

## Recycled Plastic in Food Contact Packaging Position



Great Britain (GB) is currently using the European Commission's Recycled Plastic Materials in Contact with Food Regulation (EC) 282/2008 <sup>1</sup>. However, because the approved list for recycled plastic processes has not yet been established, the Food Standards Agency (FSA) website suggests following General Food Law Regulation (EC) 178/2002 <sup>2</sup> and complying with any general criteria in the food contact materials legislation (EC) 1935/2004 <sup>3 4</sup>. The EU has recently replaced its recycled plastic in contact with food legislation with the newer Regulation (EC) 1616/2022 <sup>5</sup>, which is explained in more detail below. The new legislation must be followed to place packaging on the market in Northern Ireland, as well as in the EU.

There is no harmonised authorisation under the older Regulation (EC) 282/2008. As such, all recycled plastics were used based on the authorisation of a Member State based on the opinion of European Food Safety Authority (EFSA). The opinions from EFSA were predominately for PET packaging, which is the recycled material most used in food contact applications within the EU.

Within the GB market there is also the unique case of HDPE milk bottles, which are widely used and widely recycled, with the material reused in milk bottles. This fresh milk market is not replicated elsewhere in the EU on the same scale and therefore HDPE milk bottles are not widely used elsewhere.

Restrictions and uncertainty on the use of recycled content in food contact applications could mean that GB misses out on the opportunity to increase its use of recycled material. It also means manufacturers and brands are not necessarily able to meet the 30% threshold stipulated by the Plastic Packaging Tax in lieu of clear compliance requirements.

Whilst the incentivisation of recycled content use is a key environmental consideration, measures and regulatory changes to allow for the inclusion of recycled plastic content in food contact packaging should not risk lowering the safety standards of the packaging, nor the food contained within the packaging.

<sup>1</sup> <https://eur-lex.europa.eu/legal-content/en/ALL/?uri=CELEX%3A32008R0282> accessed 20.03.2023

<sup>2</sup> <https://www.legislation.gov.uk/eur/2002/178/contents> accessed 20.03.2023

<sup>3</sup> <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2004:338:0004:0017:en:PDF> accessed 20.03.2023

<sup>4</sup> <https://www.food.gov.uk/business-guidance/regulated-products/food-contact-materials-guidance> accessed 15.03.2023

<sup>5</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32022R1616> accessed 20.03.2023

## EU Food Contact Regulation 1616/2022

This new regulation was formally adopted within the EU in October 2022. Through this there are two pathways for the approval of recycled material that will be in contact with food. The first is for suitable technology for PET recycling (individual authorisation of processes is still required) and within controlled loops (using recycled material in plastic crates is an example of this). The second involves 'novel technology' and applications can be made for technology aimed at other (non-PET) polymers. Registration opened for the approval of 'novel technology' in February 2023. Applications need to be submitted by the developer six months prior to the start of the decontamination installation.

The EC should also be publishing the first set of EU authorisations at some point. This was originally expected within three months of the regulation starting but none have been published as of March 2023. Some technologies have already had a favourable opinion expressed by the EFSA.

GB companies can get approval through Regulation (EC) 1616/2022 but would not be able to put the products on the market in GB, only in the EU. Submissions for authorisation to the EU (and Northern Ireland) from the GB market need to be made to the UK's FSA, which increases the need for a dual submission or recognition model.

### Key Considerations

- The recycled content currently used in HDPE milk bottles is a great example of the circular economy in action and this is unique to the United Kingdom (UK). Under EC 2022/1616, the route for approval would be as a 'novel technology'.
- Functional barriers (with recycled material layered inside two outer virgin layers) is widely used as a method of incorporating recycled content in food contact plastic packaging. Under EC 2022/1616 the route for approval would be as a 'novel technology'.
- Companies operate internationally and may even make components for a product in multiple countries. Many companies are therefore already needing to meet EC 2022/1616 specifications where components are made and sold in EU member states and Northern Ireland.
- Regulatory divergence between the EU and GB adds additional complexity, cost and risk for the supply chain producing and/or placing items on markets across multiple countries.
- The FSA is currently the competent authority for all four nations of the UK. However, as a result of the Windsor Framework, the competent authority for Northern Ireland may be subject to change.

### RECOUP and The BPF position

Based on the current evidence:

- Internationally accepted food contact approval for recycled content is vital to drive up the use of recycled content. Creating a mechanism for food contact approval beyond just PET packaging and HDPE milk bottles will increase the use of recycled content and allow for new technologies to also gain approval in the future.
- GB should align its food contact regulations with the EU.
- GB should recognise authorisations made from EC 2022/1616 and the EU should recognise approvals made through a GB-specific scheme if EC 2022/1616 is not adopted.
- GB should recognise the data collected by 'novel technology' as part of its assessment processes and the EU should recognise GB data if a similar scheme is adopted.

- Legislation should avoid a separate regulatory area for Northern Ireland from the rest of the UK to prevent trade barriers.
- To protect successful circular economy infrastructure and a current use of recycled material in packaging within the UK, the use of recycled HDPE in milk bottles and functional barriers needs to continue whilst still meeting established safety standards.