

What Foods Should Carry A “Use-By” Date?

Introduction

These notes give guidance on when to give a *use-by* date on food labels. They also describe how *use-by* dates should be indicated.

Background

The Food Labelling Regulations 1996 requires most pre-packed foodstuffs to carry a date of minimum durability. This will normally be a *best before* date, which is the date up to and including which the foodstuff will retain its optimum condition (e.g. it will not be stale). The Regulations also require that a *use-by* rather than a *best before* date should be used on those pre-packed foods “which, from the microbiological point of view, are highly perishable and are therefore likely after a short period to constitute an immediate danger to human health.

The *use-by* date is the date up to **and including** which the food may be used safely (e.g. cooked or processed or consumed) if it has been stored correctly. For example, *use by 5 March* means use by midnight on 5 March. It is not a voluntary alternative; it must be used instead of the *best before* date when appropriate. The incorrect use of a *use-by* date may create confusion in the mind of the consumer and contravenes the legislation. **Although the decision whether a *use-by* date is required for a particular food must remain with those responsible for the labelling of that food, since they will be in the best position to assess its properties, this guidance may help to ensure a consistent approach and to prevent consumer confusion.**

Questions and Answers

What should be considered when deciding whether to apply a “use-by” date?

The essential judgement is whether the food is microbiologically highly perishable and in consequence likely, after a short period of time, to pose an immediate danger to human health. It is important to note that both criteria have to be satisfied.

Foods which need labelling with *use-by* dates are those that have to be stored at low temperatures **to maintain their safety rather than their quality**. They will have a short product shelf life following manufacture, after which their consumption may present a risk of food poisoning. They will be likely to fall into one or both of the following groups:

- ✧ foods which at ambient or chill temperatures are capable of supporting the formation of toxins or multiplication of pathogens to a level which could lead to food poisoning if they are not stored correctly;
- ✧ food intended for consumption either without cooking or after treatment (such as re-heating) unlikely to be sufficient to destroy food poisoning organisms which may be present.

What types of food will fall into these categories?

The Food safety (Temperature Control) Regulations 1995 require foods likely to support the growth of pathogenic micro-organisms or the formation of toxins to be kept at temperatures which would not result in risk to health. In England and Wales such foods must be held at or below 8°C unless subject to a permitted temperature variation.

Types of food which generally need a *use-by* date:

Dairy Products

- ✧ Soft or semi-hard cheese ripened by moulds and/or bacteria once the ripening or maturation is completed:
- ✧ Dairy-based desserts (including milk substitutes) such as fromage frais, mousse, crème caramels, products containing whipped cream; unless the pH of the product would

prevent the growth of pathogenic microorganisms or the formation of toxins or other effective preservative mechanisms are present.

Cooked Products

- ✧ Products, including sandwiches, containing or comprising cooked meat, poultry, fish, eggs (or substitutes for meat, poultry, fish or eggs), milk, hard and soft cheese, cereals (including rice), pulses and vegetables whether or not they are intended to be eaten without further reheating.

Smoked or Cured Fish

Smoked or Cured ready-to-eat meat which is not shelf-stable at room temperature

Including sliced cured cooked meats such as hams, some salamis and other fermented sausages, depending on the method of curing.

Prepared ready-to-eat foods

- ✧ Including prepared vegetables, vegetable salads containing fruit, or prepared salads (such as coleslaw) containing other products and prepared products such as mayonnaise.

Uncooked or partly cooked pastry and dough products

- ✧ Including pizzas, sausage rolls or fresh pasta, containing meat, poultry, fish (or substitutes or meat, poultry or fish) or vegetables.

Other foods which are also likely to require a *use-by* date are uncooked products comprising or containing either meat, poultry or fish and foods packed in a vacuum or modified atmosphere and held at chill temperatures to keep safe.

Are there any perishable foods which don't need a "use-by" date?

Some foods are specifically exempt from the requirement to carry a date mark. The labelling of such foods is generally governed by separate legislation (e.g. on honey, coffee and chocolate) which does not require a date mark to be given. Some are exempt from carrying a date mark because of the conditions in which they are sold (e.g. because they are sold loose or pre-packed for direct sale).

Certain foods such as bread and many cakes, deteriorate over a short period in quality rather than safety. They do not, therefore, need a *use-by* date. Chilled foods which do not support the growth of food organisms e.g. butter and margarines, do not need a *use-by* date.

Foods which would normally need a *use-by* date but which are sold to the consumer frozen should not be given a *use-by* date.

How should the "use-by" date be shown?

It must consist of the words "*use-by*" followed by

- ✧ the date in terms of either
 - the day and the month (e.g. *use-by* 5 March), or
 - the day, month and year (e.g. *use-by* 5 March 1997)
- ✧ any storage conditions which need to be observed e.g. *keep refrigerated* or *if stored in a refrigerator*.

On packaging, the actual date and/or any storage conditions given as part of the date mark may appear separately from the words *use-by*. However, these words must be followed by a reference to the place where the date and/or any storage conditions appear(s) e.g. *Use-by : see side of pack*.

In some cases, it might be helpful for consumers to have details about where to find information on storage conditions given with the date itself, rather than with the words *use-by*. For example

for use-by date see side of pack and for storage conditions see back of pack (with the rest of the information shown as indicated).

for use-by date see side of pack (and on the side of the pack the date and the declaration for storage conditions see back of pack and so on).

This manner of marking is consistent with the intention of the Food Labelling Regulations and is acceptable.

Where several items are included in an outer wrapper or sleeve which might be discarded, care should be taken to ensure that the date mark appears on the packaging that will be retained by the consumer.

Can a “use-by” date be altered or removed?

It is an offence to alter or remove a date mark if you are not the manufacturer, packer or EC seller originally responsible for marking the food. It is, however, a defence for anyone so charged to prove that such action was taken with the written authorisation of a person capable of making the change without breaking the law. If you alter a date-mark under any of the above conditions ensure you retain copies of the written authorisation.

What about retail sale of “use-by” dated food

If you also retail items with a “use-by” date please remember that it is an offence to have such items on sale after the “use-by” date. For further information please contact the Food Control Section on (01253) 478379/80.

Important Note

These notes offer informal, non-statutory guidance. They should not be taken as a definitive statement or interpretation of the law, which only the courts can give.