

DAERA response to DSC questions on EU Packaging and Packaging Waste Regulations (PPWR)

Regulatory alignment/divergence

- ***Based on the domestic regulatory landscape for packaging and packaging waste in the UK today, which elements of the finalised PPWR - if applied in NI - would be likely to cause regulatory divergence between GB and NI? What impact is that likely to have on industry and/or consumers in Northern Ireland?***

The UK and Devolved Governments see the merit and value of moving to a more circular economy - similarly to the EU. The UK is therefore making progress towards unifying recycling measures through a range of reforms, many of which are very similar to those being proposed by the EU. Most notably, the UK and Devolved Governments have introduced a mandatory extended producer responsibility for packaging, and are introducing deposit return schemes which are expected to be operational by 2027 (the EU is mandating equivalent measures from 2029).

We would also note that we understand UKG is currently considering what UK-wide application of further similar measures might look like across the UK. Everything below should be considered accordingly, as it is possible that these potential divergence implications will therefore not materialise in practice.

However, for completeness, on initial assessment officials have identified the below elements of the finalised PPWR likely to cause regulatory divergence between GB and NI based on the current UK regulatory landscape.

Recycled Content

Article 7 introduces targets for recycled content in plastic packaging which are higher than the current tax threshold under the UK's Plastic Packaging Tax (30% recycled content). At present UKG intention is not to legislate that only packaging that accords with recyclability criteria can be placed on the UK market. Currently packaging with less than 30% recycled content can still be placed on UK market and the packaging tax will apply. The Plastic Packaging Tax, which was introduced by UKG in April 2022, applies to plastic packaging that does not contain at least 30% recycled content. As of 1 April 2024, the tax rate increased to £217.85/tonne. The first targets on recycled content are set to apply from January 2030 or three years from date of entry into force of the implementing act. In practice any divergence implications are likely to be limited by the fact that such products will be discouraged by UK-wide extended producer responsibility and deposit return schemes, as well as the UK's plastic tax.

Labelling of packaging

Article 12 introduces labelling of packaging requirements. Packaging placed on the EU market shall be marked with a harmonised label containing information on its material composition to facilitate consumer sorting. This obligation does not apply to transport packaging or to packaging that is subject to a deposit and return system.

Labelling requirements will enter into force either 42 months from the date PPWR enters into force or 24 months from an implementing act, whichever is later. PPWR has 3 different labelling requirements:

- 1) label to indicate material composition
- 2) QR/digital code on reusable packaging
- 3) label to indicate recycled content on certain types of packaging.

Packaging in scope that is placed on the EU market (including NI) will have to comply with the labelling requirements in Article 12 as well as forthcoming UK labelling requirements for packaging Extended Producer Responsibility (pEPR).

A producer responsibility system for packaging has operated across the UK since 1997. A recent revision of UK pEPR has been introduced via The Producer Responsibility Obligations (Packaging and Packaging Waste) Regulations 2024. The regulations implement extended producer responsibility for packaging in Northern Ireland.

A proposed UK labelling requirement for all primary and shipment packaging to be labelled to indicate recyclability has been postponed while consideration is given to aligning with EU PPWR to promote harmonisation. UK Gov opted to delay the labelling requirement for UK pEPR reflecting the government's intention not to create new divergence between GB and NI where it can be avoided. Had this labelling requirement applied in GB but not NI, it would have meant that producers had to produce different packaging for the two markets. There is a strong industry preference to avoid new regulatory divergence between the UK and EU.

The UK Government aims to introduce labelling provisions to UK pEPR through an amendment to the pEPR legislation. In preparing these provisions, there will be a review of the EU PPWR exploring potential options for consistency across approaches.

Single Use Plastics

Article 25 states that from January 2030, certain single-use plastic packaging formats will be banned. Examples of these single use plastic (SUP) items include shrink wrap used to group retail packaging, nets used to group less than 1kg of fruit and vegetables, sachets for condiments in the hospitality and restaurant sector, hotel miniature shampoo bottles of less than 100 ml, shrink wrap used at airports for suitcases and secondary packaging for cosmetic creams. There is currently no GB policy position on this although there has been voluntary action in some sectors to reduce single-use plastic packaging. As above, in practice any divergence implications are likely to be limited by

the fact that such products will be discouraged by UK-wide extended producer responsibility and deposit return schemes, as well as the UK's plastic tax.

Re-use targets

Articles 26-28 introduce new re-use and refill targets which put obligations on economic operators to introduce reuse systems for reusable packaging they put on the market and provide re-use and refill systems. It should not impact businesses based in the rest of the UK. This requirement goes beyond current UK policy on reuse and refill which is at an early stage of development.

- ***How does that compare with the likely impact if those elements of the PPWR were not applied in NI?***

If the above elements were not applied to NI the likely impact is that any NI business, and also any business in the rest of the UK, trading with the EU and RoI will still be required to apply the EU labelling and recycled content requirements.

- ***Are you aware of any plans for UKG to further align with elements of the PPWR in future?***

Many of the provisions within the regulation follow the general direction of travel of industry in terms of removing difficult to recycle or unnecessary packaging and would align with the trend from consumers demanding more sustainable packaging and related practices. UK Government recognises the merit of the policy intent set out within PPWR and has made similar commitments to ensure packaging is recyclable.

There is currently much alignment between the measures within PPWR and UK policy. In relation to EPR, for example, proposals on packaging databases also match data that would be reported under pEPR in the UK. The PPWR requirement to have deposit and return systems for the necessary packaging formats introduced by 1 January 2029 broadly aligns with UK policy. UKG and the devolved administrations will have equivalent deposit return schemes in place to a similar timeline.

The UK Government aims to introduce labelling obligations by amending pEPR legislation that align with the measures the EU is taking. In preparing these provisions, there will be a review of the PPWR exploring potential options for consistency across approaches.

Impact for GB-NI movements of products

- ***What is your assessment of the likely impact of the PPWR on GB-based businesses who wish to export products to NI, and if there are any negative impacts, are you aware of any plans from UKG to mitigate against them?***

GB business who wish to place packaging on the NI market will need to comply with the requirements in the PPWR. It is also worth highlighting that any GB business trading with the EU will be required to apply the same regulations as NI businesses.

Measures to reduce packaging waste will likely require adaptation of producers, retailers and consumers to new business and consumption models. Companies must await the adoption of secondary legislation on recyclability criteria and performance grades, expected by 2028.

The PPWR contains both reserved and devolved elements. At this time DAERA officials cannot confirm future UKG or devolved policy directions for all of these elements, therefore an assessment of all impacts and potential mitigations is difficult to determine. However we understand that UKG is currently considering what UK-wide application of similar such measures might look like across the UK.

Engagement with UKG

- ***Has UKG given any indication of whether it expects all of the finalised text of the PPWR, or only some parts of it, to apply in NI under Article 13(3) of the Windsor Framework? If UKG has indicated only some parts will apply under Article 13(3), has it indicated which ones?***

PPWR will apply in Northern Ireland under Article 13(3) of the Windsor Framework to the extent that it is in scope, subject to the democratic scrutiny mechanisms in Schedule 6B of the Northern Ireland Act 1998. UKG lead on engagement with EU on applicability of PPWR to NI and we await confirmation if all parts are expected to apply.

DAERA officials will continue to engage with UK policy counterparts as consideration is given to similar measures across the UK.

- ***Has UKG highlighted any anticipated risks or problems associated with the application of the PPWR (or parts of it) in NI? What mitigations has it proposed?***

Not as yet

- ***Has UKG suggested any likely benefits to NI arising from the application of the PPWR (or parts of it) in NI?***

As noted above, the UK has similar ambitions to the EU on reducing waste and encouraging recycling and is also adopting a Deposit Return Scheme and extended producer responsibility measures. We understand UKG is considering what UK-wide application of similar measures might look like across the UK.

Stakeholder engagement

- ***Can you provide more detail on any engagement which has taken place to date between DAERA and any potentially impacted stakeholders? Which sectors of industry and/or civic society have been consulted?***

DAERA officials have had some informal engagement with the Food and Drink Federation (FDF) which represents trade associations and food and drink manufacturers. FDF had a particular interest in the labelling requirements

- ***What (if any) potential benefits of the PPWR have been highlighted by stakeholders in NI?***

No information received to date on this.

- ***What (if any) risks or potential costs to business and/or consumers in NI have been highlighted?***

As above FDF have highlighted the importance of compatible labelling between UK and EU, which UKG is committed to ensuring. No other information has been received to date.