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(Acts whose publication is obligatory)

**COUNCIL REGULATION (EC) No 1028/2006
of 19 June 2006
on marketing standards for eggs**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2771/75 of 29 October 1975 on the common organisation of the market in eggs ⁽¹⁾, and in particular Article 2(2) thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) Marketing standards for eggs can contribute to the improvement in the quality of eggs and, consequently, facilitate their sale. It is therefore in the interest of producers, traders and consumers that marketing standards are applied in respect of eggs.
- (2) The experience gained from the application of Council Regulation (EEC) No 1907/90 of 26 June 1990 on certain marketing standards for eggs ⁽²⁾ has made apparent the need for further amendments and simplification. Regulation (EEC) No 1907/90 should therefore be repealed and replaced by a new Regulation.
- (3) The standards should in principle be applicable to all eggs of hens of the species *Gallus gallus* marketed in the Community. Nevertheless, it appears advisable to give to the Member States the possibility to exempt from the application of those standards eggs sold through certain forms of direct sale from the producer to the final consumer where small quantities are involved.

- (4) A clear distinction should be drawn between eggs suitable for direct human consumption and eggs not suitable for direct human consumption, which are for use in the food or non-food industry. Two quality classes of eggs, Class A and Class B, should therefore be distinguished.
- (5) It should be possible for the consumer to distinguish between eggs of different quality and weight grades and to identify the farming method used in accordance with Commission Directive 2002/4/EC of 30 January 2002 on the registration of establishments keeping laying hens, covered by Council Directive 1999/74/EC ⁽³⁾. This requirement should be met by marking eggs and packs.
- (6) Class A eggs should be marked with the distinguishing number of the producer as provided for in Directive 2002/4/EC in order to enable the tracing of eggs placed on the market for human consumption. Class B eggs should also be marked in order to prevent fraudulent practices. However, it should also be possible for Class B eggs to be marked with an indication other than the producer code as long as it allows for the distinction between different quality gradings. In accordance with the principle of proportionality, the Member States should be allowed to provide for derogations where class B eggs are marketed exclusively on their territory.
- (7) In order to prevent fraudulent practices, eggs should be marked as early as possible after laying.
- (8) Packing centres that are approved in accordance with Regulation (EC) No 853/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific hygiene rules for food of animal origin ⁽⁴⁾ should grade eggs by quality and weight. Packing centres working exclusively for the food and non-food industry should not be required to grade eggs by weight.

⁽¹⁾ OJ L 282, 1.11.1975, p. 49. Regulation as last amended by Regulation (EC) No 679/2006 (OJ L 119, 4.5.2006, p. 1).

⁽²⁾ OJ L 173, 6.7.1990, p. 5. Regulation as last amended by Regulation (EC) No 1039/2005 (OJ L 172, 5.7.2005, p. 1).

⁽³⁾ OJ L 30, 31.1.2002, p. 44. Directive as amended by the 2003 Act of Accession.

⁽⁴⁾ OJ L 139, 30.4.2004, p. 55. Corrected version in OJ L 226, 25.6.2004, p. 22. Regulation as last amended by Commission Regulation (EC) No 2076/2005 (OJ L 338, 22.12.2005, p. 83).

- (9) In order to make sure that packing centres are adequately equipped to grade eggs and pack Class A eggs, they should also be authorised by the competent authorities and receive a packing centre code that facilitates the tracing of eggs placed on the market.
- (10) It is essential, in the interest of both producers and consumers, that eggs imported from third countries comply with Community standards. However, special provisions in force in certain third countries may justify derogations from those standards if the equivalence of legislation is guaranteed.
- (11) Member States should designate the inspection services responsible for supervising this Regulation. The procedures for such supervision should be uniform.
- (12) Member States should lay down rules on penalties applicable to infringements of the provisions of this Regulation.
- (13) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽¹⁾,

HAS ADOPTED THIS REGULATION:

Article 1

Subject-matter and scope

1. This Regulation lays down the conditions of marketing within the Community of the eggs produced in the Community or imported from third countries.

Those conditions of marketing shall also apply to eggs intended for export outside the Community.

2. Member States may exempt from the requirements of this Regulation, with the exception of Article 4(3), eggs sold directly to the final consumer by the producer:

- (a) on the production site, or
- (b) in a local public market or by door-to-door selling in the region of production of the Member State concerned.

Where such exemption is granted, each producer shall be able to choose whether to apply such exemption or not. Where this exemption is applied, no quality and weight grading may be used.

The Member State may establish, according to national law, the definition of the terms local public market, door-to-door selling and region of production.

⁽¹⁾ OJ L 184, 17.7.1999, p. 23.

Article 2

Definitions

For the purposes of this Regulation, the following definitions shall apply:

1. 'eggs' means eggs in shell — other than broken, incubated or cooked eggs — that are produced by hens of the species *Gallus gallus* and are fit for direct human consumption or for the preparation of egg products;
2. 'broken eggs' means eggs showing breaks of both the shell and the membranes, resulting in the exposure of their contents;
3. 'incubated eggs' means eggs from the time of insertion in the incubator onwards;
4. 'marketing' means holding eggs for the purpose of sale, including offering for sale, storage, packing, labelling, delivery, or any other form of transfer, whether free of charge or not;
5. 'operator' means a producer and any other natural or legal person involved in the marketing of eggs;
6. 'production site' means an establishment keeping laying hens registered in accordance with Directive 2002/4/EC;
7. 'packing centre' means a packing centre within the meaning of Regulation (EC) No 853/2004 that is authorised according to Article 5(2) of this Regulation and where eggs are graded by quality and weight;
8. 'final consumer' means the ultimate consumer of a foodstuff who will not use the food as part of any food business operation or activity;
9. 'producer code' means the distinguishing number of the production site according to point 2 of the Annex to Directive 2002/4/EC.

Article 3

Quality and weight grading

1. Eggs shall be graded by quality as follows:
 - Class A or 'fresh',
 - Class B.
2. Class A eggs shall also be graded by weight. However, grading by weight shall not be required for eggs delivered to the food and non-food industry.
3. Class B eggs shall only be delivered to the food and non-food industry.

*Article 4***Marking of eggs**

1. Class A eggs shall be marked with the producer code.

Class B eggs shall be marked with the producer code and/or with another indication.

Member States may exempt Class B eggs from this requirement where those eggs are marketed exclusively on their territory.

2. The marking of eggs in accordance with paragraph 1 shall take place at the production site or at the first packing centre to which eggs are delivered.

3. Eggs sold by the producer to the final consumer on a local public market in the region of production of the Member State concerned shall be marked in accordance with paragraph 1 of this Article.

However, Member States may exempt from this requirement producers with up to 50 laying hens, provided that the name and address of the producer are indicated at the point of sale.

*Article 5***Packing centres**

1. Packing centres shall grade and pack eggs and label their packs.

2. The competent authority shall authorise packing centres to grade eggs and shall allot a packing centre code to any operator whose premises and technical equipment are suitable for grading eggs by quality and weight. No suitable technical equipment for grading eggs by weight shall be required for packing centres working exclusively for the food and non-food industry.

3. Such authorisation may be withdrawn whenever the required conditions laid down in the implementing rules adopted pursuant to Article 11 are no longer fulfilled.

*Article 6***Import of eggs**

1. The Commission shall evaluate marketing standards for eggs applicable in exporting third countries on request of the country concerned. This evaluation shall extend to the rules on marking and labelling, farming methods and controls as well as implementation. If it finds that the rules applied offer sufficient guarantees as to equivalence with Community legislation, eggs imported from the countries concerned shall be marked with a distinguishing number equivalent to the producer code.

2. The Commission shall, where necessary, conduct negotiations with third countries aimed at finding appropriate ways of offering guarantees as referred to in paragraph 1 and concluding agreements on such guarantees.

3. If sufficient guarantees as to equivalence of rules are not provided, imported eggs from the third country concerned shall bear a code permitting the identification of the country of origin and the indication that the farming method is 'unspecified'.

*Article 7***Checks**

1. The Member States shall appoint inspection services to check compliance with this Regulation.

2. The inspection services referred to in paragraph 1 shall check the products covered by this Regulation at all stages of marketing. Apart from random sampling, checks shall be carried out on the basis of a risk analysis, taking into account the type and throughput of the establishment concerned, as well as the operator's past records as regards compliance with the marketing standards for eggs.

3. For Class A eggs imported from third countries, checks provided for in paragraph 2 shall be made at the time of customs clearance and prior to the release for free circulation.

Class B eggs imported from third countries shall be released for free circulation only after checking at the time of customs clearance that their final destination is the processing industry.

*Article 8***Penalties**

The Member States shall lay down the rules on penalties applicable to infringements of the provisions of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive.

*Article 9***Communications**

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

*Article 10***Committee**

1. The Commission shall be assisted by the Management Committee for Poultrymeat and Eggs.

2. Where reference is made to this Article, Articles 4 and 7 of Decision 1999/468/EC shall apply.

The period laid down in Article 4(3) of Decision 1999/468/EC shall be set at one month.

3. The Committee shall adopt its Rules of Procedure.

*Article 11***Implementing rules**

Detailed rules for the implementation of this Regulation shall be adopted in accordance with the procedure referred to in Article 10(2), in particular regarding:

1. frequency of collection, delivery, preservation and handling of eggs;
2. quality criteria, in particular the appearance of the shell, the consistency of the white and the yolk and the height of the air space;
3. weight grading, including exceptions;
4. marking of eggs and indications on packs, including further exceptions;
5. checks;
6. trade with third countries;
7. communications referred to in Article 9;

8. farming methods;

9. records and keeping of registers.

*Article 12***Repeal**

1. Regulation (EEC) No 1907/90 is repealed with effect from 1 July 2007.

2. References to the repealed Regulation shall be construed as references to this Regulation and shall be read in accordance with the correlation table in the Annex.

*Article 13***Entry into force**

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

It shall apply from 1 July 2007.

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

Done at Luxembourg, 19 June 2006.

For the Council

The President

J. PRÖLL

ANNEX

Correlation table

Regulation (EEC) No 1907/90	This Regulation
Article 1	Article 2
Article 2(1)	Article 1(1)
Article 2(2)	—
Article 2(3)	Article 1(2)
Article 2(4)	—
Article 3	—
Article 4	—
Article 5(1) and (3)	Article 5
Article 5(2)	—
Article 6(1) and (2)	Article 3
Article 6(3)	Article 11
Article 6(4) and (5)	—
Article 7(1)(a)	Article 4(1)
Article 7(1)(b) and (c)	Article 6
Article 7(1)(d)	Article 11
Article 7(2)	—
Article 8(1)	Article 4(1)
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Article 16(1) first sentence	Article 1(1) 2nd subparagraph
Article 16(2) and (3)	—
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Article 18	Article 7(1) and (2)
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Article 20	Article 11
Article 21	Article 8
Article 22(1)	Article 9
Article 22(2)	Article 11
Article 22a	—
Article 23	Article 12
Article 24	Article 13
Annex	Annex
Annex II	—