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Food Information Regulations 2014

Draft Guidance

June 2014

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1. Introduction

The purpose of this guidance is to provide explanatory information which may help food businesses understand and comply with Regulation (EU) No. 1169/2011 on the provision of food information to consumers (EU FIC) and the Food Information Regulations 2014 (FIR 2014). The former is a directly applicable European regulation, and the latter (among other things) contains national enforcement measures and takes advantage of derogations in relation to the EU FIC. It should be used to provide clarification where needed to EU FIC and FIR 2014 themselves, not to replace them, and should be read alongside them.

The information contained in this document is not an authoritative statement of the law. Enforcement authorities may take a different view and only the courts can interpret the law in a legally binding way.

The guidance has been developed by Defra with the Food Standards Agency and the Department of Health, in consultation with the UK Devolved Governments and with substantial input from trade associations representing food businesses. The Government is grateful to those bodies for all their contributions.

This is intended to be generally applicable guidance. Care has been taken to ensure that it only explains what is in the relevant regulations and does not go beyond them. The aim has been to keep this document relatively succinct. It is not the Government's role to provide detailed sectoral guidance.

The information provided is as accurate as possible at the time of writing (June 2014). It is described as 'draft' as we recognise that there are issues where new information may emerge, for example from adoption of additional implementing rules at the European level, and intend to update this document as such new information becomes available. We are

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also keen for the guidance to be as helpful as possible to food businesses and welcome comments and suggestions on content and presentation to improve it.

2. Summary

2.1. Scope

EU FIC applies to all four nations in the UK and England, Scotland, Wales and Northern Ireland have endeavoured to take a common approach to derogations. Nonetheless, you may need to refer to the relevant national Government's advice for Scotland, Wales and Northern Ireland where necessary, especially with regard to enforcement regimes.

2.2. Key changes

- Allergen information will now need to be provided for non-prepacked and prepacked-for-direct-sale food (as well as for prepacked food).
- There is a minimum font size for mandatory information (including where this is repeated voluntarily, such as 'front of pack' nutritional information).
- Nutrition information becomes mandatory from December 2016 for the majority of prepacked food and must be presented in a consistent format. The EU FIC sets out how this should be presented. Voluntary nutrition information (such as 'front of pack') has to follow set formats.
- New rules for date-of-first-freezing labelling have been introduced for certain frozen foods.
- All meat products and preparations that have the appearance of a cut, joint, slice, portion or carcase of meat that have more than 5% added water need to indicate this as part of the name of the food. The same rules apply to fishery products which have the appearance of a cut, joint, slice, portion or filet, or of a whole fishery product.
- Minced meat has to meet the requirements of Annex VI Part B of EU FIC on fat and / or collagen levels. A derogation, which is subject to a review after three years, allows minced meat carrying the national mark to contain higher levels of fat and collagen.
- Existing national measures on the composition of ice-cream will be revoked.
- Changes to chocolate labelling have been made.

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- Changes to additives labelling on prepacked for direct sale have been made.
- Fresh and frozen pork, poultry, lamb and goat meat will have to be labelled with its origin from 1 April 2015.

2.3. Application dates

EU FIC entered into force on 13 December 2011. Compliance with the provisions is not required until the relevant application dates.

The application dates (when the provisions within the Regulations must be complied with) are:

- 1 January 2014 – For the rules on the composition and labelling of minced meat
- 13 December 2014 – For the general labelling rules. Furthermore, a nutrition declaration must follow the directions set out in EU FIC from this date if provided on a voluntary basis or because it is required (e.g. in the event that a nutrition and/or health claim is made, or that vitamins and/or minerals are added to a product)
- 1 April 2015 - For the provisions deriving from EU FIC on the indication of the country of origin for certain meats
- 13 December 2016 – For the rules on the mandatory nutrition declaration being required for most prepacked foods
- 13 December 2018 – rules on the composition of cheese and terms describing drinks with less than 1.2% alcohol revoked

2.4. Transitional arrangements

Products are allowed to be sold through if they have been placed on the market or labelled before 13 December 2014 regardless of how long a time period this takes. Some products such as frozen, dried and canned products have a long shelf life and may well remain on the shelves for several years.

EU FIC allows certain provisions to be complied with earlier than the relevant application date.

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3. Scope of the regulations

Any FBO supplying food to the public and mass caterers, or to other FBOs intending to sell to the public and mass caterers, will be covered to some degree by EU FIC and FIR 2014. Private individuals preparing and providing food for an occasional event are not covered unless they are preparing that food in the course of their business activities as an FBO. So, the occasional handling, preparation, storage and serving of food by private persons at events such as church, school or village fairs are not covered unless the activity is being carried out in the course of the person's business as an FBO.

Foods supplied by catering services provided by transport undertakings are covered where the place of departure is in the territories of one of the European Member States.

Business-to-business transactions are also in the scope of the regulation - there are some requirements relating to information that must be provided. The main requirement is that businesses receive sufficient information (including on allergenic ingredients) so that they can fulfil their legal obligations.

4. Links to other legislation

The EU FIC replaces Directive 2000/13/EC on food labelling. Along with the FIR 2014, it replaces the vast majority of the national Food Labelling Regulations 1996, as well as other related national regulations.

EU FIC and FIR 2014 are not the only regulations that relate to food law. This guidance does not give a comprehensive overview of all the legislation that FBOs and enforcement officers should be aware of. Relevant offences can be found under other legislation such as the Food Safety Act 1990, the Fraud Act 2006 and consumer protection legislation.

5. Enforcement and offences

There are different enforcement regimes in place in the different UK nations. Please refer to the relevant national Government's advice for Scotland, Wales and Northern Ireland where necessary.

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5.1. Improvement notices (not used in Scotland)

5.1.1. When Improvement Notices may be issued

An authorised officer of an enforcement authority may issue an improvement notice where the officer has reasonable grounds for believing there has been a failure by a FBO to comply with any of the provisions of the EU FIC listed in Schedule 5 to the FIR 2014.

The notice must:

- (a) state the officer's grounds for believing that the person is failing to comply with the relevant EU FIC provision;
- (b) specify (with specific reference to their food business) what the person is doing or failing to do, including what provision (or provisions) of the EU FIC has (or have) been breached;
- (c) specify what measures are needed to be taken by the person in order to secure compliance with the relevant EU FIC provision; and
- (d) specify the date by which the person must put the measures (or equivalent measures) in place.

The notice will also include details of the right of appeal.

To rectify the non-compliance(s), FBOs can, where appropriate, 'over-label' or 'over-sticker' the incorrect product label with a corrected version or remove the incorrect label and replace it with a correct label.

Improvement notices can also be issued in relation to a failure to comply with other provisions of FIR 2014 (e.g. regulation 6 on foods that are not prepacked etc and the general requirement to name them.)

If a business has a registered partnership with a Primary Authority, the authorised officer will notify the Primary Authority before taking any enforcement action, unless there is an immediate consumer health risk. In this instance he or she shall still make contact with the Primary Authority as soon as possible. This will apply whether they are in a direct

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partnership or a co-ordinated partnership (e.g. through a trade association). Home Authority arrangements will also be taken into account.

5.1.2. Failure to comply with an improvement notice

A person commits an offence if they do not comply with an improvement notice served on them under FIR 2014.

5.1.3. Appeals to First Tier Tribunal

Any person served with an improvement notice may appeal against that notice to the First-tier Tribunal in England, and to the Magistrates Court in Wales and Northern Ireland.

5.2. Frontline criminal offences

5.2.1. Offences

Failure to comply with the requirements of the provisions of the EU FIC set out in Regulation 10(2) of the FIR 2014 on the labelling of allergenic ingredients is a criminal offence and may result in a criminal prosecution being brought against an FBO. This position is the same in relation to a failure to comply with regulation 5(5) of the FIR relating to the provision of allergen information with a clear reference to the relevant substance or product listed in Annex II to EU FIC in the case of non-prepacked foods etc.

5.2.2 Sanctions and penalties

A person found guilty of an offence under FIR 2014 will be liable to a fine.

There is currently a limit of £5000, but, when it is commenced, section 85 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 will convert the standard scale maximum fine of £5,000 into an unlimited fine. Section 85 of the 2012 Act is expected to be commenced later in 2014.

6. Responsibilities

6.1. Obligation to ensure and verify compliance with food information law

Articles 8(5) and 1(3)

EU FIC makes it an overarching obligation of an FBO to comply with all food labelling requirements issued under EU law and relevant national provisions and to verify that those requirements are met.

6.2. Requirement on an FBO to ensure the presence and accuracy of food information

Article 8

Under Article 8(1) of EU FIC, the FBO under whose name the food is marketed is primarily responsible for the food information. It is its responsibility to ensure the presence and accuracy of the food information in accordance with the EU FIC and requirements of relevant national provisions.

Every other FBO in the food supply chain also has to take responsibility for ensuring that the information is accurate and must not supply food which they know or presume to be non-compliant with the law.

Article 8.8 states that FBOs supplying other FBOs with goods that are not intended for the final consumer or mass caterers should ensure that sufficient information is provided so that businesses further along the supply chain can provide accurate labelling information. Although there is no stated minimum requirement for information, there is a clear expectation that these business types must supply sufficient information to ensure that the FBOs they supply are able to meet the legal labelling requirements. The information they need to consider will include accurate information on ingredients, information on any allergens present in the products, information which will allow minimum durability information and any special storage conditions. The information required will vary from case to case, depending on the product type and processing taking place further along the supply chain.

FBOs are required not to supply non-compliant food. This applies to all sections of the supply chain. The level of responsibility that an FBO will have over the requirements in the Regulations will depend on its role (e.g. manufacturer, retailer, restaurant, etc.). However where it is aware of a problem with food information within a business under its control, it

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is responsible for dealing with it. All business must check some of the details on the label (for example that the language is correct and that the date mark has not expired). These are basic checks and this Article concerns food businesses not supplying food which they 'know or presume, [...] as professionals, to be non-compliant'.

6.3. Restrictions on the modification of information accompanying a food

Article 8, Article 1(3)

FBOs may modify the information given and are responsible for the accuracy of changes that they make. This enables, amongst other things, FBOs to freeze a product if it is appropriate to do so. An FBO freezing a product needs to indicate the new durability date and give the appropriate conditions of use and storage instructions.

6.4. Business to business requirements

Article 8(7) Article 1(3)

Article 8.7 concerns FBOs supplying prepacked food products that are intended for the final consumer but marketed prior to sale to the final consumer.

EU FIC provides that, for multipack wholesale packages, the four key mandatory particulars (the name of the food, the durability date, special storage instructions (such as 'keep frozen'), and the name and address of the FBO under whose name the food is marketed) should be on any outer packaging. All the mandatory particulars required by Articles 9 and 10 must be provided in commercial documents accompanying the food or sent before the food is delivered.

Further guidance on wholesaling is being developed.

7. General labelling

7.1. Prepacked

7.1.1. Mandatory information

Article 9

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7.1.1.1. Name of food

Where there is a name laid down by law this must be used. There are compulsory product names that must be used for some foods meeting certain composition criteria (e.g. the reserved descriptions for foods such as coffee, chocolate, fruit juices and fruit nectars, honey, jam and sugar). These names constitute legal names for the purposes of Article 17 of the EU FIC.

Article 17(4) of the EU FIC sets out that the name of a food shall not be replaced with a name protected as intellectual property, brand name or fancy name.

If a legal name is not used, a customary name may be. If there is no customary name, or it is not used, a descriptive name must be used.

A 'customary name' is a name which, over time, has come to be accepted by consumers in the UK as the name of the food without it needing further explanation. Some examples are 'fish fingers' and 'Bakewell tart'. Some names of foreign origin, such as 'muesli' and 'spaghetti' have also become customary names in the UK. A name which is customary in a particular area (e.g. an 'Essex Huffer') might not be understood on its own if it is used as the name for the same food when it is sold outside that area. Consideration will therefore need to be given as to whether or not further information describing the food needs to be provided as part of the name of the food.

A descriptive name must not be misleading.

It is not a specific requirement that the name of the food should be on the front of the pack, but information visible to the consumer before purchase (and complying with the presentation requirements contained in Article 13 of EU FIC) must enable the consumer to identify the true nature of the product. The name must appear in the same field of vision as the quantity indication and the actual alcoholic strength by volume (where applicable).

Further requirements on the name of the food and particulars that should accompany it are set out in Annex VI of the EU FIC. There are requirements to give the particulars of any physical process the food has undergone where the absence of such information might mislead. To determine if the omission of the information might mislead, the whole of the selling environment needs to be taken into account.

Where a food has been frozen and subsequently defrosted, the 'defrosted' designation needs to be given, except for the following:

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- (a) ingredients present in the final product (e.g. defrosted prawns or chicken meat present in prepacked sandwiches or salads)
- (b) foods for which freezing is a technologically necessary step of the production process (e.g. freezing of fish for protection against parasites or freezing of meat for processes such as slicing or forming)
- (c) foods for which the defrosting has no negative impact on the safety or quality of the food (which could be demonstrated through scientific reports or detailed qualitative, microbiological and organoleptic assessment for such products).

If a substitute ingredient is used in a dish expected to be made from a specific ingredient, then the name of the substitute ingredient must be in close proximity to the name of the product (e.g. the word 'parsley' in close proximity to the name 'pesto sauce' where the former is used instead of basil). The name of the substitute ingredient must be given in a font size which has an x-height of at least 75% of the x-height of the name of the product and which is not smaller than the minimum font size (see Article 13(2) of EU FIC).

Where proteins (including hydrolysed proteins) such as albumin, collagen, casein, milk protein or egg protein are added to meat products, meat preparations or fishery products of a different animal species origin to the main food product, then these proteins need to be included in the name of the food together with the name of the animal species from which they are derived.

This only applies where, specifically, the protein is used. Foods such as eggs in the pastry crust of a meat pie, that contain protein but have a wider use as an ingredient, do not have to be listed as proteins in the name of the food.

Where ingredients from other species that are not proteins are used in meat products, meat preparations or fishery products, FBOs should consider whether it could be misleading to not include this information in (or in proximity to) the name of the food.

When meat products, meat preparations and fishery products (as defined in Regulation (EC) No 853/2004) may give the impression that they are made of a whole piece of meat or fish but are in fact a combination of different pieces of meat or fish combined together, then the words 'formed meat' or 'formed fish' must accompany the name of the food. This should not be confused with 'reformed' or 'cut and shaped' meat or fish (or products that have undergone similar processes) which must be labelled according to the physical process they had undergone in their production.

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7.1.1.2. Irradiated foods

Annex VI, Part A (3)

Point 3 of Part A of Annex VI to the EU FIC requires that foods treated with ionising radiation are labelled with the words 'irradiated' or 'treated with ionising radiation'.

The requirement to indicate that an ingredient has been irradiated under Directive 1999/2/EC applies even in the case of compound ingredients where the inclusion of the ingredient in the list of ingredients would otherwise not be required under the provisions of point 2 of Part E of Annex VII to the EU FIC.

7.1.1.3. List of ingredients

Articles 18, 19 and 20 and Annex VII

The list of ingredients must be headed or preceded by a suitable heading which consists of or includes the word 'ingredients'.

Ingredients should be listed in descending order by weight (so the heaviest first), and should be named in the same way as they would if they were being sold individually as a food product.

Where compound ingredients are used (that is ingredients which contain other ingredients, such as sausages as an ingredient of toad-in-the-hole), either the individual constituent ingredients can be listed as ingredients of the whole product, or (where a name is laid down by law or established by custom) the compound ingredient can be indicated followed immediately by a list of the compound ingredient's ingredients (e.g. 'sausage (pork (80%), pork fat, water, collagen, cellulose)').

With the exception of allergenic ingredients, the ingredients of a compound ingredient do not have to be given:

- where the compound ingredient (with the exception of additives) is defined in EU provisions and makes up less than 2% of the overall product
- for a mixture of spices and / or herbs (without additives) that makes up less than 2% of the overall product

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- where the compound ingredients would not require an ingredients list as a product on its own (e.g. a cheese to which the provisions of Article 19(1)(d) of EU FIC apply).

Any engineered nanomaterials used as an ingredient in a food must have 'nano' in brackets after its name in the ingredient list.

7.1.1.3.1. Additive labelling in food ingredients list

Article 20(b)

Food additives (and enzymes) which are used as processing aids do not generally have to be listed as ingredients. The exception is sulphites which are additives (preservatives) that will need to be declared either as a deliberate ingredient or as carry over if >10mg/kg in the finished product (or the reconstituted product).

Carry over additives are additives which are present in a food because they were contained in an ingredient of that food but serve no technological function in the finished food (e.g. the preservative in a sponge finger used to make a trifle).

7.1.2. Quantitative Ingredients Declaration (QUID)

Article 22 and Annex VIII

There is a requirement to give an indication of the quantity of an ingredient or category of ingredients where:

- they appear in the name of the food or are usually associated by the consumer with that name;
- they are emphasised by words, pictures or graphics on the label; or
- they are essential to characterise a food and to distinguish it from products with which it might be confused because of its name or appearance.

The final bullet point can cover products where the composition can differ markedly from one Member State to another but which are usually marketed under the same name. Both requirements (to characterise the food and to distinguish it from products with which it might be confused) have to be satisfied before a compulsory declaration is necessary under this provision.

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7.1.3. Exemptions to the list of ingredients

Article 19 provides exemptions for certain foods from ingredients labelling. These are:

- fresh fruit and vegetables which have not been peeled, cut or similarly treated;
- carbonated water (the description of which indicates that it has been carbonated);
fermented vinegars (derived exclusively from a single basic product, provided that no other ingredient has been added);
- fresh cheese and processed cheese,
- butter,
- fermented milk (e.g. yoghurt)
- cream

In the case of the final four, this applies where no ingredient has been added other than lactic products, food enzymes, micro-organism cultures and, in the case of cheese, any added salt necessary for its manufacture.

Single ingredient foods also do not need an ingredients list where the name of the food is the same as the ingredient or where the name of the food enables the nature of the ingredient to be easily identified (e.g. eggs).

N.B. - UK milled flour is not a single ingredient food; the statutory nutrients added to the flour need to be given.

Some food products are exempted from ingredient listing by virtue of their packaging. These are: foods in glass bottles intended for reuse that have food information indelibly marked on them and therefore have no other labelling; and foods in very small packs where the largest surface area is less than 10 cm². Although food packed in these containers are exempt from the need for an ingredients list they remain subject to some of the other mandatory requirements.

Under the provisions of EU FIC, alcoholic drinks containing more than 1.2% by volume of alcohol do not have to have an ingredients list.

7.2. Allergen labelling

For details on food allergens information for prepacked food refer to the EU FIC's Article 9 (1) (c) on list of mandatory particulars, Article 13 ((1) to (4)) on presentation of mandatory particulars, Article 19 on the omission of the list of ingredients, Article 21 on labelling of certain substances or products causing allergies or intolerances and Article 36 (3) (a) on applicable requirements.

Detailed technical interpretation of the allergen labelling / information provisions will be available in the forthcoming Food Standards Agency guidance which will be linked from www.food.gov.uk/science/allergy-intolerance/label.

7.2.1. Substances or products causing allergies or intolerances

Annex II of EU FIC lists the major substances or products causing food allergies or intolerances that are recognised across Europe. If there is a food product which contains or uses an ingredient or processing aid listed in Annex II or derived from one of the 14 substances or products listed in Annex II, it will need to be declared if still present in the finished product even if in an altered form.

These are:

- Cereals containing gluten (namely wheat including specific varieties like spelt and Khorasan, rye, barley, oats and their hybridised strains) and products thereof, except:
 - a) wheat based glucose syrups including dextrose
 - b) wheat based maltodextrins
 - c) glucose syrups based on barley,
 - d) cereals used for making alcoholic distillates including ethyl alcohol of agricultural origin
- Crustaceans and products thereof (for example prawns, lobster, crabs and crayfish),
- Egg and products thereof
- Fish and products thereof, except;
 - a) Fish gelatine used as carrier for vitamin or carotenoid preparations;
 - b) Fish gelatine or Isinglass used as fining agent in beer and wine;
- Peanut and products thereof
- Soybeans and products thereof, except;
 - a) fully refined soybean oil and fat;

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- b) natural mixed tocopherols (E306), natural D-alphas tocopherols, natural D-alphas tocopherol acetate, and natural D-alpha tocopherol succinate from soybean sources;
- c) vegetable oils derived phytosterols and phytosterol esters from soybean sources;
- d) plant stanol ester produced from vegetable oil sterols from soybean sources;
- Milk and products thereof (including lactose), except;
 - a) whey used for making alcoholic distillates including ethyl alcohol of agricultural origin;
 - b) lactitol;
- Nuts (namely almond, hazelnut, walnut, cashew, pecan nut, Brazil nut, pistachio nut and Macadamia nut (Queensland nut)) and products thereof except for nuts used for making alcoholic distillates including ethyl alcohol of agricultural origin;
- Celery and products thereof;
- Mustard and products thereof;
- Sesame seeds and products thereof
- Sulphur dioxide and sulphites at concentrations of more than 10mg/kg or 10mL/L in terms of the total SO₂ which are to be calculated for products as proposed ready for consumption or as reconstituted according to the instructions of the manufacturers
- Lupin and products thereof;
- Molluscs and products thereof (for example clams, oysters, scallops, snails and squid).

All information about substances or products from the Annex II list (above) causing allergies or intolerances must be emphasised in a contrasting typeface to clearly distinguish them from the non-allergenic ingredients.

Where the largest surface area of the food packaging or container is less than 10cm², the ingredient list can be omitted from the label (for example in the case of a single portion sachet of sauce). In such cases, the presence of Annex II ingredients (allergens) in the food should be indicated by the word 'contains...' followed by the name of substance or product (e.g. contains: celery, sulphites, fish).

To ensure consistent consumer understanding, icons or symbols should not be used without words.

7.2.2. Omission of the list of ingredients

There are some occasions where foods are not required to bear a list of ingredients; such as fresh fruit and vegetables which have not been peeled, cut or similarly treated, carbonated water, fermented vinegars derived from single basic product; cheese butter,

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fermented milk, cream to which not ingredient other than lactic products, food enzymes and microorganism cultures essential for the manufacture or in the case of fresh and cheese the salt needs for its manufacture. Where the product consists of a single ingredient with no ingredients list therefore given (e.g. a bag of peanuts or a box of eggs) and the name of the food clearly refers to the presence of an Annex II (allergen) ingredient, further indication of the presence of the substance or product (in this case peanuts or eggs) is not required.

7.2.3. How to label substances or products causing allergies or intolerances

Information about the Annex II substances or products which cause allergies or intolerances will need to be emphasised within the ingredients list by means of contrasting font, size, style or background colour. For example, '*INGREDIENTS: **Prawns**, *wheatflour*, salt, sunflower oil*'.

The presence of allergens for each ingredient needs to be declared even if there are several ingredients from the same allergenic food. For example - '*Partially Reconstituted Skimmed **Milk** Concentrate, Sugar, Sunflower Oil, Whey Powder (**milk**), Dextrose, Emulsifier (Mono- and Di-Glycerides of Fatty Acids), Flavouring, Stabilisers (Guar Gum, Sodium Alginate), Colours (Beetroot Red, Beta-Carotene)*'.

If the name of an ingredient partly includes the Annex II allergen in a single word, then the name of the ingredient corresponding to the Annex II food can be emphasised. For example, 'wheatflour' is '**wheatflour**' or the entire name '**wheatflour**'.

Where the name of the ingredient comprises several words only the Annex II food should be emphasised. For example, 'skimmed **milk** powder', 'dried **egg** powder'.

If all the ingredients of a food are from the Annex II list of allergens, they must all be indicated in the list of ingredients and be emphasised. There is certain flexibility as regard to the means of maintaining emphasis, for example by means of font, style, or background colour. They need to be emphasised against other mandatory information such as the word 'ingredients' where it introduces the ingredients list.

For some ingredients it might be clear from the use of a common name that they are products that are made from an Annex II allergen (such as cheese, butter, yoghurt and cream which are made from milk) and these will not need further qualification of the exact

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allergen. Where foods are a derivative, or sold under a less common name, due to appellation, trade name, foreign cuisine etc., it could be difficult to tell whether they contain any of the Annex II products or substances (e.g. semolina (**wheat**), casein (**milk**), ghee (**milk**), edamame (**soya**)). In such cases, further qualification will be required.

When common names such as salmon, oysters and prawns have been used, these will not need qualification that they are from fish, molluscs and crustaceans respectively. However, where uncommon names have been used, qualification of the Annex II food will be required to enable full consumer understanding of the origin of the food.

Some foods do not require an ingredients list. However, they will need to declare the presence of any substances or products derived from the Annex II list. For example, a wine should have a statement such as 'Contains: sulphites' if sulphites are used to preserve it and are found at >10ml/L.

If an ingredients list is not required but is given voluntarily, any substances or products derived from the Annex II list should be emphasised in the ingredients list as with a mandatory ingredients list. With regards to wine where specific regulations also apply, the word 'contains' should be incorporated in the ingredients list heading and substances or products derived from the Annex II list should appear in bold in the list. For example, 'Ingredients; contains: grapes, **sodium metabisulphate (sulphites)**'.

For prepacked foods which display ingredients lists, the voluntary use of allergen advisory statements such as 'Contains wheat, egg, milk' to provide supplementary allergen ingredients information to that already provided in the ingredients lists is not permitted. Information about allergens as ingredients may only be presented in the mandatory format (i.e. emphasised within the ingredients list). Thus the information is presented in a common format across food products to avoid consumer confusion.

The use of a food allergy/ intolerance warning box which signposts the consumer to the ingredients list, and how allergenic ingredients are emphasised within it, is permitted. For example, food business may wish to include a statement such as 'Advice: Allergens are emphasised in the ingredients list in bold/with underlining/in red...'

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The voluntary inclusion of gluten following the mandatory declaration of a cereal containing gluten is possible. However, the regulation requires that it is the cereal that should be emphasised; for example '**barley** (gluten)'

Applicable requirements

- FBOs often use precautionary allergen statements such as '*may contain*' or '*not suitable for...*' to communicate the risk of the unintentional presence of an allergen (e.g. milk, egg, nuts) in a food product due to the allergen entering the product accidentally during production, through cross contact or contamination.
- The voluntary use of precautionary allergen statements to indicate potential allergen cross contamination is still permitted.

7.3. Net quantity

Article 23 and Annex IX

Enforcement of these provisions and other EU FIC provisions relating to the mandatory net quantity indicator required by Article 23 will be provided for in weights and measures legislation being prepared under Department for Business, Innovation and Skills in England. Information is available at www.gov.uk/packaged-goods-weights-and-measures-regulations.

The Department of Enterprise, Trade and Investment in Northern Ireland will oversee this work. Information on these provisions in Scotland and Wales should be sought from the relevant body.

7.4. Date of minimum durability

Article 24 and Annex X

Most foods must be marked with a date of minimum durability – either a 'best before' or a 'use by' date. The foods that are not required to provide a durability date are listed in Annex X 1(d) of EU FIC. After the 13th of December 2014, the date of minimum durability is not required to appear in the same field of vision as the name of the food and the net quantity of the food.

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The 'use by' date is for foods that are highly perishable and are therefore likely, after a short period, to constitute an immediate danger to human health. The food should be consumed by the end of the date given.

Article 14(1) of Regulation (EC) No 178/2002 of the European Parliament and of the Council lays down general principles and requirements of food law prohibits food being placed on the market if it is unsafe. Food on sale after the 'use by date' is deemed to be unsafe under Article 14 of Regulation (EC) No 178/2002. The contravention of Article 14(1) of Regulation (EC) No 178/2002 is an offence under the Food Safety and Hygiene (England) Regulations 2013. Because of the provisions of Article 23 of EU FIC it will be unnecessary, when prosecuting an offence for the contravention of Article 14(1) for the prosecution to prove that the food sold after its use by date is unsafe.

The date of freezing or first freezing is required for frozen meat, frozen meat preparations and frozen unprocessed fisheries products (point 3 of Annex X to the EU FIC as read with point 6 of Annex III).

Storage conditions and / or conditions of use

Article 25

Where special storage conditions are required, information must be given to ensure the consumers know how to appropriately store a food product. Similarly, conditions of use must be given where needed by the consumer to use the food in the way intended. Pictograms and symbols (such as a snowflake to indicate frozen storage or a star marking) may be used only in addition to, rather than in place of, this mandatory information expressed in words and numbers.

7.4.1. Instructions for use

Article 27

Instructions for use are needed where 'would be difficult to make appropriate use of the food in the absence of such instructions'. 'Difficult' is not defined, but could include products with complex methods of preparation and products that are inedible if not prepared properly such as dried red kidney beans.

Where instructions for use are mandatory they should be sufficiently detailed to enable appropriate preparation or use to be made of the food.

Illustrations (e.g. of a saucepan) are only allowed in the case of voluntary information, ie whether a food is not difficult to prepare.

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7.5. Name and address of the responsible FBO

Articles 8 and 9.1(h)

The name or business name and the address of the FBO that is responsible for the food information on a product must be indicated in the labelling. Article 8(1) of EU FIC sets out what FBO this should be.

A post-office box is acceptable as an address in this context, but e-mail addresses, telephone numbers or other non-physical contact details are not.

7.6. Alcohol content

Article 28 and Annex XII

Article 28 of EU FIC stipulates that the actual alcoholic strength by volume (ABV) of beverages containing more than 1.2% ABV (other than those referred to in Article 28.1) must be shown in accordance with Annex XII. Alcoholic strength should be preceded by the word 'alcohol' or the abbreviation 'alc' and then indicated by a figure to not more than one decimal place followed by '% vol'.

The alcoholic strength by volume in the case of alcoholic beverages referred to in Article 28(1) must be indicated in accordance with the rules laid down in the EU legislation relating to such products.

7.7. Origin labelling

7.7.1. Country of origin

Article 26 and Annex XI

There are provisions deriving from EU FIC on the indication of the country of origin for certain meats, which are due to apply as of 1 April 2015 (under Commission Implementing Regulation (EU) No 1337/2013). These new rules will require that fresh, chilled and frozen, pre-packaged, unprocessed meat obtained from pigs, sheep, goats and poultry will have to give the Member State or third country of rearing as 'Reared in:...' and the Member State or third country of slaughter as 'Slaughtered in:...'. In addition, food businesses will need

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to have in place an identification and registration system that ensures the transmission of the mandatory information on place of rearing and slaughter, as well as the identification of the animal, throughout the food chain. The above meat will also need to have a batch code on the label identifying the meat.

The provisions of EU FIC do not affect any of the origin indications given under Regulation (EU) No 1151/2012 on the quality schemes for the protected geographical indications and designations of origin for agricultural products or foodstuffs, or under regulations such as Regulation (EC) No 110/2008 on the definition, description, presentation, labelling and the protection of geographical indications of spirit drinks.

7.8. Availability, clarity and placement

In the case of prepacked foods, mandatory food information must appear directly on the package or on a label attached thereto. Label is defined as 'any tag, brand, mark, pictorial or other descriptive matter, written, printed, stencilled, marked, embossed or impressed on, or attached to the packaging or container of the food'.

The mandatory food information must be in a conspicuous place. It must be easily visible, clearly legible and, where appropriate, indelible. It must not in any way be hidden, obscured, detracted from or interrupted by any other written or pictorial matter, nor any other intervening material. Furthermore, EU FIC requires that voluntary food information must not be displayed to the detriment of the space available for mandatory food information.

Any type of labels that are considered to satisfy these criteria may be used.

Peel-open/re-sealable labels, where mandatory information is presented within the 'peel off' section and therefore not immediately visible to a consumer may only be used where this is necessary to present the mandatory information. Mandatory information must always take precedence over other information in being immediately visible to the consumer. Verification that the general requirements on availability and placement are fulfilled must take place on a case-by-case basis.

Care should be taken to ensure that mandatory information is not hidden or obscured by promotional stickers.

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Font size

Minimum font sizes must be used for the mandatory food information. This is based on the x-height of the characters, as defined in Annex IV to EU FIC. The minimum x-height is 1.2mm where the largest surface is equal to or greater than 80cm² and 0.9 mm where the largest surface is less than 80cm².

Field of vision requirements

Article 13(5)

The name of the food, the net quantity and the actual alcoholic strength by volume (in the case of beverages containing more than 1.2% by volume of alcohol) must appear in the same field of vision.

The date of minimum durability will not need to be in the same field of vision as the name of the food after 12 December 2014.

In the case of rectangular or box-shaped packages, the determination of the 'largest surface area' is straightforward - one entire side of the package concerned (height x width).

Commission advice is that the 'largest surface' for cylindrical or bottle-shaped packaging, or with uneven shapes, should be the whole area excluding tops, bottoms, flanges at tops and bottoms of cans, and shoulders and necks of bottles and jars.

'Multipack' packages sold directly to consumers consisting of individually packed items within an outer packet (e.g. individual packets of crisps sold inside a larger packet, individual soft drinks cans inside a case, yoghurts with connected lids, etc.)

In the case of a 'multipack' package to be sold to consumers and containing individually packed items, the mandatory particulars must appear directly on the 'multipack' package. This mandatory information does not have to appear on each individual item as well.

In catering establishments, portion-packs (e.g. jam, honey, mustard, sachets of salt/pepper, sugar sticks and individually wrapped teabags) which are presented as part of a meal should not be considered as units of sale, and it would therefore be sufficient, in such cases, that the food information appear on the multipacks they were sent to the

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caterer in. However, where an individual pack of, say, tomato sauce is sold separately (as an additional cost to the main meal), then it would need to be labelled as with individual food products.

Language

Article 15

Mandatory food information must be given in English as this is the language that is most easily understood by consumers in the UK. However, that does not mean that food information cannot additionally be provided in other languages, including non-official languages, on a voluntary basis.

If the intent is to only market in the UK, other information in another language (for example, Welsh) can be given but will not have to be given in the minimum font size. However if the intent is to also market in another Member State with a different national language, full mandatory information will also have to be given in a language easily understood by consumers in that Member State in the minimum font size.

7.8.1. Exemptions

The requirement for a nutrition declaration to be given (from December 2016) does not apply to milk presented in glass bottles intended for re-use.

7.8.2. Remote sales/Distance selling

Recital 27 Article 14

Responsibilities for distance selling

Where foods are offered for sale by means of distance selling, the responsibility for providing mandatory food information before the purchase is concluded lies with the business responsible for the website, catalogue or similar.

The requirements for distance selling to consumers (rather than business-to-business sales) are that the consumer receives the same information when buying food at a distance as they do when buying in a physical retail environment. Therefore, all mandatory food information (except the date of minimum durability / use by date and the date of freezing or first freezing) must be available before the purchase is concluded. All the mandatory food information (*including* date of minimum durability / use by date and the

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date of freezing or first freezing) must also be available at the moment of delivery. The information must be available to the consumer with no additional costs. So if a FBO is making the information available through a telephone help line, this should not be a premium rate service. For business-to-business transactions made through distance sales, sufficient information must pass through the chain to allow for legal obligations in respect of the purchaser to be met.

Non-prepacked food:

Where non-prepacked food is sold by means of distance selling (e.g. a takeaway order by telephone or online), allergen information must be made available (in writing or orally) before the purchase is concluded, and be provided in a written format upon delivery (e.g. via a menu, a sticker with allergen content on the packaging, etc.)

8. Nutrition declaration

The Department of Health leads on policy in this area in England. Information is available at www.gov.uk/government/publications/technical-guidance-on-nutrition-labelling.

9. Non-prepacked/prepacked for direct sale

The expression 'non-prepacked foods' is used but not defined in EU FIC and covers foods which are sold loose. In a physical retail environment this is likely to apply to foods which are sold loose from a delicatessen counter (e.g. cold meats, cheeses, quiches, pies and dips), fresh pizza, salad bars, bread sold in bakery shops, meat from butchers, pick and mix confectionery (including individually wrapped sweets and chocolates), etc. In a catering environment this is likely to apply to foods which are not sold prepacked, for example food from a takeaway, or meals served in a canteen or a restaurant.

The term 'prepacked for direct sale' generally applies to those foods that have been packed on the same premises from which they are being sold. Foods prepacked for direct sale are treated in the same way as non-prepacked foods in EU FIC's labelling provisions. For a product to be considered 'prepacked for direct sale', it is expected that the customer is able to speak with the person who made or packed the product to ask about ingredients. Foods that could fall under this category could include meat pies made on site and

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sandwiches made and sold from the premises in which they are made. This would also apply where non pre-packed goods are wrapped and transferred to other local stalls trading under the same name.

‘Mass caterer’ is defined in Article 2(d) of EU FIC as meaning ‘any establishment (including a vehicle or a fixed or mobile stall), such as restaurants, canteens, schools, hospitals and catering enterprises in which, in the course of a business, food is prepared to be ready for consumption by the final consumer’.

‘Final consumer’ is defined in Article 3(18) of Regulation No 178/2002 as meaning ‘the ultimate consumer of a foodstuff who will not use the food as part of any food business operation or activity’.

10. National measures

10.1. Name of food

Under a national measure, non-prepacked foods will require the name of the food to be given on a label attached to the food, or on a notice, ticket or label that is readily discernible by an intending purchaser at the place where the intending purchaser chooses that food. The EU FIC provisions on the presentation of mandatory information will apply where non-prepacked products are offered for sale by means of distance communication.

This regulation does not apply to a food prepared to be ready for consumption by a final consumer that is offered for sale to a final consumer by a mass caterer (whether at a mass catering establishment where sales are made in person to a final consumer or by means of distance communication) as part of their business as a mass caterer.

10.2. QUID on meat products

Furthermore, under a national measure, non-prepacked foods that contain meat will require the QUID of meat to be given on the label. Conditions on how this should be presented when sold direct and when sold via distance communication are as above for the name of the food.

Similarly, this regulation also does not apply to a food prepared to be ready for consumption by a final consumer that is offered for sale to a final consumer by a mass

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caterer (whether at a mass catering establishment where sales are made in person to a final consumer or by means of distance communication) as part of their business as a mass caterer.

10.3. Provisions on Minced Meat

Under the conditions laid down in the Food information to Consumers Regulations 2011/1169 Annex VI part B, designations of minced meat may only be used where the minced meat complies with certain compositional standards, checked on the basis of a daily average, as set out in the following table (Annex VI part B point 1):

	Fat content	Collagen/Meat protein ratio
Lean minced meat	<7%	<12%
Minced pure beef	<20%	<15%
Minced meat containing pigmeat	<30%	<18%
Minced meat of other species	<25%	<15%

In addition, the following expression must appear on the labelling:

‘percentage of fat content under ...’ and ‘collagen/meat protein ratio under ...’. (Annex VI part B point 2)

Annex VI, Point 3 of Part B states that ‘The Member States may allow the placing on their market of minced meat which does not comply with the criteria laid down in point 1 of [Part B] under a national mark...’. In the UK, minced meat that does not meet the requirements above may be placed on the market, so long as the following ‘National Mark’ appears on the labelling:

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The national mark cannot be used in combination with one of the specific terms defined in the table above. So, for example, if the term 'lean' is used, the 7% limit on fat content and the 12% limit on the collagen/protein ratio have to be complied with.

10.4. Provision of allergen information

Article 44 on national measures for non-prepacked food Allergens in non-prepacked foods Presentation of mandatory particulars (Article 13(1) to (4))

All mandatory allergen information (Article 9 (1) (c)) should be available and be easily accessible to the consumer. This information can be communicated through a variety of means which can easily be seen by the consumer and at the place where they are making their food choice. This information can be provided written and upfront by way of food labels, menus, chalkboards, electronic / web-based tools, etc. Where the information is to be provided orally, there must be an indication that details of the relevant allergens can be obtained by asking a member of staff. Where allergen information is provided orally, a suitable system needs to be in place to ensure that the information is accurate, consistent and verifiable when challenged. Verification should be provided through the presentation of written material.

10.5. International transport undertakings

On international transport undertaking (such as planes and trains travelling from one country to another), the usual FIC requirements apply. For loose foods, allergen information must be given.

11. Meat and fish

Legal definitions need to be considered when applying the food labelling requirements for meat and fish.

11.1. Definitions

Meat products as defined in Annex I, point 7.1 of EU Regulation 853/2004:

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- means processed products resulting from the processing of meat or from the further processing of such processed products, so that the cut surface shows that the product no longer has the characteristics of fresh meat

Meat preparations as defined in Annex I, point 1.15 of EU Regulation 853/2004:

- means fresh meat, including meat that has been reduced to fragments, which has had foodstuffs, seasonings or additives added to it or which has undergone processes insufficient to modify the internal muscle fibre structure of the meat and thus to eliminate the characteristics of fresh meat.

Fishery products as defined in Annex I, point 3.1 of EU Regulation 853/2004:

- means all seawater or freshwater animals (except for live bivalve molluscs, live echinoderms, live tunicates and live marine gastropods, and all mammals, reptiles and frogs) whether wild or farmed and including all edible forms, parts and products of such animals.

Prepared fishery products as defined in Annex I, point 3.6 of EU Regulation 853/2004:

- means unprocessed fishery products that have undergone an operation affecting their anatomical wholeness, such as gutting, heading, slicing, filleting, and chopping.

Unprocessed products defined in Article 2(1)(n) of EU Regulation 852/2004:

- means foodstuffs that have not undergone processing, and includes products that have been divided, parted, severed, sliced, boned, minced, skinned, ground, cut, cleaned, trimmed, husked, milled, chilled, frozen, deep-frozen or thawed.

Processed products defined in Article 2(1)(o) of EU Regulation 852/2004 means foodstuffs resulting from the processing of unprocessed products. These products may contain ingredients that are necessary for their manufacture or to give them specific characteristics.

Ingredients defined in Article 2(2)(f) of EU Regulation 1169/2011:

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- means any substance or product, including flavourings, food additives and food enzymes, and any constituent of a compound ingredient, used in the manufacture or preparation of a food and still present in the finished product, even if in an altered form; and
- residues shall not be considered as 'ingredients'.

11.2. Added water

Annex VI, Part A, point 6; Annex VII, Part A, point 1

In the case of meat products and meat preparations which have the appearance of a cut, joint, slice, portion or carcase of meat, the name of the food must include an indication of the presence of added water if the added water makes up more than 5% of the weight of the finished product. The same rules apply in the case of fishery products and prepared fishery products which have the appearance of a cut, joint, slice, portion or fillet or of a whole fishery product.

This will apply to uncooked cured meat, which previously (under national legislation) had a 10% threshold before there was a legal requirement to declare added water in the name.

Added water and volatile products must also be included in the ingredient listing of any food product in order of their weight in the finished product. The amount of water added as an ingredient must be calculated by deducting from the total amount of the finished product the total amount of all other ingredients used.

This amount does not need to be taken into consideration if it does not exceed 5% by weight of the finished product, other than in the case of meat, meat preparations, unprocessed fishery products and unprocessed bivalve molluscs.

11.3. Further Requirements for the Name of the Food

The requirement to label added water in the name of the food applies only in the case of meat products, meat preparations, fishery products and *prepared fishery products* as defined which have the *appearance of a cut, joint, slice, portion, fillet, portion or carcase of meat or of a whole fishery product* and therefore will not apply to products with a different appearance.

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The intention is to ensure that consumers are not misled into believing that a cut, joint, slice, portion, fillet etc. is 100% meat or fish when water has been deliberately added thereby diluting the meat or fish content.

As an example, the requirement will not apply to a sausage or burger as these do not have the appearance of a cut, joint, slice etc. Nor does it apply to products such as fish fingers, both for the same reason and as these and other coated or recipe fish products fall outside the definition of fishery products and prepared fishery products because they have been processed by the addition of ingredients in the form of a coating.

Conversely, fish fillets sold as such but containing more than 5% added water would be classed as a prepared fishery product and the name of the food would be 'fish fillets with added water'. Note also that in this example that the water would need to be declared in the ingredient list in accordance with EU FIC Annex VII and a quantitative indication of the fish made in accordance with Article 22.

11.4. In the Ingredient List

Water that has been added 'as an ingredient' i.e. intentionally at levels less than 5% in meat, meat preparations and unprocessed fishery products would be required to bear an indication of the added water in the ingredient list and have that reflected in the QUID declaration of the meat. The actual quantity of added water will not need to be declared in this case.

Small quantities of water taken up by meat or fish adventitiously as a consequence of processing will not need to be declared.

Note in particular, for the avoidance of doubt, that where water is present only as an external glaze on a fishery product or prepared fishery product, an indication of the presence of added water will not be required for the water used as a glaze.

11.5. Formed

Annex VI, point 7.

Shaped (or formed) meat or fish:

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Meat products, meat preparations and fishery products which may give the impression that they are made of a whole piece of meat or fish, but actually consist of different pieces combined together by other ingredients, including food additives and food enzymes or by other means, must bear the indication of 'formed meat' or 'formed fish' (in English).

In some circumstances, the labelling of a product as 'formed fish' or 'formed meat' may not be appropriate to inform the consumer of the true nature of the food that they are buying (for example when it is a minced, chopped or comminuted product). The term 'formed' is generally applied when large pieces of fish or meat are combined together. The term 'reformed' is not defined in EU FIC. Industry practice is that it is used when the constituents of the food include minced or comminuted fish or meat. This allows the consumer to make the distinction between different products.

The requirement to indicate formed meat or fish in the name of the food applies only in the case of meat products, meat preparations and fishery products as defined which appear to be made from one piece of meat or fish but are not. This would apply both to products that appear to be a whole piece of meat such as a chicken breast fillet or whole fish fillet and to the products thereof, such as slices that appear to be taken from a whole single piece meat (e.g. sliced ham shoulder).

11.6. Freezing, date of freezing and first freezing

Annex III, point 6 and Annex X, point 3 (see also recital 28)

Date of freezing/first freezing:

Frozen meat, frozen meat preparations and frozen unprocessed fishery products shall bear an indication of the date of freezing or, in cases where the product has been frozen more than once, date of first freezing, which must relate to the freezing of the food in the form in which it is intended to be sold to be consumer. The words 'frozen on' must be accompanied by the day, month and year in uncoded form, or an indication as to where on the packaging such a date is to be found. For products that are mixtures of different batches or consist of a mix of frozen meat, frozen meat preparations and/or frozen unprocessed fishery products, it is acceptable to label the product with the oldest date of freezing.

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Annex III of EU FIC specifies foods for which the labelling must include one or more additional particulars. Frozen meat, frozen meat preparations and frozen unprocessed fishery products must carry an indication of the date of freezing (or the date of first freezing in cases where the product has been frozen more than once).

The new labelling information is *not* required for fish that has been further processed, preserved, treated or cooked.

In addition, fish to which other ingredients have been added such that the fish becomes an intrinsic part of the end-product are not unprocessed products and fall outside the scope of these requirements. These include coated/battered/breaded fish products such as fish fingers and coated scampi.

Where a food is required to carry the date of first freezing, this shall be the date of freezing of the food as sold to the consumer. By way of example, headed and gutted fish, frozen at sea that is defrosted and filleted at a later date before being frozen again, would require to be labelled with the date on which the fillet was frozen rather than the initial date of freezing of the fish raw material.

For products that are mixtures of different batches or consist of a mix of frozen meat, frozen meat preparations and/or frozen unprocessed fishery products (for example cooked, unpeeled prawns made from several different batches, or a seafood cocktail containing uncooked peeled prawns and uncooked squid rings) it will be acceptable to label the product with the oldest date of freezing.

Meat preparations and fishery products will be considered as an ingredient when included as a component in another product, and will not be required to carry date of first freezing. This is because Article 24 applies to foods as sold rather than to their ingredients.

11.7. Defrosted fish

There are further requirements for the use of the term 'defrosted' under Commission Implementing Regulation 404/2011 and Council Regulation 1224/2009.