

Legislation Outlook

September 2018

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 of 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.

Parliament's summer recess has meant there is very little new relevant legislation to report this month. The quiet period provides a timely opportunity for a special Focus item on the **Energy Savings Opportunity Scheme**.

Upcoming Standard-Related Legislation

OHSAS 18001 / ISO 45001

Regulation (EU) 2018/1142 amending Regulation (EU) No 1321/2014 as regards the introduction of certain categories of aircraft maintenance licences, the modification of the acceptance procedure of components from external suppliers and the modification of the maintenance training organisations' privileges

This [Regulation](#) will apply from 5 March 2019 and implements changes to the rules on the continuing airworthiness of aircraft and aeronautical products, parts and appliances and on the approval of organisations and personnel involved in these tasks. The changes are:

- the creation of a new system for the licencing of certifying staff involved in the maintenance of ELA1 aeroplanes and for aircraft other than aeroplanes and helicopters;
- a reduction in the requirements related to the licencing for certifying staff involved in the maintenance of avionics and electrical systems of non-complex aircraft;
- the introduction of measures to ensure proper acceptance, classification and segregation of components, parts or material provided by third parties used in the maintenance of aircraft; and
- the introduction of measures designed to eliminate the deliberate violations of examination standards that have been reported to the European Aviation Safety Agency.

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 Reporting on Carbon Emissions and Energy Use

The Government has announced that all large companies will be required to report their carbon emissions and energy use from April next year. The Streamlined Energy and Carbon Reporting (SECR) will replace the CRC Energy Efficiency Scheme and extend the scope of the mandatory carbon reporting framework for listed companies to all organisations with 250 or more employees, or with an annual turnover greater than £36m and balance sheet total above £18m. There will be reporting exemptions for companies that use low levels of energy (40,000kWh per annum). The new measures are intended to improve energy efficiency in the UK by 20% by 2030.

Guidance

Radioactive Substances Exemptions

The Government has issued new [guidance](#) setting out the rationale underpinning the radioactive substances exemptions regime for England, Wales and Northern Ireland, including guidance on how the Government intends the regime to be interpreted and implemented. The various UK regions have all taken different approaches to implementing the regime and the aim of the guidance is to ensure that organisations carrying out radioactive substance exempt activities can comply with the regulatory regime consistently across the UK.

Focus: ESOS

This month we focus on the Energy Savings Opportunity Scheme (ESOS), which requires all 'large' businesses to report to the Environment Agency every four years on their energy use and efficiency. There are two key dates for Phase 2 of ESOS: the [qualification date](#) 31 December 2018 and the [compliance date](#) 5 December 2019.

Does my company have to do an ESOS assessment?

ESOS applies to all UK companies if, on the qualification date, they:

- employ 250 or more people; or
- have both an annual turnover in excess of €50 million and an annual balance sheet total in excess of €43 million; or
- are part of a corporate group that satisfies either of the above criteria; or
- are a non-UK company that has 250 or more employees in the UK.

If your company meets any of the above criteria, an ESOS assessment is mandatory, unless you have a certified ISO 50001 energy management system that covers all your energy usage that is valid on the compliance date. In the absence of a valid ISO 50001 certification you must complete an ESOS assessment, with the risk of escalating fines towards £100,000 for non-compliance.

What is an ESOS assessment?

An ESOS assessment comprises the following core elements:

- **Measure your total energy consumption over a 12-month reference period**
This period must include the qualification date (31 December 2018) and end before the compliance date (5 December 2019). Therefore, the measurement period must commence by [4 December 2018 at the latest](#).
- **Identify areas of significant energy consumption**
After measuring your total energy consumption, you will need to identify the assets and activities that make up at least 90 per cent of your total energy consumption. This is your [significant energy consumption](#), and the remaining 10 per cent can be excluded from any further ESOS requirements.

- **Ensure areas of significant energy consumption are covered by a route to compliance**

If all of your significant energy consumption is covered by ISO 50001 certifications, display energy certificates or green deal assessments that are valid on the compliance date, these can be used to **demonstrate ESOS compliance**. Otherwise an ESOS-compliant **energy audit** will need to be carried out for the energy consumption that is not covered by any of the above. The energy audit will need to analyse your energy efficiency and identify ways to improve it. It will also need to recommend cost-effective energy saving measures and their associated cost benefits. Finally, a **registered ESOS lead assessor** will need to check that your energy audit complies with the Energy Savings Opportunity Scheme Regulations 2014.

- **Review the findings of the assessment**

A board level director must then confirm that they have reviewed the recommendations of the ESOS assessment (and/or any relevant alternative routes to compliance) and that, to the best of their knowledge, the information that will be provided in the notification to the Environment Agency is correct and that the organisation is ESOS compliant. If the ESOS lead assessor is appointed internally, two directors will need to provide confirmation of the above.

- **Make a notification of ESOS compliance online**

Finally, you will need to **notify the Environment Agency** that you are ESOS compliant using their online system on or before the deadline of 5 December 2019. Although the deadline is still 15 months away, if you need to conduct an ESOS assessment there is a lot of work to be carried out during the intervening period, including starting to measure your energy consumption by 4 December 2018 at the latest.

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If you need independent expert advice on the best ESOS compliance strategy for your business, want to outsource your ESOS assessment, need a registered ESOS Lead Assessor, or are considering implementing an ISO 50001-compliant energy management system, we can help. Find out more on our [consultancy website](#), or call us on 01759 301000 for a no-obligation discussion.

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