

Commission Implementing Regulation (EU) 2016/1240 of 18 May 2016 laying down rules for the application of Regulation (EU) No 1308/2013 of the European Parliament and of the Council with regard to public intervention and aid for private storage (Text with EEA relevance)

TITLE III

AID FOR PRIVATE STORAGE

CHAPTER I

Specific rules for aid for private storage

Section I

General provisions

Article 39

Opening of tendering procedures and fixing aid in advance

1 The Implementing Regulation opening the tendering procedure or fixing the amount of aid in advance may contain the following information:

- a the products, or types of products, covered with their relevant CN codes, if applicable;
- b in the case of aid fixed in advance, the amount of aid for storage per unit of measurement for the products covered;
- c the unit of measurement of the quantities;
- d if the tender or aid fixed in advance relates to products that have already been placed in storage;
- e in the case of tenders, the period covered ('tendering period') and, if necessary, the different sub-periods during which tenders can be submitted, and in the case of aid fixed in advance the period for submitting an application;
- f the period of storage;
- g the global quantity, if applicable;
- h the minimum quantity per tender or application;
- i the amount of the security per unit of measurement in the case of tenders and, where applicable, for applications;
- j the periods of placing into store and of removal from store;
- k the specifications that have to appear on the packaging, if applicable.

2 Where the granting of aid for private storage is restricted to certain Member States or regions of a Member State as referred to in Article 18(2)(b) of Regulation (EU) No 1308/2013, tenders and applications may be lodged only in the Member State(s) concerned.

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Changes to legislation: There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2016/1240, TITLE III. (See end of Document for details)

3 In the case of tenders, at least six days shall elapse between the entry into force of the Implementing Regulation opening the tendering procedure and the first date for the submission of tenders.

Article 40

Submission and admissibility of tenders and applications for aid for private storage

A tender or application for aid for private storage shall be admissible if it complies with the requirements laid down in Article 2 and the following conditions are met:

- (a) it includes at least the following information:
 - (i) a reference to the Implementing Regulation opening the tendering procedure or fixing the amount of aid for private storage in advance;
 - (ii) the storage period where so required in the Implementing Regulation opening the tendering procedure or fixing the amount of aid for private storage in advance;
 - (iii) the quantity of products covered by the tender or application;
 - (iv) where products are already stored, the name and address of each place of private storage, the location of the storage lots/batches/vats/silos with the corresponding quantities and, where appropriate, the number identifying the approved undertaking;
 - (v) in the case of tenders, the expiry date for the sub-period of submission;
 - (vi) in the case of tenders, the amount of aid in euro proposed per unit of measurement rounded to no more than two decimal places, exclusive of VAT;
- (b) the operator has lodged the amount of the security referred to in the Implementing Regulation opening the tendering procedure or fixing the amount of aid for private storage in advance.

Article 41

Verification of tenders and applications by the paying agency

1 The paying agency shall decide on the admissibility of tenders and applications on the basis of the conditions set out in Articles 2 and 40.

2 Where the paying agency decides that a tender or application is inadmissible, it shall inform the operator concerned within three working days of the receipt of the tender or application.

Article 42

Notification of tenders and applications to the Commission

1 Member States shall notify the Commission of all admissible tenders and applications within the following time limits:

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- a in the case of tenders, the time limits laid down in the Implementing Regulation opening the tendering procedure shall apply;
 - b in the case of applications, notifications shall be submitted not later than 12.00 (Brussels time) each Tuesday and shall relate to the quantities of the products which, during the preceding week, have been the subject of an admissible application, and of the related information. The Commission can request that such notifications are made more frequently where such information is necessary for the purposes of managing the scheme.
- 2 The notifications provided for in points (a) and (b) of paragraph 1 shall not contain the operators' name, address and VAT registration number.
- 3 Where a Member State does not notify the Commission of an admissible tender or application within the time limits referred to in points (a) and (b) of paragraph 1, it shall be deemed to have notified the Commission of a nil return.

Section II

Fixing the amount of aid for private storage via a tendering procedure

Article 43

Decisions on the maximum amount of aid for private storage

- 1 On the basis of the tenders notified in accordance with Article 42, the Commission shall decide, as provided for in Article 4(2)(a) of Regulation (EU) No 1370/2013:
- a not to fix a maximum amount of the aid; or
 - b to fix a maximum amount of the aid.
- 2 Where the tender is subject to a global quantity as referred to in Article 39(1)(g), and if the award of the total quantities for which that amount has been offered would lead to the global quantity being exceeded, the Commission shall, in accordance with the procedure referred to in Article 229(2) of Regulation (EU) No 1308/2013, adopt a decision fixing an allocation coefficient. The coefficient shall apply to the tenders which have been received at the level of the maximum amount of aid.
- By way of derogation from Article 2(6), an operator to whom an allocation coefficient applies may withdraw his tender within 10 working days of the date of entry into force of the decision fixing the allocation coefficient.
- 3 Decisions on aid referred to in paragraphs 1 and 2 shall be published in the *Official Journal of the European Union*.

Article 44

Individual decisions on tenders

- 1 Where no maximum amount of aid for private storage has been fixed, all tenders shall be rejected.

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2 Where a maximum amount of aid has been fixed, the paying agency shall accept tenders which are equal to, or lower than that amount, without prejudice to Article 43(2). All the other tenders shall be rejected.

The paying agency shall only accept tenders that have been notified in accordance with Article 42.

3 The paying agency shall take the decisions referred to in paragraphs 1 and 2 of this Article after the publication of the decision of the Commission referred to in Article 43(1).

The paying agency shall notify operators of the outcome of their participation in the tendering procedure within three working days of the entry into force of that decision of the Commission.

Section III

Fixing the amount of aid for private storage in advance

Article 45

Decisions on applications for aid for private storage fixed in advance

1 For products already in storage, an admissible application shall be deemed to have been accepted on the eighth working day following the date of receipt of that application, provided that the Commission does not adopt a decision in accordance with paragraph 3 in the interim.

2 For products that are not already stored, decisions on acceptance of an admissible application shall be notified by the paying agency to the operator on the eighth working day following the date of receipt of that application, provided that the Commission does not adopt a decision in accordance with paragraph 3 in the interim.

3 Where an examination of the situation reveals that excessive use has been made of the aid for private storage scheme, or that there is a risk of excessive use or speculation, the Commission may, without applying the procedure referred to in Article 229(2) or (3) of Regulation (EU) No 1308/2013, decide to:

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

By way of derogation from Article 2(6), an operator to whom point (b) of the first subparagraph applies may withdraw his application within 10 working days of the date of entry into force of the decision setting the percentage reduction.

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Section IV

Placing of products into private storage

Article 46

Information related to the place of private storage for products not yet in storage

Following receipt of the notification referred to in the second subparagraph of Article 44(3) or the notification of the decision referred to in Article 45(2), the operator shall notify the paying agency of the timeframe for the entry of products into storage, the name and address of each place of private storage and the corresponding quantities. The notification shall be provided to the paying agency at least five working days before the start of the placing lots into storage. The paying agency may decide to accept a shorter period than five working days.

Article 47

Placing into storage of products not yet in storage

1 Products shall be placed into storage within 28 days following the notification referred to in the second paragraph of Article 44(3) in the case of tenders, or the notification of the decision referred to in Article 45(2) in the case of applications.

2 For meat, placing in storage shall begin, for each individual lot of the quantity covered by the tender or application, 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 **or** chilled product is determined:

- a at the place of private 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 private storage.

3 Placing into storage shall be considered completed on the day on which the last individual lot of the quantity covered by the tender or application is placed in storage.

CHAPTER II

Storage contracts

Section I

Conclusion of contracts

Article 48

Contractual storage period

1 The contractual storage period starts on the day following:

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- a the date of the notification referred to in Article 44(3), or the date of receipt of an admissible application without prejudice to Article 45(1), for products already placed in storage;
- b the date that placing into storage is considered completed in accordance with Article 47(3) for products which are not yet stored.

2 The last day of the contractual storage period may be fixed in the Implementing Regulation opening the tendering procedure or fixing the amount of aid for private storage in advance, as referred to in Article 39(1)(f).

By way of derogation from Article 3(4) of Council Regulation (EEC, Euratom) No 1182/71⁽¹⁾, when the last day of the contractual storage period falls on Saturday, Sunday or a public holiday, the contractual storage period shall end with the expiry of the last hour of that day.

Article 49

Conclusion of contracts

Contracts shall be concluded between the paying agency of the Member State in the territory of which the products are stored or will be stored and operators fulfilling the requirements laid down in Article 2 of Delegated Regulation (EU) 2016/1238 from whom a tender or application has been accepted.

Contracts shall be concluded for the quantity actually placed in storage (the 'contractual quantity'), which shall not exceed the quantity referred to the second paragraph of Article 44(3) in the case of tenders, or the quantity in the application in respect of products already in store, or the notification of the decision referred to in Article 45(2) in the case of applications for products not yet in store.

Where the quantity actually placed in storage is less than 95 % of the quantity in the tender or application, or the quantity arising from the application of Article 45(3)(b), no contract shall be concluded.

Contracts shall not be concluded where the eligibility of the products is not confirmed.

Article 50

Notification of conclusion of contracts

The paying agency shall notify the successful operator of a contract considered as being concluded within five working days of the date of issue of the control report referred to in Article 61(1), subject to receiving all of the documents necessary for concluding the contract.

The date of conclusion of the contract shall be that on which the paying agency notifies the operator.

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Section II

Elements of the contract and obligations of the operator

Article 51

Elements of the contract

The contract shall be construed as including, where appropriate, the elements provided for in Article 52, as well as those provided for in:

- (a) the relevant provisions of the Implementing Regulation opening the tendering procedure and in the tender; or
- (b) the relevant provisions of the Implementing Regulation fixing the amount of aid for private storage in advance and in the application.

Article 52

Obligations of the operator

- 1 Contracts shall cover at least the following obligations for the operator:
 - a to place and to keep the contractual quantity in storage, during the contractual storage period, at their own risk and expense under conditions ensuring the maintenance of the characteristics of the products referred to in Article 3 of Delegated Regulation (EU) 2016/1238, without:
 - (i) substituting the stored products, except in the case of sugar in accordance with paragraph 3;
 - (ii) or transferring them to another place of private storage or, in the case of sugar, to another silo;
 - b to retain the weighing-in documents established at the time of entry into the place of private storage;
 - c to send the documents relating to the operations of placing in storage, including the location of the storage lots/batches/vats/silos with the corresponding quantities, to the paying agency not later than five working days after the date of placing into storage referred to in Article 47(3);
 - d to allow the paying agency to check at any time that all the obligations laid down in the contract are being adhered to;
 - e to make the products stored easily accessible and individually identifiable by storage lot/batch/vat/silo.
- 2 By way of derogation from point (a)(ii) of paragraph 1, the paying agency may authorise a relocation of the stored products under the following conditions:
 - (i) for cheeses benefiting from a protected designation of origin (PDO) or from a protected geographical indication (PGI), where the operator submits a reasoned request;
 - (ii) for other products, in exceptional cases, where the operator submits a reasoned request.
- 3 By way of derogation from point (e) of paragraph 1 of this Article, sugar subject to a contract may be stored in a silo designated by the operator with other sugar provided that the

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contractual quantity is kept in storage in the designated silo during the contractual period in accordance with Article 8(1) of Delegated Regulation (EU) 2016/1238.

4 The operator shall, on request, make available to the paying agency responsible for checking all documentation, for each contract, allowing in particular the following information on the products placed in storage to be verified:

- a the number identifying the approved undertaking and, if necessary, the Member State of production;
- b the origin and the date of production of the products, or for sugar the marketing year of production, and for meat the day of slaughtering;
- c the date of placing into storage;
- d the weight and, in the case of meat, the number of cuts packaged;
- e the address of the place of private storage and the means allowing for ready identification of the product within the place of private storage or, for bulk sugar, the identification of the silo designated by the operator;
- f the end date of the contractual storage period and the actual date of removal from contractual storage.

5 The operator or, where applicable, the storekeeper shall keep a register at the warehouse covering, by contract number:

- a the identification of the products placed in storage by lot/batch/vat/silo;
- b the dates of placing in and removal from storage;
- c the quantity of products in storage by lot/batch/vat/silo;
- d the location of the products by storage lot/batch/vat/silo within the store.

CHAPTER III

Removal of products and payment of aid for private storage

Section I

Removal of products from storage

Article 53

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 Implementing Regulation opening the tendering procedure or fixing the amount of aid for private storage in advance.

2 Removal from storage shall be in whole storage lots unless the paying agency authorises removal in smaller quantities.

However, in the case of sealed products as referred to in Article 60, only a sealed quantity may be removed from store.

3 Where in the Implementing Regulation opening the tendering procedure or fixing the amount of aid for private storage in advance, the contractual storage period is specified as being between a period of days, the operator shall notify the paying agency of the intention to begin

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removing products from storage, indicating the storage lots/batches/vats/silos involved, at least five working days before the start of removal operations.

The paying agency may decide to accept a shorter period than five working days.

Section II

Payment

Article 54

Application for payment of aid for private storage

The operator shall lodge an application for payment within three months of the end of the contractual storage period.

Article 55

Payment of aid for private storage

Payment of the aid shall be made not later than 120 days following the date on which an application for payment is lodged provided that the obligations of the contract have been met.

However, if an administrative inquiry is under way, payment shall not be made until entitlement has been recognised.

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- (1) Council Regulation (EEC, Euratom) No 1182/71 of 3 June 1971 determining the rules applicable to periods, dates and time limits ([OJ L 124, 8.6.1971, p. 1](#)).

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