

STATUTORY INSTRUMENTS

S.I. No. 172 of 2005

European Communities (Marketing Standards for Eggs) Regulations 2005

PUBLISHED BY THE STATIONERY OFFICE  
DUBLIN

To be purchased directly from the  
GOVERNMENT PUBLICATIONS OFFICE,  
SUN ALLIANCE HOUSE, MOLESWORTH STREET, DUBLIN 2  
Or by mail order from  
GOVERNMENT PUBLICATIONS, POSTAL TRADE SECTION,  
51 ST. STEPHEN'S GREEN, DUBLIN 2  
(Tel: 01 6476834/35/36/37; Fax: 01 6476843)  
Or through any bookseller

PRN. A5/0482

Price €2.54

European Communities (Marketing Standards for Eggs) Regulations 2005

I, Mary Coughlan, Minister for Agriculture and Food, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) and for the purpose of giving effect to Council Regulation (EEC) No 1907/90 of 26 June 1990<sup>1</sup> and Commission Regulation (EC) No 2295/2003 of 23 December 2003<sup>2</sup>, as amended by the Regulations listed in Regulation 2 (1) of these Regulations, hereby make the following Regulations:

**Citation**

1. These Regulations may be cited as the European Communities (Marketing Standards for Eggs) Regulations 2005.

**Definitions**

2. (1) In these Regulations –

“authorised officer” means a person authorised under Regulation 7;

“Council Regulation” means Council Regulation (EEC) No 1907/90 of 26 June 1990 as amended by Council Regulation (EEC) No 2617/93 of 21 September 1993<sup>3</sup>, Council Regulation (EC) No 3117/94 of 12 December 1994<sup>4</sup>, Council Regulation (EC) No 818/96 of 29 April 1996<sup>5</sup>, Council Regulation (EC) No 5/2001 of 19 December 2000<sup>6</sup> and Council Regulation (EC) No 2052/2003 of 17 November 2003<sup>7</sup>;

“Commission Regulation” means Commission Regulation (EC) No 2295/2003 of 23 December 2003 as amended by Commission Regulation (EC) No 818/2004 of 29 April 2004<sup>8</sup> and Commission Regulation 1515/2004 of 26 August 2004<sup>9</sup>;

“E.C. Regulations” means the Commission Regulation and the Council Regulation;

“Member State” means a member state of the European Communities;

“Minister” means the Minister for Agriculture and Food.

---

<sup>1</sup> O.J. No. L 173, 6.7.90, p.5

<sup>2</sup> O.J. No. L 340, 24.12.03, p.16

<sup>3</sup> O.J. No. L 240, 25.9.93, p.1

<sup>4</sup> O.J. No. L 330, 21.12.94, p.4

<sup>5</sup> O.J. No. L 111, 4.5.96, p.1

<sup>6</sup> O.J. No. L 2, 5.1.01, p.1

<sup>7</sup> O.J. No. L 305, 22.11.03, p.1

<sup>8</sup> O.J. No. L 153, 30.4.04, p. 82

<sup>9</sup> O.J. No. L 278, 27.8.04, p.7

- (2) A word or expression that is used in these Regulations and is also used in the E.C. Regulations has, unless the contrary intention appears, the same meaning in these Regulations as it has in the E.C. Regulations.
- (3) In these Regulations a reference to a paragraph or subparagraph is to the paragraph or subparagraph of the provision in which the reference occurs, unless it appears that reference to some other provision is intended.

### **Compliance with E.C. Regulations**

3. (1) A person shall not market eggs to which the E.C. Regulations apply except in accordance with, and unless the eggs are in compliance with, the requirements of the E.C. Regulations.
- (2) A person shall not grade, pack, repack, mark, transport, store, handle, deliver, collect, export or import eggs except in accordance with the E.C. Regulations.
- (3) A person shall not mark, grade or pack eggs except in a packing centre approved under Regulation 5 and a person shall not collect eggs unless that person is registered as a collector under Regulation 5.
- (4) A person shall not market eggs unless the eggs have been produced in an establishment that is for the time being registered in the register maintained by the Minister pursuant to Regulation 7 of the European Communities (Welfare of Laying Hens) Regulations 2002 (S.I. No. 98 of 2002).
- (5) A person shall not market eggs described as 'free range' or 'barn' or which bear an indication of how the laying hens are fed unless the eggs were produced by a producer approved for this purpose under Regulation 5 and unless the provisions of the E.C. Regulations applicable to such eggs are complied with.
- (6) Notwithstanding paragraph (3)-
  - (a) a producer may stamp the distinguishing number of the producer, the laying date, how the laying hens are fed and the regional origin on eggs produced by him or her, and
  - (b) a packing centre shall not receive eggs produced in another Member State unless such eggs are stamped with the distinguishing number of the producer before leaving the production site, subject to an exception granted in accordance with the provisions of Article 8.5 of the Commission Regulation.

#### **Records to be kept by operators**

4. (1) A packing centre approved under Regulation 5 shall keep the records required by Article 26 of the Commission Regulation and retain them for at least 6 months.
- (2) A producer approved under Regulation 5 shall keep the records required by Article 25 of the Commission Regulation and retain them for at least six months after ceasing their activity or after the flock to which the records relate has been destroyed.
- (3) Collectors, wholesalers (including dealers who do not physically handle eggs), feed manufacturers and feed suppliers, and food industry undertakings approved in accordance with Council Directive 89/437/EEC of 20 June 1989<sup>10</sup> shall keep the records and proofs required by Article 27 of the Commission Regulation and shall retain them for at least 6 months.
- (4) The records and proofs referred to in this Regulation shall be made available, on request, to an authorised officer.

#### **Approval of packing centers and certain producers and registration of collectors**

5. (1) The Minister may, upon receipt of a written application, approve a packing centre if the Minister is satisfied that it meets the requirements of the E.C. Regulations.
- (2) The Minister may, upon receipt of a written application, approve a producer for the purpose of producing eggs described as 'free range' or 'barn' or which bear an indication of how the laying hens were fed if the Minister is satisfied that the producer meets the requirements of the E.C. Regulations.
- (3) The Minister may, upon receipt of an application, register a collector for the purposes of the E.C. Regulations if the Minister is satisfied that the collector meets the requirements of the E.C. Regulations.
- (4) The Minister may specify the format of the applications referred to in paragraph (1), (2) and (3), and, where the Minister does so, it shall be a requirement of this Regulation to furnish the application in the format so specified.
- (5) A person who applies for an approval or registration, as the case may be, under this Regulation shall furnish the Minister with such

---

<sup>10</sup> O.J. No. L 212, 22.7.89 p.87

information as the Minister may reasonably require for the purposes of the E.C. Regulations.

- (6) The Minister may attach terms and conditions to any approval or registration made under this Regulation.
- (7) When the Minister approves a packing centre or a producer or registers a collector under this Regulation the Minister shall notify the applicant of the approval or registration as the case may be, and of any terms and conditions attached to the approval and, if the Minister amends any such terms or conditions, of the amendments and, in the case of a packing centre, of the packing centre number.

### **Refusal to approve or revocation of an approval**

6. (1) The Minister may either refuse to approve a packing centre or producer or to register a collector under Regulation 5 or may revoke such an approval or registration if the Minister is satisfied that-
  - (a) a provision of the E.C. Regulations or these Regulations applicable to the packing centre, producer or collector has not been, is not being or will not be complied with, or
  - (b) a term or condition referred to in Regulation 5(6) has not been, is not being or will not be complied with.
- (2) Where the Minister proposes to refuse to approve a packing centre or a producer or to register a collector or to revoke an approval or registration, or to attach a term or condition to an approval or registration or to amend such a term or condition the Minister shall-
  - (a) notify the owner or person in charge or applicant concerned in writing of the proposal and of the reasons therefor,
  - (b) notify the person concerned in writing that he or she or a person acting on his or her behalf may make representations to the Minister in relation to the proposal within 14 days of the date of the notification,
  - (c) consider any such representations duly made before deciding whether to proceed with, modify or annul the proposal, and
  - (d) notify the person concerned in writing of the decision and the reasons therefor.

- (3) Where an approval of a packing centre is revoked the Minister may issue a notice in writing requiring the owner or person in charge to cease packing eggs at the premises concerned and that person shall comply with such notice.
- (4) Where an approval of a producer is revoked the Minister may issue a notice in writing requiring the producer and the packer of any eggs produced by that producer to cease describing the eggs in question as 'free range' or 'barn' or to cease indicating on the eggs or egg packs how the laying hens are fed and the producer and packer shall comply with such notice.
- (5) The Minister may restore an approval that has been revoked where the Minister is satisfied that –
  - (a) the shortcomings notified by the Minister to the owner or person in charge have been rectified, and
  - (b) the requirements of these Regulations and the E.C. Regulations are being complied with.
- (6) The Minister may decline to restore an approval that has been revoked where the Minister has reasonable grounds for believing that the requirements of these Regulations or the E.C. Regulations will not be complied with in the future.

#### **Appointment and powers of authorised officers**

7. (1) (a) The Minister may appoint such and so many persons as the Minister thinks fit to be authorised officers for the purposes of these Regulations.
- (b) An authorised officer appointed under the European Communities (Marketing Standards for Eggs) Regulations 1992 (S.I. No. 254 of 1992) or under the European Communities (Protection of Animals Kept for Farming Purposes) Regulations 2000 (S.I. No. 127 of 2000) and holding office immediately before the commencement of these Regulations continues in office after such commencement as if appointed under these Regulations.
- (2) An authorised officer shall be furnished with a warrant of appointment by the Minister as an authorised officer and when exercising any power conferred on him or her by these Regulations such officer shall, if requested by any person affected, produce the warrant to that person.
- (3) An authorised officer may

- (a) at any time enter any packing centre, farm, wholesale or retail warehouse or shop or any premises, vehicle, wagon, vessel, aircraft or other place where he or she has reasonable grounds for believing that eggs are being marketed, produced, stored, packed, marked, handled, imported or exported or any premises or farm in respect of which an application for an approval or registration under Regulation 5 has been made to the Minister,
  - (b) there or at any other place, carry out or have carried out such examinations, tests, checks and inspections of the premises and of any eggs, packing materials, equipment, machinery and of any article or substance found there as he or she may reasonably require for the purposes of these Regulations and the E.C. Regulations,
  - (c) inspect, take or take copies of or extracts from any books, documents or other records found there,
  - (d) take, without payment of compensation, such samples of any eggs or other substance as he or she may reasonably require for the purposes of his or her functions under these Regulations or the E.C. Regulations,
  - (e) seize and detain anything found there which he or she reasonably believes to be evidence of an offence under these Regulations,
  - (f) require any person present or the owner or person in charge to give to him or her such information and to produce to him or her such books, certificates, documents or other records within the power of procurement of the person as the officer may reasonably require for the purposes of such functions and that person shall afford the authorised officer all reasonable assistance necessary for the purposes of such functions,
  - (g) seize and detain any eggs which he or she reasonably believes have been or will be marketed in contravention of these Regulations or the E.C. Regulations and any labels or packaging material which he or she reasonably believes have been or will be used in connection with such marketing.
- (4) A person shall not obstruct or otherwise interfere with an authorised officer in the performance of his or her functions or, in purported compliance with a requirement under paragraph (3) (f), give information to an authorised officer that he or she knows to be false or misleading in a material respect.
- (5) (a) An authorised officer shall not, other than with the consent of

the occupier, enter a private dwelling unless he or she has obtained a warrant from the District Court under subparagraph (c) authorising such entry.

- (b) An authorised officer, where he or she considers it necessary, may require a member of the Garda Síochána to assist him or her when performing any powers conferred on an authorised officer which require access and entry to any premises or place.
- (c) If a judge of the District Court is satisfied on the sworn information of an authorised officer that there are reasonable grounds for suspecting that there is held in any premises information or any thing required by an authorised officer for the purposes of these Regulations, the judge may issue a warrant authorising an authorised officer, accompanied if appropriate by other authorised officers or by a member of the Garda Síochána, at any time or times within one month from the date of issue of the warrant, on production of the warrant if so requested, to enter that premises, if need be by reasonable force, and exercise all or any of the powers conferred on an authorised officer by these Regulations.

#### **Issue of notice by authorised officers**

- 8. (1) Where an authorised officer forms an opinion that any eggs do not comply with the E.C. Regulations, he or she may serve or cause to be served on the owner or seller or importer or the person who appears to such officer to be in charge for the time being of the eggs a notice requiring that one or more of the following actions be taken-
  - (a) the eggs not be marketed,
  - (b) such action be taken, in the manner if any specified in the notice, as is necessary to make the eggs comply with the E.C. Regulations and that proof of such compliance be provided to the officer,
  - (c) the eggs be destroyed in such manner and at such place, if any, as the officer shall direct, or
  - (d) the eggs be used or disposed of in such manner as the officer shall direct.



- (2) A notice may specify a time limit within which it is to be complied with.
- (3) A requirement specified in a notice served under paragraph (1) (in this paragraph referred to as 'the earlier notice') may be modified or withdrawn in a further such notice and in that event the earlier notice shall have effect subject to such modification or withdrawal.
- (4) A notice may require the person on whom it is served to choose between two or more of the requirements specified in the notice.
- (5) A notice referred to in paragraph (1) may be served on the owner or seller or importer or person in charge for the time being of the eggs by delivery of it by hand, or by sending it by prepaid registered post to, or by leaving it at, the last known place of abode or business of the owner, importer or person in charge, as the case may be.
- (6) The owner, seller, importer or person in charge for the time being of the eggs may appeal within 7 days of the seizure of eggs pursuant to Regulation 7(3)(g) or to paragraph (15) or service of the notice under paragraph (1) to the Judge of the District Court having jurisdiction in the District Court District where such eggs are situated or to the Judge of the District Court having jurisdiction where the person bringing the appeal ordinarily resides or carries on business on the grounds that the seizure or the notice or the terms thereof are not justified having regard to the provisions of these Regulations or the E.C. Regulations.
- (7) An appeal made pursuant to paragraph (6) may be heard at any sitting of the District Court within the appropriate District Court District.
- (8) Notice of an appeal made pursuant to paragraph (6) shall be served on the Minister and the said notice shall be served at least 48 hours prior to the hearing of the appeal by serving it on the Minister or by leaving it at the place and in the manner specified in the notice served under paragraph (1).
- (9) The notice of appeal shall contain a statement of the grounds upon which it is alleged that the seizure or the notice or any of the terms thereof are not justified.
- (10) A copy of the notice of appeal shall be lodged with the District Court Clerk in the manner specified in the notice served under paragraph (1) at least 48 hours prior to the hearing of the appeal.
- (11) The Minister shall, as well as the appellant, be entitled to be heard and to adduce evidence at the hearing of an appeal under this Regulation.
- (12) On the hearing of an appeal under this Regulation a Judge of the District Court may, at his or her discretion, confirm, modify or annul a notice served under paragraph (1).

- (13) (a) No person, including a person on whom a notice has been served under paragraph (1), shall deal with the eggs concerned other than in accordance with the terms of the notice.
- (b) In the event of an appeal against the terms of a notice pursuant to paragraph (6), no person, including the person appealing, shall deal with the eggs concerned pending the determination of the appeal other than in accordance with such directions as may be given in writing by an authorised officer.
- (c) Where the terms of a notice referred to in paragraph (1) are confirmed, with or without modification by the Judge of the District Court hearing an appeal made under paragraph (6), no person shall deal with the eggs concerned otherwise than in accordance with such notice as confirmed.
- (14) Any costs arising from compliance with a notice served under paragraph (1) shall be borne by the owner or seller or importer or person in charge for the time being of the eggs concerned.
- (15) (a) Where -
- (i) the requirements of a notice served under paragraph (1) have not been complied with within the time limit specified therein, or
  - (ii) an authorised officer has reasonable grounds for believing that the terms of a notice served under paragraph (1) will not be complied with, or
  - (iii) pending the determination of an appeal made pursuant to paragraph (6) an authorised officer has grounds for believing that the provisions of paragraph (13) have not been or will not be complied with,
- an authorised officer may at any time seize the eggs concerned at such premises or place as the officer thinks fit in the circumstances of the case.
- (b) In relation to any seized eggs an authorised officer may destroy them, or cause them to be destroyed in such manner and at such place as the authorised officer shall direct or such eggs may be used or disposed of in such manner as the authorised officer shall direct.
- (c) Any profits arising from the disposal of the eggs referred to in subparagraph (b) shall be paid to the owner of the eggs less any expenses incurred in connection with the said disposal.

- (16) The costs of disposal or destruction of the eggs under this Regulation shall, subject to the provisions of paragraph (15) be recoverable by the Minister as a simple contract debt in any court of competent jurisdiction from the person who was the owner of the eggs at the time the disposal or destruction was carried out.

### **Fees**

9. (1) There shall be charged by the Minister in respect of an approval under Regulation 5 such fees as the Minister, with the consent of the Minister for Finance, may determine.
- (2) A fee charged under this Regulation shall be paid by the person or persons to whom the approval is granted.
- (3) Fees under this Regulation shall be collected and taken in such manner as the Minister for Finance directs and shall be paid into or disposed of for the benefit of the Exchequer in accordance with the directions of the Minister for Finance.
- (4) A fee charged under this Regulation shall not exceed an amount equal to the costs, estimated by the Minister, incurred in the performance by authorised officers of functions under these Regulations and the E.C. Regulations in relation to the approved packing centre or producer concerned.
- (5) The Minister may refuse to grant, or may revoke, an approval if the fee fixed under this Regulation is not paid.
- (6) The Public Offices Fees Act 1879 shall not apply in respect of fees under this Regulation.

### **Offences**

10. (1) Any person who markets eggs that do not comply with the E.C. Regulations or in contravention of these Regulations is guilty of an offence.
- (2) Any person who contravenes a provision of the E.C. Regulations or these Regulations is guilty of an offence.
- (3) Where an offence under these Regulations has been committed by a body corporate and is proved to be so committed with the consent or connivance of or be attributable to any neglect on the part of a person being a director, manager, secretary or other officer of the body corporate or a person who was purporting to act in any such capacity, that person, as well as the body corporate, shall be guilty of an offence and shall be liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

- (4) An offence under these Regulations may be prosecuted by the Minister.

### **Penalties**

11. A person guilty of an offence under these Regulations is liable on summary conviction to a fine not exceeding €3000 or, at the discretion of the court, to imprisonment for a term not exceeding 6 months, or to both.

### **Revocation**

12. The European Communities (Marketing Standards for Eggs) Regulations 1992 (S.I. No. 254 of 1992) are revoked.

### **Savers**

13. Any approval of a producer for the purpose of producing eggs described as 'free range' or 'barn' and any approval of a packing centre granted under the European Communities (Marketing Standards for Eggs) Regulations 1992 or under the E.C. Regulations or under Commission Regulation (EEC) No 1274/91 of 15 May 1991<sup>11</sup> and in force immediately before the commencement of these Regulations continues in force after such commencement as if granted under these Regulations.

**GIVEN** under my Official Seal,  
23 March 2005

L.S.

Mary Coughlan  
Minister for Agriculture and Food

---

<sup>11</sup> O.J. No. L 121, 16.5.91, p.11

## EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation)

These Regulations require compliance with European Union legislation on the marketing standards for eggs. These standards concern such matters as marking of eggs and approval of packing centres and certain categories of producers. The Regulations also create penalties for non-compliance and provide for the authorisation of officers to conduct inspections.

PRN: A5/0482

Published by the Stationery Office, Dublin

Price: €2.54