

SCOTTISH STATUTORY INSTRUMENTS

2010 No. 450

The Eggs and Chicks (Scotland) Amendment Regulations 2010

PART 2

Amendments to the principal Regulations

3. The principal Regulations are amended in accordance with regulations 4 to 17.

Amendment to regulation 2

4. In regulation 2 (interpretation)—

- (a) in paragraph (1)—

- (i) after the definition of “production site” insert—

““Regulation (EC) No. 2160/2003” means Regulation (EC) No. 2160/2003 of the European Parliament and of the Council on the control of salmonella and other specified food-borne zoonotic agents ^{M1}”;

- (ii) for the definition of “eggs” substitute—

““eggs”—

- (a) has the meaning given by sub-paragraph (k) of the second paragraph of Article 1 of Commission Regulation (EC) No. 589/2008 in the definition of “Commission Regulation (EC) No. 589/2008” in this regulation, regulations 3(1)(b), (2)(b) and (c), Part 3, regulations 13, 15 and 17(2)(b) and Schedule 2 to these Regulations; and

- (b) means eggs to which Regulation (EC) No. 2160/2003 applies as read with the exception in Article 1(3) of Regulation (EC) No. 2160/2003 in regulation 3(1)(c), Part 3A, regulation 13A, 15A and Schedule 2A to these Regulations;”;

- (iii) in the definition of “enforcement authority” for “regulation 15” substitute “;regulation 15 or 15A ”; and

- (b) after paragraph (5), insert—

“(6) Any reference to a contravention of or failure to comply with any provision mentioned in Schedule 2A means a contravention of or failure to comply with any provision of Regulation (EC) No. 2160/2003 mentioned in column 1 of Schedule 2A.”.

Marginal Citations

M1 O.J. L 325, 12.12.2003, p.1; last amended by Regulation (EC) No. 596/2009 O.J. L 188, 18.7.2009, p.14.

Amendment to regulation 3

5. In regulation 3 (products to which these regulations apply)—
- (a) after sub-paragraph (1)(b) insert—
 - “(c) eggs to which Regulation (EC) No. 2160/2003 applies as read with the exception in Article 1(3) of Regulation (EC) No. 2160/2003.”; and
 - (b) in paragraph (2) for “But they do not apply to” substitute “ ;But Parts 2 and 3 of these Regulations do not apply to”.

Amendment to regulation 9

6. After regulation 9(2) (derogations relating to the marking of eggs) insert—
- “(3) But paragraphs (1) and (2) do not apply to eggs that must be considered as class B eggs by virtue of paragraph (a) of the second sub-paragraph of point 2 of Part D of Annex II to Regulation (EC) No. 2160/2003.”.

Insertion of Part 3A

7. After Part 3 (eggs in shell for consumption) insert—

“PART 3A

Eggs in shell for consumption: salmonella control related requirements

Compliance with EU provisions

12A. Any person who contravenes, or fails to comply with, any provision mentioned in Schedule 2A commits an offence.”.

Insertion of regulation 13A

8. After regulation 13 (powers of authorised officers) insert—

“Powers of authorised officers – salmonella control related requirements

13A.—(1) An authorised officer may direct any person to leave undisturbed for so long as is reasonably necessary for the purpose of any examination or investigation any—

- (a) eggs;
- (b) packs or other containers for eggs;
- (c) labels or documents relating to eggs; and
- (d) any premises on or in which any eggs, any packs or other containers for eggs and any labels or documents relating to such eggs 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 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) packs or other containers for eggs; or

(c) labels or documents relating to eggs, which do not comply in any respect with the requirements of any provision mentioned in Schedule 2A (as regards eggs in shell for consumption and salmonella control related requirements), 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) 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.

(5) An authorised officer must not exercise the powers under paragraphs (1) to (3)—

(a) except on the production, if so required, of a duly authenticated document showing the officer's authority; and

(b) except for the purpose of enforcing these Regulations.

(6) A person is guilty of an offence if that person—

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

(b) unless authorised to do so in writing by an authorised officer, tampers with any packs or containers that have been secured by an authorised officer under paragraph (2); or

(c) without reasonable excuse, fails to comply with any requirement imposed on that person by a direction given by an authorised officer under paragraph (3).”.

Insertion of regulation 15A

9. After regulation 15 (enforcement) insert—

“Enforcement – salmonella control related requirements

15A.—(1) Each food authority must enforce the provisions mentioned in Schedule 2A, as read with regulation 12A, in so far 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.

(2) The Scottish Ministers may enforce the provisions mentioned in Schedule 2A, as read with regulation 12A, in so far as they apply to the retail sale of eggs or the sale of eggs to a mass caterer.

(3) The Scottish Ministers must enforce the provisions mentioned in Schedule 2A, as read with regulation 12A, in so far as they do not apply to the retail sale of eggs or the sale of eggs to a mass caterer.

(4) In this regulation—

“mass caterer” means any of 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 advertisement for sale.”.

Amendment to regulation 18

10. In regulation 18 (penalty), for “13(6)” substitute “;12A, 13(6), 13A(6) ”.

Amendment to regulation 20

11. In regulation 20(2)(a) (application to various provisions of the Act), for “Schedules 1 and 2” substitute “;Schedules 1, 2 and 2A”.

Amendment to Schedule 2, Part 1, Column 2

12. In Schedule 2, part 1, column 2, in the entry relating to Point III(1) of Part A of Annex XIV, second sub-paragraph, after “Articles 9, 10 and 11 of Commission Regulation (EC) No. 589/2008” insert—

“, paragraphs (a) and (b) of the second sub-paragraph of point 2 of Part D of Annex II to Regulation (EC) No. 2160/2003”.

Amendment to Schedule 2, Part 2, Column 2

13. In Schedule 2, part 2, column 2, in the entry relating to Article 2(1), after “Point II(1) of Part A of Annex XIV, first indent, to the Single CMO Regulation” insert—

“, paragraph (a) of the second sub-paragraph of point 2 of Part D of Annex II to Regulation (EC) No. 2160/2003 and regulation 12A as read with the entry in Schedule 2A relating to paragraph (a) of the second sub-paragraph of point 2 of Part D of Annex II to Regulation (EC) No. 2160/2003”.

14. In Schedule 2, part 2, column 2, in the entry relating to Article 2(4), after “Point II(1) of Part A of Annex XIV, second indent, to the Single CMO Regulation” insert—

“, paragraph (a) of the second sub-paragraph of point 2 of Part D of Annex II to Regulation (EC) No. 2160/2003 and regulation 12A as read with the entry in Schedule 2A relating to paragraph (a) of the second sub-paragraph of point 2 of Part D of Annex II to Regulation (EC) No. 2160/2003”.

Amendment to Schedule 2, Part 2, Column 3

15. In Schedule 2, part 2, column 3, in the entry relating to Article 2(1), after “Quality characteristics of class A eggs” insert—

“and cases in which eggs meeting those quality characteristics must be categorised as class B eggs”.

16. In Schedule 2, part 2, column 3, in the entry relating to Article 2(4), after “Quality characteristics of class B eggs” insert—

“and cases in which eggs meeting the quality characteristics for class A eggs must be categorised as class B eggs”.

Insertion of new Schedule 2A

17. After Schedule 2 (community provisions relating to eggs in shell for consumption contravention of which is an offence) insert—

“SCHEDULE 2A

Regulations 2(1) and (6), 12A,
13A(3), 15A and 20(2)

EU PROVISIONS RELATING TO EGGS IN SHELL FOR
CONSUMPTION: SALMONELLA CONTROL RELATED
REQUIREMENTS THE CONTRAVENTION OF WHICH IS AN OFFENCE

| Column 1 | Column 2 | Column 3 |
|---|--|---|
| Relevant provision of Regulation (EC) No. 2160/2003 | Provisions to be read with the provisions of Regulation (EC) No. 2160/2003 mentioned in column 1 | Subject matter |
| Point 1 of Part D of Annex II | Article 1(3) of Regulation (EC) No. 2160/2003 | Prohibition on the use of eggs for direct human consumption as table eggs unless they originate from a commercial flock of laying hens subject to a national control programme and are not under official restriction. |
| Point 2, first sub-paragraph, of Part D of Annex II | Point 4 of Part D of Annex II to Regulation (EC) No. 2160/2003 | Prohibition on the use of certain zoonosis status eggs for human consumption unless treated, except where the restrictions in point 2 of Part D of Annex II to Regulation (EC) No. 2160/2003 are lifted under point 4 of that Part. |
| Point 2, second sub-paragraph, paragraph (a), of Part D of Annex II | Article 1(3) of, and point 4 of Part D of Annex II to, Regulation (EC) No. 2160/2003, the provisions of Articles 113(3) and 116 of, and Part A of Annex XIV to, the Single CMO Regulation, and Commission Regulation (EC) No. 589/2008, in so far as they relate to class B eggs | Treatment of certain zoonosis eggs as class B eggs, except where the restrictions in point 2 of Part D of Annex II to Regulation (EC) No. 2160/2003 are lifted under point 4 of that Part. |
| Point 2, second sub-paragraph, paragraph (b), of Part D of Annex II | Article 1(3) of, and point 4 of Part D of Annex II to, Regulation (EC) No. 2160/2003 and Article 10 of Commission Regulation (EC) No. 589/2008 | Marking of certain zoonosis status eggs with the indication required by Article 10 of Commission Regulation (EC) No. 589/2008, except where the restrictions in point 2 of Part D of Annex II to Regulation (EC) No. 2160/2003 are lifted under point 4 of that Part. |

Changes to legislation: There are currently no known outstanding effects for the The Eggs and Chicks (Scotland) Amendment Regulations 2010, PART 2. (See end of Document for details)

Point 2, second sub-paragraph, paragraph (c), of Part D of Annex II to Regulation (EC) No. 2160/2003

Point 4 of Part D of Annex II to Regulation (EC) No. 2160/2003

Prohibited access to packing centres for certain zoonosis status eggs unless the competent authority is satisfied with measures to prevent possible cross-contamination, except where the restrictions in point 2 of Part D of Annex II to Regulation (EC) No. 2160/2003 are lifted under point 4 of that Part.”

Changes to legislation:

There are currently no known outstanding effects for the The Eggs and Chicks (Scotland) Amendment Regulations 2010, PART 2.