

Guidance notes on the Labelling of Flour Confectionery (e.g. cupcakes, cakes)

What does this leaflet cover?

The labelling requirements for flour confectionery products, sold loose, prepacked for direct sale, to catering establishments and to other retailers.

What is 'flour confectionery'?

Under the Food Labelling Regulations 1996, most cakes would fall under the definition of **flour confectionery**. Flour confectionery is defined in the Regulations as *'any cooked food which is ready for consumption without further preparation (other than reheating), of which a characterising ingredient is ground cereal, including shortbread, sponges, crumpets, muffins, macaroons, ratafias, pastry and pastry cases, and also includes meringues, petits fours and uncooked pastry and pastry cases, but does not include bread, pizzas, biscuits, crispbread, extruded flat bread or any food containing a filling which has as an ingredient any cheese, meat, offal, fish, shellfish, vegetable protein material or microbial protein material.'*

The labelling requirements for cakes and flour confectionery differ depending on how they are sold.

Food Sold Prepacked for Direct Sale

Food items that are prepacked by the seller for sale from the premises where it is to be sold, premises where the food is prepacked, or from a vehicle, or market stall, are classed as being prepacked for direct sale.

Food which is prepacked for direct sale is generally required to be labelled with:

Std52 04/12

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1. Name of the food.

Generally, cakes and flour confectionery are not required to be labelled with their name. However, if you choose to do so you must ensure that the description is true and accurate. For example:

- It is important to realise that the words 'flavoured' and 'flavour' have very different meanings. For example vanilla flavoured icing derives its flavour only from real vanilla, but vanilla flavour icing is synthetically flavoured - if neither word is used (vanilla slice for example) the flavour must be only from natural vanilla
- The cream in cream cakes must be wholly dairy cream; if any artificial or imitation cream is used, the name of the cake must be qualified accordingly
- Imitation cream and imitation chocolate must not be described as cream or crème, chocolate or choc

2. Any of the following categories of additives, if present:

- Antioxidants
 - Colours
 - Flavourings
 - Flavour Enhancers
 - Sweeteners
 - Preservatives
- (the E number or name of the additive is not required unless point 3. below applies).

3. Foods containing one or more of the following food colours, if present:

- Sunset yellow (E 110)
- Quinoline yellow (E 104)
- Carmoisine (E 122)
- Allura red (E 129)
- Tartrazine (E 102)
- Ponceau 4R (E 124)

Are required to be labelled with a warning statement as follows:

“Name or E number of the colour(s): may have an adverse effect on activity and attention in children.”

However, if the food falls within the definition of '**flour confectionery**' as above it is not required to be labelled with the name of the food. Additionally, the additive information can be given by means of a general flour confectionery notice displayed in a prominent position near the food. An example of the notice is displayed below:

To comply with the **Food Labelling Regulations 1996**, customers should note that cakes and flour confectionery sold on these premises may contain one, or more, of the following additives: -

Antioxidants

Artificial Sweeteners

Colours

Flavour Enhancers

Flavourings

Preservatives

There is no mandatory requirement to provide allergen information when food is pre-packed for direct sale: however it may be good practice to consider this. Please see the link below to the advice leaflet '**Specified Allergenic Ingredients – Commonly Asked Questions**' for further information on allergenic ingredients:

http://www.derbyshire.gov.uk/images/std35_tcm44-8377.pdf

Most flour confectionery products are not required to be marked with a net weight. However there are certain exceptions to this e.g. Christmas Puddings and shortbread. Please contact the department for further information on weights and measures matters.

Food Sold Non Prepacked (Loose)

Food sold loose is required to be labelled with the same particulars that are listed in the 'prepacked for direct sale' section of this leaflet. The exemptions for products that fall into the 'flour confectionery' definition also apply.

Food Supplied to Other Retailers – Prepacked

Food that is supplied to and sold by another retailer or shop using the same packaging and label that you supplied to them is required to be labelled with full labelling information.

In general, the basic requirements for the labelling of cakes/flour confectionery are:

- The name of the food
- A list of ingredients, headed 'ingredients', in descending order, by weight
- Allergenic ingredients
- A percentage quantity indication for certain ingredients or categories of ingredients (also referred to a 'QUID' declaration)
- A 'use by', 'best before' or 'best before end'
- Lot/batch number
- Any special storage or use conditions
- The name and address of the manufacturer, packer or seller
- Place of origin, if its omission could mislead
- Any instructions that are necessary to use the food

Further details on the requirements listed above can be found in the links to the following advice leaflets:

'Food Labelling of Prepacked Foods'

http://www.derbyshire.gov.uk/images/std23_tcm44-90304.pdf

'Labelling of Packaged Food Information for Traders'

http://www.derbyshire.gov.uk/images/std30_tcm44-131797.pdf

'Food Labelling – Date and Lot Marking of Packaged Food'

http://www.derbyshire.gov.uk/images/std18_tcm44-8351.pdf

However, if the food falls under the flour confectionery definition and is packaged in a crimped case or in wholly transparent packaging which is unmarked it requires only minimal labelling, namely any allergenic ingredients; any of the 6 categories of additives mentioned above if present; and the colours warning statement, if applicable.

Food Supplied to Catering Establishments

Products supplied to catering establishments such as pubs and cafés need 'full' labelling. The requirements for full labelling are listed in the section 'food supplied to other retailers – prepacked'.

When supplying to catering establishments the information can be supplied on a label on the product or with a commercial document sent before, or accompanying the product to which it relates to. However, the following information (where it is required to be given) must be marked on the outermost packaging of the food:

- The name of the food
- Appropriate durability indication (e.g. best before date)
- Your business name and address

Non-Edible Cake Decorating Materials

Non-edible cake decorating materials (e.g. dust, glitter) are considered to be extraneous food contaminants and are not safe to be consumed. Non-edible cake decorating materials must be used in such a way that allows them to be easily removed from the food before consumption.

Non-edible cake decorating materials may only come into contact with food if they meet the requirements of the Materials and Articles in Contact with Food (England) Regulations 2010 (as amended) or the Plastics Materials and Articles in Contact with Food (England) Regulations 2009 (as amended).

You must ensure that cakes using non-edible cake decorating materials are labelled in such a way that the consumer understands that the decoration is not edible and needs to be removed from the food before consumption.

The Sale of Food via the Internet

Food produced by you and sold via the internet will require full labelling, as described in the section 'food supplied to other retailers – prepacked'. Certain information is required to appear on a business website, the web links below should help to ensure that your website has the required particulars.

The Office of Fair Trading has developed part of their website called the Distance Selling Hub, which can be found using the following link:

<http://www.offt.gov.uk/business-advice/treating-customers-fairly/dshome>

Please go to the link below for a checklist of the E-Commerce Regulations:

http://www.offt.gov.uk/shared_offt/distance-selling-downloads/checklist/DSchecklist_ECRs_PDF.pdf

Please go to the link below for a checklist of the Distance Selling Regulations:

http://www.offt.gov.uk/shared_offt/distance-selling-downloads/checklist/DSchecklist_DSRs_PDF.pdf

How must the information be given?

The required labelling information must be marked: -

- On the packaging; or
- On a label attached to the packaging; or
- On a label that is clearly visible through the packaging.

The information must be: -

- Easy to understand, clearly legible and indelible
- Marked in a conspicuous place that is easily visible, and must not be hidden, obscured or interrupted by any other written or pictorial matter.

The following when they are required to be stated must appear in the same field of vision as the name of the food: -

- The date mark
- The quantity, and
- The alcoholic strength in the case of alcoholic drinks

Nutrition and Health Claims

When making a voluntary nutrition or health claim you must comply with the requirements of European Regulation (EC) No 1924/2006 on nutrition and health claims made on food.

A nutrition claim is defined as: - any claim which states, suggests or implies that a food has particular beneficial nutritional properties due to the presence, absence, increased or reduced levels of energy or of a particular nutrient or other substance, and includes claims such as “source of calcium”, “low fat”, “high fibre” and “reduced salt”.

A health claim is defined as: - any claim that states, suggests or implies that a relationship exists between a food category, a food or one of its constituents and health. This would include claims such as “calcium helps build strong bones”. More general claims such as “good for you” may also be health claims, and the Regulation takes these into account.

For further information or advice on nutrition and health claims please contact this department.

Sugar Free Foods and the Use of Sweeteners

Nutritional claims referring to the amount of sugar in a food are required to meet certain compositional standards under European Regulation (EC) No 1924/2006. The Annex to the regulations lists three different claims relating to sugar:

- **“Low Sugar** - A claim that a food is low in sugars, and any claim likely to have the same meaning for the consumer, may only be made where the product contains no more than 5 g of sugars per 100 g for solids or 2.5 g of sugars per 100 ml for liquids
- **Sugars-Free** - A claim that a food is sugars-free, and any claim likely to have the same meaning for the consumer, may only be made where the product contains no more than 0.5 g of sugars per 100 g or 100 ml
- **With No Added Sugars** - A claim stating that sugars have not been added to a food, and any claim likely to have the same meaning for the consumer, may only be made where the product does not contain any added mono- or disaccharides or any other food used for its sweetening properties. If sugars are naturally present in the food, the following indication should also appear on the label: **‘Contains Naturally Occurring Sugars’.**”

The regulations require that the food business operator needs to be able to justify the use of the claim.

The Food Labelling Regulations 1996 require that where a food contains a sweetener authorised by the Food Additives (England) Regulations 2009, the name of the food must be accompanied by the indication **‘with sweeteners’**. In the case of specific sweeteners ‘aspartame’, the food must also be labelled **‘contains a source of phenylalanine’**. Where a food contains more than 10% added polyols it must be labelled **‘excessive consumption may produce laxative effects’**.

Traceability

As a food business operator supplying food products to other catering establishments, retailers or selling food via the internet, you are required to keep records to ensure that you can trace the ingredients that are supplied to you back to the supplier. You are also required to maintain records that would facilitate the traceability of products that you have supplied to other businesses. Please follow the link below to

the advice leaflet, '**The Withdrawal and Traceability of Food**' which goes into further detail regarding this matter:

http://www.derbyshire.gov.uk/images/std36_tcm44-8381.pdf

What are the consequences of non-compliance?

Failure to comply with these labelling requirements is a criminal offence. The maximum penalty on conviction in a magistrate's court is a fine of £5,000 for each contravention, and £20,000 for a false description to any food.

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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To ensure that you are looking at the most up-to-date version of this leaflet, please visit our website at

http://www.derbyshire.gov.uk/images/std52_tcm44-194533.pdf or telephone us on 01629 536166.