

Guidance for food businesses on selling food for delivery (distance selling)

What is distance selling?

Distance selling means any selling carried out without face-to-face contact with the consumer, e.g. via the internet, text messaging, phone calls, faxing, interactive TV or mail order.

What do I need to do when setting up a distance selling food business?

When you start a mail order or internet based food business you must, like any other food business, register with the Environmental Health Department of your local council at least 28 days before opening. You should also take advice on legal requirements from them and the Trading Standards Department.

How quickly should food be delivered if it's sent by post or courier?

If foods that need refrigerating (such as fish, meat products, cooked foods, many dairy products and ready-prepared salads) are sent by post or courier, they should be delivered as quickly as possible, ideally overnight, and they should be kept cool until delivery. All foods must be delivered to consumers in a way that ensures that they do not become injurious to human health or unfit for human consumption. If you need advice concerning food safety for specific products you may wish to contact one of the food research associations or firms that carry out public analyst work.

When the consumer places an order, make sure the consumer knows when they can expect delivery. If foods that need refrigerating are delivered late, this might mean they haven't been kept cool enough.

How should food be packaged if it's sent through the post?

You should send food to consumers in packaging that is strong enough to remain intact. Foods that need refrigerating (such as fish, meat products, cooked foods, many dairy products and ready-prepared salads) must be kept cool while they are being transported. Sometimes they will need to be packed in an insulated box with a coolant gel, or in a cool bag. Any packaging should be capable of protecting the food while it is in transit.

What laws will apply to my distance selling food business?

When you sell food by mail order or via the internet, the food you sell is subject to the full body of UK food law – please see in particular the sections on general food law (safety, traceability, withdrawal and recall), hygiene and labelling in www.food.gov.uk/foodindustry/regulation and

www.food.gov.uk/foodindustry/guidance and also any laws specific to the type of food which you are selling. You should bear in mind in particular when considering the safety aspects of selling food by distance selling the condition which the food is likely to be in when it reaches the purchaser.

The main law on distance selling is the Consumer Protection (Distance Selling) Regulations 2000 <http://www.opsi.gov.uk/si/si2000/20002334.htm> , which applies to all goods sold by distance selling, not just food. This lays down important requirements such as:

- the information which the seller needs to provide to the purchase before making the sale
- rights to cancel the contract
- recovery of sums paid on cancellation
- restoration of goods by the consumer after cancellation.

It also gives an exception for delivery of food and drink to a consumer's residence or workplace, for example milk deliveries. There are a few changes to the Regulations in the Consumer Protection (Distance Selling) (Amendment) Regulations 2005 <http://www.opsi.gov.uk/si/si2005/20050689.htm> . A guide to the Regulations is available at http://www.offt.gov.uk/shared_offt/business_leaflets/general/oft698.pdf .

If you are selling via the internet the Electronic Commerce (EC Directive) Regulations 2002 will also apply to your business. A guide to these Regulations is available at <http://www.dti.gov.uk/files/file14635.pdf> .

What other main guidance has been produced on distance selling?

A guide for consumers on our Eatwell website to mail order and online selling is available at <http://www.eatwell.gov.uk/keepingfoodsafe/shoppingforfood/onlinemailorder/#cat230129>

A guide for enforcement officers on distance selling is available at pages 69-71 of the FSA Food Law Practice Guidance at <http://www.food.gov.uk/multimedia/pdfs/practiceguidanceeng.pdf> .

The Mail Order Fine Foods Association has recently had a guide to distance selling published by the Stationery Office, which can be bought at <http://www.tsoshop.co.uk/bookstore.asp?Action=Book&ProductId=011243097>
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DBERR's fact sheet on distance selling is at <http://www.dti.gov.uk/consumers/fact-sheets/page38102.html>