

Definition of Small Quantities and Local Retail Supply for Nutrition Labelling Purposes

Background:

Regulation (EU) No. 1169/2011 sets down the rules regarding the provision of food information. This legislation which has applied since 2013 requires that prepacked food must provide nutrition information from the 13 December 2016 onwards with certain exemptions, one such exemption is:

Food, including handcrafted food, directly supplied by the manufacturer of small quantities of products to the final consumer or to local retail establishments directly supplying the final consumer.

[S.I. No. 559 of 2016](#) defines what is meant in Ireland by ‘small quantities’ and also defines ‘local’. Food manufacturers who meet the criteria will be exempt from the mandatory obligation to provide nutrition information on their prepacked food. Food includes beverages¹.

In Summary:

The new Regulations

- Amend the European Union (Provision of Food Information to Consumers) Regulations 2014 (S.I. No. 556 of 2014)
- Apply to ‘prepacked’² food. This legislation does not apply to food that is sold loose or packed in the premises from which it is sold.
- Apply only to manufacturers who either supply their products directly to the final consumer or to local retail establishments that in turn supply directly to the final consumer.
- Define ‘local retail establishment’ as a retail establishment that is not more than 100km from the place of manufacture.
- Define ‘small quantities’.
- Provide an option for food manufacturers to base the calculation of the quantity supplied on either weight (kilograms or litres) or number of units.
- Apply to the total quantity of food produced by a food manufacturer.
- Require food manufacturers to prove that they meet the terms of the exemption.

¹ Alcoholic beverages are not currently obliged to provide nutrition information

² 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

Definitions

1. What is meant by 'small quantity'?

A small quantity is defined as:

- (a) 250 kilograms or litres of products per week, or 13,000 kilograms or litres of products per year,

OR

- (b) 500 units per week, or 26,000 units per year

2. What is a 'unit'?

A unit is defined as being 'the form in which a product is offered for sale to the final consumer'. Therefore a unit can vary in size and a package can contain more than 1 item. For example, a unit could be a prepacked cake or a prepacked slice of cake or a prepacked selection of cakes.

3. What is meant by 'local retail establishments'?

A 'local retail establishment' is defined as a retail establishment that is not more than 100 km from the place of manufacture of the food product. A food manufacturer can supply more than 1 local retail establishment.

4. What is a 'retail establishment'?

A retail establishment is any establishment selling food directly to the public for e.g. a supermarket, a hotel, a market stall, a café or similar premises.

Food Manufacturers

5. Who can avail of the exemption from the mandatory obligation to provide nutrition information on their prepacked food?

A manufacturer of food, who provides small quantities of food directly to the consumer or who supplies local retail establishments who supply directly to the consumer.

6. Who is responsible for ensuring that the conditions of the exemption are met?

It is the responsibility of the food manufacturer to prove that they meet the necessary conditions of the exemption.

7. How does a food manufacturer prove that their prepacked products are exempt from the requirement to provide nutrition information?

The food manufacturer must have documents or records available which prove that their total supply of food does not exceed the quantities set out for 'small quantities' and if supplying local retail establishment(s) that those establishment(s) are located within 100km of the place of manufacture of the food product(s).

8. How long must records be kept?

The legislation requires that the records relating to proof of the exemption from the requirement to provide nutrition information must be kept for a minimum of 2 years. For products which have a shelf-life longer than two years, records must be kept until it can be reasonably assumed that the food has been consumed.

9. What does 'permanent legible form' mean when it comes to record keeping?

Where electronic records are kept by a food manufacturer in a coded/numerical form, they must be capable of being converted to a legible format that inspectors can check. The records must be permanent in that they are capable of being reproduced. Hand written records must be legible. Records relating to proof of the exemption from a nutrition declaration must be kept for a minimum of 2 years. For products which have a shelf-life longer than two years, records must be kept until it can be reasonably assumed that the food has been consumed

10. What about internet sales, is this included?

Food manufacturers supplying their products via the Internet must meet the criteria set down in the legislation in order to qualify for the exemption from the mandatory requirement to provide nutrition information on prepacked foods. A food manufacturer must supply directly to the consumer and/or to retail establishments located within 100km of the manufacturers' place of production. The manufacturers' total supply cannot exceed the quantities set down for 'small quantities'.

11. Is packaging included in the weight calculation?

Only the net weight of the food is considered and not the weight including packaging for e.g. in the case of a jar of jam, the weight that is considered is the weight of the jam only and not the weight of the jar.

12. What about produce already packed or on sale prior to 13th December 2016 that does not provide nutrition information?

Any food that is labelled or placed on the market prior to 13th December 2016 in accordance with the existing rules can remain on the market. Any food that is labelled from the 13th December 2016 onwards must provide nutrition information, except in cases where the food is exempt.

Retailers

13. How will the local retailer know that the manufacturer does not have to provide nutrition information on their prepacked products?

The legislation places an obligation on the food manufacturer availing of the exemption to provide confirmation of their right to avail of the exemption to the local retail establishment(s). This information must be indicated on the commercial documents relating to the food.

14. What should the confirmation state?

The legislation does not set down any particular text. A suggested format could be:

‘Insert Name and address of manufacturer’ qualifies for the exemption from the requirement to provide nutrition information as set out under [S.I. No. 559 of 2016](#).

15. Can a retailer supply exempted products to other local shops, restaurants or hotels?

No. Exempted products supplied to the retailer by a manufacturer can only be sold directly to the consumer by the retailer.

Some Common Questions

16. Can total quantity be calculated using a combination of weight/volume and units?

No, each food manufacturer must decide which unit of measurement is most appropriate for them. Total quantity can only be based on kilogrammes/litres **or** units but not both. For e.g. in the case of a manufacturer of apple tarts and apple juice, the manufacturer must decide if its more appropriate to use the weight/volume limit (i.e. maximum of 13,000 kg/l per annum) or the unit limit (i.e. maximum of 26,000 units per annum).

17. I only make my product at certain times of the year and I will exceed the weekly figure set down in the legislation, can I still qualify for the exemption?

The weekly limits are set down for food manufacturers who produce throughout the year. A total yearly amount is also set down, which seasonal producers can avail of. The overall total quantity of 13,000 kg/l or 26,000 units must not be exceeded by any food manufacturer availing of the exemption.

18. I make small quantities of food and supply a number of retail establishments but one retailer is further than 100km. Can I still avail of the exemption?

No, in order to avail of the exemption you must meet the all the criteria i.e. the total supplied must not exceed the limits set down for ‘small quantities’ and product can only be supplied to retail establishments which are within 100km of your place of production.

19. I bake scones and tarts in my home and supply them to the local shop and to a local hotel can I avail of the exemption?

Yes, you can avail of the exemption if you produce 'small quantities' of food as defined in the legislation and both the local shop and hotel are located within 100km of your home.

20. I am a wholesaler of a range of products; can I apply for an exemption?

No, this legislation only applies to manufacturers making food to supply directly to consumers or who supply their produce to local retailers (see definition of local).

21. I bake breads and cakes which I sell without packaging at a farmers market, must I provide nutrition information?

No, the obligation to declare nutrition information only applies to foods which are sold prepacked.

22. I bake bread at home which I sell prepacked to a local shop and I also sell my prepacked bread to consumers from a market stall. Can I avail of the exemption?

Yes, if you meet the criteria for the exemption i.e. the total amount of product supplied by you must not exceed the definition of 'small quantity'. The local shop must not be more than 100 km from your home i.e. the place of manufacture of the bread. The same rules apply to the market stall and the local retail establishment.

23. I manufacture and prepack items that I supply to my own shops. Can I avail of the exemption?

Yes, if the total amount of product supplied by you does not exceed the amount given in the definition of 'small quantity' and the shops supplied by you are within 100km of the place of manufacture.

24. I manufacture and prepack items that I supply to consumers over the internet, sell in my shop and I also supply to some local retail establishments. Can I avail of the exemption?

Yes, if the total supply does not exceed the amount given in the definition of 'small quantity' and the local retail establishments supplied by you are within 100km of the place of manufacture. There are no distance restrictions for internet sales of food produced by the manufacturer and sold directly to the consumer.

25. I do not qualify for the exemption, what must I do?

If you do not meet the criteria for the exemption, and your prepacked product is not one of the EU exempted products (see list on the next page), then you must provide nutrition information in the format set out in the EU legislation.

See the FSAI booklet on '[Food Information on Prepacked Food](#)' for further information on the format and content of the nutrition declaration.

Foods which are exempted from the requirement to provide the mandatory nutrition declaration³

1. Unprocessed products that comprise a single ingredient or category of ingredients
2. Processed products which the only processing they have been subjected to is maturing and that comprise a single ingredient or category of ingredients
3. Waters intended for human consumption, including those where the only added ingredients are carbon dioxide and/or flavourings
4. A herb, a spice or mixtures thereof
5. Salt and salt substitutes
6. Table top sweeteners
7. Products covered by Directive 1999/4/EC of the European Parliament and of the Council of 22 February 1999 relating to coffee extracts and chicory extracts, whole or milled coffee beans and whole or milled decaffeinated coffee beans
8. Herbal and fruit infusions, tea, decaffeinated tea, instant or soluble tea or tea extract, decaffeinated instant or soluble tea or tea extract, which do not contain other added ingredients than flavourings which do not modify the nutritional value of the tea
9. Fermented vinegars and substitutes for vinegar, including those where the only added ingredients are flavourings
10. Flavourings
11. Food additives
12. Processing aids
13. Food enzymes
14. Gelatine
15. Jam setting compounds
16. Yeast
17. Chewing-gums
18. Food in packaging or containers the largest surface of which has an area of less than 25 cm²
19. Food, including handcrafted food, directly supplied by the manufacturer of small quantities of products to the final consumer or to local retail establishments directly supplying the final consumer

³ Annex V to Regulation (EU) No. 1169/2011 on the provision of food information to the consumer.