
STATUTORY INSTRUMENTS

2021 No. 909

The Calorie Labelling (Out of Home Sector) (England) Regulations 2021

Exempt food

4.—(1) For the purposes of these Regulations, food is “exempt food” if paragraph (2), (3), (4) or (6) applies.

(2) This paragraph applies to—

- (a) condiments provided to be added by a consumer to their food (but not including condiments forming part of the food served to the consumer);
- (b) food which is included on a menu for less than—
 - (i) 30 consecutive days, and
 - (ii) a total of 30 days in any calendar year;
- (c) drinks containing more than 1.2% by volume of alcohol;
- (d) food provided, otherwise than for payment, to patients at a hospital or other medical establishment or to residents or other service users at a care home or other institution providing social care;
- (e) food provided at an institution providing education to pupils below the age of 18;
- (f) food which is not included on a business’s menu or otherwise offered by that business, and is, at the express request of a consumer—
 - (i) made available to the consumer, or
 - (ii) prepared by the business for the consumer differently to the way that food is usually prepared by the business.

(3) This paragraph applies to food which—

- (a) is offered for sale by a business for consumption off the premises, and
- (b) comes within one of the following categories—
 - (i) fresh fruit or vegetables, including potatoes, which have not been peeled, cut or similarly treated, provided that they are not—
 - (aa) added to other food, or
 - (bb) offered for sale as an ingredient in food consisting of more than one ingredient;
 - (ii) unprocessed products consisting of a single ingredient which do not come within paragraph (i);
 - (iii) loaves of bread or baguettes;
 - (iv) fish, meat or cheese, provided that the fish, meat or cheese is not—
 - (aa) added to other food, or
 - (bb) offered for sale as an ingredient in food consisting of more than one ingredient.

- (4) This paragraph applies to food which is—
 - (a) 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
 - (b) offered for sale by or on behalf of a charity, at a single event, to raise funds for its charitable activities.
- (5) For the purposes of paragraph (4)—
 - (a) “charity” has the meaning given by section 1 of the Charities Act 2011⁽¹⁾;
 - (b) “charitable activity” means an activity carried out for a charitable purpose, other than primarily for the purpose of raising funds;
 - (c) “charitable purpose” has the meaning given by section 2(1) of the Charities Act 2011.
- (6) This paragraph applies to food which is served—
 - (a) by the armed forces to a member of the armed forces otherwise than at a military canteen, and for these purposes, “military canteen” means a canteen at a military establishment, the purpose of which is to provide food to members of the armed forces stationed at that establishment, or
 - (b) on an international aircraft, an international train, or an international ferry, and for these purposes, an aircraft, train or ferry is “international” if it is travelling to or from a country which is not part of the United Kingdom.

⁽¹⁾ 2011 c. 25.