

Labelling - Non-Prepacked

The guidance below is not definitive and should be regarded as an introduction to the topic. Further research should be made by the individual on the legal requirements for their business activities and needs. It is ultimately the food business operator's responsibility to ensure that their food business activities comply with all the relevant legislation.

General

When running a commercial food business, whether it be from your domestic kitchen or a commercial unit, you will need to follow and comply with all relevant food law.

Registering

When you start a new food business or take over an existing business, you must register your food business with us. You can request a food business registration form by emailing Environmental Health env.health@orkney.gov.uk

You should register your business at least 28 days before opening. Registration of your food business is free and can't be refused. If you are already trading and have not registered, you need to do so as soon as possible.

Labelling

As the customer is pre-ordering and you are making the food and packaging it after the order has been made, you will be supplying foods classed as non-prepacked. The labelling requirements for non-prepacked foods are slightly less complex than those for prepacked or prepacked for direct sale (PPDS). However, if your business model changes and you start to sell foods prepacked or PPDS, you must comply with the labelling requirements set out in food law. Please contact this department regarding this as soon as possible, if required.

Non-prepacked food will need to be labelled with the following:

1. the name of the food
2. the allergens present in the food
3. in the case of a meat product, a meat content declaration (see below)
4. in the case of irradiated food, an irradiated food statement – If applicable (see below)

While non-prepacked foods have far fewer labelling requirements than prepacked foods, any information that must appear follows identical rules as when it appears on a prepacked product.

1. Name of the food

The name must accurately describe the product; it must be clearly presented, not misleading, and not broken up by other words or pictures.

There are several types of name and you must choose the one that applies.

Fancy names and brand names

Fancy names and brand names are used to market products but say nothing about the product and have no legal standing; for the purpose of food legislation they are not considered to be names.

If you use fancy names or brand names you will also need to use the most appropriate of the 'legal', 'customary' and 'descriptive' types of name below, usually on the back of the product.

For example:

fancy name: 'Coca-Cola'

descriptive name (back of can): 'Sparkling soft drink with vegetable extracts'

Legal names

If a product has a legal name you must use it. There are relatively few legal names; examples include varieties of potato and melons, and species of fish.

Reserved descriptions and/or regulated product names specify that certain descriptions (jam, chocolate, meat products etc) can only be used if the product contains certain ingredients and in certain amounts. If your product cannot meet the requirements for a reserved description / regulated product name, then you cannot describe it as such. However, if your product has been made in compliance with a reserved description / regulated product name then you *must* use it and it becomes a legal name.

Legal names do not need a further descriptive name, although you can use an additional name if you wish.

Customary names

A customary name will often say relatively little about the nature of the product but will be widely understood by consumers without them needing any further explanation; examples of customary names include Chelsea Bun and Bakewell Tart. If using a customary name there is no need to also use a descriptive name, but you can if you wish.

If you want to market your product under a customary name then the name must be predominantly understood by consumers; therefore it would not be possible to market food solely with a customary name if it is only understood within certain communities eg Fattie Cutties. Where that is the case you can still use the customary name, but you would also need to use a descriptive name.

Descriptive names

A descriptive name is a name that accurately describes the food.

If there is no legal or customary name you must use a descriptive name and it is 'the name' for the field of vision (see below) and other purposes.

The descriptive name must accurately describe the food that people are eating so that they can make an informed choice as to whether they want to eat it. Ingredients, treatments, etc that may affect the decision to purchase should be included in the descriptive name.

Examples include:

a bacon and egg sandwich that contains brown sauce
a beef and mustard baguette that contains pickled gherkins

While it is not a legal requirement it is good practice to include a reference to significant allergenic ingredients in the descriptive name (bread, nuts, milk, etc) - for example, a descriptive name for a maple cured bacon, lettuce and tomato sandwich would be 'Maple cured smoked British bacon, tomato and lettuce with mayonnaise on malted bread'.

This descriptive name draws attention to the presence of egg (mayonnaise) and gluten (malted bread) and highlights that the bacon has been smoked.

The descriptive name does not have to be on the front of the product.

Field of vision

The 'name' of the food must be in the same field of vision as the net quantity declaration, see below.

This means that you must be able to hold the product so that the name and the net quantity declaration can both be seen at the same time.

Sweeteners

If your product contains sweetener then you must state 'with sweetener' with the name of the food.

If your product contains sugar and sweetener you must state 'with sugar and sweetener' with the name of the food.

This needs to be with the 'name' for the purposes of the legislation; therefore if you are using a descriptive name on the rear of the product then you will not have to make the statement with the fancy name on the front of the pack.

There are other requirements for foods containing sweeteners, artificial colours, caffeine etc If you are unsure please contact me if you would like to discuss this further.

2. Allergens

By law you have to declare the presence of any of the 14 allergens, see below, in any of the food you are selling. It is your decision how you convey this information to your customer, but you must provide clear signposting to where your customers can find this information if you choose not to display it upfront, on your menu, for instance.

The reason for this is to protect your customers, and consumers in general, from purchasing potentially harmful foods by giving them clear and correct information, which is not misleading, on the foods they are buying and potentially consuming. This enables them to make an informed choice whether to purchase and consume or not.

In addition, by declaring the allergens present in the foods you are selling, you are potentially giving yourself a defence under due diligence from potential criminal and civil court actions which could occur if one of your customers became ill or even died from eating your food.

By having a documented food safety management system based on the principles of HACCP (Hazard Analysis and Critical Control Point), for instance by adopting and using Cook Safe, you will be able to demonstrate how you ensure the food you purchase, store, prepare, sell etc is safe for your customers. Your allergen policy should be incorporated into your management system and this system, as a whole, will contribute towards any due diligence defence, if ever needed.

The 14 allergens are:

1. celery,
2. cereals containing gluten (such as barley and oats),
3. crustaceans (such as prawns, crabs and lobsters),
4. eggs,
5. fish,
6. lupin,
7. milk,
8. molluscs (such as mussels and oysters),
9. mustard,
10. peanuts,
11. sesame,
12. soybeans,
13. sulphur dioxide and sulphites (if they are at a concentration of more than ten parts per million), and
14. tree nuts (such as almonds, hazelnuts, walnuts, brazil nuts, cashews, pecans, pistachios and macadamia nuts).

Please be aware that some foods have more than one ingredient and could have “hidden” allergens. For example. Worcestershire Sauce’s ingredients list highlights two allergens which may not be obvious from its name:

Malt Vinegar (from **Barley**), Spirit Vinegar, Molasses, Sugar, Salt, Anchovies (**Fish**), Tamarind Extract, Onions, Garlic, Spice, Flavourings

You must ensure that all information on allergenic ingredients, whether hidden (as above) or obvious (such as egg in an egg sandwich) are available to the consumer at the point of ordering and at the point of delivery/collection. This can be achieved through labelling and signposting.

Allergen training

The Food Standards Agency, in conjunction with Food Standards Scotland provides free online training on allergens. Although it is not a legal requirement to undertake this training you may wish to consider completing this to assist you with your allergen controls.

<https://www.foodstandards.gov.scot/business-and-industry/safety-and-regulation/food-allergies-2/allergen-training-tool>

Voluntary precautionary allergen statements

Statements such as 'May contain nuts' and 'Produced in a factory that handles nuts' are voluntary precautionary allergen statements; they warn consumers about the possible presence of allergens that have not been included in the food as an ingredient.

Voluntary precautionary allergen statements are not illegal but their use is discouraged and they should not be used as a blanket disclaimer on all products; they should only be used if you have conducted a documented risk assessment that shows there is a significant risk of allergen cross-contamination and, as such, failure to warn consumers about the possible presence of allergens may put them at risk.

3. Meat products

A meat product is any product that contains meat as an ingredient.

You are required to declare how much of the product is made of meat in the form of a percentage; this is referred to as a quantitative ingredient declaration (QUID) (see below).

As in the case of non-prepacked foods, (as these do not have an ingredients list) the QUID should be presented as a statement specifying the type and amount of meat - for example, 'X% meat'.

Where more than one type of meat has been used you must declare the content of each - for example, 'X% chicken, X% pork'.

The QUID can alternatively be given in the name of the product - for example, 'Sausage roll (20% pork)'.

There are compositional requirements that some meat products must comply with which is set out in Schedule 1 [The Products Containing Meat etc. \(Scotland\) Regulations 2014 \(legislation.gov.uk\)](#)

For instance, you have said that you will be making sausage rolls. The compositional requirement for sausage rolls is that they must contain a minimum of:

Name of Product	Pork only	Birds and rabbits only	Beef, lamb and other species or other mixtures of meat	Type of meat used
Pasty, Pastie, Bridie, Sausage Roll	6%	6%	6%	N/A

Your meat supplier or the packaging that the meat was bought in, if prepacked, will tell you this information.

Meat content declaration

Any ingredient mentioned in the name of the food, emphasised on the food, or generally associated with the food must be given a 'quantitative ingredient declaration' (QUID), which states how much of the ingredient is in the food in the form of a percentage of the entire product. If specifying the species or cut of the meat (for example 'Pork sausages') you will need to declare how much is present.

QUID calculations are done at the mixing bowl stage of production and can be calculated as follows: weight of meat divided by total weight of ingredients multiplied by 100.

The easiest way to give a QUID is in the ingredients list (for example, 'Ingredients: Pork (42%)') but you may also give it in the name of the food (for example, 'Pork sausage - contains 42% pork').

Any fat and connective tissue over the permitted limits is not meat and you must account for this in your calculations.

Where multiple types of meat have been used you must declare the content of each.

4. Irradiated food statement – only if applicable

If the food (or any ingredient in the food) has been irradiated, the words 'irradiated' or 'treated with ionising radiation' must appear in close proximity to the name of the food.

How to label

On the product. The information can be presented on a label that is on the packaging, attached to the packaging, or visible through the packaging.

On a notice. The information can appear on a notice, ticket or label that is readily discernible by an intending purchaser at the place where the intending purchaser chooses that food – in the case of your business model, Facebook

Verbally. In the case of allergen information only, if you choose not to provide the information upfront for instance allergen information of the menu, then you must use clear signposting to direct the consumer to where this information can be found, such as asking a member of staff. In such situations, a statement must be included on food menus inviting customers to ask a member of staff for allergen information - for example, 'Please ask us about allergens in our food'.

Regardless of which method you use to inform your customer of the necessary information, the customer must have **allergen information available before ordering and at point of delivery/collection.**

In addition to the above, it would be good practice to also include storage instructions and some reference to durability in the form of a use by/best before date and/or wording. For instance, consume on day of purchase or consume within 4 hour of collection or keep refrigerated etc.

Food contact material

As you are packaging food yourself, you must ensure that the packaging used is suitable for food use. Suitable packaging will be marked 'for food contact' or have a symbol on it that looks like a wine glass and a fork. If it does not, you should ask the business supplying you with the packaging to supply written evidence that the materials comply with the relevant requirements. If they cannot do this then it is unlikely that the packaging is safe and suitable for food use and you must find a compliant alternative.

Gluten free and low gluten claims

A gluten-free claim is a statement to the consumer that eating the product will not cause an allergic reaction in sensitive individuals. Gluten-free claims should not be made unless production control and in-store handling procedures are sufficiently robust to ensure that there is no gluten contamination and that test results show that gluten is present at less than 20 mg/kg.

If you wish to make a claim of 'very low gluten' then you must ensure that the product contains no more than 100 mg/kg.

No other gluten claims are permitted (for example, 'Made with no gluten-containing ingredients').

Resources

Some additional online resources which may also be of assistance:

[Food labelling regulations & composition | Food Standard Scotland | Food Standards Scotland](#)

[Food allergy regulations for business | Food Standards Scotland | Food Standards Scotland](#)

[Business Information - Food Hygiene Information Scheme | Food Standards Scotland | Food Standards Scotland](#)

<https://www.foodstandards.gov.scot/business-and-industry/safety-and-regulation/fhis-info-for-businesses>

[Packaging and labelling | Food Standards Agency](#)

[Food date labelling | WRAP](#)

[Business guidance | Food Standards Agency](#)

[CookSafe Manual | Food Standards Scotland](#)

[Guidance on “Free-From” allergen claims | The Food & Drink Federation \(fdf.org.uk\)](#)

[Gluten free and the law - Coeliac UK](#)

[Elementary Food Hygiene by e learning | REHIS](#)

Key legislation

- [Food Safety Act 1990](#)
- [The Food Hygiene \(Scotland\) Regulations 2006 \(legislation.gov.uk\)](#)
- [Regulation \(EC\) No 853/2004 of the European Parliament and of the Council of 29 April 2004 on the hygiene of foodstuffs \(legislation.gov.uk\)](#)
- [Regulation \(EC\) No 1831/2003 of the European Parliament and of the Council of 22 September 2003 on the use of additives other than colours and sweeteners in animal feed \(legislation.gov.uk\)](#)
- [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 \(legislation.gov.uk\)](#)
- [Food \(Lot Marking\) Regulations 1996](#)
- [Regulation \(EU\) No 1169/2011 on the provision of food information to consumers](#)

- [The Food Information \(Scotland\) Regulations 2014 \(legislation.gov.uk\)](#)
- [The Products Containing Meat etc. \(Scotland\) Regulations 2014 \(legislation.gov.uk\)](#)
- [Bread and Flour Regulations 1998](#)
- [Regulation \(EC\) No 1333/2008](#) *on food additives*

Environmental Health
Planning and Regulatory Services
Development and Infrastructure
Orkney Islands Council, Council Offices, Kirkwall, Orkney. KW15 1NY

01856 8730535 env.health@orkney.gov.uk