

# Legislation Outlook

December 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, 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 sees some substantial new legislation being published, including the Environment Act 2021, which will have a significant impact on many Activ users. Our next Outlook will be published slightly later than normal following the festive holidays; in the meantime, the Activ team wish you all a Merry Christmas and a Happy New Year!

## Upcoming Standard-Related Legislation

### ISO 14001

#### Environment Act 2021

This [Act](#) is currently unimplemented, other than in relation to the provisions creating the Office for Environmental Protection. There is currently no timetable for when the other provisions are due to come into force, but this is the first major piece of environmental legislation for some time and it is worth looking at it in more detail – see the Focus section below for more information.

### ISO 27001

#### Telecommunications (Security) Act 2021

This [Act](#) sets out new security obligations for providers of public electronic communications networks and public electronic communications services. The Act upgrades the pre-existing security provisions on providers contained in the Communications Act 2003 by:

- introducing the concept of a ‘**security compromise**’, defined as:
  - anything that compromises the availability, performance or functionality of the network or service;
  - any unauthorised access to, interference with or exploitation of the network or service;
  - anything that compromises the confidentiality of signals conveyed by means of the network or service;
  - anything that causes signals conveyed by means of the network or service to be lost, unintentionally altered, or altered otherwise than by or with the permission of the provider of the network or service;
  - anything that occurs in connection with the network or service and that compromises the confidentiality of any data stored by electronic means; or
  - anything that occurs in connection with the network or service and that causes any data stored by electronic means to be lost, unintentionally altered, or altered otherwise than by or with the permission of the person holding the data
- requiring providers to take appropriate and proportionate measures to:
  - identify the risks of security compromises occurring;
  - reduce the risks of security compromises occurring; and
  - prepare for the occurrence of security compromises;
  - requiring the provider to inform OFCOM and users of a significant risk of a security risk occurring.

The Act also grants powers to the Secretary of State to make regulations, issue codes of practice and make ‘designated vendor directions’ in relation to high-risk vendors. Additional enforcement powers in relation to security compromises are also granted to OFCOM.

No commencement date for this Act has been announced as yet.

**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.**

## News

### Mandatory Climate-Related Financial Disclosures

The UK Government has announced that the UK will become the first G20 country to make it mandatory for large businesses to disclose their climate-related risks and opportunities, in line with Taskforce on Climate-related Financial Disclosures (TCFD) recommendations. The Government plans to publish draft legislation that will, from 6 April 2022, require businesses with over 500 employees and a turnover greater than £500 million to disclose climate-related financial information.

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## Consultations

### Single-Use Plastic

The Department for Environment, Food and Rural Affairs has issued two related consultations.

The first [consultation](#) seeks views about proposals to ban the supply of commonly littered single-use plastic items, including plates, cutlery, balloon sticks, and expanded and extruded polystyrene food and drink containers.

The aim of the second [consultation](#) is to gather evidence around commonly littered single-use plastic items (especially wet wipes, tobacco filters, sachets and single-use cups) to help inform future policy decisions. The consultation also seeks views on how to shift away from single-use items to reusable or refillable alternatives.

Both consultations close on 12 February 2022.



## Focus: Environment Act 2021

The Act has two policy aims: firstly, to provide a new legal framework for environmental governance; and, secondly, to make specific improvements in areas such as waste and resource efficiency, air quality and environmental recall, water, nature and biodiversity, and conservation covenants.

The environmental governance provisions place obligations on the UK government, such as setting various environmental targets and being accountable to the Office for Environmental Protection for meeting those targets.

Of more importance to our clients are those provisions that set out the second policy aim of specific improvements. These are likely to have a significant impact on many Activ users in the following areas:

### **Waste and Resource Efficiency**

Part 3 of the Act gives powers to the 'relevant national authority' (i.e. the Secretary of State, Scottish Ministers, Welsh Ministers or DAERA) to make regulations that:

- require producers to pay the full net cost of managing their products at end of life to incentivise more sustainable use of resources;
- allow deposit return schemes to be established, whereby a deposit is included in the price of an in-scope item (such as a drink in a bottle or can) which is redeemed when the item is returned to a designated point;
- enable producer responsibility obligations to be applied at all levels of the waste hierarchy to, for example, facilitate the prevention of food waste and increase the redistribution of food surplus;
- enable charges to be applied to specified single-use items;
- ensure businesses and public bodies in England present recyclable materials for separate collection and arrange for its separate collection;
- set resource efficient product standards and information and labelling requirements, to drive a shift in the market towards durable, repairable and recyclable products;
- improve the management of waste, by tracking waste digitally;
- fill a gap in existing powers to ensure that waste can be collected and disposed of when normal processes fail; and
- regulate the import, export or transit of waste.

### **Air Quality and Environmental Recall**

Part 4 of the Act includes provisions to:

- strengthen the requirements in respect of the National Air Quality Strategy, including a requirement for it to be regularly reviewed;
- amend the Local Air Quality Management Framework to clarify duties and enable greater cooperation between different levels of local government, and other relevant public bodies, in the preparation of Local Air Quality Action Plans;

- enable quicker, simpler and more proportionate enforcement of Smoke Control Areas, a key means by which local authorities can control pollution from domestic solid fuel burning; and
- provide for mandatory recall notices for vehicles and equipment that do not comply with relevant environmental standards and for fines to be issued when a minimum recall rate is not met.

## Water

Part 5 of the Act sets out:

- changes to the procedural requirements for Water Resources Management Plans and Drought Plans, to enable increased collaboration between different water undertakers to better manage water resources;
- requirements for the preparation of Drainage and Sewerage Management Plans by sewerage undertakers, to better plan for the management of waste water;
- new duties on government, the Environment Agency and sewerage undertakers to require actions for reducing the frequency and harm of discharges from storm overflows on the environment, set requirements for monitoring the quality of water potentially affected by those discharges, and for reporting on those discharges, annually and in real time; and
- changes to the circumstances in which a licence to abstract water from the environment can be revoked or varied without paying compensation, to prevent damage to the environment.

## Nature and Biodiversity

Part 6 of the Act includes provisions to:

- strengthen and improve the duty on public bodies to conserve and enhance biodiversity, in accordance with the proper exercise of their functions;
- mandate net gain in biodiversity through the planning system, requiring a 10% increase in biodiversity after development, compared to the level of biodiversity prior to the development taking place, as measured by a metric set out by Defra;
- provide for Species Conservation and Protected Site Strategies to improve the conservation and protection of the most vulnerable species and habitats;
- provide greater enforcement powers to the Forestry Commission to reduce illegal tree felling, and require local authorities to consult local residents prior to the felling of street trees; and
- address illegal deforestation in supply chains by placing requirements on larger businesses operating in the UK to establish, implement and report on a due diligence system to ensure forest risk commodities produced on land that was illegally occupied or used do not enter their supply chain, and by prohibiting the use of forest risk commodities that have not been produced in accordance with local laws relating to land use and land ownership.

### Conservation Covenants

Part 7 of the Act provides for Conservation Covenants, which are voluntary, legally binding private agreements between landowners and responsible bodies, designated by the Secretary of State, which conserve the natural or heritage features of the land, enabling long-term conservation.

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