



Údarás Sábháilteachta Bia na hÉireann  
Food Safety Authority of Ireland

28

## GUIDANCE NOTE

# Food Allergen Declaration for Non-prepacked Foods in Ireland (Revision 2)

Health (Provisions of Food Allergen Information to  
Consumers in Respect of Non-Prepacked Food)  
Regulations, 2014 (S.I. No. 489 of 2014)

## **Food Allergen Declaration for Non-prepacked Foods in Ireland**

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ISBN: 978-1-910348-99-4

## Contents

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<b>ACKNOWLEDGEMENTS .....</b>	<b>2</b>
<b>1. INTRODUCTION .....</b>	<b>3</b>
<b>2. AIM OF THIS GUIDANCE.....</b>	<b>3</b>
<b>3. TYPES OF FOOD BUSINESS IMPACTED .....</b>	<b>4</b>
<b>4. FOOD ALLERGENS .....</b>	<b>4</b>
<b>5. INGREDIENT OR CONTAMINANT .....</b>	<b>5</b>
<b>6. NON-PREPACKED FOODS .....</b>	<b>6</b>
<b>7. WHEN TO DECLARE FOOD ALLERGENS .....</b>	<b>7</b>
<b>8. WHEN FOOD ALLERGEN DECLARATIONS ARE NOT REQUIRED .....</b>	<b>8</b>
<b>9. HOW TO DECLARE FOOD ALLERGENS .....</b>	<b>10</b>
<b>10. NON-COMPLIANT ALLERGEN STATEMENTS AND DECLARATIONS .....</b>	<b>12</b>
<b>11. COMPLIANCE IN PRACTICAL SITUATIONS .....</b>	<b>13</b>
<b>12. CLARIFICATIONS .....</b>	<b>15</b>
<b>ANNEX I: SUBSTANCES OR PRODUCTS CAUSING ALLERGIES OR INTOLERANCES AS LISTED IN ANNEX II OF REGULATION (EU) NO 1169/2011 .....</b>	<b>19</b>

## Acknowledgements

The FSAI is grateful for the assistance of experts from within and outside the FSAI in reviewing this guidance document. The updated guidance has benefited in particular from the considerable experience of Environmental Health Officers of the Health Service Executive who have been working with food businesses in Ireland to achieve compliance with this legal requirement.

## **1. Introduction**

The Provision of Food Information to Consumers (FIC) Regulation (EU) No 1169/2011 came into effect on December 13<sup>th</sup>, 2014. One of the changes introduced by this legislation was the requirement to declare the intentional use of 14 EU-regulated food allergens in the production or preparation of non-prepacked foods. The means by which this allergen information must be provided to consumers was left up to individual Member States to decide within each jurisdiction. In the absence of national legislative measures, the labelling requirements set out in the FIC Regulation would apply.

The Food Safety Authority of Ireland (FSAI) facilitated an online consultation during 2013 on behalf of the Department of Health to determine the views of stakeholders on how best to declare the use of the 14 regulated food allergens in the manufacture or preparation of non-prepacked foods. The result of that consultation was taken into consideration by the Department of Health to inform the development of the relevant Statutory Instrument (S.I.).

Statutory Instrument (S.I.) No. 489 of 2014 was signed into law by the Minister for Health in October, 2014 and sets out in detail how food businesses in Ireland must provide information on the 14 EU-regulated food allergens in non-prepacked foods that they sell or supply to customers who can be other food businesses or consumers. The minimum requirement is that regulated food allergens are proactively identified in written format before a purchase is concluded. There are a few exceptional circumstances where written information may need to be supplemented with verbal communication for optimal effectiveness and consumer safety reasons.

## **2. Aim of this guidance**

The information provided in this document is intended as guidance on how food businesses can comply with the legal requirement set out in S.I. No. 489 of 2014 to declare the use of the 14 regulated food allergens in the manufacture, preparation and supply of non-prepacked foods. The examples provided are neither exclusive nor exhaustive and should be viewed in the context of individual foods and different types of food businesses.

### 3. Types of food business impacted

The types of food business impacted by the requirement to declare the 14 regulated food allergens in non-prepacked food can be broadly categorised as follows:

- a) Catering businesses providing non-prepacked food and beverages purchased on-site and consumed on-site or off-site. Such businesses include, but are not limited to restaurants, takeaways, pubs, hotels, bed and breakfasts (B&Bs), healthcare facilities (e.g. hospitals and care homes), educational facilities (e.g. schools and third level institutions), childcare facilities, various modes of transportation (e.g. planes, trains and ferries), detention facilities (e.g. prisons), and charitable organisations providing food.
- b) General or specialist retailers of food and beverages e.g. supermarkets, grocery stores, health food stores, deli counters, butchers, bakery outlets, juice bars, farmers'/country markets and other stationary, mobile, transient or permanent food stalls or food vehicles.
- c) Licensed premises selling alcoholic or non-alcoholic beverages e.g. non-bottled (draught) beer and cider, wine by the glass, cocktails and smoothies or juices.
- d) Food businesses engaged in distance selling where the food is ordered/purchased by consumers online, by phone or other electronic means of communication. Such food businesses who produce or prepare food generally advertise their food in the media (including social media), online or through the dissemination of printed material and may also organise the delivery of food.
- e) Suppliers (whether or not they produce or prepare food) of non-prepacked foods, ingredients and beverages to the food industry must include details of the 14 regulated food allergens in written format either preceding or accompanying the delivery (e.g. delivery docket).
- f) Food service platforms that do not produce or prepare food but provide a facility (platform) from which consumers can order food remotely and/or have it delivered.

### 4. Food allergens

The consumption of many different types of foods and ingredients can cause adverse (allergy or intolerance) reactions in susceptible consumers and so food allergens must be taken into consideration as part of the Food Safety Management plan by food businesses. The legal requirement to declare the use of food allergens as ingredients in food in the EU is limited to the 14

foods most commonly associated with food allergy and intolerance in the EU. The 14 regulated food allergens (with exceptions for certain refined derivatives) are listed in Annex I of this document.

The term “allergen” is defined in S.I. No. 489 of 2014:

*“...any ingredient or processing aid listed in Annex II of Regulation (EU) No 1169/2011 of the European Parliament and Council of 25 October 2011, as amended by Commission Delegated Regulation (EU) No 78/2014 of 22 November 2013, or derived from a substance or product listed in the said Annex, causing allergies or intolerances, used in the manufacture or preparation of a food and still present in the finished product, even if in an altered form”.*

## **5. Ingredient or contaminant**

When any of the 14 regulated food allergens are used as an ingredient to produce or prepare a food they must be declared, regardless of the amount used.

The presence of an undeclared food allergen in a food (prepacked or non-prepacked) on the market can be due to cross-contamination (only for low level presence) or the result of an error during production, preparation, processing, packaging, labelling, storage, transport or handling of that food. Care is needed when deciding what constitutes an ingredient versus a contaminant.

“Ingredient” is defined in Article 2.1(f) of the FIC Regulation:

*“...any substance or product, including flavourings, food additives and food enzymes and any constituent of a compound ingredient, used in the manufacture or preparation of a food and still present in the finished product, even if in an altered form...”.*

For example, when marinating a chicken breast in milk or milk derived products, “Milk” must be declared as an allergen as it would be considered an ingredient. Similarly, when frying chicken in peanut oil, “Peanut” must be declared as an allergen. However, fries cooked in vegetable oil in which battered fish was previously cooked does not need to declare “Fish” or “Wheat” as an allergen. In this case, residual fragments of fish or batter in the cooking oil are considered cross-contaminants rather than ingredients.

The presence of any amount of an undeclared food allergen in a food can pose a safety risk to susceptible consumers and that risk must be assessed on a case by case basis. The safety assessment should be considered along with the food business operator’s food safety management controls and any allergen declarations including voluntary “Free from...” and “May contain...” declarations when weighing up possible risk management options.

If the presence of an undeclared allergen in a food is found to be the result of an error, the food business must address the problem without delay in the best interests of consumer safety, and in consultation with the FSAI and/or official agencies. Mitigation of the risk to susceptible consumers in the case of an error being detected can involve adding an allergen declaration or amending an existing allergen declaration. In some situations, product withdrawal or recall may offer the best protection for consumers.

## 6. Non-prepacked foods

S.I. No. 489 of 2014 defines 'non-prepacked food' and clarifies that even food provided free of charge such as that distributed by charitable organisations or free promotional samples from food businesses also require food allergen declarations:

### *Scope*

*3. These Regulations apply to all food which is not prepacked food and is offered for sale or supply, including supply free of charge, to the final consumer or to a mass caterer, including—*

*(a) food packed at a food business operator's premises at the consumer's request, and*

*(b) food packed for direct sale or supply.*

Some examples include bread which may be prepared and/or sold in retail outlets, popcorn prepared and sold at the cinema, sandwiches/rolls prepared and sold in garage forecourts and draught beer (not in bottles or cans) sold in licensed premises.

Allergen declaration requirements also apply to food items like condiments (dressings, sauces, gravies, etc.) that are made available to diners. An example is tomato ketchup which is sometimes made available in the original bottles/sachets that carry a list of ingredients highlighting the allergens. However, sometimes the tomato ketchup is decanted from larger containers into plain table-top containers with no allergen information provided. The allergen information for all condiments must be made available in writing and this could be achieved by declaring it on the container directly, or alternatively listing the relevant allergens along with the written allergen information for main menu items.

A food business providing promotional food samples for free must ensure that allergens are declared for those samples.



## 7. When to declare food allergens

Statutory Instrument (S.I.) No. 489 of 2014 specifies that as a minimum requirement, written allergen information must be provided either at the point of presentation, the point of sale or the point of supply:

*Prohibition in respect of presentation, sale and supply*

*4. A food business operator shall not present or make available food for sale or supply, or sell or supply food, unless written particulars of any allergen in the food are indicated at:*

- (a) the point of presentation,*
- (b) the point of sale, or*
- (c) the point of supply*

### Business to business

Where non-prepacked food is supplied to another food business such as a caterer, the food allergen information must be available on labels or accompanying commercial documents as stipulated in Article 8(7) of the FIC Regulation.

### Distance selling to consumers

Distance selling is where the consumer orders the food remotely through websites, social media, by text or phone using information available online or in leaflets or catalogues delivered to homes. This covers home delivery pizzas and other takeaways, as well as groceries delivered to the home.

For distance selling to consumers, the allergen information must be provided before the food purchase is concluded **and** at the time of delivery. However, the allergen information is required in written format at only one of these stages.

*Manner in which allergen information is to be provided*

*(2) Subject to paragraph (3), in the case of food presented or made available for sale or supply by means of distance selling, the food business operator shall provide particulars of any allergen in such food*

- (a) before the purchase is concluded, on the material supporting the distance selling or through other appropriate means clearly identified by*

*the food business operator which do not involve charging consumers*

*supplementary costs, and*

*(b) at the moment of delivery,*

*and such particulars shall be provided in writing at at least one of the stages*

*referred to in subparagraphs (a) and (b)*

## **Food service platforms**

The legal requirement to declare the use of the 14 regulated food allergens as ingredients in food applies to all food businesses. Food service platforms that advertise, sell and deliver food but do not produce or prepare it, should have effective systems in place to assist, where necessary, their food producing clients to communicate accurate and up to date food allergen information to consumers. To this end, food allergen declarations must be available to the consumer before the purchase is concluded **and** at the time of delivery, in written format for at least one of those time points.

## **Drive-through facilities**

A number of food businesses provide a drive-through option whereby consumers can order and pick up menu items without leaving their car. Food businesses operating a drive-through facility must alert the consumer at the earliest possible opportunity that written food allergen information is available. This advice must be provided prior to a customer placing an order and before the purchase is concluded, e.g. by providing the website where the information can be easily found or providing written allergen information at an early stage in the drive-through process e.g. alongside the drive through menu items. Written information on food allergens must also be available within the food business premises.

## **8. When food allergen declarations are not required**

1. Food allergen declarations are not required for non-prepacked foods sold by means of automatic vending machine or automated commercial premises. However, the allergen information must be provided at the moment of delivery. This could be achieved by a sign on or close to an automated vending machine declaring the specific allergens in individual products.

## Food Allergen Declaration for Non-prepacked Foods in Ireland

**NOTE:** An automated vending machine accepts payment for a food item while an automated dispensing machine simply dispenses the food or beverage, e.g. coffee, for which payment must be made separately.

2. Where a list of ingredients is not required, and the name of the food clearly refers to the specific food allergen (e.g. Fish Pie) then there is no need to separately declare the presence of that allergen “Fish”. However, if allergens other than that indicated by the name of the product are also present in the food they must be declared. In that situation, and for clarity, it is recommended that all allergens should be declared, including the allergen indicated by the name of the product.
3. Consumers generally understand that certain foods (e.g. cream, cheese or butter) are produced from milk and therefore such foods, which do not require a list of ingredients do not need to separately declare “milk” as an allergen.

**NOTE:** If a list of ingredients is required or is provided voluntarily, then “**Milk**” must be emphasised as an allergen, regardless of the product name, along with any of the other food allergens that may be present.

4. A food producer or provider that is not considered a food business in Ireland is not obliged to comply with the rules relating to allergen declaration for non-prepacked food. However, consideration of the possible health risks and potential legal consequences posed by undeclared food allergens is recommended whenever food is produced or provided voluntarily. Examples of such situations include snacks voluntarily made for sporting or charity events and celebration cakes voluntarily produced by individuals (e.g. by relatives or friends of a celebrant).
5. Although advisable as a precautionary measure, food produced during cookery demonstrations and in cookery classes in educational settings where students consume the prepared food does not require a food allergen declaration.

**Note:** Religious services are not considered food businesses and therefore any non-prepacked food consumed as part of a ritual during a religious service is not subject to written allergen declaration requirements.

6. Written allergen declaration requirements do not apply to residential units for people with disabilities as they are not considered food businesses in Ireland and are therefore not inspected by the Environmental Health Service of the Health Service Executive.

## 9. How to declare food allergens

Non-prepacked food usually does not require a list of ingredients, but where one is provided, any food allergens used in the production or preparation of that food must be emphasised in accordance with the requirements of the FIC Regulation and may not be repeated elsewhere outside of the ingredients list.

In the absence of a list of ingredients, food allergen information must be provided in written format by including the word “Contains...” followed by the particular allergen(s) (e.g. Contains wheat, barely, soya and egg).

*Manner in which allergen information is to be provided*

*5. (1) Subject to paragraph (2) and (3), a food business operator shall provide written particulars of any allergen in food presented or made available for sale or supply such that the information is –*

- (a) freely and easily accessible before the sale or supply of the food,*
- (b) at least in the English or in the Irish language and in the English language,*
- (c) in a conspicuous place, such that it is easily visible and available to the final consumer or mass caterer*
- (d) in clear legible script, and*
- (e) presented in a manner such that there is no possibility of confusion as to which food the information relates.*

Written allergen information (electronic or paper-based) must be provided at least in the English language, or Irish and English languages, although other languages may also be used in addition to, but not instead of English. The written allergen information must be made available so that it is conspicuous and easily accessible to the consumer without the need for staff assistance.

Written food allergen declarations must be legible to the average consumer and a minimum font size equivalent to 10 (Times New Roman) is considered appropriate. The written allergen declaration must clearly describe the regulated allergen(s) present in each menu item and can include the name of the allergen itself or, in order to save space, utilise a numbering or pictorial system which is clearly explained to the reader.

## Food Allergen Declaration for Non-prepacked Foods in Ireland

### EXAMPLES:

- a. In a catering business such as a restaurant or cafe, the written allergen information could be made available directly on the menu beside each menu option and anywhere that additional menu items (e.g. “Today’s Specials”) are highlighted such as on a chalkboard. The written allergen information could instead be provided in printed or electronic format and placed at a designated well signposted location(s) within the dining area that is conspicuous and freely accessible to customers without the need for staff assistance.
- b. In a takeaway or deli-style food business, the written allergen information could be made available through the regular printed or electronic menu displays, or in a designated well signposted and conspicuous location(s) within the food business easily accessible to consumers without the need for staff assistance.
- c. In a drive-through setting, the written allergen information must be provided before the purchase is concluded. The written allergen information could be provided on the display unit from which menu items are reviewed prior to placing an order and proceeding to pay. Alternatively, customers could be alerted to the presence of the written allergen information online or within the food business before they join the drive-through queue.
- d. Allergen information for food sold through distance selling must be provided before the purchase is concluded **and** at the moment of delivery (in written format for at least one of those time points).
- e. Contract caterers must provide allergen information for the non-prepacked foods they produce. Once the food is delivered to the customer and is compliant with the allergen labelling requirements, responsibility for that food and its safe use rests with the customer which could be a consumer or another food business.
- f. Written food allergen information is required for prepacked (e.g. bottles and cans) and non-prepacked (draught beer and cider, wine provided by the glass, cocktails, smoothies and juices) alcoholic and non-alcoholic beverages. Allergens in non-prepacked (draught) beer, for example, could be declared in writing on the price list where it would clearly identify the allergen(s) contained in each product and is easily accessible to customers without the need for staff assistance. Wine lists could include written allergen information while for other beverages, the written allergen information could be provided adjacent to, or as an addition to the price list at a conspicuous location(s) on the premises.

**NOTE:** Where it is established that a written allergen declaration is of limited benefit to a consumer (e.g. due to literacy difficulties, vision impairment or other limitations), it is advisable that the relevant allergen information is also communicated verbally.

## 10. Non-compliant allergen statements and declarations

### Voluntary allergen statements

The following are examples of voluntary statements used by some food businesses to inform consumers about allergens which, on their own, do not fulfil the legal requirement for written food allergen declarations in Ireland.

- Please ask a staff member for information on food allergens
- Food allergen information is available upon request
- We use all 14 food allergens
- All of our menu items (may) contain...
- This food business does not cater for people with food allergies.

### Precautionary allergen declarations

Precautionary allergen declarations such as “May contain...” or “Prepared in a kitchen that uses...” are voluntary declarations but are not a substitute for the allergen declarations required by S.I. No. 489 of 2014 for non-prepacked foods. Precautionary allergen declarations are permitted subject to the conditions set out in Article 36 of the FIC Regulation on voluntary food information and should only be applied after an appropriate risk assessment.

When a food business takes control of a food or an ingredient that is accompanied by a voluntary precautionary allergen declaration, it is up to the receiving food business to decide whether or not that precautionary allergen declaration should be passed on to their customers, which may be another food business or the final consumer. The receiving food business should seek a copy of the risk assessment on which the precautionary allergen declaration was based in order to inform their decision on whether to pass on that precautionary allergen declaration or not.

## 11. Compliance in practical situations

### Healthcare facilities

Healthcare facilities include hospitals where the physical, psychiatric or psychological needs of the residents are catered for, as well as care homes for elderly or disabled individuals. While many of these facilities have functioning restaurants or cafeterias, some residents may receive their food at a separate location, e.g. in a room or on a ward.

1. Where healthcare residents consume food in the designated dining areas, the written allergen information can be provided as it would for any restaurant setting. The written allergen information may need to be supplemented with verbal communication where it is established that an individual cannot avail of the written information, for example due to literacy difficulties, vision impairment or other limitations.
2. Where a healthcare facility resident has to dine in a private or semi-private room or on a ward, written information on food allergens must be provided so that they can make an informed choice about the food they consume. The written allergen information may need to be supplemented with verbal communication where it is established that an individual cannot avail of the written information, for example due to literacy difficulties, vision impairment or other limitations.
3. Where a healthcare facility resident is not in a position to understand or process written or verbal food allergen information, then it must be provided to a “responsible person” such as a designated family member, guardian/carer or staff member who will act on the resident’s behalf in making safe food choices. This information can then be added to the resident’s care plan and any relevant documentation so that food can be prepared for the resident taking into account any known food allergies or intolerances.

### Childcare facilities

Many parents avail of childcare facilities on a routine basis with meals provided as part of that service. However, young children are not likely to be in a position to make an informed choice when it comes to the consumption of food containing regulated food allergens. Therefore, written information on food allergens should be provided to parents, guardians, carers or designated staff members so that they can make an informed food choice on behalf of the child.

## **Charitable institutions**

Charitable institutions providing food at a physical location(s) or as a delivered service in the community must provide written information about food allergens in non-prepacked food. As this food is not purchased *per se*, the requirement to provide written information on food allergens for off-site consumption would apply at the point of presentation or supply. The provision of written information on food allergens may need to be supplemented with verbal communication where it is established that an individual cannot avail of the written information, for example due to literacy difficulties, vision impairment or other limitations.

For routine community services such as “Meals on wheels”, “Soup runs” etc., written allergen declarations must be provided in the first instance or until the food allergies or intolerances of an individual are established. From then on, written food allergen information is required only if the food options change.

## **Food vehicles, stalls or markets**

Food vehicles, stalls and markets, whether temporary or permanent must provide written food allergen information for all of their food options. Written allergen information must be made available so that the customer can easily access it without the need for assistance from attending staff. For example, the written allergen information can be printed and placed adjacent to the relevant food product or category, or the written allergen information for all foods can be provided in one or a number of locations (e.g. on a sheet of paper, a chalk/white board or electronically) easily accessible to customers without the need for staff assistance before they purchase a food. The provision of written information on food allergens may need to be supplemented with verbal communication where a person cannot avail of the written information, for example due to literacy difficulties, vision impairment or other limitations.

## **Food manufacturers and suppliers**

All food manufacturers and food suppliers are obliged to pass on allergen information to their customers, regardless of whether those customers are other food businesses (e.g. caterers) or the final consumer. The allergen information can be provided on the product label or on associated commercial documentation if supplying another food business. Food manufacturers or suppliers who do not or cannot provide allergen information pose a safety risk to consumers.

## **Detention facilities**

Detention facilities such as prisons can involve short or long term incarceration in high, medium and low security environments. Written allergen information for non-prepacked food must be



provided by a food business such as a prison kitchen when preparing food for the prison population. However, food may also need to be provided to individuals or groups of individuals outside of the regular dining areas. Written allergen information must also be made available in such situations, particularly where new or altered menu options become available. The provision of written information on non-prepacked food allergens may need to be supplemented with verbal communication where it is established that an individual cannot avail of the written information, for example due to literacy difficulties, vision impairment or other limitations.

## **Food provided on different modes of transport**

Planes, ferries and trains travel into and out of Ireland on a daily basis with food provided on all three modes of transport. As the requirements for the provision of allergen information on non-prepacked foods differs between Ireland and other EU Member States as well as non-EU (Third) countries, it is reasonable to expect that food provided on a journey originating in Ireland should comply with the Irish requirement for written allergen information.

## **12. Clarifications**

Despite the best efforts of policy makers, EU food law may contain some ambiguity that requires interpretation and clarification in order to facilitate harmonised implementation across the EU. The EU Commission published a Commission Notice in 2017 that clarifies a number of issues relating to the legal requirement to declare 14 food allergens as set out in the Food Information to Consumers Regulation (EU) No 1169/2011.

**COMMISSION NOTICE of 13.7.2017 relating to the provision of information on substances or products causing allergies or intolerances as listed in Annex II of Regulation (EU) No 1169/2011 on the provision of food information to consumers**

[https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52017XC1213\(01\)](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52017XC1213(01))

(Last accessed August 2022)

In the context of Annex II of the FIC Regulation, the following should be noted:

- "Cereals" as listed in Annex II, point 1 are to be understood as an exhaustive list.
- "Egg" in Annex II, point 3 refers to eggs from all farmed birds.
- "Milk" in Annex II, point 7 refers to milk from the mammary gland of farmed animals.
- "Nuts" as listed in Annex II, point 8 are to be understood as an exhaustive list.

## Food Allergen Declaration for Non-prepacked Foods in Ireland

- Annex II lists not only substances and products mentioned as such therein but also products thereof. In the case where microorganisms have been fed on a substrate which is a food ingredient included in Annex II, those microorganisms should not be considered as products derived from these substrates.

### The following clarifications apply whether there is an ingredient list or not:

1. Where ingredients are produced from cereals containing gluten, they have to be declared under a name making a clear reference to the specific type of the cereal, i.e. wheat, rye, barley, oats.

For example: barley malt vinegar, oats flakes.

2. The indication of a specific type of the cereal may be accompanied by the word 'gluten', added on a voluntary basis.

For example: wheat flour (contains gluten) or wheat flour (gluten).

3. Where gluten is added as such, as an ingredient, the type of cereal the gluten is derived from must be indicated.

For example: gluten (wheat), wheat gluten or gluten (from wheat) dextrin (wheat) or (wheat gluten); dextrin (contains wheat) or (contains wheat gluten).

4. When a product containing one of the cereals mentioned in Annex II (e.g. oats) meets the relevant requirements of Regulation (EU) No 828/2014 on the requirements for the provision of information to consumers on the absence or reduced presence of gluten in food, then the statement "gluten-free" or "very low gluten" can be used on the product. However, the cereal mentioned in Annex II still needs to be indicated and emphasised in the list of ingredients in accordance with Articles 9 and 21 of the FIC Regulation.

5. In the case of nuts, the specific type of nut as listed in point 8 of Annex II of the FIC Regulation must be indicated in the list of ingredients, i.e. almonds, hazelnuts, walnuts, cashews, pecan nuts, Brazil nuts, pistachio nuts, macadamia or Queensland nuts. Where ingredients or processing aids derived from nuts listed in Annex II have been used, the ingredient has to be indicated with a clear reference to the specific name of the nut.

For example: flavourings (almond).

## Exemption;

Article 21(1) of the FIC Regulation, last subparagraph provides that:

## Food Allergen Declaration for Non-prepacked Foods in Ireland

*"The indication of the particulars referred to in point (c) of Article 9(1) shall not be required in cases where the name of the food clearly refers to the substance or product concerned."*

According to this requirement, where a food is sold under a name such as "cheese", "cream" which clearly refers to one of the allergens listed in Annex II (e.g. milk) and for which it is not required to bear a list of ingredients pursuant to Article 19(1), point d) of the Regulation, the allergen in question does not have to be indicated on the label. However, if such food is sold under a trademark/brand name which as such does not clearly refer to one of the allergens in Annex II, the name concerned should be supplemented by additional information which provides the "clear reference" to the allergen concerned as stipulated by Article 21(1), last subparagraph.

For example: "Ambert" (as the name of the food) together with "farmhouse blue cheese" (as additional text to the name of the food, displayed in close proximity to the name of the food), where cheese is the clear reference to the substance in Annex II. As the consumer understanding of the name of the foods in question is likely to vary among Member States, an assessment on a case-by-case basis is necessary.

If the name of the food clearly refers to one of the allergens listed in Annex II and that food provides a list of ingredients (no matter whether on a voluntary or mandatory basis), the allergen present in that food has to be emphasised in the list of ingredients.

For example: "Cheese (**milk**, salt, rennet, ...)" where milk is emphasized.

In the case where the name of the food on a product clearly refers to a substance or product of Annex II but the product also contains other substances or products from Annex II, those allergens must be indicated to enable consumers to make informed food choices which are safe for them.

**NOTE:** For clarity, the FSAI advises that in the absence of an ingredient list, even the allergen indicated by the product name should also be included in a general allergen declaration if other food allergens are present.

## Additional clarifications developed by the FSAI and HSE

In the years since S.I. No. 489 of 2014 came into effect in Ireland, the FSAI and HSE have gained significant experience in regard to the implementation of the legal requirement to declare food allergens, particularly in relation to non-prepacked food. The following clarifications can be made based on this experience along with feedback from consumers and the food industry;

- Unless specifically exempted, Article 21.1(a) of the FIC Regulation is clear in that the 14 EU-regulated allergens must be declared as they are cited in Annex II of the FIC Regulation, even if the specific ingredient used has a different name. For example, cod listed as an ingredient in a fish-based food must highlight the word “**Fish**” in the list of ingredients, or declare it (with or without cod) where there is no list of ingredients. Similar requirements apply for crab or lobster which must highlight (**Crustacean**) and oysters or mussels which must highlight (**Molluscs**). Any ingredient derived from one of the 14 EU-regulated allergens but listed under a name different to that in Annex II of FIC must declare the priority allergen as it is cited in Annex II of FIC. An example is “Flour (**Wheat**)”.
- “Milk” is the food allergen listed in Annex II of the FIC Regulation and is the term that must be used to declare the presence of this allergen. The names of milk-derived products (“Whey”, “Dairy”, “Casein” etc.) can be used to describe the ingredient, but the allergen declarations for foods produced or prepared with milk or milk products must use the term “Milk”.
- There are no declaration exemptions for peanut-derived foods or ingredients. For example, a food fried in peanut oil must declare peanut as an allergen.
- Most wines contain sulphites which must be declared accordingly as an allergen.

## Annex I: substances or products causing allergies or intolerances as listed in annex II of regulation (EU) no 1169/2011

**1. Cereals** containing gluten, namely: wheat (such as spelt and khorasan wheat), rye, barley, oats or their hybridised strains, and products thereof, except:

wheat based glucose syrups including dextrose;

wheat based maltodextrins;

glucose syrup based on barley;

cereals used for making alcoholic distillates including ethyl alcohol of agricultural origin;

**2. Crustaceans** and products thereof;

**3. Eggs** and products thereof;

**4. Fish** and products thereof, except:

fish gelatine used as carrier for vitamin or carotenoid preparations;

fish gelatine or isinglass used as finding agent in beer and wine;

**5. Peanuts** and products thereof;

**6. Soybeans** and products thereof, except:

fully refined soybean oil and fat (1);

natural mixed tocopherols (E306), natural D-alpha tocopherol acetate, and natural D-alpha tocopherols succinate from soybean sources;

vegetable oils derived phytosterols and phytosterol esters from soybean sources;

plant stanol ester produced from vegetable oils sterols from soybean sources;

**7. Milk** and products thereof (including lactose), except: whey used for making alcoholic distillates including ethyl alcohol of agricultural origin;

lactitol

**8. Nuts**, namely: almonds (*Amygdalus communis* L), hazelnuts (*Corylus avellana*), walnuts (*Juglans regia*), cashews (*Anacardium occidentale*), pecan nuts (*Carya illinoensis* (Wangenh.) K. Koch), Brazil nuts (*Bertholletia excelsa*), pistachio nuts (*Pistacia vera*), macadamia or Queensland

nuts (*Macadamia ternifolia*), and products thereof, except for nuts used for making alcoholic distillates including ethyl alcohol of agricultural origin.

**9. Celery** and products thereof;

**10. Mustard** and products thereof;

**11. Sesame seeds** and products thereof;

**12. Sulphur dioxide and sulphites** at concentrations of more than 10 mg/kg or 10 mg/litre in terms of the total SO<sub>2</sub> which are to be calculated for products as proposed ready for consumption or as reconstituted according to the instructions of the manufacturers;

**13. Lupin** and products thereof;

**14. Molluscs** and products thereof;



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