



Food Allergen Information (for Caterers)

If a consumer has a food allergy it can cause a severe reaction – called anaphylaxis – which may be fatal. If you fail to pass on allergen information there could be serious consequences for both your business and your customers.

In December 2014 the Food Information for Consumers Regulations introduced new legal requirements for all food, including food sold by caterers.

WHICH FOODS ARE COVERED?

The new rules state that you **MUST** give information to you customers if you use any of the following allergens (including ingredients containing these substances) in your food:

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| 1.Peanuts (also called groundnuts) | 6.Sesame | 10.Cereals containing gluten (wheat, oats, barley etc) |
| 2.Tree nuts (almonds, pistachios, cashews, walnuts, hazelnuts, brazil nuts, macadamia nuts and pecans) | 7.Milk | 11.Mustard (powder, seeds, paste etc) |
| 3.Eggs | 8.Fish | 12.Sesame (seeds, paste etc) |
| 4.Celery | 9.Soya | 13.Lupin (used in European bakery products) |
| 5.Molluscs and crustaceans | | 14.Sulphur dioxide/sulphites (over 10ppm) |

The rules about allergens apply wherever these foods or ingredients containing these foods are used and in whatever form they appear – for example

Nuts can be whole, ground, kibbled or powdered and be sold in bags, used as ingredients in chocolate bars or peanut butter

Milk can be liquid, frozen or powdered and includes food made from milk like cream, yogurt, cheese and foods where milk is an ingredient like cheese sauce

Eggs can be whole, dried, powdered, raw, cooked etc.

Cereals containing gluten are most often found in the form of flour – make sure you know which cereal is used to make the flour you use.

There are also two helpful picture guides available – one covering foodstuffs in general and the other covering foods that may be used in Asian cooking.

These new allergen labelling rules do not affect the processes you have in place to avoid cross contamination between foods which contain allergens and those which do not.

Be particularly careful with utensils and containers, work surfaces and preparation and storage areas.

Make sure ingredients containing allergens are clearly labelled and store them away from other products where possible.

MAIN PROVISIONS

You **MUST** know which allergens are in each of your dishes.

Keep written records of recipes and copies of the current ingredient information of any foods you buy in or use.

Check the information from suppliers regularly to see if there have been any changes to ingredients which could affect your allergen labelling.

Allergen information must be specific, complete and accurate. It is **NOT** acceptable to say some food may contain allergens or that you do not know which allergens are used.

You **MUST NOT** refuse to give allergen information or provide incorrect information

Ingredients that you buy in will be fully labelled – either on the goods themselves or in trade documents that accompany them. If they are not you should request a full labelling breakdown.

If ingredients are labelled 'may contain' you should pass that information on to your customers. Although this type of labelling is discouraged the food may have been produced in a facility where there is a small chance of cross contamination and for very allergic individuals small quantities of allergens can be fatal.

HOW CAN I PROVIDE THE ALLERGEN INFORMATION?

You are allowed to provide allergen information to your customers in any way you wish.

For example:

You may include allergen information on your written menu – you can do this either by a 'contains' statement by every menu item or by using symbols or letters to represent the allergens and a key so customers know what the symbols or letters mean.

If you have an electronic ordering system used by staff who take orders allergen information may be incorporated into the software

You may provide allergen information verbally.

If you chose this option you **MUST**

1. Display a prominent sign telling customers to ask for allergen information **AND**
2. Make sure that accurate allergen information is always available

In all cases the information **MUST** be **CLEAR** and **LEGIBLE** and must **NOT** be hidden in small print.

There is a copy of a sign attached which you may use – it **MUST** be displayed in a prominent position near to where the customer makes their choice. There is another one on the FSA website.

Alternatively you may include the signposting information on your menu or board

Displaying the sign is the first step if you wish to supply accurate allergen information verbally.

You will also need a system to make sure that all staff who take orders can provide accurate allergen information when they are asked.

Every relevant member of staff needs to know where they can find that information – either from a written record or from a more knowledgeable member of staff.

To assist you with your due diligence it is a good idea to have a written record of allergens in each dish.

You can do this by using the attached matrix sheet – list the menu items along the top, go through each recipe in detail and then tick those allergens present.

Remember that it is best to err on the side of caution. If an ingredient you use is marked ‘may contain...’ make sure you record this fact on your matrix so the information can be passed on.

WHAT COULD HAPPEN IF I FAIL TO COMPLY?

In the first instance we will always try to advise and guide you as to how you may comply with the allergen information.

If you do not follow the advice given we may serve a notice on you requiring you to comply – failure to comply with a legal notice is a criminal offence.

If the situation is serious we may prosecute you for offences against the Food Safety Act or the Food Information Regulations without serving you with a notice.

For a criminal action to succeed we must prove our case ‘beyond all reasonable doubt’.

The maximum penalty for offences under these two pieces of legislation is an unlimited fine.

Prosecutions have been taken in other parts of the UK for failure to comply with allergen labelling – see <http://www.gazettelive.co.uk/news/teesside-news/jolsha-restaurant-must-pay-5000-11209811>

In addition to any criminal action which WRS may take against you (that may result in a fine and/or bad publicity for your business) there is also the real possibility that a member of the public who has suffered an allergic reaction may sue you for compensation.

They may use a ‘no win no fee’ lawyer to pursue their claim.

For civil actions where the consumer is seeking compensation the consumer need only prove their case ‘on the balance of probabilities’ – i.e. they must prove that it was more likely than not that the food caused their injury. This is a much lower evidential threshold than that required for a criminal action.

If you have failed to comply with legal requirements your public liability insurance may refuse to cover any claims against you.



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