

Regulation (EU) No 1169/2011 of the European Parliament and of the Council of 25 October 2011 on the provision of food information to consumers, amending Regulations (EC) No 1924/2006 and (EC) No 1925/2006 of the European Parliament and of the Council, and repealing Commission Directive 87/250/EEC, Council Directive 90/496/EEC, Commission Directive 1999/10/EC, Directive 2000/13/EC of the European Parliament and of the Council, Commission Directives 2002/67/EC and 2008/5/EC and Commission Regulation (EC) No 608/2004 (Text with EEA relevance)

REGULATION (EU) No 1169/2011 OF THE  
EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 25 October 2011

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THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

Having regard to the proposal from the European Commission,

Having regard to the opinion of the European Economic and Social Committee<sup>(1)</sup>,

Acting in accordance with the ordinary legislative procedure<sup>(2)</sup>,

Whereas:

- (1) Article 169 of the Treaty on the Functioning of the European Union (TFEU) provides that the Union is to contribute to the attainment of a high level of consumer protection by the measures it adopts pursuant to Article 114 thereof.
- (2) The free movement of safe and wholesome food is an essential aspect of the internal market and contributes significantly to the health and well-being of citizens, and to their social and economic interests.
- (3) In order to achieve a high level of health protection for consumers and to guarantee their right to information, it should be ensured that consumers are appropriately informed as regards the food they consume. Consumers' choices can be influenced by, inter alia, health, economic, environmental, social and ethical considerations.
- (4) According to Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of

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food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety<sup>(3)</sup> it is a general principle of food law to provide a basis for consumers to make informed choices in relation to food they consume and to prevent any practices that may mislead the consumer.

- (5) Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market<sup>(4)</sup> covers certain aspects of the provision of information to consumers specifically to prevent misleading actions and omissions of information. The general principles on unfair commercial practices should be complemented by specific rules concerning the provision of food information to consumers.
- (6) Union rules on food labelling applicable to all foods are laid down in Directive 2000/13/EC of the European Parliament and of the Council of 20 March 2000 on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs<sup>(5)</sup>. The majority of the provisions laid down in that Directive date back to 1978 and should therefore be updated.
- (7) Council Directive 90/496/EEC of 24 September 1990 on nutrition labelling for foodstuffs<sup>(6)</sup> lays down rules on the content and presentation of nutrition information on prepacked foods. According to those rules, the inclusion of nutrition information is voluntary unless a nutrition-related claim is made concerning the food. The majority of the provisions laid down in that Directive date back to 1990 and should therefore be updated.
- (8) The general labelling requirements are complemented by a number of provisions applicable to all foods in particular circumstances or to certain categories of foods. In addition, there are a number of specific rules which are applicable to specific foods.
- (9) While the original objectives and the core components of the current labelling legislation are still valid, it is necessary to streamline it in order to ensure easier compliance and greater clarity for stakeholders and to modernise it in order to take account of new developments in the field of food information. This Regulation will both serve the interests of the internal market by simplifying the law, ensuring legal certainty and reducing administrative burden, and benefit citizens by requiring clear, comprehensible and legible labelling of foods.
- (10) The general public has an interest in the relationship between diet and health and in the choice of an appropriate diet to suit individual needs. The Commission White Paper of 30 May 2007 on a Strategy for Europe on Nutrition, Overweight and Obesity related health issues (the ‘Commission White Paper’) noted that nutrition labelling is one important method of informing consumers about the composition of foods and of helping them to make an informed choice. The Commission Communication of 13 March 2007 entitled ‘EU Consumer Policy strategy 2007-2013 — Empowering consumers, enhancing their welfare, effectively protecting them’ underlined that allowing consumers to make an informed choice is essential both to effective competition and consumer welfare. Knowledge of the basic principles of nutrition and appropriate nutrition information on foods would contribute significantly towards enabling the consumer to make such an informed choice. Education and information

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campaigns are an important mechanism for improving consumer understanding of food information.

- (11) In order to enhance legal certainty and ensure rationality and consistency of enforcement, it is appropriate to repeal Directives 90/496/EEC and 2000/13/EC and to replace them by a single regulation which ensures certainty for consumers and other stakeholders and reduces the administrative burden.
- (12) For the sake of clarity, it is appropriate to repeal and include in this Regulation other horizontal acts, namely Commission Directive 87/250/EEC of 15 April 1987 on the indication of alcoholic strength by volume in the labelling of alcoholic beverages for sale to the ultimate consumer<sup>(7)</sup>, Commission Directive 1999/10/EC of 8 March 1999 providing for derogations from the provisions of Article 7 of Council Directive 79/112/EEC as regards the labelling of foodstuffs<sup>(8)</sup>, Commission Directive 2002/67/EC of 18 July 2002 on the labelling of foodstuffs containing quinine, and of foodstuffs containing caffeine<sup>(9)</sup>, Commission Regulation (EC) No 608/2004 of 31 March 2004 concerning the labelling of foods and food ingredients with added phytosterols, phytosterol esters, phytostanols and/or phytostanol esters<sup>(10)</sup> and Commission Directive 2008/5/EC of 30 January 2008 concerning the compulsory indication on the labelling of certain foodstuffs of particulars other than those provided for in Directive 2000/13/EC of the European Parliament and of the Council<sup>(11)</sup>.
- (13) It is necessary to set common definitions, principles, requirements and procedures so as to form a clear framework and a common basis for Union and national measures governing food information.
- (14) In order to follow a comprehensive and evolutionary approach to the information provided to consumers relating to food they consume, there should be a broad definition of food information law covering rules of a general and specific nature as well as a broad definition of food information covering information provided also by other means than the label.
- (15) Union rules should apply only to undertakings, the concept of which implies a certain continuity of activities and a certain degree of organisation. Operations such as the occasional handling and delivery of food, the serving of meals and the selling of food by private persons, for example at charity events, or at local community fairs and meetings, should not fall within the scope of this Regulation.
- (16) Food information law should provide sufficient flexibility to be able to keep up to date with new information requirements of consumers and ensure a balance between the protection of the internal market and the differences in the perception of consumers in the Member States.
- (17) The prime consideration for requiring mandatory food information should be to enable consumers to identify and make appropriate use of a food and to make choices that suit their individual dietary needs. With this aim, food business operators should facilitate the accessibility of that information to the visually impaired.
- (18) In order to enable food information law to adapt to consumers' changing needs for information, any considerations about the need for mandatory food information should

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also take account of the widely demonstrated interest of the majority of consumers in the disclosure of certain information.

- (19) New mandatory food information requirements should however only be established if and where necessary, in accordance with the principles of subsidiarity, proportionality and sustainability.
- (20) Food information law should prohibit the use of information that would mislead the consumer in particular as to the characteristics of the food, food effects or properties, or attribute medicinal properties to foods. To be effective, that prohibition should also apply to the advertising and presentation of foods.
- (21) In order to prevent a fragmentation of the rules concerning the responsibility of food business operators with respect to food information it is appropriate to clarify the responsibilities of food business operators in this area. That clarification should be in accordance with the responsibilities regarding the consumer referred to in Article 17 of Regulation (EC) No 178/2002.
- (22) A list should be drawn up of all mandatory information which should in principle be provided for all foods intended for the final consumer and mass caterers. That list should maintain the information that is already required under existing Union legislation given that it is generally considered as a valuable *acquis* in respect of consumer information.
- (23) In order to take account of changes and developments in the field of food information, provisions should be made to empower the Commission to enable certain particulars to be made available through alternative means. Consultation with stakeholders should facilitate timely and well-targeted changes of food information requirements.
- (24) When used in the production of foods and still present therein, certain ingredients or other substances or products (such as processing aids) can cause allergies or intolerances in some people, and some of those allergies or intolerances constitute a danger to the health of those concerned. It is important that information on the presence of food additives, processing aids and other substances or products with a scientifically proven allergenic or intolerance effect should be given to enable consumers, particularly those suffering from a food allergy or intolerance, to make informed choices which are safe for them.
- (25) In order to inform consumers of the presence of engineered nanomaterials in food, it is appropriate to provide for a definition of engineered nanomaterials. Taking into account the possibility of food containing or consisting of engineered nanomaterials being a novel food, the appropriate legislative framework for that definition should be considered in the context of the upcoming review of Regulation (EC) No 258/97 of the European Parliament and of the Council of 27 January 1997 concerning novel foods and novel food ingredients<sup>(12)</sup>.
- (26) Food labels should be clear and understandable in order to assist consumers who want to make better-informed food and dietary choices. Studies show that easy legibility is an important element in maximising the possibility for labelled information to influence its audience and that illegible product information is one of the main causes of consumer dissatisfaction with food labels. Therefore, a comprehensive approach should

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be developed in order to take into account all aspects related to legibility, including font, colour and contrast.

- (27) In order to ensure the provision of food information, it is necessary to consider all ways of supplying food to consumers, including selling food by means of distance communication. Although it is clear that any food supplied through distance selling should meet the same information requirements as food sold in shops, it is necessary to clarify that in such cases the relevant mandatory food information should also be available before the purchase is concluded.
- (28) The technology used in the freezing of foods has developed significantly during recent decades and has become widely used both to improve the circulation of goods on the Union internal market, and to reduce food safety risks. However, the freezing and later defrosting of certain foods, especially meat and fishery products, limits their possible further use and may also have an effect on their safety, taste and physical quality. Conversely, for other products, especially butter, freezing has no such effects. Therefore, where a product has been defrosted, the final consumer should be appropriately informed of its condition.
- (29) The indication of the country of origin or of the place of provenance of a food should be provided whenever its absence is likely to mislead consumers as to the true country of origin or place of provenance of that product. In all cases, the indication of country of origin or place of provenance should be provided in a manner which does not deceive the consumer and on the basis of clearly defined criteria which ensure a level playing field for industry and improve consumers' understanding of the information related to the country of origin or place of provenance of a food. Such criteria should not apply to indications related to the name or address of the food business operator.
- (30) In some cases, food business operators may want to indicate the origin of a food on a voluntary basis to draw consumers' attention to the qualities of their product. Such indications should also comply with harmonised criteria.
- (31) The indication of origin is currently mandatory for beef and beef products<sup>(13)</sup> in the Union following the bovine spongiform encephalopathy crisis and it has created consumer expectations. The impact assessment of the Commission confirms that the origin of meat appears to be consumers' prime concern. There are other meats widely consumed in the Union, such as swine, sheep, goat and poultrymeat. It is therefore appropriate to impose a mandatory declaration of origin for those products. The specific origin requirements could differ from one type of meat to another according to the characteristics of the animal species. It is appropriate to provide for the establishment through implementing rules of mandatory requirements that could vary from one type of meat to another taking into account the principle of proportionality and the administrative burden for food business operators and enforcement authorities.
- (32) Mandatory origin provisions have been developed on the basis of vertical approaches for instance for honey<sup>(14)</sup>, fruit and vegetables<sup>(15)</sup>, fish<sup>(16)</sup>, beef and beef products<sup>(17)</sup> and olive oil<sup>(18)</sup>. There is a need to explore the possibility to extend mandatory origin labelling for other foods. It is therefore appropriate to request the Commission to prepare reports covering the following foods: types of meat other than beef, swine,