

Council Regulation (EEC) No. 1907/90 of 26 June 1990 on certain marketing standards for eggs

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THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2771/75 of 29 October 1975 on the common organization of the market in eggs (1), as last amended by Regulation (EEC) No 1235/89 (2), and in particular Article 2 (2) thereof,

Having regard to the proposal from the Commission,

Whereas Regulation (EEC) No 2771/75 provides for the setting of marketing standards which may relate in particular to grading by quality and weight, packing, warehousing, transport, presentation and marking of eggs;

Whereas such standards can contribute to an improvement in the quality of eggs and, consequently, facilitate their sale: whereas it is therefore in the interest of producers, traders and consumers that marketing standards should be applied in respect of hen eggs suitable for human consumption;

Whereas Regulation (EEC) No 2772/75 (3) laid down certain marketing standards for eggs; whereas those standards need to be reviewed regularly in order to provide better guarantees and more accurate information to the ultimate consumer of eggs, in particular in the light of evolving trade practices;

Whereas experience with the existing standards and consultation of both trade and consumers' representative organizations have made apparent the need for further amendments and for certain detailed rules to be adopted in accordance with Article 17 of Regulation (EEC) No 2771/75 in order to facilitate future amendments;

Whereas in order to fix such standards a clear distinction must be drawn between eggs suitable for human consumption and eggs, in particular broken or incubated eggs, which are not, and which, in principle, are for use in industries other than the food industry; whereas such rules also require that eggs of other kinds should not be mixed with hen eggs;

Whereas the standards must be applicable to all hen eggs marketed on the territory of the Community; whereas it nonetheless seems advisable to exclude from the scope of their application certain forms of sale from producer to consumer where small quantities are involved; whereas, moreover eggs delivered from the place of production to a packing centre or to certain wholesale markets and eggs intended for use in the food industry should be exempted from grading and marking;

Whereas, therefore, a list should be drawn up of suppliers to undertakings entitled to grade eggs by quality and weight;

Whereas the grading of eggs should be confined solely to undertakings which are adequately equipped for the purpose;

Whereas the quality requirements for eggs must be easy for consumers to understand and must be in keeping with the efforts at rationalization made at all stages of distribution; whereas, therefore, a limited but adequate number of quality and weight grades should be laid down;

Whereas the consumer must be able to distinguish between eggs of different quality and weight grades; whereas this requirement can be met by marking the eggs and packs;

Whereas it is necessary to determine the indications that may or must be used on packs; whereas the use of certain optional indications must be subject to detailed rules to be adopted in accordance with the procedure laid down in Article 17 of Regulation (EEC) No 2771/75;

Whereas the marking of 'fresh eggs' can be optional, since the obligatory marking of other eggs enables them to be easily distinguished;

Whereas anyone marketing 'fresh eggs' should be permitted to stamp such eggs with other particulars serving publicity purposes;

Whereas it is desirable that operators should be permitted to stamp certain indications already provided for in the case of small packs directly on eggs; whereas the use of these indications should be made subject to conditions analogous to those provided for in the case of packs, as well as to rigorous surveillance; whereas in the case of eggs intended for loose sales, the grading date should replace the packing date;

Whereas any other markings might affect trading conditions in the Community;

Whereas the definitions laid down in previous Community Regulations relating to the packaging and manner of presentation for sale of eggs need to be drafted more strictly; whereas it has become essential to provide the necessary safeguards for the retail sale of eggs without special packaging;

Whereas experience has demonstrated that the present provisions only allowing the use of the recommended date for sale in addition to the obligatory packing date on eggs or their packaging are too inflexible; whereas provision therefore needs to be made for the possibility of using certain other dates under appropriate conditions; whereas present practice shows that the indication of the packing period can be dispensed with;

Whereas such common provisions should be adopted for packing as will ensure that the quality of the eggs is maintained and will facilitate trade and the supervision of compliance with standards;

Whereas in order to leave a choice open to the consumer and to ensure that he is offered goods complying with quality and weight standards, retailers must display the appropriate information either on the goods offered or beside them;

Whereas it is essential, in the interests of both producer and consumer, that eggs imported from third countries should comply with Community standards;

Whereas special provisions in force in certain third countries may justify derogations which in such cases allow exportation outside the Community; whereas it seems appropriate to exclude from the scope of Community standards eggs imported from third countries or exported to third countries in small quantities, by the consumer for his personal use;

Whereas it is for each Member State to designate the agency or agencies responsible for supervision; whereas the procedures for such supervision must be uniform;

Whereas it is also for each Member State to lay down penalties for infringements;

Whereas the provisions of this Regulation are without prejudice to any Community provisions which may be adopted in order to harmonize the provisions of veterinary and foodstuffs legislation aimed at protecting the health of people and animals and at preventing falsification and fraud;

Whereas, given the above substantive amendments and the need for a number of other purely textual amendments to Regulation (EEC) No 2772/75, it is advisable for the sake of clarity to re-draft the legislation applicable in this field;

Whereas, therefore, Regulation (EEC) No 2772/75 may be repealed,

HAS ADOPTED THIS REGULATION:

Article 1

For the purposes of this Regulation:

1. 'eggs' means hen eggs in shell, suitable for direct human consumption or for use in the food industries, except for broken eggs, incubated eggs and cooked eggs;
2. 'industrial eggs' means hen eggs in shell other than those referred to in paragraph 1, including broken eggs and incubated eggs but excluding cooked eggs;
3. 'eggs for hatching' means eggs intended for chick production as specified in the rules concerning eggs for hatching;
4. 'broken eggs' means eggs showing breaks of both the shell and the membranes, resulting in the exposure of their contents;
5. 'cracked eggs' means eggs with a damaged, unfractured shell, but with intact membranes;
6. 'incubated eggs' means eggs from the time of insertion in the incubator;

7. 'marketing' means holding or displaying for sale, offering for sale, selling, delivery or any other form of marketing;

8. 'collector' means any person authorized by the competent authorities to collect eggs from a producer for delivery:

(a) to a packing centre;

(b) to a market selling exclusively to wholesalers whose undertakings are approved as packing centres; or

(c) to industry;

9. 'packing centre' means an undertaking authorized by the competent authority to grade eggs by quality and weight;

10. 'batch' means the eggs from one and the same packing centre, situated in one place, in packs or loose, with one and the same packing or grading date as well as the same quality and weight gradings;

11. 'large packs' means packs, open cases or containers, containing more than 36 eggs;

12. 'small packs' means packs or wrappings, but not unwrapped trays, containing 36 eggs or less;

13. 'loose sales' means the offer for retail sales of eggs, other than in large or small packs. Article 2

1. Eggs shall not be marketed with the Community by way of business or trade unless they satisfy the provisions of this Regulation.

2. However, the provisions regarding grading and marking shall not apply to eggs:

(a) transported directly from the place of production to a packing centre or to a market selling exclusively either to wholesalers whose undertakings are approved as packing centres in accordance whose undertakings are approved as packing centres in accordance with Article 5, or, for processing, to food industry undertakings approved in accordance with Council Directive 89/437/EEC of 20 June 1989 on hygiene and health problems affecting the production and the placing on the market of egg products (1);

(b) produced in the Community and delivered for processing to food industry undertakings approved in accordance with Directive 89/437/EEC.

3. This Regulation shall not apply to eggs sold directly to the consumer for his own use by the producer on his own farm, in a local public market with the exception of auction markets, or by door-to-door selling, provided that the eggs come from his own production and are not packed in accordance with Articles 10, 11 and 12 and that use is not made of any of the quality and weight gradings laid down in this Regulation.

4. This Regulation shall not affect any provisions concerning veterinary and health matters and foodstuffs laid down to ensure compliance with the hygiene and health standards applicable to the products or to protect animal or public health.

Article 3

Eggs as defined in Article 1 (1) may not be mixed with eggs of other kinds.

Article 4

1. Without prejudice to Article 2, producers may not deliver:

(a) eggs to anyone but collectors, packing centres, markets within the meaning of Article 2 (2) (a) or industry;

(b) industrial eggs, excluding incubated eggs, to anyone but packing centres or industry, with the exception of the food industry;

(c) incubated eggs to anyone but rendering plants or industry, with the exception of the food industry.

2. Eggs broken accidentally in packing centres may only be delivered to the processing industry, with the exception of the food industry.

Article 5

1. Apart from the cases provided for in Article 8, only packing centres may grade eggs by quality and weight.

2. Packing centres shall keep an up-to-date record of their suppliers.
3. On the basis of criteria to be determined according to the procedure provided for in Article 20, the competent authority shall grant authorizations to grade eggs and shall allot a distinguishing number to any undertaking or producer whose premises and technical equipment are suitable for grading eggs by quality and weight, at its or his request. Such authorization may be withdrawn whenever the required conditions are no longer fulfilled.

Article 6

1. Eggs shall be graded by quality as follows:
 - class A or 'fresh eggs'.
 - class B or 'second quality or preserved eggs'.
 - class C or 'down-graded eggs intended for the food industry'.
2. Class A eggs shall be graded by weight.
3. Grading in classes A and B shall be determined taking into account in particular the criteria set out in Article 20 (2).

Article 7

One or more of the following distinguishing marks may be stamped on grade A eggs:

- (a) the packaging date or, in the case of loose sales, the grading date;
- (b) one or more further dates aimed at providing the consumer with additional information;
- (c) the quality grading;
- (d) the weight grading;
- (e) the packing centre number;
- (f) the name or business name of the packing centre;
- (g) trade name or trade mark;
- (h) a reference to the type of farming;
- (i) an indication of the origin of the eggs;
- (j) a code identifying the producer establishment.

The indications provided for in (f) and (g) shall be used only in accordance with the relevant conditions laid down in Article 10 (1) (a).

The indications provided for in (b), (h) and (i) shall be used only in accordance with the relevant conditions laid down in Article 10 (3).

Article 8

1. Class B and C eggs, except for cracked eggs, shall bear a distinguishing mark showing their quality grading. They may also bear one or more of the indications listed in Article 7.
2. Class A or B eggs which no longer have the characteristics fixed for those grades shall be withdrawn from their class and may be regarded in B or C according to their characteristics. In such a case, they shall bear a distinguishing mark in accordance with paragraph 1. Any marks which may have been used in accordance either with Article 7 or with paragraph 1 of this Article may be retained, except for those concerning weight grading, which shall be altered if appropriate.
3. However, by way of derogation from paragraph 2, class A and B eggs which no longer have the characteristics fixed for those grades may be delivered directly to the food industry, without the markings referred to in paragraph 2, provided always that their packs are clearly marked to show this destination.

Article 9

Eggs shall not bear any marks other than those provided for in this Regulation.

Article 10

1. Large packs, and small packs even when contained in large packs, shall bear on the outer surface in clearly visible and legible type:
 - (a) the name or business name, and address of the undertaking which has packed the eggs or had them packed; the name, business name or the trade mark used by that undertaking, which may be a trade mark used collectively by a number of undertakings, may be shown if it contains no

wording incompatible with this Regulation relating to the quality or freshness of the eggs, to the type of farming used for their production or to the origin of the eggs;

(b) the distinguishing number of the packing centre;

(c) the quality and weight gradings. Class A eggs may be identified either by the words 'class A' or the letter 'A' whether alone or in combination with the word 'fresh';

(d) the number of eggs packed;

(e) the packing date;

(f) particulars as to refrigeration or to the method of preservation, in uncoded form, in respect of refrigerated or preserved eggs.

2. Both large and small packs may, however, carry the following additional information, on either inner or outer surfaces:

(a) the selling price;

(b) the retail management and/or stock control codes;

(c) one or more further dates aimed at providing the consumer with additional information;

(d) particulars as to special storage conditions;

(e) statements designed to promote sales, provided that such statements and the manner in which they are made are not likely to mislead the purchaser.

3. Further dates and indications concerning the type of farming and the origin of the eggs may only be used in accordance with rules to be laid down under the procedure set out in Article 17 of Regulation (EEC) No 2771/75. These rules shall cover in particular the terms used in indications of the type of farming and the criteria concerning the origin of the eggs.

However, if use of the indications relating to the type of farming or to the origin of the eggs should prove to be harmful to the fluidity of the Community market, or if serious difficulties arise regarding control of the use of such indications and its effectiveness, the Commission, acting under the same procedure, may suspend use of the said indications.

Notwithstanding the above, where large packs contain small packs or eggs marked with any reference to the type of farming or to the origin of the eggs, these particulars shall also be shown on the large packs.

Article 11

1. Large packs shall be provided with a band or label, bearing the particulars referred to in Article 10, which shall not be re-used once the pack has been opened and which shall be issued by or under the supervision of the official agencies referred to in Article 18. However, this band or label shall not be required in the case of large packs which take the form of open cases or open containers, on condition that these latter are of a type which does not impede identification of the particulars referred to in Article 10 shown on small packs contained therein.

2. By way of derogation, in the case of direct delivery from the packer to the retail trade of eggs intended for loose sales in small quantities to be defined in accordance with the procedure laid down in Article 17 of Regulation (EEC) No 2771/75, it shall be permissible for these eggs not to be packed in large packs. Article 12

The word 'extra' may be used on small packs containing class A eggs provided with a band or label. It shall be printed on the band or label, which shall be removed and destroyed not later than the seventh day after packing.

Article 13

1. Eggs displayed for sale or offered for sale in the retail trade shall be presented separately according to quality and weight grading and, where applicable, according to whether refrigeration or any method of preservation has been employed. The quality and weight gradings and the fact that the eggs have been refrigerated or preserved, where this is the case, shall be indicated in such a manner as to be clearly and unequivocally visible to the consumer.

2. In the case of loose egg sales, the identification number of the packing centre which graded the eggs, or in the case of imported eggs the third country of origin, and the grading date shall also be indicated.

3. However, eggs of the same quality grading, except for class A eggs marked 'extra' in accordance with Article 12, may be displayed for sale or offered for sale in small packs which may be of different weight gradings provided that the total net weight and the words 'eggs of different sizes' or the various weight gradings are shown.

Article 14

Packs may not bear any indications other than those laid down in this Regulation.

Article 15

Eggs from third countries may not be imported for free circulation in the Community unless:

- (a) they comply with the provisions of Articles 3, 6 to 9, 12, 13 (2) and 14;
- (b) they are put up in packs, including small packs contained in large packs, bearing clearly and legibly the following information:
 - (aa) the country of origin;
 - (bb) the name of the packing undertaking in the third countries;
 - (cc) the quality and weight grading;
 - (dd) for large packs, the weight in kilograms of the packed eggs and their number, and, for small packs, their number;
 - (ee) the date of packing;
 - (ff) the sender's name and address in the case of large packs.

Article 16

1. This Regulation shall also apply to eggs packed and intended for export outside the Community. Eggs packed and intended for export which have been dipped shall not, however, be deemed to have been treated for preservation.

2. By way of derogation from paragraph 1 and in order to comply with the rules of certain importing countries, eggs packed and intended for export may:

- (a) be made to comply with requirements exceeding those laid down in this Regulation as regards quality, marking and labelling, or with additional requirements;
- (b) bear on the pack marks or particulars of a different nature, provided that such marks and particulars are not likely to be mistaken for those laid down in this Regulation.

3. Eggs packed and intended for export may be graded by other weight gradings than those adopted in accordance with Article 20. In that case the weight grade shall be shown uncoded on the packs.

Article 17

This Regulation shall not apply to eggs imported from third countries or exported outside the Community in small quantities not exceeding 60 eggs by the consumer for his own use.

Article 18

1. Compliance with this Regulation shall be supervised by agencies appointed for the purpose in each Member State. A list of such agencies shall be forwarded to the other Member States and to the Commission not later than one month before the entry into force of this Regulation. Any amendment to this list shall be communicated to the other Member States and the Commission.

2. The products covered by this Regulation shall be checked by means of random sampling at all stages of marketing as well as during carriage. For eggs imported from third countries such random sampling checks shall also be made at the time of customs clearance.

Article 19

1. Decisions arising from failure to comply with this Regulation may only be taken for the whole of the batch which has been checked. 2. Where the checked batch is not deemed to comply with this Regulation, the supervising agency shall prohibit its marketing, or importation if the batch comes from a third country, unless and until proof is forthcoming that it has been made to comply with this Regulation.

3. The agency which made the check shall verify whether the rejected batch has been or is being made to comply with this Regulation.

Article 20

1. Detailed rules for the implementation of this Regulation shall be adopted in accordance with the procedure laid down in Article 17 of Regulation (EEC) No 2771/75, in particular regarding:
 - frequency of collection, delivery and handling of eggs,
 - quality criteria and weight gradings,
 - particulars of indications on eggs and their packs.
2. For the purpose of the adoption under the procedure referred to in paragraph 1 of parameters applying to each quality class, particular account shall be taken of the following criteria:
 - appearance of the shell,
 - consistency of the white,
 - height of the air space,
 - dimension and fixation of the yolk,
 - freedom from spots and/or foreign bodies,
 - development of the germ cell.
3. Where necessary, in accordance with the procedure referred to in paragraph 1 of this Article, rules involving limits and/or obligatory constraints for the maintenance of the quality of eggs shall be adopted taking into account the differing climatic conditions in the various regions of the Community.

Article 21

Member States shall take all appropriate measures to penalize infringements of this Regulation.

Article 22

1. Member States and the Commission shall communicate to each other the information necessary for the application of this Regulation.

2. Measures aimed at ensuring uniform application of this Regulation shall be adopted in accordance with the procedure laid down in Article 17 of Regulation (EEC) No 2771/75.

Article 23

1. Regulation (EEC) No 2772/75 is hereby repealed.

2. In all Community instruments in which reference is made to Articles of Regulation (EEC) No 2772/75, such references shall be read in accordance with the correlation table in the Annex.

3. Member States may continue to apply the marketing standards for eggs laid down in Regulation (EEC) No 2772/75 instead of those determined in this Regulation until 1 July 1991.

Article 24

This Regulation shall enter into force on 1 October 1990, except for Article 4 (2), which shall apply on 1 January 1992.

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

Done at Luxembourg, 26 June 1990.

For the Council

The President

M. O'KENNEDY

(1) OJ No L 282, 1. 11. 1975, p. 49.

(2) OJ No L 128, 11. 5. 1989, p. 29.

(3) OJ No L 282, 1. 11. 1975, p. 56.

(1) OJ No L 212, 22. 7. 1989, p. 87.

ANNEX

Correlation table

1.2 // Regulation (EEC) No 2772/75 // This Regulation // Articles 7 to 10 // deleted // Article 11 // Article 7 // Articles 12 and 13 // Article 8 // Article 14 // deleted // Article 15 // Article 9 // Article 16 // deleted // Articles 17 and 18 // Articles 10 // (Article 17 (1), first subparagraph // Article 11) // Article 19 // Article 12 // Article 20 // Article 13 // Article 21 // Articles 14 and 10 (2) and (3) // Article 22 // deleted // Articles 24 to 32 // Articles 16 to 24

