



# A Guide to the Trading Standards Law Applying to Take Away Premises



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This advice leaflet is not an authoritative interpretation of the law and is intended only for guidance. For further information, contact your local Trading Standards service.

This guide covers the legal requirements regarding the following Trading Standards areas:

- Descriptions applied to food and drink.
- Genetically modified & irradiated food.
- Food allergies.
- Colours in take away foods.
- Food labelling.
- Food sampling by authorised officers.
- Prices and price display.

Food law requires that the labelling, advertising and presentation of food, and the information made available about it, should not mislead consumers. It is an offence to describe, present or advertise food in a way that is false or could mislead the consumer. This applies whether the description is written on a menu, chalkboard, a website or advertising material and where it is spoken, perhaps in answer to a customer's question. Verbal statements made to customers must be correct and meaningful.

In order that the food you sell is accurately described on the menu, carefully check labels, specifications, delivery documents and invoices for both prepared foods and ingredients. Product specifications may change over time, so check regularly.

## Menu Descriptions

- The description 'Home-made' must not be used if you have not made the dish yourself.

This term should generally be restricted to recipes made up on the premises. It is not to be used if you are just cooking products from the freezer or warming up chilled products.

- 'Fresh' must not be used where ingredients are tinned, frozen, etc.
- Any 'Vegetarian' dishes must have been produced without any contact or contamination with meat, fish or seafood. This includes using separate oils and carefully checking the ingredients of sauces. You should also be aware that not all cheese is suitable for vegetarians, as many types are made with animal rennet.
- Portion sizes, e.g. pancake rolls (6) or 1/2 duck, must be accurate.
- Steak/burger weights – if you state the weight of a steak or a burger then the weight stated should be the approximate uncooked weight. Check the weights and ensure you have a written order or invoice from your supplier showing the weight. If you state that a dish contains a specific 'cut' of meat e.g. sirloin, fillet or rump, then you must only use that cut.
- The names given to meat products such as burgers, hamburgers, sausages, pies and pasties are known as reserved descriptions and in order to use these on your menu then the products must meet minimum meat content requirements. If you sell 'Economy Burgers' then these must not be described as 'Burgers'. Before using these descriptions always check with your supplier that the products you purchase contain at least the legal minimum meat content. For a detailed list of the reserved descriptions and the minimum meat contents, contact Trading Standards.

- Pepperoni is customarily a spicy beef and pork sausage seasoned with pepper, commonly used as a pizza topping, in addition 'sausage' is believed by most consumers to generally contain pork, beef or a mixture of the two, if you sell sausages containing just poultry meat then you should inform customers of this to avoid them being misled.
- The description 'Ham' must only be used unqualified if the ham is sliced from a whole cured piece of meat from the hindquarters of a pig. Cheaper products many consist of formed or reformed ham, or cured reformed pork shoulder and may also contain added water and added starch. You must describe all such ingredients accurately; using the name/description from the wholesale pack in its entirety.
- The term 'Ham' should not be used to describe a processed product made from Turkey or Chicken. The average consumer would not expect to be supplied with cured poultry meat when they order 'Ham'.
- The terms 'Chicken fillet' and 'Breast' must not be used unqualified where the chicken has been chopped and shaped. You must clearly indicate the processed nature of the meat to customers eg: Chicken breast made from chopped and shaped chicken in a crispy breadcrumb coating. Similarly, if you sell Chicken Nuggets and they are not made from a single piece of chicken Breast meat, then they should be described accurately on your menu eg; chopped and shaped pieces of chicken breast meat coated in batter. Care must also be taken to check that you are not buying chicken with added water and other proteins, such as from other animal species or from milk.
- The Food Standards Agency advise that 'Doner Kebab' is a customary name and therefore be applied to Doner Kebabs containing 100% sheep meat only. If you sell a Doner Kebab which contains meat other than just lamb or mutton then the name on the menu should reflect this e.g. 'Lamb, Beef & Chicken Kebab'.
- Lamb should only be used to describe meat from a young sheep aged 12 months or less.

For meat from older sheep the word mutton must be used.

- Fish species declared on your menu such as 'Cod', 'Haddock', 'Plaice' etc must be accurately described and you should be able to verify that you in fact sell these. If you describe a dish as containing 'Crab' then this dish must contain actual crab meat not surimi fish protein, flavoured and dyed, seafood sticks.
- The name Scampi must only be used unqualified to describe 'Wholetail' Scampi. If you sell a product which is reformed or made from scampi pieces, chopped or minced with added water, then customers must be informed of this. Care should be taken when describing 'King Prawn', 'Tiger Prawn' and Jumbo prawns to ensure customers are not misled.
- The term 'Crispy Seaweed' should not be used unqualified to describe cabbage.
- The term 'Roast' should only be applied to food that has been traditionally roasted in an oven, not to a product that has been 'flash roasted' in a pan then put in the oven. Similarly if you used the term 'Smoked' and a food has not been then this is misleading.
- The description 'Cheese' should only be used on your menu to describe dairy cheese. A number of products are available that are not dairy cheese, or may be a mix of dairy cheese and a cheese substitute made with vegetable fat (sometimes called 'cheese analogue' or '50/50 mix'). If you use these products in your business then you must ensure the description on your menu states that the food is not 100% cheese.
- Use of the term 'authentic' and 'traditional', authentic can only be used in relation to the description of regional recipes (linked to geographical regions) which are allowed to evolve due to changes in technology and advances in food production whereas the term 'traditional' relates to original techniques/ingredients.

## Origin & EU protected food names

If you choose to give customers 'country of origin' information or state a location from which a particular food is from then the law states that this information must not mislead the customer. You should take care to ensure that the wording of any origin information on menus etc is clear and not confusing. Think about any written information and pictures on menus and posters, that you may use such as country or place names, flags, maps, colours and emblems. These could lead customers to attribute a particular place of origin to a food.

Welsh beef, Welsh Lamb, Cornish Pasties and Traditional Cumberland Sausages have been accredited with protected status and are examples of European Union protected food names. Any products using EU protected food names must comply with the compositional and/or origin requirements. More information on protected food names is available on the GOV.UK website. If you describe any foods on your menu using these protected names then you may be asked to prove that the foods in question comply with the requirements.

Ultimately, any claims or descriptions that you apply to foods must be accurate and justifiable, again you may be asked to prove these claims.

## Genetic modification

If a food or food ingredients contain genetically modified material (e.g. genetically modified maize or soya), you must inform customers of this. This information is best displayed on the menu or on a notice where the food is chosen. Where the food is sold loose, the information must appear on a label either on the food display or next to it.

As an alternative, the menu may state the product, followed by the letters 'GM', but this indication must have an explanation on the menu that sufficiently explains the meaning.

You must also notify customers if the food has been cooked in oil produced from genetically modified material. Oil containing genetically modified material is commonly used.

If you are unsure whether your ingredients contain genetically modified material then check your labels or contact your supplier who should pass this information to you.

## Irradiation

If you sell food that has been irradiated, or if a food contains an ingredient that has been irradiated, customers must be made aware of this at the place where they choose their food. This could be done on a menu, notice, ticket or label, the word 'irradiated' or the words 'treated with ionising radiation' should be used. Typical foods, which may be irradiated, include spices and shellfish. Your supplier should pass this information to you.

## Food allergies

Allergic reactions can make people very ill and can sometimes lead to death. However, there is no cure for food allergy. The only way someone can avoid getting ill is to make sure they don't eat the foods they are allergic to.

You as a Food Business Operator (FBO) NOW have a **legal responsibility** to provide the correct allergen information about the ingredients that is in the food you make or serve, to your customer.

EU law has listed 14 allergens that need to be identified if they are used as ingredients in a dish. All food businesses must provide information about the allergenic ingredients used in foods sold or provided by them.

## The allergens

The 14 allergens that need to be declared are:

- **Cereals containing gluten** - These include wheat (also spelt and Khorasan wheat/ Kamut), rye, barley and oats. It is often found in foods containing flour, such as some baking powders, batter, breadcrumbs, bread, cakes, couscous, meat products, pasta, pastry, sauces, soups and foods dusted with flour. The cereal will need to be declared. However, it is up to you if you want to declare the presence of gluten with this.
- **Celery** - This includes celery stalks, leaves and seeds and celeriac. It is often found in celery salt, salads, some meat products, soups and stock cubes.
- **Crustaceans** - This includes crabs, lobster, prawns and scampi. It is often found in shrimp paste used in Thai curries or salads.
- **Eggs** - This is often found in cakes, some meat products, mayonnaise, mousses, pasta, quiche, sauces and foods brushed or glazed with egg.
- **Fish** - This is often found in some fish sauces, pizzas, relishes, salad dressings, stock cubes and in Worcestershire sauce.
- **Lupin** - This includes lupin seeds and flour, and can be found in some types of bread, pastries and pasta.
- **Milk** - This is found in butter, cheese, cream, milk powders and yoghurt. It is often used in foods glazed with milk, powdered soups and sauces.
- **Molluscs** - This includes mussels, land snails, squid and whelks. It is often found in oyster sauce or as an ingredient in fish stews.
- **Mustard** - This includes liquid mustard, mustard powder and mustard seeds. It is often found in breads, curries, marinades, meat products, salad dressing, sauces and soups.

- **Nuts** - This includes almonds, hazelnuts, walnuts, cashews, pecan nuts, Brazil nuts, pistachio nuts, macadamia or Queensland nuts. These can be found in breads, biscuits, crackers, desserts, ice cream, marzipan (almond paste), nut oils and sauces. Ground, crushed or flaked almonds are often used in Asian dishes such as curries or stir fries.
- **Peanuts** - This can be found in biscuits, cakes, curries, desserts and sauces such as for satay. It is also found in groundnut oil and peanut flour.
- **Sesame Seeds** - This can be found in bread, breadsticks, houmous, sesame oil and tahini (sesame paste).
- **Soya** - This can be found in beancurd, edamame beans, miso paste, textured soya protein, soya flour or tofu. It is often used in some desserts, ice cream, meat products, sauces and vegetarian products.
- **Sulphur Dioxide** - This is often used as a preservative in dried fruit, meat products, soft drinks and vegetables as well as in wine and beer. Low levels of sulphur dioxide may remain in the filling of sausage rolls after baking. Some preparations used to prevent the discolouration of peeled potatoes also contain sulphur dioxide.

## How to provide the information

There are a number of ways in which allergen information can be provided to your customers. You will need to choose the method which is best for your business and the type of food you serve.

Details of the allergens will have to be listed clearly in an obvious place such as:

- a menu eg: Chicken Korma contains wheat, celery, milk
- chalkboard
- information pack containing product specifications, ingredient labels, recipe or allergen chart

If it is not provided upfront, you will need to signpost to where it could be obtained, either in written or oral formats eg:

# Food Allergies and Intolerance

Please speak to our staff about the ingredients in your meal, when making your order.

**Thank You.**

If the allergen information is provided orally there must be a way for:

- this information to be checked by others (verifiable)
- it to be confirmed as accurate
- the same information to be given every time (consistent)

## Telephone orders and deliveries (Distance selling)

If non pre-packed food is sold at a distance, such as through a telephone order or internet the FBO will need to ensure that mandatory allergen information is available to the consumer:

- before the purchase of the food is concluded AND
- at the point of delivery

The allergen information should be held in written format by the FBO and available in written form at some point between a consumer placing the order and taking delivery of the order.

The FBO must ensure that the allergen information is current and accurate and it should be provided to the consumer without any supplementary cost to the consumer.

In distance sales involving a third party broker/aggregator eg; if you sell over the internet and your customers place their order through another business or using a website other than your own, the third party and the FBO supplying the food must work together to ensure that the required allergen information is provided to the consumer and that the consumer is clear on how to obtain the allergen information. The FBO is preparing and providing the food and is therefore ultimately responsible for the allergen information given to consumers.

### EXAMPLE

#### Ways of providing allergen information at the time of order include:

- a) the consumer is signposted to where the information can be obtained in writing eg: on line menu  
OR
- b) staff provide the allergen information orally by telephone whilst referring to the written information

To ensure that current and accurate allergen information is provided, the food business could ask the consumer if allergen information is required before the order is taken on the telephone or online.

Ways of providing written allergen information at the time of delivery include:

- a) placing stickers on the food containers to clearly identify food and allergenic ingredients used in the food (eg: Chicken Satay contains: wheat, soya, fish, peanut)  
OR

- b) a menu is provided with the order which allows the consumer to clearly identify allergenic ingredients in the food, along with clear names or other appropriate reference on food containers
- c) written allergen information is presented to the customer, by the member of staff from the business delivering the food together with a means to clearly link the written information to each food item.

### Keep staff trained and informed

Businesses should ensure, as a minimum, that all their staff are aware of the procedures and policies of the business when it comes to handling all requests for allergen information. All staff should receive training on handling allergy information requests from their first day in the job.

As a food business, it is your responsibility to know which allergenic ingredients are present in the foods you sell. Where you have a group of foods such as cereals containing gluten, crustaceans, fish, nuts and molluscs, you will need to say what they are; for example wheat, prawns, cod, almonds and mussels.

Make sure the allergen information is accessible to all staff and that it is kept up-to-date. If you use part-prepared ingredients, make sure you know what's in them and make sure they are clearly labelled.

When handling and preparing foods, consider the risk of allergen cross-contamination. When you have been asked to prepare a dish that does not contain a certain food, make sure work surfaces and equipment have been thoroughly cleaned first. Make sure that staff wash their hands thoroughly before preparing the dish, to prevent small amounts of the food that the person is allergic to getting into the dish accidentally.

The cooking equipment eg; woks, spoons etc should be thoroughly washed before it is used to prepare a meal for an allergic customer. There is a high level of allergy risk from allergens such

as nuts, peanuts and seeds and allergenic food residues may be easily transferred between dishes.

### Recording information about ingredients

To help to identify which dishes contain allergens:

- make sure that your kitchen staff use the same recipes every time.
- keep a copy of the ingredient information on labels of pre-packed foods for example, sauces, desserts etc.
- keep ingredients in the original containers where possible, or keep a copy of the labelling information in a central place (either on paper or stored electronically).
- ensure that containers are clearly labelled, for ingredients which are delivered in bulk, and then transferred or stored in smaller containers.
- make sure that staff are aware of where this allergen information is stored and how it is kept.
- ensure that the allergen information is kept up to date (for example, if recipes are changed or products substituted).
- always check deliveries to make sure what is delivered is what was ordered. Ensure that the relevant labelling information is provided with the order.
- make sure that any records are updated, to help trace back to the source of your information.
- check that the food delivered is the same brand that is normally used, as different brands might have different ingredients.

### Ignorance is no excuse

The change in the law means that you will no longer be able to say that you don't know what allergens are in the food you serve. You are also not allowed to say that all the foods you serve could contain an allergen. You will need to know what is in the food you provide.

## Colours in restaurant and take-away food

The Law allows only certain colours to be used in food, restricts the use of some colours, and sets maximum levels for some colours, particularly in relation to food sold in restaurants and as takeaway meals.

The Regulations apply to all foods but there are specific requirements for certain basic foods - such as bread, pasta and meat, that may not be directly coloured. They list some specific colours that are restricted in sauces, pickles, seasoning, etc. The use of these colours in food is controlled because excessive consumption has been linked to allergic reactions and sickness.

Of particular relevance to restaurant and takeaway meals are the additives used that relate to sauces, seasoning (for example - curry powder, tandoori), pickles, relishes, chutney and piccalilli, etc. In these cases, only 500mg/kg in total of the following permitted colours is allowed, whether used singly or in any combination:

- **E100** - Curcumin
- **E102** - Tartrazine
- **E120** - Cochineal, Carminic acid, Carmine
- **E122** - Azorubine, Carmoisine
- **E129** - Allura Red AC
- **E131** - Patent Blue V
- **E132** - Indigotine, Indigo carmine
- **E133** - Brilliant Blue FCF
- **E142** - Green S
- **E151** - Brilliant Black BN, Black PN
- **E155** - Brown HT
- **E160d** - Lycopene
- **E160e** - Beta-apo-8'-carotenal (C30)
- **E160f** - Ethyl ester of beta-apo-8'-carotenic acid (C30)
- **E161b** - Lutein

The following colours are even more strictly regulated, with maximum limits in sauces as follows:

- **E104** - Quinoline Yellow: 20mg/kg, and not permitted in tomato-based sauces
- **E110** - Sunset Yellow FCF / Orange Yellow S: 30mg/kg, **PICKLES AND PICCALILLI ONLY**

The addition of the following colour is **NOT** permitted in sauces at all.

- **E124** - Ponceau 4R / Cochineal Red A

The maximum permitted amounts of these three colours is different in other types of food - for example, Quinoline Yellow is the only one of the three that is allowed to be used in seasonings, with a limit of 10mg/kg.

Always ensure that you and any employees follow the instructions supplied with the seasoning/ colour. If there are no instructions, or if the instructions are not clear, ask your supplier for further details in writing. Do not guess or rely on information given only verbally.

## Traceability

As a Food Business Operator, the Law requires that you are able to identify any person or food business from whom you have been supplied with food. You must have in place systems and procedures, which allow for this information to be made available to Trading Standards and Environmental Health on demand. In order to check that you are complying with Traceability requirements Trading Standards or Environmental Health Officers may require you to produce invoices and documentation relating to your purchases.

## Food labelling

### 'Use by' Dates

This is applied to foods, which are highly perishable and are therefore likely after a short



period to constitute an immediate danger to human health. (e.g. fresh meat, fish, poultry, cooked meat, pate, dairy products, ready-made meals, salads and soft cheeses.) It is a criminal offence to sell food that has passed its 'Use by' date.

### **'Best Before and Best Before End Dates'**

It is not automatically an offence to sell a food passed its 'Best Before' durability date, however if the food is not of the quality expected, then you could commit a criminal offence. In addition if a purchaser consumes food that has passed its 'Best Before' date and becomes ill, both civil and criminal proceedings could be instituted against you.

### **Freezing down foods**

If you freeze down food you must ensure that this does not affect the safety and quality of the food. You must retain the traceability information for the food and prove that it has been frozen prior to the use by or best before date. As the FBO you are responsible for determining a new durability date, which must be labelled on the product.

In freezing the food you are changing the durability date and therefore you as the FBO are now responsible for the safety and composition of the product. The only way to prove the safety and quality of the food is to keep records, failure to produce records may result in you having to dispose of the food.

If in doubt contact your local Trading Standards or Environmental Health Officer.

### **Food labelled in languages other than English**

The law states that, where labelling is required, it should be in a language 'easily understood by the purchaser'. In the UK, this is accepted as being in English. You must make sure that all pre packed food and drink that you sell displays all the compulsory information on each container, in English. This does not prevent you from selling

food labelled in more than one language. This information should appear either on a label on the packaging, on a label attached to the packaging or on a label clearly readable through the packaging.

Take Away owners have a responsibility to ensure that the products they sell comply with the law, if your supplier sells you soft drinks that are not labelled in English then you must not sell these, they could have serious consequences for diabetics and people with allergies and intolerances.

### **Food sampling**

Food samples may be taken for various reasons, for example, to determine food composition or the accuracy of menu descriptions. They may be taken during a routine inspection or following a consumer complaint. Failure to allow an authorised officer to take a sample could lead to you committing an offence.

### **Pricing of food and drinks**

Consumers need to be able to make an informed decision about making a purchase of food and/ or drinks. The Consumer Protection from Unfair Trading Regulations 2008 make it a requirement to not trade unfairly which includes not leaving out important information that may affect a customer's choice of purchase. In order for them to make this choice they must have access to the prices of food and drinks before they make the purchase.

How or where you display prices is not prescribed, but they should be clear and easily readable by the average consumer. To fail to show all or part of the information necessary, or to provide misleading information, may be regarded as an unfair trading practice and constitute an offence.

If you offer a 'free delivery' service to customers, you cannot then offer a discount to customers who collect as this means that delivery is not free.

## Useful resources:

- Free online training on allergens - [allergytraining.food.gov.uk/](http://allergytraining.food.gov.uk/)
- Questions and answers on the EU Food Information for Consumer Regulation allergen provisions - [www.food.gov.uk/sites/default/files/eu-fic-faq.pdf](http://www.food.gov.uk/sites/default/files/eu-fic-faq.pdf)
- FSA allergen leaflet - [www.food.gov.uk/sites/default/files/multimedia/pdfs/publication/loosefoodsleaflet.pdf](http://www.food.gov.uk/sites/default/files/multimedia/pdfs/publication/loosefoodsleaflet.pdf)
- Allergen notice - [www.food.gov.uk/sites/default/files/allergen-signage.pdf](http://www.food.gov.uk/sites/default/files/allergen-signage.pdf)
- Chef allergen matrix - [www.food.gov.uk/sites/default/files/allergen-chart.pdf](http://www.food.gov.uk/sites/default/files/allergen-chart.pdf)
- Chef allergen recipe card - [www.food.gov.uk/sites/default/files/recipe-sheet.pdf](http://www.food.gov.uk/sites/default/files/recipe-sheet.pdf)
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