

# Guidance on the application of date labels to food

September 2011

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## Purpose and legal status of guidance

1. This guidance is designed to provide an appropriate understanding of how to comply with the legal requirements on date marks. However it cannot cover every situation and you may need to consult the relevant legislation itself to see how it applies in your circumstances. You may also need to consult with technical experts on the microbiological risks posed by your products. This may require businesses, particularly smaller businesses without in-house technical expertise, to access independent scientific advice.
2. Compliance with the advice on best practice is **not** required by law.
3. To distinguish between the two types of information, all advice on best practice is in shaded boxes, with a heading of 'Best Practice'.
4. The guidance is set out in three parts:
  - PART 1 provides advice on compliance with the legal requirements for the date marking of food as set out in the Food Labelling Regulations (1996) as well as best practice guidance.
  - PART 2 considers key principles/criteria that should be considered when determining the type of date mark that is appropriate in particular circumstances, including a decision tree to illustrate how the principles may apply. These principles are mainly the factors that affect shelf life. They can be applied or adapted to apply to any food. Advice is not given on any specific food product or categories of food. There are so many variables even within a food product category that it would be difficult and potentially misleading to give product-specific advice. The responsibility for applying date marks lies with food businesses and they are best placed to understand the properties of their products and come to a reasoned decision on both the type of date mark required and the appropriate shelf life of any specific product. Where this knowledge is not maintained in-house then expert advice should be sought.
  - PART 3 is additional information: The first section includes two examples developed by trade associations to illustrate how the decision tree might apply to specific food products.
  - ANNEXES include the following. The first indicates foods and categories of food that are exempt from the requirement to carry date marks. The second lists the definition of some key terms used in the document. The third gives the references to the legislation referred to in the guidance. The fourth gives references for advice for determining shelf life. The fifth details responsibilities. The sixth provides a short version of the guidance intended to help small and medium sized enterprises.
5. These guidance notes should be read in conjunction with the legislation itself (Directive 2000/13/EC) and the Food Labelling Regulations (1996) and other relevant legislation (see Annex III for a list of the legislation referred to in this guidance). It is the responsibility of individual businesses to ensure they comply with the legislation referred to in Annex III which is relevant to date marking.
6. Businesses with specific queries may wish to seek the advice of their local enforcement agency, which will usually be the trading standards/environmental health department of the local authority.

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7. This guidance does not over ride specific European Union or national provisions that require the use of a particular date mark for specific foodstuffs. For example, the date marking of eggs is controlled by the EU's Egg Marketing Standards Regulation (which require marking with a '**best before**' date), and pre-packed fresh poultry meat is required to bear a '**use by**' date under the terms of the EU's Regulations on marketing for poultry.

# Part I: Guidance on legal requirements for the date marking of food

## Introduction

8. The aim of date mark labelling is to help consumers make safe and optimum use of food. The date mark is an indication by the manufacturer of the length of time a food can be kept under the specified storage conditions. The guidance has been drafted in consultation with the Food Standards Agency.

## Legislation

9. The key piece of EU legislation for date marking of food is Directive 2000/13/EC of the European Parliament and the Council on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs (“the Directive”). The Directive is implemented in Great Britain by the Food Labelling Regulations 1996 and in Northern Ireland by the Food Labelling Regulations (Northern Ireland) 1996, known together for the purposes of this Guidance only as ‘the FLR’. Food ready for delivery to the ultimate consumer or to catering establishments must carry an “appropriate durability indication” (which we refer to as a date mark in this guidance) unless an exemption under the FLR applies (regulation 5(c)), even if it is being marketed at a stage prior to sale to the ultimate consumer.

10. There are two types of durability indication:

- ‘Best before’ will be appropriate for the vast majority of foods and indicates the period for which a food can reasonably be expected to retain its optimal condition (e.g. it will not be stale) and so relates to the quality of the food.
- ‘Use by’ is the required form of date mark for those foods which are highly perishable from a microbiological point of view and which are in consequence likely after a relatively short period to present a risk of food poisoning, and so relates to the safety of the food.

11. At the time of writing, general food labelling legislation is being reviewed in Europe under the Provisions of Food Information for Consumers Regulation. Widespread changes to the date marking provisions are not expected. The new rules are likely to more clearly link ‘use by’ dates’ to food safety legislation. The new regulations are expected to retain ‘use by’ and ‘best before’ dates leading to a continued need to support businesses in assessing which date mark is appropriate for their product.

## Clarity of date mark indication

12. The date mark as a mandatory particular must comply with clear labelling requirements and be conspicuous, legible and indelible. Black inkjet on a dark green background, for example, is not acceptable; nor ink-jet onto pictures or other writing.

## Meaning of the date marks

13. A product with a ‘use by’ date cannot be sold after that date and should not be used after midnight of that day. The ‘use by’ date applies to products in the state in which they were intended to be sold, for example, a product designed to be sold chilled should not be sold

frozen. Where a food requires treatment before consumption, for example, raw meats, the 'use by' date means treat e.g. cook, by the end of the date declared.

14. 'Best before' dates relate to food quality, including taste, texture, aroma and appearance, whilst 'use by' dates relate to food safety. The 'best before' date is a quality indication used by the manufacturer to indicate that the food will be, assuming correct storage has been maintained, at its best before a certain date. A food which is past its 'best before' date should be safe to eat, but may not be at its best quality after this date.

### **'Display until' dates etc.**

15. In addition to the legally required date marks noted above, retailers can use other dates such as 'display until' dates<sup>1</sup>, which aim to help shop staff with stock control. These have no legal basis and are not aimed at consumers to indicate when to eat the food; they are to be used for commercial purposes only. The use of such markings does not displace the legal requirement for durability indications.

#### **Best Practice**

Historically both 'display until' and 'sell by' dates have been used by food businesses for stock control, although the latter is now used less frequently. There is evidence from WRAP (Waste & Resources Action Programme) and general correspondence from consumers that some consumers do not understand the difference between the legally required date marks and those used by food businesses for stock control purposes. This can mean that food which is safe to eat is thrown away unnecessarily, while food which may be unsafe is consumed. The Government has been working with the food industry to see how this confusion might be reduced, for example, by reducing the regularity and or visibility of the voluntary date marks. This would help to reduce the risks around food safety and reduce the amounts of food thrown away unnecessarily.

As best practice, food businesses should explore alternative ways of applying stock control dates that make them less visible to consumers and avoid diluting the key messages of the legally required date marks.

### **Food business operator (FBO) responsibilities**

16. It is the responsibility of those originally labelling the food, namely the manufacturer, packer or EU seller, to set the appropriate durability indication or date mark, together with the storage instructions required to achieve that shelf life. In practice, the brand owner will be involved in decisions about the setting of the date mark.

#### **Best Practice**

Where a food business has insufficient resources to determine which date marks should apply (as may be the case for some Small/Medium Enterprises (SMEs)), it is recommended that expert advice be sought, for example, from a specialist food consultant or their Local Authority who can direct them to an appropriate expert source.

17. It is an offence to alter or remove a date mark if you are not the manufacturer, packer or EU seller originally responsible for marking the food, unless each alteration is authorised by the person originally responsible for setting the date mark.

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<sup>1</sup> Historically 'Sell by' dates have also been used for this purpose but less so now.

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18. It is an offence to sell food after the 'use by' date. Retailers can however sell products after the 'best before' date provided the product still complies with the General Food Law Regulation (EC) 178/2002. These prohibit the sale of food which is not of the nature, substance or quality demanded by the purchaser, or to sell food which does not meet food safety requirements.

19. Enforcement action may be taken against those who fail to comply with date marking requirements.

### **Foods which do not have to carry a date mark**

20. Certain food categories or foods are exempt from the requirement to have a date mark. A list of these may be found at Annex I.

## Frequently asked questions

### Are all foods required to carry a date mark?

*[Regulation 4 and 22 of the Food Labelling Regulations (FLR)]*

1. No. Some foods are specifically exempt from the requirement to carry a date mark. These may be found in Regulations 4 and 22 of the FLR and in the list at Annex I of this guidance.
2. Eggs and poultry have their date mark requirements specified in separate legislation.
3. Other foods are exempt from carrying a date mark because of the conditions in which they are sold, for example:
  - Food sold loose and food which is 'pre-packed for direct sale' as defined in the FLR, including in catering establishments;
  - Fancy confectionery products;
  - Food sold in indelibly marked glass bottles; and
  - Food sold in seasonal selection packs.

### Which foods should carry a 'use by' or a 'best before' date?

4. There is no definitive list of which foods should carry a particular type of date mark. The legislative framework in the FLR is that all food ready for delivery to the ultimate consumer or catering establishment that is not exempted under the FLR (in reality, most pre-packed food with the exception of food listed in Annex I) should carry 'an appropriate durability indication', which would normally be a 'best before' date. For those foods which are highly perishable from a microbiological point of view, **and** are in consequence likely after a short period of time to pose an immediate danger to health, a 'use by' date must be used. PART II sets out the principles that should be considered when applying date marks, including a decision tree to facilitate the date-marking decision-making process.

### What form should the 'best before' date mark take?

*[Regulation 20(1) and 20(2) of the FLR]*

5. The '**best before**' date mark consists of the words '**best before**' and the date in terms of the day, month and year in that order.
6. Alternatively:
  - for foods expected to keep for 3 months or less - the words '**best before**' may be followed by the date in terms of the day and month.
  - for foods expected to keep for more than 3 months but no longer than 18 months - the date mark may be given in the form '**best before end**' and the date in terms of the month and year.

- for foods expected to keep for more than 18 months – the date mark may be shown as **‘best before end’** followed by the date in terms of the month and year or the year only.
7. Where appropriate, any storage conditions which need to be observed if the food is to retain its specific properties until the date shown must also be given.

### What form should the ‘use by’ date mark take?

*[Regulation 21(1) and 21(2) of the FLR]*

8. The **‘use by’** date mark must consist of the words **‘use by’** and the date in terms of either:
- the day and the month, or
  - the day, month and year.

This must be accompanied by any storage conditions which need to be observed.

### Is there any flexibility as to where the date mark may be placed on the label?

*[Regulations 20(3) and 21(3) of the FLR]*

9. The actual date, and any storage conditions given as part of the date marking requirement, may appear separately from the words **‘best before’**, **‘best before end’** or **‘use by’** provided these words are followed by a reference to the place where the date and any storage conditions appear(s) (e.g. ‘For best before end: see side of pack’).
10. The rules allow information about the location of the storage conditions to be given with the date itself as an alternative, rather than with the words ‘best before’, ‘best before end’ or ‘use by’. So, for example, instead of the indication on the front of the pack consisting of:

‘for best before date see side of pack and for storage conditions [e.g. on frozen food packs] see star marking panel’

an alternative would be a declaration on the front of the pack consisting of:

‘for best before date see side of pack’

with the information given on the side of the pack consisting of the date and the declaration for storage conditions [e.g. on frozen food packs] to see the star marking panel.

11. The date mark should appear within the same field of vision as other legally required information, such as the name of the food.

### Can the date be abbreviated?

12. As long as the date is shown in the order required by the FLR (i.e. day, month, year, as appropriate), there is no reason why different forms of expressing the date should not be used, provided it is given in a form which consumers are going to understand. For example, 1 January 2012, 31 Mar 2012, 1.6.2012 and 01.08.12 are all quite clear.

13. However, care needs to be taken when using abbreviated indications, such as 'use by 1.6'; consumers who might not realise that a 'use by' date must be given in at least day and month form might misread this particular example to mean use by 16th and ask 'use by 16th of what?'

### Best Practice

In such cases, it would be preferable to use the form 'use by 10 June', or 'use by 10 Jun'. Care also needs to be taken when giving year-end date marks, e.g. 'best before end 11', as this might be misread by consumers to mean best before the end of November. It would be preferable in such cases to use the form 'best before end 2011'.

## Do details of storage conditions need to be given with the date mark?

*[Regulations 20(1)(b) and 21(1)(b)]*

14. The FLR requires any storage conditions, which need to be observed if the food is to retain its specific properties until that date, to be provided.

a. They should in general be simple and clear and may vary from indications such as 'keep refrigerated' or 'keep in a cool, dry place', to indications which incorporate specific storage temperatures or temperature ranges.

b. A maximum temperature should be given at or below which the food should be stored if strict storage temperatures are required to maintain its safety as well as its quality up to and including the date specified.

c. Where various storage conditions are permissible (e.g. fridge, freezer compartment or freezer) the storage conditions should make clear to which option the date given refers (e.g. 'when stored in a refrigerator' or 'if kept frozen').

d. Both the date and its related storage conditions should apply to the food as it was bought by the consumer whilst it remains unopened.

### Best Practice

Where a food product requires refrigerated storage in the home, best practice would be for manufacturers to consider providing instructions that would allow flexibility in the temperature of storage depending in the nature of the food. For example, where products require chilled storage for quality reasons, 'keep refrigerated' and where food safety is the key issue, then 'keep refrigerated below 5°C'.

## What is meant by "special storage conditions" or "conditions of use"? Isn't this the same as the storage conditions required as part of the date mark?

*[Regulation 5(d) of the FLR]*

15. No. The storage conditions which are required to be given with the date mark relate specifically to ensuring that the consumer knows how to store the food if it is to last as long as the date indicates whilst it remains unopened. Special storage conditions or conditions of use should be given:

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- if the consumer needs to observe certain practices once the packaging of a food has been opened (e.g. 'once opened keep refrigerated and consume within 3 days') to indicate certain packaging functionality e.g. 're-closable' or to give guidance of what to do once the pack has been opened, e.g. 'wrap tightly' or 'store in an air tight container';
- if various options are available (e.g. 'suitable for home freezing'); or
- if foods are not appropriate or suitable for use in certain circumstances (e.g. 'not suitable for frying', 'shake well before use' or 'once defrosted do not refreeze').

### **Can food be sold after the date mark?**

*[Regulation 44.1(d) of the FLR]*

16. It is an offence to sell any food after the date shown as the 'use by' date relating to it. This includes exposing or holding for sale.

17. It is not an offence to sell food after the 'best before' date relating to it, provided it still complies with the Food Safety Act 1990 and the General Food Regulations 2004. These make it an offence for a person to sell or supply food which does not meet food safety requirements, or which is not of the nature, substance or quality demanded by the consumer. This means that a retailer may commit an offence if the food deteriorates to the point where it may become unfit for human consumption. Even, if not unfit, an offence may be committed if the food is not of the quality expected by the consumer.

18. It would also be an offence to give away food after its 'best before' date if the food has deteriorated so much that it did not meet these general provisions.

### **Can food frozen before the date mark be defrosted and sold after the date mark?**

*[Regulation 44.1(d) of the FLR]*

19. Currently, it would be an offence to sell any food after its 'use by' date. Therefore, where a product with a 'use by' date is frozen down in its original packaging and then defrosted and sold after the 'use by' date indicated the food business would be committing an offence.

20. The Government is aware of the difficulty this is causing for both businesses and enforcement and, at the time of writing this guidance, has addressed the issue in the regulation on the Provision of Food Information to Consumers

### **Can a date mark be altered or removed?**

*[Regulations 44(1)(e) and 46]*

21. It is an offence to alter or remove a date mark if you are not the manufacturer, packer or EU seller originally responsible for marking the food.

22. However, it is permissible for that specific instance when undertaken with written authorisation from the person who originally set the date mark.

## Part II: Principles to be considered when applying date marks

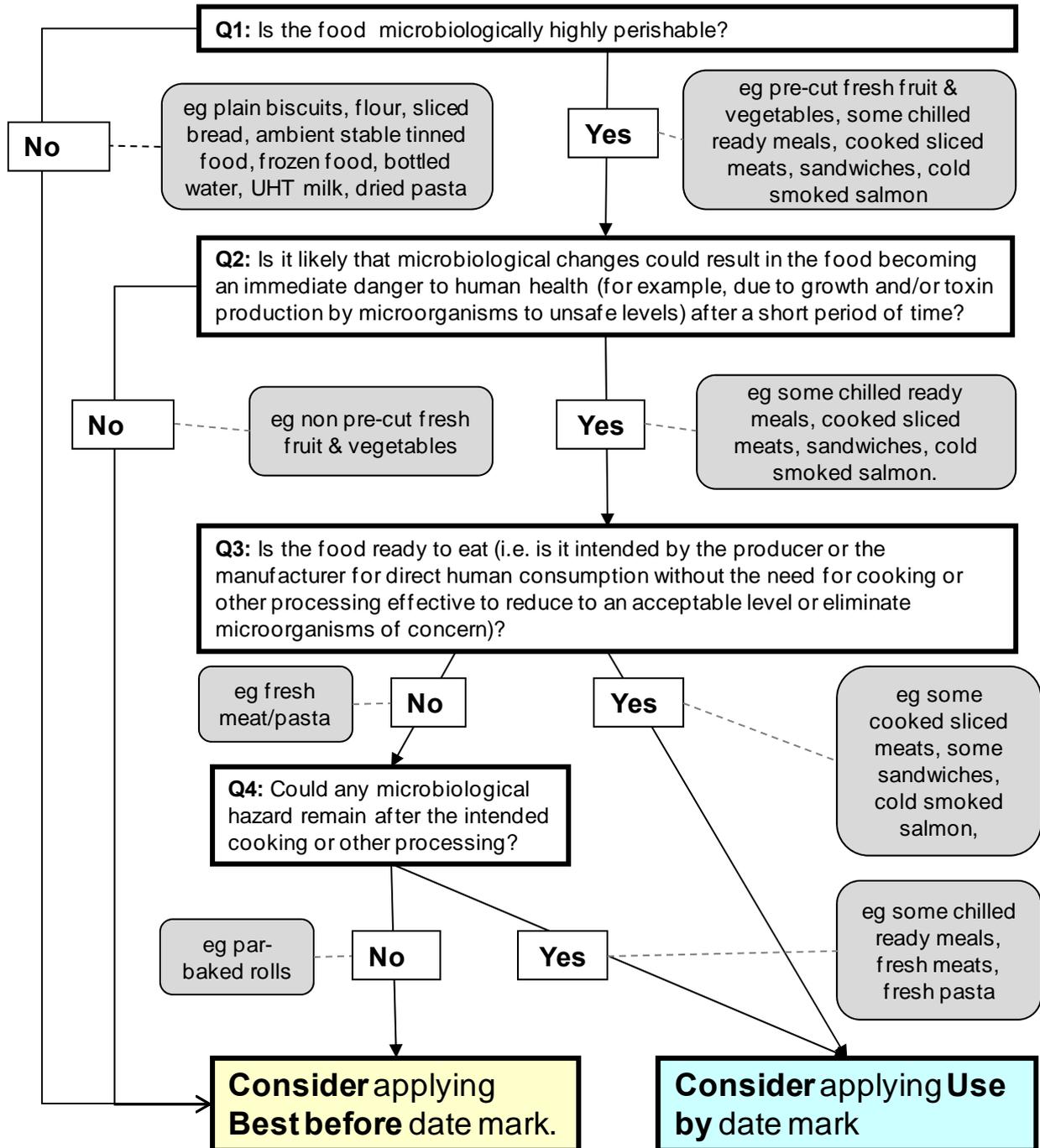
### Part II: best practice in relation to date marking principles

This part is not intended to provide detailed (step-by-step) guidance to the determination of shelf life or appropriate/legally applicable date marks; this remains the responsibility of the FBO originally responsible for labelling the food. Rather it is intended to provide overarching guidance, based on key principles, by highlighting the most important factors that should be considered when applying date marks.

1. When setting date marks, it should be borne in mind that 'use by' dates relate to food safety while 'best before' dates relate to the quality of the food.
2. The 'use by' date mark is a clear instruction to consumers not to consume the product after that date. An inaccurately determined shelf life can potentially pose a danger to human health. The 'best before' date should be applied to shelf stable foods that are safe to consume or perishable foods that do not deteriorate rapidly and become unsafe to eat, after the date mark.
3. The following decision tree illustrates key principles that should be considered in deciding which date marks to apply.
4. As a food business operator you will need to consider what relevant legislation may apply as well as the microbiological risks. For businesses without in-house technical expertise, this may require consultation with independent experts.
5. Further information relating to important factors to be considered when determining shelf-lives may be found at Part III, Section 2.

## Decision tree approach for illustrating the principles of determining date marks

This outlines key points to consider when deciding which date marks to apply. Examples are merely illustrative: all foods should be subject to thorough HACCP-based risk assessment in deciding the date mark to apply. Ultimately it is the FBO's responsibility to determine which date mark to apply based on assessment of their specific product and the processing conditions. In some cases it may not be appropriate for products to be labelled with the date mark suggested below. For example, whereas some sandwiches may need a 'use by' date, a 'best before' date may be more appropriate for others (e.g. jam sandwiches) based on the manufacturer's assessment. Where in-house expertise to conduct an appropriate assessment is lacking, FBOs are recommended to seek expert advice e.g. a trade or food research association.



Please note that this diagram does not apply to foods that are exempt from date marking or for which a particular date mark is specified in the legislation.

## Part III: Additional Information

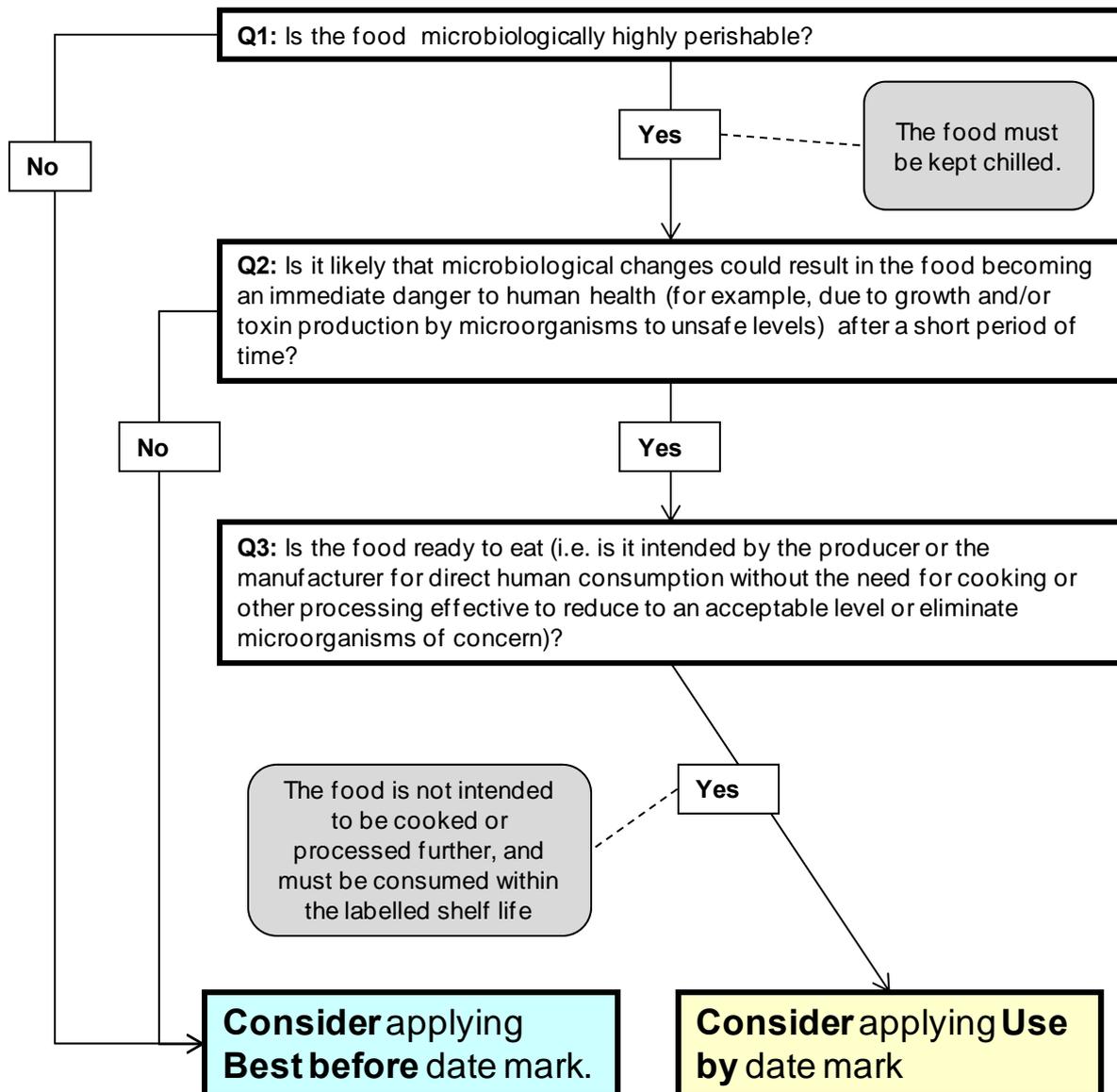
### Section 1: Industry generated examples

#### Worked example: Application of decision tree to cold smoked salmon

Manufacturer X produces cold smoked salmon which is vacuum packed, which is not heated 90°C for 10 minutes.

The '10-day shelf-life rule' will therefore apply in this case, unless the product characteristics will control for the risks of *Clostridium botulinum* (see paragraph 23 of Section 2 of the document for further explanation).

Where longer shelf-lives are applied, food businesses will need to ensure products formulation will control for this risk. The tree does not eliminate the need for food businesses to carry out proper risk assessments on their specific products.



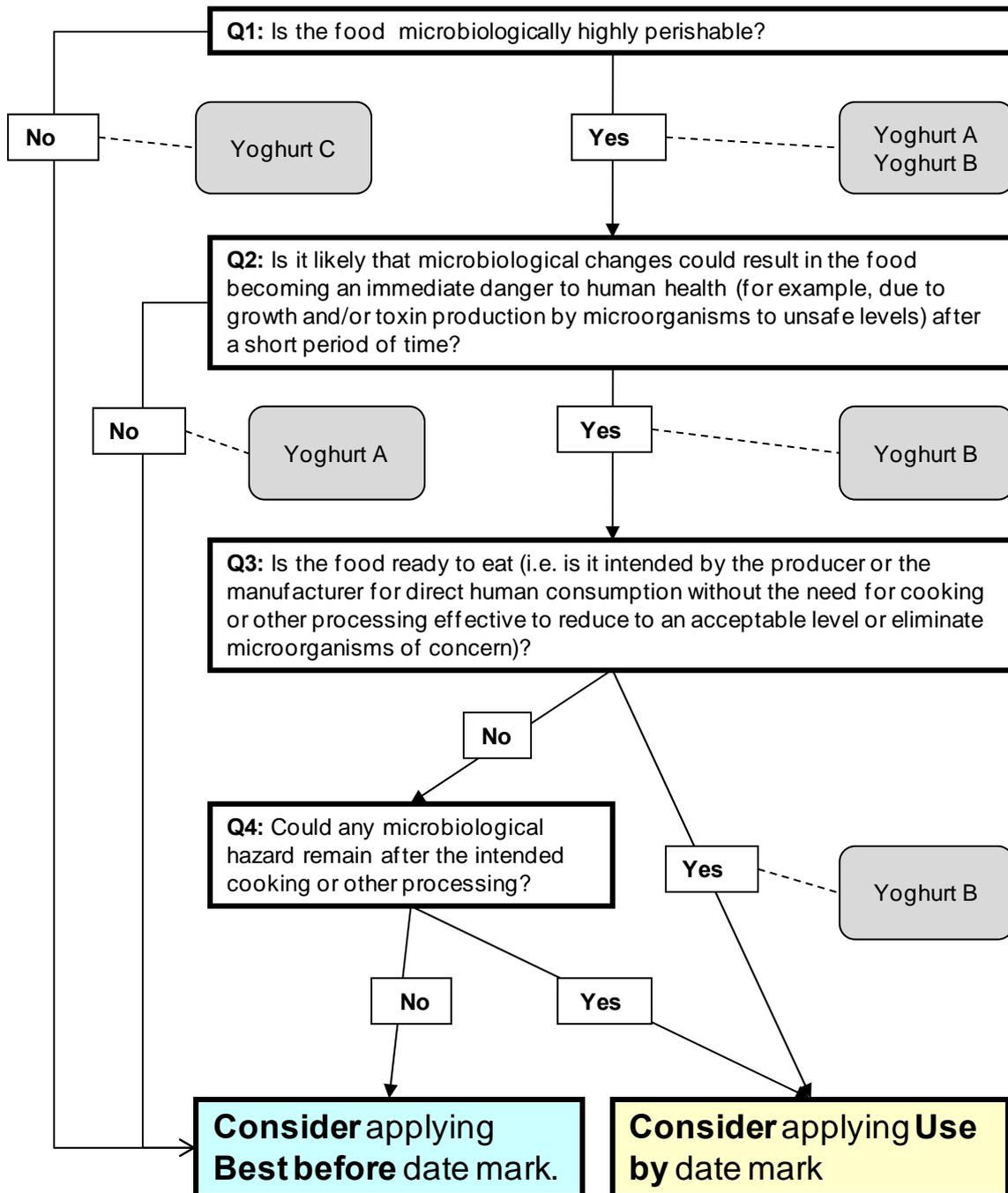
**Worked example: Decision tree application to yoghurt**

**Yogurt A:** Produced in factory with good hygiene records demonstrating absence of *Listeria monocytogenes* in product when it leaves factory. Factory has knowledge that because of pH and water activity of product, *Listeria monocytogenes* would not grow in product even if present.

**Yogurt B:** Produced in factory where hygiene records show very occasional detection of *Listeria monocytogenes*. Factory does not have evidence that *Listeria monocytogenes* will not grow in product.

**Yogurt C:** UHT yoghurt that can be stored at ambient temperature with advice to consumer to eat within 3 days once opened.

**Note:** Businesses will need to consider the risk posed by all organisms and not just a single pathogen in isolation.



## Section 2: Factors to be considered when evaluating appropriate date mark for pre-packed foods

### Shelf life

1. The Codex Alimentarius defines shelf life as the period during which a food product maintains its microbiological safety and suitability at a specified storage temperature and, where appropriate, specified storage and handling conditions<sup>2</sup>.
2. Shelf life is influenced by the following factors:
  - Good Manufacturing Practices (GMP), including Good Hygiene Practices (GHP),
  - Implementation of effective Hazard Analysis and Critical Control Points (HACCP)-based procedures,
  - Quality of raw materials,
  - Processing steps,
  - Packaging (including gas atmosphere),
  - Conditions of distribution,
  - Storage temperature,
  - Product formulation, e.g. pH, water activity (aw), salt concentration and use of preservatives,
  - The intended use and target consumer.
3. These factors are often used in combination to control microbiological growth and changes in chemical, physical and sensory qualities that lead to the product becoming unsafe.
4. Further guidance for food businesses on each of these studies is available in “Shelf life of ready to eat food in relation to *L. monocytogenes*” ([www.brc.org.uk/shelflifeguide](http://www.brc.org.uk/shelflifeguide)).

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<sup>2</sup> Codex Alimentarius (1999) Code of hygienic practice for refrigerated packaged foods with extended shelf life, CAC/RCP-46 (1999)

## **Annexes**

### **Annex I: Foods and categories of food which are exempt from the requirement to carry date marks under the Food Labelling Regulations (FLR); or require a specific date marking under other relevant legislation**

#### **Exempt from the requirement to carry date marks under the FLR**

1. Loose food, including food sold in catering establishments;
2. Food that is pre-packed for direct sale as defined in the FLR;
3. Any food prepared otherwise than in the course of a business carried on by the person preparing it, such as one-off charity events;
4. Fancy confectionery products which are individually wrapped and which are intended to be sold as single items;
5. Food sold in indelibly marked glass bottles;
6. Seasonal selection packs, provided that individual food items are fully labelled;
7. Fresh fruit and vegetables, including potatoes, but not including sprouting seeds and similar products such as legume sprouts, which have not been peeled, cut or similarly treated;
8. Wine, liqueur wine, sparkling wine, aromatised wine and any similar drink obtained from fruit other than grapes and any other drink made from grapes or grape musts coming within the Common Customs Tariff (see the Regulations);
9. Any drink with an alcoholic strength by volume of 10 per cent or more;
10. Any soft drink, fruit juice or fruit nectar or alcoholic drink, sold in a container containing more than 5 litres and intended for supply to catering establishments;
11. Any flour confectionery and bread which, given the nature of its content, is normally consumed within 24 hours of its preparation;
12. Vinegar;
13. Cooking and table salt;
14. Solid sugar and products consisting almost solely of flavoured or coloured sugars;
15. Chewing gums and similar products;
16. Edible ices in individual portions; and
17. Any additive sold as such which is required to be labelled in accordance with regulation 4(3) of the Extraction Solvents in Food Regulations 1993, or the appropriate provisions of any of the additives regulations.

**Require specific date marking under other relevant legislation**

18. Hens eggs, in so far as their labelling is regulated in Council Regulation (EC) No 1234/2007/ establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products and Commission Regulation (EC) No 589/2008 laying down detailed rules for implementing Council Regulation (EC) No 1234/2007/ as regards marketing standards for eggs.

19. Poultry meat in so far as their labelling is regulated by Council Regulation (EEC) No 1906/90 on certain marketing standards for poultry meat

## Annex II: Definitions

Term	Meaning	Source
<b>Short period</b>	This is not defined in legislation. It could be taken to be a period of days rather than longer, as is current industry practice. The time is very dependent on the food,	
<b>Chilled food</b>	A prepared food that for reasons of safety and/or quality is designed to be stored at refrigeration temperatures (at or below 8°C, but not frozen) throughout its entire life.	Chilled Food Association (CFA) Definitions WG, based on CFA GL4 and ECFF2
<b>Food business</b>	Means any undertaking, whether for profit or not and whether public or private, carrying out any of the activities related to any stage of production, processing and distribution of food.	Regulation (EC) No 178/2002
<b>Food Business Organisation (FBO)</b>	The natural or legal persons responsible for ensuring that the requirements of food law are met within the food business under their control.	Regulation (EC) No 178/2002
<b>Hazard Analysis Critical Control Point (HACCP)</b>	A system that identifies evaluates and controls hazards which are significant for food safety.	Codex
<b>Long shelf life</b>	This is not defined in legislation. It could be taken to be more relevant to a period measured in weeks or months, not days as is current industry practice.	
<b>Perishable food</b>	Food that is defined as being subject to decay or destruction, usually food that has been, for example minimally processed or not otherwise preserved and which relies on refrigerated storage in order to reduce the rate of decay and loss of quality.	Codex
<b>Pre-packed for direct sale</b>	Food pre-packed by a retailer for sale by him on the premises where the food is packed or from a vehicle or stall used by him with the following exceptions: for flour confectionery, bread and edible ices, this can also be pre-packed by the producer of the food for sale by him either on the premises where the food is produced or on other premises from which he conducts business under the same name, For cows' milk, put into containers on the premises where the milk is produced by the person owning or having control of the herd from which the milk is produced for sale by him on those premises or from a vehicle or stall used by him.	The Food labelling Regulations 1996
<b>Ready-to-eat (RTE)</b>	See Regulation (EC) No 2073/2005	

## Annex III: Legislation referred to in this guidance

These Guidance Notes cover the following Regulations:

- In Great Britain, the *Food Labelling Regulations 1996*, (SI 1996/1499), [http://www.opsi.gov.uk/si/si1996/Uksi\\_19961499\\_en\\_1.htm](http://www.opsi.gov.uk/si/si1996/Uksi_19961499_en_1.htm)
- In Northern Ireland, the *Food Labelling Regulations (Northern Ireland) 1996*, (SR 1996/383), [http://www.opsi.gov.uk/Sr/sr1996/Nisr\\_19960383\\_en\\_1.htm](http://www.opsi.gov.uk/Sr/sr1996/Nisr_19960383_en_1.htm)
- *Food Safety Act 1990*: [http://www.opsi.gov.uk/acts/acts1990/ukpga\\_19900016\\_en\\_1](http://www.opsi.gov.uk/acts/acts1990/ukpga_19900016_en_1)
- *Food Safety (Northern Ireland) Order 1991*. [http://www.opsi.gov.uk/si/si1991/Uksi\\_19910762\\_en\\_1.htm](http://www.opsi.gov.uk/si/si1991/Uksi_19910762_en_1.htm)
- *Directive 2000/13/EC of the European Parliament and the Council on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs*. [http://ec.europa.eu/food/food/labellingnutrition/foodlabelling/comm\\_legisl\\_en.htm](http://ec.europa.eu/food/food/labellingnutrition/foodlabelling/comm_legisl_en.htm)
- *Commission Regulation (EC) No 617/2008 laying down detailed rules for implementing Regulation (EC) No 1234/2007 as regards marketing standards for eggs for hatching and farmyard poultry chicks*. <http://faolex.fao.org/docs/pdf/eur75432.pdf>
- *Council Regulation (EC) No 1906/90 on certain marketing standards for poultrymeat* <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:1990R1906:20060714:EN:PDF>
- *Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety*. Official Journal of the European Commission L 31/1, 1 February 2002. <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2002:031:0001:0024:EN:PDF>
- *Commission Regulation (EC) No 2073/2005 of 15 November 2005 on microbiological criteria for foodstuffs*. Official Journal of the European Commission L 338/1, 22 December 2005 (MCR). <http://faolex.fao.org/docs/pdf/eur61603.pdf>
- *EC Regulation No 2073/2005 Microbiological Criteria for Foodstuffs - General Guidance for Food Business Operators*. Food Standards Agency, January 2007. <http://www.food.gov.uk/foodindustry/guidancenotes/hygguid/fhlguidance>

## **Annex IV: References for advice on the determination of food shelf-life:**

- 'Evaluation of product shelf life for chilled foods' Guideline No. 46-. Campden BRI (2004), ISBN 0-905942-65-5.
- European Commission Staff Working Document 'Guidance Document on Listeria monocytogenes shelf life studies for ready-to-eat foods under Regulation (EC) No 2073/2005 of 15 November 2005 on microbiological criteria for foodstuffs'. (26/11/2008) [http://ec.europa.eu/food/food/biosafety/salmonella/docs/guidoc\\_listeria\\_monocytogenes\\_en.pdf](http://ec.europa.eu/food/food/biosafety/salmonella/docs/guidoc_listeria_monocytogenes_en.pdf)
- The safety and shelf life of vacuum and modified atmosphere packed foods with respect to non-proteolytic Clostridium botulinum. Food Standards Agency (July 2008) <http://www.food.gov.uk/multimedia/pdfs/publication/vacpacguide.pdf>
- Best practice guidelines for the production of chilled food', 4th edition, Chilled Food Association, CFA (2005). <http://www.tsoshop.co.uk/bookstore.asp?FO=1160000&DI=561965>
- Codex Recommended International Code of Practice - General Principles of Food Hygiene, CAC/RCP 1-1969, Rev. 3 (1997), Amd. (1999). <http://www.freshquality.org/files/Hygiene.pdf>
- Recommendations for the Production of Chilled Food, 2nd edition European Chilled Food Federation, ECFE, (2006). <http://tinyurl.com/y8wsm93>
- Chilled Food Association's Best Practice Guidelines for the Production of Chilled Foods (4th ed, 2006). [www.tsoshop.co.uk/chilledfoods](http://www.tsoshop.co.uk/chilledfoods) Determination of Product Shelf life, Guidance Note No.18, Food Safety Authority of Ireland, FSAI, (2005): <http://www.fsai.ie/assets/0/86/204/cd13d71c-00ad-4d6b-8525-4c8fff552805.pdf>.

## **Annex V: Responsibilities**

The Government is responsible for implementing the legislation, giving advice on this legislation and any guidance it produces.

Local authority Trading Standards Department or Environmental Health Department are responsible for enforcing the law and can give advice on the labelling of specific products.

The addresses for all correspondence relating to the issues set out in this advice are as follows:

### **In England:**

General Food Labelling  
Food Policy Unit  
Defra  
Area 7E, 9 Millbank  
c/o Nobel House  
London, SW1 3JR  
Tel: 08459 33 55 77  
Email: [helpline@defra.gsi.gov.uk](mailto:helpline@defra.gsi.gov.uk)

### **In Wales:**

Food Standards Agency in Wales  
11th Floor, Southgate House  
Wood Street  
Cardiff, CF10 1EW  
Tel: 029 2067 8999, Fax: 029 2067 8919  
E-mail: [wales@foodstandards.gsi.gov.uk](mailto:wales@foodstandards.gsi.gov.uk)

### **In Scotland:**

Food Standards Agency in Scotland  
St Magnus House, 6th Floor  
25 Guild Street  
Aberdeen, AB11 6NJ  
Tel: 01224 285140, Fax: 01224 285128  
E-mail: [Christine.Green@foodstandards.gsi.gov.uk](mailto:Christine.Green@foodstandards.gsi.gov.uk)

### **In Northern Ireland:**

Food Standards Agency in Northern Ireland  
10 A-C Clarendon Road  
Belfast, BT1 3BG  
Tel: 028 9041 7742, Fax: 028 9041 7726  
E-mail: [Mervyn.Briggs@foodstandards.gsi.gov.uk](mailto:Mervyn.Briggs@foodstandards.gsi.gov.uk)

### **Local Government Group**

Local Government House  
(Formerly known as Transport House)  
Smith Square  
London, SW1P 3HZ  
Tel: 0207 665 3863

## Annex VI: Short guidance

**This short guide to aid compliance with the law has been prepared particularly with small and medium sized businesses in mind. Food businesses which do not have in-house knowledge or expertise to decide which date marks should apply to which foods should seek expert advice, e.g. from their Local Authority or a specialist food consultant.**

### How businesses can comply with the legislation

1. The main piece of EU legislation for date marking of food is Directive 2000/13/EC, which is implemented in Great Britain by the Food Labelling Regulations 1996 (SI 1996/1499) and in Northern Ireland by the Food Labelling Regulations (Northern Ireland) 1996 (SR 1996/383). The legislation requires most pre-packed food to carry a date mark which must be one of two types:

- The **‘best before’** date – this will be suitable for most food and indicates the period during which the food can be reasonably expected to maintain its optimal condition if properly stored. It relates to food quality.
- The **‘use by’** date – this is required for foods which are highly perishable from a microbiological point of view and are therefore likely to pose an immediate danger to human health after a short period of time. It relates to food safety.
- The legal requirements in respect of date marking do not impact on the use of **‘display until’** dates<sup>3</sup> which some retailers use to help with stock control. These have no legal basis, and are not aimed at consumers.

As best practice, it is suggested that food businesses explore alternative ways of applying stock control dates that make them less visible to consumers and avoid diluting the key messages of the legally-required date marks.

2. The date mark must appear in the same field of vision as the name of the food.
3. It is the responsibility of the person who labelled the food originally (i.e. the manufacturer, packer or EU seller) to determine and apply the correct date mark and the storage instructions for the food.
4. Where food businesses do not have the expertise to determine what the correct date mark should be for their product, we strongly advise they seek expert advice.
5. The law stipulates how date marks must be presented on the label:
  - a. The words ‘best before’ should be followed by:
    - i. The date up to, and including, which the food can reasonably be expected to retain its specific properties if properly stored, and any storage conditions e.g. ‘keep in a cool, dry place’, which need to be observed.
    - ii. The date should be expressed in terms of day, month and year in that order.
    - iii. However, other formats may be used depending on the shelf life, so for example:

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<sup>3</sup> Historically ‘Sell by’ dates have also been used for this purpose but less so now.

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1. For less than 3 months, you can use 'best before' with day and month only,
  2. For between 3-18 months, 'best before end' with month and year only,
  3. For more than 18 months, 'best before end' with month and year only or just the year. (e.g. 'best before end' 1999).
- b. The words 'use by' should be followed by the date together with any storage conditions, e.g. 'keep refrigerated', which are required to keep the food safe up until that date.
- c. The date, or the date together with any storage conditions which need to be observed, may be printed somewhere else on the packaging as long as the words 'best before' or 'use by' are followed by an indication of where the date and/or storage conditions will be found. This should be specific, for example 'see neck' or 'see lid'.
- d. The date mark must be conspicuous, legible and durable. Black inkjet on a dark green background, for example, is not acceptable; nor ink-jetted onto pictures or other writing.
6. It is an offence to remove or alter the date mark unless each removal or alteration is authorised in writing by the person who originally set the date mark.
7. It is an offence to sell food after the 'use by' date. But food can be sold after the 'best before' date provided it still complies with food safety legislation. It is an offence to sell or supply food which does not meet food safety requirements, or which is not of the nature, substance or quality demanded by the consumer.
8. The following food/foods are not required to have a date mark under the Food Labelling Regulations, although other legislation might apply:
- Loose food, including food sold in catering establishments;
  - Food that is pre-packed for direct sale as defined in the Food Labelling Regulations 1996;
  - Any food prepared otherwise than in the course of a business carried on by the person preparing it, such as one-off charity events;
  - Fancy confectionery products which are individually wrapped and which are intended to be sold as single items;
  - Food sold in indelibly marked bottles;
  - Food sold in seasonal selection packs, provided that individual items are fully labelled;
  - Fresh fruit and vegetables (including potatoes but not including sprouting seeds, legume sprouts and similar products) which have not been peeled or cut into pieces;
  - Wine, liqueur wine, sparkling wine, aromatised wine and any similar drink obtained from fruit other than grapes and any drinks made from grapes or grape musts coming within the Common Customs Tariff;
  - Any drink with an alcoholic strength by volume of 10% or more;

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- Any soft drink, fruit juice or fruit nectar or alcoholic drink sold in a container of more than 5 litres (intended for catering);
- Flour confectionery and bread normally consumed within 24 hours of preparation;
- Vinegar;
- Cooking and table salt;
- Solid sugar and products consisting almost solely of flavoured or coloured sugars;
- Chewing gums and similar products;
- Edible ices in individual portions; and
- Any additive sold as such.