

# **EXPLANATORY MEMORANDUM FOR EUROPEAN UNION LEGISLATION WITHIN THE SCOPE OF THE UK/EU WITHDRAWAL AGREEMENT AND WINDSOR FRAMEWORK**

## **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**

Submitted by Department for Environment, Food and Rural Affairs

29 January 2024

### **SUBJECT MATTER**

1. The European Commission has proposed that the Packaging and Packaging Waste Regulation (PPWR) replace the existing Packaging and Packaging Waste Directive 94/62/EC (PPWD) and also amends the Single Use Plastics Directive (EU) 2019/904 (SUPD).
2. PPWR will introduce new requirements for the entire lifecycle of packaging as regards its environmental sustainability. The Regulation aims to increase the sustainability of packaging and minimise the use of unnecessary packaging through (*inter alia*) recycled content targets, re-use and refill systems, and measures aimed at packaging minimisation.
3. To facilitate dual access to the UK Internal Market and the EU Single Market, Northern Ireland applies certain EU rules relating to packaging and packaging waste. Accordingly, PPWR will apply in Northern Ireland under Article 13(3) of the Windsor Framework, to the extent that the measures within it (specified in paragraph 19 below) are in scope, subject to the democratic scrutiny mechanisms in Schedule 6B of the Northern Ireland Act 1998.
4. Whilst there will be further details set out in implementing acts to work through in due course - which may require consultation and engagement with the Devolved Governments - the Government is committed to protecting the UK internal market in all circumstances. Accordingly, the Government intends to avoid regulatory barriers within the UK's internal market arising from these Regulations. The Government therefore intends to consult on how best to achieve this ambition in the context of packaging and packaging waste during 2025, including considering the merits of adopting certain equivalent measures to PPWR across the UK.

## **SCRUTINY HISTORY**

5. The parliamentary scrutiny history relevant to this Explanatory Memorandum is contained in the attached Annex A.

## **MINISTERIAL RESPONSIBILITY**

6. Responsibility for policymaking in England lies with the Secretary of State for Environment, Food and Rural Affairs.

## **INTEREST OF THE DEVOLVED ADMINISTRATIONS**

7. As policymaking for waste is a devolved area, the Scottish and Welsh Governments and the Northern Ireland Executive are responsible for policymaking in their respective nations, and subject to the Resources and Waste Common Framework. The Devolved Governments have been consulted in the preparation of this explanatory memorandum and their views have been included in it.

## **LEGAL AND PROCEDURAL ISSUES**

8.

- i. **EU Legal Base**

The legal basis of the proposal is Article 114 of the Treaty of the Functioning of the European Union.

- ii. **Voting**

This legislation is being adopted via the ordinary legislative procedure. Therefore, the Council of the European Union will vote by qualified majority.

- iii. **Timetable for adoption and implementation**

The proposal was adopted by the Council on 16 December 2024. The Regulation was published in the Official Journal of the European Union on 22 January 2025 and is expected to enter into force on 11 February 2025.

The Regulation contains varying application dates ranging from 3 months after entry into force to 2040, with various application dates in between.

## **POLICY AND LEGAL IMPLICATIONS**

*Overview of PPWR*

9. PPWR sets Member State-level recycling targets (a minimum of 65% by weight of all packaging waste generated by the end of 2025, 70% by 2030), and material-specific targets.<sup>1</sup> It also requires Member States to take measures that ensure annual consumption of lightweight plastic carrier bags does not exceed 40 bags per person by the end of 2025, sets re-use targets for different sectors (e.g. transport packaging, and sets per capita packaging waste reduction targets (by at least 5% by 2030, 10% by 2035, 15% by 2040). The Regulation also introduces the following requirements for packaging placed on the market:
- a. **Recyclability.** From 2030, relevant packaging will need to meet new recyclability standards. In broad terms, it must be at least 70% recyclable, increasing to at least 80% by 2038. UK Government (UKG) shares the ambition to ensure that all packaging is recyclable, but also wishes to prevent waste and increase reuse and refill.
  - b. **Single Use Plastic Packaging.** Certain single-use plastic products will be banned from 1 January 2040 to reduce the environmental impact of single-use plastic and promote a more circular economy. These include:
    - i. Single-use plastic packaging for less than 1.5 kg of pre-packed fresh fruit and vegetables.
    - ii. Single-use plastic packaging for foods and beverages filled and consumed in hotels, restaurants, cafés, and similar establishments.
    - iii. Single-use plastic packaging containing individual portions of condiments, preserves, sauces, coffee creamer, sugar, and seasoning in the hotel, restaurant, and café/catering sectors.
    - iv. Single-use plastic packaging for cosmetics, hygiene, and toiletry products for use in the accommodation sector.
    - v. Very lightweight plastic carrier bags with a wall thickness below 15 microns.
  - c. **Food Contact Materials.** PPWR prohibits the use of per- and poly-fluoroalkyl substances (PFAS) in food contact packaging, at or above certain levels, as of 18 months after the Regulation enters into force. UKG shares aims on restricting these substances and has a broadly equivalent regime in place.

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<sup>1</sup> By 31 December 2025, the following minimum percentages by weight of the following specific materials contained in packaging waste generated: (i) 50% of plastic; (ii) 25% of wood; (iii) 70% of ferrous metals; (iv) 50% of aluminium; (v) 70% of glass; (vi) 75% of paper and cardboard;

By 31 December 2030, the following minimum percentages by weight of the following specific materials contained in packaging waste generated: (i) 55% of plastic; (ii) 30% of wood; (iii) 80% of ferrous metals; (iv) 60% of aluminium; (v) 75% of glass; (vi) 85% of paper and cardboard.

- d. **Extended Producer Responsibility.** Packaging producers will be required to report data and contribute financially to the costs of collecting, sorting and recycling packaging waste. The pEPR Regulations are in force in the UK, which will deliver these provisions. Within 18 months from entry into force of the implementing acts, Member States will also have to establish a register of producers to monitor compliance with PPWR requirements. Producers, or their authorised representative, must be registered in a Member State before being able to place packaging on the market there. Member States will also need to ensure operational “return and collection” schemes to facilitate preparation for re-use and high-quality recycling. Deposit and return systems for the necessary packaging formats are to be introduced by 1 January 2029 (certain exemptions or derogations exist for hospitality, retail and catering sectors). Regulations introducing a deposit return scheme in England and Northern Ireland came into force on 24<sup>th</sup> January 2025. The scheme will be launched in England, Scotland and Northern Ireland in October 2027 and Wales’ scheme will be implemented as soon as possible within timescales for making legislation in Senedd Cymru.
  - e. **Labelling.** Packaging, except transport packaging and DRS packaging, will need to be labelled to indicate material composition. DRS packaging must be labelled to show it is subject to a deposit and returns systems. In addition to the harmonised label, a QR code or other digital data carrier may be placed on packaging containing information about the packaging to facilitate consumer sorting. 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. From 48 months from entry into force of PPWR or 30 months after an implementing act, reusable packaging shall bear a label informing users that the packaging is reusable, with further information being made available through a QR code. UKG has already announced that it is exploring options to adopt equivalent harmonised labelling, ensuring easier recycling processes for consumers and clarity for business manufacturing.
10. Economic operators will need to undertake conformity assessment procedures to demonstrate compliance with these modified requirements, and Member States will have certain new data reporting requirements to demonstrate compliance. The Regulation also confers powers to adopt delegated acts requiring contracting authorities to use green procurement criteria to purchase specific groups of products based on their environmental credentials.
11. PPWR includes a “mirror clause”, meaning imported plastic must meet the same environmental standards as plastic sourced within the EU single market, including in relation to minimum recycled content.

12. There are certain *de minimis* exemptions from aspects of PPWR, in particular for micro businesses (as defined by number of employees and annual turnover). Examples of the exemptions are economic operators being exempt from packaging re-use targets, maintaining the ability to use of single use packaging for foods and beverages consumed on site as well as takeaway packaging, and avoiding the requirement to charge deposits for deposit return schemes (as long as the product is consumed and returned within the premises). UKG recognises the importance of minimising the burden on small business and these easements within PPWR will make the practical impact on smaller businesses who are the end user of packaging less burdensome.

#### *Domestic Regulatory Regimes on Packaging and Packaging Waste*

13. UKG and the Devolved Governments, similar to the European Union, are committed to reducing waste by moving to a circular economy and are making progress towards unifying recycling measures through a range of reforms - many of which are similar to those described above.

14. 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 tax was introduced to drive demand for recycled plastics. PPWR will introduce recycled content targets in 2030 for single-use plastic bottles to contain 30% recycled material; the domestic Plastic Packaging Tax is already in place to achieve similar targets.

15. UKG and the Devolved Governments introduced extended producer responsibility for packaging (pEPR) on the 1 January 2025, in line with developments in the EU. pEPR incentivises producers to take greater responsibility for the environmental impacts of their packaging, driving producers towards all packaging being recyclable. The regulations will also set recycling targets to 2030.

16. Deposit return schemes for drinks containers are being developed across the UK nations with the scheme planned for England, Scotland and Northern Ireland expected to be operational by 2027 and Wales' scheme to be implemented as soon as possible within timescales for making legislation in Senedd Cymru. As set out above, the EU is mandating equivalent measures from 2029.

17. The Simpler Recycling scheme will require all local authorities in England to collect the same recyclable waste streams for recycling or composting from households: paper and card, plastic, glass, metal, food waste, and garden waste. All non-household municipal premises in England (such as businesses, schools and hospitals), must make arrangements to have the same set of recyclable waste streams (with the exception of garden waste) collected for recycling or composting. Similar requirements are already in place in Scotland for household and commercial waste. In Wales, all non-domestic premises including businesses

and public and third sector organisations are already required by law to present the following recyclable waste streams separately for collection and onwards recycling: a) glass; b) cartons and similar, metal and plastic; (c) paper and card (d) food waste from premises that produce 5 kilogrammes or more of food waste in seven consecutive days; (e) unsold small waste electrical and electronic equipment; (f) unsold textiles.

### *Implications for Northern Ireland*

18. To facilitate dual access to the UK Internal Market and the EU Single Market, Northern Ireland applies certain EU rules relating to packaging and packaging waste. Accordingly, 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.
19. Several provisions of the PPWR fall outside scope of the Windsor Framework and will therefore not apply to Northern Ireland. Broadly, this means waste management aspects of PPWR will not apply under Article 13(3) which includes:
  - a. Per capita plastic bag consumption targets (Article 34), unless Northern Ireland opts to take measures to achieve a sustained reduction of plastic bag consumption in accordance with Article 34(1), in which case the provisions of Article 34 and Article 56(1)(b) apply; waste generation targets (Article 43); as well as re-use targets and associated measures (e.g. re-use reporting and measures to mandate/encourage reusability of takeaway packaging) (Articles 29-33);
  - b. New harmonised requirements in relation to extended producer responsibility (Articles 44-47), return and collection systems (Articles 48 – 49) and deposit and return systems (Article 50, which also means Article 12 in respect of Deposit Return Scheme labelling will not apply);
  - c. Recycling targets, as well as rules on calculation on achievement of targets, and the promotion of re-use, refill and recycling (Article 51-54);
  - d. Measures relating to green public procurement (Article 63); and
  - e. Certain waste management reporting and informational requirements (Articles 23, 41, 42, 55, and 56 (paragraphs 1 and 6 only) and 57).
20. The Articles of PPWR which are not mentioned above will be subject to the Article 13(3) process, insofar as they do not relate to waste management (as set out above).
21. Noting the UK's steadfast commitments to reduce the amounts of unnecessary packaging, and ensuring all packaging is recyclable, reusable or refillable, UKG recognises the merits of the measures set out within PPWR and has already announced many similar measures across the UK.

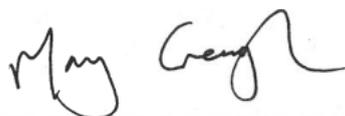
22. This includes measures with respect to extended producer responsibility, deposit and return, and PFAS restrictions. UKG has also announced its intention to review the forthcoming EU packaging legislation and to explore the potential for consistency across our measures and approaches on labelling. It is also expected that, across the UK, our recycling performance will meet or exceed the targets set in PPWR.
23. Whilst there will be further details set out in implementing acts to work through in due course which may require consultation and engagement with the Devolved Governments – UKG will take any steps necessary to protect the UK internal market in all circumstances with regard to packaging and packaging waste, in line with its manifesto commitment to do so. UKG intends to consult on how best to achieve this ambition in the context of packaging and packaging waste during 2025, including considering adoption of equivalent measures across the UK.
24. Accordingly, and noting the above mentioned limitations on the scope of application of PPWR in Northern Ireland, overall it is intended and expected that there will be no regulatory barriers within the UK’s internal market arising from the Regulations. There should therefore be no impact on trade between Northern Ireland and the rest of the UK, nor is there expected to be any difference in product availability within Northern Ireland compared with the rest of the UK internal market.

## **CONSULTATION**

25. There has been engagement on the Regulation between the European Commission and various stakeholders and Member States at European level, this has resulted in revisions to the original PPWR proposal. UK based packaging reforms have seen continued engagement with industry to ensure stakeholder views are taken into account when assessing interoperability with PPWR.

## **FINANCIAL IMPLICATIONS**

26. Upon the publication and enforcement of PPWR, the UKG anticipates certain financial implications for packaging manufacturers and businesses in the UK. Businesses using affected packaged products may also incur minor financial impacts due to changes in product requirements. The de minimis exemptions aim to mitigate certain impacts on small businesses. For the reasons set out above, any Northern Ireland-specific financial implications are expected to be minor.



**MARY CREAGH CBE MP**  
**PARLIAMENTARY UNDER-SECRETARY OF STATE (MINISTER FOR NATURE)**

**DEPARTMENT FOR ENVIRONMENT, FOOD AND RURAL AFFAIRS**

**PARLIAMENTARY SCRUTINY HISTORY RELEVANT TO A:**

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON PACKAGING AND PACKAGING WASTE, AMENDING REGULATION (EU) 2019/1020 AND DIRECTIVE (EU) 2019/904, AND REPEALING DIRECTIVE 94/62/EC**

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**15581/22 + ADD 1:**

**PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON PACKAGING AND PACKAGING WASTE, AMENDING REGULATION (EU) 2019/1020 AND DIRECTIVE (EU) 2019/904, AND REPEALING DIRECTIVE 94/62/EC**

**COMMISSION STAFF WORKING DOCUMENT EXECUTIVE SUMMARY OF THE IMPACT ASSESSMENT REPORT ACCOMPANYING THE DOCUMENT PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND THE COUNCIL ON PACKAGING AND PACKAGING WASTE, AMENDING REGULATION (EU) 2019/1020, AND REPEALING DIRECTIVE 94/62/EC**

**REGULATORY SCRUTINY BOARD OPINION**

**COMMISSION STAFF WORKING DOCUMENT IMPACT ASSESSMENT REPORT ACCOMPANYING THE DOCUMENT PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND THE COUNCIL ON PACKAGING AND PACKAGING WASTE, AMENDING REGULATION (EU) 2019/1020, AND REPEALING DIRECTIVE 94/62/EC**

**DEFRA SUBMITTED AN EM DATE 20 DECEMBER 2022**

**SCRUTINY COMMITTEES' RECOMMENDATIONS:**

<b>COMMONS</b>	<b>LORDS</b>
CLEARED BY HOC LETTER 29/11/23. SCRUTINY NOT COMPLETED (OUTCOME AGENDA 2 15/11/23) SCRUTINY NOT COMPLETED (OUTCOME AGENDA 39 12/7/23) SCRUTINY NOT	SIFTED FOR SCRUTINY TO THE PROTOCOL ON IRELAND/NORTHERN IRELAND SUB-COMMITTEE (AT CHAIR'S SIFT NO 28; 6/1/23)

COMPLETED (OUTCOME AGENDA NO 21 8/2/23)	
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