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Environment and Rural Affairs Department

MO(P) OPERATIONAL GUIDANCE

CHAPTER 1

Egg Marketing Standards Regulations

25 March 2003

SEERAD EPU OPERATIONAL GUIDANCE

CONTENTS

	PARAGRAPH
SECTION I: INTRODUCTION	
Statutory authority	1-3
Purpose and Objectives	4
Scope	5
Forms and Leaflets	6
SECTION II: EGGS AND POULTRY UNIT	
	7
SECTION III: DIVISION OF RESPONSIBILITIES	
Headquarters	8-11
Regions	12-13
England, Wales and Northern Ireland	14
SECTION IV: DEFINITIONS	
	15
SECTION V: GENERAL INSPECTION PROTOCOL	
General	16
Authority	17
Copies of relevant legislation, instructions and site data	18
Powers of entry	19
Disease precautions	20-23
Health & Safety	24
Conduct of marketing officers	25
Inspections	26-27
Reporting	28-30
Contraventions	31-34
Prosecutions	35-36
Revocations	37
Refusal to allow an inspection to be made	38-39
Liaison with Local Authorities	40
Liaison with Customs and Excise	41
SECTION VI: TREATMENT OF APPLICANTS FOR REGISTRATION	
General	42-43
Packing station	44-55

Producer	56-58
Wholesaler	59-60
Processor	61-62
Collector	63-64

SECTION VII: ROUTINE INSPECTION OF REGISTERED PREMISES

Introduction	65-66
Packing stations	
Premises and equipment	67-70
Quality inspections	71-78
Weight inspections	79-81
Packaging, labelling and marking	82-86
Record checks	87-92
Voluntary revocation of registration	93
Production Units	94-98
Voluntary revocation of registration	99
Wholesalers	100-105
Auction Markets	106-110
Retailers	111-112
Collectors	113-114
Imports from Third Countries	115-117
Imports from other member States	118-119
Exports	120
Processors	121-125

SECTION VIII: UNREGISTERED PRODUCERS SELLING TO RETAILERS 126

SECTION IX: RECOMMENDATION FRO PROSECUTION AND/OR WITHDRAWL OF REGISTRATION

General	127
Consultation with Scottish Executive Solicitors/ Policy Division	128-129
Contraventions which may result in prosecution	130
Physical evidence for potential court use	131-143
Procurators Fiscal	144
Pleas	145-147
Revocation of registration	148

SECTION X: EQUIPMENT 149-151

APPENDICES

Appendix A:	Biosecurity and farm inspections
Appendix B:	List of forms and leaflets
Appendix C:	Quality and weight tests:- Sampling procedure
Appendix D:	Stock letter: Rejection of application for registration
Appendix E:	Stock letter: Warning re premises and/or technical equipment
Appendix F:	Stock letter: First/second/third warning on poor quality/weight standards
Appendix G:	Stock letter: Warning- Labelling/markings
Appendix H:	Stock letter: Warning-Misleading labelling descriptions
Appendix I:	Stock letter: Notification to producer of non-compliance with production method criteria
Appendix J:	Stock letter: Notification to packer of producer's non-compliance with production method criteria
Appendix K:	Stock letter: Notification to packer of compliance with production method criteria following a further inspection of producer's premises
Appendix L:	Stock letter: Warning- Record keeping

CHAPTER 1: OPERATION OF EGG MARKETING STANDARDS REGULATIONS

EXPLANATORY NOTE

Officers are advised to acquaint themselves with these instructions.

EGGS AND POULTRY (HQ) UNIT

SECTION I: INTRODUCTION

STATUTORY AUTHORITY

1. These instructions deal with arrangements in Scotland for the enforcement of the EC Regulations on Egg Marketing Standards.
2. EC Council Regulation 2771/75 establishes a common market for eggs within the community. Common marketing standards for hen eggs are laid down in EC Council Regulation 1907/90 and EC Commission Regulation 1274/91 (both as amended). Specific public health conditions for marketing certain types of eggs are laid down in Council Decision 94/371/EC.
3. These Regulations are directly applicable in all Member States. In Great Britain, the enforcement authorities, offences and penalties are specified in secondary legislation made under the Food Safety Act 1990- The Eggs (Marketing Standards) Regulations 1995 (SI No 1544) (as amended). Similar Regulations have been made and apply in Northern Ireland.

PURPOSE AND OBJECTIVES

4. The Regulations are designed to facilitate trade in hen eggs by prescribing uniform standards for grading (by quality and weight), stamping, packaging, labelling, marking and production under special marketing term (SMT) criteria as well as storage and transport. This ensures that consumers are provided with good quality eggs of a common standard.

SCOPE

5. The Regulations apply to all hen eggs marketed within the Community. However, Article 5 of Council Reg. 1907/90 lists certain exemptions for direct sales from producer to consumer.

FORMS AND LEAFLETS

6. The Standard forms for use in connection with the Regulations are listed in Appendix B.

SECTION II: THE EGGS AND POULTRY UNIT

7. The Eggs and Poultry Unit (EPU) is responsible in Scotland for the enforcement of the Regulations described in Section I and will visit packing stations, wholesalers, collectors and production units (where SMT's are used). Checks must be made to ensure that the grading, stamping, labelling, marking, hygiene and individual SMT requirements are complied with, and to ensure that these establishments are registered (where appropriate) and that the necessary records are maintained. The EPU comprises of a Principal Agricultural Officer (PAO), a Senior Agriculture Officer (Poultry)(SAO(P)), a Higher Marketing Officer (Poultry) (HMO(P)) and Marketing Officers (MO(P)) whose individual responsibilities are summarised in Section III.

SECTION III: DIVISION OF RESPONSIBILITIES

HEADQUARTERS

8. **Policy Division (UK)** is responsible, in consultation with the other UK Agricultural Departments, for:
 - a. consultation and liaison with EU Authorities and Member States on matters of policy and general operation of the regulations;
 - b. formulation of United Kingdom policy;
9. **Policy Division (Scotland)** is responsible, for:
 - a. general operation of the regulations;
 - b. formulating administrative instructions;
 - c. dealing with Parliamentary Questions and Minister's Correspondence.
 - d. considering cases referred to headquarters concerning proposed investigation, prosecution, or revocation of registration (in consultation with the Scottish Executive Solicitors);
 - e. preparation of legislation to implement EU policy;
 - f. consultation and liaison with the trade and other interested organisations;
 - g. dealing with Parliamentary Questions and Minister's Correspondence.
10. **The Senior Agricultural Officer (Poultry)(SAO(P))(UK)** is responsible, for:
 - a. consultation and liaison with senior technical colleagues in UK Agricultural Departments on technical matters in connection with the operation of Regulations;
 - b. providing technical advice in the formulation of United Kingdom policy.
11. **The Senior Agricultural Officer (Poultry)(SAO(P)) (Scotland)** is responsible, for:
 - a. ensuring a uniform standard of enforcement by the Eggs and Poultry Unit;
 - b. making recommendations on recruitment to the PAO;
 - c. posting of EPU staff;
 - d. deciding, in conjunction with Policy Division, which cases should be referred to Scottish Executive Solicitors for consideration for prosecution;
 - e. making recommendations to Policy Division concerning Investigation Reports;

- f. formulation of technical instructions to the EPU staff;
- g. line management and technical supervision of the EPU staff.

REGIONS

12. **The Higher Marketing Officer(Poultry)(HMO(P))** is responsible for:

- a. ensuring a uniform standard of enforcement and the general operation of the Regulations in the region;
- b. keeping the SAO(P) informed, as appropriate, on matters concerning the enforcement of the Regulations in the region and in particular on matters that would be of concern to headquarters in view of their general responsibilities;
- c. issuing warning letters;
- d. referring cases to the SAO(P) in which investigation, prosecution or revocation of registration is recommended;
- e. line management, technical supervision and field training of MO(P)s, in consultation with the SAO(P);
- f. gathering market intelligence and passing to the SAO(P);
- g. liaison with local authorities and, where appropriate, port authorities.

13. **Marketing Officers (Poultry) MO(P)s** are responsible for:

- a. ensuring that all registered packing stations in their area comply with the Regulations;
- b. ensuring that where special marketing terms are used, the supply source complies with the Regulations; e.g. Free Range;
- c. visiting wholesalers and collectors to ensure compliance with the Regulations;
- d. visiting retail outlets at the request of local authorities;
- e. checking that eggs imported from member states and third countries comply with the requirements of the Regulations;
- f. making recommendations to the HMO(P) concerning breaches of Regulations and possible cases for investigation, warning letters, prosecution, withdrawal of registration or rejection of application for registration;
- g. keeping the HMO(P) informed on any matters concerning the enforcement of the Regulations in their area and in particular on matters that would be of concern to headquarters in the operation of the regulations on a regional or national basis;

- h. additional ad hoc visiting as instructed by the HMO(P).

ENGLAND, WALES AND NORTHERN IRELAND

14. The administration of the Regulations in England, Wales and Northern Ireland is the responsibility of the Department of the Environment, Food and Rural Affairs (DEFRA), the National Assembly for Wales Agriculture Department (NAWAD) and the Department of Agriculture and Rural Development of Northern Ireland (DARDNI) respectively. These Departments have similar responsibilities to those of SEERAD and close liaison is maintained with headquarters on the administration of the Regulations.

SECTION IV: DEFINITIONS

15. Important statutory terms can be found in Art 1 of Council Reg. 1907/90.

"Extra" means Class A eggs which meet the additional quality and marketing conditions specified in Article 12 of EC Council Regulation 1907/90 and Article 24 of EC Commission Regulation 1274/91.

"SMT" means Special Marketing Terms such as Free-Range. Criteria for these terms can be found in Commission Reg. 1274/91, Annex II.

"Origin" means the area in which the eggs are produced, e.g. United Kingdom, Britain, Angus or other geographical area accepted by the Department.

"Wholesaler" means a person who buys for the purpose of selling again to the trade, without repacking, e.g. to other wholesalers, distributors, caterers and retailers.

SECTION V: GENERAL INSPECTION PROTOCOL

GENERAL

16. This section deals with the conduct and procedures applicable to MO(P)s whilst carrying out inspections at producers, collectors, packing stations and other marketing points.

AUTHORITY

17. When on duty, MO(P)s must always carry their cards of authority and must produce them when required to do so. Cards of authority must be returned to Headquarters when an officer ceases to be employed as an MO(P).

COPIES OF RELEVANT LEGISLATION, INSTRUCTIONS & SITE DATA

18. Copies of all relevant legislation and instructions will be provided. Every MO(P) should be thoroughly conversant with these documents and must carry them when on duty. MO(P) must be careful not to express any opinion on the merits of the legislation and when in doubt about interpretations must consult the HMO(P).

POWERS OF ENTRY

19. MO(P) have the authority to enter and carry out inspections, at all reasonable times, on any registered or unregistered premises (including wholesale outlets, places of import and, when requested by Local Authority Officers, retail outlets) in which it is reasonably suspected that an activity, regulated by the Community provisions, is being undertaken (Eggs (Marketing Standards) Regulations 1995, Article 5; The Food Act 1990, Section 32). Where covert surveillance is necessary the current guidance on Regulation of Investigatory Powers (Scotland) Act 2000 must be observed.

DISEASE PRECAUTIONS

20. If MO(P) contract food poisoning or food borne illness requiring medical attention they should not return to work until given leave to do so by qualified medical personnel. This may involve tests to ensure MO(P) are not carrying pathogenic organisms.
21. In the event of an MO(P) suffering from:
 - a. skin infection (e.g. Psoriasis, boils, septic cuts);
 - b. respiratory tract infection;
 - c. infection of the eyes/ears;
 - d. dental sepsis;
 - e. purulent gingivitis;

it is the duty of the MO(P) to inform the HMO(P). No farm inspections must be carried out for 48hrs after symptoms have subsided.

22. Whenever it is necessary to visit premises on which poultry or other farm livestock are kept, the current guidance (Appendix A) on disinfecting procedures must be observed. Care must be taken to avoid any unnecessary contact with any livestock.
23. When entering a room containing eggs, at premises where poultry are kept, MO(P)s should take the same precautions as when entering a building containing poultry. Any reasonable additional precautions requested by the owner or person in charge should also be complied with. Before and after handling eggs hands must be sanitised.

HEALTH AND SAFETY

24. It is the responsibility of the officer to familiarise themselves with the relevant sections of the guidance on the Intranet (inExec/in your area/ERAD/Agriculture/ Health & Safety for Ag Staff). In addition the following protective clothing should be donned prior to entering individual premises:
 - a. **Egg Packing Stations-** white coats and hats (hairnets if requested).
 - b. **Wholesale and Egg Breaking Plants-** protective hats, steel toe capped boots, white coats and luminous waistcoat.

CONDUCT OF MARKETING OFFICERS

25. Good relations with producers, registered packers and others concerned with the Regulations are essential for the efficient operation of the Regulations. MO(P) should cultivate a friendly but firm approach in dealing with all concerned. MO(P) must conduct inspections impartially and the fact that they do so should be demonstrated at all times. MO(P) should be sympathetic to the fact that inspections could interrupt the movement of eggs with consequent delays or even loss of sales and explanations must always be given for any lengthy delays or interruptions to the normal workings of the establishment. MO(P) should try whenever possible to fit in with the working arrangements at inspection points.

INSPECTIONS

26. Visits to producers, packers and wholesalers should be unannounced and made at irregular intervals. Exceptions should be made at the application stage, record checks where special marketing terms are used, packers with an average throughput of less than 20 cases per week and where it is necessary to avoid further abortive visits. The minimum visits to producers, packers and wholesalers should be maintained.
27. On arrival at the place of inspection, MO(P) should seek out the owner or person in charge. When joint visits are necessary, the owner or person in charge should be told at the outset which officer is responsible for conducting the inspection. If the premises have not been visited before they should explain clearly their official capacity and the purpose of their visit. The aim should be to obtain co-operation in right of entry and facilities for inspection without invoking compulsory powers. It is for the owner or the person in charge to decide if anyone should be present during the inspection. At the

conclusion, or interruption, of the visit MO(P) should inform the owner or person in charge that they are leaving the premises.

REPORTING

28. Official notebooks (uniquely numbered) with sequentially numbered pages are official documents. They are issued on request from Headquarters and on completion must be returned. Daily movements should be noted, including office days and annual leave. Official notebooks must be carried at all times staff are on duty, and they will be inspected periodically. Effectively the official notebook has replaced forms EMR4 and 5 for most routine inspection work. On completion of an inspection the MO(P) should record all aspects of the investigation in the official notebook. No personal opinions should be expressed. Care must be taken to leave no spaces when completing the notebook- a horizontal line can be used to fill any gaps. Any corrections should be initialled by the MO(P).
29. The database (REPS) for all premises visited in Scotland is held on computer and MO(P)s are responsible for ensuring that details for their areas are current. Inspection reports must be transcribed onto the main REPS computer system within 2 weeks. In addition the REPS EMR5 form should be completed when quality and weight tests have been completed. If a downgrading has taken place it must be recorded on REPS and saved to the main system within 2 working days.
30. In addition MO(P) should enter their itineraries on the email system to all EPU staff and complete the Monthly Time Sheet, identifying time spent in the office, at meetings, training, on annual leave and sick leave. All details should be entered by the end of the working month(ie. the last Friday in the month).

CONTRAVENTIONS

31. If it is deemed necessary to serve a contravention notice then the appropriate form (EMR6, 6A or 6B) should be completed and copies distributed as follows:

	EMR6	EMR6A	EMR6B
<i>Top copy</i>	person in charge	person in charge	person in charge
<i>Second copy</i>	accompany eggs	accompany eggs	HQ
<i>Third copy</i>	FSA*	MO(P)	MO(P)
<i>Forth copy</i>	MO(P)	N/A	N/A

*FSA- Forward to Christine Green, Food Standards Agency, 6th Floor, St Magnus House, 25 Guild Street, Aberdeen, AB11 6NJ; Telephone 01224 285139. .

MO(P) should retain copies of all forms.

MO(P) must ensure that if remedial action is needed to either premises or equipment, sufficient time is allowed to carry out all repairs.

32. In the event of frequent contraventions the following schedule should be adopted:

	Inspectors	Compliance	Non-compliance	Action
Follow-up 1 (2 weeks)	MO(P)	nfa*	EMR6A/B	Warning letter from HMO(P) (App E/F)
Follow-up 2 (1 week)	MO(P)	nfa*	EMR6A /B	Warning letter from HMO(P)(APP E/F)
Follow-up 4 (1 week)	HMO(P)/MO(P)	nfa*	EMR6A/B & Report to SAO(P) (5 working days)	SAO(P) referral to Policy for prosecution

*nfa- no further action/ SMT status returned

33. In the event of an inspection revealing results which are so poor as to suggest a blatant disregard for the Regulations, in addition to serving form EMR6A/B, the MO(P) should also report the facts immediately to the HMO(P). A detailed report should be submitted to the HMO(P) within 5 working days, who should then consider the circumstances and if satisfied, refer the report to the SAO(P) for submission to Policy Division with a view to prosecution.

34. If on being served with Form EMR 6A the packer or person in charge refuses to re-grade/downgrade/relabel the batch/batches of eggs which failed to meet the required quality/weight tolerances permitted by the Regulations, they should be warned that they could be prosecuted if the eggs concerned are offered for sale on the shell-egg market. If the packer or person in charge still refuses to comply with the Regulations the MO(P) should inform them that the matter will be considered by Senior management. The HMO(P) should be notified of the circumstances immediately and a detailed report should be submitted within five working days. The HMO(P) should then consider the circumstances and, if satisfied, refer the report to the SAO(P) with recommendations for submitting a report to Policy Division with a view to prosecution.

PROSECUTIONS

35. If the (H)MO(P) recommends taking legal proceedings the file should be forwarded without delay to the SAO(P). In the light of an investigation report, Scottish Executive Solicitors will consult the SAO(P) and Policy Division before deciding whether or not to prosecute. A note should be kept by the (H)MO(P) to check with headquarters on progress 16 weeks after the date of an offence to avoid overrunning the statutory 6 month time expiry limit.

36. Where it is decided not to prosecute, Policy Division should inform the persons concerned in writing, with copies circulated to the SAO(P) and(H) MO(P).

REVOCATIONS

37. All recommendations for revocation of registration must be forwarded by the HMO(P) to the SAO(P) who will decide, in consultation with Policy Division and Solicitors, whether to proceed.

REFUSAL TO ALLOW AN INSPECTION TO BE MADE

38. If the producer, packer or the person in charge refuses to allow either entry or an inspection to be made the MO(P) should try tactfully to overcome the objection. If, however, they remain resolved, the MO(P) should show their identity and warrant cards, the later details the legislation that provides the right of entry. If this approach fails the MO(P) should withdraw stating that the matter would have to be considered by senior management. Full details must be submitted to the HMO(P) immediately, who should then arrange to undertake an immediate follow-up visit with the MO(P). If the producer, packer or person in charge still refuses entry the HMO(P) should write (having cleared with the SAO(P)) informing them of their responsibilities under the Regulations and request co-operation in allowing an inspection to be made. This letter should also include a reminder that failure to comply with the Regulations could result in prosecution. A further joint visit by the HMO(P) and MO(P) must be made and if the producer, packer or person in charge again refuses entry, the case should be referred to the SAO(P) with a view to prosecution.
39. In instances where MO(P) are denied entry to premises where activities in contravention of the Regulations are suspected, or believe entrance may result in physical violence or other breach of the peace, they should:
- a. withdraw;
 - b. make a full report of the circumstances to the HMO(P)
- and**
- c. the HMO(P) should consider whether a request should be made to the SAO(P) for guidance from Policy Division and Scottish Executive Solicitors.

LIAISON WITH LOCAL AUTHORITIES

40. HMO(P)s/MO(P)s should maintain contact with the appropriate local Consumer Protection Officers/Departments in their area.

LIAISON WITH CUSTOMS AND EXCISE

41. The HMO(P)s should maintain close contact with PHA officials and arrange for MO(P)s to contact the appropriate officials at the ports to ensure that information of all arrivals can be obtained and arrangements made for inspections.

SECTION VI: TREATMENT OF APPLICANTS FOR REGISTRATION

GENERAL

42. Any enquiry from a person wishing to register as a packer/producer should be acknowledged and arrangements made to visit the site within 2 weeks. Exceptions will be made for island or remote locations where an inspection will be made during the next scheduled visit. The appropriate Explanatory leaflets and Application forms should be sent within 48 hours.
43. The first visit to applicants will usually be of an advisory nature, to help establish what would be required to meet the conditions of the Regulations. Any improvements needed should be explained to the applicant and, if necessary, detailed in writing. A further visit will be arranged when the improvements have been made. An inspection report should be completed, as detailed in paragraph 26, for all visits.

PACKING STATION

44. Registration of the packing station relates to the premises. Packers moving to a new address should be asked to complete an application form EMR 2 and the packing station, if considered satisfactory, may be allocated a new registration number (if desirable). When a registered packing station is taken over by a new owner the existing registration number of the premises may be retained. When a simple change to title takes place the previous number should be retained. All such changes should be confirmed with the packer and noted by the MO(P) and updated on the appropriate computer file.
45. On the first visit to a premises the MO(P) should assess the conditions and technical equipment whilst assisting the applicant to complete form EMR2. The inspection should be reported as detailed in paragraph 26.
46. If the premises and/or technical equipment to be used for grading eggs by quality and weight need to be improved before they will comply with the Regulations the MO(P) should advise the applicant of the required improvements and, if appropriate, suggest seeking technical advice. If necessary, the improvements should be detailed in writing. Arrangements must be made to re-visit when the improvements are completed.
47. In the case of packers who have applied to use the permitted special marketing terms ("Free Range Eggs", "Barn Eggs", "Eggs from Caged Hens", "Organic Eggs") on small packs or by marking individual eggs, the MO(P) should first satisfy themselves that the production of those eggs and records comply with the given criteria. This can be achieved by a visit to the producer(s) named by the packer, or arranging such a visit by another MO(P) if the producer is outside their area.
48. Additional records are required to be kept by packers using special marketing terms for alternative production systems. Form EMR 17 shows what is required and may be given to packers as a guide, but this need not be used, providing records are maintained in an acceptable alternative form.

49. If packers have applied to indicate a laying date on eggs the MO(P) should first satisfy themselves by a visit to the producer(s) and production unit(s) named by the packer, or arranging such a visit by another MO(P) if the producer/production unit is outside their area, that the production of those eggs and records comply with the given criteria and such producers and production units are properly registered.
50. Packers applying the “date of lay” are obliged to keep additional records. Explanatory leaflet EMR7 details what is required.
51. If packers indicate they wish to use an 'origin' term (e.g. “British”, “Scottish”, “English”, “Highland”) on small packs of eggs or by marking individual eggs the MO(P) should first satisfy themselves that the origin term is acceptable to the Department after consultation with the HMO(P).

The MO(P) must ensure that the packer keeps a record of deliveries by 'origin', showing:

- a. the name and address of the producer;
- b. the number or weight of eggs;
- c. and the date of delivery;

in addition to daily packing station records detailing:

- a. quality and weight gradings;
- b. sales of small packs and eggs;
- c. name and addresses of buyers;
- d. number of eggs sold;
- e. dates of delivery;
- f. weekly stock check.

Instead of records, packers may keep invoices or delivery notes.

52. When the MO(P) is satisfied that the applicant's premises and technical equipment meet the required standards, and (where applicable) producers meet the production criteria and/or laying date criteria, they should:
 - a. Complete the final page of Form EMR 2;
 - b. Allocate a registered number from the Packing Station field in REPS which should begin with 9 (the UK number), followed by 7 (the Scottish regional number) and finally the unique number allocated to each packing station. Care must be taken to save to the live system to prevent the same packing station number being issued more than once. The applicant may be informed of the packing station number prior to approval letter being issued to allow the printing of packs and labels;
 - c. Transcribe the details from the EMR 2 to the individual Packing Station file in REPS;
 - d. Issue a letter of approval from the REPS system;

- e. Forward the EMR2 and a copy of the letter of approval to headquarters where a registered file will be opened.
53. In the case of applications for island or remote locations registered numbers may be allocated prior to the first visit, after discussion of the requirements by telephone or email.
 54. If rejection is recommended the matter should be referred to the HMO(P) for a decision. A letter of rejection (Appendix D) should be sent to the applicant and copied to the SAO(P) if the recommendation is upheld. The saved packing station number must then be archived on REPS.
 55. An undertaking with more than one packing station may apply to be allocated a single registered number with a separate suffix to identify each packing station. Such applications should be made by the main undertaking, in writing, to the SAO(P). The names and addresses of all the packing stations concerned are to be stated. Where packing stations are not already registered, applications should be made on form EMR 2 and processed in the normal way until the issue of formal approval. The SAO(P) will then allocate a single registered number and formal approval will be issued by Policy Division. Copies should go to MO(P)s where separate packing stations covered by the approval are situated within their region. Existing registered numbers will be withdrawn by the SAO(P) and archived. Existing records (computer and paper held by Policy Division) will be transferred to the new registration number. It is the responsibility of the SAO(P) to ensure that Policy Division transfer all information from the old registration numbers to the new number.

PRODUCER

56. The MO(P) should complete a pre-arranged inspection to determine whether the conditions of the regulations concerning production type can be met (stocking densities, range access, house construction, origin and special records) and assist the applicant in completing the Form EMR3. In the case of a producer wishing to register for "Date of Lay" EMR 8 should also be completed.
57. If the production and/or records do not meet the criteria the MO(P) must inform the producer of the reasons for non-compliance and the remedial action, if necessary in writing. The MO(P) should re-visit after a suitable period of time has elapsed to ensure compliance. If the premises fail to meet the criteria of Council Directive 1999/74/EC (Welfare of Laying Hens) the producer should be informed that the matter will be referred to the State Veterinary Service. A written report should be passed to the SVS or DVM for investigation.
58. When the MO(P) is satisfied that the applicant's premises meet the production criteria, they should;
 - a. Complete the final page of Form EMR 3;
 - b. Allocate a registered number from the Production field in REPS which should begin with either 0 (Organic production), 1 (Free Range production), 2 (Barn

production), 3 (Caged production), followed by UK, then the unique number allocated to each production site and finally, SCO (Scotland). Care must be taken to save to the live system to prevent the same production number being issued more than once. The applicant may be informed of the production number prior to approval letter being issued to allow the preparation of a stamp;

- c. Transcribe the details from the EMR 3 to the individual Production file in REPS;
- d. Issue a letter of approval from the REPS system;
- e. Forward the EMR3 and a copy of the letter of approval to headquarters where a registered file will be opened.

WHOLESALE

- 59. The MO(P) should arrange an appointment to visit the wholesaler and assess the conditions of the premises. Explanatory leaflet EMR1 should be left with the wholesaler. If the premises to be used for storage of eggs need to be improved before they will comply with the Regulations, the manager/owner should be informed, if necessary in writing, and the MO(P) will arrange to revisit when the improvements have been completed.
- 60. When the MO(P) is satisfied that the premises are acceptable the MO(P) should complete EMR4C and create a new file in the REPS system.

PROCESSOR

- 61. The MO(P) should arrange an appointment to visit the processor to establish that only eggs eligible for processing i.e. ungraded, classes A and B are being used. Explanatory leaflet EMR1 should be left with the processor.
- 62. When the MO(P) is satisfied that the premises are acceptable they should complete EMR4C and create a new file in the REPS system.

COLLECTOR

- 63. The MO(P) should arrange an appointment to visit to assess the conditions of the premises and vehicles. The explanatory leaflet EMR1 should be left with the applicant. If the premises need to be improved the applicant should be informed, if necessary in writing, MO(P) should arrange to re-visit when the improvements have been completed. The suitability of the vehicles should be noted but this is not a pre-requisite for registration.
- 64. When the MO(P) is satisfied that the premises are acceptable they should complete EMR4C and create a new file in the REPS system.

SECTION VII: ROUTINE INSPECTION OF REGISTERED PREMISES

INTRODUCTION

65. The object of inspections is to ensure that the Regulations are being complied with. The frequency of inspections will vary between types of premises as well as between certain categories of throughput.
66. For each inspection the general inspection protocol detailed in Section V should be followed.

PACKING STATIONS

Premises and equipment

67. The MO(P) should ensure that the premises and equipment used by the packer for grading, packing and storage of eggs comply with the requirements of the Regulations:
 - a. Cleanliness e.g. cobwebs, spilt egg, animal droppings;
 - b. rodent/insect infestation;
 - c. storage conditions (i.e. material which may taint eggs, temperature etc.);
 - d. cleanliness and constant manning of the grading device
 - e. a working candling light;
68. Any amendments to the EMR 2 data should be noted.
69. If the inspection reveals that the Regulations are not being complied with MO(P) should serve a Notice of Contravention (Form EMR 6B) in accordance with paragraph 31.
70. In the case of frequent failures the procedure outlined in paragraph 31 should be followed.

Quality Inspections

71. MO(P) should select batches for testing reflecting a proportionate sample of each grade of eggs available at the packing station. Over a period of time, the proportion of tests on each size should reflect the national production of such sizes. It follows, therefore, that most routine tests will be on medium and large, with fewer on small and fewer still on very large. MO(P) should avoid selecting eggs that are required urgently for distribution, but once the batch has been selected, the MO(P) should explain that the eggs should not be removed until the inspection has been completed.
72. Quality inspections should be made before individual egg weight checks to avoid the possibility of cracks created in the weighing process, being recorded. Whenever

possible the UV lamp should be used to check for washed eggs (Class A) and cage marks.

73. An appropriate preliminary sample should be inspected in each batch checked and if this is found to be within the permitted tolerances (EC Commission Regulation 1274/91; Article 33) the batch can be considered to be in compliance with the Regulations. However, if the preliminary sample of a batch indicates that the tolerances have been exceeded, a full sample should be checked (Appendix C). At the completion of this inspection, if it is found that the tolerances are exceeded, then the eggs should be downgraded. The MO(P) should complete Form EMR 6A (Paragraph 30). The packer or person in charge should be told that the percentage number of faults in the inspection was above the permitted tolerance limit and the eggs in the batch inspected would therefore have to be either recandled or downgraded.
74. If the batch of eggs inspected is within the permitted tolerance allowed in the Regulations, each container of eggs must be re-sealed with the MO(P) inspection label. If the eggs concerned are downgraded each outer box label must be stamped in red ink with the MO(P)s downgrading stamp. This may be waived if the batch is to be recandled during the inspection.
75. The MO(P) can offer advice to the packer if the cause of the poor quality is considered to be related to inadequate procedures or conditions in the packing station, such as candling, grading or storage. If the problem is considered to be related to candling, a training course should be suggested. In the case of technical problems e.g. related to production or grader error the packer should be recommended to seek technical advice.
76. In the case of frequent failures the procedure outlined in paragraph 30 should be followed. If on any of the follow-up visits the specific grade or pack of eggs is not available a test should be carried out on a batch selected from the grade or pack which is closest to the original downgraded batch by weight and pack (unless there is a specific reason for testing a batch of the same weight and in the same packs as the original downgraded batch). If the batch does not meet standards required, it should be treated as a consecutive downgrading and a further follow-up visit should be carried out. On this visit the inspection should, where possible, be concentrated on the original grade or pack of eggs. If no eggs are available on a follow-up visit, a further follow-up visit should be made at a later date.
77. When a packing station decides to regrade (re-candle) a batch of eggs which has failed a quality test, the MO(P) should normally supervise the procedure and note the percentage of faults extracted on re-test. Discretion may be used as to whether a further quality check is made by the MO(P).
78. If an MO(P) supervises the regrading of a batch of eggs which have been downgraded at a different location, no opinion must be given on the quality of the eggs.

Weight inspections

79. MO(P) should carry out the inspection for weight grading using the sampling procedure in Appendix C. It may be made in conjunction with, *but not before*, an inspection for quality. Preliminary weight checks can be carried out on whole cases to

highlight any possible problems. If a weight check results in the failure of a specific batch of eggs then as many as possible of the other available weight grades of eggs should also be checked. All weight grades of eggs should be checked at least once a year. MO(P) can offer advice to the packer on the causes of failure for weight but such advice must not interfere with the follow-up procedure for consecutive failures for weight grade.

80. If the inspection reveals that the Regulations are not being complied with MO(P) should serve a Notice of Contravention (Form EMR 6A) in accordance with paragraphs 30.
81. In the case of frequent failures the procedure outlined in paragraph 31 should be followed.

Packaging, labelling and marking

82. MO(P) should ensure that the packaging and labelling of boxes, prepacks and marking of graded eggs (where required), are in compliance with the requirements of the Regulations. The following characteristics should be inspected:
 - a. where more than one type of SMT/Origin/Extra/Date of Lay egg is being graded, all batches should be readily identifiable throughout the grading process;
 - b. ungraded and weight selected eggs should be accompanied, from the production site, by the following information:
 - i) date of lay;
 - ii) producers name and address or number;
 - iii) date of despatch.
 - c. best before dates should be no more than 28 days from the date of lay is being used;
 - d. if old egg cases are being used, all old labels should have been removed.
83. If the packaging and labelling of boxes/ prepacks or the marking of eggs (where required) do not comply with the requirements of the Regulations the MO(P) should follow the guidance set out in paragraph 29. Where labelling contraventions have been found and it is not appropriate to consider prosecution, the HMO(P) should write to the packer (Appendix G).
84. In addition to paragraph 29, in cases of serious misrepresentation, e.g. illegal repacking, relabelling or marking, the MO(P) should telephone HQ . When assistance is available, the MO(P)'s should obtain whatever evidence is available (paragraphs 129-140). The HMO(P) on receipt should refer the matter to the SAO(P) who should consider whether the matter should be forwarded to Policy Division with a view to prosecution. *All cases of suspected illegal repacking of imported eggs must be referred to the SAO(P) immediately.*

85. Where an MO(P) discovers statements being used on packs of graded eggs that are obviously misleading (such as "salmonella free") they should:
- a. serve Form EMR 6A (amended to delete paragraph 2)(paragraph 29) informing the person in charge that the matter will have to be considered by senior management;
 - b. indicate on the form that such statements are not permitted to appear on large or small packs under EC Council Regulation 1907/90, Article 10: 2e;
 - c. if the labelling is found at a packing station, note in the official notebook any measures being taken by the packer to substantiate the statement;
 - d. submit copies of EMR 6 and a covering report to the HMO(P) within 5 working days;

The HMO(P) should then:

- a. write to the packer or wholesaler (Appendix H);
 - b. make a joint visit with the MO(P) within two weeks;
 - c. if obviously misleading statements are still being used, serve form EMR 6A and take appropriate evidence (see para 129-140);
 - d. submit copies of EMR 6 together with a covering report and evidence to the SAO(P) for consideration of prosecution.
86. Where MO(P)s discover other salmonella-related statements, or statements that are potentially (but not obviously) misleading, are being used on packs, they should make note of any measures being taken to substantiate the statements and notify the HMO(P) by minute for consideration. If the HMO(P) agrees, the SAO(P) should be consulted.

Record Checks

87. The MO(P) will ensure that all details of egg numbers and birds are correctly entered on the computer by the end of March each year.
88. The SAO(P) will, during March each year, provide MPEP with the Scottish statistics required by Brussels showing the average number of laying hens and numbers of eggs delivered and sold for each SMT.
89. At least once a year, the MO(P) should undertake a reconciliation of records at each packing station relating to the use of SMTs. Those packers using eggs produced under an origin term by different producers should also be subject to an annual reconciliation. In the case of packers using 'date of lay' full reconciliation's should take place twice a year, with lesser compliance checks every two months (EMR19 if appropriate).
90. The following procedure should be followed in all reconciliation's:

- a. the MO(P) should check in detail at least 2 consecutive week's records (EMR 17/17A) in order to be satisfied that there were sufficient graded eggs available to corroborate sales of specific sizes;
 - b. downgradings from Free Range to Barn/Class A and from Barn to Class A should be checked;
 - c. computerised record summaries should be test checked back to basic documents;
 - d. MO(P) should check that a weekly physical stock check of ungraded and graded eggs is kept;
 - e. where a packer has received ungraded/weight-selected/'date of lay' eggs from outside producers, a 'Request for Verification' form EMR19 should be completed for a test sample of producers (top copy to MO(P)/REMI in the producers area, second copy to HQ, third copy retained by MO(P));
 - f. in the case of a contravention the procedure outlined in paragraphs 30 should be followed;
91. Upon receipt of form EMR19, an MO(P) should, on the next (but not special) visit, check the details from the producer's records and complete the appropriate section of the EMR 19. This should then be and returned to the original MO(P), who, if satisfied, should take note and send it for filing, where it should be married with the file copy.
92. Annually retailers should be selected by the HMO(P) for verification checks. Details of the eggs received during the period of the check should be entered on the EMR 19A.

Voluntary revocation of registration

93. When a packing station ceases to trade within the scope of the Regulations MO(P) should produce a self-generating letter from REPS (2 copies, one for sending and one for filing), stating that the registration has been withdrawn and it will be necessary to apply for re-registration if trading is resumed at a later date, as the packing station number may have been re-allocated. If the packer is continuing to act as a wholesaler this should also be recognised in the letter.

PRODUCTION UNITS

94. Routine visits should be carried out at least twice per year to Free-Range producers, at least once per year to Barn producers and at least once every 2 years to Origin producers.
95. On arrival the MO(P) should contact the producer or person in charge and explain the purposes of the visit. MO(P) should then conduct an inspection as follows:
- a. ensure that the production unit complies with the relevant criteria;
 - b. check for any changes to houses or range and complete new EMR3 documents if required;

- c. confirm the number of laying hens placed from the delivery documents;
 - d. check and record the number of birds housed, date and age when housed, current numbers and age of birds;
 - e. examine production records in detail for 2 consecutive weeks (EMR18), ensuring egg numbers do not exceed the capabilities of the birds housed;
 - f. in the case of Free-Range units ensure popholes are open, unless there is good reason otherwise;
96. Except for minor discrepancies, which can be rectified within a short time, where the land and/or production unit(s) do not comply with the statutory criteria, the producer (and packer if different) should be served with form EMR6B (paragraph 30). The producer and packer should be informed that the packer will not be able to market the producer's eggs under the special description concerned until production methods have been made to comply (Appen. J&K). If the premises fail to meet the criteria of Council Directive 1999/74/EC (Welfare of Laying Hens) the producer should be informed that the matter will be referred to the State Veterinary Service. A written report should be passed to the SVS or DVM for investigation.
97. Producers (each site) registered to use date of lay are required to be visited at least every 2 months. The MO(P) should establish that the producer is complying with the additional requirements, including marking and record keeping and be satisfied that there are sufficient birds housed to support production figures. Also that containers, documents, and, if marked on site, eggs are properly identified/marked. In cases of contravention see paragraph 89.
98. On the next routine visit to the packing station MO(P) should reconcile production with supply to the packing station.

Voluntary revocation of registration

99. When a production site ceases to trade within the scope of the Regulations MO(P) should produce a self-generating letter from REPS (2 copies, one for sending and one for filing), stating that the registration has been withdrawn and it will be necessary to apply for re-registration if trading is resumed at a later date, as the production number may have been re-allocated.

WHOLESALEERS

100. On arrival at the premises the MO(P) should contact the wholesaler or person in charge and then undertake an inspection along similar lines to the procedure for packing stations. In addition checks should be undertaken to ensure that eggs are not being stored at under 5°C. MO(P) should ensure that the Best Before date has more than 7 days to run before expiry. If an EMR6 form is served, this effectively places a standstill order on the eggs prohibiting them from being marketed. Wholesalers are required to make arrangements to the satisfaction of the Eggs and Poultry Unit for the eggs to be made to comply or to arrange for their disposal. If these arrangements cannot be made

immediately wholesalers must be informed on form EMR 4 that it is their responsibility to notify the HMO(P) of the arrangements as soon as possible.

101. If the eggs subject to a notice of contravention have been packed outside the region, MO(P) should immediately telephone the details to the appropriate MO(P). If the eggs subject to a contravention notice have been packed in another Member State details of the contravention should be faxed immediately to the SAO(P) for action. If a wholesaler is found to be contravening the Regulations the procedure outlined in paragraphs 30-31 should be followed.
102. If in a borderline case an MO(P) uses discretion and decides not to downgrade a batch of eggs, the MO(P) must, under no circumstances, give an opinion about the quality of the eggs.
103. If an MO(P) is requested to attend a supervision of regrading or disposal of eggs which have been downgraded at a different location they must not give an opinion on the quality of the eggs. However, once the eggs have been regraded the MO(P) may carry out a further quality test to satisfy themselves that the eggs now comply with the quality weight, labelling, or marking requirements
104. After a quality test failure the MO(P) should consider whether the reason for downgrading was the responsibility of the packing station or whether the problem could have arisen after despatch from the packing station.

If the MO(P) is satisfied that the problem arose at the packing station (e.g. a high proportion of eggs were dirty):

- a. a follow-up visit, by the MO(P) in that area, should be carried out at the packing station (within two weeks);
 - b. it is always the responsibility of the downgrading MO(P) to record the final outcome of the downgrading on the relevant computer file.
105. If it is not absolutely clear which marketing stage was responsible for the quality failure (e.g. a high proportion of cracks) a follow-up visit should be made to the wholesaler, normally within four weeks. If, on the follow-up visit eggs are not available from the same packer, then those of similar size from another packer should be tested. If there is a further downgrading and there is again doubt as to where responsibility for the problem lies, follow-up visits should continue at the wholesale premises.

AUCTION MARKETS

106. MO(P)s should familiarise themselves with market days and times within their area. Visits should take place at a time when inspections of the eggs for sale can be made before the start of the auction. On arrival at the premises the MO(P) should contact the person in charge and then undertake an inspection along similar lines to the procedure for packing stations.

107. Only graded eggs may be sold which must be either banded or packed in large and/or small packs and labelled in accordance with EU Regulations.
108. When possible quality and weight checks should be made. However, conditions may not be conducive to candling. In such cases a labelling check will suffice. If old cases are used the MO(P) should ensure any old labels have been removed. The MO(P) should ensure that the Best Before date has more than 7 days to run before expiry.
109. If eggs are found incorrectly packed/labelled the procedures in paragraph 27/29-31 should be followed, in addition MO(P) should note:
 - a. The name and address of supplier(s)
 - b. The lot number(s)
 - c. Whether the eggs appear to have been graded and/or ungraded i.e. did the eggs appear to be of an even size or not.
110. The MO(P) should visit the supplier(s) as soon as possible after the auction and acquaint/remind the supplier(s) of the requirements of the Regulations, and if appropriate inform them how to register as a packer.

RETAILERS

111. Inspection at retail level is the responsibility of the local authority Environmental Health Officers but MO(P)s will be asked to determine egg quality. Joint inspections with local authority enforcement officers should be undertaken in accordance with the procedures for wholesalers and a written report should be submitted to the EHO.
112. If, as a result of a retail inspection there is a possibility of adverse publicity, the HMO(P) should immediately forward a brief note of the circumstances of the case to the SAO(P). The MO(P) may also be required to provide witness statements if local authorities decide to prosecute retailers for quality contraventions. In which case HMO(P)s must consult the SAO(P) who may need to involve Policy Division. If, subsequently, the MO(P) is called to appear as a prosecution witness the HMO(P) should notify the SAO(P) as to the circumstances of the case.

COLLECTORS

113. The MO(P) should ensure that the premises and vehicles used by the collector for storage and transportation of eggs comply with the requirements of the Regulations. If the inspection reveals that the Regulations are not being complied with the procedure shown in paragraphs 30-31 should be followed.
114. Reconciliation should be carried out at each routine visit on eggs described under the Special Marketing Terms. At least once a year the MO(P) should undertake at each collector a reconciliation of records relating to the use of descriptions of methods of production (EMR17). At least 2 consecutive weeks of records should be examined and the figures for purchases against sales should be compared.

IMPORTS FROM THIRD COUNTRIES

115. All consignments of eggs imported from third countries must be inspected at the port of entry.
116. On arrival at the place of import the MO(P) should contact the Port Health Authority (PHA) before carrying out an inspection. Every effort should be made to undertake the inspection immediately as delays can cause disruption to both PHA officials and importers. The MO(P) should inform the shipping agent of their intentions. Ideally each check should be completed within 8 hours of import but, exceptionally, this period may have to be extended, in which case the HMO(P) should be notified. Inspections should be carried out in line with the procedures laid down for packing stations. Weight tests should be carried out if there appears to be an obvious problem.
117. If the eggs are found to be in contravention of the Regulations they must not be imported and such action should be notified to the HMO(P) and SAO(P) immediately by telephone. The SAO(P) should inform Policy Division, of such cases on a monthly basis.

IMPORTS FROM OTHER MEMBER STATES

118. Inspections should be carried out in accordance with routine inspections. Weight tests should be carried out if there appears to be an obvious problem.
119. Contraventions may be made to comply in the UK under the supervision of the Inspectorate, or may be returned to the country of origin at the exporter's request. Contraventions of the labelling requirements may be corrected by a bona-fide representative of the exporter/importer under the supervision of the MO(P). The SAO(P) should inform Policy Division, of any contravention found, on a monthly basis.

EXPORTS

120. Quality inspections of eggs for export should only be undertaken at the request of the exporter and should normally be carried out at the original packers premises to simplify sample selection and problems connected with compliance in the event of quality contraventions. Inspection should be undertaken in accordance with the procedure for routine inspections.

PROCESSORS

121. The responsibility of monitoring legislation of liquid egg is the Local Authority's. The EHO may wish to take samples following an MO(P) visit, particularly if incubated eggs had been found or there had been strong suspicion that incubated eggs were being used.

122. On arrival at the premises the MO(P) should contact the processor or person in charge and explain the purpose of the visit. The MO(P) should then undertake an inspection to establish, through candling and breaking out, that the eggs being used for processing are ungraded/Class A/B and not incubated eggs permitted only for use in non-food industries.
123. Although correctly labelled packs should not be excluded, the MO(P) should pay particular attention to batches containing unlabelled packs. If any such batches are found the MO(P) should establish the identity of the supplier(s).
124. If incubation is confirmed the MO(P) should:
 - a. issue an EMR 6B quoting Council Regulation 1907/90 Article 4(1)(c) and annotated to the effect that the eggs cannot be used for the food industry;
 - b. disposal arrangements should be witnessed by the MO(P) if possible (or another MO(P) if outside the area);
 - c. MO(P) should contact a colleague as a witness and obtain documentary evidence of the supplier(s) of the eggs and issue a receipt for all evidence taken;
 - d. Both MO(P)s should submit a detailed report and any evidence taken to HMO(P) within 5 working days;
 - e. HMO(P) should consider whether to submit the case to the SAO(P) with a recommendation for farther investigation.
125. If there is strong suspicion that eggs have been incubated but tests do not prove conclusive, the MO(P) should obtain information of the supplier(s) and make enquiries as to the source of the eggs.

SECTION VIII: UNREGISTERED PRODUCERS SELLING TO RETAILERS

126. Any evidence indicating that unregistered producers are engaged in egg marketing should be investigated as follows:
- a. check the producer is not registered as a packing station;
 - b. establish discreetly whether marketing of eggs in contravention of the regulations is taking place;
 - c. after consulting HMO(P), the MO(P) should visit the producer and explain that they appear to be in contravention of the Regulations;
 - d. if it is established that the producer is required to register, the application procedure should be followed (Section VI);
 - e. if the need for registration is disputed, the MO(P) should refer the matter to the HMO(P), who should make appropriate recommendations to the SAO(P).

SECTION IX: RECOMMENDATION FOR PROSECUTION AND/OR WITHDRAWAL OF REGISTRATION

GENERAL

127. Regulation 8 of The Eggs (Marketing Standards) Regulations 1995 specifies offences and penalties under the Community Regulations. The principle sanctions to be used when the quality and labelling requirements are contravened are regrading (recandling), or downgrading, and relabelling, repacking or remarking of the packs or eggs concerned. All cases where prosecution under the Eggs (Marketing Standards) Regulations is recommended should be referred to the SAO(P) who, in conjunction with Policy Division, will decide if the case warrants further investigation.

In the case of Labelling or Marking contravention's of the Eggs (Marketing Standards) Regulations 1995 the following criterion should be considered when evaluating whether a prosecution is recommended.

- a. the seriousness of the alleged offence;
- b. the risk to public health or degree of consumer prejudice or unfair trading;
- c. the previous history of the party concerned;
- d. the likelihood of the party being able to establish a due diligence defence;
- e. the reliability of witnesses and their willingness to co-operate;
- f. the willingness and ability of the party to prevent a recurrence of the problem;
- g. the appropriateness of alternative action such as those outlined above;
- h. the validity of any explanation offered by the party.

CONSULTATION WITH SCOTTISH EXECUTIVE SOLICITORS / POLICY DIVISION

128. Scottish Executive Solicitors are responsible for approving all recommendations for prosecution and withdrawals of registration. Eggs and Poultry Unit staff are required to prepare reports on each case for prosecution. Initially, all contact with either Solicitors or Policy Division should be through the SAO(P).

129. When cases which may be controversial, e.g. quality contraventions, are being investigated, the SAO(P) should ensure that the local, HMO(P)(s), MO(P)(s) are informed so that official advice or comment may not be given unknowingly to producers/packers/wholesalers who are the subject of investigation.

CONTRAVENTIONS WHICH MAY RESULT IN PROSECUTION

130. When the results of an inspection suggest that prosecution should be considered the MO(P) should point out the contravention to the person in charge and tell them that such contravention would have to be considered by Senior management. Forms EMR 6A and/or B, should be completed in the normal way, details of the contravention must be noted in the MO(P)'s official notebook. The MO(P) should then withdraw, informing the person in charge that he/she requires assistance, and will return as soon as possible (the next working day at the latest)

PHYSICAL EVIDENCE FOR POTENTIAL COURT USE

131. When an MO(P) is satisfied that an offence has occurred which may lead to a prosecution, evidence, which could include photographic details, should be taken which could later be demonstrated in Court. This should be in the form of one or more packs and/or eggs showing the offences. One example of each offence will suffice. Where photographic evidence is taken, this should be recorded in the MO(P)s notebook. Scottish Law requires corroboration at all times, so no physical or photographic evidence should be taken until corroboration is available. The continuity of all productions must be recorded at all times.
132. Normally, quality and weight tests should be carried out on each batch of eggs which contravenes the Labelling Regulations. Wherever possible, practicable and relevant large packs should be selected with the label unbroken and the eggs removed. When it is impracticable to take a large pack intact, but it is important to show the label unbroken and that the pack had not been used before, it may be necessary to cut around the label leaving it stuck to a part or parts of the box, including one intact staple or a taped section showing no previous signs of use. When the previous use of large packs is irrelevant, unbroken labels may be carefully removed if possible.
133. It is important with *all* quality and weight offences which may lead to prosecution, for MO(P)s to record in their notebooks sufficient details to demonstrate that large packs could not have been used, or interfered with, after having been sealed by the labels.
134. Any eggs showing marking offences should be blown after seizure to minimise the possibility of the contents rotting before being required as evidence.
135. Where an invoice has been raised to cover the sale of the batch showing an offence, it should be taken as evidence and a photocopy returned to the owner.
136. All packs, labels, eggs and invoices must be signed and dated by the MO(P) at the time of seizure in the following manner. Taken by MO(P) (name) at (time) on (date) at (the premises) of (name and address) signed Care should be taken not to obscure relevant information when so doing. Invoices should be signed on the back. A copy should also indicate, on the back, whether the original has been seen by the MO(P) and where it is held.

137. Separate receipts should be given for all types of evidence seized. They must be signed (and dated) by the (H)MO(P)s and countersigned by a responsible person/owner representing the company/business from whom evidence is being secured.
138. When drawing attention to a contravention of the Regulations MO(P)s should not at any time administer a legal caution or take a statement from the alleged offender, unless, accompanied by a corroborating witness.
139. The MO(P)s should make a full and detailed entry in their notebook of all that takes place, after issuing a caution, statements may be taken (from a responsible person/persons or anyone whose evidence may be helpful) regarding the circumstances of the contravention. The MO(P)s must then time, date and sign the notes on completion. The notes may be used as evidence at a later stage. The best time to do this is immediately after the inspection takes place. If delayed too long, it is possible that the notes may not be admitted in evidence.
140. As well as gathering the necessary corroborated evidence to demonstrate an offence has been committed MO(P)s should evaluate the effectiveness of any management control systems in place designed to prevent the occurrence. This should allow MO(P)s to evaluate the likelihood of the party being able to establish a due diligence defence as required in section 147. This evaluation should also provide evidence to assist the Procurator Fiscal in rebutting any such defence where this is necessary. The evaluation itself should take the form of interviews (including where necessary obtaining statements), auditing records, procuring physical evidence, and recording details in official notebooks. The following factors should be key elements in any such evaluation.
 - a. An analysis of the adequacy of relevant quality control systems.
 - b. The effectiveness of implementation of such control systems.
 - c. An audit of records and other associated paperwork, noting any deficiencies.
 - d. An assessment of the training of staff at all levels of the organisation in the understanding of these systems.
141. The fact that a recommendation to prosecute has been made should not prohibit MO(P)s from making subsequent visits to ensure compliance with the Regulations but the MO(P) must not discuss the offence which has been considered by Senior management previously.
142. HMO(P)s should submit recommendations for investigation to the SAO(P) on the registered file. It should include all relevant documents leading up to the recommendation for prosecution.
143. All correspondence from the defendant, or their representative, must be forwarded to the SE Solicitors or the appointed Procurator Fiscal immediately.

PROCURATORS FISCAL

144. The appointed Procurator Fiscal will decide whether to proceed with a prosecution. The HMO(P) should contact the Procurator Fiscal involved before the day of the hearing and offer to provide technical advice on the Regulations.

PLEAS

145. Although Eggs Poultry Unit staff are not required to give evidence when a guilty plea is offered, they should attend the hearing in case technical information is requested by the Court.
146. The MO(P) should inform the HMO(P) of the result of the case immediately, with copies being circulated to the SAO(P) and other (H)MO(P)s.
147. Costs are not awarded by the Courts in Scotland.

REVOCAATION OF REGISTRATION

148. Article 5(3) of Council Regulation 1907/90 (as amended) provides for registration to be withdrawn in cases where packing stations do not comply with Regulations. However, revocation will only be considered in cases where a packer's premises and/or technical equipment are no longer satisfactory and after all efforts have been made to achieve the required standards. Revocation of registration cannot be considered in cases of poor quality or weight grading or incorrect labelling or marking alone (see paragraphs 36-139).

SECTION X: EQUIPMENT

149. Each MO(P) will be issued with the following items of equipment and protective clothing:

<u>Protective Clothing</u>	<u>Equipment</u>
1 pair weatherproof trousers	1 candling lamp
1 weatherproof coat	2 sets of weighing scales
An adequate supply of white lab coats (taking into account disease precautions)	1 large carrying case
1 reflective waistcoat	1 ultra-violet lamp and case
1 pair rubber boots	1 thermometer
1 safety helmet	1 air cell measure
1 pair safety boots	1 3m measuring tape
1 camera with film	1 laser measure
	1 lap-top computer
<u>Consumables</u>	1 Mobile Phone
Downgrading Tape	1 pair safety goggles or visor
Box Tape (Brown)	1 disinfectant bath/brush
Box Labels	1 first-aid kit
Overshoes (Disposable)	hand wipes/sterilising dispenser
Overalls (Disposable – blue)	1 self-inking downgrading stamp
Hair nets	1 set of poises and case
Disinfectant	1 stanley knife
Sanitiser	

150. If any item of clothing or equipment is lost or becomes unserviceable, the MO(P) must report the circumstances to the HMO(P) who will arrange for replacement.

151. All equipment must be returned to the HMO(P) when an officer ceases to be employed as an MO(P).

BIOSECURITY AND FARM INSPECTIONS

GUIDANCE FOR OFFICIALS OF THE SCOTTISH EXECUTIVE WHO VISIT FARM PREMISES IN THE ABSENCE OF AN OUTBREAK OF A NOTIFIABLE ANIMAL AND / OR PLANT DISEASE

1. The purpose of this guidance is to highlight the biosecurity precautions you should follow when undertaking farm inspections. These precautions are designed to prevent potentially harmful biological agents (animal, horticultural or zoonotic (implications for human health)) from entering or leaving a property.
2. It is essential that no transmission of disease can be attributed to careless behaviour on the part of staff involved in farm inspections. Every official must carry out effective biosecurity measures. It is important to minimise the risk of disease spread and to set a good example to the industry.

General Guidelines

3. In the majority of cases, contact will be made with the farmer or person in charge before the inspection takes place. The opportunity should be taken to establish what washing facilities are available and also what, if any, Separation Areas exist. In some instances it may be necessary for you to carry a full disinfecting kit. This comprises an approved disinfectant, bucket, brush, eye goggles, facemask (where appropriate), impervious gloves, waste disposal bags and a reasonable sized container filled with water in case there is none available on the farm.
4. If Separation Areas are in place, these areas should be avoided. If it is necessary to pass through such areas then cleaning and disinfection of soiled boots and clothing must be carried out before moving from one area to another.
5. If you do come into contact with livestock or faecal material, you must thoroughly clean and disinfect footwear, leggings etc. on entry to and on leaving the premises.
6. Inspectors who live on a farm must ensure that they are wearing clean clothes and footwear when leaving the premises to carry out inspections. Vehicles must be cleaned and disinfected.
7. As routine, vehicles should be kept clean (inside and outside) to reduce the risk of spreading any disease when travelling to and from premises. They should be parked on hard standing away from livestock and should not be driven through fields which have or have recently had stock in them.

Disinfecting Procedure for Farm Inspections

8. **Important:** to be effective at killing disease, disinfectant should be applied to a clean surface. Ensure surfaces to be disinfected are clear of mud, faeces and other organic matter by washing in a water bath or hosing down **before** applying disinfectant.

9. Place the boot/sole or equipment to be cleaned in the disinfectant solution and use a hand held brush to clear away material. Brush away from the face/eyes. If this is unavoidable, you must wear suitable eye protection. Avoid contact with the skin.
10. If you have come into contact with livestock, vehicles should be cleaned and disinfected (do not forget wheel arches) removing contamination of excreta, slurry or similar material before leaving the farm. If there are no facilities available on the farm, use the full disinfectant kit (see paragraph 3).
11. If waterproof clothing has been used previously, it must be cleansed and disinfected before entering the farm and before leaving the farm. All other protective clothing must not be used again until it has been laundered. Disposable boiler suits can either be left on the premises with the owner's agreement or bagged and suitably disposed of on return to the office.
12. All equipment used must be clean on entry and again on departure. Great care must be taken when cleaning electrical apparatus or tools. Where possible equipment should be protected from contamination e.g. using plastic bags. Health and Safety rules must be observed.
13. You should always check the Health and Safety precautions pertaining to any disinfectants used and abide by them.

Disposal of Disinfectant

14. Dispose of disinfectant carefully, well away from watercourses or water supplies.

Farm Type

15. There are many factors that determine the biosecurity risks associated with a farm visit and a common sense approach is required.

Visits to livestock farms

16. Protective clothing must be worn on all farm visits that will include entering areas where livestock are present or to which they normally have access. The type of protective clothing required will depend on the nature of the visit, e.g. the protection required for a visit to a dairy herd would differ from that required for a visit to an extensive unit on moorland.
17. Disposable boiler type suits can be used for visits providing that they are robust enough for the intended purpose of the visit. Disposable clothing must be used only once and must not be re-used.
18. Waterproof protective clothing and footwear should be worn if the visit will involve the handling of livestock and when entering areas in close proximity to livestock. Footwear must be thoroughly cleaned and disinfected before entering and leaving the farm.
19. You should be aware that some commercial poultry and pig units may have a showering on and off – site policy.

20. Records of all visits should be kept at all times.

Visits to Arable Farms

21. The direct transmission of infectious plant diseases is the obvious risk associated with crop inspections. Inspectors should therefore ensure that leggings, wellingtons and equipment are thoroughly cleaned and disinfected between farms. Where transmittable diseases are found in a particular crop, inspectors should clean and disinfect before entering the next crop. Inspectors should wear footwear that will allow cleaning and disinfection.

22. Inspectors should also be aware of the possibility of spreading livestock diseases. Again a common sense approach is required. Wherever possible avoid fields with livestock or where manure/slurry has been recently spread.

AAA/AAPS/Agri-environment inspections

23. Inspectors should wear footwear such as wellington boots or which will allow cleaning and disinfection (e.g. sturdy walking boots). Footwear must be thoroughly cleaned and disinfected between farms.

24. Inspectors should always be aware of the possibility of spreading livestock diseases. Again a common sense approach is required. Avoid fields with livestock or where manure/slurry has been recently spread, whenever possible.

SEERAD – Animal Health Division

Pentland House

July 2002

Enquiries to Jill Tait, Ext. 46553.

LIST OF FORMS AND LEAFLETS

EMR 1	Explanatory leaflet on the EC Egg Marketing Regulations
EMR 2	Application form - packing station
EMR 2A	Application form - collector
EMR 3	Application for Registration of an Egg Production Facility
EMR 4	Technical Inspection (general) report form- Producer/collector/packer/wholesaler/retailer/importer/hatchery
EMR 4C	Wholesale Registration Form
EMR 5	Technical inspection (quality and weight) report form - packer/wholesaler/retailer/importer
EMR 6	
EMR 6A	Notice of contravention - quality/weight/labelling/markings
EMR 6B	Notice of contravention - premises/technical equipment/date of lay criteria/special marketing term/origin term/other
EMR 7	Explanatory leaflet - use of laying date
EMR 8	Application form - use of laying date
EMR 9	Explanatory leaflet on Regulations on production and marketing of Hatching Eggs and Poultry Chicks
EMR 14	Explanatory leaflet on the Production methods for eggs marketed under the Special Marketing Terms Free Range, Barn or Cage
EMR 17	Special Marketing Terms record checking form - packing station
EMR 17A	Special Marketing Terms record checking form - worksheet
EMR 18	Special Marketing Terms record checking form - producer
EMR 19	Verification request - SMT/origin/date of lay
EMR 19	Verification request - Retail

QUALITY & WEIGHT TESTS :- SAMPLING PROCEDURE

Where the eggs are in large packs not containing small packs, at least the following numbers of eggs should be checked as samples:

No. of eggs in batch	No. eggs be checked to	
	% batch	Min No. eggs
up to 180	100	-
181-1800	15	180
1801-360	10	270
3601-10800	5	360
10801-18000	4	540
18001-36000	3	720
36001-36000	1.5	1080
over 360000	0.5	5400

Where the eggs are in small packs, whether or not these are inside large packs, at least the following numbers of small packs and eggs should be checked as samples:

No. of eggs in batch	% small packs	% eggs to be checked
		checked per pack
up to 180	100	100
181-1800	15	100
1801-360	10	100
3601-10800	5	100
10801-18000	4	100
18001-36000	3	100
36001-36000	1.5	100
over 360000	0.5	100

STOCK LETTER: REJECTION OF APPLICATION FOR REGISTRATION

Dear

EGG MARKETING REGULATIONS

I am writing to inform you that following the Marketing Officer (Poultry)'s visit on the application for registration of your premises at as a packing station, under the EC Egg Marketing Standards Regulations, unfortunately cannot be approved.

The reasons are: (Follow here with reasons for rejection)

I regret that approval cannot be given to use the special description "EXTRA" because (reasons)

*I regret that the use of the term(s) on eggs or on small packs defining the origin of eggs supplied by *does/do not meet the requirements of the EC Regulations for the following reasons: (Follow here with reasons)

*I regret that approval cannot be given to supply ungraded eggs for/mark eggs with Date of Lay because (reasons)

*I regret to inform you that your application to use the special marketing term(s) *Free Range Eggs, Barn Eggs, Eggs from Caged Hens, Organic Eggs for eggs from your own production/supplied by can not be approved for the following reasons: (Follow here with reasons)

*However, your application will be reconsidered in when the required improvements have been made.

*However you may reapply for registration whenever you consider that these reasons no longer apply.

In the meantime I must warn you that you will be in contravention of the EU Regulations on Egg Marketing Standards and therefore liable to prosecution if you sell eggs in shell graded at unregistered premises to retail or wholesale outlets.

Yours sincerely

cc S/MO(P)

*delete as applicable

STOCK LETTER: WARNING RE PREMISES AND/OR TECHNICAL EQUIPMENT

Dear

EGG MARKETING REGULATIONS

I am writing in connection with recent inspections made by the Marketing Officer (Poultry) and myself of your packing station/wholesale establishment at

On each occasion you were served with form EMR 6B requesting you to rectify contraventions(s) to your premises and/or equipment. i.e.

(state contravention)

Despite these requests I understand that the above contravention(s) still exist(s). In the circumstances I must inform you that unless you take the necessary action to rectify the matter by (length of time will depend on the nature of the contravention) serious consideration will be given to the withdrawal of your registration/of further legal action.

I therefore sincerely hope that you will take, without delay, the necessary steps to bring your premises and/or equipment into compliance with the Regulations.

Yours sincerely

bcc MO(P)

STOCK LETTER: FIRST/SECOND/THIRD WARNING ON POOR QUALITY/WEIGHT STANDARDS

(Send by First Class Post (1st warning)/ First Class Recorded Delivery (2nd/3rd warning))

Dear

EGG MARKETING REGULATIONS

I am writing to you in connection with the poor quality/ weight* standards found by the Marketing Officer (Poultry) at your packing station at _____ on (date) and (date) *(2nd warning) and on each of the last three visits made by the Marketing Officer (Poultry). *(3rd warning) by the Marketing Officer (Poultry) and myself.

On these occasions the batches of (specify grades) eggs checked were found to contain faults/under weight eggs*, in excess of the permitted tolerances laid down in the EC Egg Marketing Standards Regulations, and each time the Inspector needed to serve a form EMR 6A requiring you to make the batches comply with the Regulations before they could be marketed.

(Specify batches, inspection dates and percentage faults)

* (1st warning) I am concerned at this deterioration in the standards at your packing station.

* (2nd warning) Persistent poor quality/weight* standards are considered to be a serious breach of the Regulations and I shall be accompanying the Inspector on their next visit.

(3rd warning) I must inform you that, if on the next visit to the packing station, the inspection again reveals that the quality/weight standards are not within the permitted tolerances, in addition to downgrading the eggs, serious consideration will be given to the question of prosecution. I would point out that these offences are punishable by way of criminal proceedings carrying a maximum penalty of £5,000.

I hope, therefore, that you will take steps to improve the quality/weight* standards before the next inspection takes place. If you would like to discuss this matter, or need further advice, please contact me as soon as possible.

Yours sincerely

cc To General Manager if a large or National Company is involved
bcc SAO(P)/MO(P)

* delete as applicable

STOCK LETTER: WARNING - LABELLING/MARKING
Send By First Class Recorded Delivery Post

Dear

EGG MARKETING REGULATIONS

I am writing in connection with the labelling contravention/s which were found by the Marketing Officer (Poultry) on (date) When a check was carried out at *
 packing station/ wholesalers/ auction market premises.

The contraventions were as follows:

I must inform you that serious consideration will be given to prosecution if similar contraventions are found on the next visit.

Yours sincerely

cc MO(P)

* Delete as applicable

STOCK LETTER: WARNING - MISLEADING LABELLING DESCRIPTIONS

Send By First Class Recorded Delivery Post

Dear

EGG MARKETING REGULATIONS

I am writing in connection with the recent inspection by the Marketing Officer (Poultry) at
packing station/wholesalers* premises on .

During a check on labelling it was noticed that small/large* packs of eggs graded by your
packing station (number) bore the description *salmonella free/
on the pack.

I have to inform you that such wording is open to legal challenge under EC Regulations.
Consequently, if similar contraventions are found on any future visit, the Inspector will not
only be obliged to serve a notice preventing marketing until made to comply, but also serious
consideration will be given to prosecution.

I hope therefore that you will, if you have not already done so, take the necessary steps to
ensure that your labelling complies with the Regulations before the next inspection takes
place in the near future.

Yours sincerely

* Delete as applicable

bcc SAO(P)/MO(P)

**STOCK LETTER: NOTIFICATION TO PRODUCER OF
NON-COMPLIANCE WITH PRODUCTION METHOD CRITERIA**

Send By First Class Recorded Delivery Post

Dear

EGG MARKETING REGULATIONS

I am writing to you in connection with the recent visit by the Marketing Officer (Poultry) to check Special Marketing Term (SMT) criteria at *the above premises/(state if different).

On this visit a contravention notice EMR6B was served, preventing you from describing your eggs as *Free-Range Eggs/Barn Eggs/Eggs from Caged Hens/Organic Eggs until you complied with the requirements of the SMT Regulations.

The reason(s) for issuing the notice were:

(give reason(s))

* *As you opened the popholes at the time of the inspection, the notice was lifted by the Inspector.*

* *However your packing station is aware of the notice and has been instructed not to market your eggs as *Free-Range Eggs/Barn Eggs/Eggs from Caged Hens/Organic Eggs relating to those produced on the day of inspection / until the notice has been lifted by the Inspectorate.*

Your eggs may continue to be described as */Barn Eggs/Eggs from Caged Hens/Organic Eggs / non-SMT, and as soon as you are in a position to comply with *Free-Range Eggs/Barn Eggs/Eggs from Caged Hens/Organic Eggs criteria, please notify me so that a follow-up inspection can be arranged as soon as possible.

Yours sincerely,

bcc MO(P)

* Delete as necessary

**STOCK LETTER: NOTIFICATION TO PACKER OF PRODUCER'S
NON-COMPLIANCE WITH PRODUCTION METHOD CRITERIA**
Send By First Class Recorded Delivery Post

Dear

EGG MARKETING REGULATIONS

I am writing to inform you that the production methods used by one of your suppliers of eggs, marketed under the terms *Free-Range Eggs/Barn Eggs/Eggs from Caged Hens/Organic Eggs have been found not to comply with the criteria set out in the Egg Marketing Standards Regulations. I must therefore instruct you * not to market / *to cease marketing those eggs under the special marketing term(s), produced on (date of inspection) immediately and until further notice. A copy of the Form EMR 6B, served on the producer, is enclosed.

*If, at a later date, a further inspection finds that production methods have been changed so that they do comply, I will notify you accordingly.

In the meantime I must warn you that you will be committing an offence which is liable to prosecution if you market the above mentioned eggs as *Free-Range Eggs/Barn Eggs/Eggs from Caged Hens/Organic Eggs.

Yours sincerely

bcc MO(P)

* Delete as necessary

STOCK LETTER: NOTIFICATION TO PACKER OF COMPLIANCE WITH PRODUCTION METHOD CRITERIA FOLLOWING A FURTHER INSPECTION OF PRODUCER'S PREMISES

Send By First Class Recorded Delivery Post

Dear

EGG MARKETING REGULATIONS

In my letter of I informed you that the production methods used by one of your suppliers of eggs, marketed under the terms *Free-Range Eggs/Barn Eggs/Eggs from Caged Hens/Organic Eggs had been found not to comply with the criteria set out in the Egg Marketing Standards Regulations.

We have now made a further visit to and the production methods used were found to comply with the Regulations. You may therefore recommence marketing these eggs under the special marketing terms *Free-Range Eggs/Barn Eggs/Eggs from Caged Hens/Organic Eggs.

Yours sincerely

bcc MO(P)

* Delete as necessary

STOCK LETTER: WARNING - RECORD KEEPING

Send By Recorded Delivery Post

Dear

EGG MARKETING REGULATIONS

I am writing to you in connection with two recent visits made by the Marketing Officer (Poultry) to inspect the records you are required to keep for eggs which you market as *Free-Range Eggs/Barn Eggs/Eggs from Caged Hens/Organic Eggs/Origin/Date Of Lay. On these occasions, your records were found not to comply with the Regulations in the following respect(s).

(Give details)

I must inform you that failure to keep the records required is considered to be a serious breach of the Regulations. Consequently, when the Inspector makes *his/her next visit I shall be accompanying *him/her.

I should warn you that if you have not, at the time of this next visit, taken the necessary steps to bring your records into line, a notice of contravention will be served preventing the marketing of eggs described as . *Also consideration will be given to withdrawing your registration to use the special marketing term(s).

Offences against the Regulations are punishable by way of criminal proceedings carrying a maximum penalty of £5000. I therefore hope that you will, without delay, ensure that your records comply before the next inspection takes place.

Yours sincerely

bcc MO(P)

* Delete as applicable