FrESH Law Horizon

April to July 2026

SQUIRE PATTON BOGGS

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Contents

UK

Waste

pEPR scheme: Fever-Tree's legal challenge to waste disposal fees applied to its glass bottles supplied to pubs and restaurants

Fever-Tree has recently launched a legal challenge against the Environment Agency (EA) over its application of the waste disposal fees under the Packaging Extended Producer Responsibility (pEPR) scheme to their glass bottles supplied to pubs, bars and restaurants.

The key distinction at the centre of Fever-Tree's legal challenge against the EA is that the fee only applies to household packaging, not to non-household packaging. This makes the classification of packaging waste fundamental due to the significant financial implications of complying with the pEPR scheme.

The result of this legal challenge will have a significant impact on the glass and drinks industries, and any producer supplying to hospitality businesses, due to the interpretation decision. Additionally, the result will have potentially significant financial implications depending on how this packaging is finally classified.

For further information about this legal challenge, please read our blog post.

Statutory guidance on assessing packaging recyclability for Packaging Extended Producer Responsibility

PackUK, the scheme administrator for the UK's Packaging Extended Producer Responsibility (pEPR), has published new statutory guidance to support producers to assess packaging recyclability under pEPR. The guidance is known as the recycling assessment methodology (RAM) 2027. Large producers, bearing the obligations under pEPR for payments in relation to household packaging waste disposal fees, are legally required to use RAM 2027 to assess and report recyclability of household packaging for the reporting year 1 January to 31 December 2027.

The existing RAM categorises packaging according to a "traffic light" system for recyclability, and this continues under RAM 2027, but there are changes to the "automatic red" rating, which will now include packaging containing more than one part per million of total per- and polyfluoroalkyl substances (PFAS), or the stricter threshold of 25 parts per billion for food packaging. There are also limits set for substances of concern under legislation relating to the registration, evaluation, authorisation and restriction of chemicals (REACH), substances of very high concern, persistent organic pollutants, biocidal products regulation substances and substances classified under chemical classification, labelling and packaging (CLP) rules. In addition, food contact packaging that does not comply with food-contact materials requirements is an automatic red.

PackUK has introduced a new resubmission deadline of 1 September 2026 that applies to 2025 packaging data submission. This resubmission deadline will allow producers to correct errors in their April 2026 submissions and resubmit their packaging data.

Plastic Packaging Tax: Proposed changes could increase compliance obligations

The government is consulting on proposals to introduce mandatory certification for mechanically recycled plastic used to claim the exemption from the UK's Plastic Packaging Tax (PPT). The aim is for these changes to take effect from 1 April 2027.

The UK's PPT is a tax that applies since April 2022 to plastic packaging components manufactured in or imported into the UK that contain less than 30% recycled plastic. This tax aims at incentivising the use of recycled plastic and materials in packaging. Businesses have been able to claim an exemption where their plastic packaging contains at least 30% of recycled plastic, and so far, these claims rely on evidence provided throughout the supply chain.

The consultation does not propose changing the 30% recycled content threshold. Instead, it focuses on making it mandatory for businesses to hold certified evidence to demonstrate claims regarding the amount of recycled content in their packaging. HMRC expressed concerns about the reliability of current documentation and the risk of fraudulent claims, particularly where recycled content is difficult to verify.

Some of the key points of the consultation are:

- Whether the certification is necessary and proportionate.
- Which business in the supply chain should be subject to certification.
- Establish an appropriate implementation timetable.
- Pre-consumer waste will no longer be classified as recycled plastic for the purposes of PPT, and only reprocessed post-consumer plastic waste will be accepted.

If implemented, the changes could have significant implications for manufacturers, importers, mechanical recyclers and businesses throughout the packaging supply chain, as it has the potential to increase compliance costs and create new supply chain obligations. All businesses within the supply chain would need to register with a certification scheme and obtain certified evidence of recycled content, and importers would need to review supplier contracts and due diligence processes.

Affected businesses should assess whether their current evidence would meet a certification-based regime and consider responding before the consultation closes on 10 August 2026.

Waste carriers, brokers and dealers reform: What to expect

If you are a waste carrier, broker or dealer in England or Wales, your registration will not be valid from the 22 July 2027. You will have to take out an environmental permit, and be subject to identity checks and criminal record checks, prove your technical competence to transport or make decisions about waste, and be required to display a permit number on your vehicles and advertising. A new penalty is also being introduced for transport and waste controlling activities of up to five years' imprisonment

The reform is introduced by the Environmental Permitting (Waste Controlling or Transporting) and Relevant Functions of Primary Authorities (Amendment) (England) Regulations 2026, which were made on 22 July 2026 and amend the Environmental Permitting (England and Wales) Regulations 2016.

This reform is part of the government's policy to stop waste criminals from exploiting loopholes.

The substantive part of the regulations will come into force on the 22 July 2027 (12 months after being made).

New permitted facilities

We have three new categories of regulated facilities, which are:

- **Waste controlling activities** – The waste controller would be organising the collection, the transportation, recovery or disposal of waste, arranging the assessment and classification, and even buying or selling waste.
- **Waste transporting activities** – The waste transporter is the one who physically transports the waste between location as instructed without any decision powers.
- **Waste controlling-transporting activities** – The controller-transporter category would be carrying out both activities.

In order for these environmental permits to be granted, one of these four conditions must be met:

(a) Their registered office or principal place of business is in England.

(b) Their registered office and principal place of business are outside England, but they carry on waste controlling or transporting activity from any other place of business in England.

(c) They import waste from outside the UK, and the movement of waste ends in England.

(d) They export waste from within the UK, and the movement of waste starts in England.

An operator that has been granted an environmental permit to carry on any of these activities can only hold one permit. Permits will last for three years; operators will need to apply to renew them at least three months in advance; and these permits cannot be transferred.

Exemptions

Some waste controlling and transporting activities have been included in the list of exempt activities; for example:

- The control or transport of waste produced in the course of the operator's own business
- The control or transport of extractive waste
- The control or transport of animal by-products

But even then, all of those exempt activities are subject to certain conditions, so ensure that you meet all of those further requirements before you decide that you are carrying out an exempt activity.

Further enforcement and duties

The Environmental Protection Act 1990 is also amended to apply the duty of care to these activities, further facilitating enforcement of illegal waste activities. The enforcement agencies, including the Environment Agency, have been granted greater powers to search and seize vehicles that transport and/or control waste, and investigation agencies are now able to recover the costs of investigations.

These changes to the waste regulatory framework will impact any business carrying out waste transportation or arranging its transport but also those buying, managing waste, importing and exporting waste. There is greater scrutiny of those dealing with waste in any capacity, with a focus on helping fight waste crime.

Water

Stronger penalties for environmental offences by water companies

Following a consultation held last year about the possibility of strengthening the Environment Agency's (EA) penalties against offences committed by water companies in England, Defra – Department for Environment Food and Rural Affairs (DEFRA) has published the outcome on 7 July and will bring forward secondary legislation to implement these changes:

The EA will be able to impose variable monetary penalties up to £500,000 for some offences under the Environmental Permitting Regime or the Water Abstraction Regime, among others. These penalties will be applied using a lower civil standard of proof instead of the criminal standards, which will contribute to delivering them quicker.

The EA will also be able to impose automatic fixed monetary penalties for clear breaches of permits or water abstraction licence breaches. The penalty will depend on the company turnover and can be up to £10,000 for very large organisations. This amount would double if not paid within 28 days.

Pollution incident reporting: serious or significant pollution incidents must be reported within four hours, and failure will mean an automatic penalty.

Monitoring devices to measure the quantity of water abstracted will be mandatory, and failure will mean an automatic penalty.

Products

UK Deposit Return Scheme (DRS): The DRS logo and the Return Handling Fee published

The UK DRS is due to launch on 1 October 2027 and introduces new legal obligations for producers and retailers of in-scope drinks containers.

Exchange for Change (EfC), the body responsible for the design and delivery of the DRS across England, Scotland and Northern Ireland, has published the approved regulatory requirements with instructions on how producers must apply the DRS logo to all in-scope drinks containers. The use this logo will be mandatory from 1 October 2027 for all polyethylene terephthalate (PET) plastic bottles and aluminium and steel cans included in the scheme.

The DRS logo must be displayed in all in-scope containers, and there are size, colours formats and production specifications for it. It will enable consumers to recognise items that can be returned for a deposit refund.

EfC has also established the Return Handling Fee, which is payable to retailers operating return points to compensate them for the costs of collecting and processing returned containers.

The current proposed rates are:

- **Manual return points** – 3p per container.
- **Automatic return points** –
  - **Tier 1** – 5p per container, up to 225,000 in-scope items returned annually.
  - **Tier 2** – 1.3p per container, for annual in-scope returns in excess of 225,000.

These fees will be subject to periodic reviews, and affected businesses should monitor further updates.

Business operators that will be affected by DRS should remember that there will be a separate scheme for Wales, which will be designed for reuse. In Wales, glass bottles will also be included in the scheme, but deposits will not be charged on glass bottles from the October 2027 start date. The UK government has agreed to an exclusion from the UK Internal Market Act (which requires a harmonised/well-functioning market across the UK) for single-use glass bottles in Wales, but this is subject to commitments on a number of points, including extending the transitional period for single-use glass (during which no deposit will be applied, and labelling requirements will not apply) until October 2031. There has been no announcement as to who will be the scheme operator for Wales at this time (EfC is not appointed in respect of Wales).

Law Commission considering a new opt-out consumer class actions regime for England and Wales

The Law Commission of England and Wales, at the request of the government, has launched a project to consider the benefits and risks of introducing a consumer class actions regime, with the questions being asked making clear it is looking at a potential US-style opt-out regime.

While group claims have been on the rise in England and Wales over the last decade through existing mechanisms, if a new opt-out consumer class actions regime is introduced, this could be a game changer for the English litigation landscape, where opt-out claims are currently only really available in the Competition Appeal Tribunal for breaches of competition law (though there have been attempts to bring environmental-related claims in that forum, as noted in our last newsletter).

Such a regime should bring benefits for consumers, but at the risk of increased mass claims for consumer businesses.

It is not yet clear what types of claims would be covered – this is one of the questions the Law Commission is considering – but given the focus on consumer claims, any new opt-out regime would likely cover product liability/product defect claims, potentially encouraging increased numbers of consumers to come forwards to claim compensation relating to the purchase or use of affected products. It remains to be seen whether it would extend to environmental claims brought on behalf of consumers, but this will likely be an area of focus given the environmental claims we are already seeing and some of the challenges in bringing them on a collective basis within the existing regimes.

For more of our thoughts on the current landscape and the potential impact of the Law Commission's project, see our briefing.

UK government publishes policy paper on its approach to tackling deforestation

On 23 June 2026, the UK government published a policy paper on its approach to deforestation regulations.

The government intends to introduce regulations to reduce the UK's contribution to illegal deforestation while strengthening corporate due diligence requirements that will ensure traceability of certain products. Mandatory due diligence has already been in place for imports of timber and timber products in the UK since 2013.

The government intends to ensure that products such as wood, cocoa, coffee, palm oil, rubber and soy are not sourced from land that has been illegally deforested under local laws. To achieve this, businesses in Great Britain with an annual turnover of over £1 million, that use forest risk commodities and wood products, may be required to carry out mandatory due diligence on their supply chain. Business will be required to report on their activity and hold proof of compliance by collecting geolocation data about the origin of specific products.

The intention is for the measures to operate consistently alongside the EU Regulation on Deforestation-free Products (EUDR), to facilitate compliance with EUDR by UK businesses operating within the EU or placing relevant products on the EU or Northern Ireland market.

Government aims for this legislation will be delivered in 2027. Stakeholders can expect a consultation into the proposed deforestation policy to be launched later into 2026.

While we await more detail on the government's approach, businesses should evaluate their supply chain programme and consider investment into traceability systems and risk assessment processes.

The Office for Product Safety and Standards (OPSS) publishes guidance on asbestos in consumer products

On 13 May 2026, OPSS published guidance for consumers and businesses on consumer products containing asbestos. The guidance was updated on 19 June 2026 to include a joint statement from OPSS, the UK Health Security Agency and the HSE.

The joint statement confirms the UK's zero-tolerance approach to asbestos in consumer products. It states that consumer products found to contain asbestos must be recalled, while also noting that the risk to health from the recalled products is expected to be low during normal use, particularly where the published disposal instructions are followed.

The guidance follows the identification of consumer products available in the UK containing sand contaminated with asbestos. OPSS has listed contaminated products that are subject to recall, including certain sand-containing consumer products.

For consumers, the guidance provides practical advice on what to do if they have purchased an affected product. This includes stopping use immediately, checking the relevant recall notice, following the retailer's instructions and taking precautions when handling, returning or disposing of the product.

For businesses, the guidance sets out expectations around product recalls, safe disposal and waste management. Businesses that have sold consumer products contaminated with asbestos are required to recall them, and are advised to follow PAS 7100, the British Standards Institution's code of practice for product recalls and corrective actions. The guidance also recommends seeking specialist advice where required, including from waste management contractors and dangerous goods safety advisers.

OPSS has also published a technical advisory note on testing for asbestos in sand-containing consumer products, including toys, hobby products and decorative items.

The guidance is also relevant to workplaces, schools and early years settings. Employers are directed to follow applicable HSE guidance on the Control of Asbestos Regulations 2012 and the management of asbestos in workplaces, while schools and early years providers are asked to follow the consumer guidance when identifying and disposing of affected products.

Chemicals

Latest news on chemicals in the UK

The last few months have seen a number of developments on chemical regulatory law in the UK.

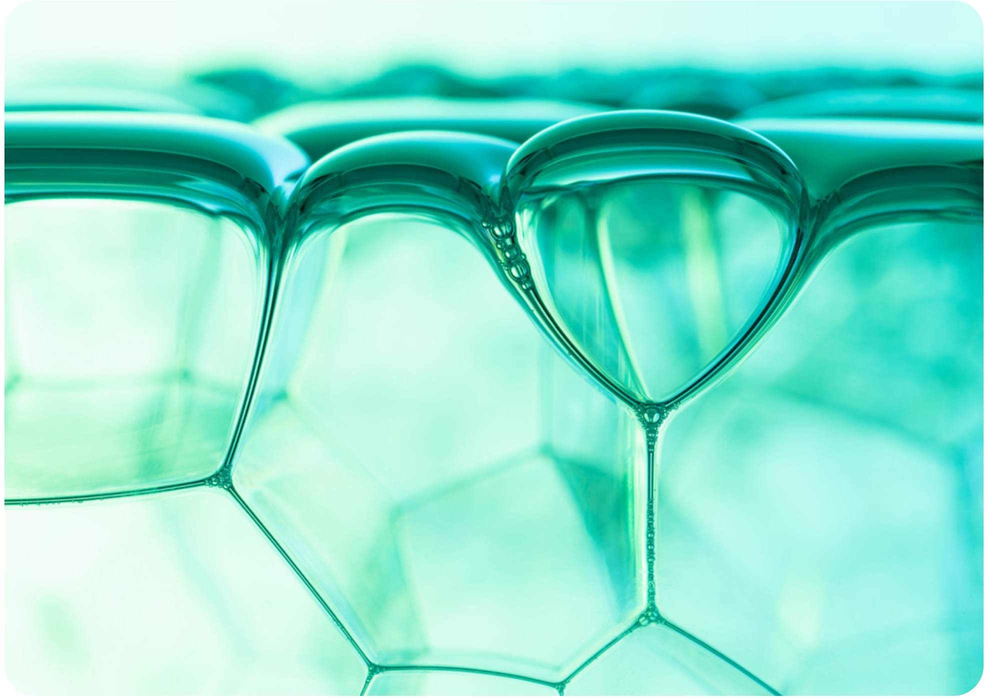
1. For the first time, the Health and Safety Executive (HSE) has added 15 substances to the list of substances of very high concern (SVHC) under UK Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH). This is significant because SVHC can become subject to the "authorisation" limb of UK REACH, meaning that additional restrictions on their use apply unless an authorisation is held.

2. The government has responded to the Environmental Audit Committee's recommendations made as part of its inquiry on the risks from per- and poly-fluoroalkyl substances (PFAS). The response does not outline any new commitments but does indicate that UK REACH will be reformed to align more closely with EU REACH. We await the publication of technical guidance being developed by the Environment Agency for regulators and industry on how PFAS contamination will be investigated and assessed.

3. Regulations came into force in May 2026 amending three UK chemicals regimes for biocides; prior informed consent; and classification, labelling and packaging (CLP) (Chemicals (Health and Safety) (Amendment, Consequential and Transitional Provision) Regulations 2026). These amendments are intended to simplify existing procedures and (in the case of the CLP amendments) to reduce the HSE's costs of operating the regime. The changes to the biocides regime are particularly notable as they ensure that up to 173 active substance/product type combinations remain on the Great Britain market until 31 July 2031, and update provisions that allow certain essential biocidal products to remain on the Great Britain market where they are necessary to deal with a danger to public health, animal health or the environment which cannot be contained by other means. The explanatory memorandum to the regulations cites preventing the spread of disease and preventing damage to businesses and homes among the societal benefits of maintaining these active substances on the market.

4. UK REACH was amended to add further restrictions on the use and placing on the market of lead and its components, with some transitional periods (REACH (Amendment) Regulations 2026).

5. Some further regulations were made in July 2026 extending the deadlines for industry to submit UK REACH registration information to the HSE (REACH (Amendment) (No. 2) Regulations 2026). The deadlines for providing registration data, which differ according to substance hazard profile and relevant tonnages, have been extended from 27 October 2026, 2028 and 2030 to 27 October 2029, 2030 and 2031, meaning that businesses have longer to compile the relevant information. This is the second time the deadlines (which form part of the government's alternative registration model (ATRm) have been extended. The aim of the ATRm is to reduce the costs to businesses from transitioning from EU REACH to UK REACH. These regulations formalise the second extension, which was announced at the end of last year when the government released its response to an earlier consultation on ATRm.



Green claims

Green claims: New guidance and rulings

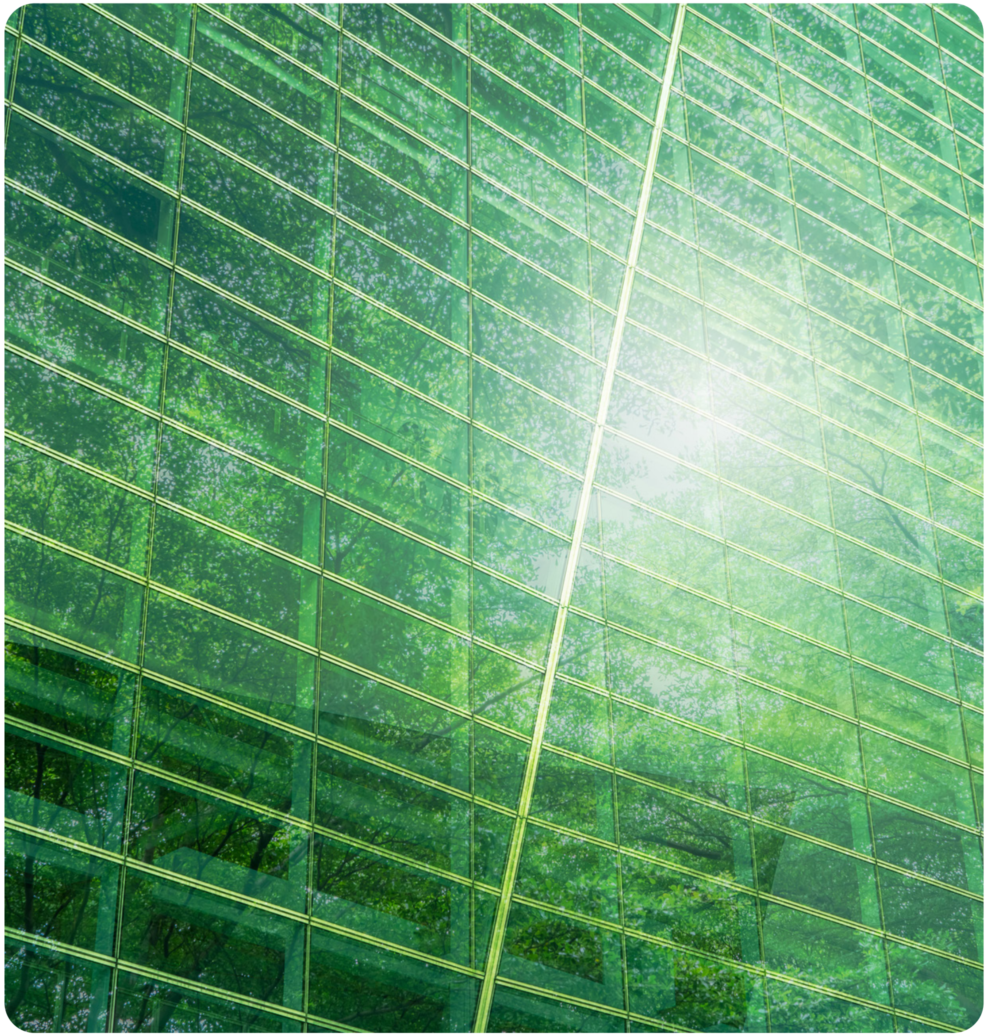
We expect the following developments on green claims to be of interest to product and marketing teams of many businesses, including those outside the fashion retail sector. They are also a timely reminder that the Advertising Standards Authority (ASA) is using artificial intelligence to identify ads in certain sectors.

1. The claim "Responsibly sourced collections – Recycled, Organic & More" was misleading and breached the Committees of Advertising Practice (CAP) code on environmental claims. The ASA "considered consumers would interpret the claim, without further clarification, as meaning the tops within those collections were entirely made from recycled, organic or other environmentally preferred materials." Despite the ASA acknowledging, on review of the evidence supplied by the company, that for "most of their women's tops that contained recycled, organic or other certified fabrics, those materials made up the majority of the total fabric content", there were no tops that were made entirely from recycled material, and not all tops made with organic/other certified fabrics were made entirely from them (ASA Ruling on Calvin Klein Europe BV t/a Calvin Klein – 24 June 2026).

We have previously reported on the ASA rulings relating to claims made by the air travel sector. In July 2026, ASA upheld complaints relating to the following claims made by Qatar Airways Group QCSC: (1) "bulk offset the carbon emissions for your past and future flights" and (2) "Travel consciously by offsetting your flight's carbon footprint".

The ASA considered that "all readers were likely to understand from the ads that they could travel in a way that had a lower environmental impact because Qatar Airways offered a scheme that would offset the carbon emissions from flights taken with the airline." While the airline's evidence "demonstrated the existence and operation of an offsetting programme, it did not show the carbon emissions from specific past or future flights booked [...] would be fully offset through the scheme or that the environmental impact of the flights was reduced."

It is notable that, in this period, the ASA also published the results of a Pulse Survey: Environmental Claims in Ads.



Sustainability reporting and climate change

Consultation opens on Draft European Sustainability Reporting Standards (ESRS) for Corporate Sustainability Reporting Directive (CSRD) reporting for certain non-EU companies

The European Financial Reporting Advisory Group (EFRAG) has opened a 100-day consultation between 23 July and 31 October 2026 on the draft ESRS that apply to certain non-EU companies reporting under CSRD. This is relevant if you are, for example a UK, US or Japanese company with a large presence in the EU, whatever sector you operate in.

This exposure draft sets out what type of sustainability information certain non-EU undertakings need to disclose in accordance with Article 40a of the Accounting Directive – to be known as ESRS-40a. The CSRD for these companies will be known as the 'ESRS-40a Sustainability Report'.

Just to clarify, as we are in the realms of complex EU regulation, the ESRS 40a do not apply to EU companies, or their non-EU parents who decide to report on behalf of their EU entities. EU companies already have their brand new and simplified ESRS.

Companies in scope of ESRS-40a

These non-EU companies are those that report under Art 40a of the Accounting Directive, namely:

- Third-country companies not listed on EU-regulated markets that generate a net turnover in the EU exceeding €450 million in each of the last two consecutive financial years
- That either have EU branches with a net turnover exceeding €200 million in the preceding financial year, or are the ultimate parent of EU subsidiaries with a net turnover exceeding €200 million in the preceding financial year
- Have not already reported as a parent entity on behalf of their EU subsidiaries in scope of ESRS
- Have not already reported under recognised equivalent standards

What is different and what remains

The main difference is that the ESRS-40a require that these non-EU companies report on their impacts and how they manage these. For Art 40a non-EU companies, there is a proposed move from double materiality reporting (reporting on the impacts, risks and opportunities) to impact materiality.

Companies will need to reassess their reporting boundaries, namely what entities, assets and value chain information are to be included in their ESRS 40a sustainability report.

We still have the same drafting conventions and principles applying, and ESRS- 40a largely follows the structure of the ESRS's – setting out standards for:

- **ESRS-40a** – General requirements (1) and general disclosures (2).
- **ESRS-40a E** – Climate change (E1), pollution (E2), water (E3), biodiversity and ecosystems (E4), and resource use and circular economy (E5).
- **ESRS-40a S** – Own workforce (S1), workers in the value chain (S2), affected communities (S3) and consumers and end-users (S4).
- **ESRS-40a G1** – Business conduct.

Due diligence obligations are still included, and there is a statement that nothing in the ESRS 40a will impact the due diligence obligations under the Corporate Sustainability Due Diligence Directive (CS3D).

Global reporting or hybrid EU focused reporting

These non-EU entities can apply the ESRS-40a globally to their group following financial statements, or choose a hybrid model.

Apart from climate change, where reporting on the impact of the group is required, the hybrid model is focused on reporting the impact of products/activities of the group in the EU. This hybrid model is very complicated, and it is unclear if it will stay as reports state that EFRAG was not in favour of including it. It is very difficult to apply as it is and appears to muddy the waters further.

What to do if you are a non-EU company in scope and hesitating over which option to take

If you are one of the approximately 1,200 non-EU entities to which ESRS 40a will apply, we highly recommend that you investigate the potential impact on your sustainability reporting as set out in this exposure draft, and what option best suits your company. You may have an option to report under the usual ESRS, the ESRS 40a global or hybrid model or you may be reporting under equivalent standards.

This is your chance to put your views across, especially when your business is being obligated by legislation outside your own jurisdiction where you are likely to have less direct influence. You can submit your responses to this consultation via an online form. Do get in touch if you would like to discuss.

UK Carbon Border Adjustment Mechanism (UK CBAM) Update

As anticipated in the last edition of frESH Law Horizon, secondary legislations to develop CBAM in the UK have now been made during the month of July and come into force on 1 January 2027.

- The Carbon Border Adjustment Mechanism (Administrative Provisions) Regulations 2026 include requirements to register, what information needs to be shared and how to calculate the weight of a CBAM good.
- The Carbon Border Adjustment Mechanism (Calculation of CBAM Rate and Determination of Carbon Price Relief) Regulations 2026 will help to calculate rates and any price relief when this has already been paid in the production country.
- The transition period will run from 1 January 2027 to 30 June 2028, and the Carbon Border Adjustment Mechanism (Transitory Provision) Regulations 2026 provide requirements related to payments and registration during that period.

UK CBAM will be of interest to importers of aluminium, cement, fertilisers, hydrogen, iron and steel into the UK, as well as downstream producers that use these goods in their supply chains.

Food

Sanitary and Phytosanitary (SPS) Agreement between the UK and the EU: Progress and guidance

This quarter, the Environment, Food and Rural Affairs Committee has published a report "UK-EU agritrade: making an SPS agreement work – Government Response". This is a response to a February report that made 22 recommendations on alignment with the EU sanitary and phytosanitary policy, implementation timeline, a UK-wide approach, biosecurity at the border, border infrastructure and resourcing and oversight.

At the end of June, the Department for Environment, Food & Rural Affairs (DEFRA) followed this up with guidance on "preparing your business" for the SPS agreement (Guidance), confirming that the intention is for the new agreement (currently being negotiated) to take effect in mid-2027. The Guidance covers specific areas (animal breeding, border control posts, fish and shellfish, genetic technologies, horticulture, logistics/ hauliers, organics and veterinary), but also includes guidance for general food manufacturing, processing and standards; as well as food production, plants, animals and associated sectors.

It is important for food business operators to be aware that any agreement reached will affect food and drink being supplied only to the UK market, as well as products that are supplied to the EU. Changes under the agreement will involve compliance with EU rules for food standards, safety, labelling and regulated products (such as additives, novel foods, flavourings and food-contact materials). Therefore, where there has been divergence in the EU on these matters post-Brexit, products (and processes and operations) may need to be reviewed. For example, ready-to-eat food producers will need to comply with new EU food safety criteria for listeria; and there will be new/additional/revised maximum contaminant levels for contaminants such as per- and polyfluoroalkyl substances (PFAS), heavy metals, mycotoxins and plant toxins.

A positive for many will be simplification around names and addresses on pack. It is expected that operators will be able to use either a UK or an EU food or feed business operator address (whereas currently foods/feeds supplied in Great Britain need a UK address, and foods/feeds supplied in the EU need an EU address, meaning multiple addresses on pack where products are supplied to both markets). However, given that negotiations are currently continuing, it may be sensible to await confirmation before changing current name and address labels.

The Guidance provides links to sign up for Defra email alerts and the SPS readiness mailing list to receive the latest updates.

Health and safety

Corporate criminal liability significantly expanded under Section 250 Crime and Policing Act 2026

On 29 June 2026, Section 250 of the Crime and Policing Act 2026 (CPA) came into force. Section 250 of the CPA significantly expands corporate criminal liability in England and Wales. The provision extends the "senior manager" attribution test beyond economic crime, so that it applies to all criminal offences.

Under the new test, a company commits a criminal offence if a senior manager commits an offence while acting within the scope of their actual or apparent authority. A senior manager is anyone who plays a significant role in the decision-making, management or organisation of the company's activities, or a substantial part of them.

Importantly, the concept extends beyond directors and C-suite executives, and focuses on the individual's actual influence within the organisation. Whether an individual qualifies as a senior manager depends on the influence they exercise in practice, rather than their job title or formal position within the organisation.

A company may therefore incur criminal liability even where:

- The board did not authorise the conduct
- The individual's line manager was unaware of it
- The conduct was neither approved nor endorsed by the company

Before Section 250 of the CPA came into force, the senior manager test applied only to specified economic crimes under the Economic Crime and Corporate Transparency Act 2023, including fraud, bribery, money laundering and certain sanctions offences. Section 250 of the CPA removes that restriction. As a result, companies may now face criminal liability for offences committed by senior managers across a much wider range of offences covering areas such as health and safety, environmental offences, data protection and Companies Act offences.

The expansion creates a materially broader risk profile for several reasons:

1. The only exemption is that all conduct occurs outside the UK, and where the organisation would not commit the offence if that conduct were the organisation's. There are no defences of reasonable practicability or due diligence. If the senior manager commits the offence within the scope of their authority, the company is also culpable regardless of the strength of its compliance programme.
2. There is no requirement for corporate benefit, meaning liability can arise even where the senior manager's conduct was self-serving, unauthorised or contrary to the organisation's interests. The prosecution does not need to show that the company benefited from the conduct.
3. Many criminal offences, particularly in the regulatory sphere, can be committed recklessly rather than intentionally. A senior manager who consciously takes an unjustifiable risk may therefore expose both themselves and the organisation to criminal liability.

In light of these developments, organisations should review their governance frameworks, delegation structures, compliance programmes, training, whistleblowing arrangements and risk-control processes to ensure that they are equipped to manage the significantly broadened exposure created by Section 250 of the CPA.

Double fatality corporate manslaughter trial of a very large organisation (VLO) ends up with a Health and Safety at Work Act 1974 (HSWA) sentence

Two companies have been fined following the deaths of two pest control contractors who were exposed to a fatal oxygen-deficient atmosphere caused by nitrogen gas at a poultry processing facility in Norfolk. Air Products PLC (Air Products) received a £2,475,000 fine, while Banham Poultry Ltd (Banham) was fined £900; the disparity between the two fines arising from the fact that Banham is in liquidation. The investigation by Norfolk Police and the Health and Safety Executive (HSE) identified several significant failings, including:

- Repeated reports over an 18-month period that nitrogen was being released at ground level
- Inadequate design, maintenance and monitoring of the venting system
- Failure to properly assess the risks associated with nitrogen gas and oxygen depletion
- The absence of effective systems to identify oxygen-deficient atmospheres
- Inadequate contractor management and site monitoring arrangements

The Crown Prosecution Service (CPS) stated that the contractors had not been warned of the danger and that the deaths were entirely avoidable.

Originally, both companies faced charges of corporate manslaughter (in conjunction with charges contrary to the HSWA 1974). However, the prosecution ultimately offered no evidence on corporate manslaughter, and the case concluded on the basis of guilty pleas to health and safety offences alone.

If the corporate manslaughter charges had been successful, it would have been the first sentencing exercise for that offence in relation to a VLO. It remains the case that corporate manslaughter trials are evidentially complex, with expert evidence on causation often playing a crucial role in any defence case.

The case is also a useful reminder of the impact that an organisation's size can have on sentencing. Courts must take into account an offender's turnover and financial resources when determining the appropriate level of fine. VLO's are defined as a company with a turnover that greatly exceeds the threshold for large companies (£50 million). Air Products was treated by the sentencing judge as a VLO on the basis that its turnover was circa 10 times the threshold for a large company. The court was therefore required to consider fines outside the range for large companies in order to achieve a proportionate sentence, which resulted in Air Products receiving a £2,475,000 fine, after reductions for mitigation and guilty plea discount. As above, this fine related to the successful health and safety offences only; had the corporate manslaughter offence been successful, it is possible that this case could have produced the largest manslaughter fine to date.

VLOs do not receive larger fines simply because they have greater financial resources. Rather, the sentencing framework seeks to ensure that fines are proportionate to the offender's means, sufficiently reflects the seriousness of the offence and encourage shareholders and senior management to prioritise health and safety compliance. The approach is intended to prevent fines from being regarded as a mere cost of doing business.

Martyn's Law guidance: What you need to know

The Terrorism (Protection of Premises) Act 2025 (the "Act"), also known as Martyn's Law, is expected to come into force in Spring 2027. It is named after Martyn Hett, who was one of the 22 people killed in the 2017 terrorist attack on the Manchester Arena.

The Act will introduce onerous legal duties on those responsible for publicly accessible premises and large public events, to consider terrorist threats as part of their operational management, as well as to take proportionate steps to reduce the risk of physical harm to individuals arising from acts of terrorism and reduce vulnerability to acts of terrorism. The penalties for non-compliance could be eye-watering; in some cases, a maximum of whichever is the greater of £18 million and 5% of the responsible person's qualifying worldwide revenue.

In preparation for the Act's implementation, the government has published statutory guidance to assist those with duties, which can be organisations or individuals, to comply. The implications of the new duties are enormous, and they come into force in less than 12 months. Organisations should act now to plan, organise and implement their new arrangements under the Act, or risk potentially very significant penalties.

Please find a summary of the key elements of the Act and the Guidance that those affected should be alert to in our blog.

Health and Safety Executive (HSE) publishes review of GB asbestos control limit and retains current threshold

On 18 May 2026, the HSE published its review of Great Britain's asbestos control limit. HSE confirmed that the current limit will remain unchanged at 0.1 fibres per millilitre (f/ml), measured as a four-hour time-weighted average.

The review followed the EU's decision to reduce its occupational exposure limit for asbestos to 0.01 f/ml from 21 December 2025, with a further reduction planned from 2029. HSE concluded that there is currently no clear evidence that lowering the GB control limit would reduce current or future exposure levels, or improve health outcomes for workers.

For businesses, the decision means there is no immediate change to the numerical exposure threshold under the Control of Asbestos Regulations 2012. However, it should not be viewed as a relaxation of asbestos duties. The existing regime continues to require employers and duty holders to prevent exposure to asbestos where possible and, where that is not reasonably practicable, to reduce exposure to as low a level as is reasonably practicable.

HSE's review also found that lowering the control limit could bring significantly more asbestos-related work within the higher-risk category of licensed work. Licensed work can only be carried out by contractors holding a HSE asbestos licence, and is subject to stricter notification, control and competence requirements. HSE considered that this could create significant additional costs for businesses without a corresponding reduction in health risk.

Instead, HSE identified training, competence, site discipline and regulatory enforcement as areas likely to have a greater practical impact on reducing asbestos risk. Professor Andrew Curran, HSE's Chief Scientific Adviser, stated that the current framework already provides the most effective protection for workers when properly applied.

Duty holders should ensure that asbestos registers and management plans are accurate and up to date, that contractors are properly competent and licensed where required and that work involving asbestos-containing materials is planned, supervised and documented appropriately.

Safer choices for hot work: Flame free construction Guidance

The Construction Industry Advisory Committee (CONIAC) advises the Health and Safety Executive (HSE) on protecting workers in the construction industries, and has published the *Flame-Free Construction* guidance in June 2026. This guidance encourages the construction industry to minimise or eliminate hot works wherever practicable by adopting flame-free alternatives. The guidance highlights that activities such as welding, brazing, torch-applied roofing and grinding remain significant causes of construction fires, particularly during roofing works. It promotes a design-led approach in which clients, designers and contractors first consider whether the ignition source can be removed entirely through alternatives such as cold cutting, self-adhesive or hot-air welded roofing systems, press-fit pipe connections, mechanical cutting tools and off-site prefabrication. The document also emphasises the importance of competence, compliance with the Construction (Design and Management) Regulations duties, HSG168 and the Joint Code of Practice, as well as effective fire risk management where hot work cannot be avoided. Emerging technologies, including robotic fire watches, sensor-based fire detection and digital permit systems, are highlighted as ways to improve fire prevention.

Businesses in the construction industries will be interested by the proposals of this Guidance.

ESH prosecutions

Company fined £350,000 after worker suffers life-changing injuries in chemical tank collapse.

A UK company] has been fined £350,000 after a 700-tonne chemical storage tank collapsed at its offshore supply base, causing life-changing injuries to a self-employed contractor.

The tank, which held calcium chloride solution, was over 30 years old. The Health and Safety Executive's (HSE's) investigation found that corrosion had reduced part of the tank shell from 5.5mm to around 1mm, leaving it unable to withstand the pressure of the stored liquid. Corrosion had been identified a decade earlier, but HSE found no evidence that an effective inspection regime had been consistently followed.

Ageing infrastructure and storage equipment must be actively managed. Where inspection reports identify corrosion or structural deterioration, businesses should ensure findings are risk assessed, remedial works are tracked and maintenance records are retained.

The case also underlines the importance of contractor safety. Employers and site operators owe duties not only to employees, but also to contractors and others who may be affected by their undertaking.

£600,000 fine after employee paralysed following turbine blade accident

A company has been fined £600,000 after an employee was left paralysed from the waist down following an incident at its site.

The employee was working on the construction of a wind turbine blade when an 800kg pre-cast section collapsed after support poles holding it in place were removed. The HSE's investigation found that the company had failed to adequately assess the risks of the task, implement a robust safe system of work or train employees in safe working methods.

HSE emphasised the legal requirement for employers to protect their employees, and others, from harm. Businesses should identify and control critical safety steps in high-risk processes and ensure that clear procedures, training and physical controls are in place. Risk assessments must also reflect how work is actually carried out, not just how it is intended to be performed.

Permit breaches result in almost £470,000 for environmental projects

Four Yorkshire businesses will pay almost £470,000 to local environmental projects after the EA accepted separate enforcement undertakings for permit breaches.

The cases covered different sectors and types of environmental risk, including mine brine discharges, silt contaminated construction runoff, fire protection plan failures and the unauthorised operation of an anaerobic digester tank. The largest payment of £215,000 followed a discharge that killed almost 700 fish, and another £200,000 fine for following unauthorised silt discharges from a road construction site.

The payments will fund organisations, and the companies have also taken steps to prevent repeated incidents and will pay the EA's investigation costs.

A breadth of activities can lead to regulatory action where permit conditions are not adequately managed. Enforcement undertakings can avoid prosecution in suitable cases, but are not a soft option. They are legally binding, require remedial action and can involve substantial payments, investigation costs and public scrutiny.

River Test diesel spill results in £350,000 for river project

In April 2026, the Environment Agency announced that fuel distributor company had agreed to provide £350,000 to Wessex Rivers Trust following a diesel pollution incident on the River Test in Southampton in 2021. The spill occurred when an underground valve failed at the company's site, allowing diesel to leak into surrounding soil before heavy rainfall carried it into the river, causing harm to wildlife and creating a significant risk of environmental damage. Following an investigation, the company entered a legally binding enforcement undertaking, enabling funds to be directed towards environmental restoration rather than prosecution. The £350,000 will support habitat restoration projects on Tanners Brook and the lower River Test, benefiting local wildlife and communities. The company has also invested £3.8 million in site improvements, including rebuilding facilities, strengthening monitoring procedures and moving diesel storage above ground to reduce future risks. The company will additionally pay £87,869.95 towards the EA's investigation and enforcement costs.

Chemical company fined £3.8 million after investigation into serious chemical burns suffered by two employees

A chemical manufacturer was fined £3.8 million after two employees suffered serious burns from exposure to caustic soda (sodium hydroxide) at separate sites. In December 2019, an employee stepped into a puddle containing caustic soda and sustained burns so severe that his leg was amputated below the knee. The HSE found widespread failures, including leaking equipment, inadequate maintenance systems, poor spill management and safety boots that did not provide sufficient protection. In August 2022, a second worker suffered burns requiring skin grafts while manually decanting caustic soda. Investigators found no suitable risk assessment or safe system of work, despite an existing automated process that could have eliminated manual handling. The HSE concluded that the company had repeatedly failed to properly assess and control exposure risks.

A company fined £400,000 after a man was killed working

An advertising printing company was fined £400,000 after maintenance worker died following an incident involving an industrial overhead door in September 2022. An HSE investigation found that the company had failed to adequately maintain its electrically operated overhead doors, despite two previous incidents involving door failures that had injured employees. The company had no effective programme of routine inspection or preventative maintenance, allowing the doors to deteriorate into an unsafe condition, and had failed to undertake a suitable risk assessment, implement a safe system of work or provide proper tools and equipment.

EU

Waste

Entry into application of Waste Shipment Regulation and Digital Waste Shipment System (DIWASS)

On 21 May 2026, most provisions of the revised EU Waste Shipment Regulation entered into application, alongside the launch of DIWASS, a new EU-wide digital platform for managing and tracking cross-border waste shipments. The prohibition of exports of waste to non- Organisation for Economic Co-operation and Development (OECD) countries comes into force on 21 May 2026.

In practical terms, DIWASS replaces the traditional paper-based system for waste shipment notifications covered by the Prior Informed Consent (PIC) procedure and movements of green listed waste. Instead of submitting forms and supporting documents manually to the relevant authorities, notifications, approvals, communications and shipment records must now be handled electronically through this single EU-wide system. The practical benefits of the DIWASS are intended to include faster processing of notifications, automated data submission and real-time visibility of shipment status.

Businesses handling green-listed waste should however note an important transitional measure, as they may continue using the existing paper-based procedure for green-listed waste shipments intended for recovery until 31 December 2026.

Several of the changes introduced on 21 May are also designed to streamline authorisations. This includes the introduction of a simplified PIC process for certain notified waste shipments between member states, and enhancements to the fast-track procedure for waste sent to pre-consented recovery facilities.

The new rules have also tightened controls on plastic waste exports. Since 21 May 2026, all exports of plastic waste to third countries have become subject to the PIC procedure. Looking ahead, from 21 November 2026, exports of plastic waste from the EU to non-OECD countries will be prohibited.

Overall, these changes mark a significant shift towards the digitalisation of EU waste shipment procedures and increased oversight of cross-border waste movements. Companies involved in waste shipments should review their compliance and staff training procedures, digital capabilities, contractual arrangements and operational readiness for DIWASS. Particular attention should also be paid to the forthcoming restrictions affecting plastic waste exports and exports to non-OECD countries.

Products

Council greenlights circularity framework for vehicles

The council has formally adopted a new regulation to make the EU automotive sector more circular by requiring vehicles to be designed for greater reuse, recycling and recovery throughout their lifecycle. The rules introduce mandatory recycled plastic content in new vehicles – 15% within six years of entry into force, rising to 25% within 10 years, with at least 20% sourced from end-of-life vehicles – while making manufacturers financially and operationally responsible for the collection and proper treatment of vehicles at the end of their life. The regulation also strengthens controls to prevent the illegal export or dismantling of end-of-life vehicles, ensuring non-roadworthy vehicles are treated by authorised facilities and valuable materials remain within the EU. The rules will fully apply to passenger cars and light commercial vans, with more limited requirements for heavy-duty vehicles, motorcycles and special-purpose vehicles and will begin applying two years after entering into force.

Commission consults on European Critical Raw Materials Centre

On 19 May 2026, the European Commission opened a public consultation and call for evidence on the establishment of a European Critical Raw Materials Centre. Open until 29 July 2026, the consultation seeks input on joint purchasing, coordinated stockpiling, investment support and supply intelligence. In addition, the Centre would support implementation of the Critical Raw Materials Act and the RESourceEU Action Plan.

Under the act, certain large companies in strategic sectors must assess their critical raw-material supply chains at least every three years, identify potential disruption risks and take mitigation measures where significant vulnerabilities are found. Interested stakeholders may submit comments through the commission's Have Your Say portal.

Council agrees mandate on European Biotech Act I directive

On 16 June 2026, the council agreed its position on the European Biotech Act I directive, which amends two existing directives on genetically modified micro-organisms (GMMs) and on organ processing. The aim is to speed up the path from lab to market for biotech innovation while keeping safety standards intact. The text now goes to the European Parliament, after which the two institutions will negotiate the final version.

Commission publishes draft act on exemptions to battery removability and replaceability requirements

The European Commission has published a draft delegated act providing additional exemptions from the general requirement under the Batteries Regulation that portable batteries in products be removable and replaceable by end-users.

Under the regulation, certain products are already exempt from this requirement, including medical devices and "appliances specifically intended to operate in wet environments", for which batteries need only be removable and replaceable by independent professionals. The draft act would supplement these existing exemptions by adding six new product categories:

- Wearable devices, such as smartwatches and fitness trackers
- Electric toys incorporating rechargeable batteries (until 31 July 2030)
- Products falling within the scope of the ATEX Directive, including equipment intended for use in potentially explosive atmospheres, such as explosion-proof motors, sensors, pumps and forklift trucks
- Wireless thermometer probes specifically designed for food contact
- On-body delivery systems specifically designed for the subcutaneous administration of medicinal products
- Telematics devices intended for roof-mounted installation in agricultural and construction machinery

The proposed exemptions are subject to additional conditions set out in the draft act.

The public consultation on the proposal closed on 26 May 2026, and attracted significant stakeholder interest, with 127 submissions received. The commission will now review the feedback before finalising the delegated act. In parallel, it has indicated that it intends to update its guidance on the removability and replaceability requirements to support the consistent application of both the existing and the proposed new exemptions.

The regulation's battery removability and replaceability requirements will apply from 18 February 2027.

Commission launches consultation on ecodesign requirements for iron and steel products

The European Commission has launched a public consultation on future ecodesign requirements for iron and steel products under the Ecodesign for Sustainable Products Regulation (ESPR). The consultation seeks stakeholder views on potential measures relating to circularity and recyclability, low-carbon steel, sustainability information and the Digital Product Passport (DPP), as well as decarbonisation across the iron and steel value chain. Feedback can be submitted until 12 August 2026.

In parallel, the commission's Joint Research Centre (JRC) continues work on its preparatory study on iron and steel products. The study aims to provide the environmental and techno-economic evidence base for the currently anticipated delegated act on iron and steel products. The JRC's latest draft reports, including on DPP content, are accessible here.

Chemicals

Commission confirms no comprehensive Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) revision

The European Commission has confirmed that a comprehensive revision of the REACH Regulation will not proceed as previously anticipated. Instead of reopening the core legislation, the commission is expected to focus on targeted measures and implementation of existing rules, prioritising simplification, enforcement and specific policy initiatives over a broad legislative overhaul. This provides greater regulatory certainty in the near term, although sector-specific amendments and other chemicals policy measures are still expected to be pursued.

Green claims

Empowering Consumers for the Green Transition Directive (EmpCo) transposition and green claims enforcement update

The list of member states that have transposed the EmpCo keeps growing, with Denmark, Luxembourg, Ireland and Croatia among the latest additions. Many countries are still lagging behind though, and this is despite the commission having opened infringement proceedings against 20 member states for missing the transposition deadline.

Enforcement against misleading environmental claims is not slowing down either. Recently, French courts have handed down notable rulings on sustainability claims, finding that terms such as "carbon neutral" and "100% recyclable" were liable to mislead consumers.

And at EU level, the Consumer Protection Cooperation (CPC) Network has published a Common Understanding Document on how to treat old stock ahead of EmpCo becoming applicable. The document is not binding, but it confirms a practical approach should be favoured.

Taken together, these developments show that the direction of travel is clear, even where the timing across member states is not. Companies should prepare accordingly, reviewing not only their product portfolios but also their broader commercial communications, ahead of the September 2026 deadline.

Sustainability reporting

Commission consults on Corporate Sustainability Due Diligence Directive (CSDDD) implementation guidelines

On 12 June 2026, the European Commission opened a public consultation on guidelines supporting the implementation of the CSDDD. The consultation, which runs until 14 August 2026, seeks evidence on the practical application of the due diligence process established by Directive (EU) 2024/1760, including the identification and prioritisation of adverse impacts, stakeholder engagement, remediation, responsible disengagement, risk factors, data sources, digital tools and model contractual clauses. Although the guidelines will not be legally binding, they are likely to play an important role in shaping supervisory expectations and companies' practical compliance programmes.

The consultation is aimed at companies covered by or connected to the CSDDD, including large EU and non-EU companies, smaller value-chain partners and business associations. It also targets non-governmental organisations (NGOs), trade unions, academics, public authorities, financial institutions and other stakeholders with relevant expertise or an interest in corporate sustainability due diligence.

The guidelines will also be relevant to companies and other stakeholders in non-EU countries linked to the supply chains of companies covered by the CSDDD. Stakeholders may contribute by completing the online questionnaire and may submit responses in any official EU language.

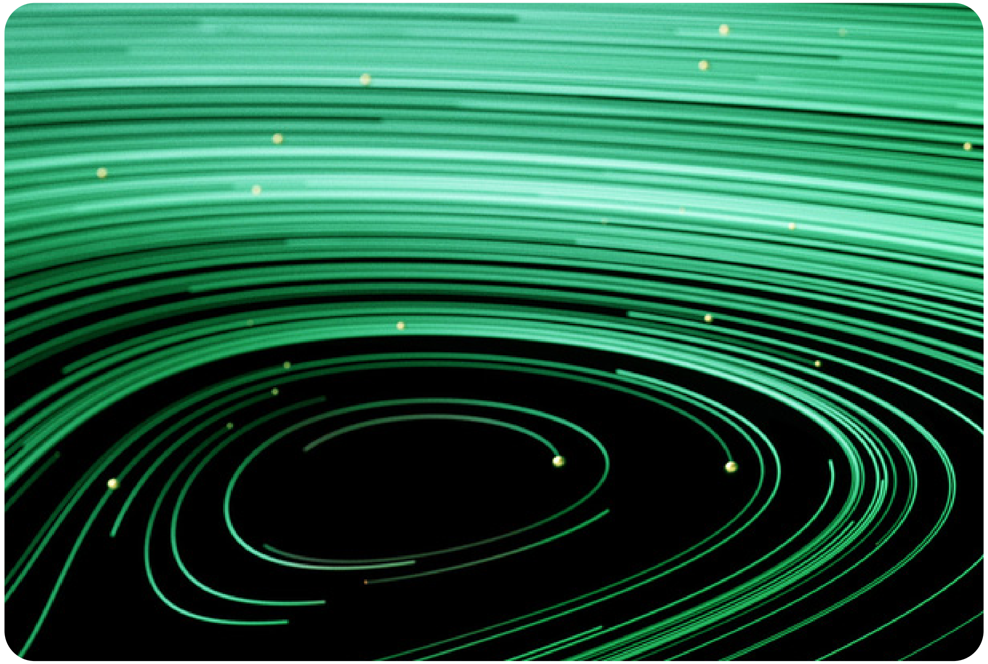
Commission adoption is currently planned for the first quarter of 2027, ahead of the statutory deadline of 14 August 2027 (midnight Brussels time).

Modern slavery

Publication of the guidelines on the regulation on forced labour and launch of the portal dedicated to forced labour.

On 26 June 2026, the European Commission adopted its Guidelines on the application of Regulation (EU) 2024/3015 and launched the dedicated Forced Labour Single Portal. The Forced Labour Regulation will apply from 14 December 2027, and prohibits products made wholly or partly with forced labour from being placed or made available on the EU market or exported from it. Its scope covers all products and sectors, irrespective of origin or quantity, and applies to economic operators of all sizes.

The guidelines clarify the regulation's scope, the risk-based investigation process, enforcement and penalties, as well as the information authorities may request from businesses. While the regulation does not prescribe a mandatory due diligence process, the commission identifies risk-based due diligence as an important means of demonstrating compliance. Businesses should therefore review forced-labour policies, map higher-risk parts of their supply chains, organise supporting documentation and establish internal procedures for responding rapidly to information requests and enforcement decisions.



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