STATUTORY RULES OF NORTHERN IRELAND

2010 No. 125

FOOD

The Eggs and Chicks Regulations (Northern Ireland) 2010

Made - - - -	*24th March 2010*
Coming into operation	*28th April 2010*

The Department of Agriculture and Rural Development is designated(**1**) for the purposes of section 2(2) of the European Communities Act 1972(**2**) in relation to the common agricultural policy of the European Community.

These Regulations make provision for a purpose mentioned in section 2(2) of the European Communities Act 1972, and it appears to the Department that it is expedient for any reference to the following Regulations to be construed as a reference to those Regulations as amended from time to time—

(a) Council Regulation (EC) No. 1234/2007(**3**) establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation);

(b) Commission Regulation (EC) No. 589/2008(**4**) laying down detailed rules for implementing Regulation (EC) No. 1234/2007 as regards marketing standards for eggs; and

(c) Commission Regulation (EC) No. 617/2008(**5**) laying down detailed rules for implementing Regulation (EC) No. 1234/2007 as regards marketing standards for eggs for hatching and farmyard poultry chicks.

Insofar as these Regulations are made in exercise of powers under the Food Safety (Northern Ireland) Order 1991(**6**), the Department has had regard to relevant advice given by the Food Standards Agency as required by Article 47(3A)(**7**) of that Order.

There has been open and transparent public consultation during the preparation of the following Regulations as required by Article 9 of Regulation (EC) No. 178/2002 of the European Parliament and of the Council(**8**) laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety.

(**1**) S.I. 2000/2812
(**2**) 1972 c. 68
(**3**) O.J. No. L 299, 16.11.2007, p. 1, last amended by Council Regulation (EC) No. 1140/2009 (O.J. No. L 312, 27.11.2009, p. 4)
(**4**) O.J. No. L 163, 24.6.2008, p. 6, last amended by Commission Regulation (EC) No. 598/2008 (O.J. No. L 164, 25.6.2008, p. 14)
(**5**) O.J. No. L 168, 28.6.2008, p. 5
(**6**) S.I. 1991/762 (N.I. 7) as amended by S.I. 1996/1633 (N.I. 12) and 1999 c. 28
(**7**) Article 47(3A) was inserted by paragraphs 26 and 40 of Schedule 5 to the Food Standards Act 1999 (c. 28)
(**8**) O.J. No. L 31, 1.2.2002, p. 1, last amended by Regulation (EC) No. 596/2009 of the European Parliament and of the Council (O.J. No. L 188, 18.7.2009, p. 14)

Accordingly, the Department makes the following Regulations in exercise of the powers conferred by section 2(2) of, and paragraph 1A(**9**) of Schedule 2 to, the European Communities Act 1972; and Articles 15(1)(**10**), 16(**11**), 25(**12**), 26(3)(**13**) and 47(2)(**14**) of the Food Safety (Northern Ireland) Order 1991.

PART 1

General

Citation and commencement

1. These Regulations may be cited as the Eggs and Chicks Regulations (Northern Ireland) 2010 and shall come into operation on 28th April 2010.

Interpretation

2.—(1) In these Regulations—

"authorised officer" means any person who has written authority from the Department or a district council to act in matters arising under or in relation to the Order or these Regulations;

"breeding establishment" has the meaning given by Article 1(3)(b) of Commission Regulation (EC) No. 617/2008;

"chicks" has the meaning given by Article 1(2) of Commission Regulation (EC) No. 617/2008;

"Commission Regulation (EC) No. 589/2008" means Commission Regulation (EC) No. 589/2008 laying down detailed rules for implementing Regulation (EC) No. 1234/2007 as regards marketing standards for eggs, as amended from time to time;

"Commission Regulation (EC) No. 617/2008" means Commission Regulation (EC) No. 617/2008 laying down detailed rules for implementing Regulation (EC) No. 1234/2007 as regards marketing standards for eggs for hatching and farmyard poultry chicks, as amended from time to time;

"Council Directive 1999/74/EC" means Council Directive 1999/74/EC(**15**) laying down minimum standards for the protection of laying hens;

"Directive 2000/13/EC" means Directive 2000/13/EC(**16**) of the European Parliament and of the Council on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs;

"door-to-door selling" means a sale which is made during an unsolicited visit by a producer to the final consumer's home, or to the home of another person, or to the final consumer's place of work;

(**9**) Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 (c. 51)
(**10**) Article 15(1) was amended by paragraphs 26 and 27 of Schedule 5 to the Food Standards Act 1999
(**11**) Article 16 was amended by paragraphs 26 and 27 of Schedule 5 to the Food Standards Act 1999
(**12**) Article 25 was amended by Schedule 6 to the Food Standards Act 1999
(**13**) Article 26(3) was amended by paragraphs 26, 33(1) and (5) of Schedule 5 to the Food Standards Act 1999
(**14**) Article 47(2) was amended by paragraphs 26 and 27 of Schedule 5 to the Food Standards Act 1999
(**15**) O.J. No. L 203, 3.8.1999, p. 53, last amended by Council Regulation (EC) No. 806/2003 (O.J. No. L 122, 16.5.2003, p. 1)
(**16**) O.J. No. L 109, 6.5.2000, p. 29, last amended by Regulation (EC) No. 596/2009 of the European Parliament and of the Council (O.J. No. L 188, 18.7.2009, p.33)

"eggs" has the meaning given by sub-paragraph (k) of the second paragraph of Article 1 of Commission Regulation (EC) No. 589/2008;

"eggs for hatching" has the meaning given by Article 1(1) of Commission Regulation (EC) No. 617/2008;

"enforcement authority" means an authority exercising a function conferred on it by regulation 16;

"final consumer" has the meaning given by sub-paragraph (r) of the second paragraph of Article 1 of Commission Regulation (EC) No. 589/2008;

"hatchery" has the meaning given by Article 1(3)(c) of Commission Regulation (EC) No. 617/2008;

"local public market", in relation to eggs laid at a production site, means a public market in Northern Ireland where eggs are sold directly to the consumer;

"market", when used as a noun, means—

(a) a market or fair which the right to hold it was acquired by virtue of a grant (including a presumed grant) or acquired or established by virtue of an enactment or subordinate legislation; and

(b) a temporary market—

(i) comprising of a concourse of buyers and sellers of articles held otherwise than in a building or on a highway, with not less than five stalls, stands, vehicles (whether movable or not) or pitches from which articles are sold; and

(ii) operating in accordance with the requirements of bye-laws made by district councils pursuant to the provisions of section 103 of the Public Health (Ireland) Act 1878 and Part VI of the Local Government Act (Northern Ireland) 1972;

"packing centre" has the meaning given by sub-paragraph (q) of the second paragraph of Article 1 of Commission Regulation (EC) No. 589/2008;

"pedigree breeding establishment" has the meaning given by Article 1(3)(a) of Commission Regulation (EC) No. 617/2008;

"production site" has the meaning given by sub-paragraph (p) of the second paragraph of Article 1 of Commission Regulation (EC) No. 589/2008;

"Regulation (EC) No. 2160/2003" means Regulation (EC) No. 2160/2003(**17**) of the European Parliament and of the Council on the control of salmonella and other specified food-borne zoonotic agents;

"Single CMO Regulation" means Council Regulation (EC) No. 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation), as amended from time to time;

"the Department" means the Department of Agriculture and Rural Development; and

"the Order" means the Food Safety (Northern Ireland) Order 1991.

(2) The Interpretation Act (Northern Ireland) 1954(**18**) shall apply to these Regulations as it applies to an Act of the Assembly.

(3) Any expression which is not defined in paragraph (1), but is used in Part 2 of, or Schedule 1 to, these Regulations and in Part C of Annex XIV to the Single CMO Regulation has the same meaning in those provisions of these Regulations as it does in the Single CMO Regulation.

(**17**) O.J. No. L 325, 12.12.2003, p. 1, last amended by Regulation (EC) No. 596/2009 (O.J. No. L 188, 18.7.2009, p. 14)
(**18**) 1954 c. 33 (N.I.)

(4) Any expression which is not defined in paragraph (1), but is used in Part 3 or 4 of, or Schedule 2 to, these Regulations and in Part A of Annex XIV to the Single CMO Regulation, or Commission Regulation (EC) No. 589/2008, has the same meaning in those provisions of these Regulations as it does in the EC Regulation in which it is used.

(5) Any expression which is not defined in paragraph (1) but is used in Schedule 3 to these Regulations and in Regulation (EC) No. 2160/2003 has the same meaning in Schedule 3 as it does in Regulation (EC) No. 2160/2003.

(6) Any reference to a contravention of, or failure to comply with, any provision mentioned in Schedule 1 means a contravention of or failure to comply with—

(a) any provision of the Single CMO Regulation mentioned in column 1 of Part 1 of Schedule 1, as read with any provision mentioned in any corresponding entry in column 2 of that Part; or

(b) any provision of Commission Regulation (EC) No. 617/2008 mentioned in column 1 of Part 2 of Schedule 1, as read with any provision mentioned in any corresponding entry in column 2 of that Part.

(7) Any reference to a contravention of, or failure to comply with, any provision mentioned in Schedule 2 means a contravention of or failure to comply with—

(a) any provision of the Single CMO Regulation mentioned in column 1 of Part 1 of Schedule 2, as read with any provision mentioned in any corresponding entry in column 2 of that Part; or

(b) any provision of Commission Regulation (EC) No. 589/2008 mentioned in column 1 of Part 2 of Schedule 2, as read with any provision mentioned in any corresponding entry in column 2 of that Part.

(8) Any reference to a contravention of, or failure to comply with, any provision mentioned in Schedule 3 means a contravention of, or failure to comply with, any provision of Regulation (EC) No. 2160/2003 mentioned in column 1 of Schedule 3, as read with any provision mentioned in the corresponding entry in column 2 of that Schedule.

PART 2

Eggs for hatching and chicks

Application of this Part

3.—(1) This Part applies to eggs for hatching and chicks to which point I(1) of Part C of Annex XIV to the Single CMO Regulation and Commission Regulation (EC) No. 617/2008 apply.

(2) But it does not apply to establishments and hatcheries of the type mentioned in point I(2) of Part C of Annex XIV to the Single CMO Regulation.

Compliance with European provisions

4. A person is guilty of an offence if they contravene, or fail to comply with, any provision mentioned in Schedule 1.

Registration of pedigree breeding establishments, breeding establishments and hatcheries

5.—(1) The Department is designated as the competent authority for the purpose of Article 2(1) of Commission Regulation (EC) No. 617/2008 (registration of pedigree breeding establishments, other breeding establishments and hatcheries).

(2) Where an application is made to the Department pursuant to Article 2(1) of Commission Regulation (EC) No. 617/2008, the Department 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 the Department receives the application.

(3) The matters are—

(a) the Department's decision on the application;

(b) the reasons for any refusal to grant the application; and

(c) in the case of any refusal to grant the application, the right of appeal conferred by regulation 22 of these Regulations.

(4) Where the Department is not satisfied that an application should be granted, the Department 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 Department is not satisfied with the sufficiency of the data provided in support of the application, the Department may ask the applicant to provide further data;

(b) where the Department is not satisfied that all of the provisions mentioned in Schedule 1 that are relevant to the type of establishment to be registered will be complied with following the registration of that establishment, the Department may ask the applicant to take specified steps to ensure that those provisions will be complied with; and

(c) the Department may give the applicant an opportunity to provide oral or written explanations to the Department in respect of the application.

(5) Where the Department decides to withdraw a registration of a pedigree breeding establishment, other breeding establishment or hatchery because of a contravention of, or failure to comply with, any provision mentioned in Schedule 1, the Department must give a notice to the person carrying on business at the establishment concerned ("P") notifying them of the matters mentioned in paragraph (6).

(6) The matters are—

(a) the Department's decision to withdraw the registration;

(b) the date on which the withdrawal of the registration is to take effect;

(c) the reasons for the withdrawal; and

(d) the right of appeal conferred by regulation 22 of these Regulations.

(7) Where the Department is minded to withdraw a registration of a pedigree breeding establishment, other breeding establishment or hatchery because of a contravention of, or failure to comply with, any provision mentioned in Schedule 1, the Department may (before making a final decision about whether or not to withdraw the registration) give a notice to P notifying them that the Department is minded to withdraw the registration, and the reasons for this, and—

(a) where the contravention of, or failure to comply with, any provision mentioned in Schedule 1 is continuing, the Department may ask P to take specified steps to ensure that that provision is complied with; and

(b) the Department may give P an opportunity to provide oral or written explanations to the Department in respect of the matter.

(8) Where the Department gives a notice to an applicant under paragraph (4), or to P under paragraph (7), the Department must specify a deadline in the notice by which any action mentioned in the notice must be taken.

(9) Any deadline given by the Department under this regulation may be extended on one or more occasions.