

Environmental Legislation Developments and Compliance

Overview Environmental law has been an accepted discipline of law since the 1960's, with the historical developments covering environmental impacts as a form nuisance rather than considering the direct impact on the environment. It is only recently that the focus has been expanded to consider the operations of less polluting industries with low risk activities. While resource mining, chemical and production industries shared the spotlight of environmental scrutiny in the past, the numerous organisations comprising office, service based industries now need to understand their obligations with regard to a new wave of increasingly stringent environmental legislation. Across the US, throughout Europe and within the UK, environmental legislation focused on reducing environmental impacts are now common place and require organisations to monitor and comply in an increasingly regulated and transparent environment.

Environmental Protection Act (1990) Within the UK, the most established piece of environmental legislation is the Duty of Care regulations. Forming part of the Environmental Protection Act (1990), all organisations must ensure that waste is appropriately stored, cannot escape from their operations, and disposed of via registered waste contractors with valid waste carrier licences. Additionally, they must maintain a record of its disposal, including a written description of the waste when it is transported to the waste disposal site.

In theory, this process is very simple and summarised by the production of a Waste Transfer Note (WTN) by the organisation producing the waste. Within the WTN, details including waste type, quantity, containment description, producer and disposal company details are all recorded to create a paper trail to illustrate that each organisation has dealt with their waste appropriately. In practice, however, it is common place for the waste disposal company to produce the WTN on behalf of the organisation as it is simpler for them to create a system in which all WTN's will be consistent and suitably detailed. Regardless of who creates the WTN, they must be produced for each waste consignment leaving the business operations as individual WTN's or as a 'season' ticket (12 month) for transfers of wastes that are consistently similar in description details. In order to evidence that an organisation has consistently complied with the Duty of Care regulations, all WTN must be retained for a minimum of 2 years

Hazardous Waste Regulations (2005) Another piece of supporting waste legislation within the UK is the Hazardous Waste Regulations (2005). Originally introduced as the Special Waste Regulations (1996), the scope of the Hazardous Waste Regulations expanded in 2005 to include a wider range of hazardous waste materials. These newly classified materials now feature on the European Waste Catalogue and include materials such as non-alkaline batteries,

computer screens, fluorescent tubes and refrigerants. Akin to the Duty of Care regulations, all organisations must ensure that any such wastes are disposed of in an environmentally sensitive manner. This is achieved by using only registered waste contractors with a valid waste management licence or an exempt waste carrier, such as a registered charity. When transferring any hazardous waste, all organisations must ensure that they supply a Waste Consignment Note (WCN) for all consignments being disposed of, detailing the organisations address, a description of the waste and details of everyone involved in moving the waste. While in practice it is sometimes the case that the company receiving the hazardous waste consignment will supply the WCN, it is normally the role of the producer to purchase the WCN form the Environment Agency, complete the details and supply a copy to the waste contractor while retaining a copy for a minimum of 3 years.

Waste Electrical and Electronic Equipment regulations (WEEE)

A more recent piece of legislation, to regulate the disposal of electrical and electronic equipment (EEE) is the Waste Electrical and Electronic Equipment regulations (WEEE). The primary focus of the WEEE regulations is to secure the recovery of EEE waste, placing the onus on producers of EEE to finance its recovery and processing, it provides a system for organisations to dispose of EEE in an environmentally secure manner. When an organisation purchases a similar product to that it wishes to dispose of, the WEEE regulations stipulates that the producer or the organisation selling the EEE must either take it back directly or supply a take back scheme within the locality of the organisation. While only EEE purchased after August 2005 are counted as part of the WEEE regulations, this can be amended under contractual arrangement with producers so that such 'historical' WEEE is processed on the same manner as current or so called 'future' WEEE. Analogous to the WEEE regulations, 12 states across the US are also undergoing a similar process to extend the responsibility to manufacturers to take responsibility for their products once they are ready for disposal. Under various pieces of state legislation, such as New Jersey's Electronic Waste Recycling Act, manufacturers pay for the collection and recycling of all electronic products they put onto the market.

Carbon Reduction Commitment

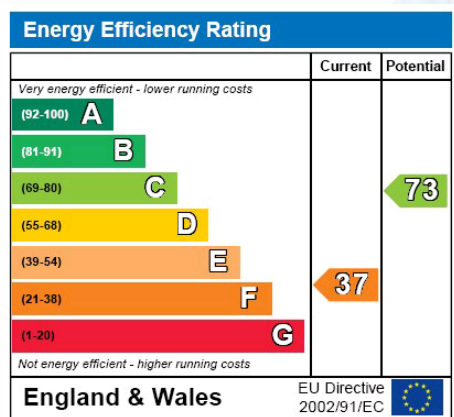
Although still being negotiated but forming part of the UK Governments 2007 Energy White Paper, the Carbon Reduction Commitment (CRC) is a proposed mandatory cap and trade scheme that will be aimed at all large non energy-intensive organisations in the public and private sectors. Its aim is to contribute to the UK Government's plan, mandated within the forth coming Climate Bill Act, to reduce annual CO2 emissions by 1.2 million tonnes per year in order to reach a target reduction of 60% by 2050, based on 1990 levels.

Although often criticised for its elevated targets, the CRC scheme will apply to organisations that have electricity consumption greater than 6,000 MWh per year. The organisations most likely to be affected by CRCs include hotel chains, supermarkets, banks, central government and large Local Authorities. Although CRC's will not become mandatory until 2010, the organisations falling below the EU Emission Trading Scheme (currently estimated to account for 10% of the UK's total emissions) must then self certify their carbon emissions, backed up by an auditing process. Thus, there is a clear imperative to reduce emissions now to avoid the

The Energy Performance of Buildings (Certificates and Inspections) (England and Wales) Regulations 2007

unwanted costs undoubtedly associated to CRC compliance.

In addition to energy taxation from use and the subsequent trading of GHG emissions, European wide environmental legislation has started to focus on the way we use energy within our daily operations and how we can standardise improvement. As of April 2008, all non-domestic buildings coming onto the market as new builds, lettings or building extensions, with a floor area over 10,000 m2, will require an Energy Performance Certificates (EPC). The aim this regulation is to create a market for greater levels of energy performance in buildings, providing consumers with an incentive to choose buildings based on their environmental performance as well as other considerations. While EPC have yet to be realised, they are likely to resemble the Energy Performance Certificates from domestic buildings stocks, as can be seen below.



The energy efficiency rating is a measure of the overall efficiency of a home. The higher the rating the more energy efficient the home is and the lower the fuel bills will be.

Over the course of 2008, the regulations will become increasingly rigorous, and require non-domestic buildings with a floor area above 1000 m2 to require EPCs.