Commission Implementing Regulation (EU) 2017/1479 of 16 August 2017 amending Implementing Regulation (EU) 2016/1240 as regards the disposal of intervention stocks for the scheme for food distribution to the most deprived

COMMISSION IMPLEMENTING REGULATION (EU) 2017/1479

of 16 August 2017

amending Implementing Regulation (EU) 2016/1240 as regards the disposal of intervention stocks for the scheme for food distribution to the most deprived

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007[(1)], and in particular Article 20(i) thereof,

Whereas:

(1) In accordance with Article 16(2) of Regulation (EU) No 1308/2013, products bought in under public intervention ('intervention products') may be disposed of by making them available for the scheme for food distribution to the most deprived in the Union ('the scheme') as set out in the relevant Union legal acts.

(2) Article 23(4) of Regulation (EU) No 223/2014 of the European Parliament and of the Council[(2)] provides that food to be distributed to the most deprived persons in the Union may be obtained from the use, processing or sale of intervention products, provided that this is economically the most favourable option and does not unduly delay the delivery of the food products.

(3) Although Commission Delegated Regulation (EU) 2016/1238[(3)] contains provisions in respect of lodging a security for submitting an offer or a tender for the disposal of intervention products under the scheme, Commission Implementing Regulation (EU) 2016/1240[(4)] does not contain detailed rules on procedures relating to products made available for the scheme.

(4) When there are intervention products and prevailing market conditions allow for the disposal of such products, the Commission should have the possibility to decide to make those products available for the scheme. For that purpose, the Commission should fix the quantity to be made available and Member States that wish to receive a part of the quantity made available should submit a request.

(5) Where the total quantity requested exceeds the total available quantity, the products should be allocated in proportion to the quantities requested. Subsequently, the distribution of the available lots among the Member States should be made in accordance with criteria to be defined by the Commission in relation to the location of the products.

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2017/1479. (See end of Document for details)*

(6) Since intervention products may be of a different nature and may have different characteristics, the most appropriate and efficient way of disposal for the purposes of the scheme can be different. It is therefore necessary to lay down the relevant procedural rules, including certain deadlines.

(7) Apart from the use or processing of intervention products, the sale through tenders organised by Member States that have been allocated a part of the quantity made available for the scheme is a possible efficient option. Specific rules on the sale through such tenders should be laid down. In order to avoid the risk of disturbing the relevant markets when selling through tenders, it is appropriate to fix a minimum price below which no offers can be accepted.

(8) Implementing Regulation (EU) 2016/1240 should therefore be amended accordingly.

(9) The measures provided for in this Regulation are in accordance with the opinion of the Committee for the Common Organisation of the Agricultural Markets,

HAS ADOPTED THIS REGULATION:

Article 1

Implementing Regulation (EU) 2016/1240 is amended as follows:

(1) In Title II, the following Chapter IV is added:

CHAPTER IV

Disposal of products from intervention for the scheme for food distribution to the most deprived in the Union

Article 38a

Making products from intervention available for the scheme

1 The Commission may, by way of an Implementing Regulation adopted in accordance with the procedure referred to in Article 229(2) of Regulation (EU) No 1308/2013, make intervention products available for the scheme for food distribution to the most deprived in the Union referred to in Article 16(2) of that Regulation ('the scheme').

2 The Implementing Regulation referred to in paragraph 1 shall contain, in particular, the following information:

a the type and quantity of the products that are made available for the scheme;

b the location of the products made available for the scheme and the criteria for the distribution of the available lots among the Member States concerned on the basis of their location;

c the way in which the products are to be disposed of in accordance with the second subparagraph of Article 23(4) of Regulation (EU) No 223/2014 of the European Parliament and of the Council[(5)] (direct use, processing or sale) in order to make them available for the scheme in a way that is economically

the most favourable option taking into account the nature and characteristics of the products;

d where the products are to be sold in accordance with Article 38b of this Regulation, the level of the security to be lodged in accordance with Article 4(a) of Delegated Regulation (EU) 2016/1238 and the price below which the products shall not be sold.

3 Member States interested to be allocated part or all of the quantity referred to in point (a) of paragraph 2 shall submit a request to the Commission within 10 working days after the publication of the Implementing Regulation referred to in paragraph 1. That request shall specify the type and the quantity (expressed in tonnes) of the product requested. The quantity requested by a Member State shall not exceed the quantity referred to in point (a) of paragraph 2.

4 Within 20 working days after the publication of the Implementing Regulation referred to in paragraph 1, the Commission shall adopt an Implementing Regulation without applying the procedure referred to in Article 229(2) or (3) of Regulation (EU) No 1308/2013 by which it:

a allocates a quantity to each Member State that submitted a request;

b specifies the location of the available lots as distributed to the Member States concerned in accordance with the criteria referred to in point (b) of paragraph 2.

For the purposes of point (a) of the first subparagraph, where the total quantity requested by Member States exceeds the quantity referred to in point (a) of paragraph 2, a quantity shall be allocated to the Member States concerned in proportion to the quantity requested by them.

5 Where the quantity allocated to a Member State is 50 % lower than the quantity requested, the Member State may renounce the quantity allocated to it by informing the Commission of its decision within 10 working days after the publication of the Implementing Regulation by which the products were allocated. Those products shall no longer be available for the scheme under that specific Implementing Regulation.

Article 38b

Sale of intervention products made available for the scheme

1 Where the Implementing Regulation referred to in Article 38a(1) provides that the products made available for the scheme have to be disposed of by sale, paragraphs 2 to 7 of this Article shall apply.

2 The paying agency of the Member State that has been allocated products in accordance with Article 38a(4) shall, within 40 working days after the publication of the Implementing Regulation by which the products were allocated, open a tendering procedure for the sale of the products.

Where a Member State has been allocated products held by the paying agency of another Member State, the paying agency holding the products shall provide to the paying agency selling the products the information referred to in Article 29(2)(d) to (g) within 10 working days after the publication of the Implementing Regulation by which the products were allocated.