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COUNTRY OF ORIGIN LABELLING GUIDANCE

INTRODUCTION

The Food Standards Agency is committed to promoting informed choice for consumers through improved food labelling.

Consumer research and public consultation have shown that country of origin labelling is high on the list of consumers' demands for informative labelling.

This document explains the legislation that applies to origin labelling in Part 1 and provides advice on compliance with avoiding misleading labelling in Part 2. It also provides advice on best practice in providing origin information in Part 3. While the legal requirements must be met, following 'best practice' advice is not mandatory.

Our aims in producing this advice are to help:

- **Manufacturers, producers, retailers and caterers to comply with the law and avoid misleading labelling; and encourage them to give more voluntary origin information in a way that is helpful to consumers ;**
- **Consumers by encouraging industry to and adopt more consistent, informative and transparent labelling practices; and**
- **Enforcement authorities to identify and act on misleading origin labelling.**

This Guidance (originally issued in 2002) has been reissued by the Food Standards Agency with the assistance of stakeholders and consumer organisations, taking into account a survey of uptake of the recommendations in the first issue of the Guidance.

The examples in this document are provided for illustration only. The advice and examples should not be taken as an authoritative statement or interpretation of the law, as only the courts have this power. Ultimately, only the courts can decide whether, in particular circumstances, an offence has been committed

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INTRODUCTION

1. There is specific EU commodities legislation that requires country of origin information for beef, veal, fish and shellfish (whether pre-packed or loose), wine, certain¹ fresh fruit and vegetables, honey, olive oil, and poultry meat imported from outside the EC. The requirements for these foods are set out in Annex A of the Guidance and are mainly the responsibility of the Department of Food and Rural Affairs (Defra).

2. This Guidance should be read in conjunction with several other pieces of horizontal legislation that are listed in Annex B. Annex C covers the penalties for breaching this legislation.

3. For foods other than those listed above there are general rules in EU labelling legislation which require country of origin labelling in cases where purchasers might otherwise be misled. The Food Labelling Regulations 1996 implements this, and other important provisions which are given below. Voluntary country of origin labelling may be provided on foods but legislation demands that information must not mislead the consumer.

4. Misleading labelling, advertising and presentation is prevented by legal provisions that are described briefly in Annex D. Part 2 of this Guidance provides advice on avoiding misleading labelling with respect to origin.

REQUIREMENT TO LABEL WITH ORIGIN IF OTHERWISE MISLEADING

5. Regulation 5(f) of the Food Labelling Regulations 1996, read with Regulation 4, requires food that is ready for delivery to the ultimate consumer or to a catering establishment to be marked or labelled with:

- “particulars of the place of origin or provenance of the food if failure to give such particulars might mislead a purchaser to a material degree as to the true origin or provenance of the food”.

6. Regulation 38 of the Food Labelling Regulations 1996 contains a general requirement for such particulars, like all particulars given in compliance with these Regulations, to be:

- “easy to understand, clearly legible and indelible; and
- when the food is sold to the ultimate consumer, marked in a

¹ (see page 14)

conspicuous place in such a way as to be easily visible.

These and other particulars required to be given by these Regulations must not be in any way hidden, obscured or interrupted by any other written or pictorial matter.”

7. Regulations 23 and 26 of the Food Labelling Regulations 1996 state that certain foods² are exempt from the requirement described at paragraph 5 above.

MEANING OF PLACE OF ORIGIN

8. There is no statutory definition of “place of origin or provenance” in the Food Labelling Regulations 1996 or of “origin or provenance” in Directive 2000/13/EC. But both in Codex³ and WTO Rules, the country of origin is deemed to be the place of last substantial change, and this is consistent with section 36 of the Trade Descriptions Act 1968 where the approach is that for the purposes of the Act:

- “goods are deemed to have been manufactured or produced in the country in which they last underwent a treatment or process resulting in a substantial change”.

9. This is considered to be a reasonable guide for the purposes of the Food Labelling Regulations 1996. It would ultimately be for a court to decide, taking account of an ordinary person’s perception of the circumstances surrounding the individual case, whether any particular country or place specified is indeed where the last *substantial* change took place.

² The exempt foods are as follows:

- “food (other than milk – Regulation 27) which is not prepacked, or which is prepacked for direct sale, including such foods sold at catering establishments;
- white bread and flour confectionery in certain circumstances;
- individually wrapped fancy confectionery products not enclosed in any further packaging and which are intended for sale as single items;
- carcasses and parts of carcasses that are not intended for sale in one piece;
- any prepacked food (other than milk) contained in an indelibly marked glass bottle intended for re-use which has no label, ring or collar;
- any prepacked food contained in packaging where the largest surface area of such packaging is less than 10 square centimetres; and
- any prepacked food sold or supplied as an individual portion which is intended as a minor accompaniment to another food or service.”

³ A FAO/WHO body responsible for setting international standards for food trade.

PART 2 COMPLIANCE WITH LEGISLATION: AVOIDING MISLEADING ORIGIN LABELLING

This section of the Guidance sets out to show how best to avoid misleading origin labelling which might be considered to be a breach of legislation (The Food Labelling Regulations 1996 and other legislation set out in Annex D) and gives specific examples to help illustrate problems that can arise.

10. The **true place of origin of a food should always be given if the label as a whole would otherwise imply that the food comes from, or has been made in, a different place or area.** Consumers are, however, unlikely to expect products such as Chelsea buns, Madras curry or Frankfurters to come from those areas in the absence of other material on the label suggesting that they do.

11. Where the label carries other material that may **imply** origin, the actual country of origin declaration must be sufficiently **prominent, precise and compelling** to correct any potentially misleading impression in order to avoid misleading consumers.

12. The **sorts** of information that could lead consumers to attribute a particular place of origin to a food include:

- use of country or place **names** in the name of the food or in its trade name, brand name or fancy name;
- **written or illustrative material** including maps, flags, emblems (e.g. a shamrock), choice of colour (e.g. the colours of a country's national flag), references to persons associated with a particular place (e.g. "Uncle Sam") and famous landmarks (e.g. the Eiffel Tower).

13. Concerning what processes result in a **substantial change**, we suggest that for example, the transformation of pork into bacon, ham or pies should be regarded as a **treatment or process** resulting in a substantial change, while the simple slicing, cutting and/or packing of meat does not amount to such a change.

14. If the **place of origin of the food** (according to the principle of last substantial change) is **not the same as the place of origin of its primary ingredients**, it may be necessary to provide information on the origin of those ingredients. It is recommended that for example:

- Pork sausages made in Britain using pork from countries outside the UK are not described as "British pork sausages" but are described as "Made in Britain from [imported][country of origin] pork [from more than one

- country]"; and
- Salmon smoked in Scotland but made from Norwegian salmon is not described as "Scottish smoked salmon" but is described as "[imported] [Norwegian] salmon smoked in Scotland".

15. Other **useful terms** are "Baked in ...", "Pressed in ...", "Packed in ...", "Sliced and packed in ..." or "Processed in ...".

16. In the case of a product (particularly a recipe dish) that reflects a **culinary style** of a particular country, an origin declaration may be necessary to clarify where the product was made. This may apply in the cases of product ranges such as "British Classics" or "Chinese", or when the name of the food is in a foreign language. For example:

- for a lasagne that is produced in Germany and marketed in an "Italian" range, or with non-word indications of origin such as Italian flag colours, a declaration such as "Produced in Germany" should be provided. If the product contains pasta from Italy, then this could also be declared.
- For onion bhajis that are described as "Indian-style snacks made with spiced fresh onions", if they are produced in the UK (as would normally be the case) then this declaration of UK origin should be made.

17 **Identification marks** which have an indication of the country of processing and a code number that relates to the approved establishment (this paragraph does not concern Lot Marks) applied to food to meet the requirements of European hygiene legislation are not in themselves intended to give an indication of place of origin. However, **care must be taken to ensure** that identification marks do not, by reason of their size, prominence or position, contribute to a misleading impression of the origin of the food.

18. **Assurance and organic scheme logos** are used to indicate that food has been produced to specified standards, though some, like the Assured Food Standards "Red Tractor" logo, may be thought by consumers to incorporate indications of origin. Where the logo may be **interpreted** to imply origin, it is important that it is accompanied by a clear and equally prominent origin declaration. The Agency also produces Guidance on assurance schemes.⁴

19. The **name and address of the manufacturer or packer or seller** in the EC is a mandatory labelling requirement under EU rules. This information should not be provided in a way that incorrectly **implies** origin.

20. Where food that is not repacked is presented with **tickets, shelf markers**

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www.food.gov.uk/foodindustry/guidancenotes/labelregsguidance/foodassureguidance

or promotional displays indicating origin, care should be taken to ensure that the origin claims are clearly worded and that only products to which the claim applies are presented or associated with those indications.

21. To declare the place of origin of a food from Northern Ireland the declaration “Northern Irish” or “UK” could be used.

AVOIDING MISLEADING INFORMATION IN CATERING ESTABLISHMENTS

22. In catering establishments, care should be taken to ensure that the wording of any origin information on menus etc., is **clear and unambiguous**.

The Scottish Executive proposed in 2007, that origin labelling for **beef in Scotland** in the food service sector be introduced and issued a consultation on 30 March 2007. Responses were published in June 2007. [To be updated]

PART 3 ADVICE ON BEST PRACTICE

This advice is not mandatory. We have made some suggestions below that industry may wish to consider in order to provide information that is useful to consumers and provide it in the clearest way. One of the reasons why many businesses follow best practice guidance is that they see it as adding value for their customers.

PROXIMITY OF FOOD OF DIFFERENT NATIONAL ORIGIN

23. Display and presentation of products that are prepacked and labelled may create confusion if products that are similar in appearance but are of different national origin are arranged in certain ways or with shelf or promotional information, or other off-label information. Retailers may wish to avoid this type of confusion by ensuring that food packs are clearly labelled and that there is no misleading labelling on the display of the food as a whole or on promotional material.

Retailers may wish to ensure that the different origins of foods are apparent if confusion from proximity of similar foods of different origins could arise. Care should also be taken with accompanying signage or marketing material.

PRODUCT ORIGIN

24. Many consumers see the place of origin as an important contributor to a product's identity, particularly for meat. In many cases, especially for primary products, this information is readily available to manufacturers and can be provided with little additional cost.

We suggest that manufacturers consider providing this information for primary products, particularly meat.

25. We suggest that to describe, for example, sausages that are made in the UK from imported pork as "Produced in the UK" would not be best practice. We recommend that they be described as "Made in Britain from [imported][country of origin] pork [from more than one country]" as a way of ensuring compliance with both the substantial change and the misleading labelling legislation.

We suggest that manufacturers should not describe a product as 'Produced in the UK' when it is made from imported significant ingredients unless it is stated that these are imported.

26. For many consumers, terms like “Produce of...”, “Product of...”, “Origin:...”, “British”, “Scottish” and “Welsh” etc. imply that the place of processing and the origin of ingredients are the same.

We suggest that these terms only be used where all the significant ingredients come from the identified country and all of the main production/manufacturing processes associated with the food occur within that place or country. The only exception would be for products, like chocolate, where it is obvious to the consumer that certain ingredients (in this case, cocoa beans) cannot come from the country in question.

27. Origin labelling of meat introduces an additional complication because livestock may be born, reared and slaughtered in different countries. Beef and veal is already subject to detailed rules (which are described in the Annex). Consumers expect other meat labelled “Produce of...”, “Product of...”, “Produced in ...”, “Origin:...”, “British”, “Scottish”, “Danish” etc. to come from animals that have been born, reared and slaughtered there.

Whether or not the food benefits from a geographical name registered under Regulation (EC) No 2081/92, origin labels for meat other than beef and veal (which are already subject to detailed rules): could use the following criteria:

- **single country origin declarations should only be given where animals have been born, reared and slaughtered in the same country;**
- **otherwise, information on each of the countries of birth, rearing and slaughter could be given.**

ORIGIN OF INGREDIENTS

28. It is clear that many consumers want more information on the origin of meat ingredients in meat products, and in research the ingredients in dairy produce also score highly. The law requires an origin declaration on fresh beef but not on the same product when it has been seasoned. Providing information on the origin of all ingredients in all products would be disproportionately burdensome for industry, and would risk overloading the label with information that is not seen as important by consumers.

We suggest declaring origin information for principal meat ingredients in meat products and for principal dairy ingredients in dairy products.

FORM OF THE DECLARATION

For products:

29. For most purposes, the origin declaration will take the form of a reference to a country (“United Kingdom”, “UK”, “England”, “Scotland”, “Wales”, “Northern Ireland” etc.). Manufacturers may want to refer to a geographical area that is smaller than a country (“Somerset”). This can give additional valuable information.

We suggest that where consumers may not recognise the name of the geographical area being used, there could be an additional country of origin declaration.

30. Under Regulation 5 of the Food Labelling Regulations 1996 there is a requirement to indicate the name of the manufacturer, packer or seller established within the EU. This has the consequence that the indication ‘Packed in X’ when used alone without any other indication of origin, can imply origin. It may usefully be accompanied by the voluntary statement ‘Produced in Y’ if it is the case that it is produced in a different country to that in which it is packed. If the product is produced in the same country as it is packed, then the ‘Packed in X’ indication would not be misleading when used alone.

We suggest that if a product carries the indication ‘Packed in X’, it should be accompanied by the statement ‘Produced in Y’ if it is the case that it is produced in a different country to that in which it is packed.

For ingredients:

31. Declarations referring to a single country will be most helpful to consumers but this may not always be possible due to the mixing of raw materials and flexible sourcing policies.

We suggest that where it is not possible to refer to a single country, the information given should be as specific as possible. For example, lists of alternative supplier countries or groups of countries recognisable to consumers (such as “the EU”) are more helpful than terms like “product of more than one country” or “origin will vary” etc. However, even phrases like “origin will vary” are more helpful than no information at all. Where they are used, however, we would encourage industry to provide additional information on web-sites or in-store.

LOCATION OF THE LABEL DECLARATION

32. It is most helpful to consumers if product origin and ingredient origin information, when both are given, appear in close proximity to one another on the label.

We suggest placing this information in the same field of vision.

CONTACT DETAILS FOR FURTHER INFORMATION

33. The address for all correspondence relating to the issues set out in this guidance is:

Food Labelling and Marketing Terms Branch
Food Labelling, Standards and Allergy Division –
Room 115B
Food Standards Agency
Aviation House
125 Kingsway
London
WC2B 6NH

Tel: 020 7276 8147
Fax: 020 7276 8193
E-mail: labelling@foodstandards.gsi.gov.uk

34. For further information on the legislation in the devolved administrations, please contact:

In Wales:

Food Standards Agency Wales
10th Floor, Southgate House
Wood Street
Cardiff
CF10 1EW

Tel: 029 2067 8911
Fax: 029 2067 8918/8919
E-mail: wales@foodstandards.gsi.gov.uk

In Scotland:

Food Standards Agency Scotland
St Magnus House
6th Floor
25 Guild Street
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Tel: 01224 285165
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E-mail: scotland@foodstandards.gsi.gov.uk

In Northern Ireland:

Consumer Choice and Food Standards
Food Standards Agency Northern Ireland
10C Clarendon Road
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A BRIEF SUMMARY OF THE COUNTRY OF ORIGIN LABELLING RULES FOR CERTAIN SPECIFIED FOODS

NB: Responsibility for much of this legislation falls to the Department for Environment, Food and Rural Affairs (DEFRA), which issues guidance on the various rules that relate to specified foods.

Beef

1. Origin labelling for fresh, chilled and frozen beef and veal is governed by Regulations (EC) No 1760/2000 and (EC) No 1825/2000. Processed beef (e.g. roast beef and corned beef) and products containing beef (e.g. pies, sausages and burgers) are not covered by these rules.
2. Compulsory labelling rules apply to all fresh, chilled and frozen beef and veal, including mince. These rules require all of the following to be given on the label:
 - a number or reference code linking the meat to the animal or group of animals it came from;
 - the member state or third country of birth;
 - the member state or third country of rearing;
 - the member state or third country of slaughter;
 - the member state or third country of cutting; and
 - the approval numbers of the slaughterhouse and cutting plant(s).
3. Where meat is derived from animals born, raised and slaughtered in the same country, labelling can be shown as “Origin: [name of country]” instead of the separate indications described in paragraph 2 above.
4. Where all the compulsory information is not available for third country meat, the indications “Origin: Non-EC” and “Slaughtered in: [name of third country]” must be provided on the label.
5. The arrangements for mince are slightly different because it is generally derived from meat coming from a number of sources, even within a single country. Mince must be labelled with:

- a reference code linking the mince to the animal or group of animals it came from or to batches of meat used for mincing;
 - the country where the mincing took place;
 - all the countries where the animal or group of animals lived from birth to slaughter (if different from the country of mincing) or, if all those countries are outside the EC, "Origin: Non-EC";
 - the country or countries (not more than two) of slaughter.
6. Operators are required to obtain prior approval for any additional labelling information they may wish to give about the origin, method of production or characteristics of the beef or animal.

Fresh fruit and vegetables

7. Certain fresh fruit and vegetables, which are covered by EU Marketing Standards, are required to indicate their country of origin at all points in the marketing chain. (Council Regulation (EC) 2200/96 and Commission Regulation (EC) 1148/2001).
8. The products covered by these standards (which have their own individual Commission regulation) are apples, apricots, avocados, cherries, grapes, kiwifruit, lemons, mandarins (and similar hybrids), melons, oranges, peaches and nectarines, pears, plums, strawberries, walnuts in shells, hazelnuts in shells, water melons, artichokes, asparagus, beans (other than shelling beans), brussels sprouts, cabbage, carrots, cauliflowers, celery, courgettes, garlic, leeks, onions, peas, spinach, aubergines, chicory, cucumber, lettuce, endives and batavia, sweet peppers, tomatoes and cultivated mushrooms.
9. There are certain exemptions, including:
- products displayed or offered for sale or marketed in any other manner by the grower on wholesale markets, in particular on producer markets (farmers' markets) situated in the production area; and
 - products sold or delivered by the grower to preparation and packaging stations or storage facilities, or shipped from his holding to such stations.
10. Further information on the EU Marketing Standards is available via the Rural Payments Agency website:

<http://www.rpa.gov.uk/rpa/index.nsf/vDocView/5D019A67581BEF418025712A00439A17?OpenDocument>

Fish

11. Specific origin labelling requirements for fish sold at retail in certain presentations (i.e. live, fresh, chilled or frozen fish, fresh, chilled or frozen fish fillets and other fish meat; smoked, dried, salted or brined fish; crustaceans and molluscs) are set out in Regulations (EC) 104/2000 and 2065/2001. Processed fish products are excluded. Detailed guidance on the application of these rules is available on the Agency's web-site (www.food.gov.uk).
12. Briefly, for products caught at sea, the origin must be indicated by reference to one of twelve catch areas:
- North-West Atlantic
 - North-East Atlantic
 - Central-Western Atlantic
 - Central Eastern Atlantic
 - South-West Atlantic
 - South-East Atlantic
 - Baltic Sea
 - Mediterranean Sea
 - Black Sea
 - Indian Ocean
 - Pacific Ocean
 - Antarctic
13. For products caught in freshwater, the origin must be indicated by reference to the member state or third country of origin.
14. For farmed products, the origin must be indicated by reference to the member state or third country in which the product undergoes final development.
15. A more precise catch area may be indicated.
16. These requirements do not apply to small quantities of fish products disposed of directly to consumers either by fishermen or by aquaculture producers.

Olive oil

17. Optional provisions for designating the origin of "extra virgin olive oil" and "virgin olive oil" can be found in Regulation (EC) No 2815/98, as amended. Other olive oils are prohibited by this Regulation from carrying origin labelling.
18. Designations of origin for "extra virgin olive oil" and "virgin olive oil" relate to a geographical area which is either
- a PDO or PGI (see paragraphs 28 to 29 below);
 - a member state;

- the European Community; or
- a third country.

19. If the designation of origin indicates the EC or a member state (and a PDO or PGI is not indicated), this must correspond to the area in which the “extra virgin olive oil” or “virgin olive oil” was obtained. An “extra virgin olive oil” or “virgin olive oil” is deemed to have been “obtained” in a geographical area if the oil was extracted from olives in a mill located in that area.

20. In the case of blends of these oils, if more than 75% of the oil originates in the same member state, or in the EC, the main origin may be designated provided that it is followed by the indication “A selection of [extra virgin][virgin] olive oils more than 75% of which was obtained in [designation of origin]”.

21. In the case of “extra virgin olive oil” or “virgin olive oil” imported from a third country, the designation of origin will relate either to the country where the olives and the oil was obtained, or, where these are different, to the country where the product was last processed.

Wine

22. Regulation (EC) No 1493/99 covers the organisation of the market in wine. All wine sold in the Community must be labelled with country of origin information.

23. This may be summarised as follows:

- **Table wines:**
 - in the case of despatch to another member state or exporting state, the name of the member state if the grapes are produced and made into wine in that state;
 - the words “mixture of wines from different countries of the European Community” in cases of wines resulting from a mixture of products originating in a number of member states;
 - the words “wine obtained in ... from grapes harvested in ...”;
 - supplemented by the names of the member states concerned in the case of wines produced in a member state from grapes harvested in another member state.

- **Table wines with geographical indication:**
 - The name of the geographical unit.
- **Quality wines produced in specified regions:**
 - The name of the production area.
- **Imported wines:**
 - The name of the country of origin and, when designated with a geographical indication, the name of the geographical area in question.

Eggs

24. Council Regulation 1028/2006 (implemented by EC/557/07) requires egg packs to give an indication of country of origin only when the eggs have been imported from a third country. Eggs sold to or through retail and catering outlets must bear a producer code.

Poultrymeat

25. Regulation (EC) 1906/90 requires fresh and frozen poultrymeat to give an indication of country of origin only when it has been imported from outside the Community.

Honey

26. The Honey Regulations 2003 require labelling of the country or countries of origin. This will be the country or countries in which the honey was harvested. Where the honey is a blend of honeys from more than one country, then as an alternative to listing the various countries of origin (e.g. "A blend of German and French honeys"), one of the following statements may be used, as appropriate:

- "A blend of EC honeys";
- "A blend of non-EC honeys";
- "A blend of EC and non-EC honeys".

27. The Regulations (and the Directive) do not define "country". The Agency takes "country" to mean the UK (i.e. the Member State) or the individual country (e.g. "England", "Scotland", or "Wales" etc.) where the honey was harvested. Similarly, the Regulations do not lay down a precise form of words that must be used for declaring the individual country (or countries) of origin of honey.

So, statements such as “Produce of England”, “UK honey” or “Made from honey harvested in the UK”, or similar forms of words provided they are not misleading, would all be acceptable.

Regional products

The EU Protected Food Name Scheme (PFN)

28. In 1993, EU legislation came into force which provides for a system for the protection of food names on a geographical or traditional recipe basis (similar to the ‘appellation contrôlée’ system used for wines). Under this system, a named food or drink (separate arrangements exist for wines and spirits) registered at a European level will be given legal protection against imitation throughout the EU. Producers who register their products for protection benefit from having a raised awareness of their product throughout Europe. This may in turn help them take advantage of the wider markets that are arising from consumers’ increasing awareness of the importance of regional and speciality foods.

29. The original regulations (Council Regulation (EC) 2081/92 and 2082/92) were replaced in March 2006 by Council Regulations (EC) 509/2006 for TSG products and Council Regulations (EC) 510/2006 for PDO/PGI products. Most of the original provisions have been retained in the new regulations but amendments were necessary to take account of a WTO Panel ruling in 2005 in order to bring elements of the EU protected food name schemes into line with WTO rules.

30. The designations under the EU Protected Food Name Scheme are:



PDO



PGI



TSG

Protected Designation of Origin (PDO) - open to products which are produced, processed and prepared within a particular geographical area, and with features and characteristics which must be due to the geographical area.

Protected Geographical Indication (PGI) - open to products which must be produced or processed or prepared within the geographical area and have a reputation, features or certain qualities attributable to that area.

Traditional Speciality Guaranteed (TSG) - open to products which are traditional or have customary names and have a set of features which distinguish them from other similar products. These features must not be due to the geographical area the product is produced in nor entirely based on technical advances in the method of production.

31. The UK currently has 36 products registered under the scheme, including Stilton Cheese, Cornish Clotted Cream and Arbroath Smokies. Overall, there are in excess of 700 registered products across the EU.

1. This guidance refers to, and should be read in conjunction with –
 - **Directive 2000/13/EC** (Food Labelling), in particular, Article 2;
 - the **Food Safety Act 1990 (as amended)**, in particular, Sections 14 and 15, which applies to Great Britain; and parallel legislation in Northern Ireland (**Food Safety (NI) Order 1991**);
 - **Regulation (EC) 178/2002** (“the General Food Law Regulation”);
 - the **General Food Regulations 2004** (UK Statutory Instrument), which create offences in respect of certain provisions of the General Food Law Regulation; and parallel legislation in Northern Ireland (General Food Regulations (NI) 2004 SR. 505);
 - the **Trade Descriptions Act 1968**, which applies to the UK; and
 - the **Food Labelling Regulations 1996** (UK Statutory Instrument), in particular regulations 2, 4, 5(f), 23, 26, 27 and 38, which apply to Great Britain with parallel legislation in Northern Ireland(**Food Labelling Regulations (NI) 1996 SR. 383** (as amended)).
2. Country of origin labelling for the purposes of consumer information should not be confused with Rules of Origin for the purposes of Customs Classification. This is subject to a completely separate regime.

1. Penalties are currently set at the following levels:

For breaching the **Food Safety Act 1990**

- On summary conviction:
 - a fine of up to £20,000 for an offence under Section 14;
 - a fine of up to £5,000 for an offence under Section 15; and/or
 - imprisonment for up to six months.
- On conviction on indictment :
 - an unlimited fine and/or imprisonment for up to two years.

For breaching the **General Food Regulations 2004**

- On summary conviction:
 - a fine not exceeding the statutory maximum of £5,000 (or up to £20,000 under regulation 4(b)).
- On conviction on indictment:
 - an unlimited fine; and/or
 - imprisonment for up to two years.

For breaching the **Trade Descriptions Act 1968**

- On summary conviction:
 - a fine of up to £5,000.
- On conviction on indictment:
 - an unlimited fine; and/or
 - imprisonment for up to two years.

For breaching the **Food Labelling Regulations 1996** (as amended)

- On summary conviction:
 - a fine of up to £5,000.

RULES TO PREVENT MISLEADING LABELLING, ADVERTISING AND PRESENTATION**Food Labelling Directive (2000/13/EC)**

1. Article 2 of Directive 2000/13/EC on food labelling states that the labelling and methods used must not be such as could mislead a purchaser to a material degree, particularly as to:

- “the characteristics of a food and, in particular, as to its nature, identity, properties, composition, quantity, durability, origin or provenance, method of manufacture or production”.

2. This prohibition extends to the presentation of food (in particular, its shape, appearance or packaging, the packaging materials used, the way in which it is arranged and the setting in which it is displayed) and to advertising.

3. These provisions are currently implemented by the general requirements of the Food Safety Act 1990 and the Trade Descriptions Act 1968 (described respectively in paragraphs 8 to 10 and 13 to 16 below).

Food Safety Act 1990

4. The Food Safety Act 1990 makes it an offence for anyone to:

- “sell, to the purchaser’s prejudice, any food which is not of the nature, substance or quality demanded (section 14), (Article 13 of Food Safety (NI) Order 1991);
- give or display a label with any food offered or exposed for sale, or have in their possession, or publish or be party to the publication of an advertisement, which falsely describes the food or which is likely to mislead as to the nature, substance or quality of the food (section 15), (Article 14 Food Safety (NI) Order 1991);
- sell, offer or expose for sale, or have in their possession for the purpose of sale any food the presentation of which, whether or not attached to or printed on the wrapper or container, falsely describes the food or is likely to mislead as to its nature, substance or quality (section 15),(Article 14 Food Safety (NI) Order 1991)”.

5. The terms “nature”, “substance” and “quality” are not defined in the Food

Safety Act 1990. It is considered that the origin of a food could, in certain circumstances, be relevant to its nature, substance or quality and will therefore be relevant to the offences described in paragraph 8 above.

6. These provisions apply throughout the chain of supply.

The General Food Law Regulation (EC) 178/2002 and the General Food Regulations 2004

7. Regulation (EC) 178/2002 lays down general principles and requirements of food law and is enforced in Great Britain by means of The General Food Regulations 2004, with equivalent statutory rules in Northern Ireland (General Food Regulations (NI) 2004 SR. 505).

8. It is an offence to contravene Article 16 of Regulation (EC) 178/2002 under the Regulations. Article 16 states that the “labelling, advertising and presentation of food”, and “the information which is made available about [food] through whatever medium shall not mislead consumers.” This requirement is additional to the requirements of the Food Safety Act 1990 and the Trade Descriptions Act 1968 (see respectively paragraphs 4 to 6 above and 9 to 12 below).

Examples may include:

- Internet information;
- Other off-label information; and
- Information provided on a notice or sign next to food sold loose (non-pre-packed) in a delicatessen, or notices, signs or labels if provided for foods pre-packed for direct sale;

Trade Descriptions Act 1968

9. The Trade Descriptions Act 1968 makes it an offence for a trader to –

- “apply a trade description to any goods which is false or misleading to a material degree;
- supply, or offer to supply, any goods to which a trade description is applied which is false or misleading to a material degree”.

10. An indication, direct or indirect, by whatever means, of what goods are made of, how they were made or processed, the place of manufacture, production or processing, who made them and any other information about their history, are all included in the scope of a trade description.

11. The Act is concerned with trade descriptions which are applied to the goods in question. The Act anticipates that trade descriptions may be applied in a variety of ways including, whether in writing or visually (e.g. an illustration or symbol) on the goods themselves, on containers, labels, show cards, in advertisements, or in an oral statement.

12. The Act applies throughout the supply chain. So, it is an offence, in the course of a trade or business, to apply a false trade description to goods, or to supply or to offer to supply or to have in their possession for supply, goods which are presented in a way which could create the impression that they were made somewhere other than where they were in fact made.

A separate fact sheet for traders on origin marking rules as covered by the Trade Descriptions Act 1968 is available from:

Consumer and Competition Policy Directorate
Department of Trade and Industry
1 Victoria Street
London
SW1H 0ET

Tel: 020 7215 5000

Or from their website: www.dti.gov.uk/ccp/topics.htm