



The Sale of UK Intervention Grain Onto the Community Market IM(C)20



RURAL PAYMENTS AGENCY

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EXPLAINING THE COMMON AGRICULTURAL POLICY

OF THE EUROPEAN COMMUNITIES FOR



**THE SALE OF UNITED KINGDOM
INTERVENTION CEREALS ONTO THE
COMMUNITY MARKET**

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The rules and obligations described in this leaflet arise from European Community Regulations which are binding in the United Kingdom. The regulations are subject to alteration. Whilst every effort is made to ensure that the information given is complete and accurate, this cannot be guaranteed. Delays can occur both in publication and in the issue of amendments to leaflets. Where doubt arises on legal interpretation advice should therefore be sought from lawyers as ultimately only the European Court could resolve it. On any other matter the Agency should be consulted. References are made in the leaflet to the appropriate EC Regulations published in the Official Journal of the European Communities. Copies can be obtained from Stationery Office bookshops and accredited agents, or ordered from the Stationery Office website (www.tso.co.uk). You can also access recent Official Journals electronically by visiting the Commission's Europa website on www.europa.eu.int/eur-lex/en/oj/index.html. **Please note that the Rural Payments Agency cannot provide any warranty as to the accuracy or completeness of the Europa website.**

This leaflet deals only with EC Regulations and directives and procedures and forms required for the purposes of the Common Agricultural Policy.

IMPORTANT NOTICE

SUCCESSFUL TENDERERS SHOULD NOTE THAT PAYMENT FOR CEREALS MUST BE MADE WITHIN 1 MONTH OF AWARD OF CONTRACT. FAILURE TO DO SO WILL RESULT IN LOSS OF TENDERING SECURITY AND TERMINATION OF CONTRACT WITH RESPECT TO THE QUANTITIES FOR WHICH PAYMENT HAS NOT BEEN MADE. PARAS 18.1, 21.1 AND 22.1 WITHIN REFER.

"Data Protection - Any personal data provided to the RPA is protected in accordance with the Data Protection Act 1998. The data will be used primarily for the purpose of the application for which it is supplied. However, it may also be used in accordance with the Data Protection Act and subject to the safeguards of that Act for purposes connected with: administration of the Common Agricultural Policy, ERDP and other aid schemes; the production and safety of food; management of land and other environmental controls; animal health and welfare; and occupational health and welfare. Data may be passed (when necessary for these purposes) to other bodies such as Customs and Excise (for import/export purposes) and local authorities (for milk/health purposes) - these are merely examples. The data collected may also be used in connection with the Agricultural Census as a basis for statistical returns not identifying individuals. It may also be used when necessary to comply with the Environmental Information Regulations, the Code of Practice on Access to Government Information and the Freedom of Information Act."

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SECTION I BRIEF DESCRIPTION OF THE SCHEME

1. INTRODUCTION

- 1.1 This leaflet describes the arrangements in the United Kingdom for the sale of intervention cereals onto the Community market. It replaces the leaflet IM(C)20 issued in December 2002. Enquiries concerning this Scheme should be made to the Rural Payments Agency (hereafter referred to as RPA) at the address shown on the front of this leaflet. Traders interested in the sale of intervention cereals for export should read leaflet IM(C)16 (sale of UK Intervention cereals for export to non-member countries) also available from RPA.
- 1.2 Marginal references, except where otherwise stated, refer to the relevant article of the Commission Regulation (EEC) No 2131/93 (as amended) which lays down the procedure and conditions for the disposal of cereals held by intervention agencies.

2. AUTHORISATION OF A SALE

- Art. 1, 2.1, 2.2, 3 & 12 2.1 When authorised by the European Commission, RPA will offer cereals for sale. When this happens an announcement of the call for tenders will be published in the Official Journal of the European Communities, and a Notice of Invitation to Tender, which should be read with this leaflet, will be issued by RPA. However tenders for amounts of 5000 tonnes or less may be opened under standing authority from the EC. Tenders will remain open for a specified period and bids may be submitted for weekly (usually Tuesday) adjudication while stocks remain or until the tender is closed. From time to time additional stocks may be added to the tender.

3. OUTLINE OF THE SALES PROCEDURE

- Art. 4 3.1 The cereals will normally be offered for sale without restriction on end use, but may be linked to a specific end use, eg incorporation into animal feed.
- Art. 15 3.2 The sale of cereals is by tender (Paras 10-14) and tenders must be accompanied by a tendering security (paras 15-17), which is released either when a bid is unsuccessful or when payment is received for cereals awarded under a successful bid. A trader who is successful in the tender will be notified by fax and a contract letter (para 19 for further details). Once all the cereals are removed from store, a final statement will be prepared (para 29) showing the monies outstanding, whether owed to or by RPA.

3.3 Annex A to this leaflet is a flowchart presentation of the operation of the scheme. Neither the flowchart nor this summary, however, should be read without reference to the more detailed information contained in the following pages.

4. CUSTOMER REGISTRATION

4.1 In order to receive payable orders and invoices, traders must register with the RPA.

4.2 To register or to change any registration details, contact our Customer Registration Section on 0845 603 7777 or the Cereals Intervention Section.

SECTION II QUALITY, PRICING AND LOCATION

5. QUALITY OF CEREALS

Art. 12 5.1 The cereals offered for sale will have met the regulatory requirements for quality which were valid at the time of intake. Details of the quality of the cereals will be given in the annexes to the Notice of Invitation to Tender.

6. PRICING OF CEREALS

Art. 13.2 & 16 6.1 The accepted tender price for the cereals may be subject to a price adjustment based on the quality of the cereals determined by the date of discharge from store. When applicable, any price adjustment will fall into one of the following categories:

- For quantities of cereals discharged from store during the rent free period, the price adjustment will reflect the actual quality of the cereals at the time of discharge, as detailed on the form CESA 11 (Discharge and quality record) sent to successful tenderers upon completion of contract (see para 29).
- For quantities of cereals discharged from the store after the rent free period, the price adjustment will reflect intake quality as advertised in the invitation to tender.
- When cereals are discharged both before and after the end of the rent free period, the price adjustment will be calculated as a weighted (dependent on the quantities discharged within and after the rent free period) average figure reflecting both actual and advertised qualities.

6.2 The resulting price adjustment will be shown on the form CESA 12 (final statement) sent to successful tenderers by RPA.

Art 13.1 6.3 Bids should be exclusive of price adjustment for quality.

7. LOCATION OF CEREALS

- Art. 3.1 & 12 7.1 Details of the location of the cereals and quantities available will be published in the Annexes to the Notices of Invitation to Tender. Updates to these details in respect of standing invitations to tender will be published each week after the weekly tender normally held each Tuesday. Tenderers wishing to receive this information should contact RPA to ensure that they are included on the mailing list. RPA reserves the right to adjust the quantities for sale at individual stores without prior notice.

8. INSPECTION OF CEREALS – INCL. SAMPLING AND ANALYSIS

- Art. 14 8.1 Prospective tenderers are advised to satisfy themselves as to the quality of the cereals. Those wishing to inspect the cereals prior to bidding should notify the appropriate storekeeper by telephone or fax giving the date and time of their proposed visit to inspect and/or sample the cereals. Purchasers are advised that the cereals delivered out to them may vary from the quality published, but will not be below the minimum intervention quality standards that applied at the time the cereals were taken into store. RPA will not consider claims for purchasers on such variations in quality, unless the quality falls below minimum intervention standards.
- 8.2 **At your request**, we will sample the cereals you purchase either before or at the time of discharge at a rate of one sample for each 500 tonnes. If you want us to do this you should initially contact the Cereals Intervention Section who will arrange for one of our Inspectors to contact you to arrange a suitable date.
- 8.3 It is your responsibility to arrange attendance at the time the cereals are sampled and analysed – either in person or by use of a representative. **Please note that if you do not attend or are not represented, we will carry out sampling and analysis in your absence. However, by not attending or being represented, you may also forego your right to appeal the results of the analysis.**

9. DISCHARGE OF CEREALS

- 9.1 RPA does not guarantee that cereals will be discharged within any set period. Tenderers are therefore advised to contact the storekeeper prior to bidding to determine the precise discharge rates. At the same time, they should also check with the storekeeper whether the quantity they intend to bid for can be released to them in the required time-scale. RPA will not consider claims from purchasers where the discharge has not been completed within the time-scale required by the purchaser.

10. VARIATIONS IN CONTRACT TONNAGE

- 10.1 Tenderers should note that the quantities offered for sale may be a part of, or all of, the book stocks available at the store. Tenderers who bid for part of the total stock must remove the quantity they bid for plus or minus half a truckload (13 tonnes). However tenderers who bid for the total book stock will be expected to remove the total quantity in store up to a maximum of 105% of the quoted book stock.

SECTION III TENDERING CONDITIONS

11. ADDRESS FOR TENDERING

11.1 Tenders must be sent to RPA by registered post, by hand (see para 12), (an acknowledgement of receipt will be given on request), or by fax (see para 13). Address details are given at the front of this leaflet.

12. TENDERING DEADLINES

Art. 13.4

12.1 Prospective tenderers should note that tenders must be received by RPA by the tendering deadline as given in the tender document for the submission of tenders. Tendering securities (see para 15) must also be lodged with RPA by the same deadline. Failure to lodge a tendering security in time will result in the tender being rejected. Once submitted, tenders may NOT be withdrawn or amended.

13. TENDERING BY POST OR BY HAND

13.1 Tenders sent by registered post or by hand will be considered only if they are submitted on the form prescribed in the Notice of Invitation to Tender. Tenders should be enclosed in a double sealed envelope. The inner envelope should bear the phrase: 'Private and Confidential'. "Tender for sale of intervention cereals onto the Community Market".

14. TENDERING BY FAX

14.1 Faxed tenders will be considered only if they are submitted in the form prescribed in the Notice of Invitation to Tender and are received in their entirety by the tendering deadline as given in the tender document on the final date set for the submission of tenders. Tenderers must allow adequate time for faxed bids to reach RPA. It is the responsibility of the tenderer to ensure that the faxed bid has been received in its entirety. The timing of the faxed bids at RPA will be final. Faxed tenders must be confirmed in writing to RPA by registered post using the form prescribed at Annex A of the Notice of Invitation to Tender.

15. TENDER BID PRICE AND EURO CONVERSION RATE (ECR).

15.1 Bids must be submitted in Euros/tonne.

Reg (EC)
1913/06 Art. 8

15.2 The operative event for fixing the ECR is when a valid bid is received and the security has been lodged

15.3 Confirmation of ECRs may be obtained from the Rates Information Section of RPA tel 0191 226 5045. You will also find conversion rates on www.ecb.int, the website of the European Central Bank and on the RPA web site under RPA schemes>Export Refund Rates.

16. AMOUNT OF LODGING OF SECURITY

Art. 13.4 &
Reg (EC)
1913/06 Art.10

16.1 Tenders must be accompanied by a security. The current rate is €5 per tonne and any change to this will be notified in the Notice of invitation to tender. The appropriate ECR for converting tender security will be that applying on the date of tender.

Reg (EEC)
No 2220/85
(as amended)
Art. 8

16.2 Security may be lodged in the form of any one of the following:

- Block guarantee (see para 15.3);
- Single transaction guarantee (see para 15.4);
- Telegraphic transfer (see para 15.5);
- Bankers draft (see para 15.6);
- Cheque (see para 15.7).

The tender must specify the form in which the security has been lodged.

16.3 Tenderers intending to lodge tendering security by debit from a block guarantee are advised, before tendering, to check with RPA's block guarantee section that sufficient funds remain in their block guarantee to cover their tender bids and any other transactions requiring a block guarantee. If the funds remaining in the tenderer's block guarantee are insufficient to fully cover the tonnage specified in a bid, the bid will be rejected.

16.4 Single transaction guarantees should be sent to RPA's Guarantees Section, Kings House, PO Box 69, Reading, RG1 3YD.

- 16.5 Telegraphic transfers to RPA's bank account must be made to Lloyds Bank Plc, 1/2 Market Place, Reading RG1 2EY, Account No 0926997 Sort Code 30-96-96.
- 16.6 Bankers drafts must be made payable to the Rural Payments Agency.
- 16.7 RPA can accept a cheque as a valid form of security only after it has been cleared through RPA's bank account. Because cheques are cleared via the Paymaster General's office to the Bank of England, it may take up to 10 working days for a cheque to clear. If a cheque has not cleared by the date of the tender, security will be considered not to have been lodged and the associated bid will not be considered.
- 16.8 Tenderers who are unsuccessful will have their security returned as soon as possible.
- 16.9 Any expenses incurred in providing the security will not be reimbursed by RPA, nor will the security yield interest. To avoid delays in the repayment of securities, the tenderer is advised, in his own interests, to use either a block or single transaction guarantee. RPA maintains a list of approved guarantors, a copy of which can be obtained on request from RPA's Guarantees Section (0118 953 1723/1768). The necessary forms to establish such a facility are also available from the same section.

17. RELEASE OF SECURITY

- Art. 17.2 17.1 Security will be released only in respect of quantities for which:
- no contract has been awarded; or
 - the cereals have been paid for within one calendar month of the date of contract (see para 20.1).

18. FORFEITURE OF SECURITY

- Art. 17.4 18.1 Except for cases of force majeure (see para 34), the security will be forfeit in respect of those quantities for which payment is not made within one calendar month from the date of award of contract and for which the contract is terminated.

19. MINIMUM QUANTITY

- Art. 3 & 12 19.1 Tenders must be for not less than 20 tonnes from any one store, unless otherwise specified by the Notice of Invitation to Tender.

**SECTION IV AWARD OF CONTRACT, PAYMENT FOR CEREALS AND THE
ECR OPERATIVE EVENT**

20. AWARD OF CONTRACT

Art. 5.1, 5.2,
19.1 & 5.3

- 20.1 The minimum acceptable tender price will be the higher of:
- the local market price for cereals of an equivalent quality (see para 19.2); or
 - the intervention price applicable on the closing date for tenders (in the case of tenders adjudicated during June, July and August, the May buying-in price increased by one monthly increment is used).

Bids below the minimum acceptable price will be rejected.

20.2 The local market price is determined as follows. Firstly the appropriate commodity average price for the region in which each intervention store is located, as shown in the Home Grown Cereals Authority" Weekly Bulletin, is established. If the Home Grown Cereals Authority has not received sufficient price data on which to calculate a regional price the appropriate country price is used instead. Occasionally even a country price is not available in which case the UK average price is used. The price appropriate to each store is converted to Euros at the ECR applicable on the day of the tender. The price thus calculated forms the minimum price referred to at para 19.1 above. The weekly bulletin is normally published on the day before the tender.

20.3 Intervention prices appropriate to the tender are published in the Notice of Invitation to Tender.

Art. 15

20.4 The results of the tender adjudication will normally be notified to tenderers on the day of the tender, or at the latest within 3 working days of the tender. Tenderers will also be sent confirmation of successful bids by the issue of a contract letter. RPA reserves the right not to make any award.

20.5 When the total of acceptable bids received for any particular store exceeds the stocks available on the tender from that store, the highest bids are accepted down to the price level which succeeds in selling all the stock available on the tender at the store.

20.6 If two or more tenderers have submitted acceptable bids at the same price for the same cereals, a decision as to the apportionment of the cereals will be made in consultation with the competing tenderers. If an agreement is not reached, lots will be drawn and the result of this process will be final.

21. PAYMENT FOR CEREALS AND THE ECR OPERATIVE EVENT

Art. 16

21.1 The successful tenderer must pay the tendered amount to RPA within one calendar month from the date of award of contract, eg if the contract was issued on 3 May 2007 payment must have been received not later than 4 June 2007. However, if the final date for payment falls on a weekend or public holiday, payment must be made by the end of the next working day. The final payment date will be notified to the successful tenderer in the award of contract notification and the contract letter.

21.2 Payment may be made either by:

- banker's draft, made payable to the Rural Payments Agency;
- telegraphic transfer to RPA's bank. (See para 15.5);
or
- by cheque made payable to the Rural Payments Agency (but see para 15.7 for clearance time). If not cleared by the due payment date, no payment will be considered as having been made.

21.3 The cereals may be paid for and collected in agreed stages. Before payment is made, a fax should be sent to RPA's Cereals Intervention Section, stating to which contract, tonnage and type of cereals the payment relates. The details should be copied to RPA's Cashier.

21.4 The operative event for fixing the ECR is when a valid bid is received and the security has been lodged. The first payment may be in part (usually for not less than 20 tonnes) or in total.

22. NON-PAYMENT FOR CEREALS

Art. 16 & 17

22.1 If all or part of the cereals are not paid for by the due date (see para 20.1), the contract will be closed and the tendering security forfeited in respect of the quantity of cereals for which no payment has been received.

23. RELEASE INSTRUCTIONS

- 23.1 Once payment for the appropriate amount of cereals has been received, RPA will issue instructions to the storekeeper (copied to the purchaser) permitting the release of cereals from store. In order to avoid delays to the release of the cereals, payment should be made at least 3 working days before collection of the cereals is due to begin.
- 23.2 RPA will deal with the issue of release instructions strictly in the order of receipt of payment. There are no exceptions and purchasers are advised to check with the storekeeper before making arrangements for the collection of the cereals.

SECTION V REMOVAL OF CEREALS

24. COLLECTION OF CEREALS

- 24.1 The purchaser should agree with the storekeeper a timetable for collecting the cereals. He or his representative may be present at the store when the cereals are discharged. Discharge will be made free on vehicles on a hard road or free on rail if the purchaser wishes and the store has rail facilities. Where stores can discharge direct to ship, discharge shall be considered to take place when the cereals pass over the store's weighing equipment.
- 24.2 Once the cereals have been discharged from store into the purchaser's charge, they are deemed to have been accepted by him, subject to the conditions outlined in paragraph 24.
- 24.3 A tolerance of up to plus or minus half a truckload (13 tonnes) between the contracted and discharged tonnages will be applied. Once the collection of a lorryload brings the discharged quantity into this tolerance range, the contract will be deemed completed and no further cereals will be released to the purchaser.

25. VARIATIONS IN QUALITY

- 25.1 All complaints concerning appearance, smell, infestation and ergot must be resolved before each load leaves the store.
- 25.2 Purchasers who feel that any load delivered to them is below minimum intervention quality for reasons other than those in paragraph 24.1, must inform RPA within 3 working days of discharge. Complaints should identify the store, contract number, date of discharge, load or lorry number and the tonnage discharged. RPA will arrange for the reference sample held at the store to be analysed by an independent analyst and these findings shall be final and binding on both parties. All costs will be borne by the purchaser in the event that the appeal is not upheld.

26. INSUFFICIENT CEREALS IN STORE

- 26.1 Occasionally there may be insufficient cereals to meet the contract quantity. In these circumstances RPA will either:
- agree to close the contract at the reduced tonnage; or
 - subject to the purchaser's agreement, supply cereals (if available) from an alternative store. However, any additional costs arising will fall to the purchaser.

27. TRANSFER OF OWNERSHIP

27.1 Cereals purchased from intervention remain in RPA's ownership until they are physically delivered to the purchaser, eg loaded into the purchaser's vehicle on a hard standing. In certain circumstances, where the purchased cereals are separately contained in a discrete lot apart from other intervention cereals the purchaser may, providing the storekeeper is agreeable, apply to RPA for ownership to be transferred to him in store. If such a transfer is agreed by RPA, all risks and residual storage costs will become the responsibility of the purchaser from the date of transfer, as will the subsequent discharge costs. Applications for ownership to be transferred in store must be made to RPA in writing, 3 working days in advance of the proposed date of transfer. The purchaser must satisfy himself that the quality of the cereals is acceptable to him prior to the request.

28. STORAGE COSTS

Art. 16 28.1 RPA will pay for the storage of purchased cereals for one month after the date of award of contract. The date at which the purchaser becomes responsible for storage charges will be notified on the award of contract letter. Cereals remaining in store after that time will become the responsibility of the purchaser who will be charged storage costs at a rate of 3.5p/tonne.day for the first three months following the rent-free period and thereafter at a rate of 7.0p/tonne/day. This represents the costs incurred by RPA in reservation charges and extending storage contracts. These rates may be revised from time to time.

29. DISCHARGE COSTS

29.1 RPA will pay for the discharge of cereals from store.

SECTION VI FINAL STATEMENT AND PAYMENT OF INVOICES

30. FINAL STATEMENT

- 30.1 On receipt of all discharge details, RPA will issue to the purchaser a final statement for each contract showing monies either due to or owed by RPA. Included in the final statement (CESA 12) will be details of the tonnage discharged, the tendered price, the quality premium, and storage costs (if applicable) and payments made. RPA will also issue a discharge and quality record (CESA 11), detailing the daily discharge.
- 30.2 The purchaser must pay any amount due to RPA as a result of the final statement within 14 days of receipt of the invoice.

31. UNDERPAYMENT OF CLAIMS

- 31.1 RPA does not normally correct underpayments on claims for sums under £10 because of the administrative cost involved. Where a series of such underpayments to a single payee and arising from the same scheme amount in total to more than £10, a correction will be made. However, in the case of any such underpayment, whether less or more than £10 coming to the claimants' notice within 6 years of the date of the original payment, the claimant is entitled to ask for the underpayment to be corrected if he so wishes. Underpayments are not corrected after 6 years.

SECTION VII MISCELLANEOUS CONDITIONS

32. RIGHTS AND OBLIGATIONS

32.1 The purchaser may not assign the rights and obligations relating to his contract to another party.

33. DEMURRAGE

33.1 RPA will not be liable for any demurrage or other costs arising from an intervention sales contract.

34. RECORDS

34.1 Purchasers are required to keep commercial documents for at least 3 years starting from the end of the calendar year in which they are drawn up. Commercial documents are defined as all the purchasers' books, registers, vouchers and supporting documents, accounts and correspondence. Records must be made available at all reasonable times for examination by persons authorised by RPA for the purpose of verifying or auditing transactions.

34.2 If purchasers wish to do so, they may adopt a 'paperless' system (one that relies on microfilm, microfiche or electronic access to computer databases), or one involving the early destruction of original documents, provided that it:

- records all data necessary to support claims for payment and release of securities; and
- allows easy access to the data for authorised officials.

34.3 The system should provide as much information, in as easily accessible a form, as the paper-based arrangements it replaces.

35. FORCE MAJEURE

35.1 For the purpose of these arrangements force majeure can be described in broad terms as abnormal and unforeseeable circumstances not connected with and outside the control of the purchaser, the consequences of which, despite due diligence, could not have been avoided without excessive sacrifice.

FLOWCHART ON THE SALES PROCEDURE

References to the appropriate paragraph(s) in this leaflet are included in each box as necessary

