



IRELAND

FOOD DONATION LAW AND POLICY

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About The Global Food Donation Policy Atlas

This report and others for countries in the European Union were created as a partnership between FLPC and FEBA. This initiative is part of the Global Food Donation Policy Atlas, which is a global partnership between FLPC and the Global FoodBanking Network (GFN). 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 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. 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 chlpi.org/food-law-and-policy/.



About The Global FoodBanking Network

The Global FoodBanking Network (GFN) supports community-driven solutions to alleviate hunger in more than 40 countries. While millions struggle to access enough safe and nutritious food, nearly a third of all food produced is lost or wasted. GFN is changing that. GFN believes food banks directed by local leaders are key to achieving Zero Hunger and building resilient food systems. For more information, visit www.foodbanking.org.



About the European Food Banks Federation

The European Food Banks Federation (FEBA) is a nonprofit organization which brings together more than 351 food banks and branches, with members in 30 countries in Europe. They recover surplus food, a large part of which would otherwise be thrown away, and redistribute it to charitable organizations and social centers taking care of people in need. For more information, visit www.eurofoodbank.org.



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INTRODUCTION

Food loss and waste (FLW) is one of the greatest food system challenges we face today. An estimated one-third of food produced globally is lost or wasted along the supply chain.¹ This amounts to approximately 1.3 billion tons of food each year that ends up in landfills.² Food loss or waste occurs at every stage of the food system: food is lost during the initial harvest due to low market prices, high labor costs, and demand for perfect-looking produce; food is wasted by grocery stores and restaurants over-estimating customer demands; and food is discarded by consumers who engage in inefficient shopping and cooking practices and lack a clear understanding about date labels.³

These behaviors have significant environmental, economic, and social consequences: food that is lost or wasted has a huge carbon footprint of 3.3 gigatons,⁴ using roughly 30% of agricultural land,⁵ and accounting for 8% to 10% of total global greenhouse gas emissions.⁶ The market value of food products lost or wasted is approximately \$1 trillion per year.⁷ Meanwhile, in 2022, almost 30% of the global population was moderately or severely food insecure, and up to 783 million people suffered from hunger.⁸ The international community has sought to address this paradox and mobilize the reduction of food waste, especially within the framework of the United Nations (UN) 2030 Agenda for Sustainable Development and Sustainable Development Goal (SDG) 12.3.⁹

In many countries, food donation is a popular and logical solution to redirect safe, surplus food into the hands of those who need it most. Most food donations are facilitated through food banks or other charitable, nongovernmental organizations that recover surplus, wholesome food and redirect the recovered food to local beneficiary agencies such as soup kitchens, shelters, and community pantries to feed low-income, food insecure individuals. As food insecurity and FLW continue to rise, new and innovative models of food recovery have emerged around the world.

The European Union (EU) and its Member States have committed to meeting the SDG 12.3 target to halve per capita food waste at the retail and consumer levels by 2030 by reducing food losses along the food production and supply chains.¹⁰ Member States have taken this commitment to heart in a variety of ways, many of which are highlighted in this report.

This Legal Guide with Policy Recommendations (hereinafter referred to as the “Guide”) covers the Republic of Ireland (hereinafter referred to as “Ireland”), where an estimated 750,000 tonnes (~826,000 tons) of food was wasted in 2022.¹¹ This report and others for countries in the European Union were created as a partnership between the Harvard Law School Food Law and Policy Clinic (FLPC) and the European Food Banks Federation (FEBA). This initiative is part of the Global Food Donation Policy Atlas, which is a global partnership between FLPC and the Global FoodBanking Network (GFN). The Global Food Donation Policy Atlas 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.¹² FLPC and FEBA, in collaboration with members in Ireland,¹³ developed this resource to help food donors, food banks, food recovery organizations, and other intermediaries (hereinafter collectively referred to as “food redistribution organizations”) understand the relevant legal frameworks that affect food waste reduction and food donation efforts in Ireland.

The EU has made strides toward its goal of a sustainable, equitable, and healthy food supply chain, with food redistribution thoughtfully considered in many of its strategies. Further, many Member States have gone above and beyond the EU requirements to encourage increased food redistribution (e.g., by providing additional fiscal incentives, offering further protections, developing national strategies, and even, in some cases, mandating food donation through law). While Ireland has taken steps to address FLW through various

national strategies, including the National Food Waste Prevention Roadmap 2023-2025,¹⁴ this Guide offers recommendations for further policy action to improve the legal landscape for food redistribution in Ireland.

After providing initial commentary on FLW and food recovery in the EU and Ireland, this Guide provides an overview of the legal frameworks most relevant to food donation. The subsequent sections look more closely at the laws generally applicable to food donation: national FLW strategies, food safety laws and regulations, food date labeling laws, “Good Samaritan” or liability protection laws, tax incentives for food donation and/or tax policy disincentives, waste diversion laws that penalize food waste or require recovery, government grants and incentives for donation, and emissions and food waste reporting policies. This Guide also gives specific recommendations for each policy area based on our country-specific research, global expertise, and interviews with in-country stakeholders.

STATE OF FOOD INSECURITY, FOOD LOSS, WASTE, AND RECOVERY IN THE EUROPEAN UNION AND IRELAND

Food Insecurity and Waste in the European Union

In the EU, 42 million people cannot afford a quality meal every second day.¹⁵ At the same time, around 59 million tonnes (~65 million tons) of food is wasted each year, with an associated market value of €132 billion (~\$150 billion).¹⁶ According to the European Commission, households generate more than half of the total food waste in the EU, and 73% arises from the household, food service, and retail levels combined.¹⁷

The European Green Deal

The European Green Deal introduced a robust and multisectoral framework to transition Europe into the first climate-neutral continent by 2050.¹⁸ The Green Deal provides an action plan to boost the efficient use of resources by moving to a clean, circular economy; restore biodiversity and cut pollution; and provide affordable and secure renewable energy, smarter transport, and high-quality food.¹⁹

The overarching Green Deal includes a Circular Economy Action Plan (CEAP),²⁰ the EU Action Plan: “Towards Zero Pollution for Air, Water, and Soil,”²¹ and the “Farm to Fork” strategy, which focuses on sustainable, equitable, and healthy food systems.²² Each of these Green Deal elements specifically notes the social and environmental repercussions of FLW. Section 3.7 of the CEAP addresses the immense environmental pressure and food waste resulting from the food value chain as a major element of the circular economy strategy.²³ In line with the SDGs and as part of the review of Directive 2008/98/EC (hereinafter the “Waste Framework Directive”, or “WFD”),²⁴ the European Commission proposed a target on food waste reduction.

In February 2025 the Council of the European Union (also known as the Council of Ministers) and the European Parliament came to a provisional agreement to introduce binding national targets to be met by the end of 2030.²⁵ The food processing and manufacturing sectors will need to meet a 10% reduction target, while the retail, restaurant, food service, and household sectors will be subject to a 30% per capita reduction.²⁶ With coordinated action at the EU level, the European Commission will reinforce action at the national level and work to implement the recommendations of the EU Platform on Food Losses and Food Waste,²⁷ founded in 2016 to bring together EU institutions, experts, and relevant stakeholders to share best practices and evaluate progress in preventing food waste.²⁸

EU Platform on Food Losses and Food Waste

The EU Circular Economy Action Plan (CEAP), adopted in 2015, called on the European Commission to establish a platform dedicated to food loss and waste prevention.²⁹ As a result, the EU Platform on Food Losses and Food Waste (hereinafter the “Platform”) was established in 2016 with a mandate to run until 2021, and it was subsequently re-established in 2022 for a second mandate until 2026.³⁰ Its goal is to support Member States and actors throughout the food supply chain to achieve Sustainable Development Goal 12.3 by identifying opportunities for food waste prevention in line with the waste hierarchy.³¹ During its first mandate, the Platform produced a document on the redistribution of surplus food throughout the Member States³² and recommendations for food waste prevention.³³ In addition, it assisted the European Commission in developing a common methodology and indicators to measure food waste and the environmental and economic impacts of food waste prevention.³⁴

During its second mandate, the Platform plans to conduct research on consumer food waste and understanding of date marking, as well as share best practices for food loss and waste reduction among members of the food supply chain.³⁵ It will also support legislative proposals for the “Farm to Fork” strategy.³⁶

Food Insecurity and Waste in Ireland

Ireland has made significant progress in reducing food insecurity and hunger in the last decade. In 2021, 8.9% of the population experienced food poverty, down from 13.1% in 2014.³⁷ However, Ireland generated an estimated 750,000 tonnes of food waste in 2022, which amounts to 146 kilograms of food waste per person.³⁸ Most food waste occurred within three sectors: manufacturing and processing (31%), households (29%), and restaurants and food service (21%).³⁹ Food waste costs the average Irish household about €60 per month, equating to an annual national cost of €1.29 billion.⁴⁰

In addition to initiatives at the EU level, Ireland has plans to further curb FLW, increase food donation, and make progress toward a circular economy. These include the National Food Waste Prevention Roadmap 2023-2025,⁴¹ A Waste Action Plan for a Circular Economy,⁴² Food Vision 2030,⁴³ and the Climate Action Plan 2021.⁴⁴ Taken together, these strategies demonstrate Ireland’s commitment to preventing and reducing excess waste and transitioning to a circular economy.

OVERVIEW OF THE EUROPEAN UNION LEGAL FRAMEWORK

The EU contains 27 sovereign, independent countries called Member States. Each Member State delegates some of its decision-making powers to the shared institutions of the EU so that decisions on specific matters of joint interest can be made democratically at the EU level. Every action taken is founded on treaties that have been negotiated and approved by all Member States, and ratified by their parliaments or by referendum.⁴⁵

Several institutions are involved in EU decision-making, including the European Parliament, the European Council, the Council of Ministers, and the European Commission.⁴⁶ Each is responsible for a different aspect of the law-making process. While the European Council defines the “general political direction and priorities

of the EU,” the European Commission proposes new laws, and the European Parliament and the Council of Ministers adopts them.⁴⁷ Finally, Member States and the European Commission implement EU law.⁴⁸

EU law is divided into “primary” and “secondary” legislation. The treaties (primary legislation) are the basis or ground rules for all EU action. They are amended each time a new Member State joins the EU as well as occasionally to reform EU institutions.⁴⁹ The treaties delineate the objectives of the EU, rules for EU institutions, procedure for decision-making, and the relationship between the EU and its Member States.⁵⁰ The 2007 Lisbon Treaty is the last amending treaty. Earlier treaties are incorporated into the current consolidated version, comprising the Treaty on European Union and the Treaty on the Functioning of the European Union.⁵¹ Secondary legislation (i.e., regulations, directives, and decisions) is derived from the principles and objectives set out in the treaties.⁵²

Several types of legal acts impact Member States. EU regulations bind all Member States directly, meaning that a regulation does not need to be passed into national law by a Member State to go into effect. However, a Member State may be required to change its national laws to comply with a regulation.⁵³ EU directives are laws that require all or a specific group of Member States to achieve a particular objective, often with the goal of aligning different national laws. Directives generally must be transposed into national law to become effective, and national authorities are free to decide how to adapt their laws to meet the stated goal.⁵⁴ Finally, the EU may issue recommendations for its Member States, but these lack binding legal force.⁵⁵

EUROPEAN UNION FOOD LOSS AND WASTE AND FOOD DONATION LEGAL FRAMEWORK

General Food Law Regulation and the Hygiene Package

The European Parliament and the Council of Ministers adopted Regulation (EC) No. 178/2002 in 2002.⁵⁶ Commonly known as the General Food Law Regulation, it lays the foundation for food law in the EU by outlining principles related to food and food safety along all stages of production and distribution.⁵⁷ In addition, the law establishes requirements for food safety and traceability, including imports and exports, and outlines operator responsibilities for ensuring compliance.⁵⁸ In 2004 the EU adopted a new food safety framework known as the Hygiene Package, which went into effect on January 1, 2006.⁵⁹ This “package” of regulations outlines specific food safety rules for the entire food chain, from production to consumption,⁶⁰ and requires all professionals involved in the food chain to demonstrate that they have appropriate control measures relating to their respective food operations in place.⁶¹

In 2021 the European Parliament and the Council of Ministers adopted Regulation (EU) No. 2021/382 amending Regulation 853/2004 on food hygiene, which was included in the Hygiene Package food safety framework.⁶² Regulation No 2021/382 explicitly permits food business operators to redistribute food after the date of minimum durability (or “best before” date) passes, so long as the food is inspected and deemed safe for human consumption.⁶³ Another amendment to the Hygiene Package was adopted in 2021 to allow the freezing of meat at retail under certain conditions to preserve the safety of food for redistribution.⁶⁴

Waste Framework Directive

Under the 2008 Waste Framework Directive (WFD), formally known as Directive 2008/98/EC¹², Member States must apply the following waste management hierarchy: prevention, preparing for re-use, recycling, recovery, and disposal.⁶⁵ Article 22 defines “bio-waste” as “biodegradable garden and park waste, food and kitchen waste from households, restaurants, caterers and retail premises and comparable waste from food processing plants” and encourages the separate collection and treatment of bio-waste for composting and digestion, or other environmentally safe methods of treatment or repurposing of bio-waste.⁶⁶

In 2018 the WFD was revised to specifically require Member States to monitor and reduce food waste at each stage of the supply chain.⁶⁷ It requires Member States to prepare food waste prevention programs, encourage food donation, and provide incentives for the application of the waste hierarchy. The WFD also explicitly prioritizes human consumption over animal feed or nonfood reprocessing, such as composting and anaerobic digestion.⁶⁸

In March 2025 the Council of Ministers and the European Parliament reached a provisional agreement on a revision to the WFD, which includes binding food waste reduction targets to be met at a national level by the end of 2030.⁶⁹ These binding targets consist of a 10% reduction in food waste within the food processing and manufacturing sectors as well as a 30% per capita reduction in the retail, restaurant, food service, and household sectors.⁷⁰ In addition, the proposed revision requires Member States to ensure that entities with a significant role in food waste prevention and generation propose donation agreements with food banks and food redistribution organizations to facilitate the donation of safe, surplus food.⁷¹ Once formally adopted, Member States will have up to 20 months to update their national laws in accordance with the revised WFD.⁷²

Food Donation Guidelines

On World Food Day in 2017 (October 16), the European Commission adopted the EU Guidelines on Food Donation⁷³ as part of the CEAP.⁷⁴ Developed in consultation with the EU Platform on Food Losses and Food Waste,⁷⁵ the guidelines aim to facilitate the recovery and redistribution of safe, surplus food to those in need.⁷⁶ They clarify relevant provisions of EU food law as they relate to charitable food donation, and facilitate the compliance of donors and distributors of surplus food with EU law (e.g., food safety, traceability, liability, value-added tax).⁷⁷ The guidelines also seek to ensure a “common interpretation” of the relevant EU laws by the regulatory authorities in Member States.⁷⁸ In June 2020 the European Commission published additional guidance for food business operators on food safety management systems to further facilitate food donation and support good hygiene practices.⁷⁹

OVERVIEW OF IRELAND’S LEGAL FRAMEWORK

Ireland is a parliamentary, representative democracy. It has a written constitution that provides for separation of powers into three branches: executive, legislative and judiciary. It also has a popularly elected President who serves as the head of state. Unlike many other republics, the President does not have any executive or policy role.⁸⁰ Rather, the President may exercise his or her formal powers on the advice of the government.⁸¹ Additionally, the President may also refer a bill signed by the legislature to the Irish Supreme Court for constitutional review.⁸²

Executive Branch

Executive power is exercised by the government, which is led by the Taoiseach (Prime Minister) and the Tánaiste (Deputy Prime Minister).⁸³ The Constitution of Ireland provides that the cabinet of the executive branch comprises seven to 15 members. The cabinet almost always consists of the constitutional maximum.⁸⁴

Legislative Branch

Legislative power is vested in the Oireachtas, the bicameral national parliament that consists of the President of Ireland and two bodies: Dáil Éireann and Seanad Éireann. Dáil Éireann is the lower house and principal chamber of the Oireachtas.⁸⁵ Seanad Éireann is the upper house of the Oireachtas and consists of 60 members known as senators.⁸⁶

Ireland is divided into 43 constituencies, and each constituency must elect at least three members to the Dáil, who are referred to as TDs (Teachta Dála or Deputies).⁸⁷ TDs have both local and national roles. On the local level, a TD can ask questions in the Dáil or raise issues that are important to the locale.⁸⁸ On a national level, TDs propose and debate legislation, examine drafts, and suggest amendments.⁸⁹ TDs also vote on legislation, which if passed, goes onto the Seanad to be debated and voted on. The Dáil has the power to over-ride the Seanad's rejection of a bill.⁹⁰ The Seanad may propose amendments, reject a bill, or pass a bill.⁹¹

Irish primary legislation begins as a bill and must be passed by both houses of the Oireachtas before being signed into law by the President.⁹² After it is signed by the President, the Bill becomes an act, and is added to the Irish Statute Book.⁹³ The President may not veto bills, but he or she may refer them to the Supreme Court of Ireland for a ruling on whether they comply with the Constitution of Ireland.⁹⁴

The Constitution of Ireland also permits secondary legislation. An act of the Oireachtas may delegate the power to enact secondary legislation to another body, such as a ministry or another local authority.⁹⁵ The legislation must arise out of the powers delegated by the Act.⁹⁶

Judicial Branch

The Constitution of Ireland outlines the structure of the court system, establishing the Supreme Court, the Court of Appeals, and the High Court.⁹⁷ Provision is also made for courts of local and limited jurisdiction (i.e., District and Circuit Courts).⁹⁸ Broadly, the Irish legal system is divided into two branches: the civil side and the criminal side. The judiciary creates common law, which is a body of legal rules formed through judicial decisions. The doctrine of precedent applies, and case law is very important.⁹⁹ In addition to shaping the law through decision making, the judiciary also reviews laws passed by the legislature to ensure they are constitutional.¹⁰⁰

Local Government

Local governmental authorities in Ireland operate within specific geographic areas.¹⁰¹ Each area has a council, and councillors are elected every five years. Ireland has 31 councils, consisting of 26 county councils, three city councils, and two city and county councils.¹⁰² Councillors have strong links within their local areas, and a significant requirement of their role is to represent the views of their communities.¹⁰³ Councillors meet with their constituents to identify and track local problems, elevating these issues in their advocacy to pursue better outcomes for their community.¹⁰⁴

In addition to this advocacy role, Councillors are responsible for the provision of public services in their geographic region and make policy decisions in areas reserved for their discretion by legislation, which include passing an annual budget, housing policy decisions, and environmental protection policies.¹⁰⁵ Councils make decisions by passing resolutions or bye-laws. Councillors pass resolutions as reserved functions of their local authority, related to the policy areas reserved to their discretion.¹⁰⁶ Councils are empowered to pass bye-laws based on specific acts of the Oireachtas.¹⁰⁷

Key Ministries and Public Institutions for Food Waste and Recovery

Several key ministries in Ireland are involved in the creation of policies related to food safety, food waste, and food donation.

Department of Agriculture, Food and Marine (DAFM)

The DAFM serves the government and people of Ireland by leading, developing, and regulating the agri-food sector.¹⁰⁸ It aims to protect public health and optimize social, economic, and environmental benefits.

DAFM pursues Ireland's commitment to being a global leader in sustainable food systems, highlighted by the publication of Food Vision 2030, a 10-year strategy for the Irish agri-food sector.¹⁰⁹

Department of the Environment, Climate and Communications (DECC)

The DECC is responsible for the country's communications network,¹¹⁰ protecting and developing the natural resources of Ireland,¹¹¹ and taking action to address global climate change.¹¹² Reducing food waste falls within the purview of the DECC, which led the development of the National Food Waste Prevention Roadmap 2023-2025 and will work with other government departments to review its implementation.¹¹³ The Circular Economy and Miscellaneous Provision Act of 2022 provides the statutory basis for the preparation of a national food waste prevention strategy.¹¹⁴

Department of Health (DOH)

The DOH works to improve the health and wellbeing of people in Ireland by delivering high quality healthcare and getting the best value from health system resources.¹¹⁵ The DOH is responsible for the overall policy on food hygiene and safety in Ireland.¹¹⁶

Environmental Protection Agency (EPA)

The EPA is an independent public body established under the Environmental Protection Agency Act of 1992.¹¹⁷ It is responsible for protecting, improving, and restoring the environment through regulation, scientific evidence, and collaboration with other governmental bodies.¹¹⁸ Reducing food waste is a part of this commitment.¹¹⁹ The EPA leads the Circular Economy Programme, which incorporates and builds upon the National Waste Prevention Programme to spur change and bring Ireland more in line with a circular economy.¹²⁰

Food Safety Authority of Ireland (FSAI)

The FSAI, established by the Food Safety Authority Act of 1998, is an independent statutory body dedicated to protecting public health and consumer interests in the area of food safety and hygiene.¹²¹ The FSAI falls under the purview of the Minister of Health and consists of a board, which is advised by a scientific committee and consultative council.¹²² The FSAI's key responsibilities include coordinating the enforcement of food safety legislation, providing tools to raise compliance with food safety requirements, and promoting the importance of food safety.¹²³

LEGAL ISSUES RELEVANT TO FOOD DONATION

The EU sets baseline requirements for Member States with regard to legal issues relevant to food donation. Member States vary in whether they adopt stronger laws and policies to support food donation and reduce FLW. The following sections describe Ireland's current status on each legal issue, and set forth tailored recommendations to improve Ireland's legal and policy landscape to encourage greater food donation and further prevent and reduce FLW.

LEGAL ISSUE AREA RANKING AT A GLANCE

| National Law, Strategy, or Policy | Strong Policy |
|---|-----------------|
| Food Safety for Donations | Moderate Policy |
| Date Labeling | Strong Policy |
| Liability Protection | No Policy |
| Tax Incentives | No Policy |
| Tax Barriers | Yes |
| Food Waste Deterrence Policies | Moderate Policy |
| Government Grants and Incentives | Strong Policy |
| Emissions, Environmental, and Food Waste Reporting Policies | Moderate Policy |

NATIONAL FLW LAWS, POLICIES, OR STRATEGIES

Food systems are multifaceted. In most countries, many different ministries or departments regulate food and agriculture, including efforts to address FLW. As a result, despite stated goals to reduce food waste, many governments lack internal cohesion around the issue, resulting in lackluster, disjointed, or even contradictory policy landscapes. Uniting the myriad government agencies and initiatives, along with stakeholders in the private sector and civil society, under a national FLW strategy or through food waste or donation-specific laws, prioritizes FLW on the forefront of the national agenda, and delineates clear roles and responsibilities of different entities. This is critical for implementation, accountability, and collaboration across sectors. It is crucial that a policy or strategy clearly prioritizes how an issue should be solved and sets concrete targets.

To address the environmental, economic, and social impacts of food waste in Ireland, the DECC developed the National Food Waste Prevention Roadmap 2023-2025.¹²⁴ This initiative aligns with the UN SDG 12.3 to halve

food waste by 2030¹²⁵ and represents a whole-of-society approach to combatting FLW.¹²⁶ All stages of the food supply chain—primary production, processing and manufacturing, retail and other distribution of food, restaurants and food services, and households—are included in the Roadmap.¹²⁷

The Roadmap directly discusses food donation, stating surplus food can be redistributed or donated by food businesses if it is still fit for human consumption.¹²⁸ The Roadmap contains nine areas of focus, including food waste measurement and reporting, food redistribution, and food waste segregation.¹²⁹ Within each focus area, it establishes key priority actions, a lead delivery body, other stakeholders involved, and a timeline for completing the action.¹³⁰ It also sets forth the establishment of a Food Waste Prevention Task Force, comprising of representatives from key sectors and organizations, to monitor its implementation and progress.¹³¹

With regard to food redistribution, the Roadmap identifies the investigation of the regulatory and legal barriers to “Good Samaritan” acts of donation as a key priority action, and designates the DECC as the lead delivery body to complete the investigation.¹³² Among other key priority actions on food redistribution, the Roadmap lays out Ireland’s commitment to analyzing ways to simplify food donation for businesses, investigating the impact of a prohibition on the destruction of edible food before its “use by” date, and investigating whether mandatory donation of edible food from retail outlets would reduce food waste. In addition, Ireland committed to supporting food redistribution initiatives, including social enterprises and community-based initiatives that promote food donation.¹³³

The Roadmap identifies several key actions to reduce FLW in Ireland. In line with the European Union (Waste Directive) Regulations 2020,¹³⁴ these include establishing a national food waste baseline data set and year by which to measure progress towards the national target of a 50% reduction in food waste by 2030.¹³⁵ Ireland has committed to identifying training supports for organizations to develop robust food waste measurement and reporting practices. It has also committed to promoting the EPA’s national measurement protocol as a tool to assist businesses in meeting the requirements.¹³⁶ The Roadmap discusses initiatives to improve education and awareness, including training for workers in the food supply chain with a focus on better waste segregation and prevention of food waste.¹³⁷ To improve consumer awareness and amplify the reach of the campaign, the Roadmap commits to supporting the Stop Food Waste program led by the EPA by engaging with local authorities, regional waste management planning offices, businesses, and other organizations.¹³⁸

In summary, Ireland has a strong national strategy on FLW and can serve as a model for other countries. While the Roadmap’s implementation is still in progress, Ireland’s development of a national strategy and identification of key priority actions to achieve SDG 12.3 signals the country’s commitment to improving the legal and policy landscape for food donation and FLW prevention and reduction.

IN SUMMARY, IRELAND HAS A STRONG NATIONAL STRATEGY ON FLW AND CAN SERVE AS A MODEL FOR OTHER COUNTRIES.

FOOD SAFETY FOR DONATIONS

In many countries, a key barrier to the donation of surplus food is the lack of knowledge or readily available guidance regarding safety procedures for food donation. All donated food should be safe for consumption and comply with applicable food safety laws and regulations. Potential donors, however, are often uncertain as to which food safety regulations apply to donated food, as opposed to food offered for sale, as well as the steps necessary to safely donate food in compliance with applicable regulations. As a result, safe and surplus food that could be redirected to populations in need is instead destined for landfills.

At the EU level, the General Food Law Regulation provides the overarching guidance and requirements for

food safety in Member States, and it established the European Food Safety Authority to provide scientific analysis of food safety issues.¹³⁹ The General Food Law Regulation establishes criteria for determining the safety of a food product, requires traceability, and places the onus of compliance with food safety regulations on business operators.¹⁴⁰ In January 2006 the EU implemented a new set of food safety regulations called the Hygiene Package to harmonize national regulatory frameworks related to food hygiene across Member States.¹⁴¹

The aforementioned EU Guidelines on Food Donation clarify that any activity associated with the redistribution of surplus food must comply with EU rules related to food hygiene that are applicable to all food operators. The guidelines also clarify that food redistribution organizations and charities are considered “food business operators” under the General Food Law Regulation, and therefore they must comply with that law and other EU rules related to food safety, including the Hygiene Package.¹⁴² The guidelines note requirements that are generally applicable to all food redistribution actors, but they also highlight requirements specifically applicable to certain actors or types of food, such as the hospitality, catering, and food service sectors, or requirements specifically applicable to the redistribution of food of animal origin.¹⁴³ The guidelines further clarify instances where Member States may derogate from certain food safety rules.¹⁴⁴

Outside of the EU Guidelines on Food Donation, national laws related to food safety for food redistribution can alleviate concerns of food donors and redistribution actors (such as donating organizations, charities or food banks) trying to identify the procedures relevant to them.¹⁴⁵ In countries that do not codify requirements for food safety related to food donation into national law, governmental guidelines on hygiene in the context of food redistribution are useful for food donors and redistribution actors in identifying and understanding the relevant procedures.

At the Irish government level, the Food Safety Authority of Ireland Act 1998 establishes the Food Safety Authority of Ireland (FSAI) as the body responsible for ensuring that food produced, distributed, and marketed in Ireland meets the highest standards of food safety and hygiene.¹⁴⁶ The FSAI is responsible for the promotion of standards of food hygiene and safety throughout the supply chain and places general obligations on all actors throughout food production and distribution.¹⁴⁷

Food safety in Ireland is regulated under S.I. No. 369/2006, the European Communities (Hygiene of Foodstuffs) Regulations 2006, as amended (hereinafter the “Hygiene of Foodstuffs Regulations”), which gives effect to Regulation (EC) No. 852/2004¹⁴⁸ on the hygiene of foodstuffs.¹⁴⁹ The FSAI, which operates under the Minister of Health, enforces the law.¹⁵⁰ The Hygiene of Foodstuffs Regulations require food business operators to ensure that all stages of production, processing, and distribution of food under their control comply with the requirements laid out in Regulation (EC) No. 852/2004.¹⁵¹

In Ireland, S.I. No. 556/2014, the European Union (Provision of Food Information to Consumers) Regulations 2014, as amended gives effect to the Food Information to Consumers Regulation 1169/2011 (hereinafter the “FIC Regulation”).¹⁵² Per the FIC Regulation, food that is donated in prepacked form (e.g., a box of cereal) must contain all mandatory labeling information, including date labels.¹⁵³ Where donated food was originally sold loose, food businesses may bulk pack the food for delivery to a food recovery organization or charity.¹⁵⁴ The bulk pack must state the name of the food, the “use by” or “best before” date, storage instructions, and the name and address of the donor.¹⁵⁵ In addition, the donor must provide all mandatory labeling information to the receiving entity and ultimately the final recipients in a document accompanying the food (e.g., delivery docket or invoice).¹⁵⁶ The FSAI notes that food products with errors in labeling or packaging that may cause the food to be withheld from the marketplace may be donated.¹⁵⁷

The FSAI has published guidance for businesses donating food,¹⁵⁸ charities receiving donated food,¹⁵⁹ and food banks and distribution centers¹⁶⁰ on its website to help them comply with food safety requirements throughout the food donation process. The FSAI provides answers to common questions, such as the difference between “use by” and “best before” dates and whether it is acceptable to freeze food before its “use by” date.¹⁶¹ These resources have been effective in providing guidance and information on food redistribution.¹⁶²

Currently, those seeking to donate or redistribute food in Ireland can consult the EU Guidelines and the FSAI guidance to determine what is required of them to ensure food safety throughout each stage of the food donation process. However, food donors and intermediary organizations in Ireland would benefit from clear legislation covering food safety requirements for donation or a comprehensive guidance document providing an overview of EU-level and national level food safety requirements for donation.

FOOD SAFETY POLICY RECOMMENDATIONS

1. AMEND FOOD SAFETY REGULATIONS TO CLARIFY PROCEDURES FOR DONATED FOOD

The EU Guidelines on Food Donation clarify that food donors and food redistribution organizations must comply with the EU rules related to food hygiene, and the FSAI guidance provides information on safe food donation. However, Irish food safety legislation has not been amended to address food that is destined for donation. For example, the Hygiene of Foodstuffs Regulations do not explicitly state that food can be donated when it is not fit for sale but still safe for human consumption¹⁶³ even though the FSAI has clarified that food may be donated so long as the food is safe and in an acceptable condition.¹⁶⁴

The lack of clarity about how Ireland's food safety requirements relate to donated food can be addressed by amending the Hygiene of Foodstuffs Regulations and other relevant national food safety legislation to include clarification on what types of foods can be donated and when (e.g., after a "best before" date but not after a "use by" date). This could also be accomplished through separate specific food donation regulations. This would further elucidate how food safety and hygiene requirements apply equally to donated food, and it could remove any unnecessary regulatory burdens with which donated food need not comply (e.g., labeling that is required for sale but not necessarily for food safety). To ensure that the laws of all Member States address food safety for donations and are aligned with EU-wide food safety requirements, Ireland could also advocate to incorporate donation-specific food safety requirements into the EU General Food Law Regulation and the EU Hygiene Package.

2. PUBLISH A CROSS-AGENCY GUIDANCE NOTE ON FOOD SAFETY FOR DONATIONS FOR FOOD DONORS AND FOOD REDISTRIBUTION ORGANIZATIONS

In the absence of, or in addition to, amending regulations to cover specific requirements for maintaining food safety throughout the donation process, the government of Ireland and the FSAI should build upon existing guidance to publish an official cross-agency Guidance Note¹⁶⁵ that is specific to maintaining food safety for food donations. While the current FSAI guidelines provide helpful information about the legal requirements of donating food, a comprehensive guidance document would ensure that all information needed to maintain food safety throughout the donation process is easily accessible to food donors, food redistribution organizations, and registered charity organizations.

Compiling the guidance into a single, uniform Guidance Note that is endorsed by the relevant government departments would provide clarity to food donors and redistribution organizations as well as signal Ireland's commitment to both food safety and food donation. This Guidance Note should cover food safety requirements under both EU law and Irish law to provide the most comprehensive information to food donation actors. Unlike laws and regulations, which place binding requirements on food donors and food redistribution

organizations, a Guidance Note could clearly reiterate these legal obligations and encourage best practices without placing additional legal burdens on the relevant actors.

DATE LABELING

Date labels affixed to food products can be a major driver of food waste and an obstacle to food donation. As explained in the previous section, most food donors and food redistribution organizations are appropriately cautious about donating food that meets safety standards, but it is not always clear which standards relate to food safety. And, while fresh products like fruits and vegetables will appear visibly spoiled when they are no longer safe to consume, this can be more difficult to gauge for packaged foods. Many donors interpret date labels affixed to such food products as indicators of safety and will therefore throw away food once the date passes. In addition, intermediaries may refuse to accept donated food after this date, deeming the food product unfit for human consumption.

Despite this interpretation, for the vast majority of foods, date labels indicate freshness or quality rather than food safety. Manufacturers use a variety of quality-based methods to determine the timeframe for dates, most of which reflect when the food will be at its “peak quality.”¹⁶⁶ Nevertheless, global trends indicate that consumers generally incorrectly view date labels as indicators of safety rather than quality. In the United Kingdom, for example, researchers found that consumers discarded close to 20% of food that they could have eaten due to confusion over date labeling.¹⁶⁷ Similarly, 88% of Americans report that they throw away food after the expiration date passes due to safety concerns, even if there is minimal risk of a foodborne illness at that time.¹⁶⁸

Within the EU, the FIC Regulation governs the use of date labels on food products.¹⁶⁹ For the majority of packaged foods, this regulation requires either a date mark that specifies it is a “use by” date—indicating safety—or a “date of minimum durability” (or “best before” date)—indicating quality.¹⁷⁰ The FIC Regulation clarifies that the date of minimum durability is considered a quality date, or the “date until which the food retains its specific properties when properly stored” and should be the default label.¹⁷¹ The date of minimum durability must be replaced by a “use by” date for foods “which, from a microbiological point of view, are highly perishable and therefore likely after a short period to constitute an immediate danger to human health.”¹⁷² Food products are considered unsafe for consumption after their “use by” date passes.¹⁷³ The FIC Regulation aligns with the model language set forth in the *Codex Alimentarius*’s General Standard for the Labelling of Prepackaged Foods.¹⁷⁴

The FIC Regulation requires that all mandatory food information be marked in an easily visible location,¹⁷⁵ including any special storage conditions or conditions of use.¹⁷⁶ The regulation also lists food products that are not required to have a “best before” date mark, which include: fresh fruits and vegetables, wines, beverages with 10% or more of alcohol, pastries, vinegar, cooking salt, sugar, confectionary products, and chewing gum.¹⁷⁷ While date labels are not required for these products, they also do not appear to be prohibited, which could result in different labeling practices. The FIC Regulation further states that most of its provisions do not apply to non-prepackaged goods “unless Member States adopt national measures.”¹⁷⁸ This provides Member States the authority to implement more extensive date labeling requirements.

While not addressed in the FIC Regulation, the donation of food past its label date is covered in the EU Guidelines on Food Donation. The guidelines clarify that, while food past its “use by” date can pose safety concerns, food past its “best before” date is still safe for consumption “on the condition that storage conditions are respected and packaging is not damaged.”¹⁷⁹ The guidelines additionally state that, with respect to the donation of foods labeled with a “use by” date, the donor should “ensure that there is sufficient shelf-life available upon the delivery of such products to...organizations in order to allow for their safe distribution and use by the final consumer prior to the indicated ‘use by’ date.”¹⁸⁰ The guidelines explicitly state that food may be marketed beyond its “best before” date, so long as it is still safe and its presentation is not misleading.¹⁸¹

The guidelines refrain from providing specific instructions on how long after the “best before” date food may still be donated, but they do state that eggs may be donated for food redistribution past the 21-day limit on selling eggs to consumers, as long as the charitable organization receiving the eggs processes them with heat treatment before giving them to consumers.¹⁸²

In Ireland, S.I. No. 556, the “European Union (Provision of Food Information to Consumers) Regulations 2014,” gives effect to the FIC Regulation.¹⁸³ While these regulations do not expressly permit donating food past its “best before” date, the FSAI clarifies that food beyond this date can be donated provided that it is safe for human consumption as well as handled and distributed properly.¹⁸⁴

The FSAI provides guidance on amending date labels when prepacked fresh food is later frozen, stating that the amended label must contain a “best before” date (as opposed to the original “use by” date) and a date of freezing for meat and fish products.¹⁸⁵ In addition, FoodCloud, an Irish registered charity, published a guide to assist consumers and businesses in understanding how to use food after its “best before” date passes.¹⁸⁶ This guide includes a list of food categories along with their extended shelf life after the “best before” date.¹⁸⁷

In summary, both EU and Irish guidance clarify that food may be donated past its quality-based (“best before”) date as long as the food is still safe for human consumption. However, food beyond its safety-based (“use by”) date may not be sold or donated. For food products that are not required to have date labels, food donors and food redistribution organizations in Ireland should conduct visual checks for spoilage or damage before donating or distributing food to beneficiaries.

DATE LABELING POLICY RECOMMENDATIONS

1. PROMOTE EDUCATION AND AWARENESS AMONG CONSUMERS AND BUSINESSES ON THE MEANING OF DATE LABELS

Even with a dual-date labeling scheme, consumers may incorrectly assume that date labels indicate safety rather than quality. For example, 88% of Americans report throwing away food after the “expiration date” passes due to safety concerns, even if there is a minimal risk of foodborne illness at that time.¹⁸⁸ National education campaigns directed at both consumers and businesses are critical to clarify that date labels on certain foods indicate quality rather than safety. Ireland can build upon the EU Guidelines on Food Donation, FSAI guidance, and FoodCloud’s “best before” guide to develop an education campaign focused on minimizing the amount of food that is wasted due to date label misunderstanding.

One example is Too Good To Go’s “Look, Smell, Taste, Don’t Waste” initiative, supported by more than 500 brands across 15 countries.¹⁸⁹ The initiative’s aim is to encourage consumers to trust their senses by adding a label onto products reminding them to “Look, Smell, Taste” before discarding food beyond its “best before” date.¹⁹⁰ Supporters include popular brands like Nestlé, Danone, and PepsiCo.¹⁹¹ Since the campaign’s launch, more than 6 billion products packs have featured the label.¹⁹²

Food Waste Free United, a public-private partnership in the Netherlands, collaborated with Too Good To Go and the Federation of Dutch Grocery and Food Industry (FNLI) to launch the Date Labelling Coalition.¹⁹³ Members of the coalition, including manufacturers and supermarkets like Unilever and Lidl,¹⁹⁴ committed to achieving five goals by July 2027.¹⁹⁵ These goals include refraining from adding a “best before” date on products of their own brand where no date of minimum durability is required; including icons (like those of the “Look, Smell, Taste” campaign mentioned above) to clarify the “best before” and “use by” dates on a minimum of 50% of products of their own brand; and collaborating with EU-based members of the coalition to expand the list of

products exempted from adding a “best before” date under Annex X of the FIC Regulation to include other long-life products.¹⁹⁶

2. PROVIDE GUIDANCE AND EDUCATION TO BUSINESSES AND FOOD REDISTRIBUTION ORGANIZATIONS ABOUT HOW DATE LABELS APPLY TO DONATED FOOD

Businesses and food redistribution organizations may lack clarity on how date labels apply to donated food, especially when the “best before” date on a food product passes. Ireland can launch initiatives to help stakeholders correctly identify safety-based versus quality-based labels and understand what types of foods can be donated and when. For example, in 2020, the United Kingdom’s Waste and Resources Action Programme (WRAP) partnered with the Food Standards Agency (FSA) and the Department for Environment, Food & Rural Affairs (Defra) to publish a redistribution labeling guide for food businesses seeking to donate surplus food.¹⁹⁷ The guide contains information on the donation of foods with “use by” versus “best before” dates, transport and storage of surplus food, and implementation for food businesses and redistribution organizations.¹⁹⁸

LIABILITY PROTECTION FOR FOOD DONATION

A significant barrier to food donation is the fear among donors that they will be found liable if someone becomes sick after consuming the donated food and, as a result, face civil or criminal consequences.

The General Food Law Regulation lays out definitions, principles and obligations covering all stages of food production and distribution. Article 21 of the law provides that Member States should act in accordance with the Product Liability Directive (Council Directive 85/374/EEC) when issuing laws, regulations, and administrative provisions concerning liability for defective products.¹⁹⁹ While the Product Liability Directive was repealed and replaced in December 2024, the previous regime will continue to apply to products placed on the market or put into service before December 9, 2026.²⁰⁰ The new Product Liability Directive provides that “economic operators are liable for damage caused by defective products.”²⁰¹ An economic operator is defined as “a manufacturer of a product or component, a provider of a related service, an authorised representative, an importer, a fulfilment service provider or a distributor.”²⁰² Member States are prohibited from adopting laws at the national level that would exonerate food business operators from their responsibility to ensure compliance with both EU and national food laws under Article 17 of the General Food Law Regulation.²⁰³

Section 4 of the EU Guidelines on Food Donation outlines the determination of primary responsibility and liability should food safety issues arise.²⁰⁴ The guidelines explain that Article 17 of the General Food Law applies equally to all food business operators regardless of whether food products are sold or donated. Just like other food business operators, the redistribution organization and/or charity will be responsible for the operation under its respective area of control.²⁰⁵

According to the EU Guidelines on Food Donation, responsibility and liability for any food safety breach will be determined on a case-by-case basis, taking into account whether the producer has properly fulfilled its own specific responsibilities under the General Food Law Regulation.²⁰⁶ The process of determining the facts and circumstances that may render an operator liable to criminal penalties and/or civil liability will vary based on the structure of different national legal systems.²⁰⁷ Thus, the “determination of ‘who should be deemed liable for what,’ in the event of a food safety incident is a matter of national competence,”²⁰⁸ as Member State public health authorities “will investigate the whole food supply chain in order to identify the origin and cause of the problem.”²⁰⁹

Some Member States have enacted liability protection laws or established formal partnership agreements²¹⁰ to document the transfer of ownership of goods between donors and food redistribution organizations, as well as to clarify the respective roles and responsibilities of these actors.²¹¹

Italy is an example of a Member State with a Good Samaritan Law (L.155/2003)²¹² that provides clear legal protection to food donors that donate to registered nonprofit organizations “of social utility.”²¹³ L. 155/2003 characterizes nonprofit organizations “of social utility”²¹⁴ that redistribute food for charitable purposes as “final consumers” such that food donors are liable only to nonprofit organizations receiving the donations, rather than to the final beneficiaries.

Liability for breaches of food safety requirements in Ireland is addressed under the Liability for Defective Products Act of 1991. This Act establishes that a producer is liable for damages caused wholly or partially by a defect in its product.²¹⁵ A product is considered defective if it fails to provide the safety which an individual is entitled to expect, taking into account factors such as its presentation, its reasonably expected use, and the time it was put into circulation.²¹⁶

The Act also provides defenses for producers, such as demonstrating that the defect causing the damage did not exist when the product was put into circulation, or that the defect arose after distribution.²¹⁷ These defenses could be particularly significant for food donations, as defects may result from improper handling or storage by intermediaries rather than an existing flaw at the time of donation. Consequently, this provision could alleviate concerns about liability for actors along the food donation supply chain. Absent this defense, Ireland does not provide any explicit form of liability protection to food donors or intermediary organizations.

In summary, there is no liability protection in EU law, as this is reserved as a matter of national competence.²¹⁸ Ireland, like many Member States, has not enacted any liability protection for food donors or food redistribution organizations. However, under the relevant provisions of the Liability for Defective Products Act, it seems likely that defenses are available to food donors, so liability should not be a major concern. Notwithstanding this, enacting protection could be beneficial as it would offer clarity and assurance to food donors and food redistribution organizations, as well as show clearly that the government supports food donation.

LIABILITY PROTECTION POLICY RECOMMENDATIONS

1. OFFER LIABILITY PROTECTION TO FOOD DONORS AND INTERMEDIARY ORGANIZATIONS

To reassure both food donors and intermediary organizations, the government of Ireland should adopt legislation that establishes clear liability protection for food donors and food redistribution organizations that act in good faith, similar to those offered in a growing number of other countries.

For example, in the United States, the Bill Emerson Good Samaritan Food Donation Act protects food donors and nonprofit intermediaries, including food banks, from civil or criminal liability if donated food later causes harm to recipients, as long as the donation was made in good faith.²¹⁹ The donor must donate “apparently wholesome food”²²⁰ or an “apparently fit grocery product”²²¹ that meets all food safety standards in place under federal, state, and local regulations.²²² Donors are entitled to protection even when they donate foods that contain flaws that make them unmarketable.²²³ An exception to this liability protection exists where a recipient of donated food is harmed as a result of acts or omissions constituting gross negligence or intentional misconduct.²²⁴

Similarly, Brazil's Food Waste and Donation Law protects food donors and food redistribution organizations from liability if a beneficiary alleges harm arising from donated food, unless the beneficiary proves the harmful food was provided in an act of malice.²²⁵ The law allows for both direct donations and donations made through intermediaries, such as food banks, and provides liability protection for donors and intermediaries.²²⁶

2. IN THE ABSENCE OF LIABILITY PROTECTION FOR BOTH FOOD DONORS AND INTERMEDIARIES, OFFER LIABILITY PROTECTION TO FOOD DONORS ONLY

In the absence of comprehensive liability protection for both food donors and intermediary organizations, Ireland could adopt legislation that at least establishes liability protection for food donors.

Among Member States, Italy serves as an exemplar for shielding donors from liability. Italy's "Good Samaritan Law" (L. 155/2003) recognizes food banks themselves as the final link in the food donation supply chain.²²⁷ The law prevents beneficiaries of food banks from filing lawsuits against food donors.²²⁸ As a result, food donors are only liable for food safety requirements to food banks, rather than to individual consumers of food bank provisions.²²⁹ In practice, this means that beneficiaries can hold food banks liable for harm caused by the food, but they cannot hold food donors themselves liable. With food banks ensuring proper safety and hygiene standards after receiving donations, this legislation provides an extra layer of assurance to donors, promoting food donation without sacrificing safety.

By enacting similar liability protections, the government of Ireland could provide food donors and recovery organizations with clear, broad protection for donations that meet food safety standards. This liability protection should not be absolute, and food donors and intermediaries should not be shielded from legal and financial responsibility if they demonstrate a high degree of disregard for potential harm when handling, storing, or transporting food prior to delivery. In addition, liability protection must be coupled with efforts to make food donors and other stakeholders aware of the protections.²³⁰

TAXES

Reducing FLW results in sizable economic benefits to society, as it minimizes the environmental costs associated with producing food that is ultimately sent to landfills. Food donation also helps mitigate the cost of hunger and stimulates the economy, as food redistribution organizations provide jobs, and donation recipients can spend limited financial resources on other basic goods and services. Yet food donation can also be expensive, as food donors must allocate time and money to glean, package, store, and transport surplus food that otherwise would be discarded. As a result, it is often less expensive and easier for farmers, businesses, and private individuals to throw away food rather than donate it. This issue can be addressed by offering tax incentives such as deductions or credits for food donation activities. Addressing tax barriers to food donation can also encourage donation efforts by removing additional financial burdens on donors and food redistribution organizations.

Incentives

Tax incentives create a financial incentive for potential food donors that helps reframe food donation as a cost-effective and economically beneficial endeavor. At the very least, they help offset the cost of donation. Incentives can include tax deductions or credits for food donation. Member States have the power to introduce, remove, or adjust taxes within their jurisdictions, so long as taxation policies comply with EU rules.²³¹ Some Member States have incorporated tax incentives for food donation activities into their national legislation.

In Ireland, the Charitable Donation Scheme offers tax relief for qualifying monetary donations, at least €250 in a year, made to approved bodies. The tax relief is provided through a tax deduction or tax refund, depending on who makes the donation.²³² Companies may claim a tax deduction on the donation as though it were a trading expense.²³³

Approved bodies are defined within the Charitable Donation Scheme and include a “charity that has been authorized by Revenue²³⁴ to operate the scheme.”²³⁵ This definition includes food redistribution organizations and food banks, as long as they register as a charity with Revenue.

Despite the existing framework to incentivize charitable monetary donations, no tax incentives are presently provided for in-kind donations, which include donations of food products. The Charitable Donation Scheme’s narrow focus on monetary donations misses an opportunity to incentivize food donors to redistribute surplus food to those in need. A tax incentive for in-kind donations would not only provide an additional financial benefit to food donors, thereby making it more cost-effective to donate, but also signal support from the government of Ireland for food donation activities.

Barriers

While certain tax schemes may encourage food donations, they may also be potential deterrents. In many countries, value-added tax (VAT), in particular, presents a financial barrier to donating food. VAT is levied on a good (or service) at each stage of the supply chain, often through a system of debits (an output VAT) and credits (an input VAT). Output VAT is the amount that a VAT-registered business or vendor will charge on its own sale of the good, whereas input VAT is the amount invoiced to the vendor upon the good’s purchase. Where a tax scheme does not allow food donors to reclaim VAT paid on inputs upon donating the food, donors are incentivized to throw food away because they are able to claim credits for VAT paid on inputs for food that ends up being discarded. Thus, prohibiting donors from reclaiming input VAT paid on food that is ultimately donated creates a financial penalty for food donors.

Council Directive 2006/112/EC of 28 November 2006²³⁶ sets out the framework for VAT in the EU. The EU’s institutions do not collect the tax; instead, Member States are each required to adopt and collect a VAT that complies with the EU VAT rules.²³⁷ Each Member State has a standard rate that applies to most goods and services. According to the Directive, this rate cannot be less than 15%.²³⁸ According to Annex III of the Directive,²³⁹ food is eligible for a reduced VAT rate, which generally cannot be less than 5%.²⁴⁰ However, certain food products are eligible for a reduced VAT rate of less than 5% or an exemption with the right to deduct VAT paid on inputs.²⁴¹ In addition, the Directive allows Member States to provide an exemption with a right to deduct for the supply of goods and services by organizations engaged in welfare and social well-being activities.²⁴²

The Directive specifies that VAT has to be paid on food intended for donation if the VAT paid by the donor upon purchase is fully or partially deductible (Article 16).²⁴³ However, because the taxable amount is the purchase price at the moment of the donation—adjusted to the state of those goods at the time when the donation takes place (Article 74)—the European Commission recommends that, “for foods close to the ‘best before’ date, Member States should consider the value on which the VAT is calculated to be fairly low, even close to zero in cases where the food genuinely has no value.”²⁴⁴ Several Member States have clarified that food items close to their expiration date have a “purchase price” of zero or close to zero, such that they do not incur VAT liability when donated.²⁴⁵ However, other Member States consider the price of a donated product to be at the same level as its purchase price through usual commercial transactions and calculate the VAT at the commercial price, such that the food bank or recipient organization would incur VAT liability on the product at the time of transfer.²⁴⁶

Several Member States have enacted specific provisions in their own national tax legislation to address the issue of VAT in relation to food donation. In addition to subjecting food to reduced VAT rates as mentioned above, Member States trying to address the VAT challenge have primarily handled the issue of VAT in two

different ways. First, some have declared that redistributed food is “zero-rated” (i.e., the goods are still VAT taxable, but the rate of VAT charged to the food redistribution organizations is 0%). Second, others have declared that such food is exempt from VAT (i.e., the goods are not VAT taxable).²⁴⁷ If a good is zero-rated, the government does not tax its sale, but allows credits for the VAT paid on inputs. If a good or business is “exempt” from VAT, the government does not tax the sale of the good, but producers cannot claim a credit for the VAT they pay on inputs to produce it.²⁴⁸ A third option is granting a VAT exemption with the right to deduct, which would allow donors to recover input VAT, but food redistribution organizations would not have to pay additional VAT upon receipt of the donated food.²⁴⁹ In practice, the exemption with the right to deduct functions similarly to zero-rating all donated food products.

In Ireland, food donation is typically considered to be a VAT taxable supply of goods.²⁵⁰ A food donation is treated as a gift, and gifts are generally subject to VAT, unless the gift is worth less than €20 or constitutes an industrial sample.²⁵¹ As a result, donated food is subject to VAT, even though a sale does not occur. VAT must be evaluated and paid at the time of donation. However, as noted above, businesses are likely able to value the food at zero if it is unmarketable, meaning they can avoid charging VAT at the time of donation. Unlike goods that are destroyed, businesses cannot recover their input VAT on donated foods, which creates a financial disincentive for food donation. For example, if a food product is not zero-rated and is deemed unmarketable due to aesthetic concerns or labeling errors, businesses would likely opt to value the food product at zero, discard it, and recover the VAT paid on inputs rather than donate the food and forfeit the input VAT.

Depending on the type of food being donated, different VAT rates apply. Ireland applies a zero-VAT rate to basic food items, which are defined as “bread, butter, tea, sugar, meat, milk, vegetables, etc.”²⁵² However, food and drink that would normally be zero-rated is taxed at the second reduced rate when it is supplied in the course of catering or by a vending machine.²⁵³ Many other food items are taxed at either the standard VAT rate (23%), reduced rate (13.5%), or second reduced rate (9%).²⁵⁴ Those that must be taxed at the reduced rate include food served in restaurants, hot foods to take away, and catered foods.²⁵⁵ Food and drink that is taxed at the standard rate includes sweets, chocolates, confections, crisps, ice cream, and soft drinks.²⁵⁶ While some foods are zero-rated, many foods fall into one of the other three categories, which means such foods face the financial burden described above regarding the inability to claim a credit on input VAT, and thus donation is disincentivized.

In summary, tax incentives for food donation are not provided at the EU level. However, Member States can provide tax incentives for food donation through deductions and credits. In Ireland, in-kind donations, including food donations, are currently not included in the Charitable Donation Scheme. Therefore, the country lacks tax incentives to encourage food donation. In terms of tax barriers, the EU requires VAT to be paid on food intended for donation if the VAT paid by the donor upon purchase is fully or partially deductible. Member States have the authority to zero-rate donated foods, exempt food donation as a non-VAT taxable event, or classify food donation as an exemption with a right to deduct. However, Ireland has not taken any steps to zero-rate or exempt food donation, thus a financial disincentive to donation exists.

TAX POLICY RECOMMENDATIONS

1.

INCLUDE A CHARITABLE TAX CREDIT OR DEDUCTION FOR IN-KIND FOOD DONATION IN NATIONAL TAX SCHEMES

The process of donating food can incur costs to a business related to transportation, logistics, and staff time. Food donors and recipient organizations alike shoulder the expenses associated with selecting viable food to donate, package, store, and transport. Without a significant tax incentive, in many cases, it is easier and less

expensive for potential donors to send surplus food for animal feed, anaerobic digestion, composting, or to landfills or incineration as waste. Providing a tax credit or deduction could help offset these costs and increase food donation.

While Ireland offers tax relief for monetary donations through the Charitable Donation Scheme, in-kind donations, including those of food products, do not qualify for tax relief. Ireland could incentivize greater food donation by adopting a provision in the Taxes Consolidation Act to specifically provide tax relief for in-kind donations, similar to the relief provided under the Charitable Donation Scheme for monetary donations.²⁵⁷

Many countries have implemented tax incentives to encourage food donation. For example, in France, a tax deduction of 60% of the value of donated food is available to donors, with a cap of 0.5% of the company turnover.²⁵⁸ If the donor does not fully use the tax deduction during the first year, they may continue to claim the benefits over the next five years.²⁵⁹ In the United States, taxpayers that donate property that could otherwise provide them income, including food products, are eligible for a tax deduction. U.S. taxpayers that donate food are eligible for two deductions: a general deduction²⁶⁰ that applies to all charitable contributions and an enhanced tax deduction²⁶¹ that allows qualified food donations to be valued nearly twice as high as they would be under the general deduction.²⁶² The cap for the enhanced deduction is 15% of income.²⁶³ In addition, in Germany, donations in cash or in kind are tax-deductible expenses, within the limit of 20% of corporate income or 0.4% of the company's total sales, wages, and salaries spent in the calendar year.²⁶⁴ As food donations are considered "in-kind," they are tax deductible for donors up to the specified cap.

2. PROVIDE TAX INCENTIVES TO OFFSET ASSOCIATED COSTS OF FOOD DONATION

To ensure that food donation is an economically feasible option for donors and food redistribution organizations, tax schemes should broadly define deductible expenses. Specifically, tax incentives should explicitly allow donors to claim a tax credit or deduction not only for the donated food itself, but also for the logistical costs associated with donating food (e.g., storage, transportation).

Among Member States, France has a particularly attractive incentive scheme for food donation. The tax deduction mentioned above that applies to the value of the food also applies to services that support donation, such as the delivery or storage of food donations, as these services are considered gifts in kind.²⁶⁵ If a taxpayer does not fully use the tax deduction during the first year due to the cap, they may continue to claim the benefits over the next five years.²⁶⁶

3. AMEND THE VAT SCHEME TO EXEMPT FOOD DONATIONS FROM VAT WHILE ALLOWING DONORS TO RECLAIM VAT PAID ON INPUTS

In Ireland, a zero VAT rate applies to some goods and services, including specified food and drink products.²⁶⁷ Where a good or service is zero-rated, the government does not tax the sale or provision, and the provider can reclaim from the government the input VAT they paid on the good or service.²⁶⁸ However, many food products are not zero-rated and, therefore, subject food donors and food redistribution organizations to VAT liability when non-zero-rated foods are donated.

Council Directive 2006/112/EC of 28 November 2006 provides Member States with flexibility to apply a zero-rate or exemption with a right to deduct to certain food products or the supply of goods and services by organizations dedicated to social welfare.²⁶⁹ In Italy, for example, VAT legislation allows exemption from VAT of food surpluses

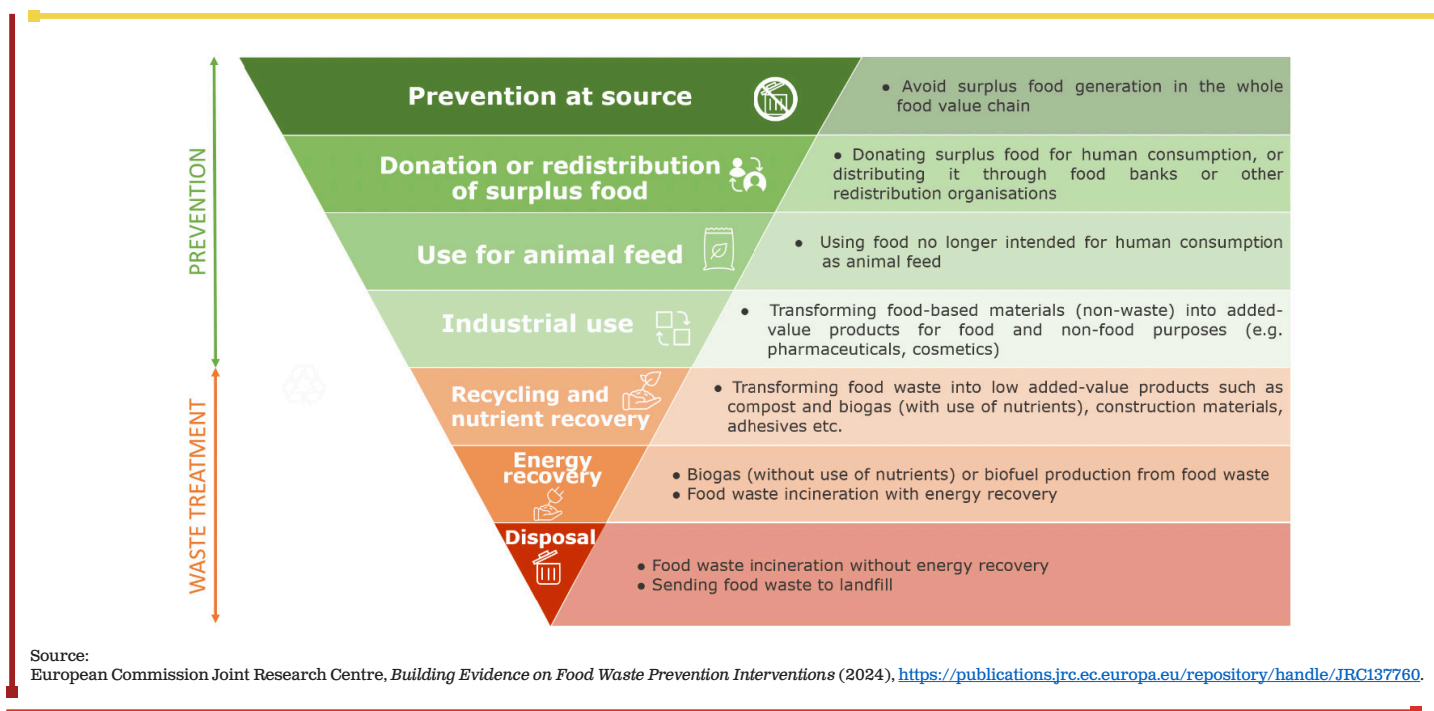
donated to socially beneficial, nonprofit charitable organizations (*organizzazioni non lucrative di utilità sociale*, or ONLUS).²⁷⁰ Donors can therefore deduct the VAT paid on inputs to make or acquire the products they later had to donate.²⁷¹

Ireland should implement a similar exemption with the right to deduct for food donations to incentivize food donors to donate surplus food rather than discard it and avoid subjecting food redistribution organizations to an additional financial burden.

FOOD WASTE DETERRENCE POLICIES

To reduce the environmental impacts of food waste and support food security efforts, some countries enforce food donation requirements or impose monetary penalties for food that is sent to landfills (often known as organic waste bans or waste taxes). This category of laws and policies—known as food waste deterrence policies—is an incredibly promising lever to make food waste financially burdensome for food waste generators, positively influence business behavior, and promote sustainable food systems.

The Waste Framework Directive requires that Member States adopt waste management plans and waste prevention programs.²⁷² It also provides conceptual frameworks and definitions for Member States to use while implementing these initiatives.²⁷³ Foremost is the “food use and waste hierarchy” (pictured below) to be used when considering potential waste-reducing national policy.²⁷⁴



EU Directive 2018/851 dated May 30, 2018, which entered into force in the Member States on July 5, 2020, modified the Waste Framework Directive to specify its scope of application.²⁷⁵ The 2018 Waste Framework Directive strengthens rules on waste prevention and inserts definitions of the concepts of “non-hazardous waste, municipal waste, construction and demolition waste, food waste, material recovery, backfilling and extended producer responsibility regime.”²⁷⁶ Under Recital 32, Member States are encouraged to actively prevent food waste, including providing incentives for the collection and safe redistribution of unsold food products at all stages of the food supply chain.²⁷⁷ Recital 32 also advocates for improved consumer awareness of the meaning of “use by” and “best before” dates to reduce food waste.²⁷⁸

Member States are encouraged to reduce generation of food waste by 50% at both the distribution and consumption levels and reduce food losses along the production and supply chains to contribute to the UN's 2030 SDGs.²⁷⁹ The Directive also gives examples of incentives for the application of the waste management hierarchy as mentioned above, such as the implementation of charges for the landfilling and incineration of waste or, among others, waste volume-based charging systems.²⁸⁰

In line with EU legislation, the European Green Deal, and the UN Sustainable Development Goals, Ireland has taken steps to improve its waste management system and reduce food loss and waste. In 2020, Ireland's national waste policy was reviewed to strengthen the focus on the circular economy, which culminated in the publication of A Waste Action Plan for a Circular Economy.²⁸¹ Since 2009, Ireland has required producers²⁸² to segregate food waste from non-biodegradable materials and other waste and has prohibited the disposal of food waste in residual waste collection, which is reserved for waste remaining after source separation.²⁸³

Ireland's waste segregation system and, in particular, the use of levies on the disposal of waste at a landfill discourages the practice of throwing surplus food into landfill. Ireland segregates waste at both the household and commercial levels, with waste collection companies providing households and businesses with a residual (black) bin, mixed dry recyclable (green) bin, and a bio-waste (brown) bin.²⁸⁴ Ireland has significantly reduced its landfill rate for municipal waste, decreasing from over 80% in 2001 to 15% in 2022.²⁸⁵ This reduction is largely a result of increasing the share of municipal waste (including household waste, commercial waste, and waste from schools, restaurants, and businesses) that is sent for energy recovery.²⁸⁶

Ireland requires waste collection companies to place commercial actors onto a price plan that ensures that the cost to dispose of mixed dry recyclables and bio-waste, including food, is less than the cost of disposal for residual waste.²⁸⁷ As of 2023, households and commercial entities are charged €85 for each tonne of waste sent to a landfill.²⁸⁸ These levies only apply to residual (black bin) waste, which incentivizes households and companies to properly separate waste into their respective bins and reduce the amount of waste they send to landfills.²⁸⁹

The government of Ireland provides comprehensive resources through its online platform MyWaste, which includes specific guides for managing waste.²⁹⁰ The MyWaste platform allows users to search according to the type of item being disposed and directs them to specific resources depending on whether they are disposing from a household or the workplace.²⁹¹ Ireland has also conducted waste management awareness campaigns. The "Take a minute, before you bin it!" campaign on the MyWaste platform features an interactive game to teach users about which bins are appropriate for different types of waste.²⁹² The platform also includes educational resources and promotional materials.²⁹³

In summary, the EU requires Member States to develop waste management and waste prevention plans and encourages them to incentivize application of the waste hierarchy. However, Member States can adopt and implement stronger food waste deterrence policies, such as food donation requirements and organic waste bans. Ireland currently lacks a strong food waste deterrence policy, although its waste segregation system disincentivizes the disposal of food waste in landfills.

FOOD WASTE DETERRENCE POLICY RECOMMENDATIONS

1. ENACT A FOOD DONATION REQUIREMENT FOR ACTORS ALONG THE FOOD SUPPLY CHAIN

Ireland should consider requiring the donation of surplus food that is still safe for human consumption. Laws requiring the donation of edible surplus food could apply to specific food waste generators, such as retail or

wholesale food businesses of a certain size, as determined by the government. For example, provisions could require restaurants, grocers, and other establishments that sell retail or wholesale food to package and donate all safe food items that are prepared but not sold or consumed. In this way, the law would prohibit the disposal of foods that would otherwise be appropriate for donation.

Food waste deterrence policies, like food donation requirements, should be paired with governmental support for implementation. Support could include building or expanding infrastructure for food recovery, educating stakeholders about new requirements, and monitoring outcomes of the policies. Food donation requirements, in particular, should be coupled with tax incentives and grant funding to ensure that food redistribution organizations and charities have adequate capacity to receive, store, and transport donations. These laws should also include enforcement mechanisms and penalties, such as fines, for noncompliance.

Some countries in the EU have enacted food donation requirements to reduce FLW. France's n°2016-138 Law on Fighting Against Food Waste obliges supermarkets of more than 400 square meters to establish relationships with relevant charitable organizations to donate surplus food.²⁹⁴ As of 2020, this donation requirement also applies to operators in the agri-food industry whose annual turnover exceeds €50 million and operators in collective catering who prepare more than 3,000 meals per day,²⁹⁵ and the penalty was increased.²⁹⁶ Several other countries or states have followed suit. For example, in the Czech Republic, Law No. 180/2016 on foodstuffs and tobacco requires food retailers with supermarkets of more than 400 square meters to engage in food redistribution actions.²⁹⁷

The government of Ireland should consider adopting a similar food donation requirement for specific food waste generators to divert more surplus food to those in need. Ireland could mirror France's law by using a phased-in approach, applying the donation requirement first to supermarkets or grocery stores above a certain size threshold and subjecting smaller entities to the requirement over time.

GOVERNMENT GRANTS AND INCENTIVES

Grants and incentive programs offer another important resource for food donation initiatives. This is particularly true in countries where donors consider tax incentives insufficient to offset the costs of donation or where a lack of infrastructure limits food recovery efforts. For example, government grants can help food donors and food banks acquire equipment and resources necessary for gleaning, storing, processing, and transporting food for donation. Government funding can also support new innovations and emerging technologies that will make food donation more efficient and sustainable.

While most government grants and incentives are disseminated on the national level, EU-wide funding is available for research and innovation of sustainable food systems.²⁹⁸ Access to public and private funds, including contributions from the EU Investment Bank, are referenced in the EU Green Deal "Farm to Fork" strategy.²⁹⁹ Further, EU-wide innovation funds exist, such as InnovFin³⁰⁰ and the European Circular Bioeconomy Fund³⁰¹ (both through the EU Investment Bank) and various topical EU funding programs for sustainable food systems, environmental protection, food security, and more.³⁰²

The European Social Fund Plus (ESF+) is the EU's main funding instrument for investing in the well-being of people.³⁰³ With a budget of €142.7 billion for the period of 2021 to 2027, the ESF+ provides a contribution to the EU's employment, social, educational, and skills policies, which include addressing food insecurity and food waste.³⁰⁴ The ESF+ brought together four funding instruments that were separate in the program period of 2014 to 2020.³⁰⁵ The ESF+ is provided via two strands: the shared management strand, which is implemented by Member States in partnership with the European Commission, and the Employment and Social Innovation (EaSI) strand, which is implemented by the European Commission.³⁰⁶

In every Member State, the shared management strand, which includes food aid, is implemented with the help of partner organizations, including food banks, in charge of distributing assistance.³⁰⁷ Importantly for food donation actors, ESF+ funds can be used to offset the costs of collection, transportation, storage, and food donation distribution, as well as awareness raising activities.³⁰⁸ The selection criteria for food supplied with ESF+ funds must also take into account climate-related and environmental impacts, particularly the reduction of food waste.³⁰⁹ In 2022 Member States distributed 62 million meals using ESF+ funds.³¹⁰

In addition to receiving EU-wide funds, Ireland offers several funding sources for food waste reduction. Some of these funds are available as part of Ireland's Circular Economy Programme, which builds upon the National Waste Prevention Programme to support national-level initiatives to reduce waste.³¹¹ The Circular Economy Programme aims to reduce resource use, prevent waste, and achieve sustainable economic growth.³¹²

The Circular Economy Innovation Grant Scheme (CEIGS) is an initiative led by Ireland's DECC.³¹³ The grant provides financial support to circular economy innovations, including waste prevention and efficiency improvement in food systems.³¹⁴ The CEIGS was established in 2021 and in the three years since has awarded almost €1.14 million to 23 projects covering various circular economy initiatives, including food waste prevention.³¹⁵ In 2024 the CEIGS was administered in partnership with Community Foundation Ireland, and applicants focused on the areas of plastics, construction and demolition waste, food waste, and resources and raw materials.³¹⁶ A total of €650,000 in funding was offered in 2024, with a maximum amount of €100,000 available for any individual project.³¹⁷

The Environmental Protection Agency (EPA) also provides grant aid to organizations that promote circular economy initiatives in Ireland through Green Enterprise: Innovation and Demonstration for a Circular Economy, an initiative that funds innovative, practical applications and solutions that prevent waste and stimulate the circular economy.³¹⁸ In 2022 the fund had €650,000 available and sought projects in the range of €50,000 to €100,000.³¹⁹ Grant funds were awarded to several projects related to reducing food waste, including a carbon footprint calculator for FoodCloud, a nonprofit dedicated to reducing FLW through surplus food redistribution, and a food rescue and research café, led by the Rediscovery Centre, the National Centre for the Circular Economy in Ireland.³²⁰ Presently, the program is being evaluated by the EPA to consider where it fits within the overall funding landscape, and funding was not offered in 2024.³²¹

Funding for food waste prevention and reduction is also available through the Rural Innovation and Development Fund (RIDF), led by the DAFM.³²² The RIDF supports the rural economy through the creation of jobs and sustainable business development.³²³ In 2024 applications were sought from organizations developing a best practice model to support primary producers or food businesses seeking to reduce food waste.³²⁴ The FoodCloud Growers Project received €165,000 in funding from RIDF to establish a national program for the redistribution of surplus food from growers to community and volunteer organizations throughout Ireland.³²⁵

In summary, both the EU and Ireland provide strong government grants and incentives for FLW prevention and reduction. EU-wide funds such as the ESF+ target food insecurity and food waste, while Ireland offers funding to progress towards a circular economy, including support for producers and food businesses seeking to reduce food waste. Grants offered at both the EU and national levels tend to favor research and innovation rather than support for infrastructure, scaling, or capacity building. Ireland lacks government grants and incentives for actors involved in the food donation process. Developing incentives that target food donors and food redistribution organizations can increase food donation and reduce FLW in the country.

GOVERNMENT GRANTS AND INCENTIVES

POLICY RECOMMENDATIONS

1. PROVIDE TARGETED GRANT FUNDING TO FOOD DONATION AND FOOD RECOVERY ACTORS

While Ireland has a range of robust grants and incentives available from the national and EU levels aimed at reducing food waste, many of these programs are open to a wide range of applicants, including those that focus on innovating new systems to prevent food waste rather than directly engaging in food donation activities. To ensure that funding more effectively supports actors directly involved in food donation and recovery, a narrowly tailored grant scheme could be introduced supporting food donation, limiting eligibility criteria to include agricultural producers, food donors, recovery organizations and distributors. For example, producers might significantly benefit from such assistance, as many are reluctant to donate excess produce because of the costs associated with storage, handling, and transportation. By offering dedicated support to address these barriers, the government would make food donation more feasible, thus reducing levels of food waste.

For example, as part of Canada's Food Policy, the Department of Agriculture and Agri-Food Canada created the Local Food Infrastructure Fund (LFIF), an initiative to support projects that will increase food security through the purchase of infrastructure and equipment, increasing access to local, nutritious, and culturally appropriate food.³²⁶ The LFIF consists of two funding streams: one for large-scale projects with multiple infrastructure needs and partnerships to address community food security, and another for small-scale projects that seek assistance with the purchase and installation of one or a few pieces of equipment.³²⁷ Eligibility for LFIF assistance is limited to Indigenous communities, governments, or nonprofits; nonprofit organizations with a mandate to provide community food services; or municipal administrations. While LFIF projects must have a food production element (e.g., building a community garden), awardees can use funds to purchase and install equipment to process, distribute, store and transport food.³²⁸ The government of Ireland could create increase the amount of food being redistributed by offering financial assistance to food donation actors for infrastructure or logistical needs.

2. OFFER LOW- OR NO-COST INCENTIVES FOR FOOD WASTE REDUCTION EFFORTS

In addition to financial grants or support, Ireland could benefit from implementing low or no-cost “recognition incentives” that acknowledge businesses for their efforts in reducing food waste. Businesses often see recognition and publicity as key components of their business strategy, making a public acknowledgement or status designation a low-cost option to incentivize food redistribution. The government should set up a recognition program with clear, objective requirements for food systems actors to be acknowledged as community champions that donate food or develop innovative ways to reduce FLW. This initiative could be a certification program or tiered system to recognize donors of different amounts or according to the effectiveness of the solutions.

Ecuador's Law to Prevent and Reduce Food Loss and Waste (*Ley para Prevenir y Reducir La Pérdida y el Desperdicio de Alimentos*), passed in 2022, bans the waste of food that is suitable for human consumption.³²⁹ As part of the implementation scheme for the law, actors in the donation process, including donors and food redistribution organizations, can receive a certification for excellence in reducing FLW and donating food.³³⁰ They can receive this certification by promoting innovations that minimize food loss, developing

public campaigns around the importance of reducing food waste, or creating logistics systems for reporting by recovery organizations, among other efforts.³³¹ Ireland could develop a similar certification program to recognize food donation actors that stand out in their initiatives, whether that be through the creation of innovative solutions or donation efforts.

EMISSIONS, ENVIRONMENTAL, AND FOOD WASTE REPORTING POLICIES

Reporting interventions can incentivize entities to target and measure their waste streams, helping them identify areas where they can reduce FLW through food donation. Three main reporting structures could measure and address FLW: environmental, social and governance (ESG) reporting; Scope 3 emissions reporting; and FLW reporting. Mandatory or voluntary reporting schemes enable food system actors to better understand the causes of FLW, identify opportunities to reduce waste and increase the amount of food being redistributed, and set targets for FLW reduction.

EU Directive 2022/2464, also known as the Corporate Sustainability Reporting Directive (CSRD), requires certain entities to publish sustainability information, including disclosures of their Scopes 1, 2, and 3 emissions.³³² Entities are subject to the CSRD if they: (1) are “large”³³³ entities or groups, (2) have securities listed on an EU-regulated market, or (3) are non-EU entities with significant revenues and an EU branch or subsidiary.³³⁴ The European Commission adopted the European Sustainability Reporting Standards (ESRS), developed by the European Financial Reporting Advisory Group (EFRAG), to ensure uniformity and comparability across entity disclosures.³³⁵ Under ESRS E5 relating to resource use and circular economy, entities that have determined that this matter is material to their business are required to disclose the total amount of waste generated; the total amount of waste, by weight, that is diverted from disposal; the amount of waste, by weight, that is directed to disposal by waste treatment type; and the total amount and percentage of non-recycled waste.³³⁶ The first set of CSRD disclosures by large entities captured in the first phase of reporting are to be published in 2025.³³⁷

In February 2025 the European Parliament and the Council of the EU proposed amendments to the CSRD that would reduce the scope of companies subject to reporting requirements under the Directive.³³⁸ The proposed amendments would also delay the application of the reporting requirements for large companies that have not started implementing the CSRD and for listed small and medium-sized enterprises.³³⁹

In addition to the CSRD, which requires reporting by individual companies, the 2018 WFD requires Member States to measure and report on FLW at each stage of the food supply chain.³⁴⁰ To implement this requirement, the European Commission adopted a common methodology for Member States to measure and track FLW in primary production, processing and manufacturing, retail, restaurants and food services, and households.³⁴¹ Member States can measure food waste via a sample of food business operators and households using various methods according to the stage of the supply chain.³⁴² They can also use direct measurement to track FLW within any stage of the supply chain and use other indirect methods, like waste composition analysis and interviews, where direct measurements are unavailable.³⁴³ Unlike the CSRD, individual companies are not required to report on FLW under the WFD.³⁴⁴

Ireland introduced the European Union (Corporate Sustainability Reporting) Regulations 2024 to give effect to the CSRD.³⁴⁵ Entities subject to the regulations will report on a double materiality basis, disclosing both the risks they face from climate change (financial materiality) and the impacts they may have on climate and society (impact materiality).³⁴⁶ Entities must also provide information about their value chain including their products and services, business relationships, and supply chain.³⁴⁷

Per the WFD, Ireland measures food waste averages at each stage of the supply chain: primary production, manufacturing and processing, retail and distribution, restaurants and food service, and households.³⁴⁸ The most recent data from Ireland's food waste reporting show that Ireland generated 750,000 tonnes of food waste in 2022.³⁴⁹ Of the sectors measured, manufacturing and processing accounted for the most food waste (230,000 tonnes, or 31% of total food waste), closely followed by households (220,000 tonnes, or 29% of total food waste), and restaurants and food service (157,000 tonnes, or 21% of total food waste).³⁵⁰

In summary, the EU imposes requirements on individual entities through the CSRD, with large companies being the first to be subject to reporting on their Scopes 1, 2, and 3 emissions. The WFD requires Member States to measure and report food waste averages at each stage of the supply chain. Ireland has been measuring and reporting food waste in accordance with the WFD. However, the CSRD fails to account for emissions among smaller entities, and the WFD does not impose reporting requirements on individual entities, resulting in gaps in FLW data throughout the EU. While the EU is a leader on emissions, environmental, and food waste reporting, these measures can be strengthened through additional reporting requirements on individual entities regardless of size coupled with support and tools for smaller entities to comply with these requirements.

EMISSIONS, ENVIRONMENTAL, AND FOOD WASTE REPORTING POLICY RECOMMENDATIONS

1. REQUIRE SMALLER BUSINESSES TO REPORT ON FOOD LOSS AND WASTE

While the individual business reporting requirements under the CSRD and the Member State FLW reporting under the WFD are steps in the right direction, the scope of each reporting scheme fails to capture the full extent of FLW throughout the EU. Smaller entities are not yet subject to the requirements of the CSRD,³⁵¹ and individual companies are not required to report on FLW under the WFD.³⁵² Ireland can go above and beyond the CSRD and WFD by requiring individual companies to report on their Scope 3 emissions, or solely on their FLW. Extending reporting requirements to all entities regardless of size would provide a full picture of FLW, and therefore better enable Ireland to develop targeted interventions for FLW prevention and reduction.

2. INCREASE ACCESS TO SHARED DATA FRAMEWORKS TO MAKE REPORTING MORE MANAGEABLE FOR SMALLER COMPANIES

Measuring and reporting FLW is a key step for determining where along the supply chain waste is produced and how best to address it. However, tracking food waste requires extensive resources and capacity to manage large data sets, which can impose burdens on smaller companies or organizations. While the CSRD takes a phased-in approach to allow smaller entities time to prepare for tracking and reporting,³⁵³ these entities may still find it difficult to collect data, especially in measuring Scope 3 emissions throughout their supply chain. Efforts to share standardized data among entities required to report on emissions and food waste can alleviate some of the burden on smaller companies and organizations. For example, the BRC Mondra Coalition brought together leaders of industry, government, technology, and nongovernmental organizations to develop a standardized emissions data platform for coalition members to use for Scope 3 emissions reporting.³⁵⁴

Ireland should also consider creating a support network for food businesses to access shared, accurate, and comprehensive data on food products and FLW throughout the supply chain. Policymakers could develop

incentives, such as grants, for smaller companies to target, measure, and report their FLW emissions. Additionally, the government of Ireland could offer grants to support data organizations in providing technical assistance to smaller businesses.

CONCLUSION

This Guide identifies Ireland's current laws, policies, and programs related to FLW and food donation as well as offers tailored recommendations to improve the food donation policy landscape. While the government of Ireland is primarily responsible for guaranteeing food security and advancing sustainable food systems, food redistribution organizations acting in a private capacity can provide an additional social safety net as well as a climate mitigation benefit, by diverting food from landfills. The EU is a global leader in efforts to reduce FLW, but Member States can go above and beyond the floor set by EU-level requirements. Thus, significant opportunity exists to advance laws and policies to further curb excess waste and increase food donation in Ireland.

To bolster the progress of Ireland's national food security and food waste goals, legislation that minimizes any obstacles to food donation and provides adequate donation incentives—such as liability protection laws, supportive tax policy, food waste deterrence policies, government grants and incentives, or regulations and guidance that clarify food safety and date labeling laws applied to food donation—will be critical. This Guide provides a starting point from which policymakers, private sector actors, and civil society may better understand the current laws and policies relevant to food donation. It also offers specific recommendations and a foundation for dialogue about FLW prevention and the value of food recovery to Ireland's food security, economic stability, and environmental sustainability.

Food donors and food redistribution organizations should consider the laws, policies, and legal issues discussed in this Guide when donating food or distributing it to those in need. To better understand the regulation of food donation in Ireland, donors, intermediaries, and policymakers should investigate the laws identified in this Guide and seek additional legal counsel, if necessary.

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I.R.C. § 170(e)(3)(B). “The reduction... for any qualified contribution... shall be no greater than the sum of... one-half of the amount computed under paragraph (1)(A), and... the amount (if any) by which the charitable contribution deduction under this section for any qualified contribution... exceeds twice the basis of such property.” In practice, the enhanced deduction allows qualified food donations to be valued at the lesser of either: two times the original cost of the asset (including expenses related to its acquisition) or the original cost of the asset plus one-half of the profit margin (the fair market value the minus original cost of the asset).

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Code Général des impôts, *supra* note 258. (“When the payments mentioned in the first paragraph are made in the form of gifts in kind, their valuation is carried out at the cost price of the good given or the service provided.”); *see also* DELOITTE, *supra* note 245, at 30.

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Producer is defined as “a person that is the occupier of a premises where food is prepared or consumed, or both, or who supplies food, regardless of whether a charge is made, at any premises.”” *See* Waste Management (Food Waste) (Amendment) Regulations 2024 § 3(d) (Ir.), <https://www.irishstatutebook.ie/eli/2024/si/294/made/en/pdf>.

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