

**The Use of the Term ‘Butter’  
in the Labelling and Advertising  
of Fat Spreads**

**Guidance for Food Businesses**



**Guidance Note No. 30**  
**The Use of the Term ‘Butter’**  
**in the Labelling and Advertising**  
**of Fat Spreads**

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## **CONTENTS**

<b>1. INTRODUCTION</b>	<b>1</b>
<b>2. PURPOSE OF THIS GUIDANCE</b>	<b>1</b>
<b>3. SCOPE</b>	<b>2</b>
<b>4. BUTTER</b>	<b>2</b>
<b>5. COMMON ORGANISATION OF THE MARKETS IN AGRICULTURAL PRODUCTS: REGULATION (EU) NO 1308/2013</b>	<b>3</b>
<b>6. DEROGATIONS</b>	<b>5</b>
<b>7. FOOD INFORMATION FOR CONSUMERS (FIC) REGULATION (EU) NO 1169/2011</b>	<b>6</b>
<b>8. VOLUNTARY FOOD INFORMATION</b>	<b>7</b>
<b>9. SALES DESCRIPTION</b>	<b>7</b>
<b>10. CONCLUSIONS</b>	<b>8</b>

## **I. INTRODUCTION**

Due to the diverse range of food and food categories as well as the cultural and language differences inherent in 28 EU Member States, EU food law needs to be both prescriptive and flexible at the same time. To add to this complexity, many aspects of the production, processing and marketing of a food are regulated by legislation specific to that food or food category, while also being subject to other more general legislation such as that governing general food labelling as set out in the Food Information to Consumers (FIC) Regulation (EU) No 1169/2011. Because of its narrow focus, product-specific legislation (sectoral/vertical) may be more prescriptive and therefore, generally easier to interpret and apply. However, more general (horizontal) food legislation, such as that governing the provision of food information by necessity, applies to many foods while not overriding specific legislation where they overlap. In order to assist food businesses understand and comply with legislation that may be complex or difficult to interpret, guidance can be developed at EU or national level which brings a common understanding to the intent and meaning of that legislation.

## **2. PURPOSE OF THIS GUIDANCE**

The purpose of this guidance document is to harmonise the understanding and interpretation of EU and Irish food legislation as it relates to the provision of certain food information on fat spreads and provide guidance to food businesses to assist in their compliance with Regulation EU No 1308/2013. In particular, the focus will be on how the term 'butter' and derived terms ('buttery', 'butterly', etc.) are used on the labelling and advertising of some fat spreads. This guidance relies primarily on three pieces of EU legislation; (a) Regulation EU No 1308/2013 establishing a common organisation of the markets in agricultural products, (b) Commission Regulation (EC) No 445/2007 clarifying the derogations relating to sales descriptions used for spreadable fats and (c) the Food Information to Consumers (FIC) Regulation (EU) No 1169/2011 (S.I. No. 556 of 2014).

### **3. SCOPE**

This guidance applies to fat spreads on the Irish market with a particular focus on milk fat spreads which includes butter. The guidance is based on the interpretation of current EU and Irish legislation and will be updated as required.

### **4. BUTTER**

The use of the term 'butter' on the packaging or associated advertising material of fat spreads in the EU is intended to indicate to consumers that it is a churned-cream dairy product consisting primarily of butterfat, water, non-fat milk material and if necessary, salt. The composition of butter is clearly defined in EU and Irish food law and therefore, the appropriate use of the term 'butter' on fat spreads is limited to products meeting specific composition rules. However, references to 'butter' or the use of derived terms such as 'buttery' or 'butterly' have become a feature on the packaging and advertising of a number of fat spreads, some of which are not butter or do not contain butter. Regardless of the reason, the inappropriate use of the term 'butter' on the labelling and advertising of fat spreads could be considered a breach of the compositional rules. In some cases, it also has the potential to mislead consumers into purchasing certain fat spreads in the mistaken belief that they consist of or contain butter, which would be in contravention of the FIC Regulation (EU) No 1169/2011.

## 5. COMMON ORGANISATION OF THE MARKETS IN AGRICULTURAL PRODUCTS: REGULATION (EU) NO 1308/2013

Regulation (EU) No 1308/2013 establishes a common organisation of the markets in agricultural products. Article 78 of this Regulation deals with definitions, designations and sales descriptions for certain sectors and products while restricting the use of certain terms:

*“2. The definitions, designations or sales descriptions provided for in Annex VII may be used in the Union only for the marketing of a product which conforms to the corresponding requirements laid down in that Annex.”*

Annex VII referred to in Article 78 relates to the definitions, designations and sales description of certain products, with Part III of the Annex specifically relating to milk and milk products, butter being considered a milk product.

### ***“Milk and milk products***

*2. For the purposes of this Part, “milk products” means products derived exclusively from milk, on the understanding that substances necessary for their manufacture may be added provided that those substances are not used for the purpose of replacing, in whole or in part, any milk constituent.*

*The following shall be reserved **exclusively** for milk products.*

*(a) The following names used at all stages of marketing:*

- i. Whey*
- ii. Cream*
- iii. Butter***
- iv. Buttermilk*
- v. Butteroil*
- vi. Caseins”*

This legislation clarifies that the term ‘butter’ may only be used on the labelling and advertising of milk products that meet the compositional criteria set out in Part III of Annex VII to Regulation (EU) No 1308/2013.

Spreadable fats are available on the EU market, with some consisting of milk fat, either exclusively or in part, and others consisting of vegetable and/or animal fat, but no milk fat. The exact compositional criteria for all spreadable fats are provided in Appendix II to Regulation (EU) No 1308/2013. The composition of products containing milk fat and their sales descriptions are as follows:

Fat Group	Sales Description	Product Categories
<b>Definitions</b>		<b>Additional description of the category with an indication of the % fat content by weight</b>
<p><b>A. Milk fats</b></p> <p>Products in the form of a solid, malleable emulsion, principally of the water-in-oil type, derived exclusively from milk and/or certain milk products, for which the fat is the essential constituent of value. However, other substances necessary for their manufacture may be added, provided those substances are not used for the purpose of replacing, either in whole or in part, any milk constituents.</p>	<ol style="list-style-type: none"> <li>1. Butter</li> <li>2. Three-quarter fat butter</li> <li>3. Half-fat butter</li> <li>4. Dairy spread X%</li> </ol>	<p>The product with a milk fat content of not less than 80% but less than 90%, a maximum water content of 16% and a maximum dry non-fat milk material content of 2%</p> <p>The product with a milk fat content of not less than 60% but not more than 62%</p> <p>The product with a milk fat content of not less than 39% but not more than 41%</p> <p>The product with the following milk-fat contents:</p> <ul style="list-style-type: none"> <li>– Less than 39%</li> <li>– More than 41% but less than 60%</li> <li>– More than 62% but less than 80%</li> </ul>

## 6. DEROGATIONS

Regulation (EU) No 1308/2013 establishes the principle that the sales descriptions of milk and milk products (which includes butter) may not be used for products other than those described in Part III of Annex VII of that Regulation. However, point 5 of Annex VII (III) specifies that *“This provision shall not apply to the designation of products the exact nature of which is clear from traditional usage and/or when the designations are clearly used to describe a characteristic quality of the product”*. Products falling within the scope of this derogation are listed in Commission Decision 2010/791/EU and include shea butter, nut butter (e.g. peanut butter), cocoa butter, butter puffs and butter beans. The other products falling within the scope of this derogation are set out in Annex I of Commission Regulation (EC) No 445/2007:

1. ‘Brandy butter’, ‘sherry butter’ and ‘rum butter’ (sweetened alcoholic products with a minimum milk fat content of 20%)  
and
2. ‘Buttercream’ (a sweetened product with a minimum milk fat content of 22.5%)

Commission Regulation (EC) No 445/2007 provides further clarity on derogations relating to sales descriptions used for spreadable fats. Article 3.1 of this Regulation specifies that the designation ‘butter’ may be used in reference to ‘composite products’ of which an essential part is butter. However, this is only permitted where the end product contains at least 75% milk fat and it has been manufactured from butter and the other added ingredients mentioned in the description. Article 3.2 stipulates that the term ‘butter preparation’ must be used in relation to the composite products specified in Article 3.1 where the milk fat content is less than 75% but greater than 62%. Where it is used, the designation ‘butter preparation’ must be in a legible format and placed in an easily visible and conspicuous place. However, Article 3.3 allows for a derogation whereby the use of the term ‘butter’ is permitted in reference to ‘alcoholic butter (butter containing alcoholic beverages)’ with a minimum milk fat content of 34%.

## **7. FOOD INFORMATION FOR CONSUMERS (FIC) REGULATION (EU) NO 1169/2011**

The Food Information for Consumers (FIC) Regulation (EU) No 1169/2011 (S.I. No. 556 of 2014) governs the provision of food information to consumers in the EU and repealed the general food labelling Directive 2000/13/EC. A fundamental principle of the FIC Regulation set out in Article 7 under “Fair Information Practices” stipulates that food information in the form of labelling or advertising should be accurate, clear and easy to understand, but should not mislead the consumer. Information about a food can be in the form of written text, pictorial representations or symbols and also the way in which a food is presented.

### **“Fair information practices**

*1. Food information shall not be misleading, particularly:*

- (a) as to the characteristics of the food and, in particular, as to its nature, identity, properties, composition, quantity, durability, country of origin or place of provenance, method of manufacture or production;*
- (b) by attributing to the food effects or properties which it does not possess;*
- (c) by suggesting that the food possesses special characteristics when in fact all similar foods possess such characteristics, in particular by specifically emphasising the presence or absence of certain ingredients and/or nutrients;*
- (d) by suggesting, by means of the appearance, the description or pictorial representations, the presence of a particular food or an ingredient, while in reality a component naturally present or an ingredient normally used in that food has been substituted with a different component or a different ingredient.*

*2. Food information shall be accurate, clear and easy to understand for the consumer.*

*3. Subject to derogations provided for by Union law applicable to natural mineral waters and foods for particular nutritional uses, food information shall not attribute to any food the property of preventing, treating or curing a human disease, nor refer to such properties.*

*4. Paragraphs 1, 2 and 3 shall also apply to:*

- (a) advertising;*
- (b) the presentation of foods, in particular their shape, appearance or packaging, the packaging materials used, the way in which they are arranged and the setting in which they are displayed.”*

## 8. VOLUNTARY FOOD INFORMATION

Chapter five of the FIC Regulation relates to voluntary food information which is information about a food that is not legally required and is used at the discretion of the food business. Terms such as 'buttery' or 'butterly' as well as sentences and phrases including the word 'butter' on the labels or advertising material associated with fat spreads can fall into this category and the FIC Regulation sets out certain requirements for their appropriate use:

*"Article 36: **Applicable requirements***

*2. Food information provided on a voluntary basis shall meet the following requirements:*

- (a) it shall not mislead the consumer, as referred to in Article 7;*
- (b) it shall not be ambiguous or confusing for the consumer; and*
- (c) it shall, where appropriate, be based on the relevant scientific data."*

## 9. SALES DESCRIPTION

Annex VII of Regulation (EU) No 1308/2013 defines 'sales description' as the name under which a food is sold within the meaning of Article 17 of the FIC Regulation. The name of a food is a 'mandatory particular' as set out in Article 9,1.(a) of the FIC Regulation and therefore, it must be placed in a conspicuous position on prepacked food, easily visible and clearly legible within a prescribed minimum font size. It must not be in any way hidden, obscured, detracted from or interrupted by any other written or pictorial matter or any intervening material (Article 13).

## 10. CONCLUSIONS

Application of the following marketing conditions should ensure that fat spreads are correctly labelled and that the word 'butter' and derived terms are used appropriately:

- The word 'butter' should not be displayed in isolation on packaging or advertising material associated with fat spreads that cannot legally be designated as 'butter' in line with Appendix II of Regulation (EU) No 1308/2013
- The sales descriptions defined in Appendix II of Regulation (EU) No 1308/2013 are the legal designations of fat spreads in the EU and as mandatory particulars, their presentation must be in line with the provisions of the FIC Regulation (EU) No 1169/2011
- The use or emphasis of the word 'butter' in phrases or sentences on the packaging or advertising of fat spreads must not mislead consumers
- The use of the word 'butter' or 'butter preparation' in relation to composite products must adhere to the rules set out in Commission Regulation (EC) No 445/2007
- Terms derived from the word 'butter' such as 'buttery' or 'butterly' amongst others should only be used on packaging or advertising associated with fat spreads if it is clear to consumers that they relate to organoleptic properties of the product, e.g. 'buttery' taste, 'buttery' flavour etc.

**NOTES**

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