

THE FOOD (LOT MARKING) REGULATIONS 1996

GUIDANCE NOTES

Important note

1. These guidance notes give an outline of the requirements contained in the Food (Lot Marking) Regulations 1996 (SI 1996/1502). The Regulations apply in England, Scotland and Wales. A separate but similar law applies in Northern Ireland.
2. The examples which these notes contain are provided for illustration only. The notes and examples should not be taken as an authoritative statement or interpretation of the law, as only the Courts have this power.

Purpose of the Regulations

3. The Regulations replace the Food (Lot Marking) Regulations 1992. They apply to the sale of all foodstuffs intended for sale for human consumption (unless specifically exempted - see paragraph 8), including wines and spirits. They continue to implement EC Directive 89/396/EEC (as amended) which established a framework for a common lot (or "batch") identification system throughout the European Community in order to facilitate the tracing and identification of products along the relevant section of the food chain (eg where a product constitutes a health risk to consumers). Subject to the exemptions specified below, the sale of food forming part of a lot is not permitted unless it is accompanied by a lot mark.

Size of lot

4. It is for the producer, manufacturer, packer or first seller within the EC to determine the size of lot most appropriate to the operational pattern. When doing this, it will be necessary not only to consider the production, but also the practicality and implications of a lot mark based on a particularly large run. Large batches carrying a single lot mark could result in more products having to be recalled than is perhaps necessary.

Manner of marking

5. The lot marking indication must appear in such a way as to be easily visible, clearly legible and indelible.
6. The lot mark does not have to be understood by the consumer provided that the indication can be clearly identified. If the lot identification is not clearly distinguishable from other information it should be prefixed by the letter "L". Methods other than printing the indication, such as code

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edging, are permitted unless a reader key would be necessary to identify the mark clearly. It is possible that another mark appearing on the package could serve a secondary purpose as a lot mark, in which case this would need to be made clearly distinguishable by prefixing it with the letter "L".

7. In the case of pre-packed food, the lot mark is required to appear on the prepackaging or on a label attached. Prepackaging includes bottles and the lot mark could appear on the rear of the label if clearly visible through the bottle, or on a seal. Manufacturers, packers, etc., may need to consider whether there are any circumstances whereby removal of the seal would obstruct product recall. It would not be acceptable for a lot mark to appear on a cork or any other part of the packaging which was enclosed and thus not easily visible.

Exemptions

8. The following foods do not require a lot mark:
 - agricultural products which, on leaving the agricultural premises of production, are either sold or delivered to temporary storage, preparation or packaging stations or to producers' organisations; or collected for immediate use in an operational preparation or processing system. The term "agricultural product" applies only to primary agricultural products (i.e. products of the soil, stock farming or fisheries which have **not** undergone initial processing). Examples could be harvested vegetables delivered to grading or packing stations, fresh fruit provided for canning operations;
 - individual items of food which at point of sale to the ultimate consumer are not prepacked, such as loose sweets, fruit and vegetables;
 - foods sold to the ultimate consumer which are prepacked for direct sale (for example bread baked on the premises for direct sale) or which are prepacked at the request of the purchaser;
 - individual goods not intended to be sold separately, such as single tea bags or chocolates;
 - * foods which are in a package or container, of which the largest side has a surface area of less than 10 square centimetres;
 - * individual portions intended as an accompaniment to another food provided at a catering establishment for immediate consumption, such as sachets of salt, sauce or sugar. Also excluded are tea bags, coffee etc. provided as part of another service, for example drink making facilities in hotel rooms; and

- * individual portions of ice cream and other edible ices.

Use of a date mark as a lot mark

9. A date mark ("best before", "best before end" or "use by") which appears on a product may be used as a lot mark whether or not the Food Labelling Regulations 1996 require the product to carry a date mark. For the date mark to qualify as a lot mark, it must be given in accordance with the requirements of the Food Labelling Regulations 1996.
10. In opting to use a date mark as the means also of lot marking one's products, it may be necessary to consider whether the size of the resulting batch is suitable. For example, using a "best before end" date as a form of lot mark could result in a batch consisting of at least one month's production being withdrawn. Some manufacturers may find this too large a number of units to withdraw from the "shelf" should product recall prove necessary.
11. "Best before end" dates are acceptable as lot marks as the indication of the day and month (as required by the Regulations) is implicit (eg "best before end October 1997" means best before 31 October 1997).

Bulk packaging

12. The lot mark of a sales unit contained in bulk packaging, for example retail packs enclosed in a wholesale pack, should appear on the outer container in addition to those retail packs. A lot mark for items exempt by virtue of the provisions referred to in paragraph 8 (items marked with an * only) should be indicated on any outer container, for example it should appear on the outer catering pack which contains catering sachets. Goods that are not prepacked that are supplied in bulk containers are required to carry a lot mark, but this may appear on the container in which the sales units are contained or on a commercial document accompanying the container.
13. Where a prepackage is enclosed in an outer container, such as bottles within a presentation box or tins inside a cardboard sleeve, consideration should be given as to whether the mark should also appear on the outer container. This arrangement would assist product recall as the entire stock of outer cartons would not have to be opened in order to identify the lot mark on the enclosed prepackage. This approach would seem particularly practical in circumstances when only a small number of items of the total stock need to be withdrawn. In some circumstances it may be possible to narrow the batch down in the event of recall if there was a "broader" indication on the outer package - such as a seasonal package or date mark.

Transitional exemptions

14. Products labelled prior to 1 July 1992 need not bear a lot mark. Trade in such products may continue until stocks run out.

15. Indelibly marked glass bottles intended for re-use, and bearing no label, ring or collar, will be exempt from lot marking if sold before 1 January 1997.

Enquiries

16. Enquiries about, and further copies of, these guidance notes may be obtained from:

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