Commission Regulation (EC) No 1237/2007 of 23 October 2007 amending Regulation (EC) No 2160/2003 of the European Parliament and of the Council and Decision 2006/696/EC as regards the placing on the market of eggs from Salmonella infected flocks of laying hens (Text with EEA relevance)

COMMISSION REGULATION (EC) No 1237/2007

of 23 October 2007

amending Regulation (EC) No 2160/2003 of the European Parliament and of the Council and Decision 2006/696/EC as regards the placing on the market of eggs from *Salmonella* infected flocks of laying hens

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 2160/2003 of the European Parliament and of the Council of 17 November 2003 on the control of *Salmonella* and other specified food-borne zoonotic agents[(1)] and, in particular Article 5(6) thereof,

Having regard to 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[(2)], and in particular Article 9 thereof,

Whereas:

(1) Regulation (EC) No 2160/2003 lays down rules to ensure that proper and effective measures are taken to detect and control *Salmonella* and other zoonotic agents at all relevant stages of production, processing and distribution, particularly at the level of primary production, in order to reduce their prevalence and the risk they pose to public health.

(2) Pursuant to Annex II to Regulation (EC) No 2160/2003, with effect from 72 months after the date of entry into force of that Regulation, eggs may only be used for direct human consumption as table eggs if they originate from a commercial flock of laying hens subject to a national control programme and not under official restriction.

(3) Commission Decision 2006/696/EC of 28 August 2006 laying down a list of third countries from which poultry, hatching eggs, day-old chicks, meat of poultry, ratites and wild game-birds, eggs and egg products and specified pathogen-free eggs may be imported into and transit through the Community and the applicable veterinary certification conditions, and amending Decisions 93/342/EEC, 2000/585/EC and 2003/812/EC[(3)] lays down veterinary certification conditions for imports and transit through the Community of eggs and egg products.

(4) A high prevalence of *Salmonella Enteritidis* and *Salmonella Typhimurium* was detected in flocks of laying hens in Member States during a study carried out in accordance with

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EC) No 1237/2007. (See end of Document for details)*

Commission Decision 2004/665/EC of 22 September 2004 concerning a baseline study on the prevalence of *Salmonella* in laying flocks of *Gallus gallus*[(4)].

(5) According to the Report of the European Food Safety Authority on Trends and Sources of Zoonoses, Zoonotic agents and Antimicrobial Resistance and Foodborne Outbreaks in the European Union in 2005[(5)] eggs and egg products are the most important source of known foodborne outbreaks of *salmonellosis* in humans. In addition, according to that report, *Salmonella Enteritidis* and *Salmonella Typhimurium* were responsible for 88 % of the outbreaks where the serovar was demonstrated.

(6) In view of the high prevalence of *Salmonella Enteritidis* and *Salmonella Typhimurium* in certain Member States, its public health impact and the reluctance of food business operators to trade table eggs from infected flocks, the date on which restrictions on the consumption of table eggs are to apply, should be brought forward but should still allow food business operators sufficient time to comply with the new requirements without causing any disturbance to markets.

(7) However, where a flock of laying hens has been indicated as the source of infection in a food borne outbreak as a result of the epidemiological investigation of food-borne outbreaks in accordance with Directive 2003/99/EC of the European Parliament and the Council of 17 November 2003 on the monitoring of zoonoses and zoonotic agents, amending Council Decision 90/424/EEC and repealing Council Directive 92/117/EEC[(6)], the restrictions on the use of table eggs set out in Annex II to Regulation (EC) No 2160/2003 should apply without delay.

(8) Taking account of the public health risk of eggs infected with *Salmonella*, rules should be laid down on the marking of eggs to guarantee that eggs from flocks which are subject to restrictions within the framework of a *Salmonella* control programme provided for in Regulation (EC) No 2160/2003, are marked in a way which easily distinguishes them from table eggs before being placed on the market.

(9) In order to exclude false-positive initial results, the competent authority should be allowed to lift the restrictions laid down in Paragraph 2 of Part D to Annex II of that Regulation if the *Salmonella* infection is not confirmed in the flocks of laying hens using a strict protocol.

(10) Third countries, from which Member States are authorised to import eggs, should provide guarantees, equivalent to the requirements within the Community and the model certificate for eggs in Decision 2006/696/EC should be amended accordingly.

(11) Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 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[(7)], in particular Article 12 thereof, lays down rules concerning food and feed exported or re-exported from the Community for placing on the market in a third country. Those provisions apply to table eggs. Accordingly, it is not necessary to lay down specific provisions with regard to the export of such eggs in this Regulation.

(12) To avoid any disturbance of trade, the use of certificates issued in accordance with the current model certificates set out in Decision 2006/696/EC should be allowed for a period of 60 days following the date of application of this Regulation.

(13) Regulation (EC) No 2160/2003 should therefore by amended accordingly.

(14) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on the Food Chain and Animal health,

HAS ADOPTED THIS REGULATION:

Article 1

Annex II to Regulation (EC) No 2160/2003 is amended in accordance with Annex I to this Regulation.

Article 2

Annex II to Decision 2006/696/EC is amended in accordance with Annex II to this Regulation.

Article 3

Consignments of eggs for which certificates have been issued in accordance with Decision 2006/696/EC in its version before 1 November 2007 may be imported into the Community for a period of 60 days following that date.

Article 4

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

It shall apply from:

— 1 November 2007 where *Salmonella* ssp. are identified in the flock of laying hens as the source of infection for humans by the consumption of eggs or egg products as a result of the epidemiological investigation of food-borne outbreaks in accordance with Article 8 of Directive 2003/99/EC,

— 1 January 2009 at the latest to all other flocks of laying hens.

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

Done at Brussels, 23 October 2007.

For the Commission

Markos KYPRIANOU

Member of the Commission

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EC) No 1237/2007. (See end of Document for details)*

ANNEX I

In Annex II to Regulation (EC) No 2160/2003, Part D is replaced by the following:

D. Specific requirements concerning flocks of laying hens

1. Eggs shall not be used for direct human consumption as table eggs unless they originate from a commercial flock of laying hens subject to a national control programme established under Article 5 and not under official restriction.

2. Eggs originating from flocks with unknown health status, that are suspected of being infected or that are infected with *Salmonella* serotypes for which a target for reduction has been set or which were identified as the source of infection in a specific human foodborne outbreak, may be used for human consumption only if treated in a manner that guarantees the destruction of all *Salmonella* serotypes with public health significance in accordance with Community legislation on food hygiene.

Eggs originating from flocks with unknown health status, that are suspected of being infected or that are infected with *Salmonella* serotypes for which a target for reduction has been set or which were identified as the source of infection in a specific human foodborne outbreak, shall be:

(a) considered as Class B eggs as defined in Article 2(4) of Commission Regulation (EC) No 557/2007 laying down detailed rules for implementing Council Regulation (EC) No 1028/2006 on marketing standards for eggs[8];

(b) marked with the indication referred to in Article 10 of Commission Regulation (EC) No 557/2007 which clearly distinguishes them from Class A eggs prior to being placed on the market;

(c) prohibited access to packaging centres unless the competent authority is satisfied with the measures to prevent possible cross-contamination of eggs from other flocks.

3. When birds from infected flocks are slaughtered or destroyed, steps must be taken to reduce the risk of spreading zoonoses as far as possible. Slaughtering shall be carried out in accordance with Community legislation on food hygiene. Products derived from such birds may be placed on the market for human consumption in accordance with Community legislation on food hygiene and, once applicable, part E. If not destined for human consumption, such products must be used or disposed of in accordance with Regulation (EC) No 1774/2002.

4. In order to exclude false-positive initial results, the competent authority may lift the restrictions laid down in point 2 of this Part:

(a) when the flock of layers is not the source of infection for humans by the consumption of eggs or egg products as a result of the epidemiological investigation of food-borne outbreaks in accordance with Article 8 of Directive 2003/99/EC; and

(b) where the flock is subjected to a national control programme established under Article 5 and *Salmonella* serotypes for which a target for reduction has been set, is not confirmed by the following sampling protocol carried out by the competent authority:

(i) the technical specifications referred to in Article 5 of Commission Decision 2004/665/EC (seven samples); however, a sub-sample of 25 grams must be collected of each faecal material and dust sample for analysis; all samples must be analysed separately;

or