

# Legislation Outlook

April 2022

This monthly legislation briefing is a **supplement** to your BAB 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 the **BAB Activ Comply** system as they come into effect so you can be confident that you are always 100% up to date.

Although this month sees a lot of new legislation come into force, there is no long lead-time legislation to report in this month's Outlook. Instead, BAB Activ Comply users will be directly informed of any legislative changes that are relevant to them. We have also reproduced our guidance on the new Plastic Packaging Tax which has now come into force - see the Focus section at the end of the Legislation Outlook.

## Upcoming Standard-Related Legislation

There is no long lead-time legislation published in the last month that is relevant to the Standards...

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



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## News

### ICO Issues Replacement for Standard Contractual Clauses

The Information Commissioner's office has issued a new [International Data Transfer Agreement](#) (IDTA) to allow organisations to transfer personal data to countries that have not been assessed as providing an adequate level of protection for personal data. The new IDTA has been issued in response to the European Union's adoption of new versions of its Standard Contractual Clauses (SCCs) and the need to take into account the *Schrems II* decision, which cast doubt over the extent transfers of personal data can be legitimised by the use of SCCs.

Although the new IDTA will need to be used for all new data transfers in the absence of other safeguards, any pre-existing data transfers using SCCs can be used until 21<sup>st</sup> March 2024.



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## Consultations

### Packaging Waste Recycling Notes

The Department for Environment, Food & Rural Affairs has issued a [consultation](#) seeking views on its proposals to reform the packaging waste recycling note (PRN) and packaging waste export recycling note (PERN) system, focusing on these areas:

- reporting requirements on the sales of PRNs and PERNs;
- reporting requirements on how the revenue from PRN and PERN sales should be spent;
- timeframes for the trading of PRNs and PERNs;
- the introduction of a 'technical competence' test for compliance scheme operators and accredited reprocessors or exporters; and
- the interface with the introduction of the Deposit Return System (DRS).

The consultation closes on 21<sup>st</sup> May 2022.

### UK Emissions Trading Scheme (UK ETS)

The UK ETS Authority has issued a [consultation](#) seeking views on proposals to develop the UK ETS by:

- aligning the UK ETS cap and trajectory with the UK's net zero target;
- considering the role of Free Allocation policy as a carbon leakage mitigation tool in the context of the net zero aligned cap;
- bringing in unallocated allowances and/or the flexible share to the market;
- calling for evidence on potential drivers of evolving market conditions in the UK ETS and objectives for market stability policy as the scheme evolves;
- setting out the scope of the review into UK ETS aviation policy;
- changing the rules for sectors currently covered by the UK ETS to ensure more greenhouse gas emissions are covered by the scheme;
- expanding the scope of the UK ETS to the domestic maritime sector and calling for evidence on expanding the UK ETS to include waste incineration and energy from waste;
- calling for early views on the incorporation of greenhouse gas removal into the UK ETS and the monitoring, reporting and verification requirements necessary to address greenhouse gas emissions in the land use and agriculture sectors; and
- supporting effective operation of the UK ETS by addressing a number of operational issues identified during the development of policy and legislation for the scheme.

The consultation closes on 17<sup>th</sup> June 2022.



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- Produce detailed audit trails, records and automated Statement of Applicability for ISO 27001 compliance auditing



## 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<sup>st</sup> 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, 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 that 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, but 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 1st 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.

These thresholds for registration with HMRC include plastic packaging that contains less than 30% recycled. This means that you may have to register with HMRC even if you do not have to pay any 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 do not 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 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.

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