



THE GLOBAL FOOD DONATION POLICY ATLAS

Executive Summary: United Kingdom

More than enough food is produced to feed every person, yet one-third of all food is wasted. Redirecting safe, surplus food is an effective and compassionate solution, but it can be complicated because food is a heavily-regulated product.

To help address the most pressing and universal legal and policy questions surrounding food recovery and donation, the **Harvard Law School Food Law and Policy Clinic (FLPC)** and **The Global FoodBanking Network (GFN)** have partnered to create The Global Food Donation Policy Atlas. This innovative partnership will map the laws and policies affecting donations in 15 countries over the course of two years. The project aims to: identify and explain national laws relating to food donation, analyze the most common legal barriers to promoting greater food donation and share best practices and recommendations for overcoming these barriers.

UNITED KINGDOM FOOD LOSS AND WASTE

Each year, approximately 13.1 million tons of all food in the United Kingdom (UK) is either lost or wasted along the supply chain. Much of this food is still safe for human consumption and could be redirected to those experiencing hunger and chronic malnutrition throughout the UK's countries of England, Northern Ireland, Scotland, and Wales. At the same time that this safe surplus food goes to waste, 8% of the UK population was moderately or severely food insecure prior to the novel coronavirus (COVID-19) pandemic. By the end of 2020, this number had likely increased to more than 16% despite governmental interventions to address hunger and food insecurity.

Prior to the pandemic, the UK government prioritized hunger reduction and food security as part of its national policy agenda. The Department for Environment, Food, and Rural Affairs (Defra), which regulates, among other things, food production standards, agriculture, and fisheries, developed a UK Food Recovery Hierarchy, which outlines strategies for reducing food waste and highlights food redistribution to people as one of its top priorities. Also, the UK government and the country governments within the UK have developed funding mechanisms for voluntarily initiatives and to support non-profit organizations dedicated to reducing food loss and waste. One such organization, the Waste and Resources Action Programme (WRAP), leads the way in providing guidance on food waste in the UK, including guidance on the UK's standardized dual date labeling system.

United Kingdom: By the Numbers

- Population: 65,761,117 million
- GDP: \$2.837 trillion
- Poverty Rate: 17%
- Prevalence of Food Insecurity: 8%
- Global Food Security Index: 79.1
- Food Sustainability Index: 70
- FLW Estimates: 13.1 million tons/year

UNITED KINGDOM FOOD DONATION POLICY HIGHLIGHTS

FOOD SAFETY: The UK has a detailed legal framework relevant to food safety. It derives its framework from UK law, laws from the individual countries of the UK, and retained European Union (EU) law—EU laws that were adopted by the UK and remain part of UK law after its exit from the EU. These legal frameworks give ample

guidance as to the food safety rules that apply to food donation and recovery. EU law applies to food distribution, including donation, UK law applies to food recovery organizations, and the UK's Food Safety Act 1990 applies to food donation of certain food products with damaged packaging and safe handling of food by food recovery organizations. Further, the UK nation government and the governments of the UK's countries provide funding for WRAP to directly address and provide guidance for the safe redistribution of surplus food, among other food waste initiatives.

DATE LABELING: The UK has laws that standardize and clarify date labels on products, consistent with the *Codex Alimentarius* and the EU's Food Information Regulation (FIR). The FIR creates a dual date labeling scheme that distinguishes between safety-based and quality-based date label language. Thus, UK law requires manufacturers to utilize "use by" dates when there are safety-related considerations, and to otherwise use "best before" dates (or "best before end" dates on certain products) for products labeled for freshness or quality, in order to reduce unnecessarily wasted food. In accordance with this distinction, agencies direct that food may not be sold or donated after the "use by" date, but the law explicitly states that **food products past their "best before" date may be sold or donated**. Additionally, the UK government and WRAP, have launched extensive education campaigns to lessen consumer confusion surrounding date labels, among other food recovery initiatives.

GOVERNMENT GRANTS AND INCENTIVES: While there is no UK-wide grant funding opportunity at the national level, the countries of the UK offer several different funding opportunities for **governmental support** for food recovery and donation. England's Resource Action Fund established an £18 million fund towards projects focused on diverting, reducing, and better managing waste. Several other smaller scale grants and incentives are offered for food waste reduction and food donation within other UK countries. Also, while the UK Research Institute (U.K.RI) is not specifically aimed at food waste reduction and food donation, several U.K.RI grants have supported food waste reduction and food donation, such as funding for improved food spoilage sensor technology.

ACTION OPPORTUNITY: The UK government should offer more UK-wide grants and incentives for food waste reduction. Providing greater financial support for food donation logistics will enable food recovery organizations to significantly enhance their impact, reducing the economic and environmental costs of food waste, and supporting those in need. UK-wide investments in a food recovery innovation fund that helps support on-farm harvest, packaging, storage, and distribution activities, for example, may help to expand the reach of existing food donation operations. A UK government grant program could also help increase donations of nutritionally-diverse foods, such as fresh produce and fresh fish. Since the exporting of fresh produce and fish has diminished because of the pandemic, a grant could allocate funds to the fresh produce and fish industries to support this donation of surplus food to food recovery organizations.

UNITED KINGDOM FOOD DONATION POLICY OPPORTUNITIES

LIABILITY PROTECTION: The UK lacks comprehensive liability protections for food donors and food recovery organizations. Without such protections, food donors and intermediaries may refrain from food donation and recovery, fearing potential liability should a beneficiary claim they were harmed after consuming donated food. Although there have been no lawsuits in the UK related to the consumption of donated food, businesses are reticent to donate food. Global corporations, in particular, are wary of exposing themselves to potential litigation.

ACTION OPPORTUNITY: To dispel concerns of food donors and food recovery organizations regarding potential liability for food donations, the UK government should adopt legislation that **establishes clear liability protection for donated food** that is in compliance with all applicable laws and regulations and is donated to non-profit organizations in good faith. In order to balance the interest of donors and food recovery organizations with those of the ultimate recipients, any liability protection law enacted in the UK should require donated food to meet all relevant food safety laws, and liability protection should not be available if harm is the result of intentional action, recklessness, or gross negligence of the donor or food recovery organization.

TAX INCENTIVES AND BARRIERS: Food donation helps mitigate the costs of hunger and stimulate the economy, but it can also be expensive, as food donors must allocate time and money to recover, package, store, and transport surplus food that otherwise would be discarded, usually at no cost. Taxes can either help to offset

these expenses and create an incentive to donate, or they can create an additional barrier to donation, one which contributes to greater food loss and waste. In the UK, there are currently no tax incentives for donation of food. However, there also are no specific tax barriers to donation, as most food and drink is “zero rated” for the Value Added Tax (VAT) meaning not VAT is charged on such foods. This means that taxpayers may offer this food for donation without concern about transferring and reclaiming the VAT.

ACTION OPPORTUNITY: In order to offset the costs businesses may incur when donating food, the UK government should **offer a tax incentive for food donations made to food recovery organizations**. While such an incentive could be structured as either a deduction or credit, the UK government should **consider the potential benefit of offering a tax credit** as offering a tax credit for food donations is likely to better encourage smaller donors who may not generate a lot of income during the year. Any tax credit or deduction should **reflect the priorities set out in the UK Food Recovery Hierarchy** by providing a better incentive for food donation over other food recovery methods, such as Anaerobic Digestion.

DONATION REQUIREMENTS OR FOOD WASTE PENALTIES: Nationally, the UK does not have any uniform legislation that requires companies or consumers to donate excess food, nor is there a uniform ban on waste being sent to landfills. This is likely due to the fact that waste policy, general, is fully devolved to regional governments, meaning that Northern Ireland, Scotland, and Wales manage their own waste policies. Leveraging this devolved power, both Northern Ireland and Scotland have adopted food waste to landfill bans, requiring households and food businesses to separate food from other waste. England and Wales, however, do not currently have food waste to landfill bans, although both countries have expressed intent to reduce food waste being sent to landfills in their respective waste strategy action plans.

ACTION OPPORTUNITY: England and Wales **should adopt food waste bans**, following the models of those policies adopted in Northern Ireland and Scotland. To further align with the UK Food Recovery Hierarchy, all UK countries should also consider adopting requirements for companies and consumers to donate excess food.

UNITED KINGDOM FOOD DONATION POLICY: HOW DOES IT COMPARE?

The UK’s numerous grants and incentives, the nationwide and individual country-specific food safety regulations for food donation, and the adoption of the dual date labeling system outlined in the *Codex Alimentarius* and guided by WRAP, all demonstrate the attention that policymakers are placing on the issues surrounding food donation. While the UK works toward a comprehensive framework for redirecting safe, surplus, or otherwise unmarketable food to those who need it most, policymakers should pursue targeted improvements to existing law and regulations that impact food donation. In particular, such targeted policies include enacting liability protections for food donors and recovery organizations, creating tax incentives to promote food recovery, and introducing food waste to landfill bans in England and in Wales.

Food Safety for Donations	Date Labeling	Liability Protection for Food Donation	Tax Incentives	Tax Barriers	Donation Requirements or Food Waste Penalties	Government Grants and Incentives
Strong Policy	Strong Policy	No Policy	No Policy	No	Weak Policy	Strong Policy

For more detail on how the United Kingdom measures up against the other countries evaluated in The Global Food Donation Policy Atlas project, check out www.atlas.foodbanking.org. For more information about the food donation legal framework in the United Kingdom and policy recommendations for strengthening this framework, check out the United Kingdom Food Donation Legal Guide and the United Kingdom Food Donation Policy Recommendations.

BACKGROUND INFORMATION: MAJOR LEGAL ISSUES IMPACTING FOOD DONATION

Food Safety for Donations: A key barrier to food donation is lack of knowledge regarding safety procedures for donated food. All donated food should be safe for consumption and comply with applicable food safety laws. Potential donors, however, are often uncertain which food safety regulations apply to donated food and the steps necessary to comply.

Date Labeling: Date labels, such as “use by,” “best before,” “sell by,” and “expires on,” are a major driver of food waste and obstacle to donation. For the majority of foods, date labels are used by manufacturers to reflect freshness or quality rather than safety, yet without standard labels delineating safety versus quality, safe food often goes to waste rather than being donated.

Liability Protection for Food Donations: A significant barrier to food donation is the fear among donors that they will be liable if someone becomes sick after consuming donated food. Many countries are moving to adopt liability protections to mitigate this concern. In such countries, donors and food recovery organizations may still face uncertainty as to the parameters of this protection.

Tax Incentives and Barriers: Donating surplus food can be expensive, as food donors must allocate time and money to glean, package, store, and transport surplus food that otherwise would be discarded, usually at no cost. Tax incentives (deductions or credits), can help offset these costs and make donation a more attractive option. In some countries, such as several countries with a value added tax, tax schemes are themselves a barrier to donations.

Donation Requirements or Food Waste Penalties: Some countries have employed food donation requirements or impose monetary penalties for food that is sent to the landfill (often known as organic waste bans or waste taxes) in order to influence business behavior and promote more sustainable solutions such as food donation and recovery.

Government Grants and Incentives: Grants and incentive programs funded at the national or local level offer another important resource for food donation initiatives. This is particularly true in countries where donors consider tax incentives to be insufficient to offset the costs of donation or where a lack of infrastructure limits food recovery efforts.

THE GLOBAL FOOD DONATION POLICY ATLAS PROJECT SUPPORT

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