STATUTORY RULES OF NORTHERN IRELAND

2008 No. 98

FOOD

The Eggs and Chicks Regulations (Northern Ireland) 2008

Made - - - -	*10th March 2008*
Coming into operation	*14th April 2008*

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 the reference to Commission Regulation (EEC) No. 1868/77(**3**) laying down detailed rules of application for Regulation (EEC) No. 2782/75(**4**) of the Council on the production and marketing of eggs for hatching and of farmyard poultry chicks, Council Regulation (EC) No. 1028/2006(**5**) on certain marketing standards for eggs and Commission Regulation (EC) No. 557/2007(**6**) laying down detailed rules for implementing Council Regulation (EC) No. 1028/2006, to be construed as a reference to those Regulations as amended from time to time.

Insofar as these Regulations are made in exercise of powers under the Food Safety (Northern Ireland) Order 1991(**7**), the Department has had regard to relevant advice given by the Food Standards Agency as required by Article 47(3A)(**8**) 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(**9**) 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.

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

(**1**) S.I. 2000/2812
(**2**) 1972 c. 68
(**3**) O.J. No. L 209, 17.8.1977, p. 1, last amended by Commission Regulation (EC) No. 1792/2006 (O.J. No. L 362, 20.12.2006, p. 1
(**4**) O.J. No. L 282, 1.11.1975, p. 100, last amended by Council Regulation (EC) No. 1791/2006 (O.J. No. L 363, 20.12.2006, p. 1)
(**5**) O.J. No. L 186, 7.7.2006, p. 1
(**6**) O.J. No. L 132, 24.5.2007, p. 5
(**7**) S.I. 1991/762 (N.I. 7) as amended by S.I. 1996/1633 (N.I. 12)
(**8**) Article 47(3A) was inserted by paragraphs 26 and 40 of Schedule 5 to the Food Standards Act 1999 (c. 28)
(**9**) O.J. No. L 31, 1.2.2002, p. 1, last amended by Commission Regulation (EC) No. 575/2006 (O.J. No. L 100, 8.4.2006, p.3)
(**10**) Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 (c. 51)
(**11**) Article 15(1) was amended by paragraphs 26 and 27 of Schedule 5 to the Food Standards Act 1999
(**12**) Article 16 was amended by paragraphs 26 and 27 of Schedule 5 to the Food Standards Act 1999
(**13**) Article 25 was amended by Schedule 6 to the Food Standards Act 1999

PART 1

Introduction

Citation, commencement and application

1.—(1) These Regulations may be cited as the Eggs and Chicks Regulations (Northern Ireland) 2008 and shall come into operation on 14th April 2008.

(2) These Regulations apply—

(a) to eggs for hatching and chicks to which Council Regulation (EEC) No. 2782/75 and Commission Regulation (EEC) No. 1868/77 apply; and

(b) to eggs to which Council Regulation (EC) No. 1028/2006 and Commission Regulation (EC) No. 557/2007 apply (eggs in shell produced for consumption by hens of the species *Gallus gallus*).

(3) But they do not apply—

(a) to the sale of eggs to which Council Regulation (EC) No. 1028/2006 and Commission Regulation (EC) No. 557/2007 apply, where the eggs are sold, without any quality or weight grading, directly to the final consumer by the producer—

(i) on the production site;

(ii) by door-to-door selling in the region of production; or

(b) except insofar as they relate to the requirement imposed by Article 4(3) of Council Regulation (EC) No. 1028/2006 to mark eggs in accordance with Article 4(1) of that Regulation, to the sale of eggs to which Council Regulation (EC) No. 1028/2006 and Commission Regulation (EC) No. 557/2007 apply, where the eggs are sold, without any quality or weight grading, directly to the final consumer by the producer in a local public market in the region of production.

(4) In paragraph (3)(a)(ii) "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.

Interpretation

2.—(1) In these Regulations—

"authorised officer", means a person who is authorised by the Department or a district council, in accordance with regulation 15 either generally or specially, to act in matters arising under these Regulations;

"breeding establishment" has the meaning given by Article 1(3)(b) of Council Regulation (EEC) No. 2782/75;

"chicks" has the meaning given by Article 1(2) of Council Regulation (EEC) No. 2782/75(**16**);

"Commission Regulation (EEC) No. 1868/77" means Commission Regulation (EEC) No. 1868/77 laying down detailed rules of application for Regulation (EEC) No. 2782/75, as amended from time to time;

(**14**) Article 26(3) was amended by paragraphs 26, 33(1) and (5) of Schedule 5 to the Food Standards Act 1999
(**15**) Article 47(2) was amended by paragraphs 26 and 27 of Schedule 5 to the Food Standards Act 1999
(**16**) O.J. No. L 282, 1.11.1975, p. 100. Article 1(2) of Council Regulation (EEC) No. 2782/75 was amended by Commission Regulation (EEC) No. 3987/87 (O.J. No. L 376, 31.12.1987, p. 20)

"Commission Regulation (EC) No. 557/2007" means Commission Regulation (EC) No. 557/2007 introducing detailed rules for implementing Council Regulation (EC) No. 1028/2006, as amended from time to time;

"Council Directive 1999/74/EC" means Council Directive 1999/74/EC(**17**) laying down minimum standards for the protection of laying hens;

"Council Regulation (EEC) No. 2782/75" means Regulation (EEC) No. 2782/75 of the Council on the production and marketing of eggs for hatching and of farmyard poultry chicks;

"Council Regulation (EC) No. 1028/2006" means Council Regulation (EC) No. 1028/2006 on marketing standards for eggs, as amended from time to time;

"Directive 2000/13/EC" means Directive 2000/13/EC(**18**) on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs;

"eggs" has the meaning given by Article 2(1) of Council Regulation (EC) No. 1028/2006;

"eggs for hatching" has the meaning given by Article 1(1) of Council Regulation (EEC) No. 2782/75(**19**);

"enforcement authority" means an authority exercising a function conferred on it by regulation 15;

"final consumer" has the meaning given by Article 2(8) of Council Regulation (EC) No. 1028/2006;

"hatchery" has the meaning given by Article 1(3)(c) of Council Regulation (EEC) No. 2782/75;

"packing centre" has the meaning given by Article 2(7) of Council Regulation (EC) No. 1028/2006;

"pedigree breeding establishment" has the meaning given by Article 1(3)(a) of Council Regulation (EEC) No. 2782/75;

"production site" has the meaning given by Article 2(6) of Council Regulation (EC) No. 1028/2006;

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

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

(2) The Interpretation Act (Northern Ireland) 1954(**20**) 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 2 to, these Regulations, and in Council Regulation (EEC) No. 2782/75, has the same meaning in those provisions of these Regulations as it does in the Council Regulation.

(4) Any expression which is not defined in paragraph (1), but is used in regulation 4(2) or Part 3 of, or Schedule 3 to, these Regulations and in Council Regulation (EC) No. 1028/2006 or Commission Regulation (EEC) No. 557/2007, has the same meaning in those provisions of these Regulations as it does in the Council or Commission Regulation in which it is used.

(5) Any reference to a contravention of or failure to comply with any provision mentioned in Schedule 2 shall mean a contravention of or failure to comply with—

(a) any provision of Council Regulation (EEC) No. 2782/75 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

(**17**) 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)
(**18**) O.J. No. L 109, 6.5.2000, p. 29, last amended by Commission Directive 2006/142/EC (O.J. No. L 368, 23.12.2006, p. 110)
(**19**) Article 1(1) of Council Regulation (EEC) No. 2782/75 was amended by Commission Regulation (EEC) No. 3987/87 (O.J. No. L 376, 31.12.1987, p. 20)
(**20**) 1954 c. 33 (N.I.)

(b) any provision of Commission Regulation (EEC) No. 1868/77 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.

(6) 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—

(a) any provision of Council Regulation (EC) No. 1028/2006 mentioned in column 1 of Part 1 of Schedule 3, 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. 557/2007 mentioned in column 1 of Part 2 of Schedule 3, as read with any provision mentioned in any corresponding entry in column 2 of that Part.

PART 2

Eggs for hatching and chicks

Compliance with Community provisions

3. A person is guilty of an offence if he contravenes, or fails to comply with, any provision mentioned in Schedule 2.

Registration of pedigree breeding establishments, breeding establishments and hatcheries

4.—(1) The Department is designated as the competent authority for the purpose of Article 3 of Council Regulation (EEC) No. 2782/75 (registration of pedigree breeding establishments, other breeding establishments and hatcheries) as read with Article 1 of Commission Regulation (EEC) No. 1868/77.

(2) Where an application is made to the Department pursuant to Article 3 of Council Regulation (EEC) No. 2782/75, it must notify the applicant of the matters specified in paragraph (3) within 28 days.

(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 17.

(4) Where the Department is not satisfied that an application should be granted, it may (instead of refusing the application) notify the applicant 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, it may ask the applicant to provide further data;

(b) where the Department is not satisfied that all the provisions mentioned in Schedule 2 that are relevant to the type of establishment to be registered will be complied with following the registration of that establishment, it may ask the applicant to take steps to ensure that those provisions will be complied with; and

(c) it may give the applicant an opportunity to provide oral or written explanations to it 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 2, it must notify the person carrying on business

at the establishment concerned ("the operator") of the matters specified in paragraph (6) within 28 days.

(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 17.

(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 2, it may (instead of withdrawing the registration) notify the operator that it 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 2 is continuing, it may ask the operator to take steps to ensure that that provision is complied with; and

(b) it may also give the operator an opportunity to provide oral or written explanations to it in respect of the matter.

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

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

(10) Any notice given by the Department under this regulation must be in writing.

(11) For the purposes of calculating the 28-day time limit specified in paragraph (2), the clock is stopped during any period that the Department gives an applicant to take any action specified in a notice given by the Department under paragraph (4).

Derogation relating to the marking of eggs for hatching

5. Eggs for hatching may be marked in a different manner from that specified in Article 2(1) of Commission Regulation (EEC) No. 1868/77 if—

(a) the marking of the eggs complies with the requirements set out in the first sub-paragraph of Article 2(2) of that Regulation; and

(b) the other requirements set out in the first and second sub-paragraphs of Article 2(2) are met.

PART 3

Eggs in shell for consumption

Compliance with Community provisions

6. A person is guilty of an offence if he contravenes, or fails to comply with, any provision mentioned in Schedule 3.