Ref. Ares(2017)3933095 - 07/08/2017

EUROPEAN
COMMISSION

Brussels, XXX
[…](2017) XXX draft

COMMISSION DELEGATED REGULATION (EU) …/...

of XXX

amending Regulation (EC) No 589/2008 as regards marketing standards for free range eggs where hens' access to open air runs is restricted

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

Commission Regulation (EC) No 589/2008 lays down detailed rules for implementing Council Regulation (EC) No 1234/2007 as regards marketing standards for eggs. In particular, point 1 of Annex II to Regulation (EC) No 589/2008 lays down minimum requirements for "free range eggs". Regulation (EU) No 1308/2013 has replaced Regulation (EC) No 1234/2007 and empowers the Commission to adopt delegated acts in this field in accordance with its Article 227.

Current marketing standards provide that "free-range" eggs can no longer be labelled as such when laying hens' outdoor access is restricted for veterinary reasons for more than 12 weeks. Avian influenza outbreaks in 2016/17 have been such that veterinary housing orders exceeded this limit and eggs had to be marketed as "barn" eggs with a corresponding loss in value.

It appears necessary to amend Annex II to Regulation (EC) No 589/2008 to adjust the relevant marketing standard and provide for a longer derogation period. With a view to harmonise implementation throughout the Union, the present revision also clarifies the starting point of the derogation period.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

The Commission discussed the elements to be included in the draft Delegated Regulation with experts nominated by the Member States in 5 meetings of the CMO Expert Group during the period of March to July 2017 and took account of the views and positions expressed during these consultations as well as of elements discussed during the meetings with stakeholders.

The draft Delegated Regulation was made available for public consultation within the framework of the Better Regulation Portal for a period of four weeks from […] to […]. In total […] stakeholders organisations had commented. The Commission took into consideration the comments that helped in the harmonisation of the rules and in the adaptation of requirements to current technical circumstances.

Experts of the European Parliament were informed about all those discussions and invited to all the meetings.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

The Delegated Regulation amends Commission Regulation (EU) No 589/2008 as regards marketing standards for free range eggs where hens' access to open-air runs is restricted.

In order to ensure harmonised implementation of the derogation period for "free range eggs" and to take account of recent and future prolonged epzootics, it is necessary to clarify the start of the derogation and to provide for a longer derogation period. Therefore marketing standards for free range eggs where hens' access to open air runs is restricted needs to be amended to provide more flexibilty for producers while preserving the meaningfulness of marketing standards and ensuring consumers' confidence.

COMMISSION DELEGATED REGULATION (EU) …/...

of XXX

amending Regulation (EC) No 589/2008 as regards marketing standards for free range eggs where hens' access to open air runs is restricted

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007[1] , and in particular Article 75(2) thereof,

Whereas:

(1) Commission Regulation (EC) No 589/2008[2] lays down detailed rules for implementing Council Regulation (EC) No 1234/2007[3] as regards marketing standards for eggs. In particular, point 1 of Annex II to Regulation (EC) No 589/2008 lays down minimum requirements for 'free range eggs'.

(2) Regulation (EU) No 1308/2013 has replaced Regulation (EC) No 1234/2007 and empowers the Commission to adopt delegated acts in this respect in accordance with its Article 227.

(3) Point 1(a) of Annex II to Regulation (EC) No 589/2008 provides for a derogation period to market eggs as 'free range' in case of restricted access to open air due to restrictions adopted under Union law, including veterinary restrictions to protect public and animal health, but for a period of no more than 12 weeks. Following serious outbreaks of avian influenza in the Union, it appears necessary to provide for a longer derogation period and further clarify rules with a view to their harmonised implementation throughout the Union, in particular regarding the starting point of the derogation period.

(4) Annex II to Regulation (EC) No 589/2008 should therefore be amended accordingly.

(5) With a view to ensuring an immediate implementation of this measure, the Regulation should enter into force on the third day following its publication in the Official Journal of the European Union.

---

1 OJ L 347, 20.12.2013, p. 671.

2 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 (OJ L 163, 24.6.2008, p. 6).

3 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) (OJ L 299, 16.11.2007, p. 1).

HAS ADOPTED THIS REGULATION:

Article 1

Annex II to Regulation (EC) No 589/2008 is replaced by the text set out in the Annex to this Regulation.

Article 2

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

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

Done at Brussels,

For the Commission
The President