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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**

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**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**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) ⁽¹⁾, and in particular Article 121(d) in conjunction with Article 4 thereof,

Whereas:

- (1) As of 1 July 2008, Council Regulation (EC) No 1028/2006 of 19 June 2006 on marketing standards for eggs ⁽²⁾ is repealed by Regulation (EC) No 1234/2007.
- (2) Certain provisions and obligations laid down in Regulation (EC) No 1028/2006 have not been incorporated in Regulation (EC) No 1234/2007.
- (3) Certain appropriate provisions and obligations should therefore be adopted within the framework of a regulation laying down detailed rules for implementing Regulation (EC) No 1234/2007 in order to ensure the continuity and smooth running of the common organisation of the market, and in particular marketing standards.
- (4) Regulation (EC) No 1234/2007 lays down the basic requirements which eggs must satisfy to be marketed in the Community. For the sake of clarity, new detailed rules for the implementation of those requirements should be laid down. Commission Regulation (EC) No 557/2007 ⁽³⁾, which laid down detailed rules for the application of Regulation (EC) No 1028/2006, should therefore be repealed and replaced by a new Regulation.
- (5) Regulation (EC) No 852/2004 of the European Parliament and of the Council of 29 April 2004 on the hygiene of foodstuffs ⁽⁴⁾ and 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 ⁽⁵⁾ apply to eggs. Therefore, reference should be made to the extent possible to those horizontal Regulations.

⁽¹⁾ OJ L 299, 16.11.2007, p. 1. Regulation as last amended by Regulation (EC) No 510/2008 (OJ L 149, 7.6.2008, p. 61).

⁽²⁾ OJ L 186, 7.7.2006, p. 1.

⁽³⁾ OJ L 132, 24.5.2007, p. 5. Regulation as amended by Regulation (EC) No 1336/2007 (OJ L 298, 16.11.2007, p. 3).

⁽⁴⁾ OJ L 139, 30.4.2004, p. 1. Corrected version in OJ L 226, 25.6.2004, p. 3.

⁽⁵⁾ OJ L 139, 30.4.2004, p. 55. Corrected version in OJ L 226, 25.6.2004, p. 22. Regulation as last amended by Commission Regulation (EC) No 1243/2007 (OJ L 281, 25.10.2007, p. 8).

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- (6) The quality characteristics for Class A eggs should be fixed in order to guarantee the high quality of eggs to be delivered directly to the final consumer and to set criteria that can be checked by inspection services. Such quality characteristics should be based on Standard No 42 of the United Nations Economic Commission for Europe (UN/ECE) concerning the marketing and commercial quality controls of eggs-in-shell moving in international trade between and to UN/ECE member countries.
- (7) Cold eggs left out at room temperature may become covered in condensation, facilitating the growth of bacteria on the shell and probably their ingress into the egg. Therefore, eggs should be stored and transported preferably at a constant temperature, and should in general not be refrigerated before sale to the final consumer.
- (8) In general, eggs should not be washed or cleaned because such practices can cause damage to the egg shell, which is an effective barrier to bacterial ingress with an array of antimicrobial properties. However, some practices, such as the treatment of eggs with ultra-violet rays, should not be interpreted as constituting a cleaning process. Moreover, Class A eggs should not be washed because of the potential damage to the physical barriers, such as the cuticle, which can occur during or after washing. Such damage may favour trans-shell contamination with bacteria and moisture loss and thereby increase the risk to consumers, particularly if subsequent drying and storage conditions are not optimal.
- (9) However, egg-washing systems subject to authorisation and operating under carefully controlled conditions are used in some Member States with good results. According to the opinion of the European Food Safety Authority, Scientific Panel on Biological Hazards on the request from the Commission related to the Microbiological risks on washing of table eggs adopted on 7 September 2005 ⁽¹⁾, the egg-washing practice as performed in certain packing centres can be sustained from a hygienic standpoint, provided, inter alia, that a code of practice for egg-washing systems is developed.
- (10) Class A eggs should be graded by weight. A limited number of weight grades and corresponding clear terms should therefore be fixed as well as minimum labelling requirements, which do not rule out additional voluntary labelling, provided the requirements of Directive 2000/13/EC of the European Parliament and of the Council of 20 March 2000 on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs ⁽²⁾ are met.

⁽¹⁾ *The EFSA Journal* No 269, 2005, p. 1.

⁽²⁾ OJ L 109, 6.5.2000, p. 29. Directive as last amended by Commission Directive 2007/68/EC (OJ L 310, 28.11.2007, p. 11).

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- (11) Only undertakings whose premises and technical equipment are suited to the scale and type of their operations, and which therefore allow eggs to be handled properly, should be authorised, as packing centres, to grade eggs by quality and weight.
- (12) Maximum time limits for the grading, marking and packing of eggs and the marking of packs should be fixed.
- (13) In addition to the general obligation to establish traceability of food, feed, food-producing animals, and any other substance intended to be, or expected to be, incorporated into food or feed at all stages of production, processing and distribution in accordance with 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⁽¹⁾, certain information to be indicated on transport packaging containing eggs and on accompanying documents, for the purpose of carrying out checks, should be laid down.
- (14) The marking of eggs with the producer code at the production site is essential where eggs are delivered to another Member State. With regard to Class B eggs in particular, it should be specified that if the producer code alone does not clearly indicate the quality grading, Class B eggs should be marked with another indication.
- (15) The composition of the producer code provided for in point 1 of part A, III of Annex XIV to Regulation (EC) No 1234/2007 should be fixed. Moreover, it should be clarified that an exception to the marking requirement with the producer code may be made if the technical equipment for egg marking does not allow for marking cracked or soiled eggs.
- (16) The characteristics of the other possible indications for marking Class B eggs as referred to in the second subparagraph of point 1 of part A, III of Annex XIV to Regulation (EC) No 1234/2007 should be defined.
- (17) When eggs are delivered directly to the food industry for processing and there is sufficient guarantee of their final destination, Member States may grant exemptions from the marking requirement to operators who so request.
- (18) Directive 2000/13/EC lays down rules of a general nature applicable to all foodstuffs put on the market. However, some specific marking requirements should be provided for packs.

⁽¹⁾ OJ L 31, 1.2.2002, p. 1. Regulation as last amended by Commission Regulation (EC) No 202/2008 (OJ L 60, 5.3.2008, p. 17).

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- (19) Article 9 of Directive 2000/13/EC defines the date of minimum durability of a foodstuff to be the date until which the foodstuff retains its specific properties when properly stored. For the sake of clarity, this date should be fixed at not more than 28 days after laying.
- (20) Eggs may be sold with an indication highlighting the particular freshness of the egg. For this purpose, a maximum time limit should be fixed for such indications.
- (21) Eggs may be sold with an indication highlighting the particular feed formula fed to the laying hens. Minimum requirements for the use of such indications should be laid down.
- (22) When eggs are sold loose, certain information normally on the pack should be accessible to the consumer.
- (23) In addition to the general hygiene requirements for the wrapping and packaging of foodstuffs, some additional requirements should be laid down in order to minimise the risk of deterioration or contamination of eggs during storage and transport. Such standards should be based on UN/ECE Standard No 42.
- (24) Industrial eggs are unfit for human consumption. Special bands or labels should therefore be required for the easy identification of packaging containing such eggs.
- (25) Only packing centres have the premises and technical equipment suitable for repacking eggs. Any repacking activities should therefore be restricted to packing centres.
- (26) Food business operators are obliged to establish traceability in accordance with Regulation (EC) No 178/2002. Producers, collectors and packing centres should be obliged to keep specific additional records in order to allow inspection services to check compliance with the marketing standards.
- (27) The methods and criteria for conducting checks should be laid down.
- (28) It is appropriate to check compliance with the marketing standards for a batch as a whole, and the marketing of a batch found not to be compliant should be prohibited unless compliance can be proven.
- (29) Certain tolerances should be allowed when checking compliance with the marketing standards. Such tolerances should differ according to the different requirements and marketing stages.
- (30) Third countries may have requirements different from those fixed for the Community for the marketing of eggs. In order to facilitate exports, eggs packed and intended for export should be allowed to conform to such requirements.

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- (31) Details should be fixed regarding the assessment of the equivalence of third-country marketing standards with Community legislation to be conducted by the Commission at the request of third countries. Certain marking and labelling requirements for eggs imported from third countries should be laid down.
- (32) It is useful for the Commission to have data available on the number of establishments registered as keeping laying hens.
- (33) Member States should communicate any significant infringement of the marketing standards so that other Member States that may be affected can be alerted in an appropriate manner.
- (34) Egg supply for the retail trade in the French overseas departments relies partly on the supply of eggs from the European continent. In view of the duration of transport and of climatic conditions, the preservation of eggs transported to the French overseas departments presupposes the fulfilment of specific supply arrangements, including the possibility to dispatch eggs chilled. These special arrangements can be justified by the current lack of sufficient local egg production capacities. Until sufficient local production capacities are built up, these exceptional arrangements should be prolonged for a reasonable period of time.
- (35) Point 2 of part A, I of Annex XIV to Regulation (EC) No 1234/2007 allows Member States to exempt certain forms of direct sales of eggs from producers to the final consumer from the requirements of that Regulation. In order to take account of the specific conditions of egg marketing in certain regions in Finland, sales from producers to retail outlets in those regions should be exempted from the requirements of Regulation (EC) No 1234/2007 and of this Regulation.
- (36) In accordance with Article 5(2) of Council Directive 1999/74/EC of 19 July 1999 laying down minimum standards for the protection of laying hens⁽¹⁾, Member States should ensure that rearing of laying hens in unenriched cage systems is prohibited with effect from 1 January 2012. The Commission should therefore evaluate the application of the voluntary labelling provisions foreseen with regard to enriched cages before that date in order to examine the need of rendering this labelling compulsory.
- (37) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for the Common Organisation of Agricultural Markets,

⁽¹⁾ OJ L 203, 3.8.1999, p. 53. Directive as amended by Regulation (EC) No 806/2003 (OJ L 122, 16.5.2003, p. 1).

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HAS ADOPTED THIS REGULATION:

*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;

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- (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.

⁽¹⁾ OJ L 30, 31.1.2002, p. 44.

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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.

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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;

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(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.

▼B*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.

▼M1*Article 11***Marking of eggs delivered directly to the food industry**

1. Save as otherwise provided for by the sanitary legislation, Member States may exempt operators at their request from the marking obligations provided for in Annex XIV.A.III(1) and in Annex XIV.A.IV(3) to Regulation (EC) No 1234/2007 where eggs are delivered directly from the production site to the food industry.
2. In the cases referred to in the first paragraph:
 - (a) Member States where the production site is established shall appropriately inform the competent authorities of the Member States concerned about the granting of the marking derogation before any deliveries take place;
 - (b) when the derogation concerns a supplier situated in a third country, the eggs shall be delivered to industry only provided that their final destination with a view to processing is checked by the competent authorities of the Member State granting the exception;
 - (c) the delivery shall be under the full responsibility of the food industry operator, which accordingly undertakes to use the eggs only for processing.

▼B*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;

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- (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 ⁽¹⁾.

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.

⁽¹⁾ OJ L 198, 22.7.1991, p. 1.

*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.

▼B*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.

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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.

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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;

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(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.

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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.

▼B*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.

▼M2*Article 37***Notifications**

1. At the request of the Commission, the Member States shall notify the Commission and the other Member States of the information necessary for the application of this Regulation.
2. The notifications to the Commission referred to in this Regulation shall be made in accordance with Commission Regulation (EC) No 792/2009 ⁽¹⁾.

⁽¹⁾ OJ L 228, 1.9.2009, p. 3.

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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*.

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.



ANNEX I

PART A

Terms referred to in point (a) of the second subparagraph of Article 12(2)

Code language	1	2	3
BG	‘Яйца от кокошки – свободно отглеждане на открито’	‘Яйца от кокошки – подово отглеждане’	‘Яйца от кокошки – клетъчно отглеждане’
ES	‘Huevos de gallinas camperas’	‘Huevos de gallinas criadas en el suelo’	‘Huevos de gallinas criadas en jaula’
CS	‘Vejce nosnic ve volném výběhu’	‘Vejce nosnic v halách’	‘Vejce nosnic v klecích’
DA	‘Frilandsæg’	‘Skrabeæg’	‘Buræg’
DE	‘Eier aus Freilandhaltung’	‘Eier aus Bodenhaltung’	‘Eier aus Käfighaltung’
ET	‘Vabalt peetavate kanade munad’	‘Õrrekanade munad’	‘Puuris peetavate kanade munad’
EL	‘Αυγά ελεύθερης βοσκής’	‘Αυγά αχυρόνα ή αυγά στρωμνής’	‘Αυγά κλωβοστοιχίας’
EN	‘Free range eggs’	‘Barn eggs’	‘Eggs from caged hens’
FR	‘Œufs de poules élevées en plein air’	‘Œufs de poules élevées au sol’	‘Œufs de poules élevées en cage’
GA	‘Uibheacha saor-raoin’	‘Uibheacha sciobóil’	‘Uibheacha ó chearca chúbarnaí’
IT	‘Uova da allevamento all'aperto’	‘Uova da allevamento a terra’	‘Uova da allevamento in gabbie’
LV	‘Brīvās turēšanas apstākļos dētās olas’	‘Kūtī dētās olas’	‘Sprostos dētās olas’
LT	‘Laisvai laikomų vištų kiaušiniai’	‘Ant kraiko laikomų vištų kiaušiniai’	‘Narvuose laikomų vištų kiaušiniai’
HU	‘Szabad tartásban termelt tojás’	‘Alternatív tartásban termelt tojás’	‘Ketreces tartásból származó tojás’
MT	‘Bajd tat-tigieġ imrobbija barra’	‘Bajd tat-tigieġ imrobbija ma’ l-art’	‘Bajd tat-tigieġ imrobbija fil-gaġeġ’
NL	‘Eieren van hennen met vrije uitloop’	‘Scharreleieren’	‘Kooieieren’
PL	‘Jaja z chowu na wolnym wybiegu’	‘Jaja z chowu ściółkowego’	‘Jaja z chowu klatkowego’
PT	‘Ovos de galinhas criadas ao ar livre’	‘Ovos de galinhas criadas no solo’	‘Ovos de galinhas criadas em gaiolas’
RO	‘Ouă de găini crescute în aer liber’	‘Ouă de găini crescute în hale la sol’	‘Ouă de găini crescute în baterii’
SK	‘Vajcia z chovu na voľnom výbehu’	‘Vajcia z podstiel'kového chovu’	‘Vajcia z klieťkového chovu’
SL	‘Jajca iz proste reje’	‘Jajca iz hlevske reje’	‘Jajca iz baterijske reje’
FI	‘Ulkokanojen munia’	‘Lattiakanojen munia’	‘Häkkikanojen munia’
SV	‘Ägg från utehöns’	‘Ägg från frigående höns inomhus’	‘Ägg från burhöns’



PART B

Terms referred to in the fourth subparagraph of Article 12(2)

Language	
BG	‘Уголемени клетки’
ES	‘Jaulas acondicionadas’
CS	‘Obohacené klece’
DA	‘Stimulusberigede bure’
DE	‘ausgestalteter Käfig’
ET	‘Täiustatud puurid’
EL	‘Αναβαθμισμένοι/Διευθετημένοι κλωβοί’
EN	‘Enriched cages’
FR	‘Cages aménagées’
GA	‘Cásanna Saibhrithe’
IT	‘Gabbie attrezzate’
LV	‘Uzlaboti būri’
LT	‘Pagerinti narveliai’
HU	‘Feljavított ketrecek’
MT	‘Gaġeg arrikkiti’
NL	‘Aangepaste kooi’ of ‘Verrijkte kooi’
PL	‘Klatki ulepszone’
PT	‘Gaiolas melhoradas’
RO	‘Cuști îmbunătățite’
SK	‘Obohatené klietky’
SL	‘Obogatene kletke’
FI	‘Varustellut häkit’
SV	‘Inredd bur’

*ANNEX II***Minimum requirements for systems of production for the various egg farming methods**

1. 'Free-range eggs' must be produced in systems of production which satisfy at least the conditions specified in Article 4 of Council Directive 1999/74/EC.

In particular, the following conditions must be satisfied:

- (a) hens must have continuous daytime access to open-air runs. However, this requirement does not prevent a producer from restricting access for a limited period of time in the morning hours in accordance with usual good farming practice, including good animal husbandry practice.

In case of other restrictions, including veterinary restrictions, adopted under Community law to protect public and animal health, having the effect of restricting access of hens to open-air runs, eggs may continue to be marketed as 'free-range eggs' for the duration of the restriction, but under no circumstances for more than 12 weeks;

- (b) open-air runs to which hens have access must be mainly covered with vegetation and not be used for other purposes except for orchards, woodland and livestock grazing if the latter is authorised by the competent authorities;
 - (c) the maximum stocking density of open-air runs must not be greater than 2 500 hens per hectare of ground available to the hens or one hen per 4 m² at all times. However, where at least 10 m² per hen is available and where rotation is practised and hens are given even access to the whole area over the flock's life, each paddock used must at any time assure at least 2,5 m² per hen;
 - (d) open-air runs must not extend beyond a radius of 150 m from the nearest pophole of the building. However, an extension of up to 350 m from the nearest pophole of the building is permissible provided that a sufficient number of shelters as referred to in Article 4(1)(3)(b)(ii) of Directive 1999/74/EC are evenly distributed throughout the whole open-air run with at least four shelters per hectare.
2. 'Barn eggs' must be produced in systems of production which satisfy at least the conditions specified in Article 4 of Directive 1999/74/EC.
 3. 'Eggs from caged hens' must be produced in systems of production which satisfy at least:
 - (a) the conditions specified in Article 5 of Directive 1999/74/EC until 31 December 2011; or
 - (b) the conditions specified in Article 6 of Directive 1999/74/EC.
 4. Member States may authorise derogations from points 1 and 2 of this Annex for establishments with fewer than 350 laying hens or rearing breeding laying hens as regards the obligations referred to in the second sentence of points 1(d), 1(e), 2, 3(a)(i) and 3(b)(i) of Article 4(1) of Directive 1999/74/EC.

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ANNEX III

Regions of Finland referred to in Article 34

The provinces of:

- Lappi,
- Oulu,
- the regions of North Karelia and North Savo of the province of Eastern Finland,
- Åland.



ANNEX IV

Correlation table referred to in Article 38

Regulation (EC) No 1028/2006	Regulation (EC) No 557/2007	This Regulation
—	Article 1, first paragraph	Article 1, first paragraph
—	Article 1, second paragraph, introductory wording	Article 1, second paragraph, introductory wording
—	Article 1, second paragraph, points (a) to (j)	Article 1, second paragraph, points (a) to (j)
Article 2(1) to (9)	—	Article 1, second paragraph, points (k) to (s)
—	Article 2	Article 2
—	Article 3	Article 3
—	Article 4	Article 4
Article 5(1)	—	Article 5(1), first subparagraph
—	Article 5(1)	Article 5(1), second subparagraph
Article 5(2)	—	Article 5(2), first subparagraph
—	Article 5(2)	Article 5(2), second subparagraph
—	Article 5(3)	Article 5(3)
Article 5(3)	—	Article 5(4)
—	Article 6	Article 6
—	Article 7	Article 7
—	Article 8	Article 8
—	Article 9	Article 9
—	Article 10	Article 10
—	Article 11(2)	Article 11
—	Article 12	Article 12
—	Article 13	Article 13
—	Article 14	Article 14
—	Article 15	Article 15
—	Article 16	Article 16
—	Article 17	Article 17
—	Article 18	Article 18
—	Article 19	Article 19
—	Article 20	Article 20
—	Article 21	Article 21
—	Article 22	Article 22
—	Article 23	Article 23
Article 7	—	Article 24(1), (2) and (3)
—	Article 24	Article 24(4) and (5)
—	Article 25	Article 25

▼B

Regulation (EC) No 1028/2006	Regulation (EC) No 557/2007	This Regulation
—	Article 26	Article 26
—	Article 27	Article 27
—	Article 28	Article 28
—	Article 29	Article 29
—	Article 30	Article 30
—	Article 31	Article 31
—	Article 32	Article 32
—	Article 33	Article 33
—	Article 34	Article 34
—	Article 35	Article 35
Article 8	—	Article 36
Article 9	—	Article 37
—	Article 36	Article 38
—	Article 37	Article 39
—	ANNEX I	ANNEX I
—	ANNEX II	ANNEX II
—	ANNEX III	ANNEX III
—	ANNEX IV	ANNEX IV
—	ANNEX V	—