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trading standards law explained

Food allergens and intolerance

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Although the United Kingdom left the European Union (EU) in 2021, certain pieces of legislation (known as 'assimilated law') continue to apply until such time as they are replaced by new UK legislation, revoked or permitted to expire. This means that our guidance still contains references to legislation that originated from the EU.

In this guide, the words 'must' or 'must not' are used where there is a legal requirement to do (or not do) something. The word 'should' is used where there is established legal guidance or best practice that is likely to help you avoid breaking the law.

This guidance is for Scotland

This guidance relates to the provision of allergen information by caterers and restaurants, and suppliers of non-prepacked, prepacked and prepacked for direct sale (PPDS) food.

In the UK about ten people die every year from an allergic reaction to food, and many more end up in

hospital. In most cases, the food that causes the reaction is from a restaurant or takeaway.

There is a list of 14 specific food allergens, the presence of which must always be brought to the attention of the consumer. Failure to do so is a criminal offence and, in the most extreme cases, could cause someone to die.

It is a general requirement of food law that unsafe food must not be placed on the market. Consumers will take into consideration any information provided by the business when deciding whether food is safe for them to eat. For people with food allergies, dishes containing the food they react to are 'unsafe' and, therefore, you must give full and accurate information about which allergens are in the food.

Allergenic ingredients

You must declare if any of the following 14 allergens are present in the food:

- cereals containing gluten, such as wheat, rye, barley, oats, spelt, kamut and their hybridised strains
- peanuts (also called groundnuts)
- nuts, such as almonds, hazelnuts, walnuts, Brazil nuts, cashews, pecans, pistachios, macadamias and Queensland nuts
- fish
- crustaceans (includes crabs, lobsters, shrimps and prawns)
- molluscs (includes mussels, cockles, oysters, scallops, squid and octopus)
- sesame seeds
- eggs
- milk and milk products (including lactose)
- soy beans
- celery
- lupin
- mustard
- sulphur dioxide and sulphites at levels above 10 mg per kg or 10 mg per litre, expressed as SO_2

This requirement relates not only to the ingredients (and their components) that are used in the product, but also to anything that is still present in the final product, even in an altered form. This includes:

- additives present in the ingredients that are carried over into the final product - for example, sulphur dioxide, which is used as a preservative
- processing aids used to assist in the manufacturing process - for example, frying with peanut oil or using it to line trays and moulds
- solvents and media for additives or flavourings - for example, the liquids used to produce a suspension
- any other substances

Allergen information: caterers, restaurants, food stalls / vans, etc

You must make allergen information available to your customers, either by giving them full allergen information or by making it clear how they can get the information (signposting).

Full allergen information

Allergen information can be provided in writing on menus, chalkboards, notices, etc by simply listing the

allergens present in the food. Alternatively, a single allergen notice specifying the allergens present in every dish is permitted, provided that it is visible to the customer prior to ordering.

If customers place their order at a single point (by queuing at the counter, for example) the information only needs to be visible from that point; however, if customers can order from multiple points (bar, table, etc) then the information must be presented at each point (on the menu, for example).

The most reliable way of providing the allergen information is in writing; this is considered best practice.

Signposting: on the premises

'Signposting' is an instruction to the customer explaining how they can get the information.

You can provide allergen information verbally. If you do so, you must place a notice on display that instructs customers to speak to a member of staff if they require allergen information - for example, 'Allergies and intolerance: please speak to a member of staff if you require information about our ingredients'.

The notice must be visible to customers where they place their order and, as above, if they can place their order from multiple locations, the signposting must be displayed at each one.

If a customer asks about allergens, you must give them complete and accurate information; best practice to achieve this is by using an allergens file.

An allergens file contains a breakdown of all the allergens that are present in every food item that you sell. You will need to check all the ingredients that are used in each item of food and list the allergens. Also check ingredient packaging / specifications, as it will not always be obvious from the name of the ingredient that it contains allergens (for example, soy sauce contains wheat, Worcestershire sauce contains fish, etc). Remember to account for anything used in preparing the food - peanut oil, for example.

Food Standards Scotland (FSS) has produced an allergens matrix for this purpose, which can be downloaded from the FSS website.

Best practice is to always keep the file in the same place and to train all staff on its use. If asked about allergens, staff must never answer from memory or guess; they must check the file every time. Allow the customer to see the relevant page in the file if they would like to do so, and let them make the decision as to whether it is safe for them to eat the food.

If a member of staff does not have access to allergen information and is asked whether it is safe for an allergen sufferer to eat a dish, the answer must always be no; they must always tell the customer that their safety cannot be guaranteed if they were to eat the dish.

If a recipe changes, you must check the new ingredients and make any necessary changes to the file as soon as the change is made; any delay means that customers are being given incorrect information, which may result in them becoming ill or even dying.

Signposting: distance sales

A distance sale is any sale where there is no face-to-face interaction between the customer and the business, such as over the internet and by telephone (types of distance communication).

Allergen information must be provided for distance sales, prior to purchase.

When ordering over a website, specific allergen information for the dish can be provided alongside its description or by signposting through a link to the full menu or an allergens breakdown.

When ordering by telephone, the member of staff can either invite the customer to ask about allergenic ingredients (by reading out the in-store allergen statement, for example) or by telling the customer that the information is available on the website.

If a customer asks for allergen information, it is best practice to follow the advice above in relation to an allergens file.

You must provide allergen information when the food is delivered to the customer; this may be verbally through signposting, but best practice is to provide the information in writing. This can be done by providing an allergen breakdown, giving a menu that lists the allergens, or using stickers that specify the allergens that are present (widely available from wholesalers).

To avoid cross-contamination, you must ensure that delivered foods containing allergens are kept separate from other foods.

If you rely on delivery staff to provide allergen information, you are relying on them to protect your customer from harm or death. Consider whether the person is reliable, capable of doing the job correctly, and whether they have been given the necessary training to do so.

Allergen-free requests

You must provide accurate allergen information, but you have no legal obligation to provide allergen-free food. If a customer requests that a dish be made without allergens, you can say no.

If you agree to produce the meal, you must ensure that the meal is free of the allergenic ingredient. You must also ensure that the food is not contaminated with the allergen in question. This means that knives, ladles, bowls, chopping blocks, work surfaces, staff clothing, hands, etc must all be thoroughly cleaned so that they cannot transfer traces of the allergen to the food.

If powdered allergenic ingredients are being used, it may not be possible to prevent contamination. This is because traces of the allergen can become suspended in the air and settle on food, clothing, utensils, etc.

If you are not completely confident that you can produce an allergen-free meal, you must refuse the request. If your customer were to suffer an allergic reaction after eating a meal that you claimed was free of the allergen in question, you will be liable for criminal offences and potential civil action; in the most extreme cases, the customer could die.

Preventing contamination

There are certain practical steps you can take to avoid accidental contamination with allergens, including:

- having separate kitchen areas, chopping blocks, utensils, pans, etc for the preparation of foods containing allergens
- thoroughly washing chopping blocks, utensils, pans, etc after they have been used to prepare meals containing allergens
- storing ingredients and prepared foods separately in closed containers
- keeping ingredients that contain allergens separate from other ingredients

While these precautions are relatively simple, it can often be impractical to follow them, especially for small businesses where space, time and resources are limited. Where this is the case, it is permissible to use a precautionary allergen statement.

Precautionary allergen label (PAL)

If, due to the nature of the business and the food that is being prepared, there is an unavoidable risk of allergen cross-contamination, you may place a notice on display to this effect - for example, 'Allergen advice: due to the way our food is prepared, it is not possible to guarantee the absence of allergens in our products'. This statement is known as a precautionary allergen label (PAL), often referred to as a 'may contain' statement.

It is best practice to only use a PAL after conducting a risk assessment that shows an unavoidable risk of cross-contamination that cannot be reduced by making reasonable changes to your working practices (segregation, cleaning, etc).

It may be misleading to use a PAL without having identified an unavoidable risk of allergen cross-contamination.

The PAL must be used in addition to the allergen information covered above and does not replace the duty to inform consumers about the presence of allergens.

It is best practice to display the statement at each place the consumer can place their order, in the same way as the allergen information.

Allergen information: non-prepacked, prepacked and prepacked for direct sale

Non-prepacked

This section relates to food that is:

- sold loose (no packaging at all)
- packaged at the request of the consumer (sold loose but placed in some form of packaging after being purchased)

See 'Labelling of non-prepacked foods' for more general information.

You must inform the customer of any allergens that are present in the food. There are various ways that you can do this:

- a notice in close proximity to the food - for example, prominently displayed on the cabinet in which the food is displayed
- a shelf edge label
- a label attached to the product

The information must be presented in the form 'Contains:' followed by a list of the allergens present in the food.

If the specific allergen appears in the list above then you must list it by name - for example, 'Contains: Wheat, Milk, Eggs'.

If the name of the allergen does not appear in the list above (prawns, for example), you must specify the category of allergen - for example, 'Contains: Crustaceans'.

This is not necessary if the name of the product makes a clear reference to the allergen (milk, peanut butter, etc).

Many businesses selling non-prepacked foods will have difficulties (similar to those experienced by restaurants, cafes, etc) preventing cross-contamination with other allergens. Where this is the case, you may use precautionary allergen labelling in the same way as above. The statement must be prominently displayed at the point that the products are made available to the customer.

Allergen information may instead be given by verbal signposting; please refer to the information on signposting in the 'Allergen information: caterers, restaurants, food stalls / vans, etc' section above.

Prepacked / prepacked for direct sale

'Prepacked' means a single item of food and the packaging into which it was put before being offered for sale, whether such packaging encloses the food completely or only partially, but in any event in such a way that the contents cannot be altered without opening or changing the packaging.

'Prepacked for direct sale', while not legally defined, means food that is placed into packaging (prepacked) before being offered for sale and sold / offered for sale or supply from the premises on which it was packed, or from a mobile stall or vehicle being operated by the business. For example, sandwiches that are packaged in the shop from which they will be sold.

Prepacked and PPDS foods must have an ingredients list that lists all the ingredients in the product. Ingredients that are themselves made up of more than one ingredient (referred to as compound ingredients) must be broken down into their components in the ingredients list.

Allergenic ingredients must be emphasised in some way every time they appear in the ingredients list. This is usually achieved through the use of bold text, capital letters or colour; choose whichever method you prefer. An example using bold text would be: 'Ingredients: Water, **Mustard** Flour (21%), Sugar, Salt, **Wheat** Flour, Turmeric, Acid (Citric Acid).'

If the same allergen appears in the ingredients list multiple times, it must be emphasised each time it appears.

If the name of the allergen appears in the ingredients list then you only need to emphasise the allergenic part of the ingredient - for example: 'Ingredients: **Peanut** Butter (Roasted **Peanuts**, Rapeseed Oil, Sugar, Palm Oil, Salt)'.

If the allergen does not appear in the name of the ingredient, you must specify the category of allergen in brackets immediately after the ingredient appears in the ingredients list. The category of allergen must be emphasised. To use a beef and ale pie as an example, the list must state 'Ingredients: Beef (35%), Beer (**Barley**)'.

There is an exception to this. Cheese, butter, cream and milk are understood by the public to be a clear reference to milk, so the words cheese, butter, etc need to be emphasised, but there is no need to add the category of allergen (milk) in brackets - for example, 'Ingredients: **Cheese**'.

Where a named variety is specified (Wensleydale, Mozzarella, etc) you must add the category of allergen - for example, 'Ingredients: Mozzarella (**Milk**)'.

For more information on prepacked and PPDS foods, see 'Labelling of prepacked foods: general' and 'Labelling of prepacked-for-direct-sale foods'.

Prepacked and PPDS foods that do not have an ingredients list

Certain foods (such as alcoholic drinks with an ABV greater than 1.2% or single-ingredient foods) are not required to have an ingredients list; however, you must still label the product with the allergens that are present.

The information must be presented in the form 'Contains:' followed by a list of the allergens present in the food.

If the specific allergen appears in the list above, you must list it by name - for example, 'Contains: Wheat, Milk, Eggs'.

If the name of the allergen does not appear in the list above (prawns, for example), you must specify the category of allergen - for example, 'Contains: Crustaceans'.

This is not necessary if the name of the food makes a clear reference to the allergen (milk, peanut butter, etc).

Allergen advice statement

It is best practice to include a statement on the packaging explaining to customers how allergenic ingredients have been emphasised - for example, 'For allergens, see ingredients in **bold**'.

The statement can appear anywhere on the packaging, but will have the most impact if it appears close to the ingredients list.

Precautionary allergen labelling (PAL)

Precautionary allergen labelling may be used on prepacked and PPDS foods in the same way as outlined above.

Gluten-free claims

The only claims that can be made in relation to gluten are:

- 'Gluten-free' - max 20 mg per kg of gluten
- 'Very low gluten' - max 100 mg per kg of gluten

Statements such as 'No gluten-containing ingredients' are not permitted.

in order to make a gluten-free claim, you must be able to guarantee that your product contains less than the maximum permitted levels of gluten. Therefore, you will need procedures in place to prevent contamination with gluten and you will need to conduct regular testing to prove that your products contain less than 20 mg per kg of gluten.

Describing any ingredient as gluten-free (gluten-free oats, for example) or using any other statement that suggests the product is gluten-free is not permitted unless you can guarantee that the product contains less than 20 mg per kg of gluten.

Further information

Information about food allergies, including free online allergen training aimed at businesses, can be found on the FSS website.

Further information on food allergies and consumer behaviour is available on the FSS website: 'Food allergies are nothing to cringe about'.

Trading Standards

For more information on the work of Trading Standards services - and the possible consequences of not abiding by the law - please see 'Trading Standards: powers, enforcement and penalties'.

> In Scotland, food labelling laws are not generally enforced by Trading Standards services, but rather by Environmental Health. However, we have included In-depth Guides on food for Scotland in order to provide more comprehensive guidance.

In this update

No major changes.

Last reviewed / updated: July 2025

Key legislation

- Food Safety Act 1990
- assimilated Regulation (EC) No 178/2002 *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*
- assimilated Regulation (EU) No 1169/2011 *on the provision of food information to consumers*
- Food Information (Scotland) Regulations 2014
- assimilated Regulation (EU) No 828/2014 *on the provision of information to consumers on the absence or reduced presence of gluten in food*

Please note

This information is intended for guidance; only the courts can give an authoritative interpretation of the law.

The guide's 'Key legislation' links go to the legislation.gov.uk website. The site usually updates the legislation to include any amendments made to it. However, this is not always the case. Information on all changes made to legislation can be found by following the above links and clicking on the 'More Resources' tab.

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