

## Counting the Calories

# The New Calorie Labelling Regulations Explained



## **Calorie labelling? Talk to me...**

This spring, the Government in England and Northern Ireland is making it compulsory for big businesses operating in the out of home sector to publish the calorie content of some food and drink products. The new legislation is called The Calorie Labelling Regulations. Or, 'The Calorie Labelling (Out of Home Sector) (England) Regulations 2021' to give them their full title. The regulations apply to foods offered for immediate consumption including PPDS (pre-packaged for direct sale) items. Most commonly, calorie information will be displayed on packaging however, for non PPDS goods such as items in displays and buffets or on shelving, calorie information will be required on menus, ticketing or even a website depending on the consumers 'point of choice' ie. how the food is purchased. The regulations affect restaurants, cafes and takeaways, as well as supermarkets and other retailers - you'll find further info below.

## **When do the Calorie Labelling Regulations come into effect?**

At the start of the new tax year which is the 6th of April 2022.

## **Who do they affect?**

Out of home food businesses with 250+ employees must display calorie information on food labels and / or menus.

## **What about SMEs (small and medium sized businesses)?**

SMEs are not currently being called on to display the information by law. This said, the government will review the Regulations in five years and may extend to small businesses in the future.

## **Why are calories being included on labels, menus and ticketing?**

To help the public make healthier, more informed food choices when eating out.

## **Where are the Regulations being introduced?**

The new laws extend to England and Wales, but apply to England only.

## **Do the Calorie Labelling Regulations apply to Scotland?**

Calorie labelling is being considered for all Scottish foodservice businesses with a view to roll out in 2023. The Scottish Government is hoping to address growing obesity concerns, its proposed laws would require operators in all sectors to provide calorie information on labelling or menus, not just those in the out of home sector.

## **What about Wales?**

Wales are still reviewing their options and are, in part, waiting to see what impact the legislation has in England. The Welsh Government has said it is considering cross UK approaches

## Who will enforce the laws?

The English government is working with the food and drink sector and local authorities to ensure the smooth roll out of the Calorie Labelling Regulations meanwhile, enforcing and executing the laws falls to the relevant local authority. A maximum fine of £2,500 may be given to anyone who fails to comply; however an improvement notice will be issued first (so businesses will receive a warning first)

## Who do the Calorie Labelling Regulations apply to?

Businesses with 250 or more employees on the first day of the financial year (6th April, 2022).

## Who is exempt?

Okey dokey, this is where things get a little bit more complicated. The legislation excludes foods provided by certain audiences, these are:

- food that is provided by a charity, in the course of its charitable activities, free, or for a price which is less than the cost of providing that food; or offered for sale by or on behalf of a charity, at a single event, to raise funds for its charitable activities
- food which is provided at an educational institution for pupils below the age of 18
- food provided (otherwise than for payment) to patients at a hospital or other medical establishment, or to residents of a care home or other social care institution
- 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

The Calorie Labelling Regulations also exclude some 'mass catering' set ups therefore calorie labelling is not required in certain situations where food is provided 'in-house'. However, if said food is provided by another organisation with 250 or more employees (a contract caterer), calorie information must still be displayed. These rules apply to the following establishments:

- an educational institution for those over 18
- a military establishment
- criminal justice accommodation
- a hospital or other medical institution
- a care home or other institution providing social care
- a canteen at a workplace providing food to employees

So, for example, charity bakes sales and homeless shelters fall outside of the regulations. Meanwhile, university caterers are exempt but only if they provide food and drink through an in-house team.

We have queried how the regulations apply in certain other situations - such as a local authority-run attractions like a museum - and will update you as soon as we have clarification.

### **Do the Calorie Labelling Regulations apply to schools and colleges?**

Nope, food which is provided at an educational institution for pupils below the age of 18 years old are exempt from the Calorie Labelling Regulations (see 'who is exempt?' above)

### **Do franchised businesses need to provide calorie information?**

If you look and trade in the business model of your franchisor, yes, because franchised businesses are considered part of the wider franchisor organisation rather than a separate entity. The only exception to this rule is where the franchise agreement is limited to alcohol (some pubs for example) whereby the franchisee is permitted to serve whatever foods they like.

### **Do the Calorie Labelling Regulations apply to all foods?**

The regulations apply to foods offered for immediate consumption including PPDS (prepackaged for direct sale) items.

### **Are any foods exempt?**

Yes, quite a few. Most notably condiments (if added by the consumer) and some seasonal or limited offerings.

Exempt foods include:

- food which is on the menu temporarily, that is for less than 30 consecutive days and a total of 30 days in any year
- 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 (alcohol by volume)
- 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)

### **How's about food sold for consumption off premises?**

Fresh fruit and vegetables (provided they are not added to another food or sold as an ingredient in a food of two or more ingredients like a salad) do not require calorie labelling. Likewise unprocessed, single ingredient products such as herbs, nuts and seeds. Fish, meats, cheese - even a loaf of bread - are all exempt too provided they are not part of a sandwich or other food consisting of two or more ingredients.

## Do the Calorie Labelling Regulations apply to food purchased online?

Absolutely, food offered for sale in England via a website or app (this includes third party apps like Deliveroo) must comply:

*'Where food in scope of the Regulations is sold on a website or mobile application, the business responsible for that website or mobile application (the 'remote provider'), irrespective of the size of their business, is required to display the calorie information of food offered for sale by any qualifying business. Where the remote provider offers for sale food which another business has provided, such as third-party delivery apps, the business providing the food must give the remote provider the calorie information for display on the website or mobile application'.*

*'If food is sold by distance selling means, such as online or by phone, calorie information must be made available to the customer when the food is delivered. Means of providing information on delivery to the customer include enclosing a copy of a calorie labelled menu with the order or placing stickers on food containers displaying calorie information. Written calorie information could also be presented to the customer by the member of staff from the business delivering the food, provided it is clear how the written information relates to each food item delivered'.*

## Where should I display calorie information?

Calorie information should be displayed at the point of choice for your customers so that's food labels and ticketing (including shelf edges, deli tickets and so, menus (physical or online) or via your food delivery platform. If your customers can choose their food and drink from multiple locations around your premises, you will need to provide calorie information at each point.

## How should I display the calorie content of my food and drink products?

Qualifying businesses should:

- display the energy content in kilocalories (kcal) of a single portion of the food
- OR, if prepared for consumption by more than one person, the whole item
- reference the size of the portion to which the calorie information relates
- OR, the number of people for whom the item has been prepared
- display the statement that 'adults need around 2000 kcal a day' (for the purposes of this guidance, this statement will be referred to as the 'statement of daily calorie needs')

**Please Note: the statement of daily calorie needs does not need to be used in a menu which includes food for children only or a menu page that includes food for children.**

## How should I display calorie information?

The regulations require all calorie information to be 'Unobstructed, easily visible and clearly legible'.

**PPDS (pre packaged for direct sale):** calorie information may be included on the packaging 'in a position, and in a type and style of lettering, colour, size and background, which ensures that the information can be seen and read by a person choosing that food'.

**Displayed Items** (products in / on display cases, shelves and buffets): labels, shelf edge cards, deli ticket or other signage 'identifying the food concerned, next to, or in close proximity to, each item of food which may be chosen, displayed in a position which ensures that the signage can be read by a person choosing that food'.

**Menus:** calorie information should be positioned next to the description and price:

- once on every page in the menu (and where the menu is a double-sided card, on each side of the card)
- where the menu is displayed on a board, in a prominent position, which ensures that the statement will be seen and read by anyone purchasing food from the business at the point at which they choose what food' ('so be mindful of plants, shelving and any other items that could potentially block your customers' view).

## Do I need to display calorie information for made-to-order products, meal deals or on coffee menu boards?

Delis and other made to order food and drink providers (let's use a 'build your own' sandwich shop as our example) are permitted to provide calorie information for base products (subs, paninis etc) alongside calorie information for all standard additional choices (single portions of ham, cheese, meatballs and so on). Likewise coffee shops presenting customers with an opportunity to customise drinks with different milks, syrups and toppings, may prefer to offer calorie information for core products - such as a standard semi skimmed milk - as well as referring customers to a menu detailing the calorie content for all options.

Meanwhile, a business offering meal deals can offer calorie information for each individual item within the deal or the meal deal as a whole.

## How to calculate calorie content

The calorie content displayed 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 (typically the McCance and Widdowson's Composition of Foods dataset as used by our labelling app)

A combination of these methods is permissible for the same menu, or even the same product if it is made up of different constituent parts.

## How accurate should calorie information be?

While food and drink providers are granted a 20% leeway (plus or minus) due to variations in ingredients, processes, portion sizes and so on, businesses are required to 'implement processes to ensure that calorie information is as accurate as possible to ensure the food can be reproduced consistently each time it is made'.

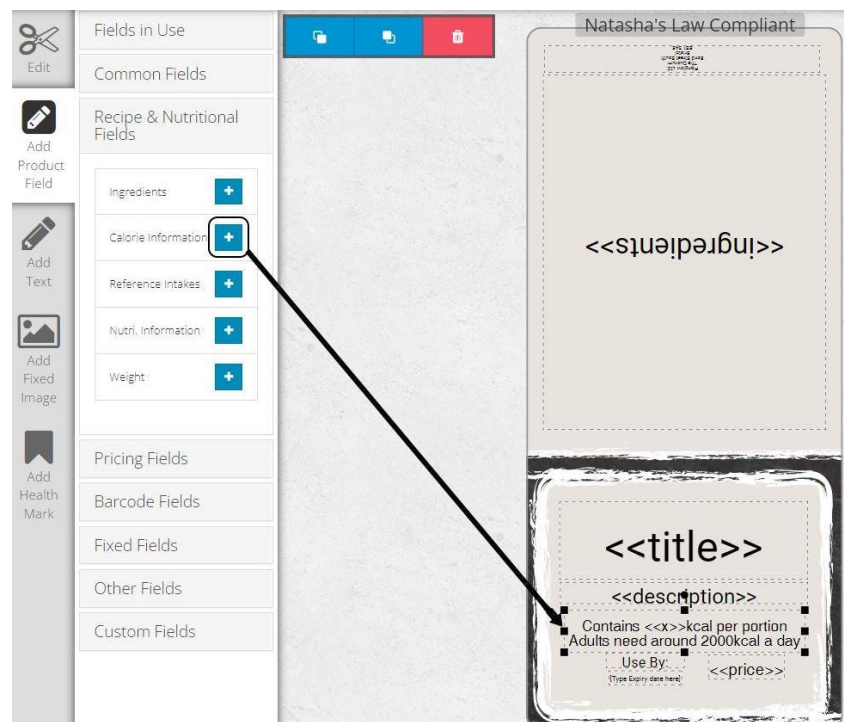
## Er...Help! How can I do all this by April?

We've got your business, no matter what size, covered! Our award-winning labelling app LabelLogic Live, can calculate and add legally compliant calorie information to your labels in a few clicks. You can add calorie information in text format - see example below - we also offer two Reference Intake-style calorie box options.



## How can I add calorie information to food labels?

Our labelling app LabelLogic Live calculates and adds calorie information to labels and ticketing in a few clicks. Read our quick five-step tutorial [here](#).



## Further information:

- [Book a calorie labelling consultation with your Planglow account manager](#)
- The UK Government: [Regulations](#) and [Guidance](#)
- Shop:
  - [Labels \(for PPDS items\)](#)
  - [Deli tickets, shelf edge cards and menus \(for deli counters and points of sale\)](#)

Or [contact us](#) for further information regarding your packaging or labelling needs.