

PRIMARY AUTHORITY ASSURED ADVICE

CCC-854401-M

Date of freezing & distance sales

If you require further information and the full version of this advice and guidance, please contact the Primary Authority via the Primary Authority Register. Alternatively email deniserion@bfff.co.uk

Notes:

1. This document includes best practice advice and a brief summary of the requirements of the [Primary Authority Statutory Guidance](#). It should be read alongside the Primary Authority Statutory Guidance.
2. Primary Authority Advice is assured. This means that when a business is following the advice the primary authority can direct against any proposed enforcement action which is inconsistent with the advice

Introduction

This Primary Authority Advice has been produced by Cambridgeshire County Council in partnership with British Frozen Food Federation for use by members of British Frozen Food Federation to help your business comply with the law. If you follow this advice correctly your local trading standards officer should respect this and not ask you to comply with the law in a different way.

The Cambridgeshire County Council contact;

Trading Standards Administration Team
01954 284619
Ts.administration@cambridgeshire.gov.uk

Primary Authority Advice

Relevant Legislation:	<p>REGULATION (EU) No 1169/2011 on the provision of food information to consumers (FIC)</p> <p>Note: European Regulation on the provision of food information to consumers (EU) No. 1169/2011 (the EU FIC) will continue to apply in the UK as “retained EU law” after EU Exit. The Food Information Regulations 2014 (FIR) and equivalent regulations in Wales, Northern Ireland and Scotland provide for the execution and enforcement of the EU FIC in the UK.</p>
Geographic Applicability:	This has the status of Primary Authority Advice in England.
Scope:	This advice is addressed to businesses in the regulated group which are food business operators engaged in distance selling of frozen meat, meat preparations and fish.
Details of request:	FAQ: When selling frozen meat and fish over the internet do I need to make the date of freezing available to the consumer before the sale is concluded?
Advice provided:	<p>The date of freezing does not need to be made available before the purchase is concluded. However, it must be available at the moment of delivery.</p> <p>The date of freezing is specified as ‘additional mandatory particulars’ required in the labelling for prepacked frozen meat, frozen meat preparations and frozen unprocessed fishery products. (Article 10(1) and Annex III point 6)</p> <p>Article 14 concerns the provision of mandatory food information for distance selling to the consumer i.e. over the internet or through brochures. Article 14(1)(a) requires that all mandatory information, with the exception of the durability date, be available before the purchase is concluded; furthermore that this information shall appear on the material supporting the sale or be provided through other clearly identified means e.g. hyperlink, website or telephone number.</p> <p>The date of minimum durability or ‘use by’ date is specifically exempted and does not have to be made available before the purchase is concluded. (Article 14(1)(a))</p> <p>The working document prepared by Commission services states:</p>



	<p><i>1.8 Some frozen products orders may well have been taken before the product had been frozen. Is the date of freezing considered as a marking date for labelling purposes?</i></p> <p><i>The date of first freezing is dealt in Annex X of the FIC Regulation and can be considered as a marking date alongside the date of minimum durability and the 'use-by' date. Such marking dates do not need to be available before the purchase is concluded. However, they should be available at the moment of delivery.</i></p> <p>Although this document has not been formally published by the Commission, this pragmatic interpretation recognises that it would be impossible to provide the date of freezing before the purchase is concluded in most distance selling situations.</p>
Document references:	Working Document prepared by the Commission services - Additional Questions and Answers on the application of the Regulation (EU) N° 1169/2011 on the provision of food information to consumers
Communication with businesses	This advice will be published in electronic format and located in the Technical Guidance area of the BFFF website: http://bfff.co.uk/technical/guidance/ .
Communication with enforcing authorities:	<p>An enforcing authority, proposing to take enforcement action against a business, is only required to notify the primary authority, where they are aware that the business is a member of a regulated group. While guidance states that the enforcing authority should ask you whether you are relying on Primary Authority advice, we recommend that you ensure you communicate this as soon as possible, and do not wait to be asked. (para 21.5 of the Statutory Guidance refers). The scheme does not allow for a business to make a notification to the primary authority where an enforcing authority has already taken action in respect of which it [the enforcing authority] failed to make the required notification to the primary authority (para 21.20 of the Statutory Guidance refers).</p> <p>Additionally, the rules allow for you (or the Co-ordinator) to notify the primary authority (para 21.19 of the Statutory Guidance refers).</p> <p>Once a primary authority receives notification, statutory time limits apply (usually 5 days) in which time they must respond to the notification. (Paras 21.9 & 21.10 of the Statutory Guidance refer).</p>
Issued by:	Paul Maylunn, Senior Trading Standards Officer



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