

# Art. 6 WBF Ordinance on the Release of Compulsory Stocks of Protein Feed (SR 531.211.11): Bookkeeping and Weekly Reporting Duty

## Function of the provision within the release regime

Art. 6 requires compulsory stockholders to keep books on all stocks and on every change in those stocks, and to report weekly to the Fachbereich Ernährung (food division) **Art. 6 (SR 531.211.11)**. The provision is short. Its significance comes from its place in an emergency regime that temporarily lifts the core protection of compulsory stocks, namely the rule that they may not be touched.

The WBF issued the ordinance on the basis of Art. 21 para. 1 VWLV **Preamble (SR 531.211.11)**. That provision allows the WBF to order the release of compulsory stocks where a severe shortage is threatened or already exists. Para. 2 allows the WBF, after hearing the business organisations concerned, to make a release subject to conditions and to attach "technischen oder administrativen Auflagen" (technical or administrative conditions) **Art. 21 VWLV**. A weekly reporting and bookkeeping duty is a typical administrative condition of this kind. At statutory level, the chain runs as follows:

- Art. 31 para. 2 lit. f LVG empowers the Federal Council to issue rules on "die Freigabe von Pflichtlagern und anderen Vorräten" (the release of compulsory stocks and other reserves), as part of time-limited intervention measures against a severe shortage **Art. 31 NESA**.
- Art. 57 para. 3 LVG allows the Federal Council to delegate the competence to release compulsory stocks to the WBF in advance **Art. 57 NESA**.

The 2014 Federal Council Dispatch (Botschaft) explains that this advance delegation is meant to widen the room for manoeuvre and speed up decisions in a crisis **BBI 2014 7119**.

The rest of the ordinance shows what Art. 6 is for:

- Ceiling: the releasable quantity is capped at the difference between demonstrated domestic demand and the quantity freely available on the domestic market **Art. 2 (SR 531.211.11)**.
- Release by ruling: a holder that lacks sufficient free stocks and cannot procure the shortfall may submit a reasoned request. The Fachbereich Ernährung then fixes the released quantity and the duration of the release by ruling (Verfügung) **Art. 3 (SR 531.211.11)**.
- Contract first: the compulsory stock contract with the BWL must be adjusted before goods are withdrawn **Art. 4 (SR 531.211.11)**.
- Delivery duties: the holder must supply Swiss customers, and only with the quantities needed to cover their effective demand **Art. 5 (SR 531.211.11)**.

Each of these rules depends on the authority knowing, in close to real time, how much stock exists, how much has left the store and how much free stock remains. Art. 6 supplies that information. It is the precondition for checking the ceiling, the quantity and duration fixed in the ruling, and compliance with the delivery limits. This functional reading follows from the structure of the ordinance rather than from an express statement in it.

The ordinance entered into force on 15 October 2026

**Art. 9 (SR 531.211.11)**. It contains no expiry clause, but it is nonetheless limited in time by statute: Art. 31 para. 1 LVG allows only "zeitlich begrenzte" (time-limited) intervention measures

**Art. 31 NESA**, and the Dispatch states that intervention measures must end once the shortage has been remedied **BBI 2014 7119**. Art. 6 has not been amended since the ordinance entered into force.

## Addressee: holder, owner and third-party storer

The German text addresses the "Pflichtlagerhalter" (compulsory stockholders). The French text refers to "propriétaires d'une réserve obligatoire" (owners of a compulsory stock), and the Italian text simply to "proprietary" (owners) **Art. 6 (SR 531.211.11)**. In the standard case, the difference has no effect. According to the Dispatch, compulsory stock goods "müssen aus zwei Gründen stets im uneingeschränkten Eigentum des Pflichtlagerhalters sein" (must for two reasons always be in the unrestricted ownership of the compulsory stockholder) **BBI 2014 7119**. The two reasons are:

- the authority's ability to dispose of the goods immediately in an intervention;
- the protection of the Confederation's statutory rights of separation and pledge **BBI 2014 7119**.

The two concepts therefore normally coincide.

The difference matters where the stock is physically held by someone else. The statute and ordinance distinguish two situations:

- Transfer of the storage duty. The compulsory stock contract may allow the holder to transfer its storage duty to a third party or to a storage company **Art. 17 VWLV**. Where the duty is transferred, the BWL concludes a separate compulsory stock contract with the third party for the quantities concerned **Art. 11 NESA**. That third party then becomes a holder in its own right and, for those quantities, the addressee of Art. 6.
- Mere warehousing. Where a third party merely stores goods on the holder's behalf, it does not become a holder. In BGE 103 Ib 335, the Federal Supreme Court held that the administrative contract creates legal relations only between the Confederation and the holder: "nur letzterer ist durch den Pflichtlagervertrag gebunden, nicht allfällige Dritte, die für ihn die Einlagerung übernehmen" (only the latter is bound by the compulsory stock contract, not any third parties who take over storage on its behalf). The relationship with the warehouse keeper is governed by private law **BGE 103 Ib 335**.

That decision concerned the former legislation, but its distinction between the public-law contract and the private storage agreement carries over to Art. 6. The reporting duty stays with the contracting holder (in the French and Italian texts, the owner). The holder must obtain the necessary data from its warehouse keeper through the private arrangement.

A prior question is whether an undertaking is a compulsory stockholder at all. For food and feed, Art. 9 of the Ordinance on Compulsory Stocks of Food and Feed requires the BWL to settle

disputed cases by ruling, on the basis of Réservesuisse's report. The ruling determines whether there is a duty to conclude a compulsory stock contract, when the compulsory stock had to be built up, and whether the storage duty has ended **Art. 9 531.215.11**. Such a ruling also settles indirectly whether the undertaking is an addressee of Art. 6. An undertaking whose storage duty has been found to have ended holds no compulsory stock that could be released, so the weekly reporting duty cannot apply to it.

The Federal Act of 19 June 2026 amending the LVG would reorganise the provisions on transfer to third parties, including the repeal of Art. 10 para. 1 lit. f LVG **BBi 2026 1771**. Its entry into force is left to the Federal Council ("Der Bundesrat bestimmt das Inkrafttreten.") **BBi 2026 1771**. Until that happens, the analysis above rests on the current Art. 11 para. 2 LVG.

## Content of the duty

### Bookkeeping on all stocks and their movements

Art. 6 builds on a bookkeeping duty that already exists in ordinary times. Under Art. 16 para. 3 VWLV, compulsory stockholders must keep quantity records of their stock and of receipts and issues of goods, per storage location **Art. 16 VWLV**. The release regime adds two elements to that baseline:

- Scope: the books must cover "sämtliche Vorräte" (all stocks) **Art. 6 (SR 531.211.11)**.
- Reporting: the books are converted into a weekly report.

The French text makes clear that the records include inflows and outflows ("y compris les entrées et les sorties") **Art. 6 (SR 531.211.11)**.

Art. 6 does not state expressly whether "sämtliche Vorräte" extends beyond the compulsory stock to the holder's free stocks. The systematic argument for including free stocks is strong. Both the request for release and the ceiling are defined by free stocks: release presupposes that the holder lacks sufficient "freie Vorräte" (free stocks) **Art. 3 (SR 531.211.11)**, and the ceiling is calculated by reference to the quantity freely available on the domestic market **Art. 2 (SR 531.211.11)**. A report confined to the compulsory stock would not allow the Fachbereich to verify whether those conditions continue to be met. Holders should therefore record free stocks as well. Doing so also makes the Art. 3 request easier to justify.

### Weekly report to the Fachbereich Ernährung

The duty to report weekly and to the Fachbereich Ernährung departs from the ordinary-times regime for feed. Under Art. 11 of the Ordinance on Compulsory Stocks of Food and Feed, processors and first marketers report to Réservesuisse "periodisch" (periodically) **Art. 11 531.215.11**. During a release, Art. 6 instead fixes a weekly rhythm and names the Fachbereich Ernährung as recipient **Art. 6 (SR 531.211.11)**. That is the body that also decides on the release (Art. 3 para. 2) and may revoke it (Art. 5 para. 3) **Art. 3 (SR 531.211.11) Art. 5 (SR 531.211.11)**. The ordinance makes the BWL and the Fachbereich Ernährung jointly responsible for enforcement **Art. 8 (SR 531.211.11)**.

The ordinance does not fix a reporting day, form or channel. These details can be set in the release ruling, which fixes quantity and duration under Art. 3 para. 2 **Art. 3 (SR 531.211.11)**, or in the adjusted contract required by Art. 4 **Art. 4 (SR 531.211.11)**. The 2026 amendment to the LVG provides for a new statutory reporting duty in Art. 64a. Under that provision, reports would have to be submitted electronically through platforms designated by the Federal Council **BBi 2026 1771**. This will apply only once the Federal Council has brought the amendment into force **BBi 2026 1771**.

### Legal nature: a specific form of the statutory information duty

Art. 64 para. 1 LVG requires every person to provide the competent

authorities with all information required for the enforcement of the Act, to make the necessary documents available and to grant access to premises **Art. 64 NESa**. Art. 6 turns this duty to answer upon request into a duty to report on one's own initiative.

The Dispatch treats the two forms as equivalent: "Beide Formen der Informationsbeschaffung, d. h. Auskunft- und Meldepflicht, sind rechtlich als gleichwertig zu qualifizieren und lassen sich unter diesen Artikel subsumieren." (Both forms of obtaining information, i.e. the duty to provide information and the duty to report, are to be classified as legally equivalent and can be subsumed under this article.) **BBi 2014 7119** The Dispatch also refers to earlier stockholding ordinances in which the Federal Council had imposed reporting duties **BBi 2014 7119**. This classification matters for criminal liability (see below under criminal liability).

## Temporal scope

The weekly reporting duty is tied to the release. It presupposes a holder that has requested or obtained a release, and it serves to monitor the quantity and duration fixed in the ruling **Art. 3 (SR 531.211.11)**. It therefore lasts as long as the release, or the period fixed in the ruling. By contrast, the quantity bookkeeping under Art. 16 para. 3 VWLV continues independently of any release **Art. 16 VWLV**. Once the release ends, holders fall back on the ordinary periodic reporting to Réservesuisse **Art. 11 531.215.11**.

## Verification of the reports

The reports are checked using the statutory powers of investigation. Art. 64 para. 1 LVG grants access to documents, premises and land **Art. 64 NESa**. According to the Dispatch, access extends in particular to financial accounting records, correspondence and invoices **BBi 2014 7119**. In the food and feed sector, Réservesuisse controls compulsory stocks under BWL directives, and the BWL itself controls joint compulsory stocks **Art. 8 531.215.11**. Réservesuisse also monitors compliance with stockholding rules through import permits for protein carriers intended for feed **BAZG BWL - réservesuisse**. The 2026 amendment to the LVG would allow control tasks to be delegated, subject to BWL supervision and to the absence of conflicts of interest, once the Federal Council brings it into force **BBi 2026 1771**.

The case law explains why reports of actual quantities carry so much weight. In a 1991 decision on heating-oil reserves, the appellate body held that the date on which a stock increase was communicated in writing determined the applicable entry value. It accepted the reasoning that "seuls les stocks obligatoires existant effectivement peuvent être contrôlés" (only compulsory stocks that actually exist can be controlled), whereas order dates and private delivery terms are very difficult to verify **150002069**. The decision concerned financing contributions, not a reporting duty under a release, so it applies to Art. 6 only by analogy. It nevertheless supports a practical point: the authority may rely on what has been reported and can be verified, and the holder bears the risk of late or inaccurate reporting.

## Consequences of a breach

### Administrative measures

The ordinance contains no sanction specific to Art. 6. The express power to revoke or refuse a release in Art. 5 para. 3 is triggered only by breaches of the delivery duties in Art. 5 paras. 1 and 2 **Art. 5 (SR 531.211.11)**. Measures against a reporting breach must therefore rest on the LVG:

- Coercive measures (Art. 40 LVG). These apply whenever provisions of the Act, its implementing ordinances, rulings or contracts are breached. They include withdrawing or refusing permits (lit. c) and imposing restrictions on supply and purchase or reducing allocations (lit. d) **Art. 40 NESa**. According to the

Dispatch, the list of coercive measures is exhaustive, and criminal prosecution remains reserved in all cases **BBI 2014 7119**.

- Revocation of a release. Neither the LVG nor the ordinance states whether a release ruling is a "Bewilligung" (permit) within the meaning of lit. c. If it is, persistent failure to report can justify withdrawing the release. If it is not, the authority is limited to the other measures in Art. 40 and to criminal and contractual remedies.
- Forfeiture (Art. 41 LVG). Goods and financial advantages obtained through a breach of the Act, its implementing provisions, rulings or contracts fall to the Confederation "unabhängig von der Strafbarkeit der Verletzung" (irrespective of whether the breach is punishable). If the goods are no longer available, the Confederation has a substitute claim **Art. 41 NESA**. This becomes relevant where unreported withdrawals exceed the released quantity.
- Procedure and limitation. The BWL orders measures under Arts. 40 and 41 by ruling **Art. 42 NESA**. Claims under Art. 41 become time-barred three years after the federal authorities learn of them, and at the latest ten years after they arise. Where the conduct is a criminal offence, they become time-barred no earlier than the criminal prosecution **Art. 44 NESA**.

### Contractual consequences

Art. 4 requires the compulsory stock contract to be adjusted before goods are withdrawn **Art. 4 (SR 531.211.11)**. The reporting duty will therefore normally also be a contractual obligation. Under Art. 10 lit. b LVG, the contract governs, among other things, supervision and control of the stored goods, and under lit. h a possible contractual penalty **Art. 10 NESA**. The BWL fixes the penalty in each case within the contractual range. If the holder disputes it, the BWL refers the matter to the Federal Administrative Court. Paying the penalty does not release the holder from performing the contract **Art. 43 NESA**.

The 1997 decision on a shortfall in a compulsory stock shows how this works. It held that a penalty does not follow automatically from a breach. Instead, "Rechnung zu tragen sind insbesondere dem Ausmass und der Dauer der Unterdeckung sowie dem Verschulden des Pflichtlagerhalters" (account must be taken in particular of the extent and duration of the shortfall and of the holder's fault) **150003983**. The contract in that case required a written warning and a deadline to remedy a first, minor breach. A penalty was due only for a serious or repeated breach, or if the warning was not complied with **150003983**. The shortfall in that case exceeded 10% of the agreed quantity of stainless wire rod **150003983**. The decision concerned a shortfall discovered on inspection under the former Act, not a failure to report. Its assessment criteria, extent, duration and fault, are nonetheless the natural yardstick for a missed or inaccurate weekly report.

In the most serious cases, the BWL may terminate the contract with immediate effect where the holder has seriously breached it and the nature of the breach shows that compliance is no longer assured **Art. 19 VWLV**.

### Criminal liability

Art. 7 of the ordinance refers to Art. 49 LVG **Art. 7 (SR 531.211.11)**. Art. 49 para. 1 punishes intentional conduct with imprisonment of up to three years or a monetary penalty in three situations **Art. 49 NESA**:

- contravening rules issued under the provisions listed in lit. a, including Art. 31 para. 1 LVG;
- disobeying a ruling despite a warning of the penalty (lit. b);
- breaching a contract despite such a warning (lit. c).

Negligence is punishable by a monetary penalty of up to 180 daily units (para. 2) **Art. 49 NESA**.

The ordinance itself rests on Art. 21 VWLV and on the release power in Art. 31 para. 2 lit. f LVG. Its inclusion under lit. a therefore depends on reading the release rules as rules on measures issued under Art.

31 para. 1; the wording of Art. 49 does not resolve this expressly. Holders and authorities should note that lits. b and c reach a breach of the reporting duty contained in a release ruling or the adjusted contract only if the penalty warning was given **Art. 49 NESA**. Authorities should therefore include that warning in the ruling.

Art. 7 does not mention Art. 50 LVG, but that is the more specific offence for inaccurate reports. Art. 50 punishes anyone who is required to provide information under Art. 64, an implementing provision, a ruling or a contract and who "unwahre oder unvollständige Angaben macht" (gives untrue or incomplete information), with imprisonment of up to one year or a monetary penalty **Art. 50 NESA**. Since the Dispatch treats reporting duties as falling under the information duty **BBI 2014 7119**, an inaccurate weekly report falls within Art. 50 even though the ordinance does not cite it. The Dispatch distinguishes this offence from Art. 292 StGB: "liegt der Strafbarkeitsgehalt im vorliegenden Artikel zusätzlich in der Irreführung der zuständigen Behörde" (the punishable element in this article additionally lies in misleading the competent authority) **BBI 2014 7119**. The distinction yields two cases:

- False or incomplete report: typically Art. 50.
- No report at all: no one is misled by a positive statement, so the case falls under Art. 49, with the limits described above.

Falsified books fall under Art. 51 LVG, which applies the forgery and fraud offences of Arts. 14-16 of the Federal Act on Administrative Criminal Law (VStrR) with a maximum penalty of five years **Art. 51 NESA**. The 2026 amendment would extend Art. 50 to reports under the new Art. 64a **BBI 2026 1771**, subject to its entry into force.

Offences under the LVG are prosecuted and judged by the cantons; only offences connected with import and export fall to the BAZG **Art. 55 NESA**. The BWL may exercise the rights of a private claimant, including filing an objection against a penalty order. The public prosecutor must inform the BWL when preliminary proceedings are opened **Art. 56 NESA**.

### Legal protection

The appropriate route depends on whether the dispute concerns a ruling or a contract:

- Rulings under the release regime. The release ruling, any withdrawal and any ruling enforcing the reporting duty are based on Art. 31 LVG and its implementing provisions. Such rulings can be challenged by objection (Einsprache), lodged in writing with the deciding authority within five days. The objection must contain a request and state the facts relied on **Art. 45 NESA**. Any subsequent appeal must also be filed within five days and has no suspensive effect. In other respects, the general rules on federal judicial procedure apply **Art. 46 NESA**. The Dispatch confirms the two-step objection-then-appeal structure for severe shortages and its very short deadlines **BBI 2014 7119**.
- Contract disputes. Disputes arising from the compulsory stock contract are decided by the Federal Administrative Court by way of action (Klage) **Art. 47 NESA**. The same applies to disputes between holders and compulsory stock organisations (Pflichtlagerorganisationen), as applied in B-1483/2019 to guarantee-fund contributions **b-1483-2019**. By contrast, disputes between the Confederation and those organisations are now dealt with by appeal, because the relationship is one of supervision rather than of equal contracting parties **BBI 2014 7119**.

Distinguishing the two forms of action causes recurring difficulty. In BGE 103 Ib 335, an instruction given in imperative form to remove a compulsory stock from a warehouse was classified as a ruling, not as a contractual statement, because the authority acted as a holder of state power **BGE 103 Ib 335**. An order to report, or a reprimand for missed reports, issued in imperative form may therefore be an appealable ruling. In B-1990/2009, by contrast, an invoice was held not to be an appealable ruling within the meaning of Art. 5 VwVG, and the dispute was decided by way of action **b-1990-2009**. In

B-8057/2007, the court declined to hear a case in which the revocation of approvals was neither a ruling nor a dispute that could be brought by action **b-8057-2007**. B-1990/2009 and B-8057/2007 were decided under the former Act, and they show that the form of an act decides the route. Given the five-day deadlines, a holder in doubt should lodge an objection as a precaution.

### Financial interface after the release

Art. 13 para. 1 LVG requires the BWL's written consent for any change to a compulsory stock, but it reserves releases under Art. 31 para. 2 lit. f **Art. 13 NESA**. Before a reduction or dissolution, the holder must repay federally guaranteed loans pro rata and meet its obligations towards the guarantee fund. Otherwise the BWL may require appropriate security **Art. 13 NESA**. Whether these duties also apply to a temporary release is not settled by the text, since para. 1 exempts only the release itself from the consent requirement. The weekly reports under Art. 6 will in practice provide the quantity data from which any loan repayment or guarantee-fund settlement is calculated. Guarantee-fund contributions may not be levied on domestic food and feed **Art. 16 NESA**.