



Legal Impactt

LABELLING ACCURACY

FOOD INFORMATION TO CONSUMERS REGULATION

Presented by Phil Dalton of Legal Impactt

PRINCIPLES

EU, UK and US are all based on same principles (largely Codex)

Slightly different interpretation

New EU Regulation changes the UK interpretation

Still different to US Code of Federal Regulations Title 21 Part 101

US format labels are not legal for use in the EU

UK format labels will not be legal for use when the new EU Regulation is in force

MANDATORY FOOD LABELLING

Regulation (EU) No 1169/2011 on the provision of food information to consumers

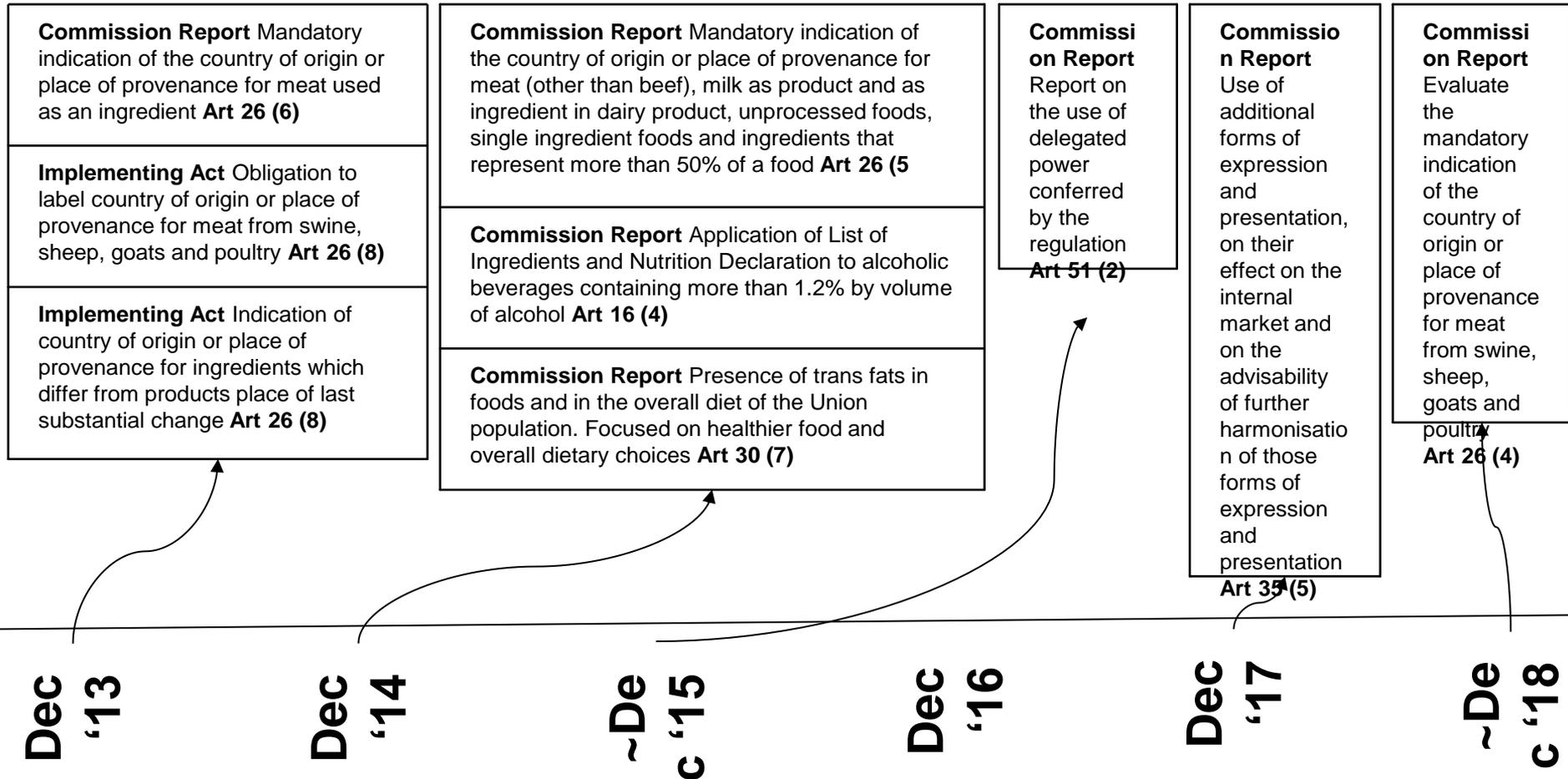
- All foods labelled on or after 13th December 2014 must be compliant
- Nutrition compulsory from 13th December 2016 (if included before must comply with new rules)
- Must be in a language easily understood in the Member State where the food is marketed

List of Mandatory Information

- Name of the food
- Ingredients
- Allergens
- QUID
- Net quantity
- Minimum durability
- Storage conditions
- Name and address of food business
- Country of origin (if required)
- Instructions for use
- Alcohol content
- NUTRITION

PLANNING FOR FURTHER CHANGES – ORIGIN LABELLING

Be aware of Commission activity - Obligatory actions with deadlines



FURTHER ACTIONS IN EUROPE

Obligatory actions without deadlines

Delegated Acts to Establish rules for legibility **Art 13 (4)** & Adjust and adapt definition of engineered nanomaterials **Art 18 (5)**

Implementing Acts for rules on expression per portion / consumption unit **Art 33 (3)**, detailed rules concerning the implementation of additional forms of expression and presentation **Art 35 (6)**, & application of requirements for voluntary food information for information on the possible and unintentional presence in food of substances or products causing allergies or intolerances; information related to suitability of a food for vegetarians or vegans; and the indication of reference intakes for specific population groups other than adults **Art 36 (3)** (The Commission shall also facilitate and organise exchange of information between MS, itself and stakeholders on matters relating to use of any additional forms of expression / presentation of nutrition declaration **Art 35 (4)**)

Optional actions

Delegated Acts May establish criteria where mandatory particulars may be expressed by means of pictograms / symbols **Art 9 (3)**, amend additional mandatory particulars for specific types / categories of foods **Art 10 (2)**, establish criteria for mandatory particulars to be expressed by means other than on the package / label **Art 12 (3)**, add to the products exempt from list of ingredients **Art 19 (2)**, update list of substances / products causing allergies / intolerances **Art 21 (2)**, establish alternative manner for the expression of net quantity for certain foods **Art 23 (2)**, amend the list of nutrients required in the voluntary nutrition declaration **Art 30 (6)**, adopt conversion factors for vitamins and minerals **Art 31 (2)**, provide for additional cases of provision of voluntary food information **Art 36 (4)**, amend annexes to take into account technical progress, scientific developments, consumers' health, or consumers' need for information **Art 46**

Implementing Acts Uniform implementation of expression by means of pictograms / symbols **Art 9 (4)**, of providing mandatory information by means other than the label **Art 12 (4)**, of the manner of indicating minimum durability **Art 24 (3)**, detailed rules on the instructions for use for certain foods **Art 27 (2)**, for the uniform implementation of the precision of the declared nutrition declaration values **Art 31 (4)**, on what can be considered a negligible energy value / amount of nutrients **Art 34 (5)**, manner of presenting the nutrition declaration **Art 34 (6)**

MAIN AREAS OF CHANGE

New definition of food information that is more all encompassing than previous definitions:

Covers information provided by any means, including advertising

Distance Selling - the mandatory food information must be available before the purchase is concluded (Internet Sales and Catalogues)

Widening of the sectors having responsibility for food labelling and definition of those responsibilities

Changes to the content and presentation of required information

RESPONSIBILITIES - SUMMARY

Regulation is written in the context of defined responsibilities

The food business operator responsible for the food information is the business under whose **name the food is marketed or the importer** if that business is not established in the EU.

Responsible for **presence and accuracy** of food information

All food businesses have a responsibility not to supply food that they **know or can reasonably presume to be non-compliant** based on the information available to them as **professionals**

All Food businesses supplying the final consumer or mass caterers **shall ensure compliance** with Food Information Law

Food business operators are responsible for **any changes** they make to food information accompanying a food

INFORMATION REQUIREMENTS

food shall be accompanied by required food information

all food information provided should not be misleading, be accurate, clear and easy to understand and must not attribute a property of preventing, treating or curing a disease

applies 'without prejudice' to labelling requirements provided for in specific union provisions applicable to certain foods

Any **voluntary information** must not be misleading, ambiguous or confusing to the consumer and where appropriate it must be based on relevant science.

MANDATORY INFORMATION

Name of the food

Ingredients

Allergens

QUID

Net quantity

Minimum durability

Storage conditions

Name and address of food business

Country of origin [if required]

Instructions for use

Alcohol content

NUTRITION [not natural mineral waters or food supplements]

Gases

Sweeteners

Genetic Modification

Irradiation

Nano ingredients

Must be available and easily accessible for all foods defined as directly on packaging or attached label for prepacked foods

EU Commission may approve other forms of expression but none to date

PRESENTATION OF MANDATORY INFORMATION

Visible

Clearly legible

Where appropriate indelible

Not hidden, obstructed, detracted from or interrupted by any other written or pictorial matter or any other intervening material

'Voluntary food information shall not be displayed to the detriment of the space available for mandatory food information.'

This is critical to label design in that space must be allocated for mandatory food information, presented as required, before consideration can be given to voluntary food information, including branding.

PRINT HEIGHT AND PACK SIZE

X height of 1.2mm as defined in Annex IV

Can be reduced to 0.9mm if largest surface is $<80\text{cm}^2$

Where the largest surface is $<25\text{cm}^2$ nutrition does not need to be included

If largest surface is $<10\text{cm}^2$ only name, allergens, net quantity and durability must be on label but ingredients must be provided by other means and available at point of sale



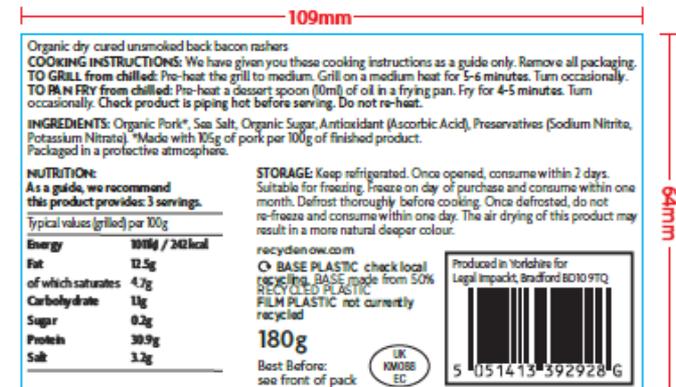
LABEL SIZE



BEFORE



AFTER



THE NAME OF THE FOOD

A food will usually be labelled with a title, but also requires a 'legal' name, it is this legal name which is the name of the food.

- Name Prescribed by Law
- Reserved Descriptions and Compositional Standards
- PDO/PGI/TSG names
- Customary names

If none of the above then the name must be a description of the 'true nature' of the food, identifying characterising ingredients

the name used for the food shall be sufficiently precise to inform a purchaser of the true nature of the food and to enable the food to be distinguished from products with which it could be confused and, if necessary, shall include a description of its use.

US Name of the Food

- **US:** The name established by law or regulation, or in the absence thereof, the common or usual name of the food, if the food has one, should be used as the statement of identity. If there is none, then an appropriate descriptive name, that is not misleading, should be used. Brand names are not considered to be statements of identity and should not be unduly prominent compared to the statement of identity.
- **US:** When the nature of the food is obvious, a fanciful name commonly used and understood by the public may be used.

INGREDIENT REQUIREMENTS

General

- **Headed 'Ingredients'**
- **Descending order by weight at mixing bowl**
- **Include percentage of characterising or emphasised ingredients (QUID)**
- **Ingredients named following 'Name of the Food' rules**

Specific Requirements (not comprehensive)

- **Added water**
- **Compound ingredients**
- **Concentrated / Dehydrated ingredients**
- **Vegetable oils and fats (specific source must be named)**
- **Hydrogenated / Partly Hydrogenated fats and oils**
- **Ingredient category names (e.g. cheese, rusks, spices, herbs, wine)**

Genetically Modified Ingredients

Irradiated ingredients

Nano Ingredients

Definition of 'Meat'

Mechanically Separated Meat

US INGREDIENTS

US: The ingredient list on a food label is the listing of each ingredient in descending order of predominance.

US : Always list the common or usual name for ingredients unless there is a regulation that provides for a different term. For instance, use the term “sugar” instead of the scientific name “sucrose.”

US : Added water must be identified in the list of ingredients and listed in its descending order of predominance by weight. If all water added during processing is subsequently removed by baking or some other means during processing, water need not be declared as an ingredient.

EU 14 MAJOR ALLERGENS

Cereals containing gluten – wheat, rye, barley, spelt, oats, kamut

Crustaceans

Eggs

Fish

Peanuts

Soybeans

Milk [including lactose]

Nuts – almond, hazelnut, walnut, cashew, pecan, Brazil, pistachio, macadamia,

Queensland

Celery

Mustard

Sesame seeds

Sulphur dioxide and sulphites [at 10ppm or more]

Lupin

Molluscs

Must appear in the ingredient declaration using the description in Annex II

Must be clearly distinguished from the ingredients list e.g. font, style or colour

Where there is no ingredient declaration 'contains' and Annex II name shall be used except where the name of the food clearly indicates the allergen

All instances of an allergen in the ingredient declaration must be highlighted

EXAMPLE ALLERGEN INDICATION

Ingredients: Tomato Paste, Sugar, Water, Brown Sugar, Honey (11%), Vinegar (from **Barley**), Molasses, Salt, Raisin Paste, Soya Sauce (Water, **Soya** Beans, Salt), Mustard (Vinegar (from **Barley**), **Mustard** Seed, Salt, Spices, Turmeric), Orange Juice from Concentrate, Dried Onion, Smoke Flavouring, Worcestershire Sauce (Molasses, Distilled Vinegar (from **Barley**), Water, Spices, Flavouring, Garlic Powder, Colour (E150d)), Salt, Anchovies (**Fish**), Tamarind, **Celery** Seeds), Paprika, Anchovy Paste (Anchovies (**Fish**), Salt, Water), Chilli Powder (Spices, Salt, Garlic Powder), Dried Garlic, Ground **Celery** Seeds, Spices.

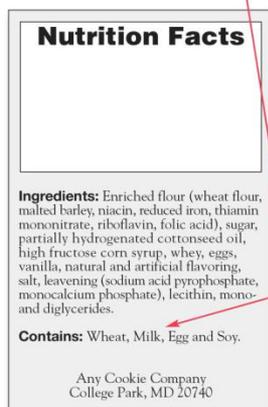
US 8 Major Allergens

US: Under FALCPA, a “major food allergen” is an ingredient that is one of the following eight foods or food groups or an ingredient that contains protein derived from one of them:

- a. milk
- b. egg
- c. fish
- d. Crustacean shellfish
- e. tree nuts
- f. wheat
- g. peanuts
- h. soybeans



1. Include the name of the food source in parenthesis following the common or usual name of the major food allergen in the list of ingredients in instances when the name of the food source of the major food allergen does not appear elsewhere in the ingredient statement for another allergenic ingredient.



2. Place the word “Contains,” followed by the name of the food source from which the major food allergen is derived, immediately after or adjacent to the list of ingredients, in a type size that is no smaller than that used for the ingredient list.

QUANTITY MARKING

Litres, centilitres or millilitres for liquids

Kilograms or grams for solids

Does not need to be indicated if

- normally sold by number (in UK 'Countable Produce')
- < 5g or 5 ml except herbs and spices
- subject to considerable losses in weight or volume and are normally sold by number or weighed in the presence of the consumer

Food in a liquid medium must carry a drained weight

DURABILITY INDICATION

Appropriate date mark required unless specific exemption:

- Use By
- Best Before
- Best Before End
- Plus any associated safe storage conditions and or conditions for use
- Order day, month, year is specified

Signposting is used when it is impractical to include the date with the durability indicator e.g.

- For Best Before see lid for a frozen product
- Essential storage to accompany the signpost

Multipacks

- Use by required on each individual prepacked portion
- Best before recommended on each prepacked portion

Storage conditions and durability after opening should be provided to enable appropriate use of the food

NUTRITION - CLOSED LIST

energy	kJ/kcal
fat	g
of which	
— saturates,	g
— mono-unsaturates,	g
— polyunsaturates,	g
carbohydrate	g
of which	
— sugars,	g
— polyols,	g
— starch,	g
fibre	g
protein	g
salt	g
vitamins and minerals	the units specified in point 1 of Part A of Annex XIII

Energy by calculation from nutrient values using specified conversion factors – in both kJ and kcal

Salt calculated from total sodium

**Based on either:
Analysis of food by manufacturer
Calculation from known or average values of ingredients
Calculation from generally accepted data**

Default is that nutrition information is as sold. If appropriate can be as consumed as long as this is made clear to consumer.

Tolerances and rounding rules have been published by the EU

No prescribed design for table

NUTRITION

As a guide, we recommend this product provides: **2 servings**

NUTRITION

Typical values (ovenbaked)	Per 100g	Per tart
Energy	1697kj 404kcal	767kj 183kcal
Protein	3.8g	1.7g
Carbohydrate of which sugars	59.0g 38.0g	26.0g 17.0g
Fat of which saturates	17.0g 8.0g	8.0g 3.5g
Fibre	1.0g	0.4g
Sodium equivalent as salt	0.14g 1.2g	0.06g 1.5g

As a guide, we recommend this product provides: **2 servings**

NUTRITION

Typical values (ovenbaked)	Per 100g	Guideline daily amounts	
		Women	Men
Energy	1697kj 404kcal	2000	2500
Protein	3.8g	45g	55g
Carbohydrate	59.0g	230g	300g
Fat	17.0g	70g	95g

As a guide, we recommend this product provides: **2 servings**

NUTRITION

Typical values (ovenbaked)	Per 100g	Per tart
Energy	1697kj 404kcal	767kj 183kcal
Fat of which saturates	17.0g 8.0g	8.0g 3.5g
Carbohydrate of which sugars	59.0g 38.0g	26.0g 17.0g
Fibre	1.0g	0.4g
Protein	3.8g	1.7g
Salt	1.2g	1.5g

Linear nutrition is permitted only if there is insufficient space for a table

GDA is replaced with RI (Reference Intakes)
Inclusion of RI is not required

US Nutrition – Prescribed Layout

Nutrition Facts

Serving Size 2/3 cup (55g)
Servings Per Container About 8

Amount Per Serving

Calories 230 Calories from Fat 72

% Daily Value*

Total Fat 8g **12%**

Saturated Fat 1g **5%**

Trans Fat 0g

Cholesterol 0mg **0%**

Sodium 160mg **7%**

Total Carbohydrate 37g **12%**

Dietary Fiber 4g **16%**

Sugars 1g

Protein 3g

Vitamin A 10%

Vitamin C 8%

Calcium 20%

Iron 45%

* Percent Daily Values are based on a 2,000 calorie diet.
Your daily value may be higher or lower depending on
your calorie needs.

	Calories:	2,000	2,500
Total Fat	Less than	65g	80g
Sat Fat	Less than	20g	25g
Cholesterol	Less than	300mg	300mg
Sodium	Less than	2,400mg	2,400mg
Total Carbohydrate		300g	375g
Dietary Fiber		25g	30g

Nutrition Facts

8 servings per container

Serving size 2/3 cup (55g)

Amount per 2/3 cup

Calories **230**

% DV*

12% **Total Fat** 8g

5% **Saturated Fat** 1g

Trans Fat 0g

0% **Cholesterol** 0mg

7% **Sodium** 160mg

12% **Total Carbs** 37g

14% **Dietary Fiber** 4g

Sugars 1g

Added Sugars 0g

Protein 3g

10% **Vitamin D** 2mcg

20% **Calcium** 260mg

45% **Iron** 8mg

5% **Potassium** 235mg

* Footnote on Daily Values (DV) and calories
reference to be inserted here.

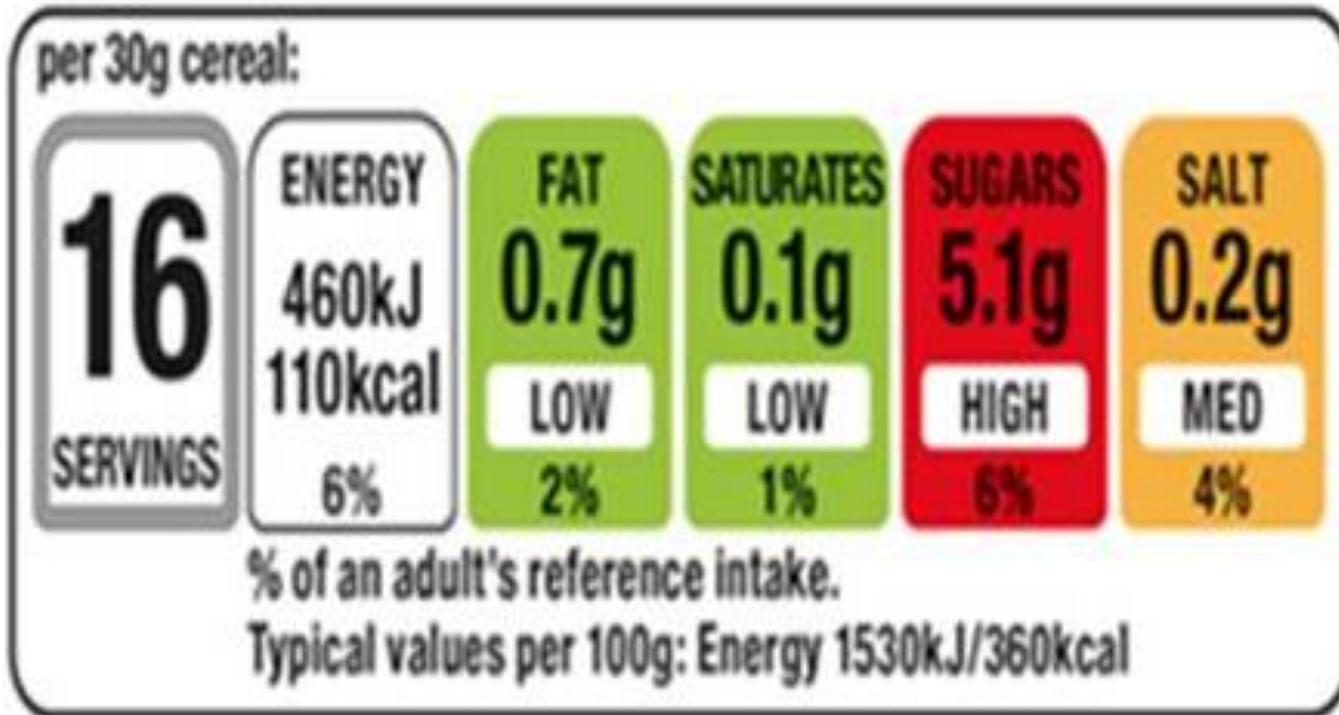
Australia

Different Again!

NUTRITION INFORMATION		
Servings per package: (insert number of servings)		
Serving size: g (or mL or other units as appropriate)		
	Quantity per Serving	Quantity per 100 g (or 100 mL)
Energy	kJ (Cal)	kJ (Cal)
Protein	g	g
Fat, total	g	g
– saturated	g	g
Carbohydrate	g	g
sugars	g	g
Sodium	mg (mmol)	mg (mmol)
(insert any other nutrient or biologically active substance to be declared)	g, mg, µg (or other units as appropriate)	g, mg, µg (or other units as appropriate)

REPEAT OF INFORMATION ON PRIMARY SELLING FACE

Government Announcement June 2013



ADDITIVES

Acid	Emulsifying salts	Preservative
Acidity regulator	Firming agent	Propellant gas
Anti-caking agent	Flavour enhancer	Raising agent
Anti-foaming agent	Flour treatment agent	Stabiliser
Antioxidant	Gelling agent	Sweetener
Bulking agent	Glazing agent	Thickener
Colour	Humectant	Foaming agent (New)
Emulsifier	Modified starch	Sequestrant (New)

Specific way to include additives in the ingredients list including the additive category

Permitted additives by food category – only listed authorised additives can be used in specific foods

Specific rules on flavourings – especially description ‘natural’ flavourings and smoke flavourings

Naming of many additives is different (especially colours)

Approved lists are not the same

GUIDANCE

There is no comprehensive official guidance from EU or UK

There is some official guidance based on a Q&A format (not all of it welcome – see below)

There is some unofficial guidance from trade associations

Interpretations will change and develop

31 January 2013

Questions and Answers on the application of the Regulation (EU) N° 1169/2011 on the provision of food information to consumers

3.24 *Where products are destined for sale in more than one country can nutrition declarations in the format required by the US and Canada be provided in addition to the nutrition declaration which meets requirements of the FIC Regulation? (Articles 30 and 34, Annexes XIV and XV)*

No. A nutrition declaration in the format required by the US and Canada would not be in line with the EU requirements, as both mandatory and voluntary information have to comply with the rules laid down in the FIC Regulation. Such labelling might also mislead the consumer because of the different conversion factors used in the US to calculate energy value and the amount of nutrients.

ENFORCEMENT

Based on Improvement Notices for non-safety related issues.

Criminal prosecution for allergen labelling infringements and selling after the use by date.

Enforcement approach likely to be sympathetic in short term.

ANY QUESTIONS?

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