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COMMISSION REGULATION (EC) No 1651/2001

of 14 August 2001

amending Regulation (EEC) No 1274/91 introducing detailed rules for implementing Council Regulation (EEC) No 1907/90 on certain marketing standards for eggs

(OJ L 220, 15.8.2001, p. 5)

Corrected by:

►**C1** Corrigendum, OJ L 335, 19.12.2001, p. 24 (1651/2001)

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amending Regulation (EEC) No 1274/91 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], as last amended by Regulation (EC) No 5/2001 [2], and in particular Article 10(3) and Article 20(1) and (4) thereof,

Whereas:

(1) Commission Regulation (EEC) No 1274/91 [3], as last amended by Regulation (EC) No 505/98 [4], lays down the necessary provisions for the implementation of marketing standards in the egg sector.

(2) In order to improve the traceability of eggs and the accuracy of date indications by packing centres, provisions to identify deliveries of eggs from producers to packing centres should be reinforced in particular regarding the indication of the laying date or laying period on the container at the production site as well as for the dispatch of ungraded eggs between packing stations.

(3) In the case of automated egg-candling systems, it is appropriate to authorise Member States to dispense with continuous manning of the machine.

(4) In order to ensure adherence to the existing weight grades comprising weight ranges of 10 g, rules should be reinforced to prevent splitting weight grades into two bands using different pack colours or symbols with different price structure, thus undermining orderly marketing and clear information of consumers.

(5) Experience has shown that it is not necessary to link the derogation permitting the delivery of non-packed eggs in small quantities directly from packer to retailer to the distance of delivery. The obligation to indicate the grading date must be replaced by the indication of the best-before date which is the compulsory date to be shown.

(6) The definitions of the date of minimum durability and of the recommended sell-by date should be clarified and be linked to the maximum time limit of 21 days after laying for the delivery of eggs to the consumer laid down in Council Decision 94/371/EC of 20 June 1994 laying down specific public health conditions for the putting of the market of certain types of eggs [5], which implies a maximum of not more than 28 days after laying for the date of minimum durability.

(7) Based on the experience gained and following the adoption of Council Directive 1999/74/EC of 19 July 1999 laying down minimum standards for the protection of laying hens [6], the detailed provisions regarding the optional indication of the various farming methods should be adapted with a view to reducing the number of such methods and to redefine the terms which may be used in the different Community languages in particular for the keeping of hens in battery cages. Furthermore,

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[1] OJ L 173, 6.7.1990, p. 5.
[2] OJ L 2, 5.1.2001, p. 1.
[3] OJ L 121, 16.5.1991, p. 11.
[4] OJ L 63, 4.3.1998, p. 16.
[5] OJ L 168, 2.7.1994, p. 34.
[6] OJ L 203, 3.8.1999, p. 53.

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the minimum requirements to be met by poultry establishments for the various farming methods should be brought in line with the provisions of Directive 1999/74/EC although certain additional criteria should be laid down for free range eggs in order to prevent abuse of open-air runs. It is also necessary to provide for more detailed rules regarding record keeping by operators in order to improve monitoring of product flow. Finally optional indication of farming methods should be extended to cover eggs for processing in order to promote the marketing of egg products manufactured from eggs of different types and their control.

(8) For the optional indication of eggs and their packs of how laying hens are fed, detailed rules must be laid down including in particular provisions which allow to monitor the flow of eggs produced from hens which are fed on a specific type of feed. These rules should provide for minimum rates for the incorporation of cereals when reference is made to their use in the feed of laying hens for which Member States may fix stricter requirements applicable only to producers of the Member State concerned and not impeding exchange of eggs in the Community. Supervision of these rules may also be delegated to bodies which are independent of producers and which should be allowed to recover the costs of controls from operators making use of the indications of how hens are fed and of the farming method in view of the optional character of these indications.

(9) Article 28 of Regulation (EEC) No 1274/91 provides that in the case of sales to the ultimate consumer the forms of wording for use on eggs and packs are to be expressed in a language or languages easily understood by purchasers in the Member State in which retailing takes place. This provision should be repealed as Article 16 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 [1] applies.

(10) It is therefore necessary to amend Regulation (EEC) No 1274/91 accordingly.

(11) In order to assure a smooth transition to the new system, rules applying before 1 July 2001 on indications of how hens are fed should continue to apply until the date of application of this Regulation. For other than newly built or rebuilt alternative production systems, minimum requirements laid down in Annex II(c) and (d) to Regulation (EEC) No 1274/91 applicable before the entry into force of this Regulation should continue to apply until the dates specified in Article 4 of Directive 1999/74/EC.

(12) The Management Committee for Poultrymeat and Eggs has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 1274/91 is amended as follows:

1. Article 1(5) is replaced by the following:

‘5. Each container shall be identified by the name and address or registered number of the producer establishment, the day or period of laying and the date of dispatch before leaving the production site.

In the case of packing centres supplied from their own production units situated at the same site with eggs which are not in containers, identification shall take place at the packing centre.

[1] OJ L 109, 6.5.2000, p. 29.

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Where ungraded eggs are passed from the first packing centre to other packing centres in different containers, each container must be identified with this information before leaving the packing centre.

Where the period of laying is indicated, the determination of the date of minimum durability and of the recommended sell-by date in accordance with Article 14(1a) and Article 16(2) respectively shall be made starting from the first date of that period.'

2. Point (a) of Article 3(3) is replaced by the following:

'(a) suitable candling equipment continuously manned throughout and allowing the quality of each egg to be examined separately. Where use is made of an automatic machine for candling, sorting and grading, the equipment must include an independent candling lamp. In the case of automated systems, the competent authority may dispense with continuous manning of the machine;'

3. Article 8(2) is replaced by the following:

'2. On packs the weight-grading shall be indicated by the respective letters or by the respective terms as defined in paragraph 1 or by a combination of both, which may be supplemented by the corresponding weight ranges. No subdivision of the weight ranges referred to in paragraph 1 shall be made using different pack colours, symbols, trademarks or other indications.'

4. Article 12(4) is replaced by the following:

'4. The derogation referred to in Article 11(2) of Regulation (EEC) No 1907/90 applies in the case of daily quantities of less than 3 600 eggs per delivery and of less than 360 eggs per buyer. The name, address and number of the packing centre as well as the number of eggs, quality and weight grades and date of minimum durability shall be indicated on accompanying documents.'

5. The following paragraph 1a is inserted in Article 14:

'1a. The date of minimum durability shall be the date until which grade "A" eggs will retain the characteristics described in Article 5(1) when properly stored. It shall be fixed at not more than 28 days after laying.'

6. Article 16(2) is replaced by the following text:

'2. The recommended sell-by date shall not exceed the maximum time limit for the delivery of eggs to the consumer of 21 days after laying as laid down in Article 3(1) of Council Decision 94/371/EC (*).

(*) OJ L 168, 2.7.1994, p. 34.'

7. Article 18 is amended as follows:

(a) Paragraph 1 is replaced by the following:

'1. In order to indicate the farming method as referred to in Article 7 and Article 10(3) of Regulation (EEC) No 1907/90 with the exception of organic or biological farming as referred to in Council Regulation (EEC) No 2092/91 (*), on eggs and on packs containing eggs, no other terms except those set out hereunder and the corresponding terms in the other Community languages listed in Annex II may be used and in any case only if the relevant conditions laid down in Annex III are fulfilled:

On packs	On eggs
Free range eggs	Free range
Barn eggs	Barn
Eggs from caged hens	Cage

These terms may be supplemented by indications referring to the particular characteristics of the respective farming method.

The terms on eggs may be replaced by a code designating the producer's distinguishing number permitting to identify the

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farming method provided that the meaning of the code is explained on the pack.

In the case of loose sales, the indications of the farming method may be used only if individual eggs are marked at the farm or packing centre with the respective term or the producer code, if the latter permits to identify the farming method, provided that its meaning is explained on a separate sign.

When the Member States have attributed the distinguishing number referred to in Article 7 of Council Directive 1999/74/EC (**) to producer establishments covered by this Directive no other codes shall be used.

If a Member State decides to attribute distinguishing numbers also for establishments not falling under the scope of Directive 1999/74/EC no other codes shall be used.

(*) OJ L 198, 22.7.1991, p. 1.

(**) OJ L 203, 3.8.1999, p. 53.'

(b) In paragraph 2, the introductory phrase of the first subparagraph is replaced by the following:

'2. Packing centres authorised to use the terms referred to in paragraph 1 shall keep a separate record by farming method for at least six months after the producer ceases to supply eggs or after the flock is disposed of:'

(c) Paragraph 4 is replaced by the following:

'4. Eggs as referred to in paragraph 1 shall be delivered to packing centres and to food industry undertakings approved in accordance with Directive 89/437/EEC in containers bearing one of the terms referred to in paragraph 1 in one or more Community languages. Containers shall be identified by name and address or registered number of producer, type of eggs, their number or weight and date of dispatch before leaving the production site. The date of delivery and records of all information on containers, and of physical stocks on a weekly basis shall be kept at the packing centre and food industry establishment for a period of at least six months.'

(d) Paragraph 6 is replaced by the following:

'6. Packing centres as referred to in paragraph 2 shall keep separate records of daily quality and weight grading and of sales of eggs and small packs marked in accordance with paragraph 1 including the name and address of buyer, number of packs, the number and/or weight of eggs sold by grade of weight and date of delivery as well as of physical stocks on a weekly basis. Instead of keeping sales records, they may, however, keep files of invoices or delivery notes marked as indicated in paragraph 1. Such records and files shall be kept for at least six months.'

(e) In paragraph 6a, the introductory phrase of the first subparagraph is replaced by the following:

'6a. Collectors and wholesalers are required to maintain records on purchases and sales transactions and physical stock records for eggs referred to in paragraph 1(a) and (b), for a period of at least six months.'

(f) Paragraph 7a is replaced by the following:

'7a. The provisions of paragraphs 2 to 6a do not apply when the term referred to in paragraph 1(c) is used.'

(g) The following paragraph 7b is inserted:

'7b. Packs containing eggs destined for food industry undertakings approved in accordance with Directive 89/437/EEC may be marked with the indications referred to in paragraph 1 provided that the eggs are produced in poultry establishments meeting the respective requirements set out in Annex III and that the monitoring measures referred to in paragraphs 2 to 6 are applied.'

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8. Article 18a(1) is replaced by the following:

'1. The Member States shall take all measures necessary to ensure the confidential character of information supplied pursuant to Article 17, Article 18(2), Article 18c(1) and Article 19(2) insofar as natural persons are concerned.'

9. Article 18b is replaced by the following:

'Article 18b

Supervision of the indications of the farming method used as referred to in Article 18(1), including indications regarding the particular characteristics of the respective farming method and of indications how laying hens are fed as referred to in Article 18c, may be delegated to bodies designated by the Member Sates which provide the necessary independence vis-à-vis the producers concerned and which shall comply with the criteria set out in European Standard No EN/45011 in force.

These bodies shall be licensed and supervised by the competent authorities of the Member State concerned.

The costs of controls charged by these bodies shall be borne by the operator using the indications referred to above.'

10. The following Article 18c is inserted:

'Article 18c

Where grade A eggs and packs bear an indication of how laying hens are fed, the following conditions and those laid down in Annex IV shall apply:

1. packing centres which make use of such indications shall keep a detailed record of deliveries, showing the name and address or registered number of the producer, the number or weight of eggs and the date of delivery. The producer shall keep current record of quantity and type of feed supplied and mixed on-site, date of supply and name of feed manufacturer or supplier, the number and age of laying hens, showing also the number of eggs produced and delivered, the date of dispatch, and the names of the purchaser.

   These records shall be kept for at least six months after the producer ceases to supply eggs or after the flock is disposed of;

2. feed manufacturers and suppliers shall keep records showing the composition of the feed supplied to the producers referred to in paragraph 1 for at least six months after dispatch;

3. packing centres as referred to in paragraph 1 shall keep separate records of the daily quality and weight grading and sales of small packs and of eggs marked with the terms referred to in paragraph 1, including name and address of the buyer, the number or weight of eggs sold and the date of delivery, as well as of physical stocks on a weekly basis for a period of at least six months.

   Instead of keeping sales records, they may however keep files of invoices or delivery notes bearing indications of how laying hens are fed;

4. large packs containing eggs or small packs marked with the indication of how laying hens are fed shall bear the same indications. In the case of loose egg sales, the indications may be used only if individual eggs are marked with the respective terms;

5. inspections regarding compliance with the statements made shall be carried out at the farm and feed manufacturer at least once a year;

6. the provisions of paragraphs 1 to 4 shall apply without prejudice to national technical measures going beyond the minimum requirements set out in Annex IV, which are applicable only to producers of the Member State concerned, provided that they are compatible with Community law and are in conformity with the common marketing standards for eggs;

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7. the national measures referred to in paragraph 6 shall be communicated to the Commission;

8. at any time and at the request of the Commission, Member States shall provide all the information necessary for assessing the compatibility of the measures referred to in this Article with Community law and their conformity with the common marketing standards for eggs.'

11. Article 19(2) is replaced by the following:

'2. Packing centres which make use of the terms and/or symbols referred to in paragraph 1 shall keep a detailed record of deliveries by origin, showing the name and address or registered number of the producer, the number or weight of eggs and the date of delivery. The producer shall keep current records of the number and age of laying hens, showing also the number of eggs produced and delivered, the date of dispatch, and the names of the purchaser. Such records shall be kept for at least six months after the producer ceases to supply eggs or after the flock has been disposed of.'

12. Article 19(3) is replaced by the following:

'3. Packing centres as referred to in paragraph 2 shall keep separate records of the daily quality and weight grading and sales of small packs and of eggs marked with the terms and/or symbols referred to in paragraph 1, including name and address of the buyer, the number or weight of eggs sold and the date of delivery, as well as of physical stocks on a weekly basis for at least six months. Instead of keeping records, they may however keep files of invoices or delivery notes marked as indicated in paragraph 1.'

13. Article 20(1), second indent, is replaced by the following:

'— annually, before 1 April, the average number of laying hens present ([1]), the number or weight of eggs delivered as recorded in accordance with Article 18(2) and (7)(b) as well as the number or weight of eggs sold as recorded in accordance with Article 18(6), in the previous calendar year.'

14. Article 28 is deleted.

15. In Annex I, 1. Date of minimum durability, the term 'Cons. de pref. antes de' is replaced by 'Cons. pref.'

16. Annex II is replaced by the text in Annex I to this Regulation.

17. The text in Annexes II and III to this Regulation is added as Annexes III and IV.

Article 2

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

Article 1 shall apply with effect from 1 January 2002. Rules applying before 1 July 2001 on indications of how laying hens are fed shall remain in force until 31 December 2001.

Until the dates specified in Article 4 of Directive 1999/74/EC as referred to in Annex II to this Regulation, minimum requirements referred to in Annex II(c) and (d) of Regulation (EEC) No 1274/91 applicable before the entry into force of this Regulation continue to apply in the case where other than newly built or rebuilt production systems have not yet been brought into conformity with this Article.

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

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ANNEX I

'ANNEX II

Terms for the indication of the types of egg farming (a): on packs; (b) on eggs

Code		1	2	3
EN	a)	Free-range eggs	Barn eggs	Eggs from caged hens
	b)	Free-range	Barn	Cage
FR	a)	Œufs de poules élevées en plein air	Œufs de poules élevées au sol	Œufs de poules élevées en cage
	b)	Plein air	Poules au sol	Cage
DE	a)	Eier aus Freilandhaltung	Eier aus Bodenhaltung	Eier aus Käfighaltung
	b)	Freiland	Boden	Käfig
IT	a)	Uova da allevamento all'aperto	Uova da allevamento a terra	Uova da allevamento in gabbie
	b)	Aperto	A terra	Gabbia
NL	a)	Eieren van hennen met vrije uitloop	Scharreleieren	Kooieieren
	b)	Vrije uitloop	Scharrel	Kooi
DA	a)	Frilandsæg	Skrabeæg	Buræg
	b)	Frilandsæg	Skrabeæg	Buræg
ES	a)	Huevos de gallinas camperas	Huevos de gallinas criadas en el suelo	Huevos de gallinas criadas en jaulas
	b)	Camperas	Suelo	Jaulas
PT	a)	Ovos de galinhas criadas ao ar livre	Ovos de galinhas criadas no solo	Ovos de galinhas criadas em gaiolas
	b)	Ar livre	Solo	Jaulas'

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ANNEX II

'ANNEX III

Minimum requirements to be met by poultry establishments for the various egg farming methods

(a) "Free range eggs" must be produced in poultry establishments which satisfy at least the conditions specified in Article 4 of Directive 1999/74/EC with effect from the dates referred to in that Article and in which:

— hens have continuous daytime access to open-air runs, except in the case of temporary restrictions imposed by veterinary authorities,

— the open-air runs to which hens have access is mainly covered with vegetation and not used for other purposes except for orchards, woodland and livestock grazing if the latter is authorised by the competent authorities,

— the open-air runs must at least satisfy the conditions specified in Article 4(1)(3)(b)(ii) of Directive 1999/74/EC whereby the maximum stocking density is not greater than 2 500 hens per hectare of ground available to the hens or one hen per 4 m^2 at all times and the runs are not extending beyond a radius of 150 m from the nearest pophole of the building; an extension of up to 350 m from the nearest pophole of the building is permissible provided that a sufficient number of shelters and drinking troughs within the meaning of that provision are evenly distributed throughout the whole open-air run with at least four shelters per hectare.

(b) "Barn eggs" must be produced in poultry establishments which satisfy at least the conditions specified in Article 4 of Directive 1999/74/EC with effect from the dates referred to in that Article.

(c) "Eggs from caged hens" must be produced in poultry establishments which satisfy at least:

— the conditions specified in Directive 88/166/EEC until 31.12.2002,

— the conditions specified in Article 5 of Directive 1999/74/EC as from 1.1.2003 until 31.12.2011, or

— the conditions specified in Article 6 of Directive 1999/74/EC as from 1.1.2002.'

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ANNEX III

‘ANNEX IV

Reference to the following particular feed ingredients may only be made where:

in the case of cereals, they account for at least 60 % in weight of the feed formula given which may include not more than 15 % of cereal by-products; however, where reference is made to specific cereals, each shall account for at least 30 % of the feed formula used in the case of one cereal mentioned and for at least 5 % of several cereals mentioned.’