

Regulation 1169/2011

Introduction

Regulation 1169/2011, The Food Information to Consumer Regulation (FIC) came into force on 13/12/2011 with a three year transition period, so becomes effective from 13/12/2014.

The new regulation brings EU rules on general and nutrition labelling together into a single regulation to simplify and consolidate existing labelling legislation. Key areas of the regulation include:

- Country of origin / place of provenance: origin requirements have been tightened and also extended to fresh and frozen meat from pigs, sheep, goats and poultry. Seafood is excluded because an origin is required under the Fish Labelling Regulations. For more information on these Regulations see www.seafish.org
- Nutrition labelling: 'back of pack' information will become mandatory on the majority of pre-packed foods, single ingredient unprocessed foods are exempt e.g. fish fillets.
- Date marking: depending on the type of food, consumers will continue to see 'best before' and 'use by' dates on pre-packed foods. Where appropriate i.e. for meat and fish, there will also be a date of first freezing shown on food labels. The date of freezing requirements are covered in detail in this guide.
- A minimum font size is introduced for the mandatory information on most food labels.
- The types of vegetable oil used in food, such as palm oil, must be stated.
- Allergen information is extended to non pre-packed foods and catering situations with flexibility in how businesses provide this to consumers.
- Added water in fishery products which have the appearance of being made from a cut, joint, slice, portion or whole fillet will need to be shown in the name of the food if it makes up more than 5% of the final product. More details are given in this guide.
- More detail is given on mandatory information that must accompany the name of the food. This includes the use of the words 'formed fish' where a product gives the impression of having been made from a whole piece of fish when it is in fact made from pieces.

This guide aims to answer some of the seafood-specific questions relating to this regulation. General guidance on the Regulation can be found on the government website: www.gov.uk/government/uploads/system/uploads/attachment_data/file/82663/consult-fic-guidance-20121116.pdf
www.food.gov.uk/sites/default/files/fir-2014-guidance.pdf

Q1. Who does the Regulation apply to?

Any food business supplying food intended for the final consumer (including to mass caterers), and to other businesses with the intention it will be supplied to the final consumer further along the chain.

Q2. Who is responsible for ensuring compliance?

The food business under whose name the product is marketed is responsible for the food information and needs to ensure the presence and accuracy of the food information. If the food is imported from outside of the EU into the European Union it will be the importer that is responsible.

Food businesses not supplying direct to the consumer need to ensure they are supplying the information necessary for their customers to comply with the Regulation.

Everyone in the food chain, including the retailer, has a responsibility to ensure that the information is accurate and must not supply food which they know or presume to be non-compliant with the law.

Q3. Who can change information?

A food business can change information but they become responsible for the information they change. A business could freeze a fresh product but would then be responsible for the safety and quality of the product with the new durability date and storage conditions.

Q4. How will the Regulation be enforced?

In England, Northern Ireland and Wales the regulation will be enforced by improvement notices. It will be a criminal offence not to comply with the improvement notice.

Failure to comply with allergen labelling requirements will be treated as a criminal offence as it is a potential food safety risk.

In Scotland non-compliance with the Regulation continues to be a criminal offence.

Q5. What foods does it apply to?

All foods intended for the final consumer, regardless of the stage in the chain at which they are packed.

Food that is pre-packed by the seller or packed on the premises at the request of the customer (pre-packed for direct sale) are treated in the same way as for food sold loose.

Food sold loose is exempt from the majority of the requirements. Only allergens need be declared. See Q6. What is considered packaged?

The covering on a product is considered to be 'packaging' if it 'encloses the food completely or only partially, but in any event in such a way that the contents cannot be altered without opening or changing the packaging'. For example where fish is delivered to a restaurant in polystyrene boxes, If the lid is sealed in such a way that removal of the lid (and replacement) would be obvious it would be 'packaged' and need to comply with the Regulation. Where the lid can be removed and replaced without being obvious then this would not be 'packaged' as the lid provides a covering for hygiene purposes not packaging.

Q7. What is the difference between food information and labelling?

The previous regulation only applied to labels, the new Regulation applies to all food information. This will include sales where the consumer is not present such as mail order, telephone or internet sales..In these situations where the consumer cannot see the actual product the mandatory information must be available to the consumer before the purchase is made.

Q8. What is a label, does it need to be attached to the food?

It can be any 'label' means any tag, brand, mark, pictorial or other descriptive matter, written, printed, stencilled, marked, embossed or impressed on, or attached to the packaging or container of food;

Q9. What must be included on the label?

The mandatory requirements are for:

- The name of the food.
- The list of ingredients.
- Allergenic ingredients.
- Quantity of certain ingredients.
- Date of minimum durability.
- Any special storage conditions and / or conditions of use.
- The name or business name and address of the food business operator responsible.
- The country of origin or place of provenance for some products.
- Instructions for use where necessary.
- Alcoholic strength.
- A nutrition declaration.

Q10. Does the information required by Annex VI on mandatory information that must accompany the name of the food, such as defrosted, formed fish and added water need to comply with the minimum font size criteria?

No, the minimum font size only applies to the mandatory information required under article 9. More information about minimum size and legibility criteria can be found in Defra guidance at the start of this document.

Q11. Are there any legal names for fish or fish products?

There are legal names specified for species of fish in the Fish Labelling Regulation: www.seafish.org/industry-support/legislation/traceability-and-labelling/the-fish-labelling-regulations

If these names are used in any labelling or ingredients listings then they must be the species permitted to use this name.

It is permitted to use a generic term such as 'fish' if there is nothing to indicate that the fish may be a certain species such as images of a species or a fancy name that would lead the consumer to believe it was made from a particular species.

Q12. How should products made from pieces of fish be described?

Fishery products which may give the impression that they are made of a whole piece of fish, but actually consist of different pieces combined together by other ingredients, including food additives and food enzymes or by other means, shall bear the indication 'formed fish'.

Q13. What does 'give the impression that they are made of a whole piece' mean?

This means products whose presentation would lead to consumer to believe they are made from a whole piece of fish. This has been further interpreted to mean a natural fish shape. Therefore geometric shapes such as fish fingers or breaded fish blocks would not be giving the impression of being made from a whole piece of fish. Where pieces are put together to give the appearance of a bigger piece of fish or where fish block is made into a fillet shape would need to declare that they are formed. Some examples are given below.

Fish product	Formed required
Cod fish cakes	No label – shape alone excludes it.
Cod fillet fish finger.	No label – shape alone excludes it
A breaded fish portion made from a sawn portion of a fish block, pressure formed in a mould into the shape of a fillet.	Label required – state as formed.
A breaded fish portion made by hand- laying 3 - 4 pieces of fish fillet together in a mould the shape of a fillet and freezing.	Label required – state as formed.
A circular shape presentation of raw salmon made by rolling two whole fillets together and then slicing across.	No label if presentation is culinary or aesthetic and does not deceive the consumer In the unlikely event that the effect was to present the product as a salmon steak then labelling would be required.
A breaded flat fish product (e.g. plaice, lemon sole) made by filleting a flat fish and laying the top and bottom fillets back together and then freezing together.	No label if the intention was to present the product as a fish that had been headed, gutted, deboned and breaded. The 'reassembly' of the fish would not be material.
What about the same scenario above but where 3 - 4 fillets are stacked together (can	Label required – state as formed.

sometimes be done if fish are small, or to create a chunkier product).	
Breaded goujons made from flat fish frozen paired top and bottom fillets which are then sliced across the cross section into goujons	<p>Label required – state as formed</p> <p>A goujon is usually thought of as a small strip of fish coated in breadcrumbs and deep-fried. The name would distinguish the product from a fish finger and would imply a strip from a single fillet. In this example the expectation would not be fulfilled and therefore labelling would be required.</p>

Q14. What does ‘by other means’ mean?

This is not intended to be the decisive factor in deciding whether a declaration of formed is necessary.

Q15. Where should the ‘formed fish’ declaration be made?

It needs to accompany the name of the food. The legal name may be on the back of the pack with a marketing name on the front. If this marketing name could give the impression of the product being made from a whole piece of fish then ‘formed fish’ may also need to accompany this name.

Q16. How should added water be indicated?

Added water above the level of 5% of the weight of the finished fishery products or prepared fishery products that have the appearance of a cut, joint, slice, portion or fillet or of a whole fishery product must be indicated accompanying the name of the food.

Q17. Is advantageous water pick up ‘added water’?

No, only water added as an ingredient must be included in the ingredients. It does not include advantageous pick up during processing, or water used for technical reasons. However, good manufacturing practice should be maintained to ensure water pick up is minimised.

Q18. What does ‘appearance of a fillet or whole fishery product’ mean?

This is different to ‘give the impression’ as seen in the requirement for ‘formed’, this requires the product to have the appearance of a cut, joint, slice, portion, fillet or of a whole fishery product, the name of the food shall include an indication of the presence of added water if the added water makes up more than 5% of the weight of the finished product.

‘Appearance’ is related to the fish component of the food and is not related to shape. So a fish cake would not give the impression of being a fillet but a battered fish product made from shaped fish block would.

Products which do not fall within the scope of this rule would still need to declare added water in the ingredients, but not in the name of the food.

Q19. How should added water be listed in the ingredients list?

Added water must be included in the list of ingredients if it makes up greater than 5% of the product. Water below 5% doesn't need to be included, except for unprocessed fishery products and unprocessed bivalve molluscs which must include all added water.

Fish product	Added water declaration required
Fish fillets containing 5% added water	Declare added water in the name of the food. Include water in the ingredient list.
Fish fillets containing 3% added water.	No declaration in the name of the food. Include added water in the ingredient list as no 5% allowance
Fish pie made from raw pieces of fish (with 10% water glaze) covered with sauce and mashed potato.	No declaration in the name of the food. Include glaze as added water in the ingredient list
Raw prawns with 10% glaze.	No declaration in the name of the food. Water is glaze and does not need to be included in the ingredients list see Q34

Q20. Where should added water be declared?

It should accompany the name of the food.

Q21. How should added water be declared?

The Regulation requires an indication to be made, it is not specific on wording.

Q22. Do I need to indicate if a product has been previously frozen?

A declaration of 'defrosted' is required if the product has been previously frozen but is being sold chilled. This information would only be required if the consumer would otherwise be misled into thinking the product had not been frozen. An impression that the fish had not been previously frozen could be given by its placement on a wet fish counter rather than packed on the shelf, or the name of the food e.g. 'fresh catch'.

Q23. Do I need to declare that ingredients have been defrosted?

No, ingredients do not need to be declared as defrosted. This would include processed single ingredient foods, such as smoked mackerel made from frozen mackerel.

Q24. Are there exemptions from declaring 'defrosted'?

Yes, 'defrosted' is not required for:

- a) Ingredients present in the final product.
- b) Foods for which freezing is a technologically necessary step of the production process. Such as slicing and where it is legally required for food safety such as under Regulation 1276/2011.
- c) Foods for which the defrosting has no negative impact on the safety or quality of the food.

Q25. What does ‘no negative impact on the safety or quality of the food’ mean?

This would need to be decided on a case by case basis. As this is intended to inform the consumer who may wish to freeze product at home, a deciding factor may be if the food is suitable for refreezing.

Q26. Do I need to declare ingredients?

There are exemptions for unprocessed products comprising of a single ingredient or category of ingredients. Frozen fish fillets would not have to carry an ingredients list. All other products will need to carry ingredients labelling. A category of foods would be ‘fish’ so a mixture of fish would still be exempt from ingredients listing, as long as no indication is given on the species.

It should be noted that unprocessed fish would fall with the scope of the fish labelling regulations. These require the commercial designation of all the fish in a mix to be declared, although this would not need to be as an ‘ingredients list’.

Q27. Do additives need to be included in the ingredients listing?

Food additives used as processing aids do not need to be declared as an ingredient; also any additives carried over in an ingredient do not need to be declared as an ingredient in the new food. More information on ‘processing aids’ and ‘additives’ can be found here: [www.seafish.org/media/Publications/Food Additives and their use in seafood Feb 2011.pdf](http://www.seafish.org/media/Publications/Food_Additives_and_their_use_in_seafood_Feb_2011.pdf)

Q28. How do I declare ingredients in compound foods used as an ingredient?

A compound ingredient should be listed in the same way as a single ingredient but should be followed by the ingredients listing as if the ingredient was being sold in its own right. This would mean that annex VI rules for name of the food apply to names in ingredients list including additives and any processing such as ‘minced’.

Q29. Would smoke or deposits from the smoke be considered additives?

No, as this would be indicated as a process in the name of the food. Any salt, colourings or flavourings added would be ingredients.

Q30. What allergens need to be declared?

There are 14 allergens which if they or any of their derivatives are added to food need to be declared. This applies to all foods, including those sold loose or at catering outlets. More information on allergen labelling including specific guidance for loose foods and catering outlets here: www.seafish.org/industry-support/legislation/traceability-and-labelling/allergen-labelling

Allergen labelling is not required where it is clear from the name of the food.

Q31. Can allergens not included on the list of allergens be listed?

No, only the 14 listed should be declared in the manner described in the Regulation.

Q32. Do quantities of ingredients need to be declared?

The ingredients should be listed in order of weight at the mixing bowl stage. Any characterising ingredients need to also have their percentage of total weight at the mixing bowl stage. In the majority of fish products the fish component will be a characterising ingredient. For more information see here:

www.food.gov.uk/sites/default/files/multimedia/pdfs/quid.pdf

Q33. Do I need to declare net weight and / or drained weight?

The net weight or drained weight must be declared.

Q34. How should glazed weight be declared?

Water used as a glaze is no longer considered to be part of the food and would be packaging. Therefore it does not need to be declared in the ingredients and cannot be declared using a QUID declaration of the fish and water. But the drained or net weight must be given.

Q35. In labelling a product such as frozen prawns, is it acceptable to use the gross weight with a statement 'including protective glaze (net weight see back of pack)' ?

No, only the net weight is permitted on products pre packed for the final consumer. For more information on weight declarations on glazed products see (Seafish guide to be added)

Q36. In the case where the fish is caught, landed then filleted – what dates have to be supplied?

A date of minimum durability if pre-packed. If the product is not pre-packed, no date needed.

Q37. Should I use a Best Before or Use By date?

More information on the correct date to use can be found here:

www.gov.uk/government/uploads/system/uploads/attachment_data/file/69316/pb132629-food-date-labelling-110915.pdf

Q38. Do I need to declare a date of first freezing?

The first date of freezing must be declared on unprocessed fish. The date must be preceded by 'frozen on' and be in an uncoded form. For distance selling where the food may not have been frozen yet, the information is not required at the point of sale, but must be provided before or upon delivery of goods.

Q39. There is no frozen on date just a production date? Should the wording for production date be amended to frozen on?

Yes, from 12 December this will have to say 'frozen on' if it is an unprocessed frozen fishery product.

Q40. Are both a freeze date and a production date needed on packed frozen fish fillets? For example where whole fish are frozen in bulk and then packed as required for sales?

The date of freezing that must be used is the first time the fish was frozen, in this case the bulk freezing.

Q41. Will freeze date need to be declared on frozen fish that is sold defrosted?

No, it only applies to frozen unprocessed fish.

Q42. What is an unprocessed product?

The definition of 'processing' is taken from Regulation 853/2004. This defines 'processing' as 'any action that substantially alters the initial product, including heating, smoking, curing, maturing, drying, marinating, extraction, extrusion or a combination of these processes'.

Q43. Does pasteurisation of a product make it a processed product?

No.

Q44. Does the presence of additives or salt make a product processed?

No.

Q45. Does brining make a product processed?

If the brine penetrates the entire product it will be considered processed.

Q46. Do I need to declare 'refrozen'?

Some foods require a defrosting step to be divided into selling units and repacked. They will only be considered refrozen when the organoleptic qualities are affected.

Q47. If products are 'refrozen' which date needs to be declared?

The first date of freezing needs to be given.

Q48. When do I need to declare a country of origin?

Fish is exempt from mandatory origin labelling, unless it would mislead the consumer to omit this information. The origin of the primary ingredient (fish) would only need to be declared if there is a declaration made about the origin of the product and the primary ingredient had a different origin e.g. a coated product that indicated a UK origin, but was made with fish from another country. If no origin was indicated the origin of the fish would not need to be declared.

The food hygiene approval mark that must be on packing for food safety is not considered to be a declaration of origin.

Q49. What is the country of origin for wild-caught fish?

The Regulation uses the customs definition of origin for fish so this would be the territorial waters up to the 12 mile limit and outside this the flag of the vessel. When fish is processed it will take on the origin of the processing country.

Q50. Will Protected Geographical Indications (PGI) be subject to origin labelling?

No. If a product has a PGI it will be exempt, for example Grimsby smoked fish, is fish filleted and smoked in Grimsby. As this is included in the PGI it would not need to be declared.

Q51 Do all products need nutritional labelling?

There is an exemption for unprocessed single ingredient foods, such as unprocessed fish fillets. These would not legally require nutritional information. It can be provided voluntarily and then must comply with this regulation.

The prescribed format for nutrition labelling has changed in this regulation. More information can be found in Defra guidance at the start of this document.

Q52. Can additional nutritional information be given?

There is a list of supplementary nutrients that may be declared. If other nutrients are declared there will need to be a nutrition and / or health claim made.

Q53. How should omega-3 be declared?

There is guidance on making omega-3 health and nutrition claims here: www.seafish.org

Q54. How does this Regulation fit with the CMO regulation 1379/2013?

Regulation 1169/2011 and Regulation 1379/2013 take effect from 13/12/2014, and both introduce consumer labelling rules.

Regulation 1379 applies to CN03 products only. These are mainly unprocessed fish and shellfish. For guidance on this Regulation see:

www.seafish.org/media/publications/Web_Traceability_CMO_guide_V4_2015.pdf

This Regulation applies to packed or loose fish, and requires:

- **Commercial name**
- Scientific name
- Production method, (caught or farmed)
- Catch method, (gear type)
- Catch area
- **Defrosted**
- **Date of minimum durability**

Of these, the requirements in bold are also seen in FIC regulation 1169/2011. There are slight differences in requirements.

The commercial name in the Fish Labelling Regulations must be used as the name of the food, unless a generic 'fish' is being used.

Under the CMO, defrosted is required. This applies whether or not the consumer would be misled. It also applies to fish sold loose as well as pre-packed. But it does not need to accompany the name of the food.

The date of minimum durability is only required on packed product under FIC and CMO.