

# **PUBLISHED REPLACEMENT EU ACT INITIAL ASSESSMENT OF IMPACT**

**DSC REF: DSC/05/2025**

## **Published Replacement EU Act**

Regulation (EU) 2025/40 of the European Parliament and of the Council of 19 December 2024 on packaging and packaging waste, amending Regulation (EU) 2019/1020 and Directive (EU) 2019/904, and repealing Directive 94/62/EC. OJ L 2025/40 22.01.2025.

[Regulation - EU - 2025/40 - EN - EUR-Lex](#)

This Regulation will replace European Parliament and Council Directive 94/62/EC on packaging and packaging waste (included in Annex 2 of the Windsor Framework, Heading 25 on Waste).

[Directive - 94/62 - EN - EUR-Lex](#)

This Regulation will amend Directive (EU) 2019/904 on the reduction of the impact of certain plastic products on the environment (included in Annex 2 of the Windsor Framework, Heading 25 on Waste).

[Directive - 2019/904 - EN - SUP Directive - EUR-Lex](#)

This Regulation will amend Regulation (EU) 2019/1020 on market surveillance and compliance of products and amending Directive 2004/42/EC and Regulations (EC) No 765/2008 and (EU) No 305/2011 (included in Annex 2 of the Windsor Framework, Heading 8 Goods – general provisions).

[Regulation - 2019/1020 - EN - EUR-Lex](#)

## **Summary of the Act**

This assessment relates to provisions within Regulation (EU) 2025/40 on packaging and packaging waste (PPWR) relating to the Food Standards Agency in Northern Ireland's remit – specifically the safety of Food Contact Materials.

Existing legislation governing the safety of Food Contact Materials protects the public from risks associated with chemicals that might migrate (transfer) onto food from materials the food comes into contact with, including packaging.

All packaging that is intended to come into contact with food or already in contact with food, including compostable packaging, has to meet food safety requirements, as set out in Regulation (EC) No 1935/2004. Regulation (EC) No 1935/2004 provides a harmonised legal framework for food contact materials. The PPWR does not bring into effect changes to the existing safety requirements which will continue to apply as now.

The PPWR is a wider piece of legislation which covers the full life cycle of packaging including some requirements which have food safety relevance. The following areas, which are under the remit of the FSA in NI, are covered by this assessment:

- Requirements for substances in packaging
- Recycled material content in plastic packaging
- Refill obligations
- Re-use obligation for takeaways

### **Requirements for substances in packaging**

#### **PFAS**

A key element of this regulation, covered in Article 5, is the aim to minimise substances of concern, to protect human health, including restricting placing on the market food contact packaging containing per- and polyfluorinated alkyl substances (PFAS) if they exceed certain thresholds. PPWR prohibits the use of PFAS in food contact packaging, at or above certain levels, as outlined in Article 5(5), from 12 August 2026. The Regulation commits to the restriction being reviewed by August 2030.

The FSA is regularly in discussions with UK trade bodies and packaging stakeholders who have indicated they are moving away from the deliberate inclusion of PFAS in paper/cardboard packaging in recent years. Therefore, this new requirement is not expected to be a significant concern to NI-based producers.

There is currently no maximum level for PFAS in Food Contact Material in UK assimilated law, however, businesses still need to ensure that they can demonstrate compliance with the general safety requirements under Regulation 1935/2004. The UK Government is keeping the issue of PFAS in food contact packaging under active consideration and maintains the aim of ensuring that exposure to PFAS is as low as technically feasible in food contact materials and any level of such exposure is safe.

The UK's independent Scientific Advisory Committee, the Committee on Toxicity of Chemicals in Food, Consumer Products and the Environment (COT), has established a sub-group to carry out its own risk assessment in relation to PFAS. Defra is leading a cross governmental working group, with FSA representation, which was created in 2022 to consider the presence and use of PFAS in a broader context, not solely limited to packaging.

#### **Other substances**

The EU Regulation also outlines maximum levels for the sum of the concentrations of lead, cadmium, mercury and hexavalent chromium resulting from substances present in packaging or packaging components shall not exceed 100 mg/kg. This requirement is without prejudice to the restrictions and specific measures on food contact materials and articles as outlined in Regulation (EC) No. 1935/2004. This aligns with assimilated law requirements in Great Britain.

### **Recycled material content**

Article 7 outlines that by 1 January 2030 any plastic part of packaging placed on the market must contain a minimum percentage of between 10-35% recycled content recovered from post-consumer plastic waste.

As outlined above, legislation on the safety of food contact materials continues to apply, and these safety requirements are not changed with the introduction of the PPWR. Food contact materials containing recycled plastic must meet the requirements of Regulation (EU) 1935/2004 and the requirements set out in Commission Regulation (EU) 2022/1616, which includes requirements on recycling technologies.

### Exemptions

In relation to food contact materials, there are exemptions from the recycled material requirements (as outlined in Article 7 of PPWR) for:

- plastic packaging that is intended to come into contact with food where the quantity of recycled content poses a threat to human health and results in non-compliance of packaged products with Regulation (EC) No 1935/2004, and
- contact-sensitive plastic packaging for food that is intended only for infants and young children, food for special medical purposes and packaging for specific drinks and food typically used for young children.

Contact-sensitive packaging for infant formula and follow-on formula, processed cereal-based food and baby food, and food for special medical purposes will also be exempt from the requirement that all packaging placed on the market be recyclable.

### Refill Obligations

Similarly, as covered in Article 28, the Regulation places a refill obligation on takeaways operating in the out of home sector to enable consumers to bring their own containers, cups etc to be filled with either hot or cold drinks or ready to eat food. This provision applies from 12 February 2027 and stipulates it must be provided at no higher cost and under no less favourable conditions.

We note that food businesses such as coffee shops already provide this option for their customers as part of their commitment to sustainability at no additional cost. Food safety requirements set out within General Food Law Regulation 178/2002, continue to apply to food businesses in this situation, as such they must ensure food is prepared and supplied in a safe and hygienic manner. The refill obligation as set out in this Regulation does not supersede General Food Law.

The FSA will work with other departments as necessary to assess any operational changes that may be needed once implementing legislation providing further detail on this legislative framework has been brought forward.

Article 28 requires final distributors with a sales area of more than 400m<sup>2</sup> to endeavour to dedicate 10% of that sales area to refill stations for both food and non-food products from 1 January 2030. This could impact supermarkets. However, this requirement may already be complied with by existing loose fruit and vegetable sections within those premises.

## **Takeaways – Reuse Obligation**

Article 27 requires takeaways supplying hot or cold beverages or ready-prepared food in take-away packaging to provide consumers with the option of obtaining the products in re-useable packaging within a system for re-use. This provision applies from 12 February 2028, with an exemption provided for micro-enterprises. Micro-enterprises are defined as employing fewer than 10 people and whose annual turnover and/or annual balance sheet total does not exceed EUR 2 million (approx. £1,686,600 as at 23 Jan 2025). This exemption would cover many establishments in Northern Ireland.

From 2030, takeaway establishments will be required to aim to offer 10% of products for sale in a reusable packaging format.

However, General Food Law requirements continue to apply and as such any re-useable packaging within a system of reuse must be safe and hygienic for this purpose; this is underscored in Article 11 of the Regulation. Similar to the refill obligation, re-use must also be provided to consumers at no higher cost and under no less favourable conditions.

## **Department(s) Responsible**

The Food Standards Agency is responsible for Food Contact Materials policy in Northern Ireland.

## **Initial Assessment of Impact**

Information on the potential impacts of this legislation are included in the above “Summary of the Act” section.

## **UK Government Explanatory Memorandum**

Defra completed an Explanatory Memorandum in December 2022. The FSA understands that Defra is drafting a revised Explanatory Memorandum on this EU Regulation.

## **Analysis by the European Commission on its Impact Assessment**

The European Commission’s Impact Assessment which accompanied the legislative proposal in 2022 does not make any mention of Northern Ireland or Northern Ireland stakeholder input.

The Impact Assessment includes modelling and discussion which the Commission states “demonstrates that the combination of measures included in the preferred option package is overall the best performing and most proportionate combination.”

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52022SC0384>

## **Departmental Engagement**

Food Contact Materials policy falls under the provisional Common Framework for Food and Feed Safety and Hygiene which sets out arrangements for cooperation between the Food Standards Agency (in England, Wales and Northern Ireland) and Food Standards Scotland. FSA officials are engaged in four nation policy discussions on changes to Food Contact Materials policy and legislation.

The FSA engages with industry stakeholders and Northern Ireland district councils on changes to Food Contact Materials legislation. The FSA is informing Northern Ireland stakeholders about the publication of this legislation, via the FSA in Northern Ireland's industry bulletin and through industry associations. This will inform our consideration of implications for Northern Ireland relating to Food Contact Materials.