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SCOTTISH STATUTORY INSTRUMENTS

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**2008 No. 129**

**FOOD**

**The Eggs and Chicks (Scotland) Regulations 2008**

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| <i>Made</i>                                | - - - - - | <i>19th March 2008</i> |
| <i>Laid before the Scottish Parliament</i> | - - - - - | <i>20th March 2008</i> |
| <i>Coming into force</i>                   | - -       | <i>27th April 2008</i> |

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 2(2) of, and paragraph 1A of Schedule 2 to, the European Communities Act 1972<sup>(1)</sup>, and by sections 6(4), 16(1), 17, 26(2) and (3) and 48(1) of the Food Safety Act 1990<sup>(2)</sup>, and all other powers enabling them to do so.

These Regulations make provision for a purpose mentioned in section 2(2) of the 1972 Act, and it appears to the Scottish Ministers that it is expedient for the references in regulation 2(1) to certain Community instruments to be references to those instruments as amended from time to time.

To the extent that these Regulations are made in exercise of powers under the 1990 Act, the Scottish Ministers have had regard to relevant advice given by the Food Standards Agency as required by section 48(4A)<sup>(3)</sup> of that Act.

The Scottish Ministers have carried out consultation as required by Article 9 of Regulation (EC) No. 178/2002 of the European Parliament and of the Council 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<sup>(4)</sup>.

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- (1) 1972 c. 68. Section 2(2) was amended by paragraph 15(3) of Schedule 8 to the Scotland Act 1998 (c. 46) (“the 1998 Act”), and section 27(1) of the Legislative and Regulatory Reform Act 2006 (c. 51) (“the 2006 Act”). Paragraph 1A of Schedule 2 was inserted by section 28 of the 2006 Act. The powers in section 2(2) of the 1972 Act are exercised as regards the whole or part of regulations 1, 2(1) and (2), 3(1)(a), 4, 5, 6, 13, 14, 15, 16, 18, 19, 20, 21, 22, Schedule 1 and paragraphs 4 and 5 of Schedule 3 of this instrument. The functions conferred upon the Minister of the Crown under section 2(2) of the 1972 Act, so far as within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the 1998 Act.
- (2) 1990 c. 16 (“the 1990 Act”). Section 1(1) and (2) (definition of “food”) was substituted by S.I. 2004/2990. Section 6(4) was amended by paragraph 6 of Schedule 9 to the Deregulation and Contracting Out Act 1994 (c. 40), and by paragraph 10(3) of Schedule 5 to the Food Standards Act 1999 (c. 28) (“the 1999 Act”). Section 16(1) was amended by paragraphs 7 and 8 of Schedule 5 to the 1999 Act. Section 17 was amended by paragraphs 7, 8 and 12(a) and (b) of Schedule 5 to the 1999 Act. Section 26(3) was amended by Schedule 6 to the 1999 Act. Section 48(1) was amended by paragraphs 7 and 8 of Schedule 5 to the 1999 Act. The requirement on the Scottish Ministers under section 48(4) to consult with such organisations as appear to them to be representative of interests likely to be substantially affected by this instrument is disapplied by virtue of section 48(4C), as inserted by S.I. 2004/2990. The amendments to the 1990 Act made by Schedule 5 to the 1999 Act which extend to Scotland are to be taken as a pre-commencement enactment for the purposes of the Scotland Act 1998 (c. 46) (“the 1998 Act”). The functions of the Secretary of State, so far as within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the 1998 Act. The functions conferred on a Minister of the Crown under sections 6(4), 16, 17, 26 and 48 of the 1990 Act were transferred to the Scottish Ministers by the Scotland Act (Transfer of Functions to the Scottish Ministers etc.) Order 2005 (S.I. 2005/849).
- (3) Section 48(4A) was inserted by paragraphs 7 and 21 of Schedule 5 to the Food Standards Act 1999.
- (4) O.J. No. L 31, 1.2.2002, p.1. The Regulation has been amended by Commission Regulation (EC) No. 1642/2003 (O.J. No. L 245, 29.9.2003, p.4) and Commission Regulation (EC) No. 575/2006 (O.J. No. L 100, 8.4.2006, p.3).

## PART 1

### General

#### Citation, commencement and extent

- 1.—(1) These Regulations may be cited as the Eggs and Chicks (Scotland) Regulations 2008.
- (2) These Regulations come into force on 27th April 2008.
- (3) These Regulations extend to Scotland only.

#### Interpretation

- 2.—(1) In these Regulations—

“the Act” means the Food Safety Act 1990;

“authorised officer” means any person who has written authority from an enforcement authority to act in matters arising under or in relation to the Act or these Regulations;

“breeding establishment” has the meaning given by Article 1(3)(b) of Council Regulation 2782/75;

“chicks” has the meaning given by Article 1(2) of Council Regulation 2782/75(5);

“Commission Regulation 1868/77” means Commission Regulation (EEC) No. 1868/77 laying down detailed rules of application for Regulation (EEC) No. 2782/75 on the production and marketing of eggs for hatching and of farmyard poultry chicks(6), as amended from time to time;

“Commission Regulation 557/2007” means Commission Regulation (EC) No. 557/2007 laying down detailed rules for implementing Council Regulation (EC) No. 1028/2006 on marketing standards for eggs(7), as amended from time to time;

“Council Directive 1999/74/EC” means Council Directive 1999/74/EC laying down minimum standards for the protection of laying hens(8);

“Council Regulation 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(9);

“Council Regulation 1028/2006” means Council Regulation (EC) No. 1028/2006 on marketing standards for eggs(10), as amended from time to time;

(5) 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) and Commission Regulation (EC) No. 2916/95 (O.J. No. L 305, 19.12.1995, p.49).

(6) O.J. No. L 209, 17.8.1977, p.1. The Regulation has been amended by Commission Regulation (EEC) No. 3759/85 (O.J. No. L 356, 31.2.1985, p.64), Commission Regulation (EEC) No. 1351/87 (O.J. No. L 127, 16.5.1987, p.18), Commission Regulation (EEC) No. 2773/90 (O.J. No. L 267, 29.9.1990, p.25), Commission Regulation (EC) No. 3239/94 (O.J. No. L 338, 28.12.1994, p.48) and Commission Regulation (EC) No. 1792/2006 (O.J. No. L 362, 20.12.2006, p.1).

(7) O.J. No. L 132, 24.5.2007, p.5. The Regulation has been amended by Commission Regulation (EC) No. 1336/2007 (O.J. No. L 298, 16.11.2007, p.3).

(8) O.J. No. L 203, 3.8.1999, p.53. The Directive has been amended by Council Regulation (EC) No. 806/2003 (O.J. No. L 122, 16.5.2003, p.1).

(9) O.J. No. L 282, 1.11.1975, p.100. The Regulation has been amended by Council Regulation (EEC) No. 3485/80 (O.J. No. L 365, 31.12.1980, p.1), Council Regulation (EEC) No. 3791/85 (O.J. No. L 367, 31.12.1985, p.6), Council Regulation (EEC) No. 3494/86 (O.J. No. L 323, 18.11.1986, p.1), Commission Regulation (EEC) No. 3987/87, Commission Regulation (EEC) No. 1057/91 (O.J. No. L 107, 27.4.1991, p.11), Commission Regulation (EEC) No. 2916/95 and Council Regulation (EC) No. 1791/2006 (O.J. No. L 363, 20.12.2006, p.1).

(10) O.J. No. L 186, 7.7.2006, p.1. There are no relevant amendments to this Regulation.

“Directive [2000/13/EC](#)” means Directive [2000/13/EC](#) of the European Parliament and of the Council on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs<sup>(11)</sup>;

“eggs” has the meaning given by Article 2(1) of Council Regulation 1028/2006;

“eggs for hatching” has the meaning given by Article 1(1) of Council Regulation 2782/75<sup>(12)</sup>;

“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 1028/2006;

“food authority” has the same meaning as in section 5(2) of the Act;

“hatchery” has the meaning given by Article 1(3)(c) of Council Regulation 2782/75;

“packing centre” has the meaning given by Article 2(7) of Council Regulation 1028/2006;

“pedigree breeding establishment” has the meaning given by Article 1(3)(a) of Council Regulation 2782/75; and

“production site” has the meaning given by Article 2(6) of Council Regulation 1028/2006.

(2) Any expression not defined in paragraph (1) and used in Part 2 of, or Schedule 1 to, these Regulations, and in Council Regulation 2782/75, has the same meaning in said Part 2 or Schedule 1 as it does in that Council Regulation.

(3) Any expression not defined in paragraph (1) and used in regulation 3(2) or Part 3 of, or Schedule 2 to, these Regulations and in Council Regulation 1028/2006 or Commission Regulation 557/2007, has the same meaning in said regulation 3(2), Part 3 or Schedule 2 as it does in that Council or Commission Regulation.

(4) Any reference to a contravention of or failure to comply with any provision mentioned in Schedule 1 means a contravention or failure to comply with any provision of—

(a) Council Regulation 2782/75 mentioned in column 1 of Part 1 of Schedule 1; or

(b) Commission Regulation 1868/77 mentioned in column 1 of Part 2 of Schedule 1,

as read with any provision mentioned in any corresponding entry in column 2 of the Part.

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

(a) Council Regulation 1028/2006 mentioned in column 1 of Part 1 of Schedule 2; or

(b) Commission Regulation 557/2007 mentioned in column 1 of Part 2 of Schedule 2,

as read with any provision mentioned in any corresponding entry in column 2 of the Part.

### **Products to which these Regulations apply**

3.—(1) These Regulations apply to—

(a) eggs for hatching and chicks to which Council Regulation 2782/75 and Commission Regulation 1868/77 apply; and

(b) eggs to which Council Regulation 1028/2006 and Commission Regulation 557/2007 apply (eggs in shell produced for consumption by hens of the species *Gallus gallus*).

(2) But they do not apply to—

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(11) O.J. No. L 109, 6.5.2000, p.29. The Directive has been amended by Commission Directive [2001/101/EC](#) (O.J. No. L 310, 28.11.2001, p.19), Directive [2003/89/EC](#) of the European Parliament and of the Council (O.J. No. L 308, 25.11.2003, p.15), Council Directive [2006/107/EC](#) (O.J. No. L 363, 20.12.2006, p.411) and Commission Directive [2006/142/EC](#) (O.J. No. L 368, 23.12.2006, p.110).

(12) Point 1 of Article 1 of Council Regulation (EEC) No. 2782/75 was substituted by Commission Regulation 3987/87.

- (a) the sale of eggs to which Council Regulation 1028/2006 and Commission Regulation 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; or
  - (ii) by door to door selling in the region of production; or
- (b) the sale of eggs to which Council Regulation 1028/2006 and Commission Regulation 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, except insofar as they relate to the requirement imposed by Article 4(3) of Council Regulation 1028/2006 to mark such eggs in accordance with Article 4(1) of that Regulation.

(3) In paragraph (2)(a)(ii) “door to door selling” means a sale which is made during an unsolicited visit by a producer to the home of the final consumer, or to the home of another person, or to the place of work of the final consumer.

## PART 2

### Eggs for hatching and chicks

#### **Compliance with Community provisions**

4. Any person who contravenes, or fails to comply with, any provision mentioned in Schedule 1 commits an offence.

#### **Registration of establishments**

5.—(1) The Scottish Ministers are designated as the competent agency for the purpose of Article 3 of Council Regulation 2782/75 (registration of pedigree breeding establishments, breeding establishments and hatcheries) as read with Article 1 of Commission Regulation 1868/77.

(2) Where an application is made to the Scottish Ministers under Article 3 of Council Regulation 2782/75, they must notify the applicant in writing of the matters specified in paragraph (3) within 28 days.

- (3) The specified matters for the purpose of paragraph (2) are—
  - (a) the decision of the Scottish Ministers 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 Scottish Ministers decide to withdraw a registration of an establishment because of a contravention of or failure to comply with any provision mentioned in Schedule 1, they must notify the person carrying on business at the establishment in writing of the matters specified in paragraph (5) within 28 days.

- (5) The specified matters for the purpose of paragraph (4) are—
  - (a) the decision of the Scottish Ministers 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.

- (6) For the purposes of calculating the 28 day time limit specified in paragraph (2) no account is to be taken of any period—
- (a) during which the Scottish Ministers request an applicant to provide further data and the data have not been provided;
  - (b) that the applicant is given—
    - (i) to provide oral or written explanations; or
    - (ii) to comply with any requirement laid down in Council Regulation 2782/75, or Articles 2 or 3 of Commission Regulation 1868/77.
- (7) In this regulation anything to be done in writing—
- (a) may be done by an electronic communication within the meaning of the Electronic Communications Act 2000<sup>(13)</sup> if it is recorded and is subsequently capable of being reproduced;
  - (b) must only, unless it is an application under paragraph (2), be sent to a person as an electronic communication if that person has consented to the use of that method of communication;
  - (c) if done by electronic communication shall be regarded as sent when the text of it is received in legible form.

#### **Derogation relating to the marking of eggs for hatching**

6. Eggs for hatching may be marked in a different manner from that specified in Article 2(1) of Commission Regulation 1868/77 if—
- (a) the marking of the eggs complies with the requirements set out in the first paragraph of Article 2(2) of that Regulation; and
  - (b) the other requirements set out in the first and second paragraphs of Article 2(2) are met.

## **PART 3**

### **Eggs in shell for consumption**

#### **Compliance with Community provisions**

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

#### **Authorisation of packing centres to grade eggs**

8.—(1) The Scottish Ministers are designated as the competent authority for the purpose of Article 5(2) of Council Regulation 1028/2006 (authorisation of undertakings as packing centres to grade eggs) as read with Article 5 of Commission Regulation 557/2007.

(2) Where an application is made to the Scottish Ministers under Article 5(2) of Council Regulation 1028/2006, they must notify the applicant in writing of the matters specified in paragraph (3) within 28 days.

- (3) The specified matters for the purpose of paragraph (2) are—
- (a) the decision of the Scottish Ministers on the application;

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<sup>(13)</sup> 2000 c. 7. Section 15(1) contains a definition of “electronic communication”, and was amended by paragraph 158 of Schedule 17 to the Communications Act 2003 (c. 21).

- (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 Scottish Ministers decide to withdraw an authorisation of a packing centre to grade eggs because of a contravention of or failure to comply with any provision mentioned in Schedule 2 applicable to packing centres and their activities, they must notify the person carrying on business at the packing centre in writing of the matters specified in paragraph (5) within 28 days.
- (5) The specified matters for the purpose of paragraph (4) are—
- (a) the decision of the Scottish Ministers 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.
- (6) For the purposes of calculating the 28 day time limit specified in paragraph (2) no account is to be taken of any period—
- (a) during which the Scottish Ministers request an applicant to provide further data and the data have not been provided; or
  - (b) any period that the applicant is given—
    - (i) to provide oral or written explanations; or
    - (ii) to comply with any requirements laid down in Article 5(2) of Council Regulation 1028/2006 or Article 5(3) of Commission Regulation 557/2007.
- (7) In this regulation anything to be done in writing—
- (a) may be done by an electronic communication within the meaning of the Electronic Communications Act 2000 if it is recorded and is subsequently capable of being reproduced;
  - (b) must only, unless it is an application under paragraph (2), be sent to a person as an electronic communication if that person has consented to the use of that method of communication;
  - (c) if done by electronic communication shall be regarded as sent when the text of it is received in legible form.

#### **Derogations relating to the marking of eggs**

9.—(1) The provisions in the second sub paragraph of Article 4(1) of Council Regulation 1028/2006 (class B eggs to be marked with the producer code and/or another indication) 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) 1028/2006 (eggs sold by a producer to a final consumer in a local public market in the region of production) shall not apply where a producer has no more 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**

10.—(1) The Scottish Ministers are designated as the competent authority for the purpose of point 1(b) of Annex II to Commission Regulation (EC) 557/2007 (use of open air runs to which hens have access).

(2) For the purpose of point 1 of Annex II to Commission Regulation (EC) 557/2007 (production of “free range eggs”) livestock grazing is authorised on open air runs to which egg producing hens have access.

#### **Derogation relating to free-range eggs**

**11.**—(1) By way of derogation from the provisions of point 1 of Annex II to Commission Regulation 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 (provisions applicable to alternative systems) 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**

**12.**—(1) By way of derogation from the provisions of point 2 of Annex II to Commission Regulation 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**

### **Enforcement, miscellaneous and supplemental provisions**

#### **Powers of authorised officers**

**13.**—(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) eggs for hatching or chicks;
- (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) land, vehicle or trailer on or in which any of the things specified in sub paragraphs (a) to (d) 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 or chicks;
- (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 1 (as regards eggs for hatching and chicks) or Schedule 2 (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) 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).

## **Obstruction**

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

- (a) intentionally obstructs an authorised officer acting in the execution of these Regulations;
- (b) without reasonable excuse, fails to give an authorised officer acting in the execution of these Regulations any assistance or information which that officer may reasonably require for the performance of the officer's functions under these Regulations;
- (c) gives to an authorised officer acting in the execution of these Regulations any information which that person knows, or has reason to believe, to be false or misleading or recklessly gives information which is false or misleading; or
- (d) without reasonable excuse, 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 that person.



## **Enforcement**

- 15.**—(1) Each food authority must—
- (a) enforce the provisions mentioned in Schedule 2, as read with regulation 7, 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.
  - (2) The Scottish Ministers may enforce the provisions mentioned in Schedule 2, as read with regulation 7, insofar as they apply to the retail sale of eggs or the sale of eggs to a mass caterer.
  - (3) The Scottish Ministers must—
    - (a) enforce the provisions mentioned in Schedule 1, as read with regulation 4;
    - (b) enforce the provisions mentioned in Schedule 2, as read with regulation 7, insofar 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.

## **Duty to give assistance and provide information**

**16.** An 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) Any person who is aggrieved by a decision specified in paragraph (2) may appeal against that decision to a sheriff court.
- (2) A specified decision for the purpose of paragraph (1) is a decision by the Scottish Ministers to refuse to—
- (a) register an establishment under Article 3 of Council Regulation 2782/75, or to withdraw such a registration;
  - (b) authorise an undertaking as a packing centre to grade eggs under Article 5(2) of Council Regulation 1028/2006, or to withdraw such an authorisation.
- (3) Section 37(4) to (6) of the Act has effect in relation to an appeal under this regulation as it has effect in relation to an appeal under that section, but with the omission of—
- (a) the references to appeals for which provision is made by regulations under Part II of the Act;
  - (b) the references to subsection (3) and appeals to the magistrates' court in subsection (6); and
  - (c) subsection (5)(b) and the word “or” immediately preceding it.
- (4) The withdrawal of a registration or authorisation referred to in paragraph (2) shall not take effect until the time for appealing against it has expired, and, if an appeal is lodged, until the appeal is finally disposed of, withdrawn or abandoned.

## Penalty

**18.** A person guilty of an offence specified in regulation 4, 7, 13(6) or 14(1) shall be 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 the knowledge of the prosecutor.

(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 the opinion of the prosecutor to warrant the proceedings came to the knowledge of the prosecutor 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 provisions of the Act

**20.—(1)** The following provisions of the Act (“the specified provisions”) shall apply for the purposes of these Regulations with the modifications specified in paragraph (2):—

- (a) section 3 (presumptions that food intended for human consumption);
- (b) section 20 (offences due to fault of another person);
- (c) section 21 (defence of due diligence) as it applies to an offence under section 14 (selling food not of the nature or substance or quality demanded) or 15 (falsely describing or presenting food) of the Act;
- (d) section 29 (procurement of samples);
- (e) section 30(8) (documentary evidence in proceedings under the Act);
- (f) section 32 (powers of entry);
- (g) section 36 (offences by bodies corporate);
- (h) section 36A(**14**) (offences by Scottish partnerships);
- (i) section 44 (protection of officers acting in good faith);
- (j) section 46(1) (expenses of authorised officers); and
- (k) section 50(**15**) (service of documents).

(2) The specified modifications are—

- (a) any reference in the specified provisions to the Act, or to a Part of the Act, or to specific sections of the Act, shall be construed as a reference to these Regulations, and in section 32(1)(a) the reference to “the provisions of this Act”, is to be construed as a reference to the provisions mentioned in Schedules 1 and 2;
- (b) any reference in the specified provisions to an authorised officer, or an officer of an enforcement authority or a food authority, is to be construed as a reference to an authorised officer as defined in regulation 2(1);

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(14) Section 36A was inserted by paragraphs 7 and 16 of Schedule 5 to the Food Standards Act 1999 (c. 28).

(15) Section 50 was amended by paragraph 18 of Schedule 16 to the Deregulation and Contracting Out Act 1994 (1994 c. 40).

- (c) in relation to section 20, the reference to the section is to be construed as including a reference to that section as applied to these Regulations;
- (d) in relation to section 29—
  - (i) in (b)(ii), the reference to section 32 is to be construed as including a reference to section 32 as applied to these Regulations; and
  - (ii) in paragraph (d) omit “or of regulations or orders made under it”;
- (e) in relation to section 30(8)(a) omit “under subsection (6) above”;
- (f) in relation to section 32—
  - (i) in subsection (1)(a), omit “, or of regulations or orders made under it”;
  - (ii) in subsection (4), the reference to the section is to be construed as including a reference to that section as applied to these Regulations;
  - (iii) in subsection (5), the reference to the section is to be construed as including a reference to that section as applied to these Regulations and the reference to “a food business” is to be construed as including a hatchery;
  - (iv) in subsection (6)(a), omit “or of regulations or orders made under it”;
  - (v) in subsection (7), the reference to the section is to be construed as including a reference to that section as applied to these Regulations; and
- (g) in relation to section 44, any reference to a food authority is to be construed as a reference to an enforcement authority.

### **Revocations**

**21.**—(1) The Eggs (Marketing Standards) (Enforcement) (Scotland) Regulations 2005<sup>(16)</sup> are revoked.

(2) Paragraph 45 of Schedule 7 to the Food Hygiene (Scotland) Regulations 2006 is revoked<sup>(17)</sup>.

### **Consequential amendments**

**22.** The instruments specified in Schedule 3 are amended to the extent specified in that Schedule.

St Andrew’s House,  
Edinburgh  
19th March 2008

*RICHARD LOCHHEAD*  
A member of the Scottish Executive

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<sup>(16)</sup> S.S.I. 2005/332, amended by S.S.I. 2005/505 and S.S.I. 2006/3.

<sup>(17)</sup> S.S.I. 2006/3.

*Status: This is the original version (as it was originally made).*

## SCHEDULE 1

Regulation 4

## COMMUNITY PROVISIONS RELATING TO EGGS FOR HATCHING AND CHICKS

## PART 1

## PROVISIONS OF COUNCIL REGULATION 2782/75

| <i>Column 1</i>                                  | <i>Column 2</i>  | <i>Column 3</i>  |
|--|--|--|
| Relevant provision of Council Regulation 2782/75 | Provisions to be read with the provision mentioned in column 1                                 | Subject matter   |
| Article 2(1)                                     | Article 2(2) of Council Regulation 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 2782/75. |
| Article 3, first sub paragraph                   |  | Requirement relating to the registration of pedigree breeding establishments, breeding establishments and hatcheries.  |
| Article 5(1)(18)                                 | Article 2 of Commission Regulation 1868/77   | Requirement relating to the individual marking of eggs for hatching, for chick production.   |
| Article 5(2)(19)                                 | Article 5(3) of Council Regulation 2782/75, and Article 3(20) of Commission Regulation 1868/77 | Requirement relating to the packs used for the transportation of eggs for hatching.  |
| Article 6  |  | Requirements relating to the importation of eggs for hatching from a third country.  |
| Article 7  |  | Requirements relating to 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.   |

(18) Article 5(1) was substituted by Council Regulation (EEC) No. 3494/86 (O.J. No. L 323, 18.11.1986, p.1).

(19) Article 5(2) was amended by Council Regulation (EC) No. 1791/2006 (O.J. No. L 363, 20.12.2006, p.1).

(20) Article 3 was amended by Council Regulation (EEC) No. 1351/87 (O.J. No. L 127, 16.5.1987, p.18).

| <i>Column 1</i><br>Relevant provision of<br>Council Regulation 2782/75 | <i>Column 2</i><br>Provisions to be read with<br>the provision mentioned in<br>column 1 | <i>Column 3</i><br>Subject matter  |
|--|---|--|
| Article 11(1)  |   | Requirements relating to the packing of chicks by species, type and category of poultry.   |
| Article 11(2)  |   | Requirements relating to the content and marking of boxes of chicks.   |
| Article 12   | Article 11(1) of Council Regulation 2782/75   | Requirements relating to the importation of chicks from a third country.   |
| Article 13(1)  |   | Requirements relating to the documentation that must accompany batches of eggs for hatching or chicks.                               |
| Article 13(2)  | Article 13(1) of Council Regulation 2782/75   | Requirement relating to the documentation that must accompany batches of eggs for hatching and chicks imported from a third country. |
| Article 14, first sub paragraph  |   | Requirement relating to legibility of particulars.   |
| Article 14, second sub paragraph                                       |   | Requirement for particulars and accompanying documents to be written in at least one Community language.                             |
| Article 15   |   | Requirements relating to the particulars which may be included on packages for export to a third country.                            |

## PART 2

### PROVISIONS OF COMMISSION REGULATION 1868/77

| <i>Column 1</i><br>Relevant provision of<br>Commission Regulation<br>1868/77 | <i>Column 2</i><br>Provisions to be read with<br>the provision mentioned in<br>column 1 | <i>Column 3</i><br>Subject matter   |
|--|---|---|
| Article 2(1)   | Article 2(2) of Commission Regulation 1868/77 and regulation 6                          | Requirements relating to the individual marking of eggs for hatching used for chick production. |

*Status:* This is the original version (as it was originally made).

| <i>Column 1</i><br>Relevant provision of<br>Commission Regulation<br>1868/77 | <i>Column 2</i><br>Provisions to be read with<br>the provision mentioned in<br>column 1   | <i>Column 3</i><br>Subject matter   |
|--|---|---|
| Article 2(3)   | Article 2(1) and (2) of<br>Commission Regulation<br>1868/77, and regulation 6   | Prohibition on transporting<br>or trading eggs for hatching<br>between Member States unless<br>properly marked. |
| Article 3  | Article 5(2) of Council<br>Regulation 2782/75 and<br>Article 2(2), second sub<br>paragraph, of Commission<br>Regulation 1868/77 | Requirements relating to the<br>manner in which markings are<br>to be made on packs.                            |

## SCHEDULE 2

Regulation 7

## COMMUNITY PROVISIONS RELATING TO EGGS IN SHELL FOR CONSUMPTION

## PART 1

## PROVISIONS OF COUNCIL REGULATION 1028/2006

| <i>Column 1</i><br>Relevant provision of<br>Council Regulation<br>1028/2006 | <i>Column 2</i><br>Provisions to be read with<br>the provision mentioned in<br>column 1   | <i>Column 3</i><br>Subject matter   |
|---|---|---|
| Article 3(1)  | Article 2(1) and (4) of<br>Commission Regulation<br>557/2007  | Requirement to grade eggs by<br>quality.  |
| Article 3(2)  | Article 4(1) of Commission<br>Regulation 557/2007   | Requirement to grade class A<br>("fresh") eggs by weight.                                   |
| Article 3(3)  |   | Prohibition on the delivery of<br>class B eggs except to the food<br>and non food industry. |
| Article 4(1), first sub<br>paragraph  | Article 4(3) of Council<br>Regulation 1028/2006,<br>and Articles 9(1) and 11 of<br>Commission Regulation<br>557/2007  | Requirement relating to the<br>marking of class A eggs.                                     |
| Article 4(1), second sub<br>paragraph                                       | Article 4(1), third sub<br>paragraph, of Council<br>Regulation 1028/2006,<br>Articles 9, 10 and 11 of<br>Commission Regulation<br>557/2007, and regulation 9(1) | Requirement relating to the<br>marking of class B eggs.                                     |

| <i>Column 1</i><br>Relevant provision of<br>Council Regulation<br>1028/2006 | <i>Column 2</i><br>Provisions to be read with<br>the provision mentioned in<br>column 1                            | <i>Column 3</i><br>Subject matter   |
|---|--|---|
| Article 4(2)  | Article 4(1) of Council<br>Regulation 1028/2006  | Requirement relating to<br>the place at which eggs are<br>marked.   |
| Article 4(3), first sub<br>paragraph  | Article 4(1) and Article 4(3),<br>second sub paragraph, of<br>Council Regulation 1028/2006,<br>and regulation 9(2) | Requirement relating to the<br>marking of eggs sold by a<br>producer to the final consumer<br>at a local public market.   |
| Article 5(1)  | Article 5 of Commission<br>Regulation 557/2007   | Requirement relating to the<br>grading and packing of eggs<br>and the labelling of packs by<br>packing centres.   |
| Article 6(1)  | Article 30(2) of Commission<br>Regulation 557/2007   | Requirement relating to the<br>marking of eggs imported<br>from a third country where<br>the rules applied in relation to<br>those eggs in the third country<br>concerned have been found to<br>offer sufficient guarantees as to<br>equivalence with Community<br>legislation.     |
| Article 6(3)  | Article 30(2) and (3) of<br>Commission Regulation<br>557/2007  | Requirement relating to the<br>marking of eggs imported<br>from a third country where<br>the rules applied in relation<br>to those eggs in the third<br>country concerned have been<br>found not to offer sufficient<br>guarantees as to equivalence<br>with Community legislation. |

## PART 2

### PROVISIONS OF COMMISSION REGULATION 557/2007

| <i>Column 1</i><br>Relevant provision of<br>Commission Regulation<br>557/2007 | <i>Column 2</i><br>Provisions to be read with<br>the provision mentioned in<br>column 1 | <i>Column 3</i><br>Subject matter  |
|---|---|--|
| Article 2(1)  | Article 3(1), first indent, of<br>Council Regulation 1028/2006                          | Requirements as to quality<br>characteristics of class A<br>("fresh") eggs.            |
| Article 2(2)  | Article 3 of Commission<br>Regulation 557/2007  | Prohibition on the washing and<br>cleaning of class A eggs before<br>or after grading. |

*Status:* This is the original version (as it was originally made).

| <i>Column 1</i>                                      | <i>Column 2</i>  | <i>Column 3</i>   |
|--|--|---|
| Relevant provision of Commission Regulation 557/2007 | Provisions to be read with the provision mentioned in column 1                                   | Subject matter  |
| Article 2(3)   |  | Prohibition on the treatment of class A eggs for preservation or 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 1028/2006, and Article 4(3) of Commission Regulation 557/2007 | Requirements relating to the grading of class A eggs by weight.   |
| Article 4(2)   | Article 4(1) of Commission Regulation 557/2007, and Directive 2000/13/EC                         | Requirements relating to indication of weight grading.  |
| Article 4(3)   | Article 4(1) of Commission Regulation 557/2007   | Requirement for the 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)   |  | Requirement for packing centres to have the technical equipment necessary to ensure that eggs are handled properly.   |
| Article 6(1)   |  | Requirement for eggs to be graded, marked and packed within 10 days of laying.  |
| Article 6(2)   | Article 14 of Commission Regulation 557/2007   | Requirement for class A eggs marketed as “extra” or “extra fresh” eggs to be graded, marked and packed within four days of laying.  |
| Article 6(3)   | Article 12(1)(d) of Commission Regulation 557/2007, and Article 9(2) of Directive 2000/13/EC     | Requirement for packs to be marked as required by Article 12(1)(d) of Commission Regulation 557/2007 at the time of packing (“best before” date).   |
| Article 7(1), first sub paragraph                    | Article 7(1), second sub paragraph, of Commission Regulation 557/2007                            | Requirement for producers to identify each transport packaging containing eggs with certain information.  |



| <i>Column 1</i>                                      | <i>Column 2</i>  | <i>Column 3</i>   |
|--|--|---|
| Relevant provision of Commission Regulation 557/2007 | Provisions to be read with the provision mentioned in column 1   | Subject matter  |
| Article 7(2), first sub paragraph, first sentence    | Article 7(1) and (2), second sub paragraph, of Commission Regulation 557/2007                                  | Requirement to apply the information specified in Article 7(1) of Commission Regulation 557/2007 to each transport packaging containing eggs and to include that information in accompanying documents.   |
| Article 7(2), first sub paragraph, second sentence   | Article 7(2), first sub paragraph, first sentence, and second subparagraph, of Commission Regulation 557/2007  | Requirement for any intervening operator to whom eggs are delivered to keep a copy of the documents specified in the first sentence of the first sub paragraph of Article 7(2) of Commission Regulation 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 557/2007 | Requirement for the original documents referred to in the first sentence of the first sub paragraph of Article 7(2) of Commission Regulation 557/2007 to be kept by the packing centre that grades the eggs to which the documents relate.                              |
| Article 7(3)(21)                                     | Article 7(1) of Commission Regulation 557/2007   | Prohibition on the modification or removal of the information referred to in Article 7(1) of Commission Regulation 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 557/2007   | Requirement for 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) |

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(21) Article 7(3) was substituted by Commission Regulation 1336/2007 (O.J. No. L 298, 16.11.2007, p.3).

*Status:* This is the original version (as it was originally made).

| <i>Column 1</i>                                      | <i>Column 2</i>  | <i>Column 3</i>  |
|--|--|--|
| Relevant provision of Commission Regulation 557/2007 | Provisions to be read with the provision mentioned in column 1   | Subject matter   |
| Article 8(2), last sentence                          |  | of Commission Regulation 557/2007.<br>Requirement for a copy of the delivery contract to accompany a consignment of eggs for which an exemption has been granted under Article 8(2) of Commission Regulation 557/2007. |
| Article 8(5)   | Article 4(1), second sub paragraph, of Council Regulation 1028/2006, and Article 10 of Commission Regulation 557/2007  | Requirement relating to the marking of class B eggs for marketing in another Member State.   |
| Article 9(1)   | Point 2 of the Annex to Directive 2002/4/EC on the registration of establishments keeping laying hens, covered by Council Directive 1999/74/EC(22)   | Requirement relating to the producer code.   |
| Article 10   | Article 4(1), second sub paragraph, of Council Regulation 1028/2006  | Requirement as to indications other than the producer code on class B eggs.  |
| Article 12(1)  |  | Requirement to mark packs containing class A eggs with the information specified in Article 12(1) of Commission Regulation 557/2007.   |
| Article 12(2) first and second sub paragraphs        | Article 12(1) of, Part A of Annex I, and Annex II to Commission Regulation 557/2007, Article 2 of Council Regulation (EEC) No. 2092/91 on organic production of agricultural products and indications referring thereto on agricultural products and foodstuffs(23), and regulations 10, 11 and 12 | Requirement for farming method to be shown on the outer surface of packs containing class A eggs.  |

(22) O.J. No. L 30, 31.1.2002, p.44. The 2002 Directive was amended by Commission Directive 2006/83/EC (O.J. No. L 362, 20.12.2006, p.97).

(23) O.J. No. L 198, 22.7.1991, p.1. The Regulation was last amended by Council Regulation 1319/2007 (O.J. No. L 293, 10.11.2007, p.3), and is repealed as from 1st January 2009 by Council Regulation (EC) No. 834/2007 on organic production and labelling of organic products and repealing Regulation (EEC) 2092/91 (O.J. No. L 189, 20.7.2007, p.1) ("Regulation 834/2007"). Article 39(2) of Regulation 834/2007 provides that references to the repealed Regulation (EEC) No. 2092/91 shall be construed as references to Regulation 834/2007.

| <i>Column 1</i><br>Relevant provision of<br>Commission Regulation<br>557/2007 | <i>Column 2</i><br>Provisions to be read with<br>the provision mentioned in<br>column 1  | <i>Column 3</i><br>Subject matter  |
|---|--|--|
| Article 12(2) third sub<br>paragraph  | Article 9(1) of Commission<br>Regulation 557/2007  | Requirement for the producer<br>code to be explained on or<br>inside packs.  |
| Article 12(2) fourth sub<br>paragraph   | Part B of Annex I to<br>Commission Regulation<br>557/2007, and Chapter III of<br>Council Directive <a href="#">1999/74/EC</a>                                    | Requirement relating to the use<br>of an indication listed in Part<br>B of Annex I to Commission<br>Regulation 557/2007.   |
| Article 12(4)   |  | Requirement to mark packs<br>containing class B eggs with<br>the information specified in<br>Article 12(4) of Commission<br>Regulation 557/2007.   |
| Article 13  | Article 3(1)(5) of Directive<br><a href="#">2000/13/EC</a>   | Requirements relating to the<br>date of minimum durability.  |
| Article 14(1)   |  | Requirements relating to the<br>use of the words “extra” and<br>“extra fresh” as an additional<br>quality indication on packs<br>containing class A eggs.  |
| Article 14(2)   | Article 14(1) of Commission<br>Regulation 557/2007   | Requirement to show the<br>laying date and the nine<br>day time limit specified in<br>Article 14(1) of Commission<br>Regulation 557/2007 where<br>the words “extra” or “extra<br>fresh” are used as an additional<br>quality indication on packs<br>containing class A eggs. |
| Article 15  |  | Requirements relating to any<br>reference to a cereal as a feed<br>ingredient where an indication<br>is given of how laying hens are<br>fed.   |
| Article 16  |  | Requirements relating to the<br>information to be given for<br>loose egg sales.  |
| Article 17  | Chapter X of Annex II to<br>Regulation (EC) No. <a href="#">852/2004</a><br>of the European Parliament<br>and of the Council on the<br>hygiene of foodstuffs(24) | Requirements relating to the<br>quality of packs.  |

(24) O.J. No. L 139, 30.4.2004, p.1.

**Status:** This is the original version (as it was originally made).

| <i>Column 1</i>                                      | <i>Column 2</i>  | <i>Column 3</i>   |
|--|--|---|
| Relevant provision of Commission Regulation 557/2007 | Provisions to be read with the provision mentioned in column 1   | Subject matter  |
| Article 18   |  | Requirements relating to the packaging containers in which industrial eggs are marketed.  |
| Article 19   |  | Requirements relating to the repacking of class A eggs.   |
| Article 20(1)  | Article 20(4) of Commission Regulation 557/2007  | Requirement for producers to record certain information on farming methods.   |
| Article 20(2)  | Articles 15 and 20(4) of Commission Regulation 557/2007, and Part A.III of Annex I to Regulation (EC) No. 852/2004 | Requirement for producers to record certain information where the feeding method is indicated.  |
| Article 20(3)  | Article 20(1) and 20(2) of Commission Regulation 557/2007  | Requirement for information recorded by producers under Article 20(1) and (2) of Commission Regulation 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 557/2007  | Requirement for collectors to record certain information on eggs collected and delivered by them.   |
| Article 22(1), first sub paragraph                   | Article 22(3) of Commission Regulation 557/2007  | Requirement for packing centres to keep certain records.  |
| Article 22(1), second sub paragraph                  |  | Requirement for packing centres to update their physical stock records each week.   |
| Article 22(2)  | Articles 15 and 22(1) of Commission Regulation 557/2007  | Requirement for 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 557/2007   | Requirement to keep certain records and files for at least 12 months.   |
| Article 24(2), second sentence                       | Articles 20, 21 and 22 of Commission Regulation 557/2007   | Requirement to make certain records available to the inspection services on first request.  |

| <i>Column 1</i>                                      | <i>Column 2</i>  | <i>Column 3</i>  |
|--|--|--|
| Relevant provision of Commission Regulation 557/2007 | Provisions to be read with the provision mentioned in column 1 | Subject matter   |
| Article 30(2)(25)                                    |  | Requirement for eggs imported from third countries to have been clearly and legibly marked in accordance with the ISO 3166 country code.   |
| Article 30(3)  | Article 6(3) of Council Regulation 1028/2006                   | Requirement relating to the 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. |

## SCHEDULE 3

Regulation 22

## CONSEQUENTIAL AMENDMENTS

**The Colours in Food Regulations 1995**

1. In the Colours in Food Regulations 1995(26), for regulation 5(b) (use of colours on eggshells) substitute–

“(b) the marking (as provided for by Council Regulation (EC) No. 1028/2006 on marketing standards for eggs)(27),”.

**The Food Labelling Regulations 1996**

2. In the Food Labelling Regulations 1996(28)–

(a) for regulation 4(2)(f) (disapplication of labelling requirements) substitute–

“(f) hen eggs, in so far as their labelling is regulated in Council Regulation (EC) No. 1028/2006 on marketing standards for eggs and Commission Regulation (EC) No. 557/2007 laying down detailed rules for implementing Council Regulation (EC) No. 1028/2006 on marketing standards for eggs(29),”;

(b) in regulation 45 (enforcement)–

(i) for sub paragraph (1) substitute–

(25) Article 30(2) was substituted by Commission Regulation 1336/2007.

(26) S.I. 1995/3124, to which there are amendments not relevant to these Regulations.

(27) O.J. No. L 186, 7.7.2006, p.1. There are no relevant amendments to this Regulation.

(28) S.I. 1996/1499 to which there are amendments not relevant to these Regulations.

(29) O.J. No. L 132, 24.5.2007, p.5. The Regulation has been amended by Commission Regulation (EC) No. 1336/2007 (O.J. No. L 298, 16.11.2007, p.3).

*Status: This is the original version (as it was originally made).*

“(1) Subject to paragraphs (2) and (2A) of this regulation, each food authority shall enforce and execute these Regulations in its area.”; and

(ii) after sub paragraph (2) insert–

“(2A) The Scottish Ministers–

- (a) may in relation to hen eggs for retail sale or sale to a mass caterer and to which Council Regulation (EC) No. 1028/2006 on marketing standards for eggs and Commission Regulation (EC) No. 557/2007 laying down detailed rules for implementing Council Regulation (EC) No. 1028/2006 on marketing standards for eggs, apply, enforce and execute the provisions of these Regulations which relate to the particulars listed at points (1), (4) and (7) of Article 3(1) of Directive 2000/13/EC on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs<sup>(30)</sup>; and
- (b) must in relation to hen eggs not for retail sale or sale to a mass caterer and to which Council Regulation (EC) No. 1028/2006 and Commission Regulation (EC) No. 557/2007 apply, enforce and execute the provisions of these Regulations which relate to the particulars listed at points (1), (4) and (7) of Article 3(1) of Directive 2000/13/EC.

(2B) 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.”.

### **The Food Hygiene (Scotland) Regulations 2006**

**3.** In the Food Hygiene (Scotland) Regulations 2006<sup>(31)</sup> for paragraph 2(2)(g) of Schedule 4 (chilled and hot holding requirements) to those Regulations substitute–

“(g) to which Council Regulation (EC) No. 1028/2006 on marketing standards for eggs applies.”.

### **The Avian Influenza and Influenza of Avian Origin in Mammals (Scotland) Order 2006**

**4.** In article 2 (interpretation) of the Avian Influenza and Influenza of Avian Origin in Mammals (Scotland) Order 2006<sup>(21)</sup> for the definition of “packing centre” substitute–

““packing centre” has the same meaning as in Article 2(7) of Council Regulation (EC) No. 1028/2006 of 19th June 2006 on marketing standards for eggs;”.

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<sup>(30)</sup> O.J. No. L 109, 6.5.2000, p.29. The Directive has been amended by Commission Directive 2001/101/EC (O.J. No. L 310, 28.11.2001, p.19), Directive 2003/89/EC of the European Parliament and of the Council (O.J. No. L 308, 25.11.2003, p.15), Council Directive 2006/107/EC (O.J. No. L 363, 20.12.2006, p.411) and Commission Directive 2006/142/EC (O.J. No. L 368, 23.12.2006, p.110).

<sup>(31)</sup> S.S.I. 2006/3, to which there are amendments not relevant to these Regulations.

<sup>(21)</sup> Article 7(3) was substituted by Commission Regulation 1336/2007 (O.J. No. L 298, 16.11.2007, p.3).

## **The Avian Influenza (Slaughter and Vaccination) (Scotland) Regulations 2006**

5. In regulation 2 (interpretation) of the Avian Influenza (Slaughter and Vaccination) (Scotland) Regulations 2006(32) for the definition of “packing centre” substitute—

““packing centre” has the same meaning as in Article 2(7) of Council Regulation (EC) No. 1028/2006 of 19th June 2006 on marketing standards for eggs;”.

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### **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations, which only extend to Scotland, revoke and replace, with modifications, the Eggs (Marketing Standards) (Enforcement) (Scotland) Regulations 2005 (“the 2005 Regulations”).

The 2005 Regulations 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 and Commission Regulation (EEC) No 1868/77 laying down detailed rules of application for Regulation (EEC) No. 2782/75.

The 2005 Regulations 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 and Commission Regulation (EC) No. 557/2007.

These Regulations therefore make provision for the enforcement or continued enforcement of certain provisions of Council Regulation (EEC) No. 2782/75, Commission Regulation (EEC) No. 1868/77 as from time to time amended, 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.

These 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 1 an offence (regulation 4);
- (b) relating to the registration of pedigree breeding establishments, breeding establishments and hatcheries (regulation 5);
- (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 6);
- (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 2 an offence (regulation 7);
- (e) relating to the authorisation of packing centres to grade eggs (regulation 8);

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(32) S.S.I. 2006/337.

*Status: This is the original version (as it was originally made).*

- (f) derogating from the provisions of Council Regulation (EC) No. 1028/2006, as regards the marking of eggs for consumption (regulation 9);
- (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 10);
- (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 11);
- (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 12);
- (j) providing a right of appeal against certain decisions of the Scottish Ministers (regulation 17); and
- (k) creating a penalty for offences under the Regulations (regulation 18).

A Regulatory Impact Assessment has been prepared for these Regulations. A copy has been placed in the Scottish Parliament Reference Centre. Copies can be obtained from the offices of the Scottish Government Environment and Rural Affairs Department at Pentland House, 47 Robb's Loan, Edinburgh, EH14 1TY.