

Food Information Regulation

Update on Compromise Agreement (Amendment 136)

In the UK food labelling is currently controlled by the Food Labelling Regulations 1996. These were introduced to implement the European Food Labelling Directive 2000/13/EC. This Directive had been amended many times since being introduced to include new labelling requirements, such as GMO and allergens.

A new Food Information Regulation is now being discussed. This is intended to consolidate all the amendments made to the Food Labelling Regulation and modernise it, as well as ensuring greater consistency of rules between Member States.

Reaching agreement between the European Parliament and the Council has been a difficult and lengthy process. Amended text was agreed by the European Parliament on 6 July 2011 and will now be considered by the Commission and the Council during autumn 2011, with adoption likely in early 2012. There will be a 3 year transition period before the Food Information Regulation comes into effect (except for nutrition labelling which comes into force on 1 January 2014).

Below are the main changes this new Food Information Regulation will make to current food labelling rules in the UK. Only the changes likely to affect seafood businesses have been included. Where further interpretation is required the table has been shaded and more details are given at the end of the guidance document.

Article	Requirements under the new Food Information Regulation compromise agreement	How this is different from the current Food Labelling Regulation 1996
2	<p>Definitions</p> <p>There are some changes to definitions that refer to other regulations. There are also some new definitions, including:</p> <ul style="list-style-type: none"> • Place of provenance – where a food is indicated to come from, if not country of origin. • Principle field of vision – field of vision most likely to be seen by first glance at time of purchase by consumer. • Legibility – physical appearance of information. 	<p>This introduces ‘provenance’ as the origin of a food as indicated. This does not include the manufacturers address or the approval code.</p> <p>Principle field of vision is a new definition and certain mandatory particulars will now need to be in the field of vision most likely to be seen by consumer.</p> <p>Legibility and the elements that can be considered in assessing legibility are defined for the first time.</p>

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8	<p>Responsibilities</p> <ul style="list-style-type: none"> • The Regulation places responsibility for compliance with the food business responsible for the marketing of product. All food businesses must not place on the market food they know to be non-compliant. • Any changes made to labelling will be the responsibility of the food business making the changes. • Food businesses should ensure that information is transmitted with non pre-packed food to enable it to be made available when required. 	<p>The current regulations apply the regulations to 'any person' however the defences from the Food Safety Act are applied, therefore it would be a defence if due to another person.</p> <p>This does not make changes to the current information requirements, but means that anyone who has responsibility for information supplied may be liable for non-compliance.</p> <p>This may place a greater responsibility on own brand retailers who often have a great deal of control over information given.</p>
9	<p>Mandatory Particulars</p> <p>There are some new particulars included, so are included from amendments such as allergens. New requirements are:</p> <ul style="list-style-type: none"> • Net weight • Country of origin or provenance • A nutrition declaration <p>There is also a provision to allow the use of pictograms or symbols.</p>	<p>This will make very few changes to the current requirements.</p> <p>Net weight was required under weights and measures</p> <p>Origin labelling has been limited to certain meat products, where the provenance is different to the primary origin or where an omission would mislead the consumer.</p> <p>Nutrition labelling was not mandatory previously but often given voluntarily. The rules on what nutrients must be given have changed. Single ingredient foods remain exempt.</p>
13	<p>Legibility</p> <p>Specific details of legibility criteria are given as a minimum of 1.2mm for X height. Or 0.9mm where the largest surface area is less the 80cm².</p> <p>The name and quantity must appear in the principle field of vision.</p>	<p>This set minimum font size for the first time so all mandatory particulars will now need to comply with the minimum font size.</p> <p>At least name and weight of food must now be seen at first glance by the consumer.</p>

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14	<p>Distance selling</p> <p>All mandatory information (except durability indication) need to be available before purchase and all particulars available at point of delivery. Non pre-packed exemptions still apply.</p>	<p>This is a new requirement under food law, although some requirements under distance selling regulations.</p>
21	<p>Allergen labelling</p>	<p>The list remains the same but whereas now a separate declaration is made. It will now need to be in the ingredients list and highlighted. This will be required for each ingredient even if containing the same allergen.</p>
23	<p>Net quantity</p>	<p>As in weights and measures legislation</p>
Annex IX	<p>Gives details of net quantity declarations. Where food is in liquid medium and glaze, net weight exclusive of glaze should be declared.</p>	<p>This is the current requirement in weights and measures legislation. However as only net quantity is required and this is exclusive of glaze or medium, it may no longer be necessary to declare the gross weight.</p>
24	<p>Durability date to include date of freezing.</p>	<p>New requirement.</p>
Annex III 5a.1	<p>Contains details of the above requirement.</p>	<p>This only applies to 'unprocessed' product. And requires date of freezing or first freezing if frozen more than once.</p>
25	<p>New origin rules are introduced, where omission would otherwise mislead, and where provenance differs from the origin of the primary ingredient, it must be given or indicated as different.</p>	<p>Current rules require an origin if an omission would mislead. It is new requirement to give origin of primary ingredient. However this would only apply where an origin is declared. Approval codes and manufacturers addresses are not considered an indication of origin. This could affect products that declare 'made in UK' as a marketing tool but the fish core was from another country.</p>

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29	<p>Mandatory nutrition labelling - Nutrients required</p> <p>Energy, fat, saturates, carbohydrates, sugars, salt.</p> <p>Additional voluntary one or more of</p> <p>Mono-unsaturates</p> <p>Polyunsaturates</p> <p>Polyoils</p> <p>Starch</p> <p>Fibre</p> <p>Vitamins/minerals as permitted</p>	<p>In current rules nutrition labelling is voluntary, unless nutrition claims are made and must take the form of energy, fat, carbohydrates, protein, with additional saturates, sugars, fibre and sodium. Any additional information can only be given if a health claim is made.</p> <p>As well as changing the nutrients that should be given, sodium is now declared as salt, and can have an indication of naturally occurring sodium near the declaration.</p> <p>There is an option to repeat the nutrients of most interest. Energy alone or with fat, saturates, sugars and salt.</p> <p>NB: unprocessed single ingredient foods, or category of foods remain exempt.</p>
32	<p>Allows nutrition declaration by portion or unit size. As long as this is clearly stated on the label and number of portions or units in package specified.</p>	<p>Currently permitted but no specific rules.</p>
33	<p>Presentation</p> <p>Mandatory and voluntary nutrients should be in same field of vision, in tabular format where possible.</p> <p>If energy or energy + fat, saturates, sugars and salt are repeated must be in principle field of vision.</p>	<p>Mandatory labelling can be on back of pack, but where the option to repeat the nutrients of most interest to consumers is used, this must be in the principle field of vision.</p>
34	<p>Additional forms of expression</p> <p>For mandatory information to use methods other than words and numbers.</p>	<p>This will be subject to implementing rules.</p>
Annex VI 2	<p>Mandatory particulars accompanying the name of the food</p> <p>Includes 'defrosted'.</p>	<p>This does not apply to ingredients used in another product, freezing for a technological function or where there is no impact on the safety or quality of the food.</p>

Article	Requirements under the new Food Information Regulation compromise agreement	How this is different from the current Food Labelling Regulation 1996
Annex VI 4a	<p>Mandatory particulars accompanying the name of the food</p> <p>Fishery products containing added proteins of a different animal origin shall bear an indication in the name of the food.</p>	<p>The proteins would previously been declared in the ingredients list and in some cases the name of the food, but would not need to specify origin.</p>
Annex VI 4c	<p>Mandatory particulars accompanying the name of the food</p> <p>Includes fishery products which give the appearance of whole pieces of fish but are in fact pieces should be labelled 'formed fish '</p>	<p>This is already required to prevent the product description from being seen as misleading.</p>
Annex VII Part A 1	<p>Added water</p> <p>Added water should be included as an ingredient unless less than 5%. Unprocessed fishery products and unprocessed bivalve molluscs are excluded.</p>	<p>Previously the 5% allowance applied to all foods.</p>

More information when further interpretation is needed

Annex IX Net Quantity

As the mandatory requirement is for the labelling with net quantity, and this is later defined as the weight without liquid medium. Clarification is needed as to whether this mean that gross weight is no longer required.

Annex III Date of Freezing

As the date of first freezing only applies to unprocessed products the definition of an unprocessed product requires clarification. The Regulation uses the definition of 'processing' in the hygiene regulations. This is:

(m) 'processing' means any action that substantially alters the initial product, including heating, smoking, curing, maturing, drying, marinating, extraction, extrusion or a combination of those processes;

(n) 'unprocessed products' means foodstuffs that have not undergone processing, and includes products that have been divided, parted, severed, sliced, boned, minced, skinned, ground, cut, cleaned, trimmed, husked, milled, chilled, frozen.

For deep-frozen or thawed:

(o) 'processed products' means foodstuffs resulting from the processing of unprocessed products. These products may contain ingredients that are necessary for their manufacture or to give them specific characteristics.

Article 29 – mandatory nutrition labelling

This may require clarification for products that contain naturally occurring sodium but not as sodium chloride. Sodium must be declared as a salt equivalent. There is a provision to allow a declaration of naturally occurring sodium. It is unclear how seafood will be affected.

Annex VI 2 – declaration of 'defrosted'

Description of 'defrosted' where sold thawed. Except;

- if an ingredient in final product,
- technically necessary (parasites under hygiene rules),
- where defrosting has no negative impact on the safety or quality of the food. However there is a new recital (30a) which states that 'freezing and later defrosting of certain foodstuffs, especially meat and fishery products, limits the possible use of those foodstuffs and may also have an adverse effect on the safety, taste and physical quality of the foodstuffs.'

This should not be a change from current requirement as a description of previously frozen is already required. However, as this could be interpreted as meaning that if there is an effect on the safety or quality of the food it should be declared, including when used as an ingredient, this requires clarification to ensure that this is not the interpretation taken.

Annex VI 4a

With fishery products containing added proteins such as hydrolysed proteins of a different origin, the name of the food shall bear an indication of the presence of these proteins and of their origin.

This is the current requirement, but the source of the protein need not be named. Interpretation is needed on 'fishery product'. If the definition in 853/2004 applies it will exclude any compound products.

If a wider definition is taken it could apply to all fishery products containing in excess of 20% - 50% fish depending on definition used. This would cause problems as any compound product using additional protein may need to declare it in the name of the food. In these cases it should be sufficient to have in the ingredients list.

Annex VI 4c

Fishery products that give the impression that they are made of a whole piece of meat or fish, but actually consist of different pieces combined together by other ingredients, including food additives and food enzymes or by any other means, shall bear the following indication: 'formed fish' This requirement is the case in the current legislation, or at least the UK interpretation of what is misleading.

The Code of Practice on fish declarations (and Lacors interpretation) states that products made from pieces of fish, should be described as 'formed'. We have been trying to change this to reflect more modern processing techniques. 'Formed' and 'fillet' are the only permitted terms. Currently a breaded product where the core is made up of 2 or 3 pieces of fillet frozen together should be described as 'formed' and not a 'fillet'.

What is proposed is actually only requiring the labelling where 'combined together by other ingredients, including food additives and food enzymes or by other means'. Although 'by other mean' covers everything making the whole sentence unnecessary. There is scope to request additional terms to indicate different types of processing, e.g. whether several pieces of fish fillet or fish block.

Annex VII Part A 1

The amount of water added as an ingredient is calculated by deducting final weight of food from the weight of other ingredients. There is an allowance of 5% that need not be declared. However unprocessed fishery products and unprocessed bivalve molluscs are excluded. We need to get guidance for this as it is intended for water added as an ingredient; it is unclear how it will affect water pick up during processing and soaking of shellfish. Water inclusion in this form is currently undeclared.

For further information:

http://ec.europa.eu/food/food/labellingnutrition/foodlabelling/proposed_legislation_en.htm

<http://www.defra.gov.uk/food-farm/food/labelling/>

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