

A guide to the legal ingredients of a ready meal



Seafood Paella

Delicious arborio rice with fresh king prawn, squid, red peppers and peas in a tomato and red wine sauce

Each pack contains

MED	LOW	MED	HIGH	MED
Calories	Sugar	Fat	Sat Fat	Salt
353	0.9g	20.3g	10.8g	1.1g
18%	1%	29%	54%	18%

Keep refrigerated

10/09/19

Use by



ROYTHORNES
solicitors

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Food manufacturers need to bear in mind many factors before launching a new product. In this handy guide we hope to make you aware of the legal elements before you embark on your next venture.

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Patents & trade marks



Patents apply to inventions which are new, capable of industrial application and involve an inventive step (i.e. it cannot be obvious)

Patents

Should a food business develop a unique method of manufacturing its product, it may be patentable.

The protection of a patent is limited to 20 years in the UK, and must be renewed every year from four years after initially filing for it. Manufacturers who have developed new technology must be very careful not to give too much detail to the general public before the patent has been registered, otherwise it will no longer be capable of registration.

If an application for a patent is accepted, the owner is entitled to various remedies should another business attempt to exploit that patent. They can also assign or license the use of the patented technology to other businesses, making a patent a commodity in its own right.

Trade marks

A trade mark can be a logo, name, slogan, colour, shape or other distinctive mark. It cannot be merely descriptive, customary in the market, deceptive or used to extend the rights of a patent. Food businesses should consider what is recognisable or distinctive about their products as well as the logo design or name. The shape of food packaging or the product itself have been successfully registered when the shape has formed an important part of marketing the food, but this is tricky.

A registered trade mark must be renewed every ten years and can last indefinitely. Unregistered trademarks can provide protection; however, it is advisable to make sure that any distinctive marks are registered.

Patents are protected for up to

20
years



Food hygiene/ safety

Every business which handles food must ensure that the food is safe and meets the required hygiene standards. Not only does this make commercial sense, but there may also be criminal and civil consequences if a food business does not have proper procedures in place to ensure satisfactory food hygiene. It would be advisable to adopt a plan based on the HACCP principles and always ensure that any food incidents (such as contamination) are reported to the Food Standards Agency.

One notable element of food safety is the presence of allergens. All businesses must stay up to date with recognised allergens and properly communicate to consumers if there are any recognised allergens (currently 14) in their products. Food fraud in relation to allergens is also one to watch. For more information see Traceability and the National Food Crime Unit on page 6.



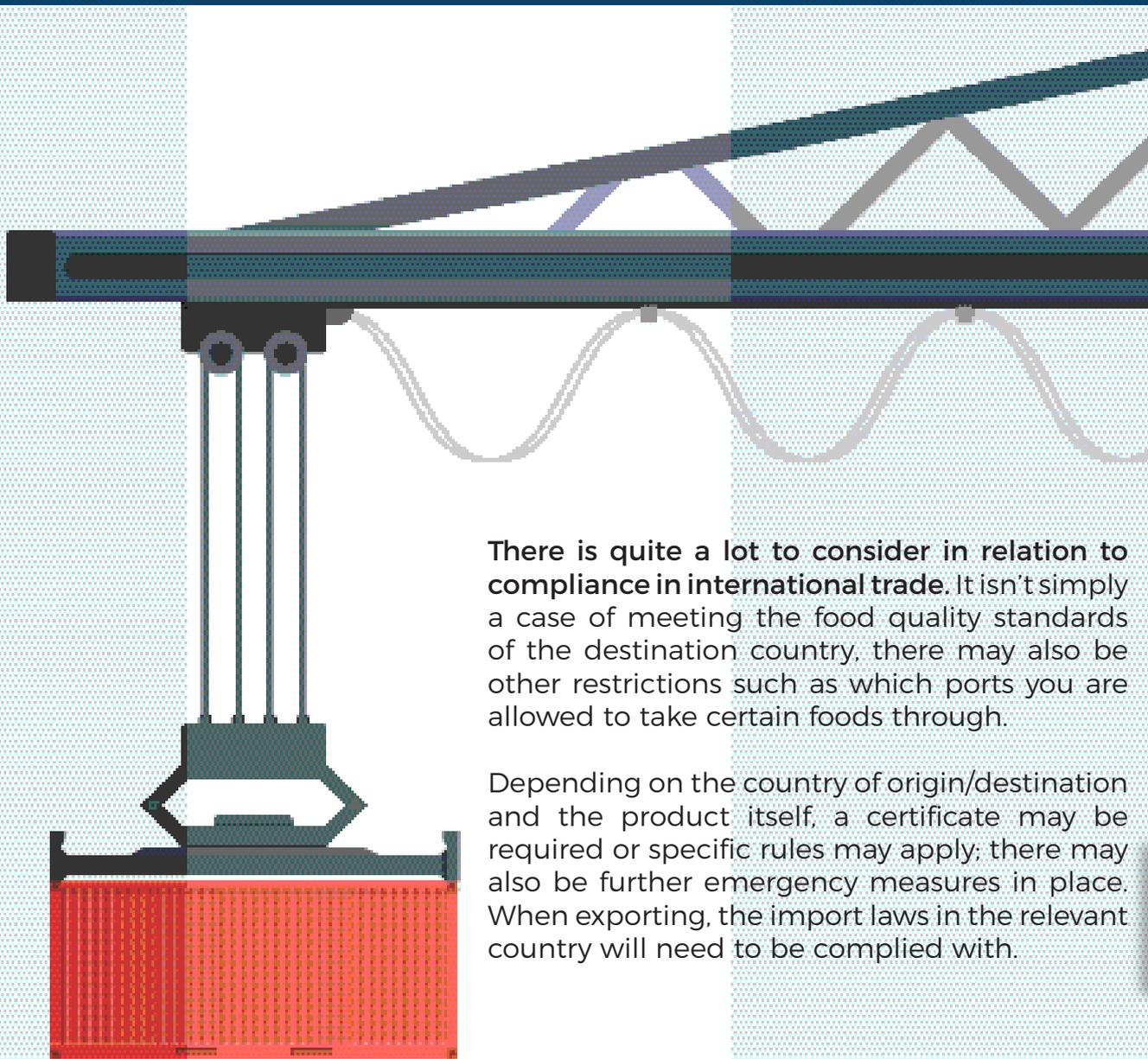
Health Claims

There are three categories of regulated claims; health, nutritional and reduction of disease risk.

- Currently, businesses are only permitted to make health and nutrition claims which are listed on the EU Register and can be proved by documentary evidence.
- A general health claim, such as 'good for you', must also be backed up by an approved specific health claim.
- Reduction of disease risk claims must be approved by the European Commission and cannot state or imply a product prevents, treats or cures human disease.

A lot of time and money is invested in marketing and trade marks, so it's important a business is certain that phrasing is approved and accurate. Special attention should be given to products which are marketed towards children or contain a novel ingredient on which the health claim is based.

Import & export



There is quite a lot to consider in relation to **compliance in international trade**. It isn't simply a case of meeting the food quality standards of the destination country, there may also be other restrictions such as which ports you are allowed to take certain foods through.

Depending on the country of origin/destination and the product itself, a certificate may be required or specific rules may apply; there may also be further emergency measures in place. When exporting, the import laws in the relevant country will need to be complied with.

Traceability & the National Food Crime Unit

Food businesses need to be aware of food fraud and crime in the industry and develop risk management strategies accordingly. There are several good practice guides available.

Food fraud and crime occurs when members of the industry are dishonest about the ingredients, quality, hygiene, age, storage, transport, source, etc of their products. Ignorance is not a defence; even if suppliers are legitimate, fines can be imposed for not carrying out proper due diligence on suppliers. Food business operators must keep records of food, food substances and food-producing animals supplied to their business and any businesses to which their products are supplied. This information must be made available to the authorities on demand.

Organic status

In order to produce, prepare, store, import or sell organic products, registration with an approved organic control body is a requirement, following an inspection. It takes, on average, two years to register as an organic farmer, depending on the product.

A finished food product must contain at least 95% organic ingredients in order to generally label the whole item as 'organic'.



Labelling & packaging

When it comes to product packaging there are three key areas to consider ...

Best before/use by

A 'best before' or 'use by' date must be displayed on food and drink labels when distributing to consumers. Food and drink which is past its 'use by' date is no longer safe to eat or freeze, regardless of how it looks, smells or even tastes. Whereas those beyond their 'best before' dates are safe to eat but the quality has deteriorated.

One important difference is that products which are highly perishable, such as meat, must display 'use by' dates, whereas those with a long shelf life may use 'best before' or 'best before date'.

The dates must also comply with all the usual labelling requirements and be clear, legible, conspicuous and indelible. They must also be in the same field of vision as the product name, net quantity and alcoholic strength by volume (if applicable).

Packaging - materials

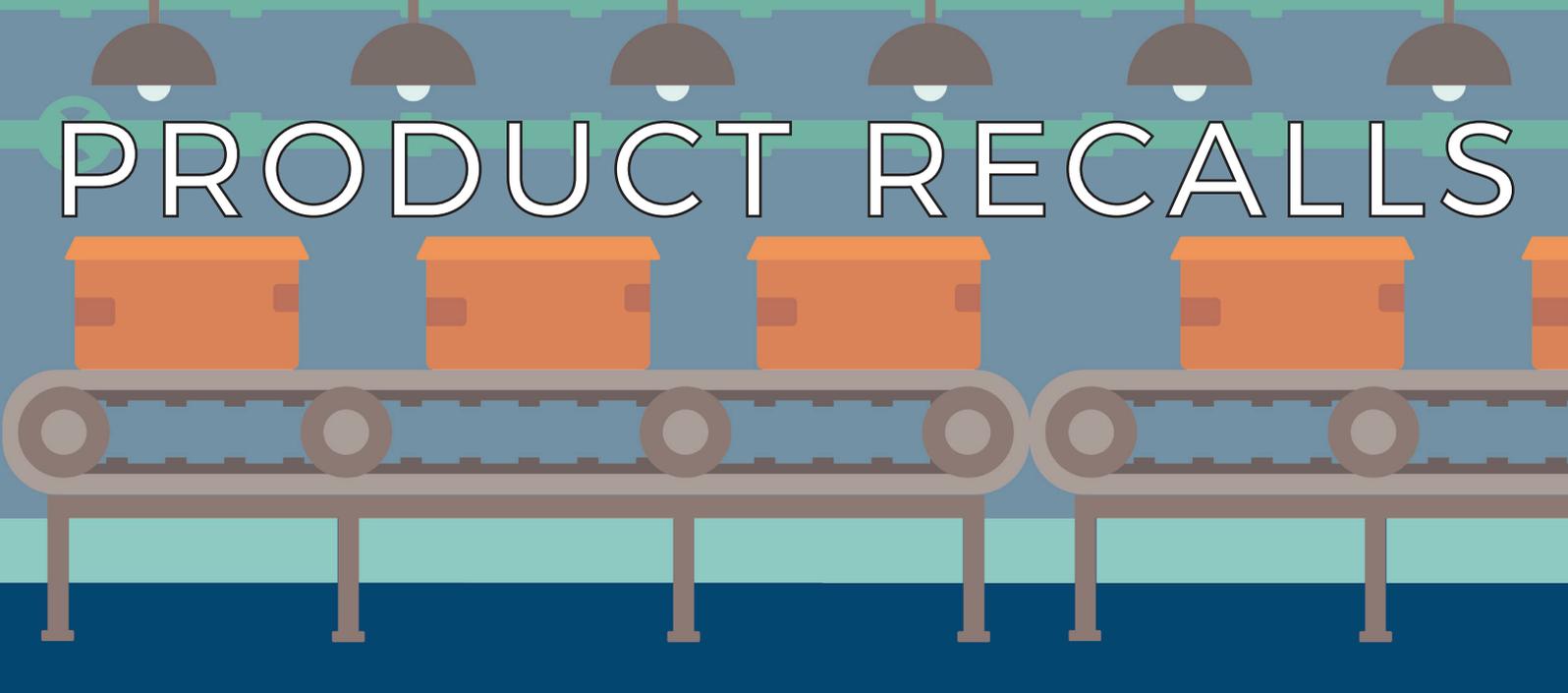
The packaging itself must be suitable for food use - and clearly labelled as such. In addition, there are specific rules if you are using plastics, ceramics or cellophane for packaging. Even when only buying for onward sale food which is already packaged in one of those materials, written evidence that these rules have been followed must be provided.

Packaging - labelling

Food labelling includes any words, particulars, trade marks, pictures or symbols relating to food which are placed on its packaging. It cannot mislead the consumer, for example, with regard to its durability or origin.

When drafting food labels, businesses should always give consideration as to whether:

- the label gives an honest depiction of the product;
- the display and presentation of the product gives an honest depiction of its contents;
- any ingredients or treatment of the food are required to be brought to the consumer's attention; and
- the writing is easily visible, clearly legible and indelible, as required.



PRODUCT RECALLS

Any sales-based business should have a product recall system in place, and this is especially relevant to food and drink businesses. Most people think of product recall in a business-to-consumer context; however, as the industry chain lengthens and becomes more international, business-to-business alerts are essential.

On top of their own direct alerts, a food business can make use of international tools such as the Rapid Alert System for Food and Feed, which in itself does not publically disclose commercial brands. This can be done by alerting the local authority and the Food Standards Agency to any errors identified, as well as subscribing to alerts. Keeping up to date with industry incidents as well as speeding up the business' own international recall process gives a quick and cheap increased control over product when the effects are less traceable.

Food Business Registration

Before opening a business premise, it would be wise to contact the local authority and check whether registration is necessary or approval needs to be obtained. Most food businesses do, and registration must occur 28 days before operations begin.

Registration is free and operators who fail to register face fines of and/or imprisonment for up to two years.

**Discuss your next steps with our
Food & Drink team by heading *clicking here***

Testimonials...

“Our company received a first class service with very prompt attention. I have no doubt the advice and actions Roythornes provided will result in significant and tangible long term benefits to our business.”

“We’ve been dealing with Roythornes for over ten years now, in personal and business circumstances and we can’t fault them.”



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