

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

Article 1

Definitions

The definitions in Article 2(1) of Regulation (EC) No 852/2004 and points 5 and 7.3 of Annex I to Regulation (EC) No 853/2004 shall apply as appropriate.

In addition, the following definitions shall apply for the purpose of this Regulation:

- (a) 'pack' means a wrapping containing Class A or B eggs, excluding transport packaging and containers of industrial eggs;
- (b) 'loose sales' means the offer for retail sale of eggs to the final consumer, other than in packs;
- (c) 'collector' means any establishment registered in accordance with Article 6 of Regulation (EC) No 852/2004 to collect eggs from a producer for delivery to a packing centre, to a market selling exclusively to wholesalers whose undertakings are approved as packing centres, or to the food or non-food industry;
- (d) 'sell-by date' means the maximum time limit for delivery of the egg to the final consumer according to point 3 of Chapter I of Section X of Annex III to Regulation (EC) No 853/2004;
- (e) 'food industry' means any establishment producing egg products intended for human consumption, excluding mass caterers;
- (f) 'non-food industry' means any business producing products containing eggs not intended for human consumption;
- (g) 'mass caterers' means the entities referred to in Article 1(2) of Directive 2000/13/EC;
- (h) 'industrial eggs' means eggs not intended for human consumption;
- (i) 'batch' means the eggs in packs or loose from one and the same production site or packing centre, situated in one place, in the same packs or loose, with one and the same laying date or date of minimum durability or packing date, the same farming method, and in the case of graded eggs, the same quality and weight grading;
- (j) 'repacking' means the physical transfer of eggs to another pack or the re-marking of a pack containing eggs;
- (k) '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;
- (l) 'broken eggs' means eggs showing breaks of both the shell and the membranes, resulting in the exposure of their contents;
- (m) 'incubated eggs' means eggs from the time of insertion in the incubator onwards;

- (n) '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;
- (o) 'operator' means a producer and any other natural or legal person involved in the marketing of eggs;
- (p) 'production site' means an establishment keeping laying hens, registered in accordance with Commission Directive 2002/4/EC⁽¹⁾;
- (q) '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;
- (r) 'final consumer' means the ultimate consumer of a foodstuff who will not use the food as part of any food business operation or activity;
- (s) 'producer code' means the distinguishing number of the production site according to point 2 of the Annex to Directive 2002/4/EC.

Article 2

Quality characteristics of eggs

- 1 Class A eggs shall have the following quality characteristics:
 - a shell and cuticle: normal shape, clean and undamaged;
 - b air space: height not exceeding 6 mm, stationary; however, for eggs to be marketed as 'extra', it may not exceed 4 mm;
 - c yolk: visible on candling as a shadow only, without clearly discernible outline, slightly mobile upon turning the egg, and returning to a central position;
 - d white: clear, translucent;
 - e germ: imperceptible development;
 - f foreign matter: not permissible;
 - g foreign smell: not permissible.
- 2 Class A eggs shall not be washed or cleaned, before or after grading, except as provided for in Article 3.
- 3 Class A eggs shall not be treated for preservation or chilled in premises or plants where the temperature is artificially maintained at less than 5 °C. However, eggs which have been kept at a temperature below 5 °C during transport for not more than 24 hours or on retail premises or in annexes thereto for not more than 72 hours shall not be considered as chilled.
- 4 Class B eggs shall be eggs which do not meet the quality characteristics provided for in paragraph 1. Class A eggs which no longer have those characteristics may be downgraded to Class B.

Article 3

Washed eggs

- 1 Member States which, on 1 June 2003, authorised packing centres to wash eggs may continue to authorise packing centres to wash eggs, provided that those centres operate

in accordance with the national guides for egg-washing systems. Washed eggs may only be marketed in the Member States in which such authorisations have been issued.

2 The Member States referred to in paragraph 1 shall encourage the development of national guides to good practice for egg-washing systems by the food business operators, in accordance with Article 8 of Regulation (EC) No 852/2004.

Article 4

Grading of Class A eggs by weight

1 Class A eggs shall be graded by weight as follows:

- a XL — very large: weight \geq 73 g;
- b L — large: weight \geq 63 g and $<$ 73 g;
- c M — medium: weight \geq 53 g and $<$ 63 g;
- d S — small: weight $<$ 53 g.

2 The weight-grading shall be indicated by the corresponding letters or terms as defined in paragraph 1 or by a combination of both, which may be supplemented by the corresponding weight ranges. Other additional indications may be used, provided that such indications are not likely to be mistaken for the letters or terms defined in paragraph 1 and comply with Directive 2000/13/EC.

3 By way of derogation from paragraph 1, where Class A eggs of different sizes are packed together in the same pack, the minimum net weight of the eggs shall be given in grams and the indication 'Eggs of different sizes' or equivalent terms shall appear on the outer surface of the pack.

Article 5

Packing centres

1 Only packing centres shall grade and pack eggs and label their packs.

Only undertakings satisfying the conditions laid down in this Article shall be authorised as packing centres.

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.

The competent authority shall allot the packing centre a packing centre code with an initial code for the Member State concerned as specified in point 2.2 of the Annex to Directive 2002/4/EC.

3 Packing centres shall have the technical equipment necessary to ensure that eggs are handled properly. This should include as appropriate:

- a suitable candling equipment, automatic or continuously staffed throughout, allowing the quality of each egg to be examined separately, or other appropriate equipment;
- b devices for measuring the height of the air space;
- c equipment for grading eggs by weight;
- d one or more approved balances for weighing eggs;

e equipment for marking eggs.

4 The authorisation referred to in paragraphs 1 and 2 may be withdrawn at any time if the conditions provided for in this Article are no longer fulfilled.

Article 6

Time limit for grading, marking and packing eggs and marking packs

1 Eggs shall be graded, marked and packed within 10 days of laying.

2 Eggs marketed in accordance with Article 14 shall be graded, marked and packed within four days of laying.

3 The date of minimum durability referred to in Article 12(1)(d) shall be marked at the time of packing in accordance with Article 9(2) of Directive 2000/13/EC.

Article 7

Information displayed on transport packaging

1 Without prejudice to Article 18 of Regulation (EC) No 178/2002, at the production site, each transport packaging containing eggs shall be identified by the producer by:

- a the producer's name and address;
- b the producer code;
- c the number of eggs and/or their weight;
- d the laying date or period;
- e the date of dispatch.

In the case of packing centres supplied with unpacked eggs from their own production units, situated at the same site, identification on transport packaging may take place at the packing centre.

2 The information referred to in paragraph 1 shall be applied to the transport packaging and be contained in accompanying documents. A copy of those documents shall be kept by any intervening operator to whom the eggs are delivered. The originals of the accompanying documents shall be kept by the packing centre that grades the eggs.

Where batches received by a collector are subdivided for delivery to more than one operator, the accompanying documents may be substituted by appropriate transport container labels, provided that the latter include the information referred to in paragraph 1.

3 The information referred to in paragraph 1 applied to the transport packaging shall not be modified and shall remain on the transport packaging until removal of eggs for immediate grading, marking, packing or further processing.

Article 8

Marking of eggs for cross-border delivery

1 Eggs delivered from a production site to a collector, a packing centre or non-food industry situated in another Member State shall be marked with the producer code before leaving the production site.

2 A Member State on whose territory the production site is situated may grant an exemption from the requirement provided for in paragraph 1, where a producer has signed a delivery contract with a packing centre in another Member State requiring the marking in accordance with this Regulation. Such an exemption may be granted only at the request of both operators concerned and with the prior written agreement of the Member State where the packing centre is situated. In such cases, a copy of the delivery contract shall accompany the consignment.

3 The minimum duration of delivery contracts referred to in paragraph 2 may not be less than one month.

4 The inspection services, referred to in Article 24, of the Member States concerned, and of any transit Member States, shall be informed before an exemption is granted in accordance with paragraph 2 of this Article.

5 Class B eggs marketed in another Member State shall be marked in accordance with the second subparagraph of point 1 of part A, III of Annex XIV to Regulation (EC) No 1234/2007 and, where appropriate, bear an indication in accordance with Article 10 of this Regulation so as to ensure that they can easily be distinguished from Class A eggs.

Article 9

Producer code

1 The producer code shall consist of the codes and letters provided for in point 2 of the Annex to Directive 2002/4/EC. It shall be easily visible and clearly legible and be at least 2 mm high.

2 Without prejudice to point 1 of part A, III of Annex XIV to Regulation (EC) No 1234/2007, where it is not possible for technical reasons to mark cracked or soiled eggs, marking with the producer code shall not be compulsory.

Article 10

Indications on Class B eggs

The indication referred to in point 1 of part A, III of Annex XIV to Regulation (EC) No 1234/2007 shall be a circle at least 12 mm in diameter around the letter 'B' at least 5 mm high, or an easily visible colour spot of at least 5 mm in diameter.

Article 11

Marking of eggs delivered directly to the food industry

Member States may exempt operators at their request from the marking obligations provided for in point 1 of part A, III of Annex XIV to Regulation (EC) No 1234/2007, where eggs are delivered directly from the production site to the food industry.

Article 12

Marking of packs

1 Packs containing Class A eggs shall bear on the outer surface in easily visible and clearly legible type:

- a the packing centre code;
- b the quality grading; packs shall be identified either by the words 'Class A' or the letter 'A', whether alone or in combination with the word 'fresh';
- c the weight grading in accordance with Article 4(2) of this Regulation;
- d the date of minimum durability in accordance with Article 13 of this Regulation;
- e the wording 'washed eggs' for eggs washed in accordance with Article 3 of this Regulation;
- f as a special storage condition in accordance with Article 3(1)(6) of Directive 2000/13/EC, an indication advising consumers to keep eggs chilled after purchase.

2 In addition to the requirements laid down in paragraph 1, packs containing Class A eggs shall bear on the outer surface in easily visible and clearly legible type the farming method.

For the identification of the farming method only the following terms shall be used:

- a for conventional farming, the terms set out in Part A of Annex I, and only if the relevant conditions laid down in Annex II are fulfilled;
- b for organic production, the terms set out in Article 2 of Council Regulation (EEC) No 2092/91⁽²⁾.

The meaning of the producer code shall be explained on or inside the pack.

Where laying hens are kept in systems of production in accordance with the requirements laid down in Chapter III of Council Directive 1999/74/EC, the identification of the farming method may be complemented by one of the indications listed in Part B of Annex I to this Regulation.

3 Paragraph 2 shall apply without prejudice to national technical measures going beyond the minimum requirements laid down in Annex II, which may apply only to producers of the Member State concerned and provided that they are compatible with Community law.

4 Packs containing Class B eggs shall bear on the outer surface in easily visible and clearly legible type:

- a the packing centre code;
- b the quality grading; packs shall be identified either by the words 'Class B' or the letter 'B';
- c the packing date.

5 The Member States may require, for packs of eggs produced on their territory, that the labels be affixed in such a way so as to be broken when opening the packs.

Article 13

Indication of the date of minimum durability

The date of minimum durability referred to in Article 3(1)(5) of Directive 2000/13/EC shall be fixed at not more than 28 days after laying. Where the period of laying is indicated, the date of minimum durability shall be determined from the first day of that period.

Article 14

Packs marked as ‘extra’

1 The words ‘extra’ or ‘extra fresh’ may be used as an additional quality indication on packs containing Class A eggs until the ninth day after laying of the eggs.

2 Where indications referred to in paragraph 1 are used, the laying date and the time limit of nine days shall be shown on the pack in such a way as to be easily visible and clearly legible.

Article 15

Indication of how laying hens are fed

Where an indication of how the laying hens are fed is used, the following minimum requirements shall apply:

- (a) reference may be made to cereals as a feed ingredient only where they account for at least 60 % in weight of the feed formula given, of which no more than 15 % of cereal by-products may be part;
- (b) without prejudice to the minimum of 60 % referred to in point (a), where reference is made to a specific cereal, it shall account for at least 30 % of the feed formula used. If specific reference is made to more than one cereal, each shall account for at least 5 % of the feed formula.

Article 16

Information to be displayed for loose egg sales

For loose egg sales, the following information shall be given in such a manner as to be easily visible and clearly legible to the consumer:

- (a) the quality grading;
- (b) the weight grading in accordance with Article 4;
- (c) an indication of the farming method equivalent to that referred to in Article 12(2);
- (d) an explanation of the meaning of the producer code;

- (e) the date of minimum durability.

Article 17

Quality of packs

Without prejudice to the requirements laid down in Chapter X of Annex II to Regulation (EC) No 852/2004, packs shall be shock-resistant, dry, clean and in good repair, and be of materials which protect the eggs from extraneous odour and the risk of quality deterioration.

Article 18

Industrial eggs

Industrial eggs shall be marketed in packaging containers with a red band or label.

Those bands and labels shall show:

- (a) the name and address of the operator for whom the eggs are intended;
- (b) the name and address of the operator who has dispatched the eggs;
- (c) the words 'industrial eggs' in capital letters 2 cm high, and the words 'unsuitable for human consumption' in letters at least 8 mm high.

Article 19

Repacking

Packed Class A eggs may be repacked only by packing centres. Each pack shall contain only eggs of a single batch.

Article 20

Records to be kept by producers

1 Producers shall record information on the farming methods, specifying for each farming method used:

- a the date of placing, age at placing and number of laying hens;
- b the date of culling and the number of hens culled;
- c daily egg production;
- d the number and/or weight of eggs sold per day or delivered daily by other means;
- e the names and addresses of purchasers.

2 Where the feeding method is indicated in accordance with Article 15 of this Regulation, producers shall, without prejudice to the requirements laid down in part A, III of Annex I to Regulation (EC) No 852/2004, record the following information, specifying for each feeding method used:

- a the quantity and type of feed supplied or mixed on-site;
- b the date of delivery of feed.

3 Where a producer uses different farming methods on a single production site, the information referred to in paragraphs 1 and 2 shall be broken down by hen house.

4 For the purposes of this Article, instead of keeping records of sales and deliveries, producers may keep files of invoices and delivery notes marked as indicated in paragraphs 1 and 2.

Article 21

Records to be kept by collectors

- 1 Collectors shall record separately, by farming method and by day:
 - a the quantity of eggs collected, broken down by producer, giving the name, address and producer code, and the laying date or period;
 - b the quantity of eggs delivered to the relevant packing centres, broken down by producer, giving the name, address, packing centre code and the laying date or period.
- 2 For the purposes of this Article, instead of keeping records of sales and deliveries, collectors may keep files of invoices and delivery notes marked as indicated in paragraph 1.

Article 22

Records to be kept by packing centres

- 1 Packing centres shall record separately, by farming method and by day:
 - a the quantities of ungraded eggs they receive, broken down by producer, giving the name, address and producer code and the laying date or period;
 - b after the eggs are graded, the quantities by quality and weight grade;
 - c the quantities of graded eggs received coming from other packing centres, including the code of those packing centres and the date of minimum durability;
 - d the quantities of ungraded eggs delivered to other packing centres, broken down by producer, including the code of those packing centres and the laying date or period;
 - e the number and/or weight of eggs delivered, by quality and weight grade, packing date in the case of Class B eggs or the date of minimum durability in the case of Class A eggs, and by purchaser, with the name and address of the latter.

Packing centres shall update their physical stock records each week.

2 Where Class A eggs and their packs bear an indication of how laying hens are fed in accordance with Article 15, packing centres using such indications shall keep separate records in accordance with paragraph 1.

3 For the purposes of this Article, instead of keeping records of sales and deliveries, packing centres may keep files of invoices and delivery notes marked as indicated in paragraphs 1 and 2.

Article 23

Time limits for keeping records

Records and files referred to in Articles 7(2), 20, 21 and 22 shall be kept for at least 12 months from the date of their creation.

Article 24

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, the 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.

4 Apart from random sampling, operators shall be inspected at a frequency to be determined by the inspection services on the basis of a risk analysis as referred to in paragraph 2, taking account, at least, of:

- a the results of previous checks;
- b the complexity of the marketing channels followed by the eggs;
- c the degree of segmentation in the production or packing establishment;
- d the quantity of eggs produced or packed;
- e any substantial changes from previous years in the type of eggs produced or processed or in the marketing method.

5 Inspections shall be conducted regularly and be unannounced. Records referred to in Articles 20, 21 and 22 shall be made available on first request to the inspection services.

Article 25

Decisions on non-compliance

1 Decisions by inspection services following inspections provided for in Article 24 indicating non-compliance with this Regulation may only be taken for the whole of the batch which has been checked.

2 Where the checked batch is deemed not to comply with this Regulation, the inspection service 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 inspection service which made the check shall verify whether the rejected batch has been or is being made to comply with this Regulation.

Article 26

Tolerance for quality defects

- 1 The following tolerances shall be allowed when checking batches of Class A eggs:
 - a at the packing centre, just before dispatch: 5 % of eggs with quality defects;
 - b at the other marketing stages: 7 % of eggs with quality defects.
- 2 For eggs marketed as 'extra' or 'extra fresh', no tolerance shall be allowed for the height of the air space at the time of packing or import.
- 3 Where the batch checked contains fewer than 180 eggs, the percentages referred to in paragraph 1 shall be doubled.

Article 27

Tolerance for egg weight

- 1 Except in the case provided for in Article 4(3), in the checking of batches of Class A eggs, a tolerance shall be allowed as regards the weight per egg. Such batches may contain not more than 10 % of eggs of weight grades adjacent to that marked on the packing, but not more than 5 % of eggs of the next lower weight grade.
- 2 Where the batch checked contains fewer than 180 eggs, the percentages referred to in paragraph 1 shall be doubled.

Article 28

Tolerance for marking eggs

A tolerance of 20 % of eggs with marks that are illegible shall be allowed in the checking of batches and packs.

Article 29

Eggs for export to third countries

Eggs packed and intended for export may be made to comply with requirements different from those laid down in Annex XIV to Regulation (EC) No 1234/2007 and this Regulation as regards quality, marking and labelling, or with additional requirements.

Article 30

Imported eggs

- 1 Any evaluation of equivalence of rules as referred to in point 1 of part A, IV of Annex XIV to Regulation (EC) No 1234/2007 shall include an assessment of whether the requirements contained in this Regulation are effectively met by operators in the third country concerned. It shall be updated regularly.

The Commission shall publish the result of the evaluation in the *Official Journal of the European Union*.

2 Eggs imported from third countries shall be clearly and legibly marked in the country of origin with its ISO 3166 country code.

3 Where there is not sufficient guarantee as to the equivalence of rules as referred to in point 3 of part A, IV of Annex XIV to Regulation (EC) No 1234/2007, packs containing eggs imported from the countries in question shall bear on the outer surface in easily visible and clearly legible type:

- a the country of origin;
- b the farming method as 'non-EC standard'.

Article 31

Reporting

Before 1 April each year, each Member State shall notify the Commission by electronic means of the number of production sites with the breakdown of farming methods, including the maximum capacity of the establishment in number of birds present at one time.

Article 32

Notification of infringements

Member States shall notify the Commission within five working days by electronic means of any infringements found by inspection services, or any serious suspicion thereof, which are liable to affect intra-Community trade in eggs. Intra-Community trade is deemed to be affected in particular in the event of serious infringements by operators that produce or market eggs for sale in another Member State.

Article 33

Exceptions for the French overseas departments

1 By way of derogation from Article 2(3), eggs intended for retail trade in the French overseas departments may be dispatched chilled to those departments. In that case, the sell-by date may be extended to 33 days.

2 In the case referred to in paragraph 1 of this Article, in addition to the requirements provided for in Articles 12 and 16, the wording 'chilled eggs' shall appear and particulars as to refrigeration shall be given on the outer surface of the pack.

The distinguishing mark for 'chilled eggs' shall be an equilateral triangle of at least 10 mm along the sides.

Article 34

Exceptions for certain regions of Finland

Eggs sold directly by the producer to retail outlets in the regions listed in Annex III shall be exempted from the requirements of Annex XIV to Regulation (EC) No 1234/2007 and of this Regulation. However, the farming method must be duly identified in accordance with Articles 12(2) and 16(c) of this Regulation.

Article 35

Evaluation of practices regarding certain voluntary labelling

By 31 December 2009 at the latest, the Commission shall evaluate the use made of the voluntary labelling in accordance with the last subparagraph of Article 12(2), with a view, if necessary, to rendering it compulsory.

Article 36

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 37

Communications

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

Article 38

Repeal

Regulation (EC) No 557/2007 is hereby repealed with effect from 1 July 2008.

References to the repealed Regulation and to Regulation (EC) No 1028/2006 shall be construed as references to this Regulation and shall be read in accordance with the correlation table in Annex IV.

Article 39

Entry into force

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

Status: This is the original version (as it was originally adopted).

It shall apply from 1 July 2008.

Article 33 shall apply until 30 June 2009.

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

Done at Brussels, 23 June 2008.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

Status: This is the original version (as it was originally adopted).

- (1) OJ L 30, 31.1.2002, p. 44.
- (2) OJ L 198, 22.7.1991, p. 1.