

Advice to restaurant owners and managers

This leaflet gives you information about the trading standards laws that may affect your business.

Food descriptions

Food descriptions are controlled by the **Food Safety Act 1990** and **The Consumer Protection from Unfair Trading Regulations 2008**. Any information provided must not falsely describe the food, or be likely to mislead as to the nature, substance or quality of the food being served. This applies whether the description is written on a menu, chalkboard or other advertising material, or where it is spoken - perhaps in answer to a customer's question.

If an item is taken off of the menu for some reason, the description of that food must be removed as soon as is reasonably practicable. If the food in question is only available for a limited period of the day (for example, at breakfast time only) the description should be removed before the start of the next similar period, i.e. before breakfast the following day.

Required declarations:

Genetic modification: If a food or food ingredients contain genetically modified material (usually derived from maize or soya) the menu indication or label for pre-packed food must indicate 'produced from genetically modified maize/soya'. This information must accompany the food item and must also identify if the food has been cooked in genetically modified matter, e.g. 'cooked in oil produced from genetically modified soya'. Where the food is sold loose (such as a portion of coleslaw) the information must appear on a label either on the food display or next to it, so that it can be read by the consumer.

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As an alternative, the menu may state the product, followed by the letters 'GM', but this indication must have an explanation on the menu that sufficiently explains the meaning. This is similar to the 'V' symbol for vegetarian food but must indicate the GM ingredient and its use when appropriate, e.g. 'contains vegetable oil produced from genetically modified soya', or 'cooked in vegetable oil produced from genetically modified soya'.

The words 'GM free' can be used but the use is discouraged as, analytically, it is possible to detect minute traces of GM organisms. Additives, flavourings and extractions that are used may contain such organisms.

The only exemption to this are foods that have been accidentally contaminated or has GM material unavoidably present at low levels (no more than 0.9% in both cases).

For further information about GM labelling, please visit the Food Standards Agency website (http://www.food.gov.uk/gmfoods/gm/gm_labelling).

Irradiation: In the case of food that has been irradiated, the food needs to be marked with the word 'irradiated' or the words 'treated with ionising radiation'. If the food contains an ingredient that has been irradiated, the food needs to be labelled stating that it contains the ingredient and needs to be accompanied by the word 'irradiated' or the words 'treated with ionising radiation'. Typical foods which may be irradiated include spices and shellfish. This information should be passed to you by your supplier.

Problem areas encountered by trading standards:

Scampi: Products made from one or more complete scampi wholetails may be referred to as 'wholetail scampi' or 'scampi'. The term 'wholetail scampi' must not be used for products made from reformed scampi pieces. This product must be advertised as 'reformed scampi'. (The code of practice on the declaration of fish content in fish products states that scampi, made from one to three wholetail scampi, can be called wholetail. Where more than one scampi is used the name has to reflect this, i.e. 'wholetail scampi made from more than one scampi'.)

King prawn: This description can only be used where the prawns are of one of three specific species of prawn and which are the correct size.

Tiger prawn: This description can only be used where the prawns are of this species.

Chicken fillet and breast: These terms must not be used where the chicken has been chopped and shaped. Care must also be taken to check that you are not buying chicken with added water and other proteins, such as from another animal species or milk derived. Should your chicken be labelled as containing other ingredients, you may break the law if it you fail to make it clear to consumers that the product is not 100% chicken.

Roast: This description should not be used where a food has been steamed and flash roasted.

Smoked: This description should only be used where the product has been subject to a smoking process. Where only a smoke flavouring has been added, the description 'smoke flavour' should be used.

Fresh: This description must not be used where ingredients are tinned or frozen.

Home-made: This description must not be used if you have not made the menu dish yourself from ingredients. It is not to be used if you are just cooking products from the freezer, e.g. spring rolls.

Vegetarian: Any vegetarian dishes must have been produced without any contact or contamination with meat, fish or seafood. This includes using separate oils for frying vegetarian dishes and careful checking of sauce ingredients. You should also be aware that not all cheese is vegetarian, and that many types of cheese are made with animal rennet. Your supplier will be able to confirm whether or not this is the case.

Gluten Free foods: From 1st January 2012, if you indicate that any food you supply to a customer is Gluten Free you must ensure that there is no more than 20 milligrams per Kilo of gluten in the food as sold to the consumer. If you make a gluten free claim, it is your responsibility to ensure the 20mg/kilo limit is not exceeded.

If your food does not contain any gluten containing ingredients AND you have taken every reasonable effort to minimise cross contamination, you may state "No gluten containing ingredients" but you must not mention any suitability for those with a gluten intolerance or mention any levels of gluten.

A guide for caterers on this subject is available from the Food Standards Agency here:

<http://www.food.gov.uk/multimedia/pdfs/publication/gluten0511.pdf>

Free from nuts, wheat, milk, shellfish: Particular care should be taken with food described as suitable for any allergy sufferers and supplying food to a consumer who has advised you of his/her allergy where you have assured the consumer that the food is safe for him/her. You need to exercise extreme caution, particularly in relation to nut allergic consumers who could suffer a fatal reaction from minute levels of contamination. Detailed advice regarding control of allergens can be found on the Food Standards Agency website (<http://www.food.gov.uk/safereating/allergyintol/>) or ask your local trading standards service for advice.

Portion sizes: Pancake rolls (6) or ½ duck, for example, must be accurate.

Colours: The law sets maximum levels for colours in various foods, including sauces, and only certain colours may be used. Sweet and sour sauces have occasionally been found to contain excess colours, and care should be taken when making these if you use colours or mixes containing colours.

Good practice advice

- check that the descriptions that you make are correct and agree with the descriptions given by your supplier (on order forms, delivery documents, invoices or on product packaging), e.g. supplier description: 'reformed scampi'; menu description: 'reformed scampi'
- remember that product specifications may change over time, so you need to keep checking
- take particular care when you change supplier
- if the product specification changes, you must make sure your customers are not misled - if you are not able to change your menu descriptions immediately, or if the change is only temporary (e.g. because of a lack of supply of a particular ingredient), the customer must be advised of the change at the time the order is placed

Pricing of food and drinks

The **Consumer Protection from Unfair Trading Regulations 2008** control how prices must be made known to consumers before they

complete any purchase and require that prices given should not be misleading. The full price that the customer will have to pay for food and drink items should be available to the consumer in advance of them making their choice and ordering the product.

The usual way to communicate this information is by a price list placed near the bar that provides consumers with the information they need to enable them to purchase drinks in that it gives the details of what drinks are available and the price.

The indicated price must be inclusive of VAT and must also show any service charge, cover charge, or minimum charge that might apply. This information should be displayed at least as prominently as the price of the food. Guidance on pricing for businesses has been produced by the Department for Business Innovation and Skills (BIS). It can be found on the BIS website (<http://www.bis.gov.uk/files/file46254.pdf>). These guidance notes state that 'suggested optional sums' such as service charges, should not be presented to the customer on their bill. The guidance also says that if a non-optional charge is to be made, such as service or cover charge, then this should be incorporated into 'fully inclusive prices' where possible, and in all cases this should be clearly advertised on the menu or price list. This guidance also has information about pricing requirements for special offers and other customer incentives.

Description of drinks

Care must be taken with drink brand names. The following are examples of well known brands of spirits:

- 'Bacardi' is a brand of white rum
- 'Smirnoff' is a brand of vodka
- 'Bells' is a brand of whisky

If you cannot be certain that you will always have a particular brand in stock, you may wish to list spirits as rum/vodka/whisky, with no specific brand. If you supply a different brand to that advertised on your menu, or what the customer requests, or what is shown on a plaque attached to the optic, you may commit a criminal offence.

Trading standards services regularly check spirits for watering down and substitution. These are serious matters which often lead to prosecution. It is not wise to 'top up' bottles of spirits, as this practice could lead to the mixing of different brands which may be treated as a criminal matter.

Weights and measures

Many alcoholic drinks must be sold in specified quantities where the drink is to be consumed on the premises.

Wine must be sold in the following quantities:

- by the bottle
- by the glass in 125 ml, 175 ml quantities or multiples of these
- by the carafe in 250 ml, 500 ml, 750 ml or one litre quantities

The quantities of wine that are sold must be clearly indicated on a price list, notice, or menu.

Beer, lager and cider (except when mixed with another drink) can only be sold from draught in these quantities:

- 1/3 pint
- 1/2 pint
- multiples of 1/2 pint

To ensure that the quantity given is accurate, beer, lager and cider must either be dispensed into a glass stamped with a crown mark or dispensed by a stamped meter.

Gin, rum, whisky and vodka (except when sold in cocktails of three or more drinks) must only be sold in the following quantities:

- 25 ml
- 35 ml
- multiples of 25 ml or 35 ml, e.g. 'doubles' or 'trebles'

In addition, a notice which is easy to read must make it clear which quantity applies. The same quantity must be used throughout all separate bars in restaurants, bars and clubs.

Business ownership

If you trade using any name other than the name of the legal owner of the business, you must disclose the following details on your premises and on business stationery:

- the name(s) of the legal owner(s)

- an address in Great Britain where legal documents may be served on the legal owner of the business

Contravention of trading standards laws

Contravention of laws enforced by trading standards is normally a criminal offence, for which the business itself, persons controlling and directing the business and, in certain circumstances, ordinary employees can be held responsible.

Where can I get further help?

This leaflet is not an authoritative document on the law and is only intended for guidance. For further details or clarification contact Derbyshire Trading Standards at:

Chatsworth Hall
Chesterfield Road
Matlock
Derbyshire
DE4 3FW

Telephone:

Businesses:	Call Derbyshire	08 456 058 058
Consumers:	Citizens Advice consumer helpline	08454 040506

Fax: 01629 536197

Website: www.derbyshire.gov.uk/tradingstandards

We want everyone to be able to understand us. On request, we will arrange:

- Language interpreters, including for sign language
- Translation of written materials into other languages
- Materials in large print, on tape or in Braille.

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