a case of *force majeure*, the obligation is cancelled for the sole purpose of releasing the security.

Status: Point in time view as at 31/01/2020.

Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) No 907/2014, CHAPTER IV. (See end of Document for details)

SECTION 3

Release and forfeiture of securities other than those referred to in Section 4

Article 23

Forfeiting of securities

1. The obligation mentioned in Article 66(1) of Regulation (EU) No 1306/2013 is the requirement to perform or to refrain from performing an action, basic to the purposes of the Regulation imposing it.

2. If an obligation is not fulfilled and no time limit for fulfilment has been given, the security shall be forfeited when the competent authority establishes that it was not fulfilled.

3. If the fulfilment of an obligation is subject to a certain time limit, and the fulfilment took only place beyond that time limit, the security shall be forfeited.

In such case the security shall be forfeited for 10 % at once and further an additional percentage over the remaining balance shall be applied for:

- (a) 2 % per calendar day exceeding the time limit if the obligation concerns the importing of products into a third country;
- (b) 5 % per calendar day exceeding the time limit if the obligation concerns the leaving of products of the customs territory of the Union.

4. If an obligation is fulfilled timely, and the presentation of the proof of fulfilment is subject to a fixed time limit, the security covering that obligation shall be forfeited for each calendar day exceeding that time limit according to the formula $0,2/\text{time limit in days}$ set and taking account of Article 25.

If the proof referred to in the first subparagraph consists of the submission of a used or expired import or export licence, or the submission of the proof of products having left the custom territory of the Union, the security to be forfeited shall be 15 % if that proof is submitted after the fixed time limit referred to in the first subparagraph but at the latest on the 730th calendar day after the expiry date of the licence. After those 730 calendar days, the remaining security shall be forfeited in whole.

If the proof referred to in the first subparagraph consists of the submission of a used or expired export licence with advance fixing of the refunds, the security to be forfeited shall be:

- (a) 10 % if the licence is submitted between the 61th and 90th calendar days after the date of expiry of the licence;
- (b) 50 % if the licence is submitted between the 91st and 120th calendar day after the date of expiry of the licence;
- (c) 70 % if the licence is submitted between the 121st and 150th calendar day after the date of expiry of the licence;
- (d) 80 % if the licence is submitted between the 151st and 180th calendar day after the date of expiry of the licence;
- (e) 100 % if the licence is submitted after the 180th calendar day after the date of expiry of the licence.

Status: Point in time view as at 31/01/2020.

Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) No 907/2014, CHAPTER IV. (See end of Document for details)

5. The amount of security to be forfeited shall be rounded to the first lower amount in whole euro or the applicable national currency.

Article 24

Releasing of securities

1. Once the proof as laid down by the specific Union rules that an obligation has been fulfilled, or the security has been partially forfeited in accordance with Article 66(2) of Regulation (EU) No 1306/2013 and Article 23 of this Regulation, the security, or where applicable, the remainder of the security shall be released without delay.

2. A security shall on request be released in part where the relevant evidence has been furnished in relation to part of a quantity of product, provided that that part is not less than any minimum quantity specified in the regulation requiring the security, or, in the absence, as specified by the Member State.

3. Where no time period is laid down for producing the evidence needed to release a sum secured, such period shall be 365 calendar days from the time limit specified for respecting the obligation for which the security was lodged. Where no such time limit is specified, the period shall be 365 calendar days from the date by which all obligations have been fulfilled.

The period laid down in the first subparagraph shall not exceed 1 095 calendar days from the time the security was assigned to a particular obligation.

Article 25

Thresholds

1. The total sum forfeited shall not exceed 100 % of the relevant part of the sum secured.

2. The competent authority may waive the forfeiture of an amount less than EUR 100, provided that similar national provisions for comparable cases are laid down by law, regulation or administrative action.

SECTION 4

Securities with respect to advance payments

Article 26

Scope

The provisions of this Section shall apply in all cases where specific Union rules provide that a sum may be advanced before the obligation established to obtain any aid or advantage has been met.

Status: Point in time view as at 31/01/2020.

Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) No 907/2014, CHAPTER IV. (See end of Document for details)

Article 27

Release of securities

1. The security shall be released:
 - (a) either when final entitlement to the sum granted as an advance has been established;
 - (b) or when the sum granted, plus any addition provided for in the specific Union rules, has been repaid.
2. Once the deadline for proving final entitlement to the sum granted has passed without production of evidence of entitlement, the competent authority shall immediately follow the procedure for forfeiting the security.

However, where specific Union rules so provide, evidence may still be produced after that date against partial repayment of the security.

Status: Point in time view as at 31/01/2020.

Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) No 907/2014, CHAPTER IV. (See end of Document for details)

- (1) Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code ([OJ L 302, 19.10.1992, p. 1](#)).

Status:

Point in time view as at 31/01/2020.

Changes to legislation:

There are currently no known outstanding effects for the Commission Delegated Regulation (EU) No 907/2014, CHAPTER IV.