



Labeling requirements for food products, Ukraine

December 2019

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The countries of the European Union focus on the state of health and the interests of consumers; therefore, high demands are placed on food safety and quality. Product information plays a crucial role in consumer choice of any product. Product data should not be misleading, incorrect or incomplete.

In accordance with the Association Agreement signed in 2014, Ukraine began harmonizing legislation on sanitary and phytosanitary measures with the EU legislation. At this time, priority tasks were developed for the reform of the food industry, the main aspects of which are as follows:

- an integrated approach to reform;
- changes in existing requirements in the food industry in accordance with European legislation;
- simplified conditions for market operators;
- protecting the interests of consumers.

As a result of the tasks set, a number of changes were introduced to the legislation on food products, including the mandatory introduction of the HACCP system in production.

On December 6, 2018, the Law of Ukraine “On Information for Consumers on Food Products” (hereinafter – the Law) was adopted, which entered into force on August 6, 2019. The Law brings the Ukrainian requirements for food information in accordance with Regulation of the European Parliament and Council (EU) No. 1169/2011 dated October 25, 2011 “On the Provision of Information on Food to Consumers”. The new Law establishes the legal and organizational basis for providing consumers with information about food products, a list of mandatory information on the consumer label, the responsibility of market operators and other innovations.

For products that meet the requirements of previous legislation, a **three-year** transitional period is provided during which their production and putting into circulation are allowed. Food products put into circulation before the end of the transitional period may be on the Ukrainian market until the end date of consumption or the expiration date.

Please see below a list of mandatory information for products that comply with the new legislation:

- name of the food product;
- list of ingredients;
- ingredients that cause allergies and/or intolerances;
- amount of certain ingredients or categories of ingredients in cases provided by the Law;
- quantity of food product in established units;

- minimum shelf life or “Use by” date;
- storage and/or use conditions (if necessary);
- name and location of the food market operator responsible for the information on the food product, and for imported food products – name and location of the importer;
- country/place of origin – in cases provided by the Law;
- instructions for use – in cases provided by the Law;
- information about nutritional value of the food product.

Nutritional value

The Law amended the provision of information about nutritional value. Previously, an indication of energy value, as well as information on proteins, fats and carbohydrates, was mandatory. The requirement of the new Law for consumers implies more detailed information with clarification of data on saturated fats, sugars and salts. On a voluntary basis, labeling can be supplemented by information on monounsaturated, polyunsaturated fats, polyols, starch, dietary fiber and, if any, vitamins and minerals.

It is worth noting that the mandatory indication of nutritional value does not apply to all products. Appendix 4 of the Law contains a number of exceptions, such as: water, chewing gums, gelatin, dietary supplements, etc. That is, foods that were not processed, or for which an indication of nutritional value is not a determining factor when choosing a product. Small-sized products are also exempted if the package size does not allow to place this information.

Minimum shelf life and “Use by” date

There is more and more information on the network that the new Law excludes a clear indication of the temporal characteristics of the product. Where does it come from and how now to understand that the product can no longer be consumed?

When we take a product from a shelf, we are used to looking for familiar phrases: “Use by”, “Shelf life”, “Production date”. Updated requirements introduce new concepts about the minimum shelf life “Best before...” or “Best before end...”, but the phrase “Use by” remains.

This practice is borrowed from the European neighbors, “Best before” and “Best before end”, the main purpose of which is to ensure that the buyer does not throw products into the trash that can still be consumed for some time after the minimum shelf life, without risk to health.

There are products that, by their microbiological properties, cannot be stored for a long time, and the wording “Use by” is applicable to such products, indicating that after this date the product will be dangerous for consumption (such as raw fish, chilled meat, milk, eggs, etc.).

However, under certain storage conditions, many products remain safe for some time even after the expiration date. For example, hard cheese, tea, sausages and others; the phrases “Best before...” and “Best before end...” are used for such products.

It is worth paying attention that if the food product is stored for no more than three months, it is enough to indicate the day and month; if more than three months, but less than 18 months – to indicate the month and year; if more than 18 months – to indicate the year.

Font size

Information about the food product should be displayed in a conspicuous place and should not be hidden or distorted by other text or graphic data. Labeling font should be legible and clear. The height of the lowercase letters must be equal to or greater than 1.2 mm (previously 0.8 mm). If the packaging area is less than 80 cm², then the height of the lowercase letters must be at least 0.9 mm.

Market operator responsible for information

It is important for importers and manufacturers to indicate the market operator responsible for information about the food product. According to the definition in the Law, it is a market operator, under the name of which a food product is introduced and circulated, and for an imported food product – an importer.

Previously, the requirement of the Technical Regulation on the rules for food product labeling obliged to indicate the organization that accepts claims from consumers, if it is not a manufacturer. Since the Law of Ukraine “On the protection of Consumer Rights” does not apply to labeling of food products, and the Technical Regulation has lost its validity since the signing of the new Law, the requirement to indicate the organization that accepts the claims, is excluded in the food legislation on food products.

Taking into account the interests of consumers, it may be necessary to indicate contacts where they can turn with wishes or claims to protect their rights.

Country of origin

Previously, consumers determined the country of origin of the product according to the information on the contact details of the manufacturer, which are indicated on the label. But is this correct, given that ingredients that are produced in other countries can be used in food production? The question arises: which country is the country of origin of the product? Is it the country of imported ingredients that are contained in the food product, or is it the country where the production takes place? The new Law distinguishes between the concept of the country of origin of the food product and the main ingredient.

The main ingredient is an ingredient or ingredients of a food product whose content in the product exceeds 50%, or which the consumer usually associates with the name of the food product for which a quantitative indication is required.

The country of origin of the food product must be indicated in the following cases:

- for certain types of meat;
- if the lack of such information can mislead the consumer;
- if the country of origin of the main ingredient is not the same as the country of origin of the food product.

Allergens

A consumer who is allergic to a substance always pays attention to the composition of the product. Previously, when choosing a product, it was difficult to determine whether there are such ingredients in the composition, since the composition of the product was not always clear to the consumer.

The new Law contains a list of allergens and requirements for the form of their labeling. It is worth noting that this list has exceptions. In the composition, the manufacturer focuses consumer attention on allergens by highlighting the font, background, or in another convenient way of their choice.

For example,

soya lecithin
skimmed **milk**

Voluntary information

The Law contains a number of requirements for information that is indicated on a voluntary basis. Such information should be indicated in a manner that does not reduce the space intended for mandatory information. The main requirements for indicating such information include the following:

- it should not mislead the consumer;
- it should not be incomprehensible or confusing to the consumer;
- if necessary, it should be based on relevant scientific data.

The requirements for the indication “natural” are also described. The use of such a definition for dairy food products is permitted if the product or ingredient meets a number of criteria, some of which are listed below:

- do not contain components of artificial raw materials;
- do not contain artificial colors, flavors, preservatives, stabilizers, food supplements and sweeteners;
- made without using genetic engineering methods;
- obtained or produced from raw materials from processing (physical, enzymatic, microbiological processes).

Method and place for applying information

Mandatory information about the food product must be clear, legible, easily accessible and, if necessary, applied in a way that makes it impossible to remove it. Information on the name and quantity of the product is placed in one field of view. Also, all information should be indicated on the package or on the label attached to it.

It is worth noting that the Law does not prohibit the use of a sticker on which all mandatory items will be indicated.

Remote sale

Recently, buying through the Internet (Instagram, Facebook, online stores, etc.) has become very popular. It is very convenient and fast. We read reviews from other customers, look at ratings and begin to trust stores. But are our rights protected in this case? It must be remembered that before making a purchase online, it is worth paying attention to the name of the seller, its location and the procedure for making claims. Such information is often unavailable.

The requirements of the new Law oblige to provide the consumer with information about the food product for review before making a purchase. The method of informing is determined by the market operator. It is also forbidden to charge consumers for receiving such information. However, such requirements do not apply to food products sold through vending machines.

Language requirements

It should be noted that on July 16, 2019, the Law of Ukraine “On Ensuring the Functioning of the Ukrainian Language as the State Language” came into force, which in turn also contains a number of requirements for product information.

The main requirement of the Language Law is to indicate product information in the state (Ukrainian) language. At the same time, the Law does not prohibit duplication of information in other languages, but such information should not take up space on the packaging, which is intended for mandatory information about the product.

There is also a requirement to specify topographic names, which should be indicated in Ukrainian by transcription from the original language.

The main transitional period of the language law is 2 months, but for a significant part of the provisions transitional periods of 6 months or more have been established.

SI units

There is another requirement of the Association Agreement, which influenced the labeling of food products. Starting January 1, 2021, food labeling will take into account international SI units. According to the requirements of the Order of the Ministry of Economic Development No. 914, the product labeling should contain units of the International System of Units (SI) (kilograms, centimeters, liters, etc.). Here is an example with these requirements:

100 мг (mg)

HACCP for market operators

Food market operators should be also reminded about the need to introduce the HACCP system at production facilities.

The main legislative acts regarding the HACCP system:

- Law of Ukraine No. 771 “On Basic Principles and Requirements for Food Safety and Quality”
- Law of Ukraine No. 2042-VIII “On State Control over Compliance with the Law on Food Products, Feed, Animal By-Products, Animal Health and Welfare”

For the gradual transition of national manufacturers to the introduction of the HACCP system in production, the following transitional periods were established:

- from September 20, 2016 – it is mandatory to implement the prerequisite programs of the HACCP system (hygiene requirements) at all facilities;
- from September 20, 2017 – the introduction of the HACCP system at facilities operating with food products, which include unprocessed ingredients of animal origin (except for low capacities);
- from September 20, 2018 – the introduction of the HACCP system at facilities operating with food products that do not contain unprocessed ingredients of animal origin (except for low capacities);
- from September 20, 2019 – the introduction of the HACCP system at low capacities.

It is worth noting that certification of permanent procedures based on the HACCP principles is **not obligatory**.

The State Service for Food Safety and Consumer Protection is responsible for the state control at the facilities. In accordance with the legislation, criteria have been established by which the frequency of scheduled inspections is determined. They are distributed depending on the degree of risk as follows:

- very high degree of risk: inspection – no more than 4 times a year, audit – no more than 1 time a year;
- high degree of risk: inspection – no more than 3 times a year, audit – no more than 1 time a year;
- medium degree of risk: inspection – no more than 2 times a year, audit – no more than 1 time a year;
- low degree of risk: inspection – no more than 1 time a year, audit – no more than 1 time in two years;
- insignificant degree of risk: inspection – no more than 1 time in two years, audit is not carried out.

Since April 2019, video recording of state control has been allowed not only to inspectors, but also to the facility undergoing inspection.

State control

In the case of failure to fulfill the obligations to implement the HACCP system, fines are provided in accordance with Art. 65 of the Law of Ukraine "On State Control over Compliance with the Law on Food Products, Feed, Animal By-Products, Animal Health and Welfare":

- for legal entities – 30 minimum wages (at the beginning of 2019, this is UAH 125,190);
- for individual entrepreneurs – 15 minimum wages (at the beginning of 2019, this is UAH 62,595).

If the requirements of the Law of Ukraine “On Information for Consumers on Food Products” are not fulfilled, fines are also imposed on the market operator in accordance with Art. 65 of Law No. 2042-VIII, namely:

1) in the case of providing inaccurate, unreliable and incomprehensible information to the consumer about the food product:

- for legal entities – 15 minimum wages (at the beginning of 2019, this is UAH 62,595);
- for individual entrepreneurs – 10 minimum wages (at the beginning of 2019, this is UAH 41,730).

2) in the case of the sale of food products with labeling that does not comply with the law, if this does not pose a threat to human life and/or health:

- for legal entities – 5 minimum wages (at the beginning of 2019, this is UAH 20,865);
- for individual entrepreneurs – 3 minimum wages (at the beginning of 2019, this is UAH 12,519).

3) in the case of failure to provide information to the consumer about substances and food products that cause allergic reactions or intolerance:

- for legal entities – 30 minimum wages (at the beginning of 2019, this is UAH 125,190);
- for individual entrepreneurs – 20 minimum wages, (at the beginning of 2019, this is UAH 83,460).

In conclusion

We would like to note that innovations and changes in legislative acts on the food industry bring Ukrainian market operators to a new level of effective competition in food quality and safety. The new Law “On Information for Consumers on Food Products” enables the consumer to make an informed choice, taking into account the individual needs and desires of everyone.

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