

Commission Delegated Regulation (EU) 2017/2168 of 20 September 2017
amending Regulation (EC) No 589/2008 as regards marketing standards
for free range eggs where hens' access to open air runs is restricted

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THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007⁽¹⁾, and in particular Article 75(2) thereof,

Whereas:

- (1) Commission Regulation (EC) No 589/2008⁽²⁾ lays down detailed rules for implementing Council Regulation (EC) No 1234/2007⁽³⁾ as regards marketing standards for eggs. In particular, point 1 of Annex II to Regulation (EC) No 589/2008 lays down minimum requirements for 'free range eggs'.
- (2) Regulation (EU) No 1308/2013 has replaced Regulation (EC) No 1234/2007 and empowers the Commission to adopt delegated acts in this respect in accordance with its Article 227.
- (3) Point 1(a) of Annex II to Regulation (EC) No 589/2008 provides for a derogation period to market eggs as 'free range' in cases of restricted access to open air due to restrictions adopted under Union law, including veterinary restrictions to protect public and animal health, but for a period of no more than 12 weeks. Following serious outbreaks of avian influenza in the Union, it appears necessary to provide for a longer derogation period and further clarify rules with a view to their harmonised implementation throughout the Union, in particular regarding the starting point of the derogation period.
- (4) Annex II to Regulation (EC) No 589/2008 should therefore be amended accordingly.
- (5) With a view to ensuring an immediate implementation of this measure, the Regulation should enter into force on the third day following its publication in the *Official Journal of the European Union*,

HAS ADOPTED THIS REGULATION:

Article 1

Annex II to Regulation (EC) No 589/2008 is replaced by the text set out in the Annex to this Regulation.

Changes to legislation: There are currently no known outstanding effects for the
Commission Delegated Regulation (EU) 2017/2168. (See end of Document for details)

Article 2

This Regulation shall enter into force on the third day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 20 September 2017.

For the Commission

The President

Jean-Claude JUNCKER

ANNEX

Minimum requirements for systems of production for the various egg farming methods

1. 'Free-range eggs' must be produced in systems of production which satisfy at least the conditions specified in Article 4 of Council Directive 1999/74/EC⁽⁴⁾.

In particular, the following conditions must be satisfied:

- (a) hens must have continuous daytime access to open-air runs. However, this requirement does not prevent a producer from restricting access for a limited period of time in the morning hours in accordance with usual good farming practice, including good animal husbandry practice.

Should measures adopted under Union law require access of hens to open-air runs to be restricted in order to protect public or animal health, eggs may be marketed as 'free-range' notwithstanding that restriction, provided that the laying hens have not had their access to open air runs restricted for a continuous period of more than 16 weeks. That maximum period shall start from the date on which the group of hens in question, put in place at the same time, actually had their access to open air runs restricted.

- (b) open-air runs to which hens have access must be mainly covered with vegetation and not be used for other purposes except for orchards, woodland and livestock grazing if the latter is authorised by the competent authorities;
 - (c) the maximum stocking density of open-air runs must not be greater than 2 500 hens per hectare of ground available to the hens or one hen per 4 m² at all times. However, where at least 10 m² per hen is available and where rotation is practised and hens are given even access to the whole area over the flock's life, each paddock used must at any time assure at least 2,5 m² per hen;
 - (d) open-air runs must not extend beyond a radius of 150 m from the nearest pophole of the building. However, an extension of up to 350 m from the nearest pophole of the building is permissible provided that a sufficient number of shelters as referred to in Article 4(1)(3)(b)(ii) of Directive 1999/74/EC are evenly distributed throughout the whole open-air run with at least four shelters per hectare.
2. 'Barn eggs' must be produced in systems of production which satisfy at least the conditions specified in Article 4 of Directive 1999/74/EC.
 3. 'Eggs from caged hens' must be produced in systems of production which satisfy at least:
 - (a) the conditions specified in Article 5 of Directive 1999/74/EC until 31 December 2011; or
 - (b) the conditions specified in Article 6 of Directive 1999/74/EC.
 4. Member States may authorise derogations from points 1 and 2 of this Annex for establishments with fewer than 350 laying hens or rearing breeding laying hens as regards the obligations referred to in the second sentence of points 1(d),1(e), 2, 3(a) (i) and 3(b)(i) of Article 4(1) of Directive 1999/74/EC.

Changes to legislation: There are currently no known outstanding effects for the
Commission Delegated Regulation (EU) 2017/2168. (See end of Document for details)

- (1) [OJ L 347, 20.12.2013, p. 671.](#)
- (2) Commission Regulation (EC) No 589/2008 of 23 June 2008 laying down detailed rules for implementing Council Regulation (EC) No 1234/2007 as regards marketing standards for eggs ([OJ L 163, 24.6.2008, p. 6.](#))
- (3) Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) ([OJ L 299, 16.11.2007, p. 1.](#))
- (4) Council Directive 1999/74/EC of 19 July 1999 laying down minimum standards for the protection of laying hens ([OJ L 203, 3.8.1999, p. 53.](#))

Changes to legislation:

There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2017/2168.