

2008 No. 98

FOOD

The Eggs and Chicks Regulations (Northern Ireland) 2008

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The Department of Agriculture and Rural Development is designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to the common agricultural policy of the European Community.

These Regulations make provision for a purpose mentioned in section 2(2) of the European Communities Act 1972, and it appears to the Department that it is expedient for the reference to Commission Regulation (EEC) No. 1868/77(c) laying down detailed rules of application for Regulation (EEC) No. 2782/75(d) of the Council on the production and marketing of eggs for hatching and of farmyard poultry chicks, Council Regulation (EC) No. 1028/2006(e) on certain marketing standards for eggs and Commission Regulation (EC) No. 557/2007(f) laying down detailed rules for implementing Council Regulation (EC) No. 1028/2006, to be construed as a reference to those Regulations as amended from time to time.

Insofar as these Regulations are made in exercise of powers under the Food Safety (Northern Ireland) Order 1991(g), the Department has had regard to relevant advice given by the Food Standards Agency as required by Article 47(3A)(h) of that Order.

There has been open and transparent public consultation during the preparation of the following Regulations as required by Article 9 of Regulation (EC) No. 178/2002 of the European Parliament

(a) S.I. 2000/2812

(b) 1972 c. 68

(c) O.J. No. L 209, 17.8.1977, p. 1, last amended by Commission Regulation (EC) No. 1792/2006 (O.J. No. L 362, 20.12.2006, p. 1

(d) O.J. No. L 282, 1.11.1975, p. 100, last amended by Council Regulation (EC) No. 1791/2006 (O.J. No. L 363, 20.12.2006, p. 1)

(e) O.J. No. L 186, 7.7.2006, p. 1

(f) O.J. No. L 132, 24.5.2007, p. 5

(g) S.I. 1991/762 (N.I. 7) as amended by S.I. 1996/1633 (N.I. 12)

(h) Article 47(3A) was inserted by paragraphs 26 and 40 of Schedule 5 to the Food Standards Act 1999 (c. 28)

and of the Council(a) laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety.

Accordingly, the Department makes the following Regulations in exercise of the powers conferred by section 2(2) of, and paragraph 1A(b) of Schedule 2 to, the European Communities Act 1972 and articles 15(1)(c),16(d), 25(2) and (3)(e), 26(3)(f) and 47(2)(g) of the Food Safety (Northern Ireland) Order 1991.

PART 1

Introduction

Citation, commencement and application

1.—(1) These Regulations may be cited as the Eggs and Chicks Regulations (Northern Ireland) 2008 and shall come into operation on 14th April 2008.

(2) These Regulations apply—

- (a) to eggs for hatching and chicks to which Council Regulation (EEC) No. 2782/75 and Commission Regulation (EEC) No. 1868/77 apply; and
- (b) to eggs to which Council Regulation (EC) No. 1028/2006 and Commission Regulation (EC) No. 557/2007 apply (eggs in shell produced for consumption by hens of the species *Gallus gallus*).

(3) But they do not apply—

- (a) to the sale of eggs to which Council Regulation (EC) No. 1028/2006 and Commission Regulation (EC) No. 557/2007 apply, where the eggs are sold, without any quality or weight grading, directly to the final consumer by the producer—
 - (i) on the production site;
 - (ii) by door-to-door selling in the region of production; or
- (b) except insofar as they relate to the requirement imposed by Article 4(3) of Council Regulation (EC) No. 1028/2006 to mark eggs in accordance with Article 4(1) of that Regulation, to the sale of eggs to which Council Regulation (EC) No. 1028/2006 and Commission Regulation (EC) No. 557/2007 apply, where the eggs are sold, without any quality or weight grading, directly to the final consumer by the producer in a local public market in the region of production.

(4) In paragraph (3)(a)(ii) “door-to-door selling” means a sale which is made during an unsolicited visit by a producer to the final consumer’s home, or to the home of another person, or to the final consumer’s place of work.

Interpretation

2.—(1) In these Regulations—

“authorised officer”, means a person who is authorised by the Department or a district council, in accordance with regulation 15 either generally or specially, to act in matters arising under these Regulations;

(a) O.J. No. L 31, 1.2.2002, p. 1, last amended by Commission Regulation (EC) No. 575/2006 (O.J. No. L 100, 8.4.2006, p.3)
(b) Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 (c. 51)
(c) Article 15(1) was amended by paragraphs 26 and 27 of Schedule 5 to the Food Standards Act 1999
(d) Article 16 was amended by paragraphs 26 and 27 of Schedule 5 to the Food Standards Act 1999
(e) Article 25 was amended by Schedule 6 to the Food Standards Act 1999
(f) Article 26(3) was amended by paragraphs 26, 33(1) and (5) of Schedule 5 to the Food Standards Act 1999
(g) Article 47(2) was amended by paragraphs 26 and 27 of Schedule 5 to the Food Standards Act 1999

“breeding establishment” has the meaning given by Article 1(3)(b) of Council Regulation (EEC) No. 2782/75;

“chicks” has the meaning given by Article 1(2) of Council Regulation (EEC) No. 2782/75(a);

“Commission Regulation (EEC) No. 1868/77” means Commission Regulation (EEC) No. 1868/77 laying down detailed rules of application for Regulation (EEC) No. 2782/75, as amended from time to time;

“Commission Regulation (EC) No. 557/2007” means Commission Regulation (EC) No. 557/2007 introducing detailed rules for implementing Council Regulation (EC) No. 1028/2006, as amended from time to time;

“Council Directive 1999/74/EC” means Council Directive 1999/74/EC(b) laying down minimum standards for the protection of laying hens;

“Council Regulation (EEC) No. 2782/75” means Regulation (EEC) No. 2782/75 of the Council on the production and marketing of eggs for hatching and of farmyard poultry chicks;

“Council Regulation (EC) No. 1028/2006” means Council Regulation (EC) No. 1028/2006 on marketing standards for eggs, as amended from time to time;

“Directive 2000/13/EC” means Directive 2000/13/EC(c) on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs;

“eggs” has the meaning given by Article 2(1) of Council Regulation (EC) No. 1028/2006;

“eggs for hatching” has the meaning given by Article 1(1) of Council Regulation (EEC) No. 2782/75(d);

“enforcement authority” means an authority exercising a function conferred on it by regulation 15;

“final consumer” has the meaning given by Article 2(8) of Council Regulation (EC) No. 1028/2006;

“hatchery” has the meaning given by Article 1(3)(c) of Council Regulation (EEC) No. 2782/75;

“packing centre” has the meaning given by Article 2(7) of Council Regulation (EC) No. 1028/2006;

“pedigree breeding establishment” has the meaning given by Article 1(3)(a) of Council Regulation (EEC) No. 2782/75;

“production site” has the meaning given by Article 2(6) of Council Regulation (EC) No. 1028/2006;

“the Department” means the Department of Agriculture and Rural Development;

“the Order” means the Food Safety (Northern Ireland) Order 1991.

(2) The Interpretation Act (Northern Ireland) 1954(e) shall apply to these Regulations as it applies to an act of the Assembly.

(3) Any expression which is not defined in paragraph (1), but is used in Part 2 of, or Schedule 2 to, these Regulations, and in Council Regulation (EEC) No. 2782/75, has the same meaning in those provisions of these Regulations as it does in the Council Regulation.

(4) Any expression which is not defined in paragraph (1), but is used in regulation 4(2) or Part 3 of, or Schedule 3 to, these Regulations and in Council Regulation (EC) No. 1028/2006 or Commission Regulation (EEC) No. 557/2007, has the same meaning in those provisions of these Regulations as it does in the Council or Commission Regulation in which it is used.

(a) O.J. No. L 282, 1.11.1975, p. 100. Article 1(2) of Council Regulation (EEC) No. 2782/75 was amended by Commission Regulation (EEC) No. 3987/87 (O.J. No. L 376, 31.12.1987, p. 20)

(b) O.J. No. L 203, 3.8.1999, p. 53, last amended by Council Regulation (EC) No. 806/2003 (O.J. No. L 122, 16.5.2003, p. 1)

(c) O.J. No. L 109, 6.5.2000, p. 29, last amended by Commission Directive 2006/142/EC (O.J. No. L 368, 23.12.2006, p. 110)

(d) Article 1(1) of Council Regulation (EEC) No. 2782/75 was amended by Commission Regulation (EEC) No. 3987/87 (O.J. No. L 376, 31.12.1987, p. 20)

(e) 1954 c. 33 (N.I.)

(5) Any reference to a contravention of or failure to comply with any provision mentioned in Schedule 2 shall mean a contravention of or failure to comply with—

- (a) any provision of Council Regulation (EEC) No. 2782/75 mentioned in column 1 of Part 1 of Schedule 2, as read with any provision mentioned in any corresponding entry in column 2 of that Part; or
- (b) any provision of Commission Regulation (EEC) No. 1868/77 mentioned in column 1 of Part 2 of Schedule 2, as read with any provision mentioned in any corresponding entry in column 2 of that Part.

(6) Any reference to a contravention of or failure to comply with any provision mentioned in Schedule 3 means a contravention of or failure to comply with—

- (a) any provision of Council Regulation (EC) No. 1028/2006 mentioned in column 1 of Part 1 of Schedule 3, as read with any provision mentioned in any corresponding entry in column 2 of that Part; or
- (b) any provision of Commission Regulation (EC) No. 557/2007 mentioned in column 1 of Part 2 of Schedule 3, as read with any provision mentioned in any corresponding entry in column 2 of that Part.

PART 2

Eggs for hatching and chicks

Compliance with Community provisions

3. A person is guilty of an offence if he contravenes, or fails to comply with, any provision mentioned in Schedule 2.

Registration of pedigree breeding establishments, breeding establishments and hatcheries

4.—(1) The Department is designated as the competent authority for the purpose of Article 3 of Council Regulation (EEC) No. 2782/75 (registration of pedigree breeding establishments, other breeding establishments and hatcheries) as read with Article 1 of Commission Regulation (EEC) No. 1868/77.

(2) Where an application is made to the Department pursuant to Article 3 of Council Regulation (EEC) No. 2782/75, it must notify the applicant of the matters specified in paragraph (3) within 28 days.

(3) The matters are—

- (a) the Department's decision on the application;
- (b) the reasons for any refusal to grant the application; and
- (c) in the case of any refusal to grant the application, the right of appeal conferred by regulation 17.

(4) Where the Department is not satisfied that an application should be granted, it may (instead of refusing the application) notify the applicant of the reason for this, and—

- (a) where the Department is not satisfied with the sufficiency of the data provided in support of the application, it may ask the applicant to provide further data;
- (b) where the Department is not satisfied that all the provisions mentioned in Schedule 2 that are relevant to the type of establishment to be registered will be complied with following the registration of that establishment, it may ask the applicant to take steps to ensure that those provisions will be complied with; and
- (c) it may give the applicant an opportunity to provide oral or written explanations to it in respect of the application.

(5) Where the Department decides to withdraw a registration of a pedigree breeding establishment, other breeding establishment or hatchery because of a contravention of, or failure to comply with, any provision mentioned in Schedule 2, it must notify the person carrying on business at the establishment concerned (“the operator”) of the matters specified in paragraph (6) within 28 days.

(6) The matters are—

- (a) the Department’s decision to withdraw the registration;
- (b) the date on which the withdrawal of the registration is to take effect;
- (c) the reasons for the withdrawal; and
- (d) the right of appeal conferred by regulation 17.

(7) Where the Department is minded to withdraw a registration of a pedigree breeding establishment, other breeding establishment or hatchery because of a contravention of, or failure to comply with, any provision mentioned in Schedule 2, it may (instead of withdrawing the registration) notify the operator that it is minded to withdraw the registration, and the reasons for this, and—

- (a) where the contravention of, or failure to comply with, any provision mentioned in Schedule 2 is continuing, it may ask the operator to take steps to ensure that that provision is complied with; and
- (b) it may also give the operator an opportunity to provide oral or written explanations to it in respect of the matter.

(8) Where the Department gives a notice to an applicant under paragraph (4), or to an operator under paragraph (7), the Department must specify a deadline in the notice by which any action specified in the notice must be taken.

(9) Any deadline given by the Department under this regulation may be extended on one or more occasions.

(10) Any notice given by the Department under this regulation must be in writing.

(11) For the purposes of calculating the 28-day time limit specified in paragraph (2), the clock is stopped during any period that the Department gives an applicant to take any action specified in a notice given by the Department under paragraph (4).

Derogation relating to the marking of eggs for hatching

5. Eggs for hatching may be marked in a different manner from that specified in Article 2(1) of Commission Regulation (EEC) No. 1868/77 if—

- (a) the marking of the eggs complies with the requirements set out in the first sub-paragraph of Article 2(2) of that Regulation; and
- (b) the other requirements set out in the first and second sub-paragraphs of Article 2(2) are met.

PART 3

Eggs in shell for consumption

Compliance with Community provisions

6. A person is guilty of an offence if he contravenes, or fails to comply with, any provision mentioned in Schedule 3.

Authorisation of packing centres to grade eggs

7.—(1) The Department is designated as the competent authority for the purpose of Article 5(2) of Council Regulation (EC) No. 1028/2006 (authorisation of undertakings as packing centres to grade eggs) as read with Article 5 of Commission Regulation (EC) No. 557/2007.

(2) Where an application is made to the Department under Article 5(2) of Council Regulation (EC) No. 1028/2006 to authorise an undertaking as a packing centre to grade eggs^(a), the Department must notify the applicant of the matters specified in paragraph (3) within 28 days.

(3) The matters are—

- (a) the Department's decision on the application;
- (b) the reasons for any refusal to grant an authorisation; and
- (c) in the case of any refusal to grant an authorisation, the right of appeal conferred by regulation 17.

(4) Where the Department is not satisfied that an application should be granted, it may (instead of refusing the application) notify the applicant of the reason for this and—

- (a) where the Department is not satisfied with the sufficiency of the data provided in support of the application, it may ask the applicant to provide further data;
- (b) where the Department is not satisfied that all of the requirements laid down in Article 5(2) of Council Regulation (EC) No. 1028/2006 and Article 5(3) of Commission Regulation (EC) No. 557/2007 that are relevant to the type of packing centre to be authorised have been met, it may ask the applicant to comply with any outstanding requirement; and
- (c) it may also give the applicant an opportunity to provide oral or written explanations to it in respect of the application.

(5) Where the Department decides to withdraw an authorisation of a packing centre to grade eggs because of a failure to comply with any of the requirements laid down in Article 5(2) of Council Regulation (EC) No. 1028/2006 or Article 5(3) of Commission Regulation (EC) No. 557/2007, it must notify the person carrying on business at the packing centre (“the operator”) of the matters specified in paragraph (6) within 28 days.

(6) The matters are—

- (a) the Department's decision to withdraw the authorisation;
- (b) the date on which the withdrawal of the authorisation is to take effect;
- (c) the reasons for the withdrawal; and
- (d) the right of appeal conferred by regulation 17.

(7) Where the Department is minded to withdraw the authorisation of a packing centre to grade eggs because of a failure to comply with any of the requirements laid down in Article 5(2) of Council Regulation (EC) No. 1028/2006 or Article 5(3) of Commission Regulation (EC) No. 557/2007, it may (instead of withdrawing the authorisation) notify the operator that it is minded to withdraw the authorisation, and the reasons for this, and—

- (a) where the failure to comply with any of the requirements laid down in Article 5(2) of Council Regulation (EC) No. 1028/2006 or Article 5(3) of Commission Regulation (EC) No. 557/2007 is continuing, it may ask the operator to take steps to ensure that those requirements are met; and
- (b) it may give the operator an opportunity to provide oral or written explanations to it in respect of the matter.

(8) Where the Department gives a notice to an applicant under paragraph (4), or to an operator under paragraph (7), the Department must specify a deadline in the notice by which any action specified in the notice must be taken.

(a) See also Article 5 of Commission Regulation (EC) No. 557/2007

(9) Any deadline given by the Department under this regulation may be extended on one or more occasions.

(10) Any notice given by the Department under this regulation must be in writing.

(11) For the purposes of calculating the 28-day time limit specified in paragraph (2), the clock is stopped during any period that the Department gives to an applicant to take any action specified in a notice under paragraph (4).

Derogations relating to the marking of eggs

8.—(1) The provisions in the second sub-paragraph of Article 4(1) of Council Regulation (EC) No. 1028/2006 (requiring class B eggs to be marked) shall not apply where class B eggs are to be marketed exclusively in the United Kingdom.

(2) The provisions in the first sub-paragraph of Article 4(3) of Council Regulation (EC) No. 1028/2006 (requiring eggs sold by a producer to a final consumer in a local public market in the region of production to be marked in accordance with Article 4(1) of the Council Regulation) shall not apply where the producer has fewer than 50 laying hens if the name and address of the producer are indicated at the point of sale.

Livestock grazing on open-air runs

9. For the purpose of point 1 of Annex II to Commission Regulation (EC) No. 557/2007 (setting down the minimum requirements that need to be met in order for eggs to be marketed as free-range eggs), livestock grazing is authorised on open-air runs to which laying hens have access.

Derogation relating to free-range eggs

10.—(1) By way of derogation from the provisions of point 1 of Annex II to Commission Regulation (EC) No. 557/2007, eggs to which paragraph (2) applies may be marketed as free-range eggs although they have been produced in a system of production that does not comply with any one or more of the conditions specified in paragraph (3).

(2) This paragraph applies to eggs produced in an establishment with fewer than 350 laying hens or rearing breeding laying hens at the time the eggs are produced.

(3) The following conditions of Article 4(1) of Council Directive 1999/74/EC are specified for the purpose of paragraph (1)—

- (a) the second sentence of point 1(d);
- (b) point 1(e);
- (c) point 2;
- (d) point 3(a)(i); and
- (e) point 3(b)(i).

Derogation relating to barn eggs

11.—(1) By way of derogation from the provisions of point 2 of Annex II to Commission Regulation (EC) No. 557/2007, eggs to which paragraph (2) applies may be marketed as barn eggs although they have been produced in a system of production that does not comply with any one or more of the conditions specified in paragraph (3).

(2) This paragraph applies to eggs produced in an establishment with fewer than 350 laying hens or rearing breeding laying hens at the time the eggs are produced.

(3) The following conditions of Article 4(1) of Council Directive 1999/74/EC are specified for the purpose of paragraph (1)—

- (a) the second sentence of point 1(d);
- (b) point 1(e);

- (c) point 2;
- (d) point 3(a)(i); and
- (e) point 3(b)(i).

PART 4

Miscellaneous provisions

Powers of authorised officers

12.—(1) An authorised officer may direct any person to leave undisturbed, for so long as reasonably necessary for the purpose of any examination or investigation—

- (a) eggs;
- (b) eggs for hatching;
- (c) packs or other containers for eggs, eggs for hatching or chicks;
- (d) labels or documents relating to eggs, eggs for hatching or chicks; and
- (e) any land^(a), vehicle or trailer on or in which any eggs, eggs for hatching or chicks, any packs or other containers for eggs, eggs for hatching or chicks, and any labels or documents relating to such eggs or chicks are found.

(2) If an examination or investigation will not be carried out immediately after a direction has been given under paragraph (1), an authorised officer may apply tape to the packs or other containers for eggs or eggs for hatching that are subject to that direction, or otherwise secure them pending the examination or investigation.

(3) An authorised officer may direct any person to ensure that any—

- (a) eggs;
- (b) eggs for hatching;
- (c) packs or other containers for eggs, eggs for hatching or chicks; or
- (d) labels or documents relating to eggs, eggs for hatching or chicks,

which do not comply in any respect with the requirements of any provision mentioned in Schedule 2 (as regards eggs for hatching and chicks) or 3 (as regards other eggs), comply with those requirements before being removed from any land, vehicle or trailer, except as may be otherwise directed in writing by an authorised officer.

(4) An authorised officer may seize any computer and associated equipment for the purpose of copying documents provided that they are returned as soon as practicable and, in any event, within 28 days.

(5) Where an authorised officer exercises the power under paragraph (4), he must notify the person in charge of the premises from which the equipment is seized of the right of appeal conferred by regulation 17.

(6) Except as stated in paragraph (3), any direction given by an authorised officer under paragraph (1) or (3) can be given orally or in writing but any direction given orally must be confirmed in writing as soon as practicable and, in any event, within 24 hours.

(7) An authorised officer must not exercise the powers under paragraphs (1) to (4) except on the production, if so required, of a duly authenticated document showing his authority.

(8) A person is guilty of an offence if—

- (a) without reasonable excuse, he fails to comply with any requirement imposed on him by a direction given by an authorised officer under paragraph (1);

(a) By virtue of section 45(1) of the Interpretation Act (Northern Ireland) 1954 (c. 33), 'land' includes buildings and other structures

- (b) unless authorised to do so, in writing, by an authorised officer, he interferes with any packs or containers that have been secured by an authorised officer under paragraph (2); or
- (c) without reasonable excuse, he fails to comply with any requirement imposed on him by a direction given by an authorised officer under paragraph (3).

Record-keeping requirements

13.—(1) The Department may direct any person carrying on any activity regulated by a provision mentioned in Schedule 2 or 3 to comply with any of the requirements specified in paragraph (2).

(2) The requirements are—

- (a) to keep, or cause to be kept, such records as the Department may reasonably require for the purposes of enforcing any such provision;
- (b) to provide the Department with such information derived from such records as the Department may require at the times specified in the notice; and
- (c) to retain such records for such period as the Department may reasonably require.

(3) But the Department must not give a direction under paragraph (1) unless the records to which the direction relates are of a type often kept by persons carrying on any activity regulated by a provision mentioned in Schedule 2 or 3 (whether or not kept by the person to whom the direction will be given) and—

- (a) the direction will be given on or before 14th October 2008 and the Department reasonably suspects that the person to whom the direction will be given has contravened, or failed to comply with, any provision mentioned in Schedule 2 or 3 since the coming into operation of these Regulations;
- (b) the direction will be given on or before 14th October 2008, the person to whom the direction will be given has been convicted of an offence under regulation 3 or 6 of these Regulations since the coming into operation of these Regulations, and the Department reasonably suspects that, since his conviction, that person—
 - (i) has continued to contravene, or failed to comply with, the provision mentioned in Schedule 2 or 3 to which his conviction relates; or
 - (ii) has contravened, or failed to comply with, some other provision mentioned in Schedule 2 or 3;
- (c) the direction will be given on or after 15th October 2008 and the Department reasonably suspects that the person to whom the direction will be given has contravened, or failed to comply with, any provision mentioned in Schedule 2 or 3 within the six month period immediately before the direction is given; or
- (d) the direction will be given on or after 15th October 2008, the person to whom the direction will be given has been convicted of an offence under regulation 3 or 6 of these Regulations within the six month period immediately before the giving of the direction, and the Department reasonably suspects that, since his conviction, that person —
 - (i) has continued to contravene, or failed to comply with, the provision mentioned in Schedule 2 or 3 to which his conviction relates; or
 - (ii) has contravened, or failed to comply with, some other provision mentioned in Schedule 2 or 3.

(4) Any direction given by the Department under paragraph (1) must be in writing.

(5) A person is guilty of an offence if, without reasonable excuse, he fails to comply with any requirement imposed on him by a direction given by the Department under paragraph (1).

Obstruction

14.—(1) A person is guilty of an offence if—

- (a) he intentionally obstructs an authorised officer acting in the execution of these Regulations;
- (b) without reasonable cause, he fails to give an authorised officer acting in the execution of these Regulations any assistance or information which that person may reasonably require of him for the performance of his functions under these Regulations;
- (c) he gives to an authorised officer acting in the execution of these Regulations any information which he knows, or ought reasonably to know, to be false or misleading; or
- (d) he fails to produce a record when required to do so by an authorised officer acting in the execution of these Regulations.

(2) Nothing in paragraph (1)(b) shall be construed as requiring any person to answer any question or give any information if to do so might incriminate him.

Enforcement

15.—(1) Each district council must—

- (a) enforce the provisions mentioned in Schedule 3, as read with regulation 6, insofar as they apply to—
 - (i) the retail sale of eggs within their area; and
 - (ii) the sale of eggs to a mass caterer in their area;
- (b) enforce the provisions of regulation 12(8)—
 - (i) in the case of a direction given by an authorised officer who is authorised by the district council; and
 - (ii) in the case of a pack or container secured by an authorised officer who is authorised by the district council; and
- (c) enforce the provisions of regulation 14(1) in the case of an obstruction of an authorised officer who is authorised by the district council.

(2) The Department may enforce the provisions mentioned in Schedule 3, as read with regulation 6, insofar as they apply to the retail sale of eggs or the sale of eggs to a mass caterer.

(3) The Department must—

- (a) enforce the provisions mentioned in Schedule 2, as read with regulation 3;
- (b) enforce the provisions mentioned in Schedule 3, as read with regulation 6, insofar as they do not apply to the retail sale of eggs or the sale of eggs to a mass caterer;
- (c) enforce the provisions of regulation 12(8)—
 - (i) in the case of a direction given by an authorised officer who is authorised by the Department; and
 - (ii) in the case of a pack or container secured by an authorised officer who is authorised by the Department;
- (d) enforce the provisions of regulation 13(5); and
- (e) enforce the provisions of regulation 14(1) in the case of an obstruction of an authorised officer who is authorised by the Department.

(4) In this regulation—

“mass caterer” means the entities referred to in Article 1(2) of Directive 2000/13/EC;

“retail sale” means any sale other than a sale for use or resale in the course of a trade or business; and

“sale” includes possession for sale and offer, exposure and advertising for sale.

Duty to give assistance and provide information

16. Each enforcement authority must give such assistance and information to any other enforcement authority as that other authority may reasonably require for the purpose of their duties under these Regulations.

Appeals

17.—(1) A person may, within 21 days of the notification of a decision to which this regulation applies, make written representations concerning the decision to a person appointed for this purpose by the Department.

(2) The appointed person shall consider the representations and report in writing to the Department.

(3) The Department shall give the person who made representations written notification of its final determination and the reasons for it.

(4) The procedure in this regulation applies to—

- (a) a decision by the Department to refuse to register an establishment as a pedigree breeding establishment, other breeding establishment or hatchery under Article 3 of Council Regulation (EEC) No. 2782/75, or to withdraw such a registration;
- (b) a decision by the Department to refuse to authorise an undertaking as a packing centre to grade eggs under Article 5(2) of Council Regulation (EC) No. 1028/2006, or to withdraw such an authorisation; and
- (c) a decision by an authorised officer to seize any computer or associated equipment under regulation 12(4).

(5) The decision to withdraw a registration or authorisation referred to in paragraph (4) shall not take effect until the time limit for making representations has expired, or, if such representations are made, until the final determination by the Department in accordance with paragraph (3).

Penalty

18. A person guilty of an offence specified in regulation 3, 6, 12(8), 13(5) or 14(1) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Extended period for bringing prosecutions

19.—(1) Proceedings for an offence under these Regulations may be commenced within the period of one year from the date on which evidence sufficient in the opinion of the prosecutor to warrant the proceedings came to his knowledge.

(2) But no such proceedings shall be commenced by virtue of paragraph (1) more than three years after the commission of the offence.

(3) For the purposes of this regulation—

- (a) a certificate signed by or on behalf of the prosecutor and stating the date on which evidence sufficient in his opinion to warrant the proceedings came to his knowledge shall be conclusive evidence of that fact; and
- (b) a certificate stating that matter and purporting to be so signed shall be deemed to be so signed unless the contrary is proved.

Application of various Articles of the Order

20.—(1) The following provisions of the Order shall apply for the purposes of these Regulations with the modifications specified in paragraph (2)—

Article 4 (presumptions that food intended for human consumption);

Article 19 (offences due to fault of another person);

Article 20 (defence of due diligence);
Article 29 (procurement of samples);
Article 30(8) (documentary evidence);
Article 33(a) (powers of entry);
Article 43 (protection of officers acting in good faith);
Article 45 (expenses of authorised officers); and

(2) The modifications are—

- (a) construe any reference in the provisions specified in paragraph (1) to the Order (or a Part of the Order) as a reference to these Regulations, and also, in relation to Article 33(1)(a), construe the reference to “the provisions of this Order” as a reference to the provisions mentioned in Schedules 2 and 3;
- (b) construe any reference in the provisions specified in paragraph (1) to an authorised officer, or an officer of an enforcement authority or district council, as a reference to an authorised officer as defined in regulation 2(1) of these Regulations;
- (c) in relation to Article 19, construe the reference to the Article as including a reference to that Article as applied to these Regulations by paragraph (1);
- (d) in relation to Article 20(2), replace the words “Article 13 or 14” with the words “these Regulations”;
- (e) in relation to Article 29—
 - (i) in paragraph (b)(ii), construe the reference to Article 33 as including a reference to Article 33 as applied to these Regulations by paragraph (1); and
 - (ii) in paragraph (d), omit the words “or of regulations or orders made under it”;
- (f) in relation to Article 30(8)(a), omit the words “under paragraph (6)”;
- (g) in relation to Article 33—
 - (i) in paragraph (1)(a), omit the words “, or of regulations or orders made under it”;
 - (ii) in paragraph (5), construe the reference to the Article as including a reference to that Article as applied to these Regulations by paragraph (1);
 - (iii) in paragraph (6), construe the reference to the Article as including a reference to that Article as applied to these Regulations by paragraph (1) and construe the reference to “a food business” as including a hatchery;
 - (iv) in paragraph (7)(a), omit the words “or of regulations or orders made under it”; and
 - (v) in paragraph (8), construe the reference to the Article as including a reference to that Article as applied to these Regulations by paragraph (1).

Transitional provision

21. Any written authority granted to any person to act in matters arising under or in relation to the Eggs (Marketing Standards) Regulations (Northern Ireland) 1995^(b) shall have effect as if it referred to these Regulations.

(a) Article 33 was amended by paragraph 19 of Schedule 2 to the Criminal Justice and Police Act 2001 (c. 16)

(b) S.R. 1995 No. 382 as amended by S.R. 1997 No. 108, S.R. 1997 No. 451, S.R. 1998 No. 269 and S.R. 2006 No. 287

Revocation

22. The Regulations specified in Schedule 1 are revoked.

Sealed with the Official Seal of the Department of Agriculture and Rural Development on 10th March 2008.

(L.S.)

Dr. John Speers
A senior officer of the Department of Agriculture and Rural Development

SCHEDULE 1

Regulation 22

REVOCATIONS

Eggs (Marketing Standards) Regulations (Northern Ireland) 1995(a)

Eggs (Marketing Standards) (Amendment) Regulations (Northern Ireland) 1997(b)

Eggs (Marketing Standards) (Amendment No. 2) Regulations (Northern Ireland) 1997(c)

Eggs (Marketing Standards) (Amendment) Regulations (Northern Ireland) 1998(d)

The Eggs (Marketing Standards) (Amendment) Regulations (Northern Ireland) 2006(e)

SCHEDULE 2

Regulation 3

COMMUNITY PROVISIONS RELATING TO EGGS FOR HATCHING AND CHICKS

PART 1

PROVISIONS OF COUNCIL REGULATION (EEC) No. 2782/75

Column 1	Column 2	Column 3
Relevant provision of Council Regulation (EEC) No. 2782/75	Provisions to be read with the provisions of Council Regulation (EEC) No. 2782/75 mentioned in column 1	Subject matter
Article 2(1)	Article 2(2) of Council Regulation (EEC) No. 2782/75	Prohibition on the marketing and transportation of eggs for hatching and of chicks, and on the incubation of eggs for hatching, for trade or commercial purposes except in accordance with the provisions of Council Regulation (EEC) No. 2782/75.
Article 3, first paragraph		Registration of pedigree breeding establishments, breeding establishments and hatcheries.
Article 5(1)	Article 2 of Commission Regulation (EEC) No. 1868/77	Individual marking of eggs for hatching.
Article 5(2)	Article 5(3) of Council Regulation (EEC) No. 2782/75	Packs used for the transportation of eggs for

- (a) S.R. 1995 No. 382
(b) S.R. 1997 No. 108
(c) S.R. 1997 No. 451
(d) S.R. 1998 No. 269
(e) S.R. 2006 No. 287

	and Article 3 of Commission Regulation (EEC) No. 1868/77	hatching.
Article 6		Importation of eggs for hatching from a third country.
Article 7		Keeping of registers by hatcheries.
Article 8		Restriction on the use of eggs withdrawn from an incubator.
Article 9(1)		Obligation on hatcheries to provide monthly reports.
Article 11(1)		Packing of chicks by species, type and category of poultry.
Article 11(2)		Content and marking of boxes of chicks.
Article 12	Article 11(1) of Council Regulation (EEC) No. 2782/75	Importation of chicks from a third country.
Article 13(1)		Documentation that must accompany batches of eggs for hatching and chicks.
Article 13(2)	Article 13(1) of Council Regulation (EEC) No. 2782/75	Documentation that must accompany batches of eggs for hatching and chicks imported from a third country.
Article 14, first paragraph		Legibility of particulars.
Article 14, second paragraph		Particulars and accompanying documents to be written in at least one Community language.
Article 15		Particulars included on packages for export to a third country.

PART 2

PROVISIONS OF COMMISSION REGULATION (EEC) No. 1868/77

Column 1	Column 2	Column 3
Relevant provision of Commission Regulation (EEC) No. 1868/77	Provisions to be read with the provisions of Commission Regulation (EEC) No. 1868/77 mentioned in column 1	Subject matter
Article 2(1)	Article 2(2) of Commission Regulation (EEC) No. 1868/77 and regulation 5	Individual marking of eggs for hatching.
Article 2(3)	Article 2(1) and (2) of Commission Regulation (EEC) No. 1868/77 and regulation 5	Prohibition on transporting or trading eggs for hatching between Member States unless properly marked.
Article 3	Article 5(2) of Council Regulation (EEC) No. 2782/75 and Article 2(2), second subparagraph, of Commission Regulation (EEC) No. 1868/77	Manner in which markings are to be made on packs.

COMMUNITY PROVISIONS RELATING TO EGGS IN SHELL FOR
CONSUMPTION

PART 1

PROVISIONS OF COUNCIL REGULATION (EC) No. 1028/2006

Column 1	Column 2	Column 3
Relevant provision of Council Regulation (EC) No. 1028/2006	Provisions to be read with the provisions of Council Regulation (EC) No. 1028/2006 mentioned in column 1	Subject matter
Article 3(1)	Article 2(1) and (4) of Commission Regulation (EC) No. 557/2007	Grading eggs by quality.
Article 3(2)	Article 4(1) of Commission Regulation (EC) No. 557/2007	Grading class A eggs by weight.
Article 3(3)		Prohibition on the delivery of class B eggs except to the food and non-food industry.
Article 4(1), first sub-paragraph	Article 4(3) of Council Regulation (EC) No. 1028/2006 and Articles 9(1) and 11 of Commission Regulation (EC) No. 557/2007	Marking of class A eggs.
Article 4(1), second sub-paragraph	Articles 9, 10 and 11 of Commission Regulation (EC) No. 557/2007	Marking of class B eggs.
Article 4(2)	Article 4(1) of Council Regulation (EC) No. 1028/2006	Place at which eggs are marked.
Article 4(3), first sub-paragraph	Article 4(1) and Article 4(3), second sub-paragraph, of Council Regulation (EC) No. 1028/2006 and regulation 8	Marking of eggs sold by a producer to the final consumer at a local public market.
Article 5(1)	Article 5 of Commission Regulation (EC) No. 557/2007	Grading and packing of eggs and the labelling of packs by packing centres.
Article 6(1)	Article 30(2) of Commission Regulation (EC) No. 557/2007	Marking of eggs imported from a third country where the rules applied in relation to those eggs in the third country concerned have been found to offer sufficient guarantees as to equivalence with Community legislation.
Article 6(3)	Article 30(2) and (3) of Commission Regulation (EC) No. 557/2007	Marking of eggs imported from a third country where the rules applied in relation to those eggs in the third country concerned have been found not to offer sufficient guarantees

PART 2

PROVISIONS OF COMMISSION REGULATION (EC) No. 557/2007

Column 1	Column 2	Column 3
Relevant provision of Commission Regulation (EC) No. 557/2007	Provisions to be read with the provisions of Commission Regulation (EC) No. 557/2007 mentioned in column 1	Subject matter
Article 2(1)	Article 3(1), first indent, of Council Regulation (EC) No. 1028/2006	Quality characteristics of class A eggs.
Article 2(2)	Article 3 of Commission Regulation (EC) No. 557/2007	Prohibition on the washing and cleaning of class A eggs before or after grading.
Article 2(3)		Prohibition on the treatment of class A eggs for preservation and the chilling of eggs in premises or plants where the temperature is artificially maintained at less than 5°C.
Article 4(1)	Article 3(2) of Council Regulation (EC) No. 1028/2006 and Article 4(3) of Commission Regulation (EC) No. 557/2007	Grading of class A eggs by weight.
Article 4(2)	Article 4(1) of Commission Regulation (EC) No. 557/2007 and Directive 2000/13/EC(a) on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs	Weight grading indications.
Article 4(3)	Article 4(1) of Commission Regulation (EC) No. 557/2007	Minimum net weight in grams and the indication 'eggs of different sizes' or equivalent terms to be given on the outer surface of a pack of class A eggs of different sizes.
Article 5(3)		Packing centres to have the technical equipment necessary to ensure that eggs are handled properly.
Article 6(1)		Eggs to be graded, marked and packed within 10 days of laying.
Article 6(2)	Article 14 of Commission Regulation (EC) No. 557/2007	Class A eggs marketed as 'extra' or 'extra fresh' eggs to be graded, marked and packed

(a) O.J. No. L 109, 6.5.2000, p. 29, last amended by Commission Directive 2006/142/EC (O.J. No. L 368, 23.12.2006, p. 110)

Article 6(3)	Article 12(1)(d) of Commission Regulation (EC) No. 557/2007 and Article 9(2) of Directive 2000/13/EC	within four days of laying. Packs to be marked as required by Article 12(1)(d) of Commission Regulation (EC) No. 557/2007 at the time of packing.
Article 7(1), first sub-paragraph	Article 7(1), second sub-paragraph, of Commission Regulation (EC) No. 557/2007	Producers to identify each transport packaging containing eggs with certain information.
Article 7(2), first sub-paragraph, first sentence	Article 7(1), and Article 7(2), second sub-paragraph, of Commission Regulation (EC) No. 557/2007	Application of the information specified in Article 7(1) of Commission Regulation (EC) No. 557/2007 to each transport packaging containing eggs and the inclusion of that information in accompanying documents.
Article 7(2), first sub-paragraph, second sentence	Article 7(2), first sub-paragraph, first sentence, and second sub-paragraph, of Commission Regulation (EC) No. 557/2007	Intervening operators to keep a copy of the documents specified in the first sentence of the first sub-paragraph of Article 7(2) of Commission Regulation (EC) No. 557/2007.
Article 7(2), first sub-paragraph, third sentence	Article 7(2), first sub-paragraph, first sentence, and second sub-paragraph, of Commission Regulation (EC) No. 557/2007	Original documents referred to in the first sentence of the first sub-paragraph of Article 7(2) of Commission Regulation (EC) No. 557/2007 to be kept by the packing centre that grades the eggs to which the documents relate.
Article 7(3)	Article 7(1) of Commission Regulation (EC) No. 557/2007	Prohibition on the modification or removal of the information referred to in Article 7(1) of Commission Regulation (EC) No. 557/2007 on the transport packaging of eggs until the removal of the eggs for immediate grading, marking and packing.
Article 8(1)	Article 8(2) of Commission Regulation (EC) No. 557/2007	Eggs delivered from a production site to a collector, packing centre or non-food industry in another Member State to be marked with the producer code before leaving the production site, except where an exemption has been granted under Article 8(2) of Commission Regulation (EC) No. 557/2007.
Article 8(2), last sentence		A copy of the delivery contract to accompany a consignment of eggs for which an exemption has been granted under Article 8(2) of

Article 8(5)	Article 4(1), second subparagraph, of Council Regulation (EC) No. 1028/2006, and Article 10 of Commission Regulation (EC) No. 557/2007	Commission Regulation (EC) No. 557/2007. Marking of class B eggs for marketing in another Member State.
Article 9(1)	Point 2 of the Annex to Directive 2002/4/EC(a) on the registration of establishments keeping laying hens, covered by Council Directive 1999/74/EC	Producer code.
Article 10	Article 4(1), second subparagraph, of Council Regulation (EC) No. 1028/2006	Indications on class B eggs.
Article 12(1)		Packs containing class A eggs to be marked with the information specified in Article 12(1) of Commission Regulation (EC) No. 557/2007.
Article 12(2), first and second sub-paragraphs	Article 12(1) and Part A of Annex I, and Annex II, to Commission Regulation (EC) No. 557/2007, Article 2 of Council Regulation (EEC) No. 2092/91(b) on the production and labelling of organic products and indications referring thereto on agricultural products and foodstuffs, and regulations 11, 12 and 13	Farming method to be shown on the outer surface of packs containing class A eggs.
Article 12(2), third subparagraph	Article 9(1) of Commission Regulation (EC) No. 557/2007	Producer code to be explained on or inside packs.
Article 12(2), fourth subparagraph	Part B of Annex I to Commission Regulation (EC) No. 557/2007 and Chapter III of Council Directive 1999/74/EC	Use of an indication listed in Part B of Annex I to Commission Regulation (EC) No. 557/2007.
Article 12(4)		Packs containing class B eggs to be marked with certain information.
Article 13	Article 3(1)(5) of Directive 2000/13/EC	Date of minimum durability.
Article 14(1)		Use of the words ‘extra’ and ‘extra fresh’ as an additional quality indication on packs containing class A eggs.
Article 14(2)	Article 14(1) of Commission	Laying date and the nine-day

(a) O.J. No. L 30, 31.1.2002, p. 44, last amended by Commission Directive 2006/83/EC (O.J. No. L 362, 20.12.2006, p. 97)
(b) O.J. No. L 198, 22.7.1991, p. 1, last amended by Council Regulation 1991/2006 (O.J. No. L 411, 30.12.2006, p. 18)

	Regulation (EC) No. 557/2007	time limit specified in Article 14(1) of Commission Regulation (EC) No. 557/2007 to be shown where the words 'extra' or 'extra fresh' are used as an additional quality indication on packs containing class A eggs.
Article 15		Reference to a cereal as a feed ingredient where an indication is given of how laying hens are fed.
Article 16		Information to be given for loose egg sales.
Article 17		Quality of packs.
Article 18		Packaging containers in which industrial eggs are marketed.
Article 19		Repacking of class A eggs.
Article 20(1)	Article 20(4) of Commission Regulation (EC) No. 557/2007	Producers to record certain information on farming methods.
Article 20(2)	Articles 15 and 20(4) of Commission Regulation (EC) No. 557/2007	Producers to record certain information where the feeding method is indicated.
Article 20(3)	Article 20(1) and (2) of Commission Regulation (EC) No. 557/2007	Information recorded by producers under Article 20(1) and (2) of Commission Regulation (EC) No. 557/2007 to be broken down by hen house where a producer uses different farming methods on a single production site.
Article 21(1)	Article 21(2) of Commission Regulation (EC) No. 557/2007	Collectors to record certain information on eggs collected and delivered by them.
Article 22(1), first subparagraph	Article 22(3) of Commission Regulation (EC) No. 557/2007	Packing centres to keep certain records.
Article 22(1), second subparagraph		Packing centres to update their physical stock records each week.
Article 22(2)	Articles 15 and 22(1) of Commission Regulation (EC) No. 557/2007	Packing centres to keep separate records where class A eggs and their packs bear an indication of how laying hens are fed.
Article 23	Articles 7(2), 20, 21 and 22 of Commission Regulation (EC) No. 557/2007	Records and files referred to in Articles 7(2), 20, 21 and 22 of Commission Regulation (EC) No. 557/2007 to be kept for at least 12 months.
Article 24(2), second sentence	Articles 20, 21 and 22 of Commission Regulation (EC) No. 557/2007	Records referred to in Articles 20, 21 and 22 of Commission Regulation (EC) No. 557/2007 to be made available to the inspection services on first request.

Article 30(2)

Eggs imported from third countries to have been clearly and legibly marked in the country of origin in accordance with the ISO 3166 country code.

Article 30(3)

Article 6(3) of Council Regulation (EC) No. 1028/2006

Marking of packs containing eggs imported from a third country where the rules applied in relation to those eggs in the third country concerned have been found not to offer sufficient guarantees as to equivalence with Community legislation.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations revoke and remake, with modifications, the Eggs (Marketing Standards) Regulations (Northern Ireland) 1995 (S.R. 1995 No. 382).

The 1995 Regulations, as amended, made provision for the enforcement of certain provisions of Regulation (EEC) No. 2782/75 of the Council on the production and marketing of eggs for hatching and of farmyard poultry chicks (O.J. No. L 282, 1.11.1975, p. 100) and Commission Regulation (EEC) No. 1868/77 laying down detailed rules of application for Regulation (EEC) No. 2782/75 (O.J. No. L 209, 17.8.1977, p. 1). They also made provision for the enforcement of certain provisions of Council Regulation (EEC) No. 1907/90 (O.J. No. L 173, 6.7.1990, p. 5) on certain marketing standards for eggs and Commission Regulation (EC) No. 2295/2003 introducing detailed rules for implementing Council Regulation (EEC) No. 1907/90 (O.J. No. L 340, 24.12.2003, p. 16). Council Regulation (EEC) No. 1907/90 and Commission Regulation (EC) No. 2295/2003 have been revoked and replaced by Council Regulation (EC) No. 1028/2006 (O.J. No. L 186, 7.7.2006, p. 1) and Commission Regulation (EC) No. 557/2007 (O.J. No. L 132, 24.5.2007, p. 5). These Regulations make provision for the continued enforcement of certain provisions of Council Regulation (EEC) No. 2782/75 and the continued enforcement of certain provisions of Commission Regulation (EEC) No. 1868/77, as from time to time amended, and also for the enforcement of certain provisions of Council Regulation (EC) No. 1028/2006, as from time to time amended, and Commission Regulation (EC) No. 557/2007, as from time to time amended.

The Regulations include provisions—

- (a) making the failure to comply with the provisions of Council Regulation (EEC) No. 2782/75 and Commission Regulation (EEC) No. 1868/77 mentioned in Schedule 2 an offence (regulation 3);
- (b) relating to the registration of pedigree breeding establishments, other breeding establishments and hatcheries (regulation 4);
- (c) derogating from Article 2(1) of Commission Regulation (EEC) No. 1868/77 by allowing eggs for hatching to be marked in a different manner from that specified in that provision (regulation 5);
- (d) making the failure to comply with the provisions of Council Regulation (EC) No. 1028/2006 and Commission Regulation (EC) No. 557/2007 mentioned in Schedule 3 an offence (regulation 6);
- (e) relating to the authorisation of packing centres to grade eggs (regulation 7);
- (f) derogating from the provisions of Council Regulation (EC) No. 1028/2006, as regards the marking of eggs for consumption (regulation 8);
- (g) varying the minimum requirements for the marketing of eggs as free-range eggs by authorising livestock grazing on open-air runs for hens producing such eggs (regulation 9);
- (h) derogating from the provisions of Commission Regulation (EC) No. 557/2007, by allowing eggs to be marketed as free-range eggs although not all of the requirements laid down in that Regulation for free-range eggs are met (regulation 10);
- (i) derogating from the provisions of Commission Regulation (EC) No. 557/2007, by allowing eggs to be marketed as barn eggs although not all of the requirements laid down in that Regulation for barn eggs are met (regulation 11);
- (j) providing a right of appeal against certain decisions of the Department and authorised officers (regulation 17);
- (k) creating a penalty for offences under the Regulations (regulation 18).

A partial Regulatory Impact Assessment of the effect that these Regulations will have on the costs of business is available from the Department of Agriculture and Rural Development, Room 142, Dundonald House, Upper Newtownards Road, Belfast, BT4 3SB.

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