

# Legislation Outlook

January 2022

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 in the New Year with a bumper crop of legislation. We have also included a Focus section on the Green Gas Support Scheme, which came into force at the beginning of last month – this will be of particular interest to gas suppliers who face a quarterly levy that is being used to fund the scheme.

## Upcoming Standard-Related Legislation

### ISO 14001

#### Finance Act 2021, Part 2 etc. (Plastic Packaging Tax) (Appointed Day) Regulations 2021

These [Regulations](#) bring into effect, on 1 April 2022, the provisions of the [Finance Act 2021](#) that will implement the plastic packaging tax for producers and importers of plastic packaging. For detailed information on the plastic packaging tax, see the Focus section in the July 2021 Legislation Outlook.

#### Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2021

This [Order](#) comes into force on 7 February 2022 and makes various technical and operational amendments to a number of aspects of the United Kingdom Emissions Trading Scheme (the 'UK ETS'). In particular, provision is made:

- for installations in the hospital and small emitter opt-out scheme to apply to increase their emissions targets;
- for installations that exceed the thresholds for that opt-out scheme and the ultra-small emitter opt-out scheme to benefit from free allocation when returning to the main scheme;
- to correct the methodology for calculating the entitlement to free allocation of certain aircraft operators; and
- to clarify the rules for the use and reporting of aviation biofuels.

#### Plastic Packaging Tax (Descriptions of Products) Regulations 2021

These [Regulations](#) come into force on 1 April 2022 and amend the meaning of 'packaging components' in the [Finance Act 2021](#) to which the plastic packaging tax will apply from April this year. The following categories of plastic packaging are to be removed from the meaning of 'packaging components':

- any product designed to be suitable to be filled with goods at the time of the sale, to be suitable for re-use for a storage function for the same goods or similar goods, and so that its packaging function is secondary to its storage function (e.g. glasses cases, toolboxes, power tool cases, first aid kits, manicure set cases, earphone cases, video game cases, and board game boxes and inserts);
- any product that is designed to be an integral part of goods sold, and in the expectation that it will be discarded once the goods are used (e.g. printer cartridges containing ink or toner, tea bags, mascara brushes, water filter cartridges, aerosol actuators, and inhalers);
- any product which is designed primarily to be suitable for re-use for the presentation of goods, which, before or as soon as it has been produced or imported, is permanently designated or set aside for that use, and in respect of which the producer or person on whose behalf it was imported keeps a record of that designation or setting aside (e.g. re-usable sales display shelves and poster display stands).

The following is also added by the Regulations to the meaning of 'packaging components':

- any product that is designed to be suitable, whether alone or in combination with other products for single-use, and for use by a user or consumer in the containment, protection, handling, delivery or presentation of any commodity or waste (e.g. re-usable sales display shelves and poster display stands).

### Single Use Carrier Bags Charge (Amendment) Regulations (Northern Ireland) 2021

These [Regulations](#) come into force on 1 April 2022 and amend the [Single Use Carrier Bags Charge Regulations \(Northern Ireland\) 2013](#) to:

- require sellers to charge customers at least 25p for each carrier bag supplied new;
- amend the definition of “net proceeds of the charge” to reflect the new minimum price at which sellers are required to charge customers for each carrier bag supplied new;
- amend the existing exemption from the levy on carrier bags priced at 20p and above (“the threshold”) to bags priced greater than £5;
- amend the record keeping requirements to reflect the new 25p charge;
- remove the existing exemptions from the levy for:
  - bags for purchases on board ships, trains, aircraft, coaches or buses;
  - bags for purchases within restricted areas in airports, with the exception of sealed transit bags;
  - gusseted liners; and
- remove the three existing exemptions for smaller bags from the levy and introduce a new exemption for bags up to one overall size and made of any material in order to simplify the process for consumers and retailers.

## ISO 14001 & ISO 50001

### Building Regulations etc. (Amendment) (England) Regulations 2021

These [Regulations](#) come into force on 15 June 2022 and amend the [Building Regulations 2010](#) to:

- provide for a new way of measuring energy efficiency, using a new performance metric in the form of the target primary energy rate;
- change the way on-site electricity generation systems are regulated; and
- introduce regulation on overheating mitigation by amending Part L and adding Part O of Schedule 1 to the 2010 Regulations.

It makes associated changes to the Building (Approved Inspectors etc.) Regulations 2010, makes transitional provision, and makes minor changes in respect of self-certification schemes.

### Building Regulations etc. (Amendment) (England) (No. 2) Regulations 2021

These [Regulations](#) come into force on 15 June 2022 and insert a new Part S into Schedule 1 to the [Building Regulations 2010](#) to require the installation, in England, of electric vehicle charge points and associated cable routes in new homes, new non-residential buildings and buildings undergoing major renovation, where there is associated parking.

### Electric Vehicles (Smart Charge Points) Regulations 2021

These [Regulations](#) come into force on 30 June 2022. They introduce requirements in Great Britain for domestic and workplace electric vehicle (EV) charge points to include smart functionality (i.e. optimising EV charging to occur at times of day when there is lower demand on the electricity system, or at times of high renewable electricity generation, which can help mitigate the impacts of this increased demand on the electricity system). The regulations also require charge points must meet minimum cybersecurity standards and operate in specified ways to protect the stability of the electricity grid and to protect consumers.

## ISO 14001 & ISO 45001

### Smoke-free (Premises, Vehicle Operators and Penalty Notices) (Amendment) Regulations (Northern Ireland) 2021

These [Regulations](#) come into force on 1 February 2022 and place an obligation on the drivers of private cars in Northern Ireland to ensure that smoking does not take place where there is more than one person present in the vehicle, and one of those present is under the age of 18.

## ISO 45001

### Carriage of Dangerous Goods and Use of Transportable Pressure Equipment (Amendment) (EU Exit) Regulations 2021

These [Regulations](#) come into force on 1 January 2023 and amend the [Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations 2009](#) to end recognition of conformity assessments of transportable pressure equipment ('TPE') by EU bodies by prohibiting 'pi' marked TPE from being placed on the market in Great Britain. From 1 January 2023, only TPE which has been conformity assessed by a GB appointed body and marked with a UK 'rho' marking, or qualifying Northern Ireland TPE, will be accepted on the GB market.

### Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Equipment (Amendment) Regulations 2021

Regulation 2(2) of these Regulations comes into force on 1 July 2022 and amends the list of restricted substances in Schedule A1 to the [Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Equipment Regulations 2012](#) (commonly known as 'the RoHS Regulations') to extend the restriction on the use of four restricted substances (Bis(2-ethylhexyl) phthalate (DEHP), Butyl benzyl phthalate (BBP), Dibutyl phthalate (DBP) and Diisobutyl phthalate (DIBP)) to medical devices and monitoring and control instruments.

**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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## Consultations

### Climate Change Agreements

The Department for Business, Energy & Industrial Strategy has issued a [consultation](#) seeking views on potential reforms proposed for a future Climate Change Agreement scheme to follow from the end of the current scheme on 31 December 2022, in particular in relation to scheme length, eligibility and increasing uptake of energy efficiency technologies and transparency of action taken. The consultation closes on 11 March 2022

### Data Protection

The Information Commissioner's Office has launched a [consultation](#) to gather the views of stakeholders and the public on how it regulates the laws it monitors and enforces. the consultation covers three documents:

- The Regulatory Action Policy, which sets out the ICO's general approach including how it promotes best practice and ensures compliance and how it works with other regulators;
- Statutory Guidance on our Regulatory Action, which covers the ICO's legal obligations to publish guidance to help organisations navigate the law, and explains how the ICO uses its statutory powers to investigate and enforce UK information rights legislation;
- Statutory Guidance on our PECR Powers, which sets out how the ICO uses its statutory powers to enforce the data protection legislation relating to electronic communications like nuisance calls, emails and texts.

The consultation closes on 24 March 2022.

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## Focus: The Green Gas Support Scheme

These [Regulations](#) came into force at the beginning of December 2021 to establish the Green Gas Support Scheme ('GGSS') which runs to 31 March 2041. The requirements are already contained in the Activ Legal Compliance Manager Module, but we thought it may be useful to provide those affected with some more detailed information here.

The GGSS is a renewable heat incentive scheme designed to encourage an increase in the amount of biomethane in the gas grid. The Scheme replaces the Renewable Heat Incentive ('RHI') Scheme which closed to new applicants, with some exceptions, on 31st March 2021.

There are two categories of organisations that are affected by the requirements of the Regulations: 'GGSS Participants' and 'Fossil Fuel Suppliers'.

### GGSS Participants

GGSS Participants are biomethane producers that have voluntarily registered as participants in the GGSS. They will be entitled to support payments for 15 years from the date of registration for 'sustainable biomethane' produced by anaerobic digestion that is injected into the gas grid.

Sustainable biomethane means biomethane which, save for ingredients which are added as part of the biomethane production process, is either:

- made wholly from feedstock which is waste;
- meets specified lifecycle emissions (known as the 'greenhouse gas criteria') and is made wholly from feedstock which is solid biomass grown on specified types of land (known as the 'land criteria'); or
- any combination of the above.

GGSS Participants must:

- ensure that they only use biomethane produced from the following feedstocks:
  - solid biomass (up to 10% contamination with fossil fuels is allowed in certain circumstances); or,
  - solid or liquid waste (in which case the proportion of solid biomass contained in the waste must be a minimum of 10%, and not formed by the digestion of material in a landfill);
- ensure, in relation to digestate generated from every anaerobic digester, that they use low emission spreading of digestate as defined in the [Code of Good Agricultural Practice \(COGAP\) for Reducing Ammonia Emissions](#);
- retain records of:
  - arrangements made to spread digestate;
  - records of the type of feedstock used and fuel purchased while they are a participant;
  - evidence that all meters used in relation to the GGSS are continuously operating, properly maintained and periodically checked for errors, re-calibrated every 10 years (or within such period of time as may be specified in accordance with manufacturers' instructions where available, whichever is

- the sooner), and located, maintained, and serviced in accordance with any conditions specified in the manufacturers' instructions; and
- submit the following to the Gas and Electricity Markets Authority:
    - an annual declaration confirming that they are complying with the relevant ongoing participant obligations;
    - in relation to each consignment of biomethane produced, provide a declaration stating whether any solid biomass used to produce the biomethane was waste or wholly derived from waste, whether the biomethane produced was made from feedstock which was waste, whether the biomethane produced met the greenhouse gas criteria, and whether the biomethane produced was made from feedstock which was solid biomass which met the land criteria;
    - an annual independent sustainability report that confirms the accuracy and reliability of the declarations referred to in the bullet point above.

### Fossil Fuel Suppliers

Rather than being exchequer funded like the old RHI Scheme, the new GGSS is funded by the Green Gas Levy ('GGL') on Fossil Fuel Suppliers. The Regulations place mandatory obligations on Fossil Fuel Suppliers in order to implement the GGL.

For the purpose of the Regulations, Fossil Fuel Suppliers are licensed gas suppliers (i.e. a holder of a licence to supply gas to premises under Section 7A of the Gas Act 1986) that supply natural gas to consumers for the purpose of generating heat. However, Fossil Fuel Suppliers that supply 95% certified biomethane are exempt from the GGL.

A Fossil Fuel Supplier must notify the Gas and Electricity Markets Authority if they believe they will be exempt from the GGL (i.e. supply 95% certified biomethane) in the next scheme year. The Authority will then confirm whether they are exempt from the GGL.

Fossil Fuel Suppliers that are not exempt from the GGL must pay the quarterly levy payment, as calculated by the Secretary of State, before the date specified in the levy notification.

In addition to paying the GGL, a Fossil Fuel supplier must notify the Gas and Electricity Markets Authority, in relation to each quarter of a scheme year, of their meter point data for each day of that quarter, and the sum of the meter point data for that period.

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