

PRIMARY AUTHORITY ASSURED ADVICE

CCC/860039/J

Definitions of prepacked,
non-prepacked and prepacked for direct
sale.

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;
Primary Authority partnership Administration
primaryauthoritypartnerships@peterborough.gov.uk

Primary Authority Advice

Relevant Legislation:	Assimilated REGULATION (EU) No 1169/2011 on the provision of food information to consumers (FIC) Note: European Regulation on the provision of food information to consumers (EU) No. 1169/2011 (FIC) applies in the GB as “assimilated EU law”. The Food Information Regulations 2014 (FIR) as amended, and equivalent regulations in Wales, Northern Ireland and Scotland provide for the execution and enforcement of the EU FIC in the UK. The Food Information (Amendment) (England) Regulations 2019:1218 in England from 1 October 2021 amended the FIR for England; equivalent legislation applies in Wales, Northern Ireland and Scotland.
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.
Details of request:	Advice to members on the definitions of Prepacked, Non-Prepacked and Prepacked for Direct Sale.
Advice provided:	It should be noted that the EU FIC state the intention of the food information rules as: <i>In order to achieve a high level of health protection for consumers and to guarantee their right to information, it should be ensured that consumers are appropriately informed as regards the food they consume. Consumers’ choices can be influenced by, inter alia, health, economic, environmental, social and ethical considerations.</i> Food information and labelling requirements differ depending how and where foods are sold. Reduced labelling/information requirements apply to food sold prepacked for direct sale, non-prepacked and food sold loose by a mass caterer. From 2021 increased labelling is now required on prepacked for direct sale.



The increased information requirements have been brought in because of failures in the communication to consumers about the presence of ingredients and substances causing allergies and intolerance.

Allergens

Annex II of FIC specifies the substances or products causing allergies or intolerances that are subject to mandatory labelling.

It should be noted that other food intolerances and allergies occur and consumers may seek information on those, but they are not subject to mandatory information requirements under FIC.

Prepacked foods (PP); defined in Article 2 of FIC

‘prepacked food’ means any single item for presentation as such to the final consumer and to mass caterers, consisting of a 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 food’ does not cover foods packed on the sales premises at the consumer’s request or prepacked for direct sale;

For the purposes of FIC these are foods packed before being offered for sale to the consumer or to a caterer.

Examples include:

- Products that are sealed such that the seal has to be broken or the packaging integrity compromised to access the product inside
- Products that are packaged in modified atmosphere sealed packaging
- Product placed in an acetate or similar tray with a top or lid applied, sealed with tape or a label that has to be broken or damaged to access the product inside or which cannot be resealed
- Flow wrapped product crimp sealed

Non-prepacked foods (NPP); not defined within FIC

are those foods sold loose from or in open or unsealed lidded trays, unsealed bags, or packages where the contents can be altered without opening or changing the packaging. This includes products packed on the sales premises after the purchase has been agreed at the request of the purchaser: Article 44.

In a physical retail environment this could apply to foods which are sold loose such as self-serve fruit and vegetables, foods served from a delicatessen counter (e.g., cold meats, cheeses, quiches, pies, and dips), fresh pizza, salad bars, bread sold in bakery shops, meat from butchers, pick and mix confectionery (including individually wrapped sweets and chocolates), etc.

In a catering environment this applies to foods which are not sold prepacked, for example some food from a takeaway, or meals served in a canteen or a restaurant.



Examples include:

- Product sold loose in open trays or bags or boxes with open lids
- Product sold in a box, bag or tray which is not closed so that the contents may be altered without changing or affecting the packaging integrity
- Bread in open ended sleeves, loose fruit, and vegetables,

Prepacked for direct sale (PPDS) is not defined in law.

FSA Guidance (Last revision August 2023) sets out what the term is understood to mean:

PPDS food is food that is packed before being offered for sale by the same food business to the final consumer:

i) on the same premises; or

ii) on the same site*; or

iii) on other premises if the food is offered for sale from a moveable and/or temporary premises (such as marquees, market stalls, mobile sales vehicles) and the food is offered for sale by the same food business who packed it.

*In this instance 'site' refers to a building complex such as a shopping centre or airport terminal in which the same food business operates from more than one unit within the building complex.

[Food allergen labelling and information requirements technical guidance: Summary | Food Standards Agency](#)

Foods that could fall under this category could include meat pies made on site and sandwiches made and sold from the premises in which they are made.

It would not apply where non-prepacked goods are wrapped in one location and transferred to other premises directly controlled by the food producer except, following the FSA guidance above, in the limited circumstances of within a large building complex, or for a mobile or market stall, operated by the same business.

This category would include:

- Products that are received non-prepacked at the sales premises then packed into new packaging meeting the definition of a prepacked product as long as they were destined for sale on the same premises.
- Products that are received prepacked in bulk or requiring some form of preparation at the sales premises then repacked into new packaging meeting the definition of a prepacked product as long as they were destined for sale on the same premises.
- Product packed by a retailer for sale on the premises where the food is packed or from a vehicle or stall used by the retailer
e.g., at markets or from mobile shops.

Examples



	Products supplied in a prepacked format from another business	Prepacked		
	Product is prepacked in one operation and transferred to another location trading under the same name for sale	Prepacked		
	Products are supplied prepacked in a 'multipack'. The outer packaging is opened and the prepacked food is sold without altering individual inner pre-packaging. NOTE – Multipacks can only be split where each package is marked with <u>all</u> mandatory information.	Prepacked		
	Product is supplied in bulk, packaging is removed, and the product is divided or prepared in some way then re-packed in sealed packaging for sale on the same premises.	Prepacked for direct sale		
	Product is supplied in bulk, packaging is removed, and the product is sold loose.	Non-prepacked		
	Product is supplied in bulk, the packaging is removed, and the product is packed at the request of the customer.	Non-prepacked		
	Product is supplied in a non-prepacked format, e.g., loose in trays, and then packed before offering sale on the premises	Prepacked for direct sale		
	Product is prepacked by the producer and sold from a shop, stall or vehicle operated by him.	Prepacked for direct sale		
It should be noted that “sell” includes supply in the course of a food business NOTE Consumer information on the allergen content of food is required to be provided on pack for PP and PPDS food. The same information on NPP food may be provided orally or by other means. Retailers and mass caterers should ensure that their customers who need allergen information easily understand where that information is provided before purchase. <u>Distance Sales</u> Food that is offered for sale by distance communications, such as the internet or telephone sales, have different food information requirements. Sellers of NPP and PPDS foods by this method must make available information on the presence of the Annex II allergens before the purchase is concluded and also that information is to be available at the moment of delivery.				



Document references:	EU Food Information to Consumers assimilated Regulation 1169/2011 Food Information Regulations 2014 as amended in England https://www.food.gov.uk/document/food-allergen-labelling-and-information-technical-guidance Allergen guidance for food businesses Food Standards Agency Introduction to allergen labelling for PPDS food Food Standards Agency (Allows you to download the whole guide) Food allergen labelling and information requirements technical guidance: Part 3: Guidance for businesses providing food prepacked for direct sale Food Standards Agency Check if your business sells PPDS food with our allergen and ingredients food labelling tool. (Food.gov.uk)
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:	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). Additionally, the rules allow for you (or the Co-ordinator) to notify the primary authority (para 21.19 of the Statutory Guidance refers). 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).
Issued by:	Paul Maylunn, Senior Trading Standards Officer





British Frozen Food Federation

Registered Office: Warwick House, Unit 7, Long Bennington Business Park, Main Road, Long Bennington,
Newark, Nottinghamshire NG23 5JR

Tel: 01400 283090

Fax: 01400 283098

Websites: www.bfff.co.uk

www.freshfromthefreezer.co.uk

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