

Legal newsBITE: Food and drink quarterly

September 2026



October 2026 checklist for UK Employment Rights Act 2025

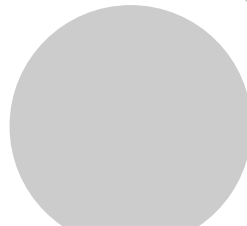
With the next tranche of Employment Rights Act (ERA) 2025 reforms coming into force in October, now is the time for food businesses to assess readiness and ensure that their policies, processes and management capability are aligned with the new requirements.

Key changes include: (i) the increase in employment tribunal time limits from three to six months; (ii) a new expanded duty on employers to take "all" reasonable steps to prevent sexual harassment in the workplace, as well as a new statutory obligation on employers to prevent the harassment of employees by third parties and (iii) a new statutory right for trade unions to access workplaces. Further details of these changes and the steps that employers should be taking to comply can be found in our updated [October 2026 checklist](#).

Undisclosed social media adverts featuring "less healthy" foods

The Advertising Standards Authority (ASA) has [upheld a complaint](#) that Instagram posts by a food blogger for a Manchester restaurant's breakfast/brunch menu failed to disclose that those were marketing communications i.e. there was no use of the #ad marker. In this case, while the blogger in question had not been paid in cash to promote the restaurant, she had been invited to the launch of the new menu and provided with free food and drink – while no formal written contract was in place, the invitation did state that it was offered "in exchange" for the posting of a minimum amount of social media content and the posts included content taken from press releases provided to the blogger in advance. However, the ruling was a double whammy, as in addition, the ASA held that the inclusion of images of cream filled croissants and other similar images breached its rules on advertisers paying for ads for identifiable less healthy foods to be placed on the internet.

This ruling is interesting, as it seems clear that ASA will consider benefits other than cash as constituting payment; and it is the latest in a number of rulings on "less healthy" advertising restrictions introduced in January 2026 (a number of examples were reported in our [last edition](#) of newsBITE).



UK proposed ban on energy drinks to u-16s from April 2027

It was [announced](#) in July that the UK government intends to ban the sale of “high caffeine” energy drinks to under 16s in England from April 2027, following a consultation on the proposal in September 2025. The legislation will apply to all retail settings, including online sales; and will be introduced by secondary legislation under the Food Safety Act 1990.

The consultation sought views on a range of proposals, including the minimum age of sale, the products and retailers that should fall within scope of the ban, the treatment of vending machine sales and the proposed enforcement regime. Overall, 90% of respondents supported the introduction of an age-based restriction on the sale of high-caffeine energy drinks. Having considered the consultation responses, the government has confirmed that legislation will be introduced to:

- Prohibit the sale of high-caffeine energy drinks to children under 16
- Apply the restriction to drinks, other than tea or coffee, containing over 150mg of caffeine per litre
- Apply the ban across both in-store and online retail settings, while excluding business-to-business sales
- Prohibit the sale of high-caffeine energy drinks through vending machines
- Require enforcement by local authorities

Although the [draft legislation](#) for this proposal hasn't yet been published, we have seen draft legislation on the “Age Verification Defence to Underage Sales” under the Tobacco and Vapes Act 2026 published this month, which essentially mirrors what is typically required under licence conditions for age-restricted alcohol sales, namely that the relevant person must have inspected a physical identity document (i.e. a document bearing a photo, date of birth and holographic mark or ultraviolet feature) shown by the customer to the staff member, which would appear to a reasonable person to be a document that hasn't been altered and demonstrates that the customer meets the relevant age requirement. There is also a provision relating to digital ID allowing digital verification in certain circumstances (including that the person providing the digital verification services is included in the national register, and that there is an agreement between the person charged with the offence of selling and the provider of the services). It is possible that the provisions in relation to the plan to age-restrict energy drinks will broadly follow this format.

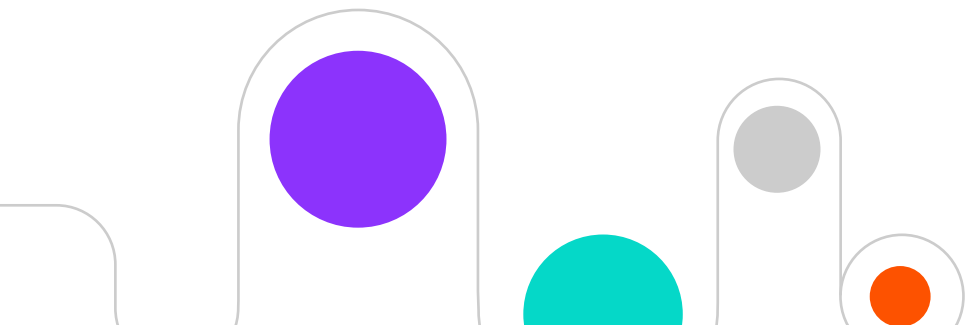
Of course, many responsible retailers already restrict sales of energy drinks to prevent access to under 16s, under voluntary schemes (the British Soft Drinks Association's voluntary code of practice commits members not to market or sample high-caffeine energy drinks to under 16s, and many retailers have introduced voluntary “Challenge-25” policies to check ID for anyone who appears to be under 16). Businesses selling energy drinks should review their current age-verification and sales procedures ahead of the legislation being introduced.

EU Packaging and Packaging Waste Regulation (PPWR) starts to apply

The first wave of requirements under the PPWR started to apply on 12 August 2026, as summarised in our recent [article](#), and will be relevant to food businesses both inside and outside the EU that are supplying foods for the EU market. Other requirements are being “phased in” progressively between 2026 and 2030 (with some targets not actually applying until 2040).

PPWR applies across all sectors, and it is relevant to all packaging, regardless of the material. But for food packaging, there is a particular focus on reducing the proportion of single-use packaging for take-away food and beverages, as well as a push toward reuse and refill with specific targets for the sector. In addition, the sector is called out as one of the most relevant for widespread use of per- and polyfluoroalkyl substances (PFAS) substances (which are considered to be persistent in the environment, hence the moniker “forever chemicals”, and of concern for human health, particularly after long-term exposure) as a specific limitation on the presence of PFAS in food contact packaging is foreseen by the legislation. Our firm's Manon Ombredane has been quoted in an [article by Food Manufacture](#) on PPWR PFAS Limits.

PPWR does not apply in Great Britain, although given other recent steps by the UK government to seek alignment between the UK and the EU in other areas of regulation to promote trade (for example, the ongoing negotiations on a Sanitary and Phytosanitary (SPS) agreement for food and feed) similar requirements should not be ruled out in future.



UK Deposit Return Scheme: Stepped producer fees introduced

Exchange For Change, the body responsible for delivering the UK-wide Deposit Return Scheme (DRS), has announced a new [stepped producer fee structure](#) ahead of the scheme's launch in October 2027, that will affect producers and retailers of in-scope drinks containers. Producer fees will be set at 0p for all drinks containers during the first 15 months of the scheme, from October 2027 to December 2028. This is intended to help businesses manage the initial costs of implementation.

From January 2029, the proposed fees are:

- 0.6p per container for aluminium and steel drinks containers
- 2.3p per container for Polyethylene Terephthalate (PET) plastic bottles

The fee levels are based on current modelling and will be reviewed, validated and reconfirmed in May 2027 before the scheme launches.



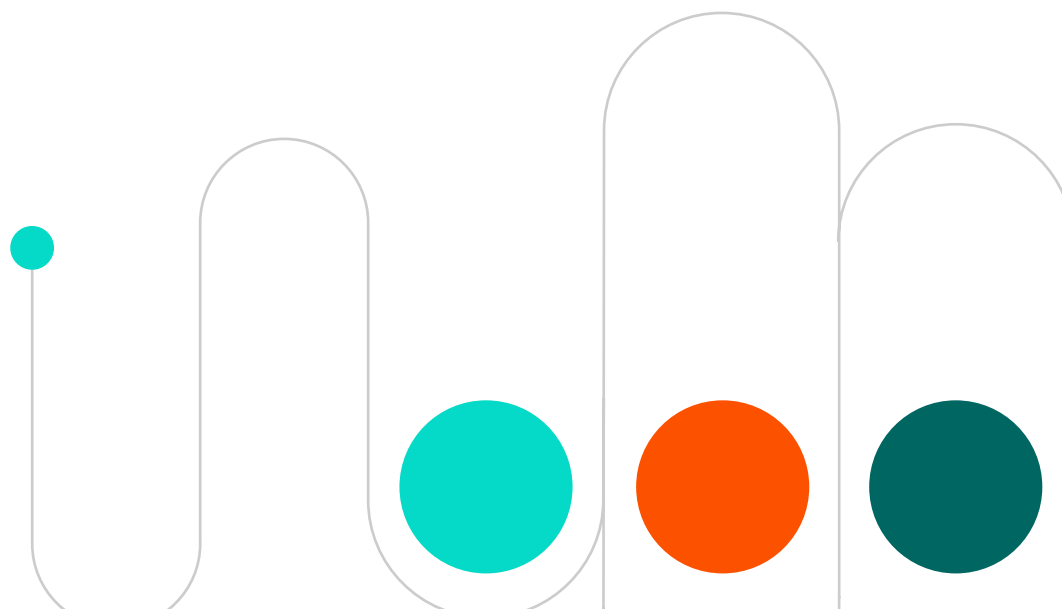
UK Plastic Packaging Tax: Preparing for the mass balance approach

HM Revenue and Customs (HMRC) has published [guidance](#) on the new mass balance approach for chemically recycled plastic under the Plastic Packaging Tax (PPT), which will apply from 1 April 2027. The approach will allow food (and other) businesses to attribute chemically recycled plastic to packaging produced using a mixture of recycled and virgin plastic, enabling the recycled content to count towards the 30% recycled-content threshold for the PPT exemption.

The approach will be available where packaging is manufactured in the UK using chemically recycled plastic, or where finished packaging manufactured using chemically recycled plastic is imported into the UK. It is optional, but businesses that do not use the mass balance approach will have to treat the chemically recycled plastic as nonrecycled plastic for PPT purposes.

The new rules introduce supply-chain certification and due diligence requirements. Businesses that manufacture or import plastic packaging and looking to use the mass balance approach will need to ensure that relevant businesses in the supply chain are certified under a scheme meeting HMRC's minimum requirements. They will also need to retain valid certificates and attribution declarations, carry out due diligence on suppliers and maintain relevant records for six years. There will be penalties in place for businesses using this approach without meeting the requirements.

More detailed guidance will come in early 2027.



EU ultra processed food (UPF) definition?

The European Commission has published a [scoping paper](#) setting out the specific questions it has referred to the Scientific Advice Mechanism (SAM) and more specifically to the Group of Chief Scientific Advisors (GCSA), as well as the European Group on Ethics in Science and New Technologies in relation to UPFs.

Among the key questions that the GCSA will be asked to address are:

- Which definitions and classification systems for UPFs, including those featuring a specific UPF category, are currently the most prominent and to what extent can they provide an appropriate and effective basis for policymaking?
- Based on the available scientific evidence, which criteria or markers could be used to develop a meaningful assessment of the health effects of UPFs? The commission notes that such criteria should be sufficiently robust to support measures aimed at helping consumers transition towards healthier diets, and to inform broader national and EU public health initiatives. In identifying these criteria, consideration should be given, among other factors, to the degree and type of processing, energy density, nutrient composition, ingredients (including food additives and flavourings), portion sizes, consumption frequency and the role of individual foods in providing essential nutrients and contributing to dietary recommendations.

The scientific opinion is expected to be published in March 2027. Our firm's Christofer Eggers has provided comments to the trade press for an [article](#) on this issue.

New EU rules on green claims, durability and reparability

As of 27 September 2026, [Directive \(EU\) 2024/825](#) on empowering consumers for the green transition (EmpCo Directive) through better protection against unfair practices and better information is, in principle, applicable across the EU.

The EmpCo Directive pursues two main objectives:

- First, it amends the [Unfair Commercial Practices Directive](#) to strengthen consumer protection against misleading environmental claims. In particular, it introduces new rules relating to environmental claims and sustainability labels and prohibits a number of practices that may mislead consumers regarding the environmental performance, durability or reparability of products.
- Second, the directive amends the [Consumer Rights Directive](#) to ensure that consumers receive clearer information at the point of sale regarding the durability and reparability of goods, as well as their legal guarantee rights.

Despite the directive now being applicable, a number of member states have yet to complete its transposition into national law and just a few days before this important milestone, the European Commission updated its [Frequently Asked Questions](#) (FAQ) document, providing additional guidance on the interpretation and application of the new rules.



UK Health and Safety Executive (HSE) latest work-related fatal injury statistics

The UK's HSE has published its annual data on work-related fatal injury statistics. In the period April 2025 to March 2026 there were a total of 126 worker deaths, down two from the previous year and apart from the years affected by the coronavirus pandemic, the number is provisionally the lowest number recorded in a single year. The most common cause of work-related fatal injury was fall from height, being struck by a moving object or vehicle, accounting for 60% of all fatal injuries. Construction, agriculture, forestry and fishing accounted for the highest number of deaths across all industries, although many of common causes are relevant to food businesses.

The latest HSE figures for 2024/2025 showed 59,219 injuries to employees were reported under the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013 (RIDDOR), with 40.1 million working days lost due to work-related illness and workplace injury.



UK Corporate Waste Responsibility Bill: Proposed new corporate responsibilities for waste management

[The Corporate Waste Responsibility Bill](#) was introduced in the House of Lords on 4 June 2026, and its next stage is second reading. This is a private member's bill looking to strengthen corporate accountability for waste management by requiring certain large companies to designate a director responsible for compliance with the statutory waste duty of care and, in specified circumstances, making companies financially liable for the clean-up of their waste.

Some of the key proposals include:

- **Named director** – Large companies would be required to appoint a named director responsible for compliance with the waste duty of care. The director would need to ensure appropriate systems and controls, including risk assessments and due diligence when appointing waste contractors and report annually to the board. The definition of a large company would be set through subsequent regulations.
- **Record-keeping and reporting** – Companies would have to notify the regulator of the named director and any material breach of the waste duty of care or reasonable suspicion of waste-related criminal activity in their supply chain. Records demonstrating compliance, including information on waste transfer, storage, treatment, disposal and final destination, would need to be retained for at least six years.
- **Financial liability for clean-up and clearance of waste** – Where a company has generated or controlled waste, which is subsequently mismanaged, and the company has failed to discharge its waste duty of care, it would be liable for specified clean-up and clearance costs. These could include costs of removing waste, securing sites, preventing further environmental harm and restoring affected land or water. Such costs could be recovered as a civil debt.
- **Enforcement** – Failure by a company to comply with the proposed director and reporting requirements would constitute an offence. A named director could also commit an offence by knowingly or recklessly providing false or misleading information.

Food businesses that generate or control significant quantities of waste should monitor the progress of this bill, analyse if they fall within the definition of a large company and consider reviewing their due diligence policies and their contracts with waste management contractors, where applicable.

New EU rules on the use of meat and meat product names and on “fair”, “equitable” and “short supply chain” claims

In the middle of summer, the European Commission published [Regulation \(EU\) 2026/1739](#) on strengthening the position of farmers in the food supply chain. The regulation amends the CMO Regulation (EU) No 1308/2013, the CAP Strategic Plans Regulation (EU) 2021/2115 and the CAP Horizontal Regulation (EU) 2021/2116.

Among the key changes introduced by the new Regulation, two are particularly noteworthy:

- **New restrictions on the use of meat-related names** – The regulation introduces a new Part Ia in Annex VII to the CMO Regulation, defining the term “meat” and restricting the use of 31 meat-related terms, including beef, chicken and pork but also steak and bacon. The regulation also expressly prohibits the use of such terms for foods produced from cell or tissue cultures and regulated under the Novel Food Regulation. These restrictions will apply from 19 August 2029, subject to a dedicated stock exhaustion period.
- **New rules for “fair”, “equitable” and “short supply chain” claims** – The regulation introduces conditions governing the use of the terms “fair” and “equitable”, or equivalent terms, on the labelling, presentation, advertising or commercial documentation of products falling within the scope of the CMO Regulation. Such claims may only be used where they inform purchasers of existing arrangements regarding the organisation of production, distribution or marketing that aim, among other things, to ensure stability and transparency for farmers, provide participating farmers with what they consider to be an equitable and remunerative price and support collective initiatives linked to the UN Sustainable Development Goals (new Article 88a CMO Regulation).

The regulation also introduces a number of other significant changes, including mandatory written contracts for deliveries by farmers and new rules relating to producer organisations.

A new framework for new genomic techniques

Following the publication in June of [Regulation \(EU\) 2026/1388](#) on plants obtained by certain new genomic techniques (NGTs) and their products, which updates the regulatory framework for plants developed using NGTs by adapting the existing legislation on genetically modified organisms, the European Commission launched a call for evidence at the end of the summer in preparation for a [delegated act](#) and an [implementing act](#). These acts will establish the procedural and information requirements applicable to the verification, notification of the deliberate release and applications for the placing on the market of NGT plants, as well as food and feed containing, consisting of, or produced from such plants.

European Food Safety Authority (EFSA) lowers the safe level for exposure to TFA

In July 2026, the EFSA adopted a [scientific opinion](#) setting revised science-based recommendations for the maximum oral exposure to trifluoroacetic acid (TFA), including a new acceptable daily intake. Based on new scientific evidence, EFSA significantly reduced the level of TFA considered safe in the diet compared with its 2017 assessment. TFA may be formed from a range of sources through the degradation of certain PFAS, including some industrial gases and specific active substances used in plant protection products.



European Commission updates product scope of the EU Deforestation Regulation and issues guidelines on the EU Forced Labour Regulation

On 17 September 2026, the European Commission published [Commission Delegated Regulation \(EU\) 2026/2102](#), amending Annex I to the EU Deforestation Regulation (EUDR), which lists the commodities and products falling within the scope of the regulation. The Delegated Regulation extends the scope of the EUDR to certain additional products, including soluble coffee. At the same time, it removes several products from the list, ranging from product samples to certain leather goods. It also provides clarifications regarding the treatment of packaging, marketing materials and the application of the waste exemption. The Delegated Regulation entered into force on 18 September 2026. However, for products newly in scope of the EUDR, the relevant provisions will apply only from 30 December 2027.

The commission has also published its [Guidelines on the application of Regulation \(EU\) 2024/3015](#) prohibiting products made with forced labour on the union market, providing important practical guidance for businesses preparing for the implementation of the new regime. The guidelines illustrate the particularly broad scope of the EU Forced Labour Regulation, which, as highlighted in Section 3, applies to all products made with forced labour, irrespective of their origin, type or sector, that are placed on, made available on, or exported from the EU market as from 14 December 2027.

The guidelines also provide further insight into the regulation's enforcement framework. In particular, they explain the investigative process and the measures that may be taken where a product is ultimately found to have been made with forced labour. Such products may become subject to a prohibition decision adopted either by a member state competent authority or by the European Commission, depending on where the suspected forced labour is deemed to have occurred.

UK Food Standards Agency guidance (FSA) on cell-cultivated products

The FSA has issued new guidance on [regulatory authorisation](#) and the [assessment of growth media components and toxicology](#) for cell-cultivated products.

Post-Brexit, the FSA and Food Standards Scotland (FSS) are responsible for various regulated product applications, including applications for novel foods, and the guidance on the regulatory authorisation process indicates that the terms of authorisation for cell-cultivated products could specify both the specific types of food the biomass can be added to and limits on the quantity used as an ingredient, and the specific labelling requirements for the name of the product containing the biomass.

In addition to novel food approval, the FSA foresees that use of food improvement agents (such as additives, flavourings or enzymes) might also be relevant to the manufacture of cell-cultivated products, and flags that separate authorisation might also be required accordingly.

The separate guidance on what to consider when evaluating growth media components and toxicological hazards in cell-cultivated products (which is required as part of novel food authorisation) provides further detail on the tailored information for the safety assessment process when preparing the relevant dossier for submission.

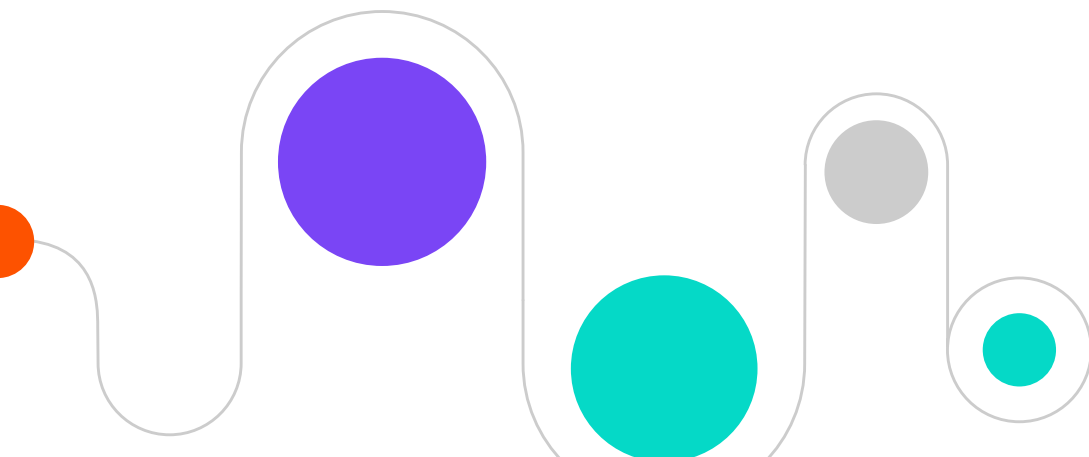
The Cell-Cultivated Products Sandbox programme runs up to February 2027 and aims to help the FSA and FSS provide practical supplemental guidance for industry.

Supply chain risk and resilience in the food industry

A group of senior professionals from the UK food industry have [reportedly](#) contributed to a new memo to institutional investors on supply chain risk and resilience. Coming after a summer of heatwaves and with El Niño on the way, they are warning that:

- (i) Resilience is too often treated as short-term adaptation, rather than a strategic question about reducing impact.
- (ii) Boards are not adequately factoring climate risk into governance and long-term decision making.

This is interesting in the context of the UK's new supply chain strategy, which was the topic of an [article](#) we published in July.



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