

21 July 2022

Updated Guidance on Food Labelling Challenges Caused by the Crisis in Ukraine

The purpose of this guidance is to support a consistent approach to the labelling of foods, in the short term, where ingredients must be substituted due to supply issues. This guidance does not cover other legal requirements of food safety and production. Food business operators (FBOs) must ensure that they are complying in full with all other legal requirements.

Overview

Due to the ongoing crisis in Ukraine and the sanctions on Russia and Belarus, the Food Safety Authority of Ireland (FSAI) is aware that food business operators (FBOs) are continuing to experience difficulties regarding the supply of some foods, in particular, sunflower oil. This may result in food business operators having to omit or substitute certain ingredients or change the manufacturing process or recipe, at short notice.

The need to quickly switch to other ingredient(s) may present difficulties for FBOs in fully complying with all food labelling requirements under Regulation (EU) No 1169/2011 (FIC), and in particular, the specific requirements regarding the list of ingredients, the nutrition declaration or the country-of-origin indications.

In March 2022, the EU Commission recognised that some flexibility in the implementation of certain labelling requirements may be necessary, and this flexibility could be applied by individual competent authorities on a case-by-case basis.

The FSAI, in consultation with Government published initial guidance on food labelling challenges caused by the crisis in Ukraine and Russia on 25 March 2022, outlining the flexibility in terms of labelling of food. Since then, the FSAI carried out a survey of the food industry to consider the extent of the ongoing labelling challenges faced by FBOs and following further consultation with Government and the food inspectorate has reviewed and revised the guidance on labelling flexibility.

Labelling flexibility options

The following updated labelling options are available to FBOs to ensure that labelling of foods provides accurate information to the consumer:

1. Over-labelling or inkjet printing:

The use of additional stickers (i.e., over-labelling) or inkjet printing applied to current food labels to provide accurate information regarding the list of ingredients or nutritional composition of the food, where an ingredient(s) has been substituted. The font size of the information on the over-label or inkjet print must meet the minimum font size requirements set down in FIC.

2. Front-of-pack stickers e.g roundel stickers:

The immediate application of a sticker on the front label (e.g roundel sticker) to clearly indicate to consumers the ingredient that has been substituted and the name of the new ingredient. This option can be used where only the ingredient has been substituted and there is no other impact on the overall composition of the food. In this case, it is not necessary to over-label the original list of ingredients.

The information on the front-of-pack (e.g. roundel sticker) should be applied to the label in a conspicuous place so as to be easily visible and clearly legible for the consumer. The font size of the information on the roundel sticker must meet the minimum font size requirements set down in FIC.

Important Notice

Where any new ingredient used in the recipe is an **allergen** e.g soy lecithin, the use of the front-of-pack sticker alone is **not sufficient** and the list of ingredients would also need to be over-labelled with the allergen highlighted so it can be easily identified by the consumer.

FBOs are responsible for ensuring that any reference on the food label to the suitability to a vegan or vegetarian diet, kosher or halal labelling is considered where animal-based lecithin is used as a substitute ingredient.

Placement and application of the over-labelling, inkjet printing or front-of-pack stickers

It is essential that any over-labelling, inkjet printing or the application of front-of-pack stickers (e.g. roundel stickers) does not obscure any of the other mandatory information required to be declared on food labels.

Where an FBO uses the over-labelling or inkjet printing option or applies a roundel sticker, any other information on the label which highlights the presence or use of the substituted ingredients must be covered to avoid contradicting messages on the label which could mislead the consumer.

Critical to any such flexibility is the obligation on all FBOs to ensure that the safety of consumers' health and interests is not compromised and that only safe food is placed on the market.

Information on allergens contained in the food and durability (shelf-life) must always be available on the label.

FBOs are advised to inform their inspector before placing products or ingredients with additional over-labels (or inkjet printing) or front-of-pack stickers (e.g. roundel stickers) on the market.

Records of the compliance issue, the risk assessment and mitigation measures should be retained.

Assessment of compliance of the food ingredients before substitution

FBOs must ensure that any ingredients sourced as substitutes can be legally placed on the EU market and comply with all legal requirements, including those concerning contaminants, novel food and genetic modification.

Assessment of labelling of food products using substituted ingredients

The use of additional stickers (over-labelling, front-of-pack stickers) or inkjet printing on current food products labels to over label the list of ingredients, nutrition declaration or origin information can be considered once this does not impact the other mandatory information that must be available to the consumer.

It is up to each FBO to decide on the information that is to be over-labelled but it is essential that the information is clear, easy to read and does not obscure any of the other mandatory labelling information.

It is essential that all other mandatory labelling requirements of Article 9 of FIC not addressed in this guidance are met.

The intended customer should also be considered, i.e. the final consumer or business. Products supplied to other food businesses should have the full information, including the indication of any temporary non-compliance with EU law on the accompanying documents. This will enable the recipient food businesses to take appropriate measures to become legally compliant, such as updating the allergen information for consumers.

FBOs must also review their HACCP plans and make necessary adjustments to address potential hazards where ingredients have been substituted.

Food from other member states or imported from third countries

Foods from other member states (MS) or from Northern Ireland, with substituted ingredients, being placed on the market here in Ireland must comply with the labelling flexibility as discussed in this guidance. There may be flexibility options available in other MS related to the Ukraine crisis that are not applicable to foods placed on the Irish market, and vice versa. It is the responsibility of all FBOs to ensure that all food from MS or imported from Third countries which is being placed on the market here in Ireland meets the labelling requirements of this guidance. If any questions arise, FBOs could discuss the issue with their inspector.

Similarly, FBOs who wish to avail of labelling flexibilities for food follow-on formula and foods for special medical purposes produced or packed here in Ireland destined for other Members States or Northern Ireland, or exported to Third Countries, should contact the authorities in other countries to determine the labelling flexibilities that may apply.

Other considerations

(i) Infant formula, follow-on formula and foods for special medical purposes

Supplies of sunflower oil could affect the composition of infant formulae, follow-on formula and foods for special medical purposes, which have a very specific composition where other oils are required to be used as substitutes. Given the specific compositional requirements of infant formulae set down in Regulation (EU) 2016/127, the use of over-labelling, inkjet printing or the application of a front-of-pack sticker (e.g. roundel sticker) is not appropriate on infant formula, follow-on formula and foods for special medical purposes labels.

Any change to the recipe and labelling of these foods, would also require a new notification to the FSAI <https://notifications.fsai.ie/login>.

(ii) Other foods with specific compositional requirements

The labelling flexibility described in this guidance is not applicable to other foods with product specific legislation regulating their composition e.g. foods for total diet replacement for weight control.

(iii) Claims made on food labels

Where FBOs avail of the labelling flexibility options discussed in this guidance, they must ensure that any other additional information or claims provided on the food label which suggests the presence of the original ingredient which has been substituted must be considered to ensure that the consumer is not misled.

Timeline

This temporary flexibility has been introduced in response to the current situation and it is expected that FBOs will revert to normal labelling practises as soon as is possible. The flexibility options are permitted for a period of 6 months, subject to any additional guidance.

The FSAI will continue to monitor and review the situation, considering any future issues with the supply of additional ingredients, in line with any further advice from the European Commission. This guidance will be updated as necessary and FBOs should continue to check the FSAI webpage

As the situation stands, the FSAI would expect that at the end of the 6-month review period, all food labels will be fully compliant with FIC, and any flexibilities will no longer be necessary.