Commission Regulation (EC) No 1515/2004 of 26 August 2004 amending Regulation (EC) No 2295/2003 introducing detailed rules for implementing Council Regulation (EEC) No 1907/90 on certain marketing standards for eggs

COMMISSION REGULATION (EC) No 1515/2004

of 26 August 2004

amending Regulation (EC) No 2295/2003 introducing detailed rules for implementing Council Regulation (EEC) No 1907/90 on certain marketing standards for eggs

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1907/90 of 26 June 1990 on certain marketing standards for eggs[(1)] and in particular Articles 5(3), 7(1)(d), 10(3), 20(1) and 22(2) thereof,

Whereas:

(1) The experience gained in applying Commission Regulation (EC) No 2295/2003[(2)] shows that adjustments should be made to certain provisions of that Regulation.

(2) The work of collectors involves collecting eggs from production sites and delivering them to packing centres and other establishments, including undertakings in the food and non-food industries. It should be specified which establishments such deliveries may be made to.

(3) The quality of eggs depends in part on how quickly they are collected from the production site and delivered to the packing centre. The fact that operators use different collecting and delivery procedures must not result in certain forms of organisation having an advantage over others. It is therefore necessary to specify the time limits applicable to the different practices used.

(4) The Community rules distinguish between operators according to the conditions in which they handle livestock products and do not require establishments to be approved where they merely engage in storage and transport operations not calling for controlled temperatures. Accordingly, collectors who simply transport eggs between the production site and the establishment which is to handle the eggs should be required only to register; detailed rules should be laid down regarding approval and separate formalities should be introduced for registering this category of collectors.

(5) Because eggs lose water and weight between the time they are laid and the date on which they are sold to the end consumer, it should be specified that the total net weight indicated when the eggs are packed must correspond at least to the total net weight of the eggs when they are sold to the end consumer.

(6) Grade A eggs may be delivered to the industry without having been graded by weight. The distinguishing marking ‘Grade A eggs’ should therefore be applied to containers delivered to the establishments concerned.

(7) The marking of eggs and packs as provided for in Articles 7 and 10 of Regulation (EC) No 1907/90 may be done on different dates. Those dates should be specified.

(8) In order to prevent fraud in the use of exclusive contracts as referred to in Article 8(5) of Regulation (EC) No 2295/2003, the Member States should be free to fix a minimum duration of more than one month for such contracts.

(9) In order to ensure proper traceability for eggs transferred from one packing centre to another, the first packing centre should be required to stamp the eggs before they are delivered to the second.

(10) The provisions of Article 12(3) of Regulation (EC) No 2295/2003 on grading, packing and delivery to another packing centre cause some confusion and duplicate Article 2. They should therefore be deleted.

(11) So that eggs are marked in the same way irrespective of rearing method, use of the codes set out in point 2.1. of the Annex to Commission Directive 2002/4/EC of 30 January 2002 on the registration of establishments keeping laying hens covered by Council Directive 1999/74/EC[(3)] should be allowed in all cases.

(12) In order to inform consumers of the meaning of the distinguishing number of the producer and the codes used where eggs are sold in bulk, it must be made compulsory to provide an explanation on large packs and other packs, such as those covered with plastic film, or on a separate notice.

(13) To inform consumers in cases where eggs are sold as ‘washed eggs’ or ‘chilled eggs’, the eggs must be marked so they can be distinguished from eggs marketed as grade A eggs, while requiring that such eggs also bear the other markings required for grade A eggs.

(14) Non-marking of eggs intended for industry might give rise to fraud involving batches of eggs infringing Community rules being placed on the market for retail sale. Restrictions should be placed on the derogations permitted for such deliveries.

(15) In line with the Community's international obligations, grade B eggs imported from third countries are exempt from the marking requirements. However, given the risk of fraud inherent in such trade on the internal market, surveillance measures should be put in place to ensure that the products reach the correct final destination.

(16) In the case of eggs imported from third countries, Community legislation provides for the recognition of the standards applied in certain third countries in accordance with Article 11 of Council Regulation (EEC) No 2092/91 of 24 June 1991 on organic production of agricultural products and indications referring thereto on agricultural products and foodstuffs[(4)]. Such eggs should be marked directly in the country of origin concerned, under the same conditions as those provided for in the Community.

(17) In order to rationalise the presentation of the measures on the recording of information to be provided by the different categories of economic operators, the obligations provided for in Articles 25, 26 and 27 of Regulation (EC) No 2295/2003 should be grouped by category of operator and by type of obligation.

(18) Article 6(4) of Regulation (EEC) No 1907/90 provides that certain packing centres may be approved for washing eggs. The notification containing the list of packing centres must therefore also contain this specific additional information.

(19) Certain derogations from the minimum requirements applicable to production systems remain in force until the dates specified in Article 4 of Council Directive 1999/74/EC of 19 July 1999 laying down minimum standards for the protection of laying hens[(5)]. However, those derogations may not concern obligations imposed by Community legislation applicable previously, in particular the minimum requirements set out in points (c) and (d) of Annex II to Commission Regulation (EEC) No 1274/91 of 15 May 1991 introducing detailed rules for implementing Regulation (EEC) No 1907/90 on certain marketing standards for eggs[(6)] before the amendment made by Commission Regulation (EC) No 1651/2001[(7)].

(20) For linguistic reasons, certain Greek synonyms equivalent to the terms to be used to indicate rearing methods for laying hens should be added in column 2 of Annex II.

(21) Regulation (EC) No 2295/2003 should be amended accordingly.

(22) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Poultrymeat and Eggs,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 2295/2003 is hereby amended as follows:

1. Article 1(3) is replaced by the following:

3. All collectors shall deliver eggs to establishments other than collectors, as referred to in Article 4(1)(a) of Regulation (EEC) No 1907/90, not later than the working day following that of reception.;

2. Article 2(1) is replaced by the following:

1. Packing centres shall grade and mark eggs at the latest on the second working day following that on which the eggs were received at the packing centre. They shall have one additional working day for packing them and marking the packs.

The first subparagraph shall not apply where eggs received from producers are delivered, after marking in accordance with Article 8(6), to a second packing centre to be graded by quality and weight and packed and for the packs to be marked. In such cases, the eggs must be delivered to the second packing centre no later than the working day following that on which they were received by the first. The eggs shall be graded no later than the working day following their reception by the second packing centre. The second packing centre shall have one additional working day for packing the eggs and marking the packs.

Where the first packing centre delivers the eggs to a second packing centre after having marked them and graded them by quality and weight, the second centre shall pack the eggs and mark the packs within one working day following their reception.

Article 1(4) shall apply to deliveries as referred to in the second and third subparagraphs. In cases as referred to in the third subparagraph, each container shall also show the weight grade and quality of the eggs.;

3. Article 3(1) is replaced by the following:

1. Only undertakings and producers satisfying the conditions laid down in paragraphs 2, 3 and 4 of this Article shall be approved as packing centres within the meaning of Article 5 of Regulation (EEC) No 1907/90 or registered as collectors.;

4. Article 4 is amended as follows:

(a) Paragraph 1 is replaced by the following:

1. Any request for approval of a packing centre or registration of a collector must be submitted to the competent authority of the Member State on whose territory the premises of the collector or centre are situated.;

(b) In paragraph 2, the introductory phrase shall be replaced by the following:

The competent authority shall allot the packing centre a distinguishing approval number with an initial code as follows:;

(c) The following paragraph 4 is added:

4. The competent authorities shall register separately undertakings which act only as collectors, in accordance with Article 4(2) of 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[8].;

5. Article 7 is amended as follows:

(a) paragraph 3 is replaced by the following:

3. Where grade A eggs or washed eggs of different sizes are packed together in the same pack in accordance with Article 13(3) of Regulation (EEC) No 1907/90, the total net weight of the eggs shall be given in grams and the indication “Eggs of different sizes” or equivalent terms shall appear.

The total net weight referred to in the first subparagraph shall take account of the physiological loss of weight by the eggs during storage and shall correspond to at least the total net weight of the eggs when they are sold to the end consumer.;

(b) paragraph 4 is replaced by the following:

4. Where grade A eggs are delivered under this denomination to food industry undertakings approved in accordance with Directive 89/437/EEC, weight grading shall not be compulsory and delivery shall take place in accordance with the conditions laid down in Article 1(4), with an additional indication on the container stating “Grade A eggs”.;

6. Article 8 is amended as follows:

(a) the first subparagraph of paragraph 1 is replaced by the following:

The markings provided for in Article 7 and Article 10(1) and (2)(c) of Regulation (EEC) No 1907/90 shall be applied no later than the day of grading and the day of packing, respectively.;

(b) Paragraph 3 is replaced by the following:

3. The distinguishing marks for grade A eggs and eggs fulfilling the criteria applicable to grade A eggs and marketed as "washed eggs" or "chilled eggs", shall consist of:

a the grade A distinguishing mark, which shall be a circle of at least 12 mm in diameter around the distinguishing mark for the weight grade consisting of the letter or letters indicated in Article 7(1) of this Regulation, at least 2 mm high, in the case of eggs marketed as grade A eggs;

b the distinguishing mark for "washed eggs", which shall be the word "tvättat" or "gewassen" in letters at least 2 mm high, in the case of eggs marketed as "washed eggs" in accordance with Article 5(2);

c the distinguishing mark for "chilled eggs", which shall be an equilateral triangle of at least 10 mm along the sides, in the case of eggs marketed as "chilled eggs" in accordance with Article 5(3);

d the distinguishing number of the producer, consisting of the codes and letters provided for in Directive 2002/4/EC, at least 2 mm high;

e the packing centre number in letters and figures at least 2 mm high;

f the dates, shown in letters and figures at least 2 mm high, in accordance with the terms given in Annex I, indicating the day and month as defined in Article 9 of this Regulation.;

(c) the second subparagraph of paragraph 4 is deleted.

(d) Paragraph 5 is replaced by the following:

5. Where eggs are delivered by a producer to a packing centre situated in another Member State, they shall be stamped with the distinguishing number of the producer before leaving the production site.

However, where the producer and the packing centre have signed an exclusive delivery contract for operations subcontracted in that Member State requiring them to carry out marking in accordance with this Article, the Member State on whose territory the production site is situated may grant an exception to this requirement, at the request of the operators and with the prior agreement of the Member State where the packing centre is situated. In such cases, a copy of the original contract, certified by the operators, shall accompany the consignment. The inspection authorities referred to in Article 29(2)(e) shall be informed that an exception has been granted.

The Member States shall determine the minimum duration of delivery contracts as referred to in the second subparagraph, which may not be less than one month.;

(e) the following paragraph 6 is inserted:

6. Where ungraded eggs are transferred from one packing centre to another, the eggs shall be stamped with the distinguishing number of the producer before leaving the first packing centre.;