

Food Alert

Countdown to Calorie Labelling



The law on calorie labelling for Out of Home [OOH] food and drink is changing

Calorie counting is coming to a restaurant near you! That's the message from the government, which has introduced legislation to implement mandatory calorie labelling for food and drink served outside of the home as **from 6th April 2022**.

The law will impact businesses where food or drink is prepared in a way that means it is ready for immediate consumption, on or off the premises and who have 250 or more employees.

Here at Food Alert our team of experts have pulled together a handy guide to help prepare your business for the new regulations.

Businesses in scope

The requirement to calorie label extends to any business with 250 or more employees ('a qualifying business') which offers for sale non-prepacked food or drink suitable for immediate consumption by the person who buys it.

For example, the types of businesses covered by the requirement include (but may not be limited to):



Restaurants, fast food outlets, cafes, pubs and supermarkets



Home delivery services and third-party apps selling food that is in scope



Cafes and takeaways within larger shops and venues, such as supermarkets, department stores, and entertainment venues such as cinemas



Specialist food stores, delicatessens, sweet shops and bakeries



Contract catering – for example, for events and canteens (see mass catering subsection below)



Domestic transport businesses including planes, trains, ferries and other forms of water transport within the UK



✔ What foods require calorie labelling?

- Offered for sale in a form which is suitable for immediate consumption
- Not prepacked food
- Not exempt food

Exempt foods include:

- ✗ Fresh fruit or vegetables, including potatoes, provided that they are not added to other food, or sold as an ingredient in food consisting of more than one ingredient – e.g. loose fruit in a supermarket is exempt however if it is prepared into a fruit salad then it must be calorie labelled
- ✗ Unprocessed products consisting of a single ingredient which do not come under the fresh fruit or vegetable category above e.g. herbs and nuts
- ✗ Fish, meats or cheese, provided that the fish, meat or cheese is not added to other food, or sold as an ingredient in food consisting of more than one ingredient e.g. sliced ham or smoked salmon from a meat or fish counter. However if it is an ingredient in a build your own sandwich for example then the calorie information must be displayed
- ✗ Loaf of bread or baguette (rolls or buns do require calorie labelling)

Food for particular audiences

Exempt foods for particular audiences includes:

- ✗ Food which is a temporary menu item, such as specials, that are available for less than 30 consecutive days and a total of 30 days in any year
- ✗ Food that is provided by a charity during its charitable activities, free, or for a price which is less than the cost of providing that food
- ✗ Food which is provided at an educational institution for pupils below the age of 18 years old
- ✗ Food provided (not for payment) to patients at a hospital or other medical establishment, or to residents of a care home or other social care institutions
- ✗ Food served by the armed forces to a member of the armed forces outside a military canteen
- ✗ Food that is served on international transport (on an aircraft, a train or a ferry) to or from a country that is not part of the United Kingdom
- ✗ Food which is not included on the menu, or otherwise offered for sale and which is expressly requested by the consumer to be made available or prepared differently to the way it is usually prepared
- ✗ Alcoholic drinks over 1.2% ABV
- ✗ Condiments which are provided to be added by the consumer to their food (this exemption does not include condiments which are part of the food served)





What are the rules for displaying calorie information?

The Regulations dictate that you must:

- Display the energy content of the food in kilocalories (kcal)
- Reference the size of the portion to which the calorie information relates
- Display the statement that 'adults need around 2000 kcal a day'

I operate a franchise – do I need to comply?

In order to determine how many employees a business has and therefore whether calorie labelling applies to you, if you operate a franchise in accordance to a franchise agreement, with an identifiable food 'brand', then you are considered part of the franchisor's business and not as a standalone enterprise. Franchisees trading under these circumstances, where the number of employees across the franchise network is 250 or more, will be required to calorie label. But it is the responsibility of the business selling the food (the franchisee) to ensure that calorie information is displayed in accordance with the Regulations.

The only exemption is where franchising arrangements do not mandate a common food offer across the franchise network, or only cover the provision of alcoholic drinks.

Does the legislation impact food delivery / sold online?

The short answer is **YES**. all food sold online, irrespective of the number of employees that the delivery service may have, is required to display the calorie information as long as the business making the food is within the scope of the regulations e.g. has over 250 employees. You will be required to comply with calorie labelling if you sell ready to eat meals through a website or mobile application, including third party delivery apps. For remote fulfilment providers, such as third-party delivery parties, businesses providing the food must give the provider the calorie information for display on the website or mobile application.

Tips for where and how to feature calorie labelling:

Calorie information, the reference to portion size, and the statement of daily calorie needs must be displayed clearly and prominently at the point where customers choose what food to buy.

For example on:

- A menu next to the description or price of the food on the premises
- A label identifying the food or next to the food where food is chosen from a display case on the premises online menu
- The information must be visible, clearly legible, and not hidden or obscured by pictures / graphics or other written content
- Menus without calorie information can be provided, but only when requested by the customer (a menu with the required calorie information must be offered to the customer by default)
- Meal deals: You should provide calorie information for each of the individual items that the customer could choose from as part of their meal deal
- Build your own: for example, sandwich shop owners, could provide calorie information for the base product, the bread, along with calorie information for a standard portion for each of the filling options
- Coffee menu board: cafes and coffee shops could provide calorie information on their menu board using the standard milk offer (for example semi-skimmed milk) and refer customers to a menu which displays the calorie content of coffees made with the different milk varieties on offer
- Sharing platters / whole cakes: calorie information must be provided for the whole item, along with information on how many people that item is intended to serve (for example 'serves 3 people' or 'serves 2 to 3 people')
- Referencing portion size: businesses are required to display the energy content of a single portion, or where the item has been prepared for consumption by more than one person, of the whole item

How do I calculate the calories?

With so many variables, counting calories can be complex. However, it's up to businesses to develop and implement processes that ensure the calorie information they are giving is as accurate as possible. There is a 20% variable that will be considered an acceptable margin of difference between declared and actual calorie values.

The calorie content displayed should be calculated using the conversion factors listed in Annex XIV of the Retained EU Regulation 1169/2011 on the provision of food information to consumers and should be average values based on either:

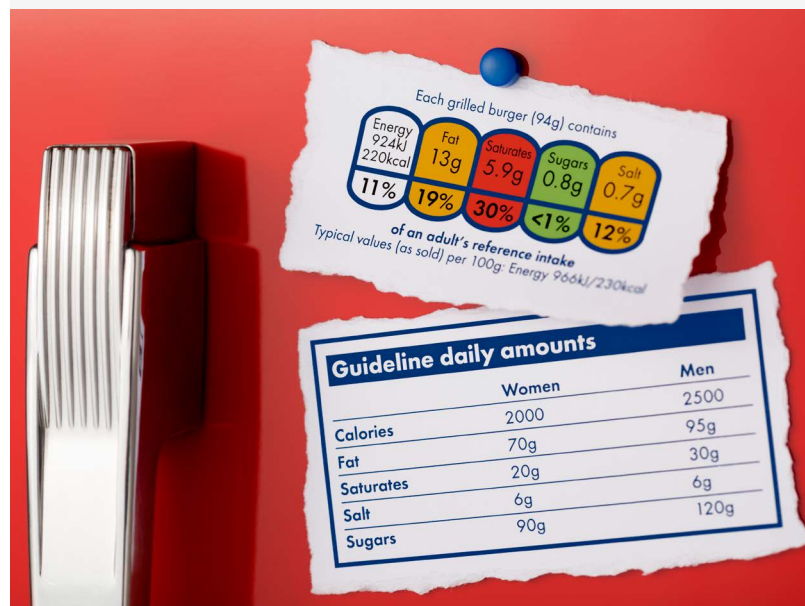
- The manufacturer's analysis of the food
- A calculation from the known or average values of the ingredients used
- A calculation from generally established and accepted data (in the UK this usually refers to the McCance and Widdowson's Composition of Foods dataset)

To demonstrate the accuracy of calorie calculation it will be helpful if businesses keep records to explain to enforcement officers how calorie information has been calculated for recipes.

How will the legislation be enforced?

It is expected that enforcement officers will check the following:

- The presence of calorie information on food and drink items that are in scope of the policy
- Calorie information is displayed as per the requirements under the Regulation
- The method businesses have used to calculate calorie content is considered appropriate and reliable
- Calorie information is appropriately displayed on any online presence that the business may have, including third party delivery platforms



How Food Alert can help? You can count on us!

To help you meet the calorie labelling requirements, why not take a look at our Smart Chef software? A simple online recipe management system storing all menu information in one place, including nutrition and allergen data for all recipes, meaning accessing your calorie information couldn't be easier!

If you'd like the backing of our expert team, simply give us a call in **020 7244 1900** and our team will be happy to discuss your compliance needs.

Or get in touch with us **online** and we'll call you back at a time that suits you.