

# Legislation Outlook

July 2019

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 we think may have an impact on 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.

In contrast to recent months, this month there is plenty of upcoming legislation worthy of your attention.

In our Focus item, one year since it came into force we take a look backwards to analyse the impact so far of the GDPR.

## Upcoming Standard-Related Legislation

### ISO 14001

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

This [Directive](#) requires the UK to implement legislation before 3 July 2021 that prohibits the placing on the market of products made from oxo-degradable plastic (i.e. plastics that quickly fragment into microplastics, but don't break down at the molecular/polymer level) and the following single-use plastic products:

- cotton buds;
- cutlery (forks, knives, spoons, chopsticks);
- plates;
- straws;
- beverage stirrers;
- sticks to be attached to and to support balloons;
- containers made of expanded polystyrene used to contain food which is intended for immediate on-the-spot or take-away consumption, and which is typically consumed from the receptacle and is ready to be consumed without any further preparation;
- beverage containers made of expanded polystyrene, including their caps and lids; and
- cups for beverages made of expanded polystyrene, including their covers and lids.

The Directive also requires Member States to ensure that:

- single-use plastic beverage containers that have caps or lids made of plastic are only placed on the market if the caps or lids remain attached to the containers during the products' intended use stage;
- sanitary towels, tampons, wet wipes, and tobacco products with filters are marked with information about appropriate waste disposal and the presence of plastic in the products; and
- producers of plastic food containers, food wrappers, beverage containers, cups, and lightweight carrier bags cover:
  - the cost of awareness-raising measures;
  - the cost of waste collection for those products that are discarded in public collection systems, including the infrastructure and its operation, and the subsequent transport and treatment of that waste; and
  - the costs of cleaning up litter resulting from those products and the subsequent transport and treatment of that litter.

### OHSAS 18001 / ISO 45001

**Regulation (EU) 2019/957 amending Annex XVII to Regulation (EC) No 1907/2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) as regards (3,3,4,4,5,5,6,6,7,7,8,8,8-tridecafluorooctyl) silanetriol and TDFAs**

This [Regulation](#) comes into force on 2 July 2019 and amends Annex XVII to REACH to restrict the sale to the general public of spray products containing a mixture of (3,3,4,4,5,5,6,6,7,7,8,8,8-tridecafluorooctyl) silanetriol and/or TDFAs with organic solvents. These mixtures are currently used in proofing or impregnating aerosol sprays, and exposure to these products can result in serious acute lung injury. The restriction on the sale of these products to the general public will come into force on 2 January 2021.

### Building (Scotland) Amendment Regulations 2019

These [Regulations](#) come into force on 1 October 2019. They amend standard 2.4 in the Building (Scotland) Regulations 2004 to ensure that buildings are designed and constructed in a manner that prevents the spread of fire and smoke through cavities in the structure and fabric of the building in the event of an outbreak of fire.

### Directive (EU) 219/983 amending Directive 2004/37/EC on the protection of workers from the risks related to exposure to carcinogens or mutagens at work

This [Directive](#) requires the UK to implement legislation before 11 July 2021 to set maximum levels for workers' exposure to the following carcinogens and mutagens:

- arsenic acid and its salts, as well as inorganic arsenic compounds;
- beryllium and inorganic beryllium compounds;
- cadmium and its inorganic compounds;
- formaldehyde; and
- 4,4' -methylene-bis (2-chloroaniline).

The Directive also encourages the UK to provide incentives, guidance, and advice to help micro, small, and medium-sized businesses comply with the new exposure limits.

**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

### HSE Targets Business for Dust Inspections

The Health and Safety Executive has announced that it will target organisations across Great Britain in a series of inspections focusing on dust control. The inspections will concentrate on industries such as construction, woodworking, and food manufacturing, where occupational lung diseases are more common.

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## Guidance

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### F-Gas Prohibition

The Department of Agriculture, Environment and Rural Affairs in Northern Ireland has published [guidance](#) on the prohibition from 1 January 2020 of fluorinated greenhouse gases with a global warming potential multiplier of over 2500 being used to service or refill refrigeration systems.

### Licences for Wild Bird Control

DEFRA and Natural England have issued [guidance](#) regarding the three new general licences for the killing or taking of wild birds in England. The new licences allow users to control certain species of wild birds to conserve wild birds and flora or fauna (GL34), preserve public health or public safety (GL35), or prevent serious damage to livestock, foodstuffs for livestock, crops, vegetables, fruit, growing timber, fisheries, or inland waters (GL36).

## Consultations

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### Construction and Fire Safety

The Ministry of Housing, Communities and Local Government has launched a [consultation](#) seeking views on its proposals for the fundamental reform of building safety requirements, following on from recommendations made in the [Independent Review of Building Regulations and Fire Safety](#).

### Proposed Ban on Tyres Aged Over 10 Years

The Department for Transport has launched a [consultation](#) seeking views on a proposed ban on tyres aged 10 years and older from HGVs, heavy trailers, buses, coaches, minibuses, taxis and private hire vehicles to improve road safety.

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## Focus: GDPR One Year On

The GDPR has dropped off most people's radar since the surge in activity leading up to May last year, when organisations sought to achieve compliance before the Regulation came into force. The much talked-about megafines have yet to appear, and some businesses might be wondering: 'What was the point of all that effort?'

### No fines yet

The Information Commissioner's Office (ICO) has taken little overt GDPR enforcement action so far and has yet to issue a single fine for non-compliance. The newsworthy Facebook fine of £500,000 was brought under the previous regulatory regime, as the offences were committed prior to the GDPR coming into effect. The ICO was keen to stress that this fine could have been significantly higher under the new regime.

The absence of fines under GDPR thusfar should not be regarded as evidence that the ICO is an ineffective regulator. The regulator reports that many of the investigations that it has launched under its new powers are nearing completion, and we should expect much more, and more high profile, actions soon.

### Plenty of other enforcement action

The ICO has been busy beyond fines, and other new enforcement powers can be more punitive to business than fines. Aggregate IQ, a Canadian data broker linked to the Cambridge Analytica investigation, was ordered by the ICO to erase all data it held on individuals in the UK, effectively preventing it from carrying out its business activities in this country.

Since mandatory notification of data breaches started, the number of notifications to the ICO has increased from 3,300 a year to over 14,000. In around 2,000 of those cases the ICO required the reporting organisation to take further action, and in around 60 cases some direct enforcement action was taken.

The ICO has spent a lot more time since May 2018 responding to public concerns. Complaints to the ICO have nearly doubled to 41,000 in comparison to the year before GDPR came into force.

38% of complaints to the ICO related to subject access requests, demonstrating growing public awareness of individual rights post-GDPR. Organisations are reporting that subject access requests have increased dramatically since the GDPR came into force, so the mishandling of these requests creates real risk of either a complaint being made to the ICO or the involvement of 'data protection ambulance chasers'. Claims management companies are becoming increasingly involved in data protection issues as they look for new business opportunities post-PPI.

The ICO is also using complaints from the public to gather intelligence to inform its future enforcement strategy and is taking 'robust' action – they recently put the entire adtech industry on notice having identified industry-wide illegal data processing following complaints made to them and regulators in other EU countries.

### What next?

Elizabeth Denham, the Information Commissioner, has said that

*'The focus for the second year of GDPR must be beyond baseline compliance – organisations need to shift their focus to accountability with a real evidenced understanding of the risks to individuals in the way they process data and how those risks should be mitigated.'*

We now have over 12 months of new guidance, best-practice and enforcement action to learn from. Given that GDPR is not going to 'go away', now is a good time to carry out an audit of your current compliance, focussing in particular on carrying out refresher training, updating policies and procedures, and reviewing processor assessments.

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If you need independent expert advice on GDPR compliance for your business, need a GDPR compliance audit, or want to outsource your GDPR compliance activity, we can help. Find out more on our [consultancy website](#), or call our friendly team on 01759 301000 for a no-obligation discussion.