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Environment Legislation Update

24th January 2020

Ellie Galston

Agenda

- Update on key changes to environmental legislation over the past 6 months by topic:
 - Pollution
 - Air
 - Water
 - Waste
 - Planning/Wildlife
 - Energy
 - Hazards
 - Overview of Brexit related amendments



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Pollution Law





Directive (EU) 2019/904 on the reduction of the impact of certain plastic products on the environment

New Directive about reducing pollution from plastic products

Things to note:

- Not implemented in UK yet.
- Of interest to businesses that make or use single-use plastics, e.g. cotton buds, plastic bottles, straws, wet wipes, sanitary towels and tobacco filters.
- Also has requirements for plastic fishing gear.



Directive (EU) 2019/904 on the reduction of the impact of certain plastic products on the environment



Things to note:

Requirements for Member States to:

- By **3rd July 2021**, **not allow** listed single use plastic from being **placed on the market** - applies to cotton buds, cutlery, plates, straws, beverage stirrers, sticks attached to balloons, food or beverage containers / cups made of expanded polystyrene, beverage containers, and products made from oxo-degradable plastic.
- By **3rd July 2024**, further requirements regarding beverage containers.
- From **2025**, ensure that PET plastic bottles are at least 25% recycled plastic.
- Ensure wet wipes, sanitary towels, tobacco filters, and beverage cups are clearly marked with disposal information.



Directive (EU) 2019/904 on the reduction of the impact of certain plastic products on the environment



Things to note:

Requirements for Member States to:

- By **2024**, implement **producer responsibility schemes** for single use plastic food containers, food packets / wrappers, drink containers, plastic carrier bags, wet wipes balloons, and tobacco filters.
- By **31st December 2025**, establish producer responsibility schemes for plastic fishing gear.
- Ensure **separate collection** for single-use plastic products to achieve specified recycling targets by **2025** and 2030.



Air Law



Regulation (EU) 2019/1242 setting CO₂ emission performance standards for new heavy-duty vehicles

Things to note:

- Applies to manufacturers of 'heavy duty vehicles' – lorries, tractors, etc. and other goods vehicles.
- New EU targets to reduce CO₂ emissions from new heavy-duty vehicles by:
 - 15% by 2025
 - 30% by 2030



European Union (Fluorinated Greenhouse Gas) (Amendment) Regulations 2019 and European Union (Fluorinated Greenhouse Gas) (Amendment) (No. 2) Regulations 2019



Relevant for those that handle f-gases or have f-gas containing equipment.

Things to note:

- Designates certification bodies in Ireland for:
 - Fire protection systems.
 - Recovering f-gas based solvents.
 - Those working with electricals containing f-gases.
 - Carrying out work on refrigeration, air conditioning and heat pump equipment.
- Re-certification deadline extended to 31st January 2020 for those that were previously registered in another EU Member State.

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Water Law





The Water Abstraction (Transitional Provisions) (Amendment) (England) Regulations 2019

Things to note:

- Amends the 2017 Regulations that made changes to when water abstraction licences were required. The 2017 Regulations removed some exemptions for abstraction, e.g.:
 - transferring water from one inland water to another in the course of operations carried out by a navigation, harbour or conservancy authority
 - abstracting water into internal drainage districts
 - dewatering mines, quarries and engineering works, where the water is mostly groundwater rather than rainwater
 - all forms of irrigation (other than spray irrigation, which is already licensable)
 - abstractions within currently geographically exempt areas, including some rivers close to the borders of Scotland
 - the majority of abstractions covered by the Crown and visiting forces exemption
- Deadline extended by 6 months to 30th June 2020 to obtain a licence for those who were previously exempt.

Waste Law



Environmental permits: low risk waste positions



A new set of low risk waste position (LRWP) statements were been published in August.

Things to note:

- Now a separate LRWP for each activity. Some have been **withdrawn** or combined with another LRWP.
- EA gave until **20th November 2019** to comply with new LWRPs.
- Examples:
 - In January 2020 LRWP 73 was added (**Using waste wood from construction to manufacture finished goods under a U9 exemption**).
 - 19 November 2019 LRWP 72 was added (**Sorting waste tyres under a T8 waste exemption**).
 - 15 October 2019 LWRP 71 was added (**Manual treatment of waste windows and doors**).



Waste Management (Facility Permit And Registration) (Amendment) Regulations 2019

Amends the 2007 Regulations which give the requirements for issuing waste facility permits.

Things to note:

- Increases the maximum amount of waste that may be recovered in a Class 5 activity from 100,000 to 200,000 tonnes.
- Class 5 activity: recovery of excavation or dredge spoil.
- Need to apply for a new permit to obtain the increased allowance.



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Planning and Wildlife Law





The Invasive Alien Species (Enforcement and Permitting) Order (Northern Ireland) 2019

Introduces criminal offences for breach of *Regulation (EU) 1143/2014 on the prevention and management of the introduction and spread of invasive alien species* and the licences, permits and rules for keeping invasive alien species (IAS).

It is an offence to:

- **Release an animal into the wild** that is not a resident or regular visitor to Northern Ireland, or an IAS listed in Part 1 of the Schedule, including species of crayfish, deer, duck and squirrel.
- **Plant or allow to grow in the wild** those plants listed in Part 2 of the Schedule.
- **Intentionally keep or breed** an IAS.
- **Transport** an IAS to / from Northern Ireland, to any place within Great Britain.
- **Place an IAS on the market.**
- Intentionally **reproduce, grow or cultivate** an IAS.

The Invasive Alien Species (Enforcement and Permitting) Order (Northern Ireland) 2019



Things to note:

- DAERA can issue permits for import, keeping and breeding of alien species for **research, conservation and scientific use**.
- Permits are **not issued** for **sale or release** of IAS.
- Licences for specific activities can also be issued by DAERA.
- For an IAS that was kept commercially / as a pet before it was added to the EU list, these duties may not apply, subject to conditions.



European Union (Environmental Impact Assessment) (Peat Extraction) Regulations 2019

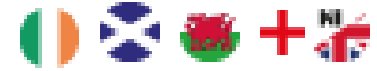


Amends the Environmental Protection Agency Act 1992 .

Things to note:

- Licences are now required for peat extraction in areas of over **30 hectares** (previous threshold was **50 hectares**).
- Licences must be applied for by **25th June 2021** for those that didn't have one previously.
- Those with 'old' licences must apply for a new one by **25th January 2022**.
- Applications must include an environmental impact statement.

Plant Health Legislation



Various amendments have been made:

- The Plant Health (Scotland) Amendment Order 2019
- The Plant Health (Wood and Bark) (Amendment) Order (Northern Ireland) 2019
- The Plant Health (Wood and Bark) (Amendment No. 2) Order (Northern Ireland) 2019
- The Plant Health (Wales) (Amendment) (No. 2) Order 2019
- The Plant Health (Amendment No. 2) Order (Northern Ireland) 2019
- The Plant Health (Forestry) (Amendment) (England) Order 2019
- The Plant Health (Amendment) (England) Order 2019
- The Plant Health (Forestry) (Amendment No. 2) (Wales) Order 2019
- The Plant Health (England) (Amendment) Order 2019
- The Plant Health (Miscellaneous Amendments) (Scotland) Order 2019
- European Communities (Control of Organisms Harmful to Plants and Plant Products) Regulations 2004 as amended



Plant Health Legislation

Things to note:

- Additional requirements for bringing in certain plants to Scotland.
- Certain species of plants (including pepper and squash) may not be brought into Scotland if they originate from outside of the EU.
- Now prohibited to land solid fuel wood in Northern Ireland from a country outside of the UK without prior written notification to DAERA.
- Changes to the pests or infected material that can't be landed in NI and to the plants that require a phytosanitary certificate or plant passport to move in or out of NI.
- Various changes to prevent the spread of the Oak Processionary Moth which feeds on white oak.
- Additional requirements on plant species that can be infected with *Xylella fastidiosa*, to prevent its spread.



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Energy Law



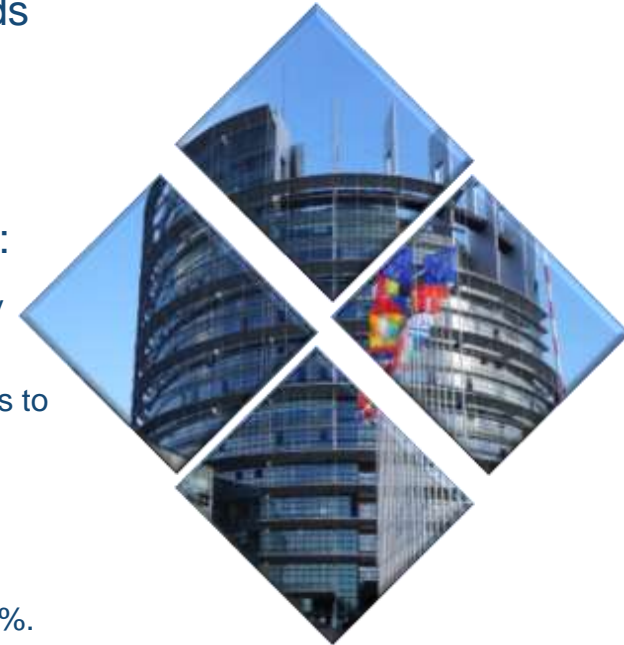
European Union (Energy Performance Of Buildings) Regulations 2019



New Regulations that set higher energy performance standards for buildings.

Things to note:

- Relevant to **residential properties** only. New dwellings should meet nearly zero energy performance requirements:
 - Ensuring that the energy performance of the building is at levels of a nearly zero energy building, as far as is reasonably practicable.
 - Ensuring that energy used by the building is provided by renewable sources to a significant extent.
 - Limiting heat loss from the fabric of the building.
 - Providing energy efficient space and water heating systems.
 - Ensuring any oil and gas boilers have a minimum seasonal efficiency of 90%.
 - Providing information to the owner about its services, controls, and maintenance requirements to ensure it is efficiently operated.



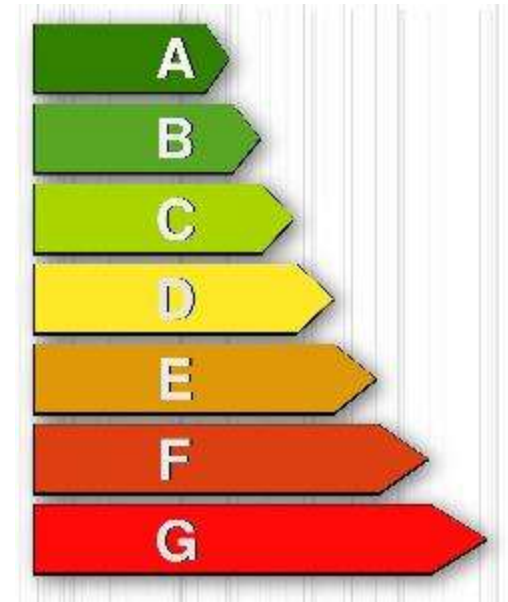
European Union (Energy Performance Of Buildings) Regulations 2019



New Regulations that set higher energy performance standards for buildings.

Things to note:

- Applies to design and construction of new dwellings from **1st November 2019**.
- **Existing dwellings undergoing major renovation** - the whole building should achieve cost optimal energy performance where feasible.
- Arrangements in place for **work already planned / started**:
 - Where planning permission was already approved before **1st November 2019** and substantial work completed before **31st October 2020**, these Regulations don't apply.
- Doesn't apply to monuments or protected structures.



Decision 2019/708 concerning the determination of sectors and subsectors deemed at risk of carbon leakage for the period 2021 to 2030

Supports the EU Directive which brought in the EU Emissions Trading Scheme (EU ETS).

- No change in duties.
- Lists the sectors which are at risk of carbon leakage and therefore get a free allocation of allowances for EU ETS.
- Follows a decision by the EU that free allocation should continue to avoid carbon leakage.



The Greenhouse Gas Emissions Trading Scheme (Amendment) (No. 3) Regulations 2019



Things to note:

- Amends the Greenhouse Gas Emissions Trading Scheme 2012 to implement Phase 4.
- Phase 4 takes place 2021-2030.
- Greenhouse Gas permits no longer have to be reviewed every 5 years.
- Secretary of State must now report on the compensation given to installations at risk of carbon leakage for indirect costs they incurred.
- The opt-out for small emitters and hospitals is continued.





The Smart Export Guarantee Order 2019

The Smart Export Guarantee is introduced so that large electricity suppliers pay small-scale low-carbon electricity producers when they export it to the national grid. It partially replaces the Feed-In Tariffs scheme.

Things to note:

- Electricity suppliers with more than **150,000 domestic customers** must offer a price for the surplus energy supplied to the grid by low-carbon electricity generators.
- **No set price, but must be above 0.**
- Available to the following, **up to 5MW capacity**:
 - Solar photovoltaic (solar PV)
 - Wind
 - Micro combined heat and power (CHP)
 - Hydro
 - Anaerobic digestion (AD)



The Energy Act 2011 (Commencement No. 2) (Scotland) Order 2019



Things to note:

- Commences part of the Energy Act 2011.
- Allows Scottish Ministers to make Regulations for private rented property energy efficiency standards.
- Scottish Ministers can introduce levels of minimum energy performance standards
 - Initially thought to be **EPC band E**, raised to minimum of **band D**.
- Landlords can be prohibited from letting out a property that doesn't meet minimum standards.
- Guidance issued but Regulations not yet in place – coming soon.

European Union (Greenhouse Gas Emission Reductions, Calculation Methods And Reporting Requirements) (Amendment) Regulations 2019

Amends the 2017 Regulations.

Things to note:

- Changes made to the reporting of greenhouse gas requirements for fuel suppliers.
- Mainly to do with **biofuels**.
- Additional information to be included in reports sent to the National Oil Reserves Agency:
 - the **biofuel production pathways used** and the **volumes** of biofuel from each feedstock; and
 - the lifecycle GHG emissions per unit of energy, including the provisional mean values of the estimated indirect land-use change emissions from biofuels.
- Life cycle GHG emissions from biofuels can only be included for compliance with the reductions obligation target if they have been **verified that they meet the sustainability criteria**.



 Falling objects	 Biohazard	 Oxidising	 Hot surface	 Danger of entrapment	 Danger of death
 Watch your step	 Slipping	 Cutting	 High temperatures	 Glass hazard	 Danger of suffocation
 Electricity	 Danger for cutter	 Entrapment hazard	 Battery hazard	 Rotating parts	
 Explosion	 Corrosive	 Mechanical	 Toxic	 Flammable	 Infectious

Hazards Law



Regulation (EU) 2019/1009 laying down rules on the making available on the market of EU fertilising products

New EU Regulation to harmonise the standards regarding contaminants that are in fertilisers being placed on the market.

Things to note:

- Applies to fertilising products: fertilisers, liming material, soil improvers, growing mediums, inhibitors (e.g. nitrification inhibitor or denitrification inhibitor), plant biostimulants or a fertilising product blend.
- Specific requirements for each of the fertilising product categories above.
- Phosphates must not be added to any EU fertilising products. Unintentional phosphates must not exceed 0.5%.

Regulation (EU) 2019/1009 laying down rules on the making available on the market of EU fertilising products



Things to note:

- Detailed requirements that each type of component must meet.
- Minimum labelling requirements for all fertilising products, and some additional specific requirements for some products.
- Specific duties for manufactures, importers and distributors.
- Comes into force **16th July 2022**.



Brexit-related Amendments





Brexit-related amendments to legislation

Things to note:

- There have been many administrative changes to existing legislation.
- The changes **do not come into effect until ‘Exit Day’**, i.e. the day the UK leaves the EU (**currently 31st January 2020**).
- Legislative changes assume the UK leaves the EU ‘without a deal’ (i.e. without a transition agreement).
- If the UK leaves the EU with a transition deal, then the changes may be postponed for the duration of the transition.

Brexit changes relating to CE marking



- **Conformity assessment and CE marking:** current rules ensure that certain goods sold within the EU conform to minimum safety standards.
- **Implementation:** CE marking requirements currently implemented in the UK mostly by UK Regulations (e.g. The Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Equipment Regulations 2012), and sometimes by EU Regulations (although this is mostly H&S related).
- **Brexit changes:** the UK will no longer be a part of the formal CE marking system. To minimise disruption to manufacture or import of goods, a number of Regulations are amended to introduce a UK equivalent scheme ('UK marking'). Standards will be the same, but UK marking restricted to the UK.

CE marking: key changes

- 'CE' marking is replaced by 'UK' marking.
- 'EU Declaration of Conformity' becomes 'Declaration of Conformity'.
- 'EU type examination' becomes 'type examination'.
- Harmonised Standards are replaced by Designated Standards; (designated by the Secretary of State, and likely to mirror Harmonised Standards').
- Regulations are amended to add rules concerning how the Secretary of State designates Standards.
- **UK continued recognition of CE marked goods:** CE marked goods will continue to be recognised in the UK (for the time being). Therefore in the short term, UK manufacturers and importers will be able to choose whether to place either CE marked or UK marked goods on the market.

The image shows the letters 'UK' and 'CA' in a very large, bold, black, sans-serif font. The 'U' and 'C' are on the left, and the 'K' and 'A' are on the right. The letters are stacked vertically, with 'UK' on top and 'CA' below it. The font is thick and blocky, with a slight shadow or depth to the letters.



REACH: Brexit implications

Things to note:

- A UK version of REACH copied onto UK statute book. Scope limited to the UK.
- The HSE will perform the same function as the European Chemicals Agency (ECHA). The Secretary of State will perform the functions of the European Commission.
- The Secretary of State will publish UK **Candidate List**, **Authorisation List** and **Restriction List**. The UK Candidate List must initially mirror the EU Candidate List.
- New chemicals will need to be registered with the HSE.
- **Exiting registrations in the EU:** where UK organisations had already registered chemicals with the ECHA, those registrations will no longer be recognised by the ECHA.
- **Exiting registrations – UK:** existing registrations with the ECHA will automatically be copied direct into the UK system. Therefore, manufacturers will not need to re-register chemicals with the HSE but they will be required to file certain information with the HSE within 60 days, and other information within 2 years.

REACH: Brexit implications

Things to note:

- Post-Brexit, any imported chemical over 1 tonne will need registration.
 - **Exception:** if imported from an EU based supplier / distributor / manufacturer who has registered that chemical with the ECHA, the UK importer will not be required to register the chemical with the HSE within the first two years after 'exit day' but must supply certain information to the HSE within 180 days.
- **Substances of Very High Concern:** the HSE will recreate the **Candidate List, Authorisation List** and **Restriction List** (initially mirroring the EU lists).



Biocidal Products Regulation: Brexit implications



Things to note:

- UK version of Biocidal Products Regulation copied onto UK statute book. Scope will be limited to the UK.
- Multiple changes in references / terminology.
- Powers of the European Commission transferred to the Secretary of State.
- Powers/ functions of the ECHA and National Competent Authorities transferred to the HSE or HSE NI.
- The HSE will publish a '**UK List**' and the '**UK Simplified Active Substances List**' i.e. active substances approved in the UK. Substances on the EU list ('**article 95 List**') will be copied across to the UK List, but will be removed if the person who submitted the dossier is not established in the UK within 2 years of 'exit day'.



EU ETS: Brexit Implications

Things to note:

- In a 'no deal' exit, the UK will be unable to participate in the EU ETS.
- With a deal, EU ETS likely to be extended to end of 2020.
- Continue to comply with permit for now to submit verified annual emissions report by 31st March 2019.
- Aircraft operators need to check which EU Member State will administer them if they continue to be obligated.



EMAS and EU Ecolabel: Brexit Implications

Things to note:

EMAS

- Eco-Management and Audit Scheme (EMAS) Regulation is revoked on 'exit day'.
- UK will cease to be part of EMAS scheme. Existing EMAS registrations granted by UK bodies will cease to be valid.

Ecolabel

- UK will cease to be part of EU Ecolabel scheme on 'exit day'.
- Ecolabels granted by UK bodies will no longer be valid.



Thank you

- Any questions or further LUS training or demonstrations – please call 01254 669002 or email info@thecompliancepeople.co.uk to use our free helpline service
- For more information on our consultancy services, [please click here](#)

