

CONSUMER INFORMATION UNDER THE EU COMMON ORGANISATION OF THE MARKETS REGULATION

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1. Introduction

The Common Organisation of the Markets Regulation (CMO) introduced in 2000 required Member States to provide consumers with certain catch information at point of sale. This included the commercial designation, production method and catch area and applied mainly to fresh and not processed products. Member States were also required to establish a list of the commercial designations accepted in their country together with their scientific name. Subsequent measures defined twelve catch areas for product caught at sea. This is enforced in the UK under fish labelling regulations.

As part of the recent reform of the EU Common Fisheries Policy the consumer information requirements were reviewed and extended under a new Common Organisation of the Markets Regulation (EU) No 1379/2013. This document explains what information is required and provides current guidance on the application to fish and shellfish.

2. When does this apply?

It applies from December 13, 2014. Products labelled prior to this date which do not comply may be marketed until stocks are used up.

December 13, 2014, is also the date when new food labelling requirements under the Food Information to Consumers Regulation (EU) No 1169/2011 comes into force.

3. Who should the information be provided to?

The information must be provided to the final consumer or to a mass caterer. The inclusion of a mass caterer is new and includes businesses such as restaurants, canteens, schools, hospitals and catering enterprises in which food is prepared for consumption by the final consumer.

4. Which products does it apply to?

This applies to fishery and aquaculture products falling within the CN03 customs commodity code, which are effectively unprocessed products (although it does include smoked products). It includes products from both Member States and third countries.

The EU categorises products into commodity codes (CN codes) which are then used for applying any taxes or relief on import of goods. This method of categorising fish and shellfish products is used in marketing legislation such as this.

CN 03 codes include fish and shellfish that do not have any other intrinsic ingredients other than salt. It contains fish and shellfish that are whole, gutted, minced, frozen, dried, salted or smoked.

CN 1604 and 1605 codes include processed fish, crustaceans, molluscs or other aquatic invertebrates. It includes crustaceans that are both cooked and peeled, breaded fish and other value added products.

More information on commodity codes, including a searchable data base to categorize products, can be found here: <http://online.businesslink.gov.uk/bdotg/action/tariff>

5. Interaction between the CMO and the Food Information to Consumers (FIC) Regulations

The FIC applies to all pre packed foods intended for the final consumer. However, where specific labelling requirements are provided in measures applicable to certain foods, those measures should apply. The CMO regulation applies such specific measures for consumer information for certain pre-packed and non-prepacked fishery and aquaculture products. Where the CMO does not apply such specific rules the FIC requirements continue to apply.

The FIC applies mandatory requirements including the name of the food, allergens, ingredients, nutrition, net quantity, minimum durability, added water and date of freezing. Defra guidance is available at: <http://www.food.gov.uk/sites/default/files/fir-2014-guidance.pdf>

6. Small quantities exemption

An exemption may be applied to small quantities of product sold directly from fishing vessels to consumers provided they do not exceed a value of 50 Euros per day.

7. What information is to be provided?

- 7.1 The commercial designation of the species and its scientific name
- 7.2 The production method
- 7.3 The area where the product was caught or farmed
- 7.4 The category of fishing gear used
- 7.5 Whether the product has been defrosted
- 7.6 The date of minimum durability, where appropriate
- 7.7 Additional voluntary information can also be given

7.1 Commercial designation and scientific name

This is an existing requirement although the scientific name has previously been optional.

Also, where applicable, any other name or names that are accepted or permitted locally or regionally can be used.

Fish which constitutes an ingredient of another food may be designated 'fish' provided that the name and presentation of the food does not refer to a specific species.

Commercial designations permitted in the UK are provided in the Defra publication "Commercial Designations of Fish" published in 2013. This is subject to amendment to allow for additions and amendments, and can be found at

www.gov.uk/government/uploads/system/uploads/attachment_data/file/236702/pb14027-uk-commercial-designation-fish-list.pdf

Although this publication does include names of fish species care should be taken as the reference is sometimes to a particular fish family and not the individual species.

The scientific name should be in accordance with the FishBase Information System or the ASFIS database of the FAO at www.fishbase.org or www.fao.org/fishery/collection/asfis/en

Current Defra guidance notes on Fish Labelling legislation can be found at: www.gov.uk/government/uploads/system/uploads/attachment_data/file/245013/pb13760-fish-labelling-regs-guidance.pdf

Note: At the time of issue of this Seafish guide the Defra guidance covers to the current CMO requirements that apply until December 13, 2014.

7.2 Production method

This is an existing requirement.

The production method shall include the words “... caught ...” or “... caught in fresh water ...” or “... farmed”

The term ‘cultivated’ has previously been used for aquaculture products as an alternative to ‘farmed’. This option has been omitted.

Where a product contains the same species but sourced from different production methods the method for each batch shall be stated.

7.3 Area where the product was caught or farmed

This is an existing requirement. However, more detail is required for some catch areas.

7.3.1 Fishery products caught at sea

For fishery products caught in the Northeast Atlantic (FAO Fishing Area 27) and the Mediterranean and Black Sea (FAO Fishing Area 37), the name of the sub area or division is to be provided. In addition this should include the name of this zone expressed in terms understandable to the consumer or a map or pictogram showing that zone.

Although this requirement can apply to fishery products caught in other FAO areas, derogation allows for the indication in such areas to be the name of the FAO fishing area only.

Where a product has been sourced from a variety of catch areas or fish farming countries at least the area or country which is the most representative in terms of quantity shall be stated together with an indication that some also come from different catch or fish farming areas.

Tables listing sub areas and divisions for area FAO 27 and 37 can be found in Annexes 1 and 2. Other FAO fishing areas are listed in Annex 3.

The location of the sub areas and divisions for FAO 27 can be found on the FAO website at <http://www.fao.org/fishery/area/Area27/en>

7.3.2 Fishery products caught in freshwater

For fishery products caught in freshwater there should be a reference to the body of water of origin in the Member State or third country of provenance of the product.

7.6.3 Aquaculture

For aquaculture products a reference to the Member State or third country in which the product reached more than half of its final weight or stayed for more than half of the rearing period. In the case of shellfish, underwent a final rearing or cultivation stage of at least six months.

7.4 The category of fishing gear used

This is a new requirement.

The required seven categories of fishing gear are shown in the mandatory information column of Annex 4. However, more detailed information on these can be given instead as shown in the second optional column.

Gear types not included in the mandatory list such as shellfish that have been 'diver caught' or 'harvested on shore by hand' can be indicated voluntarily provided the information is clear, unambiguous and verifiable.

The harvesting method used for farmed product does not have to be provided as the requirement applies to capture fisheries only.

7.5 Defrosted

This requires the consumer to be informed whether the product has been defrosted. Exemptions apply to:

- a. Ingredients present in the final product
- b. Foods for which freezing is technologically necessary step in the production process
- c. Products previously frozen to kill parasites as prescribed under the hygiene regulation 853/2004
- d. Products defrosted before smoking, salting, pickling, drying, curing or any combination of these

The Food Information to Consumers Regulation also requires previously frozen food to be labelled as defrosted. There are also exemptions which include points (a) and (b) above but not points (c) and (d).

For products covered by the CMO, which includes non-prepacked, the CMO exemptions should be used. For other packaged fishery products not covered by the CMO the FIC exemptions apply. The Food Information to Consumers Regulation also requires previously frozen food to have the term 'defrosted' accompany the name. The scope does not include non prepacked food. For non prepacked fishery products 'defrosted' can appear anywhere and does not need to accompany the name.

7.6 Date of minimum durability

The regulation requires consumers to be made aware of the 'date of minimum durability, where appropriate'.

The CMO includes non prepacked fishery products and as these are outside the scope of the FIC there is no mandatory requirement for date marking. Prepacked products are included within the scope of the FIC and a date of minimum durability has to be given, hence therefore 'where appropriate'.

However, Member States can require date of minimum durability for non-prepacked through national measures. The Commission have also confirmed that for fishery products this is the 'best before, and not the 'use by, date.

7.7 Additional voluntary information

Further information may also be provided on a voluntary basis provided it is clear and unambiguous. This must not be displayed to the detriment of space available for mandatory information and must be verifiable.

The additional information relates to:

- a. Date of catch or harvest
- b. Date of landing or information on the port of landing
- c. More detailed information on the type of fishing gear. This is listed in Annex 4.
- d. For fishery products caught at sea the flag state of the fishing vessel
- e. Environmental information
- f. Information of an ethical or social nature
- g. Information on production techniques and practices
- h. Information on the nutritional content of the product

Voluntary information on the nutritional content of the product

The Food Information to Consumers Regulation requires nutritional information to be provided from December 13 2016. As previously stated, non-prepacked product is not included within its scope. Unprocessed products that comprise a single ingredient are also exempt from the mandatory declaration of nutrition information under the FIC regulation. As most products within the scope of the CMO fall into these categories there is generally no need for mandatory nutrition labelling and its inclusion would be voluntary. CN03 products not subject to these exemptions would fall within the scope of the FIC.

8. Where will I get the information from?

This should be by arrangement with your supplier.

9. How should the information be presented to the consumer?

The Regulation requires 'appropriate marking or labelling'.

For non-prepacked products the information can be provided to the consumer by use of billboards or posters.

A Quick Response (QR) code may also be used outlining all or some of the information although at present it is not clear if this is instead of the need for it to be provided by product labelling.

Voluntary information must not be displayed to the detriment of space available for mandatory information and must be verifiable.

ANNEX 1 – NORTHEAST ATLANTIC FAO Area 27 Sub areas and Divisions

SUB AREA	NAME	DIVISION	NAME
I	Barents Sea	I a	Barents Sea NEAFC Regulatory Area
		I b	Barents Sea Non-NEAFC Regulatory Area
II	Norwegian Sea, Spitzbergen and Bear Island	II a	Norwegian Sea
		II b	Spitzbergen and Bear Island
III	Skaggerak, Kattegat, Sound, Belt Sea and Baltic Sea	III a	Skaggerak and Kattegat
		III b, c	Sound and Belt Sea or Transition area
		III d	Baltic Sea
IV	North Sea	IV a	Northern North Sea
		IV b	Central North Sea
		IV c	Southern North Sea
V	Iceland and Faroes Grounds	V a	Iceland Grounds
		V b	Faroes Grounds
VI	Rockall, Northwest Coast of Scotland and North Ireland (Northwest Coast of Scotland and North Ireland also known as West of Scotland)	VI a	Northwest Coast of Scotland and North Ireland or as West of Scotland
		VI b	Rockall
VII	Irish Sea, West of Ireland, Porcupine Bank, Eastern English Channel, Western English Channel, Bristol Channel, Celtic Sea North, Celtic Sea South, Southwest of Ireland – East and Southwest of Ireland - West	VII a	Irish Sea
		VII b	West of Ireland
		VII c	Porcupine Bank
		VII d	Eastern English Channel
		VII e	Western English Channel
		VII f	Bristol Channel

		VII g	Celtic Sea North
		VII h	Celtic Sea South
		VII j	Southwest of Ireland – East
		VII k	Southwest of Ireland - West
VIII	Bay of Biscay	VIII a	Bay of Biscay – North
		VIII b	Bay of Biscay – Central
		VIII c	Bay of Biscay – South
		VIII d	Bay of Biscay – Offshore
		VIII e	West of Bay of Biscay
IX	Portuguese Waters	IX a	Portuguese Waters – East
		IX b	Portuguese Waters - West
X	Azores Grounds	X a	Azores Grounds
		X b	Northeast Atlantic South
XI	Subarea defunct as incorporated into Eastern Central Atlantic (FAO 34)		
XII	North of Azores	XII a	Southern mid-Atlantic Ridge
		XII b	Western Hatton Bank
		XII c	Central Northeast Atlantic
XIII	Subarea defunct as incorporated into Eastern Central Atlantic (FAO 34)		
XIV	East Greenland	XIV a	Northeast Greenland
		XIV b	Southeast Greenland

ANNEX 2 - MEDITERRANEAN AND BLACK SEA FAO Area 37 Sub areas and Divisions

SUB AREA	NAME	DIVISION	NAME
37.1	Western Mediterranean	37.1.1	Balearic
		37.1.2	Gulf of Lions
		37.1.3	Sardinia
37.2	Central Mediterranean	37.2.1	Adriatic
		37.2.2	Ionian
37.3	Eastern Mediterranean	37.3.1	Aegean
		37.3.2	Levant
37.4	Black Sea	37.4.1	Marmara Sea
		37.4.2	Black Sea
		37.4.3	Azov Sea

ANNEX 3 – FAO Fishing areas

SUB AREA	NAME
18	Arctic Sea
21	Northwest Atlantic
27	Northeast Atlantic – this area now split into sub area/division (Annex 1)
31	Western Central Atlantic
34	Eastern Central Atlantic
37	Mediterranean and Black Sea – this area now split into sub area/division (Annex 2)
41	Southwest Atlantic
47	Southeast Atlantic
48	Atlantic, Antarctic
51	Western Indian Ocean
57	Eastern Indian Ocean
58	Indian Ocean, Antarctic and Southern
61	Northwest Pacific
67	Northeast Pacific
71	Western Central Pacific
77	Eastern Central Pacific
81	Southwest Pacific
87	Southeast Pacific
88	Pacific, Antarctic

ANNEX 4 – FISHING GEAR

Mandatory Information on category of fishing gear	Optional more detailed information
Seines	Beach seines Danish seines Scottish seines Pair seines
Trawls	Beam trawls Bottom otter trawls Bottom pair trawls Midwater otter trawls Pelagic pair trawls Otter twin trawls
Gillnets and similar nets	Set (anchored) gillnets Driftnets Encircling gillnets Trammel nets Combined trammel and gillnets
Surrounding nets and lift nets	Purse seines Lampara nets Boat operated lift nets Shore-operated stationary lift nets
Hooks and lines	Hand lines and pole lines (hand operated) Hand lines and pole lines (mechanised) Set longlines Longlines (drifting) Troll lines
Dredges	Boat dredges Hand dredges used on board a vessel Mechanised dredges including suction dredges
Pots and traps	Pots (traps)

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