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WELSH STATUTORY INSTRUMENTS

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**2010 No. 1671**

**The Eggs and Chicks (Wales) Regulations 2010**

**PART 3**

Eggs in shell for consumption: general requirements

**Application of this Part**

**8.**—(1) This Part applies to eggs to which point I(1) of Part A of Annex XIV to the Single CMO Regulation and Commission Regulation (EC) No 589/2008 apply (eggs in shell for consumption produced by hens of the species *Gallus gallus*).

(2) But it does not apply—

- (a) to the sale of eggs to which point I(1) of Part A of Annex XIV to the Single CMO Regulation and Commission Regulation (EC) No 589/2008 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) except insofar as it relates to the requirement imposed by point III(3) of Part A of Annex XIV to the Single CMO Regulation, to the sale of eggs to which point I(1) of Part A of Annex XIV to that Regulation and Commission Regulation (EC) No 589/2008 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.

**Compliance with Community provisions**

**9.** A person is guilty of an offence if they contravene, or fail to comply with, any provision mentioned in Schedule 2.

**Authorisation of packing centres to grade eggs**

**10.**—(1) The Welsh Ministers are designated as the competent authority for the purpose of the first sub-paragraph of Article 5(2) of Commission Regulation (EC) No 589/2008 (authorisation of undertakings as packing centres to grade eggs).

(2) Where an application is made to the Welsh Ministers under the first sub-paragraph of Article 5(2) of Commission Regulation (EC) No 589/2008 to authorise an undertaking as a packing centre to grade eggs, the Welsh Ministers must give a notice to the applicant notifying them of the matters mentioned in paragraph (3) within a period of 28 days, beginning with the day after the day on which they receive the application.

(3) The matters are—

- (a) the Welsh Ministers' 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 23 of these Regulations.
- (4) Where the Welsh Ministers are not satisfied that an application should be granted, they may (before making a final decision about whether or not to refuse the application) give a notice to the applicant notifying them of the reason for this and—
- (a) where the Welsh Ministers are not satisfied with the sufficiency of the data provided in support of the application, they may ask the applicant to provide further data;
  - (b) where the Welsh Ministers are not satisfied that the requirements mentioned in the first sub-paragraph of Article 5(2) of Commission Regulation (EC) No 589/2008 that are relevant to the type of packing centre to be authorised have been met, they may ask the applicant to comply with any outstanding requirement; and
  - (c) the Welsh Ministers may give the applicant an opportunity to provide oral or written explanations to them in respect of the application.
- (5) Where the Welsh Ministers decide to withdraw an authorisation of a packing centre to grade eggs because of a failure to comply with any of the requirements mentioned in the first sub-paragraph of Article 5(2) of Commission Regulation (EC) No 589/2008, the Welsh Ministers must give a notice to the person carrying on business at the packing centre (“P”) notifying them of the matters mentioned in paragraph (6) within 28 days, beginning with the day on which the decision is made.
- (6) The matters are—
- (a) the Welsh Ministers' 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 23 of these Regulations.
- (7) Where the Welsh Ministers are minded to withdraw the authorisation of a packing centre to grade eggs because of a failure to comply with any of the requirements mentioned in the first sub-paragraph of Article 5(2) of Commission Regulation (EC) No 589/2008, they may (before making a final decision about whether or not to withdraw the authorisation) give a notice to P notifying them that they are minded to withdraw the authorisation, and the reasons for this, and—
- (a) where the failure to comply with any of the requirements mentioned in the first sub-paragraph of Article 5(2) of Commission Regulation (EC) No 589/2008 is continuing, the Welsh Ministers may ask P to take specified steps to ensure that those requirements are met; and
  - (b) the Welsh Ministers may give P an opportunity to provide oral or written explanations to them in respect of the matter.
- (8) Where the Welsh Ministers give a notice to an applicant under paragraph (4), or to P under paragraph (7), they must specify a deadline in the notice by which any action mentioned in the notice must be taken.
- (9) Any deadline given by the Welsh Ministers under this regulation may be extended on one or more occasions.
- (10) For the purposes of calculating the 28-day time limit mentioned in paragraph (2), time does not run during any period that the Welsh Ministers give to an applicant to take any action mentioned in a notice under paragraph (4).

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

**11.**—(1) The provision in the second sub-paragraph of point III(1) of Part A of Annex XIV to the Single CMO Regulation (requiring Class B eggs to be marked) does not apply where Class B eggs are to be marketed exclusively in the United Kingdom.

(2) The provision in the first sub-paragraph of point III(3) of Part A of Annex XIV to the Single CMO Regulation (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 point III(1) of Part A of Annex XIV to the Single CMO Regulation) does not apply in the case of a producer with up to 50 laying hens if the name and address of the producer are indicated at the point of sale.

(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.

### **Livestock grazing on open-air runs**

**12.** For the purpose of paragraph (b) of the second sub-paragraph of point 1 of Annex II to Commission Regulation (EC) No 589/2008 (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**

**13.—**(1) By way of derogation from the provisions of point 1 of Annex II to Commission Regulation (EC) No 589/2008, eggs to which paragraph (2) applies may be marketed as free-range eggs.

(2) This paragraph applies to eggs that have—

- (a) been produced in a system of production that does not comply with any one or more of the conditions mentioned in paragraph (3); and
- (b) been produced in an establishment—
  - (i) with fewer than 350 laying hens at the time that the eggs are produced;
  - (ii) rearing breeding laying hens at the time that the eggs are produced; or
  - (iii) rearing breeding laying hens and with fewer than 350 laying hens at that time.

(3) The conditions are the conditions in the following provisions of Article 4(1) of Council Directive 1999/74/EC—

- (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).

(4) It is for a person seeking to rely on paragraph (1) in order to market eggs as free-range eggs to prove that the eggs are eggs to which paragraph (2) applies.

### **Derogation relating to barn eggs**

**14.—**(1) By way of derogation from the provisions of point 2 of Annex II to Commission Regulation (EC) No 589/2008, eggs to which paragraph (2) applies may be marketed as barn eggs.

(2) This paragraph applies to eggs that have—

- (a) been produced in a system of production that does not comply with any one or more of the conditions specified in paragraph (3); and
- (b) been produced in an establishment—
  - (i) with fewer than 350 laying hens at the time that the eggs are produced;

- (ii) rearing breeding laying hens at the time that the eggs are produced; or
- (iii) rearing breeding laying hens and with fewer than 350 laying hens at that time.

(3) The conditions are the conditions in the following provisions of Article 4(1) of Council Directive 1999/74/EC—

- (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).

(4) It is for a person seeking to rely on paragraph (1) in order to market eggs as barn eggs to prove that the eggs are eggs to which paragraph (2) applies.