

UNITED KINGDOM
RECOMMENDATIONS
FOOD DONATION
LAW AND POLICY

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About The Global Food Donation Policy Atlas

The Global Food Donation Policy Atlas is a first-of-its-kind initiative to promote better laws on food donation to help address food loss and food insecurity. This project maps the laws affecting food donation in countries across the globe in order to help practitioners understand national laws relating to food donation, compare laws across countries and regions, analyze legal questions and barriers to donation, and share best practices and recommendations for overcoming these barriers. The project is a collaboration between Harvard Law School Food Law and Policy Clinic and The Global FoodBanking Network. To learn about and compare the food donation laws and policies for the countries FLPC has researched to date, visit atlas.foodbanking.org.

About the Harvard Law School Food Law and Policy Clinic

FLPC serves partner organizations and communities by providing guidance on cutting-edge food system legal and policy issues, while engaging law students in the practice of food law and policy. FLPC focuses on increasing access to healthy foods; supporting sustainable food production and food systems; and reducing waste of healthy, wholesome food. For more information, visit www.chlpi.org/FLPC.



About The Global FoodBanking Network

GFN is an international non-profit organization that nourishes the world's hungry through uniting and advancing food banks in more than 40 countries. GFN focuses on combating hunger and preventing food waste by providing expertise, directing resources, sharing knowledge and developing connections that increase efficiency, ensure food safety, and help food banks reach more people facing hunger. For more information visit www.foodbanking.org.



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ABOUT THESE RECOMMENDATIONS

This document is a product of The Global Food Donation Policy Atlas project, a partnership between the Harvard Law School Food Law and Policy Clinic (FLPC) and The Global FoodBanking Network (GFN).¹ The Atlas project is an innovative partnership designed to map the laws and policies affecting food donation in 15 countries over the course of two years and to provide a comparative legal analysis based on these findings. For each of these countries, the Global Food Donation Policy Atlas project will produce a Legal Guide to identify the laws relevant to food donation in that country. While the landscape differs across geopolitical borders, the Legal Guides recognize universal issues that impact efforts to reduce food loss and waste and increase food recovery. These issues include food safety, date labeling, liability, taxes, and government grants or funding programs.

Interviews with relevant stakeholders, including food banks and other food recovery organizations, food donors, government officials, and legal experts, further informed the content of the Legal Guides and revealed priority actions for law and policy change. Based on these findings, FLPC has developed specific recommendations for each country. These recommendations are intended to serve as a companion to the Legal Guides, though both documents may stand alone. The purpose of these recommendations is to highlight select actions for improving upon laws, policies and programs relevant to food loss, waste, and donation.

This document sets forth recommendations focused on the United Kingdom (UK), a sovereign state consisting of England and the devolved countries of Northern Ireland, Scotland, and Wales.² In the UK, 13% of households have marginal to very low food security,³ while 13.1 million tons of food is discarded each year.⁴ The discussion below provides a brief overview of the legal issues most pertinent to food donation, which are explained in more detail in the United Kingdom Legal Guide. The recommendations included in this report are not exhaustive, but offer select best practices and policy solutions to reduce food loss and waste and combat food insecurity through stronger food donation laws and policies in the UK.



SUMMARY OF RECOMMENDATIONS

The recommendations contained in this document aim to provide a starting point for stakeholders in the UK to strengthen the legal and policy framework relevant to food donation. Food banks and other organizations whose mission is to reduce food waste and increase food donation (collectively referred to as “food recovery organizations”), donors, and policymakers should consider additional opportunities to advance food donation and reduce food waste.

To ensure concern for liability arising out of donating food does not deter potential donors, the UK government should:

- **Adopt legislation that establishes clear and comprehensive liability protections for food donors and food recovery organizations that act in good faith.**
- **Establish a scope of liability protection that allows food recovery organizations and other intermediaries to charge a nominal fee for donated food.**

To ensure that food donors and food recovery organizations are sufficiently incentivized to donate food, the UK government and appropriate agencies should:

- **Amend the Corporation Tax Act to provide financial incentives for businesses who donate safe food to food recovery organizations.**

To ensure that all food supply chain actors contribute to food recovery and donation efforts:

- **England and Wales should introduce organic waste bans that apply to households and large-scale food businesses.**
- **The UK countries should develop and enforce a food waste reporting requirement for all food businesses across the UK.**

To ensure that food donors and food recovery organizations can effectively and safely recover, handle, transport, and distribute surplus food, the UK government should:

- **Increase government grants and investments in food recovery resources, innovation, and infrastructure improvements.**

INTRODUCTION

Policies designed to both prevent food loss and waste and promote food donation are critical for countries responding to simultaneous burdens of poverty, malnutrition, and food insecurity. This is the case in the UK, which faces pervasive food insecurity and hunger, despite maintaining one of the world's largest economies.⁵ Prior to the novel coronavirus (COVID-19) pandemic, an estimated 13% of households had marginal to very low food security, and 1.3% of the population experienced extreme hunger.⁶ The UK has adopted several measures to respond to hunger, poverty, and income disparity, including social protection reforms and a Universal Credit System.⁷ Nevertheless, the global pandemic has exacerbated these issues, with estimates indicating that 16% of the UK population has experienced food insecurity as a direct result of the crisis and roughly 4.5% of the population skipping meals due to lack of food.⁸

Such reports of food scarcity and lack of access are especially problematic given the amount of food that is reportedly wasted in the UK. Around 7.3 million tons of food brought into UK homes each year are thrown away, 4.4 million tons of which could have been safely redistributed to those in need.⁹ While food waste occurs across the supply chain, an estimated 70% of waste is generated in households alone.¹⁰ The remainder of this waste is generated from manufacturers (16%), farms (estimated to be anywhere between 9% and 37%), with only a small fraction wasted at the retail level (at 3%).

The UK government has adopted several successful measures to reduce food waste and promote food recovery and donation. In particular, the UK has developed a comprehensive food safety framework that extends to donated food, and which is comprised of retained EU laws and regulations¹¹ and UK-wide legislation that impacts all UK countries.¹² The UK has also standardized date labels consistent with the 2018 updates to the *Codex Alimentarius*' General Standard for the Labeling of Prepackaged Foods,¹³ and prevailing guidance from the EU Commission.¹⁴ The dual-date labeling scheme, which has been codified by all countries in the UK, distinguishes between safety-based and quality-based labels to eliminate consumer confusion and reduce unnecessary waste.

UK government agencies have partnered with organizations like the Waste and Resources Action Programme (WRAP),¹⁵ to further clarify food safety and date labeling requirements in the context of sale and donation. These campaigns helped to reduce UK food waste by 1.6 million tons per year since 2007.¹⁶ Additionally, there are over 2,000 food banks (known as food pantries outside of the UK), and charitable food redistributors (known as food banks outside of the UK), and an estimated 3,000 independent food recovery organizations.¹⁷ For example, FareShare UK is a key contributor to the food banking sector through their system of redistributing food from manufacturers and retailers to food banks, having redistributed 57.3 million meals that fed 933,178 people per week, amounting to £14.1 million in saving to charities, in 2019–20.¹⁸

Despite these UK-wide policy and regulatory initiatives, there is no UK legislation that uniformly directs food waste prevention, recovery, and redistribution efforts across England, Northern Ireland, Scotland, and Wales. Instead, a myriad framework in the UK countries, laws adopted by the UK Parliament, and retained EU laws may impact food waste and donation.¹⁹ In particular, there are UK Parliamentary acts that are binding on the UK countries.²⁰ Northern Ireland, Scotland, and Wales have certain delegated or *devolved* powers and may adopt laws, policies, and regulations related to health and agriculture, among other issues,²¹ through their respective executive and legislative branches.²² As a result, food donors and food recovery organizations are tasked with discerning and complying with applicable UK laws and regulations, and those individual country-specific laws and regulations that are in effect where the donation is made.

Identifying relevant laws from the outset can therefore help food donors and food recovery organizations avoid potential uncertainty and confusion. The United Kingdom Legal Guide, which accompanies this document, is intended to offer such support and to highlight common legal challenges that may arise when donating food. The following sections briefly summarize those challenges and offer policy recommendations for greater food donation.

LEGAL CHALLENGES AND POLICY RECOMMENDATIONS

Liability Protection

Issue Overview

A significant barrier to food donation is the fear among donors that they will be found liable if someone becomes sick after consuming donated food. Other countries, including Argentina and the United States, have established protections for both food donors and food recovery organizations. These protections limit the likelihood that these actors will be held legally or financially responsible for any resulting harm, provided they act in accordance with relevant laws.²³ Unlike these countries, the UK does not offer liability protections for donors and intermediaries; as a result, food donation may be perceived as a potentially risky endeavor.

Concern about potential liability among food donors and food recovery organizations is likely heightened by the UK's application of a "strict liability" scheme for all harms that result from the consumption of unsafe food.²⁴ Under the Food Safety Act and other country-specific regulations, for example,²⁵ actors are considered liable for harm, and may be held legally and financially responsible for harm arising from unsafe food, even if they did not act maliciously or intend to inflict such harm.²⁶ Under this scheme, food donors and food recovery organizations could face liability if a donation beneficiary becomes ill from donated food that does not meet relevant safety standards, regardless of whether these actors complied with the law.

In most cases, food donors and food recovery organizations may escape liability for violations by showing that all reasonable measures were taken to comply with the provision in question.²⁷ Laws imposing liability on food suppliers, such as the Consumer Protection Act 1987 (CPA),²⁸ offer numerous defenses and typically, suppliers are not held liable if they demonstrate compliance with a food-safety plan that accounts for and protects against the harm that occurred.²⁹

Even if food donors and food recovery organizations are unlikely to incur liability, the lack of comprehensive protections for these actors may still cause concern about having to defend against potentially costly claims. Accordingly, the UK previously considered adopting protections for food donors. The Food Waste Bill 2010–2012, a Primary Members Bill, was introduced into the House of Commons in 2012 and contained a liability-protection provision modeled after the comprehensive liability protection afforded to food donors in the United States; however, this bill failed to pass.³⁰ As a result, both food donors and food recovery organizations are without broad liability protections.

Recommended Policy Actions

1. ADOPT LEGISLATION THAT ESTABLISHES CLEAR AND COMPREHENSIVE LIABILITY PROTECTIONS FOR FOOD DONORS AND FOOD RECOVERY ORGANIZATIONS THAT ACT IN GOOD FAITH.

To dispel these concerns and present food donation as a more attractive and less risky option, the UK should establish liability protections for donors similar to those offered in the United States and Argentina.³¹ Specifically, the liability protection should grant food donors a presumption of good faith—following the Argentina model—and should prevent the court from automatically holding donors responsible if a recipient is harmed, as is the case under a strict liability scheme.³² So long as food donors adhere to all food safety laws and regulations relevant to food donation, the burden should shift to the individual who is claiming wrongdoing to prove that the donor did not act in good faith. Under such a scheme, only if the court is convinced that the food donor did not act in good faith will it consider whether the donor may be held liable for harm.

The liability protections should extend to food recovery organizations once these entities take possession of the donated food. Currently, food recovery organizations enter into private agreements with food donors in which the food recovery organizations assume legal responsibility for the donated food and any claim for damages that arises from the donation.³³ This model leaves these food recovery organizations vulnerable to contractual liability with the donor and to non-contractual liability from the beneficiaries. While liability protection for food recovery organizations would not completely shield them from claims brought by beneficiaries or donors if they acted with negligence or intentional wrongdoing, it would help to reduce the likelihood of liability provided that the organizations act in good faith and comply with applicable law.

Given the UK's legal hierarchy, the adoption of such protections may require coordination and supportive action by individual countries, consistent with devolution.³⁴ Accordingly, the UK Parliament should seek to adopt overarching liability protection legislation, consistent with its previous attempt. The other UK countries should similarly seek to adopt measures that will provide greater protections for food donors and food recovery organizations. Of course, this liability protection should not be absolute and food donors should not be shielded from legal and financial responsibility if they demonstrate knowing or willful misconduct or negligence when handling food prior to delivery.

2. ESTABLISH A SCOPE OF LIABILITY PROTECTION THAT ALLOWS FOOD RECOVERY ORGANIZATIONS AND OTHER INTERMEDIARIES TO CHARGE A NOMINAL FEE FOR DONATED FOOD.

Despite the broad scope of protection provided under the United States' and Argentina's respective legal frameworks, both of these countries limit the protection to include only food donations that are offered for free.³⁵ As the UK develops the aforementioned liability protections for food donors and food recovery organizations, it is critical that these protections should not impose a "no charge" requirement, *i.e.*, a provision stating that food donors and/or food donation intermediaries would lose liability protection if they charge final recipients a fee for the donated food. This restriction hinders food recovery, as not allowing food to be sold at a nominal fee increases the burden on food recovery organizations, which must seek financial donations to support their operations as well as seeking food donations to pass on to those in need.

Allowing the low-price sale of food donations would better support innovative models and other offerings by food recovery organizations, such as through social supermarkets (nonprofit grocery stores that sell donated food at a low cost) or other low-cost market-based opportunities to serve those in need. One such social supermarket in the UK is run by The Company Shop Group, which uses the funds from the low-price sale of donated foods to purchase essential non-food items for its stores and to fund social programs for its members.³⁶ This scheme would also benefit both food insecure populations and food recovery intermediary organizations, which could rely on a more sustainable funding source.

Taxes

Issue Overview

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. Tax laws can either help offset these expenses and incentivize donation, or they can create an additional barrier to donation, contributing to greater food loss and waste. Corporate donors may be more likely to donate surplus food to food banks if they receive a charitable deduction or credit to offset the cost of transportation and logistics.

Unfortunately, the UK does not currently offer specific tax deductions or credits for in-kind food donation or associated expenses. Corporate donors may obtain some tax relief under the UK Corporation Tax Act, which

permits donors to offset the amount of “qualifying charitable donations,”³⁷ including monetary donations³⁸ made to certain charities,³⁹ against the donor’s total profits.⁴⁰ The deductible amount cannot exceed the amount that reduces the company’s taxable total profits to zero,⁴¹ and the donor company must not itself be a charity,⁴² or receive significant benefits from the charity in return for its gift.⁴³ Under the Gift Aid scheme set out in the UK Income Tax Act 2007, individual donors, sole traders and partnerships—but not companies—and the receiving charity⁴⁴ may also qualify for tax relief in exchange for monetary donations.⁴⁵ Nevertheless, these benefits do not incentivize the charitable donation of safe, surplus, or otherwise unmarketable foods.

It is important to note that the UK government does extend certain incentives for domestic renewable heat systems, including with respect to Anaerobic Digestion (AD).⁴⁶ While AD does mitigate food waste, it also diverts food away from food donation as it incentivizes businesses to create biogas instead of incentivizing businesses for donation. Thus, even though the AD incentives are intended to promote renewable sources of energy, rather than divert food waste,⁴⁷ it may serve as a disincentive for donating food for human consumption. This promotion of waste diversion for AD purposes does not align with the UK Food Recovery Hierarchy,⁴⁸ which is enshrined in UK statutory law and prioritizes the use of surplus food for humans above diversion to AD or other uses. Further, without a comparative tax benefit available for charitable food donations, potential food donors are less likely to perceive donation as the most economical alternative to throwing away food.

Recommended Policy Actions

1. AMEND THE CORPORATION TAX ACT TO PROVIDE FINANCIAL INCENTIVES FOR BUSINESSES WHO DONATE SAFE FOOD TO FOOD RECOVERY ORGANIZATIONS.

The process of donating food can incur costs to a business related to transportation, logistics, and staff time. Providing a tax credit or deduction could help to offset these costs and increase food donation. A number of countries have implemented tax incentives in order to encourage food donation. For example, in the United States, taxpayers who donate property that could have otherwise provided them income, including food products, are eligible for a tax deduction. U.S. taxpayers who donate food are eligible for two deductions: one is the general deduction that applies to all charitable contributions and the other is an enhanced tax deduction that offers a higher benefit specifically for qualified food donations.⁴⁹

Such a tax incentive program in the UK could be tailored in design. For example, the UK government may elect to limit the total credit or deduction that a business could claim in a given tax year by setting a percentage of the value of donated food that can be claimed or by setting a cap on the total dollar amount or percentage of income that can be claimed by a business. Before adopting such limits, the UK government should balance the benefit with the potential deterrent effect that such limits may have on food donation.

The UK government should also consider the potential benefit of offering a tax credit for qualifying food donations. Offering a tax credit for food donations is likely to encourage donation among smaller donors who may not generate a lot of income during the year. Compared with a tax deduction, which reduces a taxpayer’s taxable income and is then used to determine the amount of taxes that must be paid, a tax credit is a direct dollar-for-dollar subtraction from the taxes owed.⁵⁰ Tax credits are also applied evenly across tax brackets and would therefore have a greater impact for small, low-income businesses than a tax deduction.

As part of the new tax incentive, it is imperative that the Department for Environment, Food, and Rural Affairs (Defra)—the UK regulatory body for environmental protection, food production and standards, agriculture, fisheries, and rural communities—and other UK government agencies issue guidance and launch public awareness campaign on the new incentives. Guidance and public awareness campaigns will help resolve the uncertainties food donors face when making decisions to donate such as the economic viability of such donations. Also, the new tax incentive should reflect the priorities set out in the UK Food Recovery Hierarchy by providing a better incentive for food donation over Anaerobic Digestion.

Waste Bans

Issue Overview

Some countries have created food donation requirements or imposed monetary penalties for food that is sent to landfills (often known as organic waste bans or waste taxes) to influence business behavior and promote sustainable food systems. 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, generally, is fully devolved to regional governments, meaning that Northern Ireland, Scotland, and Wales manages its own waste policy.⁵¹ Leveraging this devolved power, both Northern Ireland and Scotland have adopted such food waste to landfill bans, requiring households⁵² and food businesses to separate food from other waste.⁵³ England and Wales, however, do not currently have food waste to landfill bans, though both countries have expressed intent to reduce food waste being sent to landfills in their respective waste strategy action plans.⁵⁴ Adopting such a policy intervention could significantly advance these countries' food waste reduction efforts, and potentially increase food donation.

Recommended Policy Actions

1. ENGLAND AND WALES SHOULD INTRODUCE ORGANIC WASTE BANS THAT APPLY TO HOUSEHOLDS AND LARGE-SCALE FOOD BUSINESSES.

Recognizing that organic waste bans are a helpful strategy towards reducing food waste, England and Wales should adopt waste bans, following the models of those policies adopted in Northern Ireland and Scotland. In Northern Ireland, for example, the Food Regulations imposed a ban on sending separately collected food waste to landfills, which has reportedly diverted one million tons of food since 2015⁵⁵; while Scotland's similar food waste bans have resulted in an estimated reduction of 37,000 tons of food waste per year since 2009 and is likely to dramatically increase as its household food waste to landfill ban goes into effect in 2025.⁵⁶ Both Scotland's and Northern Ireland's bans currently apply to food businesses that produce more than 5kg of food waste per week.⁵⁷

To enact such a policy in England, the UK Parliament should adopt an organic waste ban law that similarly applies to food businesses that produce over 5kg of food waste per week, consistent with the policy standard in Northern Ireland and Scotland. As England does not have a devolved Parliament or Assembly, its affairs are decided by the UK Parliament.⁵⁸ As the UK Parliament does not normally legislate with regard to matters within the devolved countries (unless a devolved government consents for the UK Government to pass a law),⁵⁹ the Welsh government should adopt a similar organic waste ban for Wales.⁶⁰ If these countries decide to adopt more stringent requirements, it is important to consider the financial burden to smaller companies that could be subject to the ban. Also, to align with the UK Food Recovery Hierarchy and to avoid losing food to other food waste strategies like Anaerobic Digestion, it is important that these countries consider incorporating a requirement for food donation associated with their respective organics waste ban to ensure that wholesome food is diverted first to food recovery organizations. Lastly, Defra, WRAP, and other relevant government agencies and food recovery organizations should launch public awareness campaigns on the new and existing policies.

2. THE UK COUNTRIES SHOULD DEVELOP AND ENFORCE A FOOD WASTE REPORTING REQUIREMENT FOR ALL FOOD BUSINESSES ACROSS THE UK.

If UK Parliament, on behalf of England, and the Welsh government develop an organic waste ban, they should also require annual food waste reporting by businesses. Such reporting should also be adopted by the existing food waste to landfill bans in Scotland and Northern Ireland. England's 2018 Waste Strategy introduced the idea of an annual reporting requirement for all businesses, which would require these businesses to report their

food waste and food surplus each year.⁶¹ A reporting requirement is a public-facing mechanism that would help to encourage donation of food surplus. Even with a waste ban in place, businesses could still elect to pay a penalty and send their food waste to a landfill for financial reasons, rather than divert their food waste. A reporting requirement, however, could create public pressure for businesses to adhere to the waste ban.

Government Grants

Issue Overview

Government grants for food recovery initiatives, infrastructure, and organizational support can help countries launch new programming or scale up existing donation efforts. Grants can also support new innovations and emerging technologies that will make food donation more efficient and sustainable. While the UK government does not offer government funding or grants specifically for food waste recovery or donation, several grants specific to food waste recovery exist within individual UK countries. In England, there is an £18 million fund for “diverting, reducing, and better managing waste” that includes two specific grants designating millions of pounds towards food waste initiatives,⁶² while in Wales, there is a general grant aimed at increasing recycling, but no specific food waste funding,⁶³ Scotland has grant funding for small business projects aimed at preventing food waste,⁶⁴ although with a far smaller fund than in England, and Northern Ireland has an education initiative that addresses food waste.⁶⁵ Supplementing these grants with additional incentives from the UK government could benefit overall food recovery initiatives and existing donation efforts.

Recommended Policy Actions

1. INCREASE GOVERNMENT GRANTS AND INVESTMENTS IN FOOD RECOVERY RESOURCES, INNOVATION AND INFRASTRUCTURE IMPROVEMENTS.

Providing greater financial support for food donation logistics will enable food recovery organizations to significantly enhance their impact, reduce the economic and environmental costs of food waste, and support 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. UK government grants could also help advance existing private sector initiatives. Private food actors have created cross-industry agreements to reduce food waste⁶⁶ and have provided financial support associated with the infrastructural costs in food redistribution.⁶⁷

A UK government grant program could also help increase donations of nutritionally-diverse foods, such as fresh produce and fresh fish.⁶⁸ The UK, and Scotland specifically, is a large producer of fish, but most of their catch is exported.⁶⁹ Scottish fishermen have recently turned to food banks as a recipient of surplus fish amongst reduced export demands during the COVID-19 pandemic.⁷⁰ The UK government could support this effort by allocating specific grant funding to the fish industry and other industries where donations are limited. The government can use other surplus redistribution models, such as SeaShare in the United States (a non-profit that helps the sea food industry donate to hunger-relief efforts in the United States),⁷¹ to help develop a program in the UK. This solution would not only reduce potential food waste, but could also mitigate food insecurity and malnutrition among the UK population.

CONCLUSION

While these policy recommendations are intended to help strengthen food donation in the UK, they are not exhaustive. Those committed to reducing food loss and waste and promoting food recovery should seek the advice of legal experts, policymakers and other stakeholders to identify the most effective and feasible policy interventions.

ENDNOTES

- ¹ The Global Food Donation Policy Atlas project would not be possible without support from the Walmart Foundation. The Walmart Foundation is not responsible for the content of this document or the views contained herein. The content of this document should not be interpreted as legal advice; those seeking legal advice should speak to an attorney licensed to practice in the applicable jurisdiction and area of law.
- ² See UK CIVIL SERVICE, DEVOLUTION: FACTSHEET, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/770709/DevolutionFactsheet.pdf. Pursuant to the doctrine of devolution, Northern Ireland, Scotland, and Wales have certain delegated or *devolved* powers and may adopt laws, policies, and regulations through their respective executive and legislative branches. *Id.*
- ³ OFFICE OF NAT'L STATISTICS (ONS) DEP'T FOR WORK & PENSIONS (DWP), FAMILY RESOURCES SURVEY, 2019/20, HOUSEHOLD FOOD SECURITY IN THE UNITED KINGDOM (March 25, 2021), https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/972868/Ch9_Household_Food_Security_ods [hereinafter ONS FAMILY RESOURCES SURVEY]. According to ONS, in the UK, 6% of households are marginally food secure. Meanwhile, 4% of households have low food security and another 4% of households have very low food security, which qualify as food insecure. *Id.*
- ⁴ WASTE & RES. ACTION PROGRAMME (WRAP), FINAL REPORT: FOOD WASTE IN PRIMARY PRODUCTION IN THE UK (July 2019), <https://wrap.org.uk/sites/default/files/2020-07/WRAP-food-waste-in-primary-production-in-the-UK.pdf> [hereinafter WRAP FINAL REPORT ON FOOD WASTE]; See also WRAP, DEFRA, & FSA, REDISTRIBUTION LABELLING GUIDE (May 2020), <https://wrap.org.uk/sites/default/files/2020-07/WRAP-surplus-food-redistribution-labelling-guide-May-2020.pdf> [hereinafter WRAP DATE LABELING GUIDE] (discussing that avoidable food waste equates to £13 billion in value).
- ⁵ According to The World Bank, the United Kingdom's GDP is the world's sixth-largest. *GDP (current US\$) – United Kingdom*, THE WORLD BANK, <https://data.worldbank.org/indicator/NY.GDP.MKTP.CD?locations=GB> (last visited Mar. 30, 2021).
- ⁶ ONS FAMILY RESOURCES SURVEY, *supra* note 3; See also FAO, THE STATE OF FOOD SECURITY AND NUTRITION IN THE WORLD: TRANSFORMING FOOD SYSTEMS FOR AFFORDABLE HEALTHY DIETS, <http://www.fao.org/3/ca9692en/CA9692EN.pdf> (2020) [hereinafter FAO STATE OF FOOD SECURITY AND NUTRITION].
- ⁷ Despite the potential of this program to alleviate poverty, through helping people work, there were a multitude of problems associated with the roll out in some of the systems design features in relation to food poverty. Rachel Loopstra et al., *Austerity, sanctions, and the rise of food banks in the UK*, BMJ (2015), <https://www.bmj.com/content/350/bmj.h1775.long>.
- ⁸ Alex Ledsom, *U.K. and U.S. Food Insecurity In 5 Staggering Numbers*, FORBES (Sep. 22, 2020), <https://www.forbes.com/sites/alexledsom/2020/09/22/uk-and-us-food-insecurity-in-5-staggering-numbers/?sh=4d87b2ae4748>.
- ⁹ WRAP FINAL REPORT ON FOOD WASTE, *supra* note 4; See also WRAP DATE LABELING GUIDE, *supra* note 4.
- ¹⁰ ONS FAMILY RESOURCES SURVEY, *supra* note 3.
- ¹¹ See, e.g., General Principles of Food Law 178/2002, art. 1 (EC); Commission Regulation 852/2004, 2004, O.J. (EC); Commission Regulation 853/2004, 2004, O.J. (EC);
- ¹² See Food Safety Act 1990, ch. 16.
- ¹³ See FAO & World Health Org. (WHO), *Codex Alimentarius International Food Standards*, <http://www.fao.org/fao-who-codexalimentarius/home/en/> (last visited on Feb. 18, 2020).
- ¹⁴ See *EU guidelines on food donation*, EUROPEAN COMMISSION (Oct. 16, 2017), https://ec.europa.eu/food/sites/food/files/safety/docs/fw_eu-actions_food-donation_eu-guidelines_en.pdf.
- ¹⁵ See generally WRAP, *WRAP – Circular Economy & Resource Efficiency Experts*, <https://wrap.org.uk/> (last visited Mar. 30, 2021).
- ¹⁶ ENVIRONMENT, FOOD AND RURAL AFFAIRS COMMITTEE (EFRA), FOOD WASTE IN ENGLAND, 2016–7, HC 429 (UK) [hereinafter FOOD WASTE IN ENGLAND].
- ¹⁷ EFRA, COVID-19 AND FOOD SUPPLY, 2019–21, HC 263 (UK) (describing food aid providers as frontline operators, which include soup kitchens, community food projects, and school holiday meal providers).
- ¹⁸ FareShare, *Our Impact*, <https://fareshare.org.uk/what-we-do/our-impact/> (last visited on Mar. 30, 2021). Food banks in the UK saw an 89% increase in number of users for April 2020 compared to April 2019. Additionally, FareShare distributed twice as much food in May 2020 as it did in the week preceding the lockdown in March 2020.
- ¹⁹ Prior to 2021, UK countries were also bound to legal instruments negotiated by the European Union (EU), of which the UK was a member. With the European Union (Withdrawal) Act 2018 (EU(WA)), the supremacy of EU law over UK law was effectively repealed, but existing EU law was enshrined into the UK legal system as 'retained EU law.' This was intended to ensure a smoother transition and to preserve a continuity in legal rules, while still preserving the UK's right to repeal any retained EU laws. The supremacy of EU laws over national laws was defined in the European Communities Act 1972. *Id.*; see also European Union (Withdrawal) Act 2018, c. 16. For more information about the UK legal hierarchy, please see the UK Legal Guide.
- ²⁰ See *Understanding legislation*, LEGISLATION.GOV.UK, <https://www.legislation.gov.uk/understanding-legislation> (last visited Mar. 30, 2021); See also *UK Parliament: Parliament's Authority*, UK PARLIAMENT, <https://www.parliament.uk/about/how/role/sovereignty/> (last visited Mar. 30, 2021).
- ²¹ UK CIVIL SERVICE, DEVOLUTION: FACTSHEET, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/770709/DevolutionFactsheet.pdf.
- ²² See Northern Ireland Act 1998, c. 47 (UK), <https://www.legislation.gov.uk/ukpga/1998/47/contents> (last visited Mar. 30, 2021); see Scotland Act 1998, c. 46 (UK), <https://www.legislation.gov.uk/ukpga/1998/46/contents> (last visited Mar. 30, 2021); See Government of Wales Act 1998, c. 38 (UK), <https://www.legislation.gov.uk/ukpga/1998/38/contents> (last visited Mar. 30, 2021); See also Sarah Carter & Hester Swift, *Researching Legal System of the United Kingdom*, GLOBALEX (Feb. 2020), https://nyulawglobal.org/globalex/United_Kingdom1.html#_1.1_Background_ (noting that Northern Ireland has not had an executive body since 2017).
- ²³ See The Bill Emerson Good Samaritan Food Donation Act, 42 U.S.C.A. § 1791(c)(1) [United States]; Law 25989, Dec. 16, 2004 [30564] B.O. 1 [Argentina].
- ²⁴ See Food Safety Act, *supra* note 12, at pt. II, § 35; Consumer Protection Act 1987, §§ 1-3; The Food Information (Scotland) Regulations 2014, SI 2014/312, art. 10, 12 [hereinafter Scotland FIR Regs.]; The Food Safety and Hygiene Regulations (England) 2013, SI 2013/2996, art. 19(1) [hereinafter England Food Hygiene Regs.]; The Food Hygiene Regulations (Northern Ireland) 2006, SI 2006/3, art. 17(1) [hereinafter NI Food Hygiene Regs.]; The Food Hygiene Regulations (Scotland) 2006, SI 2006/3, art. 17(1) [hereinafter Scotland Food Hygiene Regs.]; The Food Hygiene Regulations (Wales) 2006, SI 2006/31, art. 17(1) [hereinafter Wales Food Hygiene Regs.]; The General Food Regulations 2004, SI 2004/3279, art. 5; The General Food Regulations (Northern Ireland) 2004, art. 5 [hereinafter NI General Food Regs.].
- ²⁵ See Food Safety Act, *supra* note 12, at pt. II, § 35; Consumer Protection Act, *supra* note 24; Scotland FIR Regs., *supra* note 24; England Food Hygiene Regs., *supra* note 24; NI Food Hygiene Regs., *supra* note 24; Scotland Food Hygiene Regs., *supra* note 24; Wales Food Hygiene Regs., *supra* note 24; General Food Regulations 2004, *supra* note 24; NI General Food Regs., *supra* note 24.
- ²⁶ See Food Safety Act, *supra* note 12, at pt. II, § 35; Consumer Protection Act, *supra* note 24; Scotland FIR Regs., *supra* note 24; England Food Hygiene Regs., *supra* note 24; NI Food Hygiene Regs., *supra* note 24; Scotland Food Hygiene Regs., *supra* note 24; Wales Food Hygiene Regs., *supra* note 24; General Food Regulations 2004, *supra* note 24; NI General Food Regs., *supra* note 24.

²⁷ Food Safety Act, *supra* note 12, at pt. II, § 35; England Food Hygiene Regs., *supra* note 24, at art. 12(1); Wales Food Hygiene Regs., *supra* note 24, at art. 11(1); Scotland Food Hygiene Regs., *supra* note 24, at art. 11(1).

²⁸ Consumer Protection Act, *supra* note 24, at §§ 1, 2, 3; Food Safety Act, *supra* note 12, at pt. II, § 35.

²⁹ Soc'Y OF FOOD HYGIENE & DUE DILIGENCE, FOOD LAW AND DUE DILIGENCE (2009), <http://www.soft.co.uk/wp-content/uploads/2016/09/W-food-law-due-diligence-defence.pdf>.

³⁰ Food Waste Bill 2010–12, HC (Gr. Brit.), <https://services.parliament.uk/Bills/2010-12/foodwaste.html> (last visited Mar. 30, 2021). A few years later, the sponsor of the Food Waste Bill 2010–2012 introduced another food waste bill, but this bill did not contain a liability protection provision; this bill also failed. Food Waste (Reduction) Bill 2015–16, HC, (Gr. Brit.), <https://services.parliament.uk/bills/2015-16/foodwastereduction.html> (last visited Oct. 23, 2020).

³¹ Bill Emerson Good Samaritan Food Donation Act, *supra* note 22; *See, e.g.*, Ley 25,989: Régimen Especial para la Donación de Alimentos Dec. 16, 2004, [30564] B.O. 1 (Arg.), <http://servicios.infoleg.gob.ar/infolegInternet/anexos/100000-104999/102664/texact.htm> [<https://perma.cc/ED5J-EE4H>] amended via the National Plan for Food Loss and Waste (Law No. 27454).

³² *See, e.g.*, THE GLOBAL FOOD DONATION POLICY ATLAS, ARGENTINA LEGAL GUIDE FOOD DONATION LAW AND POLICY 10 (June 2020), <https://www.foodbanking.org/wp-content/uploads/2020/06/Argentina-Legal-Guide.pdf>.

³³ REDISTRIBUTION OF SURPLUS FOOD: EXAMPLES OF PRACTICES IN THE MEMBER STATES 38 (2019), https://ec.europa.eu/food/sites/food/files/safety/docs/fw_eu-actions_food-donation_ms-practices-food-redis.pdf.

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³⁵ *See*, Bill Emerson Good Samaritan Food Donation Act, *supra* note 22.

³⁶ Company Shop Group, *About Us*, <https://www.companyshopgroup.co.uk/aboutus> (last visited Mar. 30, 2021); Company Shop Group, *Our Social Enterprise*, <https://www.companyshopgroup.co.uk/test> (last visited Mar. 30, 2021).

³⁷ Corporation Tax Act 2010, pt. 7A, ch. 4 § 190.

³⁸ *Id.* at § 191.

³⁹ As defined in Schedule 6 to the Finance Act 2010, pt. 1.

⁴⁰ Corporation Tax Act, *supra* note 37, at § 189(3).

⁴¹ *Id.*

⁴² *Id.* at § 191(4).

⁴³ *Id.* at §§ c195–98.

⁴⁴ Income Tax Act 2007, pt. 8, c. 2.

⁴⁵ *Id.* at §§ c195–98.

⁴⁶ Renewable Heat Incentive Scheme Regulations 2018.

⁴⁷ FOOD WASTE IN ENGLAND, *supra* note 16, at 21.

⁴⁸ Defra, *Food and drink waste hierarchy: deal with surplus and waste* (Dec. 18, 2018), <https://www.gov.uk/government/publications/food-and-drink-waste-hierarchy-deal-with-surplus-and-waste/food-and-drink-waste-hierarchy-deal-with-surplus-and-waste#apply-the-hierarchy>.

⁴⁹ *See* I.R.C. § 170.

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⁵⁴ *See* HM GOVERNMENT, OUR WASTE, OUR RESOURCES: A STRATEGY FOR ENGLAND (2018); *See* WELSH ASSEMBLY GOVERNMENT, TOWARDS ZERO WASTE (2010) (discussing the need to divert food waste from landfills by sending the food to anaerobic digesters).

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⁵⁷ The Waste (Scotland) Regulations 2012, SI 2012/148, c. 2 (Scot.); The Food Waste Regulations (Northern Ireland) 2015, SR 2015/14 (N. Ir.) [hereinafter NI Food Waste Regs.].

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⁵⁹ *Id.*

⁶⁰ HARV. L. SCH. FOOD L. & POL'Y CLINIC ET AL., BANS AND BEYOND: DESIGNING AND IMPLEMENTING ORGANIC WASTE BANS AND MANDATORY ORGANICS RECYCLING LAWS 60–65 (July 2019), https://www.chlpi.org/wp-content/uploads/2013/12/Organic-Waste-Bans_FINAL-compressed.pdf.

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