

Legislation Outlook

July 2021

This monthly legislation briefing is a **supplement** to your Activ Comply service to help you to **plan ahead** for maintenance of your ISO 14001, OHSAS 18001/ISO 45001, ISO 50001 and ISO 27001 systems. In addition to giving you advance warning about important legislation that will affect your compliance with the standards, we'll provide news, newly-published guidance and government consultations that you might find useful, as well as any other significant legislation beyond the scope of the standards listed that will potentially impact your organisation. Unlike other services, we only report items of value: we don't waste your time on items such as an increase in administrative fees or changes that only affect enforcement agencies.

When legislative changes are announced with short notice (<1 month) they are not reported here. All changes are automatically delivered direct into your [Activ Comply](#) system as they come into effect so you can be confident that you are always 100% up to date.

This month includes a **Focus** section on the new plastic packaging tax, which will have a significant impact on many of our clients, as well as important news on transfers of personal data into the UK from the EU.

Upcoming Standard-Related Legislation

ISO 14001

Finance Act 2021

This [Act](#) creates a new plastic packaging tax that comes into effect on 1 April 2022. Details of this new obligation can be found in the Focus section at the end of the Outlook.

OHSAS 18001 / ISO 45001

Regulation (EU) 2021/979 amending Annexes VII to XI to Regulation (EC) No 1907/2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH)

This [EU Regulation](#) will affect the version of REACH in force in Northern Ireland. From 8 January 2022, the introductory texts of Annexes VII to XI (which set out standard information requirements for substances manufactured or imported in specified quantities) will be amended to provide more clarity on the obligations of registrants. The amendments are too numerous to detail here, but any organisation in Northern Ireland that imports or manufactures chemical substances or mixtures in quantities of more than 1 tonne per year should check to see if they are affected by any of the changes.

Remember: short-notice changes to legislation are not reported in this briefing; all changes are delivered direct into your Activ Comply system as they come into effect.



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When do you need
a Data Protection
Officer?

News

UK Adequacy Decision for Transfers of Personal Data

The post-Brexit 'bridging mechanism' permitting transfers of personal data from the EU to the UK is due to expire on 1 July 2021, but the EU Commission has announced that it has officially adopted adequacy decisions for the UK. As a result, no additional safeguards will need to be implemented to make transfers of personal data originating from the EU, meaning that data can flow freely into the UK.

Many organisations will have implemented Standard Contractual Clauses (SCCs) in order to continue data transfers in the event of an adequacy decision not being in place before the expiry of the bridging mechanism. Such SCCs should be retained for use in the future as the adequacy decision will automatically expire in four years. The EU Commission has also excluded transfers made for the purpose of immigration control from the scope of the adequacy decision.

Why is the supply chain security important?

The SolarWinds cyberattack of late 2020 could mark the moment businesses finally confront the scale of challenge they face in securing their supply chains

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Consultations

Environmental Permitting: Standard Rules No.24

The Environment Agency has issued a [consultation](#) on two new proposed standard rules permits for operators who:

- store and treat up to 5,000 tonnes of ferrous and non-ferrous metals each year; or
- operate a vehicle storage, depollution and dismantling facility for up to 10 end-of-life vehicles a week.

The EA are seeking views on whether the new standard rules permits are adequate to manage the risks to the environment and human health caused by the permitted activities. The consultation closes on 20 September 2021.

Plant Protection Products

The Health and Safety Executive are seeking comments on their [Draft Assessment Report](#) for cinmethylin, a new herbicidal active substance for use in plant protection products for controlling the growth of annual grasses and several broadleaf weed species in cereals. The deadline for comments is 19 July 2021

Focus: Plastic Packaging Tax

What is it?

The plastic packaging tax is a new tax that is aimed at encouraging the use of recycled plastic in plastic packaging in the UK. It applies from 1 April 2022 and the detail can be found in the [Finance Act 2021](#) and on the [HMRC Website](#).

Will it apply to me?

If you manufacture or import into the UK any plastic packaging (including filled plastic packaging like bottles filled with drinks or toys in plastic boxes) that contains less than 30% recycled plastic content, then it will be taxable at £200 per tonne unless:

- You manufacture or import less than 10 tonnes of plastic packaging in 12 months;
- The packaging is made from multiple materials and plastic is not the heaviest component by weight;
- The plastic packaging is for human medicines;
- The plastic packaging is used to protect imported products whilst they are in transit (for example pallet wrap);
- The plastic packaging is used in aircraft, ship or railway stores for international journeys;
- The plastic packaging is for immediate export (unless it is used as transit packaging for exporting goods out of the UK).

Interestingly for the purposes of this tax, plastic includes bioplastics like biodegradable, compostable and oxo-degradable plastics.

Recycled plastic is plastic that has been reprocessed from recovered material, by using a chemical or manufacturing process, so that it can be used either for its original purpose or for other purposes. However, it does not include organic recycling.

How will this tax affect me and what do I need to do to prepare?

Manufacturers and importers of plastic packaging will bear the greatest financial and administrative burden of this tax. In particular:

- **Registration with HMRC**

You will need to register with HMRC if:

- (i) at any time after 1 April 2022 you think you will manufacture and/or import more than 10 tonnes of finished plastic packaging components in the next 30 days; or
- (ii) you have manufactured and/or imported at least 10 tonnes of plastic packaging components in the last 12 months.
- (iii) These thresholds for registration with HMRC include plastic packaging that contains less than 30% recycled plastic. This means that you may have to register with HMRC even if you don't have to pay any plastic packaging tax.

- **Record Keeping**

Manufacturers and importers will have to keep detailed records of the plastic packaging that they manufacture or import, including the total weight and weight by component, the recycled content of the plastic, and the weight of any plastic packaging that is exempt or subject to tax relief.

The obligation to keep records applies even if you don't have to register for or pay any tax. Further guidance on the records that need to be kept is expected in coming months.

- **Statement of Plastic Packaging Tax**

Manufacturers and importers will need to include a statement on invoices to business customers of the amount of plastic packaging tax that arises in relation to any relevant packaging. This may mean that you need to make changes to your invoicing software.

It is not only manufacturers and importers that will be affected by this tax. Those who supply plastic packaging and who are responsible for paying the tax can adjust the amount payable under existing contracts to reflect the tax that is chargeable on the plastic packaging component. This means that manufacturers and importers are likely to pass the cost of the tax onto purchasers of plastic packaging and this in turn could result in price rises for the end user or consumer.

If you buy plastic packaging you should check with your suppliers that the tax has already been paid or accounted for to avoid the possibility of you being held liable for any unpaid tax.

What happens if I don't comply?

There are hefty fines of up to £20,000 and even imprisonment for deliberate evasion of the plastic packaging tax. Even relatively minor non-conformances like a failure to register with HMRC at the appropriate time can incur penalties of up to £500.

We are expecting the HMRC to issue more detailed requirements and guidance later in the year so that businesses can be fully prepared before the tax is introduced in April 2022.

The team at MyActiv will be keeping a close eye on these developments and will update you as soon as we have any further information.

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0333 301 9003
legal@myactiv.co.uk
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ISO 14001 and the UK ban on new petrol and diesel cars by 2030

The UK Government has announced that petrol and diesel powered cars will be banned from 2030.

But how do you incorporate this new ban into your Environmental Management System (EMS)?

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out more