
ECONOMIC OPERATOR GUIDELINES

AGRIM/AGREX Licences

Agriculture and Rural Payments Agency (ARPA)

NOTE: THESE GUIDELINES ARE FOR GENERAL INFORMATION PURPOSES ONLY. OPERATORS ARE ADVISED TO READ THROUGH THE APPLICABLE REGULATIONS, AND WHERE NECESSARY CONTACT THE RESPECTIVE UNIT IN CHARGE OF PROCESSING AND ISSUING OF LICENCES BEFORE SUBMITTING AN AGRIM/AGREX LICENCE APPLICATION.



MINISTRY FOR AGRICULTURE, FOOD
FISHERIES AND ANIMAL RIGHTS

Agriculture and Rural Payments Agency
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1. Legal Basis

Market Mechanisms is a highly dynamic area where regulations on various agricultural products are updated frequently. The main database for the updating of the Commission Regulations is the Eur-Lex.

1.1 Base Regulations

Article 43, 66, 102-121 of REGULATION (EU) No 1306/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 17 December 2013 on the financing, management and monitoring of the common agricultural policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008.

Part III Articles 176-205 of 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.

COMMISSION DELEGATED REGULATION (EU) 2017/1183 of 20 April 2017 on supplementing Regulations (EU) No 1307/2013 and (EU) No 1308/2013 of the European Parliament and of the Council with regard to the notifications to the Commission of information and documents.

Articles 1-5 of COMMISSION IMPLEMENTING REGULATION (EU) 2017/1185 of 20 April 2017 laying down rules for the application of Regulations (EU) No 1307/2013 and (EU) No 1308/2013 of the European Parliament and of the Council as regards notifications to the Commission of information and documents and amending and repealing several Commission Regulations.

Chapter IV of 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.



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1.2 Surveillance Licences

COMMISSION DELEGATED REGULATION (EU) 2016/1237 of 18 May 2016 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council with regard to the rules for applying the system of import and export licences and supplementing Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to the rules on the release and forfeit of securities lodged for such licences, amending Commission Regulations (EC) No 2535/2001, (EC) No 1342/2003, (EC) No 2336/2003, (EC) No 951/2006, (EC) No 341/2007 and (EC) No 382/2008 and repealing Commission Regulations (EC) No 2390/98, (EC) No 1345/2005, (EC) No 376/2008 and (EC) No 507/2008.

COMMISSION IMPLEMENTING REGULATION (EU) 2016/1239 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 the system of import and export licences.

1.3 Tariff Quota Licences

COMMISSION DELEGATED REGULATION (EU) 2020/1987 of 14 July 2020 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council and Regulation (EU) No 1306/2013 of the European Parliament and of the Council as regards the lodging and release of securities in the administration of tariff quotas based on the chronological order of the submission of applications.

COMMISSION IMPLEMENTING REGULATION (EU) 2020/1988 of 11 November 2020 laying down rules for the application of Regulations (EU) No 1308/2013 and (EU) No 510/2014 of the European Parliament and of the Council as regards the administration of import tariff quotas in accordance with the ‘first come, first served’ principle.

COMMISSION IMPLEMENTING REGULATION (EU) 2021/760 of 7 May 2021 amending Implementing Regulations (EU) 2020/761 and (EU) 2020/1988 as regards the management system of some tariff quotas with licences and repealing Implementing Regulation (EU) 2020/991.



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COMMISSION IMPLEMENTING REGULATION (EU) 2021/761 of 7 May 2021 amending Annexes I to IV to Implementing Regulation (EU) 2017/717 as regards the model forms of zootechnical certificates for breeding animals and their germinal products.

COMMISSION DELEGATED REGULATION (EU) 2020/760 of 17 December 2019 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards the rules for the administration of import and export tariff quotas subject to licences and supplementing Regulation (EU) No 1306/2013 of the European Parliament and of the Council as regards the lodging of securities in the administration of tariff quotas.

COMMISSION IMPLEMENTING REGULATION (EU) 2020/761 of 17 December 2019 laying down rules for the application of Regulations (EU) No 1306/2013, (EU) No 1308/2013 and (EU) No 510/2014 of the European Parliament and of the Council as regards the management system of tariff quotas with licences.



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2. Types of Licences

The economic operator can opt for any of the two types of Licences: Quota and Surveillance.

2.1 Surveillance Licence

Surveillance Licence is a licence with no constraints on the quantity of product imported (as per Article 176.1 of Regulation (EU) No 1308/2013) and its country of origin. An operator can apply for such licences without waiting for the allocation publication of the EU Commission. Operators who apply under this type of licence will incur the full customs duty on the whole agricultural product. It is the duty of the operator to ensure that an AGRIM/AGREX licence is in hand within the appropriate timeframe.

2.2 Quota Licence

A Quota Licence is applied for by the economic operator under tariff quota basis denoted by the European Commission by the issuance of a notification of the allocation coefficient. This type of licence stipulates the trade of goods under preferential duties i.e., a reduced percentage on the total amount being traded.

The allocation coefficient is expressed as a percentage and is then applied to the quantity requested in the operator's applications thus yielding the quantity of the product which the operator applies for accordingly. The allocation coefficient is calculated by the European Commission on a demand and supply basis on the global number of applications submitted by the Member States for the respective quota. Since the allocated quantity depends on the total quantities applied for by the other Member States, there may be instances where the importer may not be allowed to import the total quantity that is being applied for at application stage.

Tariff Quota Licences are regulated by Commission Delegated Regulation (EU) No 2020/760 and Commission Implementing Regulation (EU) No 2020/761. When applying for a Quota AGRIM Licence the importer must bear in mind that the Quota period is open during different times of the year for certain periods of time. This will depend on the Quota Order Number which is determined by different factors namely the product and its CN code as well as the country of origin (various Regulations refer according to the product being imported however



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for Quota Order Numbers which management year starts in January, Regulations (EU) No 2020/760 and 2020/761 apply as from January 2021).

3. Organisation of Activities

3.1 Flow from Application to Issuance of Licence

1. The economic operator shall submit the AGRIM/AGREX Licence application to the Licence Issuing Authority (LIA) at ARPA Head Office.
2. A receipt is issued upon submission.
3. ARPA Officials carry out administrative checks.
4. In cases of Tariff Quota licences, notification of the application is sent to the European Commission.
5. Upon completion of administrative checks, the licence is issued and the operator is contacted for collection.
6. Once the licence obligations have been fulfilled, the original licence is returned to the LIA.
7. Checks related to the fulfilment of the obligations are processed and the security is thereby released or forfeited, as the case may be.

3.2 Timeframes

- Submission and vetting of Application: 3 working days.
- Assessment and Approval of Application: 5 working days.
- Delivery of Service: 2 working days.

Note: This is subject to volume of applications.



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4. Operator Requirements

4.1 AGRIM/AGREX Licence Application

An AGRIM/AGREX licence application must be filled in electronically with the following accurate information:

- Box 2: Company VAT number
- Box 4: Company address
- Box 7: Exporting Country (Yes or No must be ticked under Compulsory if the product must be exported from this country or not)
- Box 8: Country of Origin (Yes or No must be ticked under Compulsory if the product must originate from this country or not)
- Box 11: Amount of security required to cover the AGRIM/AGREX Licence
- Box 13: Product to be imported
- Box 14: Trade denomination of operator
- Box 15: Description of product according to its CN Code
- Box 16: CN code (a.k.a HS Code)
- Box 17: Quantity of product being imported in figures e.g. 1,000Kg
- Box 18: Quantity of product being imported in words e.g. One thousand kilograms
- Box 20: Special particulars depend on the product's relevant Regulation/s however, in most cases operator will indicate the type of licence being requested and the Order Number (if applying for Quota Licence)

The original application must be duly signed and dated by the applicant.

4.2 Trade denomination of Economic Operators

Operators are categorised under 2 categories i.e., 'Traditional' or 'New'. Their transition from 'New' to 'Traditional' is determined according to the Regulation/s related to the product that the operator is applying to import/export.



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4.2.1 Traditional Operators

A Traditional Operator is one that has been active in the import/export of a particular agricultural product over a period of 2 or 3 years depending on the product. This is determined by a set threshold amount of the product in question that was imported/exported. All operators that do not meet the above requirements fall automatically under the ‘New Operator’ category.

4.2.2 New Operators

A New Operator is one that is in the initial stages of their trading activity.

A new operator will need to submit, at the time of their first application for a Quota licence, proof that they have been engaged in trade with third countries in products covered by the relevant common market organisation over a period of two (2) consecutive twelve (12) month periods.

Acceptable proof of trade includes either customs documents of release for free circulation which are duly endorsed by the Customs Authorities and containing a reference to the applicant concerned as being the consignee, or by means of the customs document of exportation duly endorsed by the Customs Authorities.

4.3 Licence Obligations

Both Quota and Surveillance AGRIM/AGREX Licences have obligations which need to be fulfilled otherwise a penalty, in the form of a forfeiture from the security provided at application stage, will be incurred.

4.3.1 EORI number

Any economic operator established in the customs territory of the European Union, for customs purposes, is assigned an EORI number as per Article 4 of Commission Implementing Regulation (EU) No 2016/1239. This number is to be indicated on the application.



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4.3.2 Proof of Trade

In cases of an application for a Tariff Quota licence, where applicable, operators shall prove that they have traded a certain minimum quantity of agricultural products of the sector concerned as per Article 8 of Commission Delegated Regulation (EU) No 2020/760.

4.3.3 Security

A ‘security’ is an assurance that a sum of money will be paid or forfeited to the LIA if a particular obligation is not met as indicated in Article 14 of Commission Implementing Regulation (EU) 2016/1239 and Article 5 of Commission Delegated Regulation (EU) No 2016/1237. The security takes the form of a bank guarantee. For such securities, Chapter IV of Regulation (EU) No 907/2014 will need to be consulted and adhered to.

Annex I of Regulation (EU) No 2016/1239 sets the amount of security applicable for Surveillance licences issued regarding certain cereals, rice and sugar products. The Security shall be lodged to the competent body not later than 1pm on the day the application is lodged (see Article 4(2) of Regulation (EU) No 2016/1239).

Annex II to XIII of Regulation (EU) No 2020/761 set out the amount of security applicable for Tariff Quota licences according to the tariff quota order number.

No security is required when securities amount to a threshold of €100 or less as per Article 4(3) of Commission Delegated Regulation (EU) No 2016/1237.

4.3.4 Certificate of Authenticity/Export Certificate

When applying for a Quota Licence, certain Quota Order Numbers require the operator to provide original documentation such as a Certificate of Authenticity or an Export Certificate. These will also need to be presented at application stage. Should this documentation not be provided, the application cannot be accepted.

The LIA will contact the respective operator once the allocation for the Quota licences is issued and the licence is ready for collection from ARPA Head Office.



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4.3.5 Licence validity

Validity period of a licence differs depending on the agricultural product that an operator is trading. In such cases, Annex II of Commission Implementing Regulation (EU) No 2016/1239 and Annexes II to XIII of Commission Implementing Regulation (EU) No 2020/761 are to be consulted.

The operator is obliged to return the licence within 60 calendar days from its last day of validity.

4.3.6 Tolerance

As per Article 5(4) of Commission Delegated Regulation (EU) No 2016/1237, the obligation to release an agricultural product for free circulation shall be considered fulfilled if the total quantity specified on the licence has been cleared by Customs under the relevant procedure. For that purpose, a positive or negative tolerance on the quantity specified on the licence shall apply. Article 8(1) of Commission Implementing Regulation (EU) No 2016/1239 specifies that the positive or negative tolerance shall be no more than 5%. This figure is indicated in Box 19 of any AGRIM Licence.

Therefore, an operator making use of an AGRIM Licence, is allowed to import at least 95% or, at most, 105% of the total product quantity that is indicated on the Licence document (Boxes 17 and 18) without incurring any penalties.

In addition to the above, in cases of a Quota AGRIM Licence, the quantity in excess to the quantity specified on the licence (within the 105% margin) shall be brought into free circulation under the same licence subject to the conventional rate of duty.

It is important to note that, as indicated in Article 5(5) of Commission Delegated Regulation (EU) No 2016/1237, a positive tolerance shall not apply where the quantity specified on the import licence is equivalent to the quantity specified on an export document or certificate of authenticity. Furthermore, as per Article 12(1d) of Commission Implementing Regulation (EU) No 2020/761, only those products listed in Part 1 of the Annex to Commission Delegated Regulation (EU) No 2016/1237 are subject to an excess tolerance of 5%.

Once the necessary checks and verifications are made and the licence obligations deemed as fulfilled (or partially fulfilled and penalties settled), the security related to the licence will be released.



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5. Penalties

The licence obligations will be deemed to have been fulfilled where the quantity imported is greater or smaller by not more than 5% (Article 8(1) of Commission Implementing Regulation (EU) No 2016/1239 and Article 12(1d) of Commission Implementing Regulation (EU) No 2020/761) than the quantity indicated in the licence. In cases where an operator fails to import 95% of the product for which the licence was issued, penalties shall apply as per Article 7 of Commission Implementing Regulation (EU) No 2016/1237. Whereas, if the Holder's Copy of the licence is not returned to the LIA within the 60 calendar days of its last day of validity, a penalty as per Article 5 of Commission Delegated Regulation (EU) No 2020/760 will be incurred.

The operator is informed of such cases of penalties via a letter sent by registered mail from the LIA. The operator is given 14 calendar days in order to accept the penalty or otherwise. If the operator accepts the penalty, the penalty may be settled via bank transfer into the LIA's bank account or as a forfeiture from the bank guarantee being kept as security with the licence in question.

6. Loss of original licence document

In cases where the operator is unable to hand in the original Holder's Copy of the licence, the LIA may waive this obligation if the necessary information is provided through other means (such as customs documentation clearly identifying the operator, the product and quantity imported, quoting the licence number in question) as per Article 14(7) of Regulation (EU) No 2016/1239.

7. Force Majeure

The concept of force majeure is not limited to absolute impossibility but must be understood in the sense of unusual circumstances, outside the control of the trader, the consequences of which, despite the exercise of all due care, could not have been avoided except at the cost of excessive sacrifice.



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A circumstance which is outside the control of the operator, is one which is beyond his control in the broad sense (a natural disaster, a sovereign act, a wildcat strike); acts which are not beyond the operator's control are those which, even if fraudulent, are committed by those with whom he has contractual relations since it is the trader's responsibility to select his trading partners with care and to place them under an obligation in the contract, in a way that is sufficiently binding on them, to comply with the terms thereof (where appropriate by making provision for penalties in the event of failure to fulfil contractual obligations).

It is difficult to highlight the criteria and documentation required since each claim is dealt with on a case-by-case basis and there may be different criteria and documentation required depending on the case. However, the operator must lodge an application with ARPA Front Office for the case to be treated as a Force Majeure and provide documentation listed hereunder:

- An official letter by the operator requesting Force Majeure with reference to the relevant Regulations and Article numbers under which they are submitting their claim.
- Reasons why the trade of the agricultural product/s could not take place.
- A timetable of the original shipments and relevant documentation to support their claim (contracts, confirmation of sailing times, ship name).
- Evidence to prove that the operator made every effort to find an alternative means of trading the goods, for example, using an alternative ship, re-directing to a different port. This could be in the form of letters, e-mails and records of telephone conversations.

The Force Majeure Board will fully investigate the evidence provided by the operator and recommend whether the case is to be treated as Force Majeure. If the case is accepted, the operator is notified and the necessary changes to the licence are made for the operator to be able to fulfil the obligations related to it.



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