Regulatory Outlook

Welcome to our new year edition of the Regulatory Outlook featuring important forthcoming regulatory developments in 2025, together with an interactive timeline illustrating key dates to be aware of, across all 19 areas that we cover.

Hot topics for the coming year include artificial intelligence, digital regulation and ESG.

January 2025

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Advertising and marketing

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Advertising and AI

AI as a marketing term

The Advertising Standards Authority (ASA) published a report in November 2024, setting out current trends in the use of "AI" in marketing, as well as some top tips for marketers.

The ASA said that, when making claims that a product has or uses AI, to avoid misleading consumers, advertisers should not:

- claim that a product uses AI or has AI features, if it does not;
- exaggerate the functionality of any AI products or features; and
- claim that an AI product does something better than a non-AI product, without supporting evidence.

See this Regulatory Outlook for more information.

Over the next 6-12 months, the ASA will continue to monitor ads in this area and it will produce more guidance and actions if necessary. Businesses need to make sure they comply with the ASA's guidance on AI as well as the advertising codes when making claims about AI.

AI regulation

The ASA says that AI is changing the way it regulates. The regulator's Active Ad Monitoring system already proactively scans over three million ads monthly, and it is collaborating with industry to expand the amount of data its AI system has access to. In 2025, it is aiming for 20% of rulings to be AI-generated, though all final decisions will still involve human review.

This showcases the ASA's commitment to integrating AI and machine learning into the centre of its regulation. Businesses should stay attentive to the ASA's proactive stance as well as keep up with any legal and regulatory changes affecting their marketing practices.

DMCCA and advertising

The Digital Markets, Competition and Consumers Act 2024 (DMCCA), which brings significant reform to UK consumer law, will revoke and restate the Consumer Protection From Unfair Trading Regulations 2008 (CPRs). The relevant unfair commercial practices (UCP) provisions are in Chapter 1 of Part 4 of the DMCCA.

Since most of the rules on misleading advertising in the advertising codes derive from or are compatible with the CPRs, the Committee of Advertising Practice (CAP) and the Broadcast Committee of Advertising Practice (BCAP) have amended them to align with the DMCCA. For example, advertising rules that reflect prohibited practices that are unfair in all circumstances, such as "drip pricing", now state that marketing communications "must not" engage in the practice, rather than referring to misleading the consumer. For marketing communications that quote prices for advertised products, omitting material information includes omitting the total price of the product.

The changes are open for consultation until 5 February 2025. The UCP provisions are currently expected to come into force in April 2025, and the Competition and Markets Authority's strengthened enforcement powers are expected to become effective this spring. Businesses therefore need to start bringing their practices into compliance now.

See our Insight for more recent DMCCA updates, including more details on fake reviews, drip pricing and a new subscription regime.

Adtech and use of cookies

The Information Commissioner's Office's (ICO) work to crack down on the misuse of cookies in advertising, dating back to 2023, is ongoing. The ICO is currently consulting on draft updated guidance on storage and access technologies (previously known as the "detailed cookies guidance"). The consultation is open until 14 March 2025.

Advertising and marketing

In September 2024, the ICO reprimanded Sky Betting and Gaming for unlawfully processing people's personal data and sharing it with advertising technology companies before users were asked for consent. See this Regulatory Outlook for more information.

See the Data Law section for more information.

HFSS

Last year, the government confirmed that it will bring forward advertising restrictions for "less healthy" food and drink products, and published the relevant secondary legislation. The ban will come into force from 1 October 2025.

The regulations provide for:

- A 21:00 watershed on the advertising of less healthy food or drink products on broadcast TV services that are regulated by Ofcom (which means the service is listed in electronic programme guides), including all Ofcom-regulated on-demand programme services (ODPS) and internet protocol television (IPTV) services that deliver TV services and advertising live (as opposed to on demand) over the internet.

- A total ban on paid-for advertising of less healthy food or drink online, including non-Ofcom regulated ODPS and IPTV.

The government also confirmed that:

- Ofcom-regulated IPTV services will be subject to the broadcast restrictions only and not the online prohibitions.

- Unregulated IPTV services will continue to be subject to the online prohibitions.

- Where an identical service, including in relation to ads, is available on both Ofcom-regulated and unregulated platforms, the service on the unregulated platform will be exempt from the online prohibitions to prevent double regulation.

See our Insight for more information, including on which products are in scope.

Additionally, businesses operating in England should also be aware that the restrictions on volume price promotions (such as "buy one, get one free" and "get three for the price of two") of HFSS products are also due to come into force in October 2025.

Tobacco and vapes

Tobacco and Vapes Bill

The UK Tobacco and Vapes Bill, introduced to Parliament in November 2024, contains various provisions relating to the sale and distribution of tobacco products and vapes, including a ban on selling vaping or nicotine products to under 18s. The bill prohibits the publication, design, printing and distribution of advertisements for a range of relevant products. See this Regulatory Outlook for background. The bill has entered the committee stage where it will be scrutinised by parliamentarians in detail. We will provide further updates on the bill as it progresses through Parliament.

ASA focus on vapes appealing to children

Since June 2023, the ASA has been looking into the issue of vaping ads targeted at or likely to appeal to under 18s, particularly on social media, where they are prohibited. Having engaged with platforms displaying vaping ads, and having taken action against non-compliant businesses and individuals (for example, by having social media accounts removed), the ASA ended its formal co-ordinated response last year.

However, the ASA will continue routine checks and compliance action in this area and it has further enforcement action in the pipeline.

The government has pledged to create a "smoke-free generation". Businesses need to follow any regulatory updates relating to the advertising and marketing of tobacco and vapes products as this promises to be one of the government's focuses this year. The ASA also continues to monitor this area.

Advertising and marketing

Dynamic pricing

See Consumer section.

EU Digital Fairness Act

See Consumer section.

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Artificial Intelligence

Artificial Intelligence

UK's AI Safety bill

A key event this year should be the arrival of the UK's first artificial intelligence (AI) legislation, signalling a shift in approach from the Labour government towards AI regulation. It contrasts with that of the previous government, which did not intend to legislate specifically on AI, preferring to rely on various existing regulations and regulators, such as the Information Commissioner's Office (ICO) and the Competition and Markets Authority (CMA).

The new government has indicated that its focus will be on AI safety, in particular the development of the most powerful cutting edge AI models (often known as "frontier models") including a requirement for developers to share these AI models for testing before they are publicly released. The anticipated AI bill is expected to put existing voluntary commitments signed by some of the leading AI companies onto a statutory footing, as well as related measures such as moving the UK's existing AI Safety Institute (which would conduct model testing) onto an arm's length footing from the government.

Timing is unclear: in autumn 2024, government sources indicated its intention to consult on the matter, creating expectations that it would be treated as priority. The consultation has yet to materialise, but is expected to be in fairly early in 2025.

The government hopes that the new law will "reduce regulatory uncertainty for AI developers, strengthen public trust and boost business confidence." It is intended to tie in with other government measures on AI, including proposed changes to copyright law (see item below) and the depsotiAI Opportunities Action Plan.

The much anticipated AI Opportunities Action Plan, led by Matt Clifford, was released on 13 January 2025. The report outlines 50 recommendations for the government built upon core principles that advocate for the government to support innovators, invest in becoming a leading AI customer, attract global talent to establish companies in the UK, and leverage the UK's strengths and emerging catalytic areas. The report highlights the crucial importance of data in underpinning AI development. It urges the government to act quickly to announce how it plans to regulate frontier AI models, and to urgently reform UK intellectual property law on text and data mining.

The government has said that it endorses the plan and will "take forward" its proposals.

It is notable that the government is proposing to confine its AI-specific legislation to affect only what it anticipates will be a handful of leading AI companies, those "developing the most powerful AI models of tomorrow". This differs markedly from the position of the EU, whose AI Act (see below) affects a wider range of businesses. Developers and deployers of AI systems will watch developments keenly, but for the moment, it appears likely that the EU, having attained first mover advantage with its more comprehensive AI Act, will continue to call the shots on AI regulation for many organisations.

AI and intellectual property law

In December 2024, the UK government published a consultation paper on changes and clarifications to copyright law, aimed at making the UK more attractive to the tech companies developing AI models, but balancing this with supporting the creative industries upon whose data many AI systems are trained.

The main proposal is an "opt-out" text and data mining (TDM) copyright exception allowing use of content for training AI systems unless the owner has expressly opted out of allowing that use. This new exception would apply only where the user already had lawful access to the content such as via a paid for subscription service, or where it had been made freely available online.

The government has said that it will introduce the TDM exception only if accompanied by transparency measures, probably in the form of obligations on AI developers to disclose details of:

- the copyright content and datasets used in training the AI systems;
- web crawlers used to obtain the training data; and
- measures taken to ensure compliance with opt-out expressions

together with supporting measures such as record-keeping requirements.

Another key proposal is the removal of copyright protection for computer-generated works. Other changes are floated, such as obligations to label so-called deepfakes (or "digital replicas") and other AI-generated or AI-manipulated content. The consultation is open until **25 February 2025**, and it will be interesting to see which of the government's proposals are ultimately taken forward and how quickly any resulting changes to copyright law will be implemented. For more information see our Insight.

The interplay between AI and IP will also be considered by the English courts when the well-known *Getty Images v Stability AI* case comes to trial in June/July 2025. This case relates to the alleged use of Getty's image library by Stability AI to train its Stable Diffusion text-to-image model and concerns alleged infringements of copyright, database right and trade mark infringement.

The patentability of AI inventions will be on the UK Supreme Court's agenda this year when it hears an appeal on the *Emotional Perception* patent case. The Court of Appeal has held that inventions involving artificial neural networks should be treated in the same way as any other computer implemented inventions and, therefore, they must make a technical contribution in order to be patentable. Will the Supreme Court take the same approach? This is an eagerly anticipated decision and should bring clarity to the issue.

See this Insight for more on what 2025 holds for the interplay of AI and intellectual property.

Generative AI and data protection

The ICO has set out its analysis, views and current expectations on how specific areas of data protection law apply to generative AI systems, in a response to its five-part consultation series published in December 2024. Pending updated formal guidance, businesses can now review the ICO's position, which clarifies its regulatory expectations on generative AI. However the ICO also highlights that businesses still need to consider its existing core guidance on AI and data protection.

After changes to data protection law are made by the Data (Use and Access) Bill, once finalised (see Data section), the ICO intends to update its guidance to take account of the advent of generative AI. The ICO will also tailor its final position to align with its upcoming joint statement on foundation models with the CMA. See also this Regulatory Outlook.

Businesses based in the EU, or who are otherwise subject to the EU General Data Protection Regulation will also need to take account of the European Data Protection Board's (EDPB's) recently issued opinion on the processing of personal data in the context of AI models, which looks at issues including:

- when an AI model will be considered anonymous;
- legitimate interest as a legal basis for the training or use of AI models; and
- whether the data protection regime catches the deployment (as opposed to the development) of AI models trained with unlawfully processed personal data.

See Data section for more.

EU AI Act

The EU AI Act entered into force on 1 August 2024, and its provisions will be applicable progressively over the next few years. Things to look out for in 2025 include:

- Prohibitions on certain categories of AI practices, which will be banned outright from **2 February 2025**. These provisions relate to a list of AI applications which are considered to pose such a significant risk to health and safety or fundamental rights that they should be banned. The general provisions of the AI Act, dealing with scope and definitions, will also apply from this date.

- Provisions on general-purpose AI models, which will cover foundation models, including those underpinning many generative AI models, will be applicable from **2 August 2025**, as well as the notification, governance, penalties and confidentiality provisions.

- Publication of the general-purpose AI Code of Practice, currently in draft, is expected to be finalised by **May 2025**. See this Regulatory Outlook for details of the first draft of the code, and this Regulatory Outlook for an outline of the drafting process.

Artificial Intelligence

- Guidance from the EU AI Office, which is expected to publish compliance information on some aspects of the AI Act in 2025. This should include its views on the scope of prohibited AI practices, and the definition of "AI system", following the consultation on these questions which took place before Christmas 2024.

See our Insight for more on the compliance deadlines.

The EU AI Act is of relevant for a range of players in the AI ecosystem, covering not only organisations which develop AI models and systems, but also those using them or providing them to others. The Act applies not only to AI creators and users based in the EU, but has extra-territorial reach, so that in some case it may catch entities based outside the EU, such as those based in the UK who provide AI systems to users in the EU.

Organisations that breach the prohibition provisions risk significant fines, of up to the higher of seven per cent of worldwide turnover or €35 million. Breaching the general-purpose AI provisions could lead to fines of up to the higher of three per cent of worldwide turnover or €15 million. It remains to be seen whether the regulators will take a relatively gentle approach to enforcement initially, or will look to make an early show of taking action, particularly in respect of more egregious or high-profile instances of non-compliance.

Business intending to develop or deploy AI systems who do not already have AI Act compliance programmes underway should consider whether to do so, and those with existing programmes should keep a close eye out this year for guidance which is expected from relevant regulatory authorities.

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Bribery, fraud and anti-money laundering

Bribery, fraud and anti-money laundering

Failure to prevent fraud

As previously reported, the government has now published the statutory guidance on failure to prevent fraud offence, introduced in the Economic Crime and Corporate Transparency Act (ECCTA) 2023.

Relevant organisations should now use the implementation period to review existing fraud prevention measures, update risk assessments and training, to ensure they have reasonable procedures in place to prevent fraud before the offence comes into force on 1 September 2025.

For further information, see our Insight and register for our upcoming "Future of Financial Services Week" webinar where our experts will discuss the recent AML consultations, the failure to prevent fraud guidance and what we can expect going forward.

FCA consultation on publicising enforcement investigations

The Financial Conduct Authority (FCA) published Consultation Paper 24/2, Part 2: Greater transparency of our enforcement investigations, the second part of its consultation on proposals to update the agency's approach to enforcement investigations.

In February 2024, the FCA consulted on its proposals make amendments to streamline its enforcement process, including announcing investigations as they start, or while they are ongoing, where it is "in the public interest" to do so.

The FCA has now launched a further consultation after the industry raised concerns in response to its original proposals (see Osborne Clarke's response to the consultation), with the following four "significant changes":

- The impact of an announcement on the relevant firm will now form part of its public interest test and be central to the FCA's consideration of whether to announce an investigation and name a firm.
- The potential for an announcement to seriously disrupt public confidence in the financial system or market will be an additional factor in the public interest test.
- Firms will be given ten business days' notice before an announcement is made to make representations and decide whether to make an announcement themselves, with a further two days' notice if the FCA decides to make an announcement.
- The FCA will not make announcements of investigations that are ongoing when the proposals come into effect, although it may confirm where investigations are ongoing which are already in the public domain and in the public interest.

The consultation closes on 17 February 2025. The board expects to come to a decision on the proposals in the first quarter of 2025.

Increased funding for SFO in crackdown on fraud

Following the Autumn Budget 2024, the government announced that the Serious Fraud Office (SFO) will receive an additional £9.3 million of funding to support the SFO's role in tackling complex cases of corporate fraud, bribery and corruption.

The additional funding will be used to create a new asset confiscation enforcement team and provide upgrades to the SFO's disclosure technology and case management system.

Nick Ephgrave, director of the SFO said: "I welcome the continuing support for the SFO's strategic ambitions, as we seek to deliver swifter justice for victims of complex economic crime. This investment will strengthen our capacity to recover criminal assets, manage our cases, and help us further explore machine learning technology to tackle the huge disclosure exercises on our cases."

Bribery, fraud and anti-money laundering

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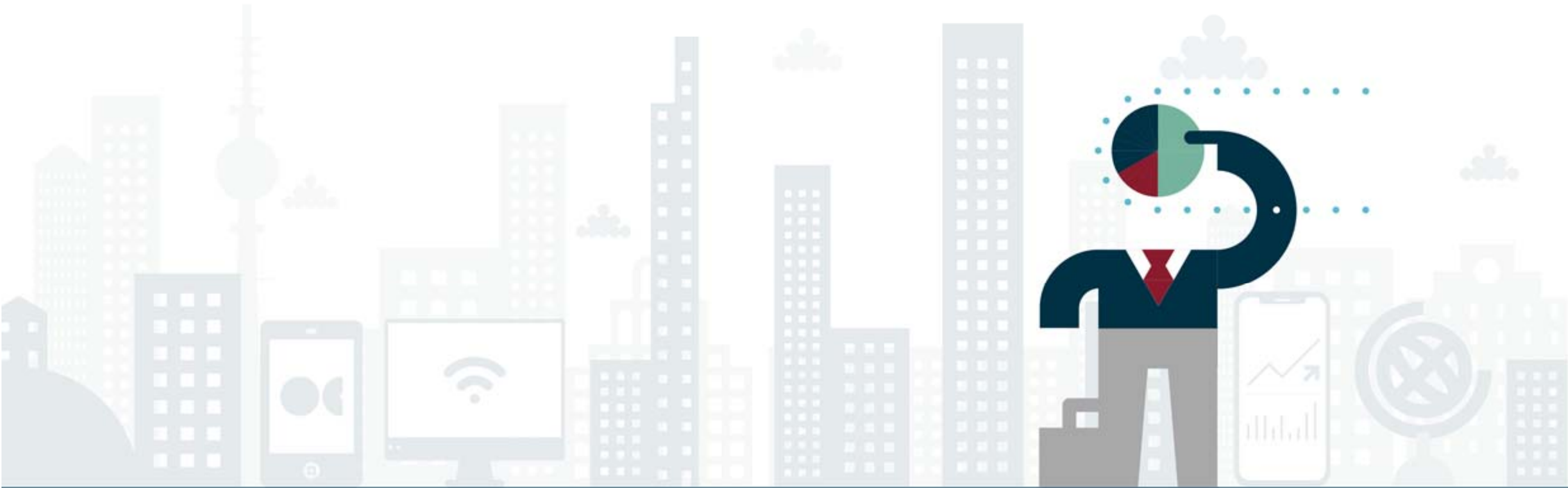

Competition

Competition

The Digital Market Competition and Consumer Act

The digital market and competition aspects of the Digital Market Competition and Consumer Act (DMCCA) came into force on 1 January 2025. The DMCCA introduces a number of changes to the competition regime as well as creating a new digital markets regime.

For a full list of these changes, please see our previous Insight. Note that the consumer changes are likely to come into law at a later date, but the Competition and Markets Authority (CMA) is already consulting on guidance on its new powers (see our Insight).

Businesses should anticipate that a newly empowered CMA will be active in respect of its competition, markets and merger powers and now is a good time to think about internal compliance and dawn raid policies and training – see below for the CMA's likely priority areas.

While its digital markets powers have perhaps been most hotly anticipated, it may take some time for the CMA's new powers to take practical effect – we can expect initial "strategic market status" (SMS) designation investigations to commence swiftly once the CMA has its new powers (with mobile ecosystems, search and digital advertising tipped to be priorities).

Each of these investigations is likely to take nine months and the CMA may also face legal challenges (including litigation) as it seeks to designate large tech companies and impose new codes of conduct. While the CMA will have greater interventionist powers to regulate SMS companies, we expect these "pro-competition interventions" to experience a further period of lag, while the CMA flexes other powers first.

For non-SMS companies, they can expect the CMA to seek out views on designation and codes of conduct as it looks to understand a wide range of digital markets. With tougher powers to compel responses to requests for information – and extraterritorial powers that may place additional burdens on UK companies part of a global group – this may place a regulatory burden on businesses far beyond those considered to have SMS. We would recommend that legal teams consider how they will resource and project manage requests for information, before they start to land in 2025.

Procurement

The Procurement Act is due to come into force on 24 February 2025. Please see the Regulated procurement section for a more in-depth update. To coincide with the new Act, the government has published regulations that will come into force on the same date allowing the CMA and other regulators to share specified information with contracting authorities and the procurement review unit in relation to the exclusion of suppliers for infringements or potential infringements of competition law.

When coupled with the CMA's recently announced investigation into bid rigging in school construction contracts, it is clear that the CMA intends to maintain a substantial focus on anticompetitive conduct in public procurement procedures in 2025.

CMA's focus for the next year

In the upcoming year, the CMA will continue to drive growth, deter anti-competitive conduct and keep markets contestable. According to CMA chief executive, Sarah Cardell, (in her speech at the Chatham House Competition Policy 2024 conference) and CMA interim executive director for competition enforcement, Juliette Enser, (in a speech at King's College London) the CMA will focus on several key areas to support the UK's economic growth and prosperity.

Driving growth: The CMA will prioritise competition as a core component of the government's industrial strategy. This includes removing perceived barriers that stifle innovation and investment, particularly in the tech sector, through the new Digital Markets, Competition and Consumers Act (DMCCA).

Deterring anti-competitive conduct: The CMA will enhance its enforcement activities to deter harmful anti-competitive behaviour. This includes imposing punitive fines and disqualifying company directors involved in wrongdoing. The CMA aims to amplify the deterrent impact of its enforcement actions by preventing further harmful behaviour and ensuring fair competition.

Competition

Review of merger remedies: A significant focus will be on reviewing the approach to merger remedies. This review is anticipated to launch in the new year. The review will cover when behavioural remedies may be appropriate (including at the end of Phase I), the scope for remedies that lock in rivalry-enhancing efficiencies and the role of remedies in preserving customer benefits. This aims to ensure that merger reviews are fair, consistent and proportionate.

External engagement and reporting: The CMA will further enhance its engagement with the business, investment and start-up communities. This includes launching a new outreach series for investors and start-ups and reporting annually on the impact of its work on economic growth.

Overall, the CMA is committed to evolving its processes to support growth, build stakeholder confidence and deliver outcomes at pace, while remaining true to its statutory purpose.

Review of subsidy control regime

The UK government is conducting a consultation into refining its subsidy control regime, focusing on two main areas: thresholds for mandatory referral to the CMA and new streamlined routes for subsidy delivery.

Adjusting thresholds for mandatory referral to the CMA:

- Subsidies of particular interest (SSoPI): Reviewing the current threshold of £10 million for mandatory referral to the CMA.
- Sensitive sectors: Considering revisions to the list of sensitive sectors and the associated £5 million threshold for mandatory referral.
- Subsidies of interest (SSoI): Evaluating the suitability of the current voluntary referral threshold for subsidies between £5 million and £10 million.

Creating new streamlined routes for subsidy delivery: Potential new streamlined routes – exploring new routes focused on community regeneration and arts and culture, and seeking feedback on other potential areas.

The consultation also addresses the potential impacts of these changes on persons with protected characteristics under the Public Sector Equality Duty (PSED) and considers environmental effects in line with the Environment Act 2021.

Responses to the consultation, which closes on 21 January 2025, will help shape the future of the UK's subsidy control regime, ensuring it remains effective and responsive to economic needs while safeguarding competition and addressing social and environmental considerations.

National Security and Investment Act

On 5 December, Jacqui Ward, director of the investment security unit in the Cabinet Office, stated that "consistency, stability, continuity" was the headline message of the Labour approach to the NSIA. She added that it is important to keep the legislation under review and that an update on the impact of the notifiable acquisition regulations will be provided "shortly".

While it was expected that the new government would tinker with the NSIA regime, this update unfortunately gives business little insight into its plans going into 2025.

Employment and competition

The CMA is investigating possible anti-competitive behaviour by several international fragrance companies, including Firmenich, Givaudan, and International Flavours & Fragrances. This investigation, which began in March 2023, was expanded in January 2024 to look into whether these companies have been unfairly coordinating their hiring practices. The CMA is examining if these companies made reciprocal arrangements about hiring certain staff. The investigation is ongoing, with updates expected in April 2025.

Competition

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Consumer law

Consumer law

Digital Markets, Competition and Consumers Act: the year to comply

The Digital Markets Competition and Consumers Act 2024 (DMCCA), which became law in May 2024, is set to overhaul UK consumer law – our Insight explains the main changes.

The government and the Competition and Markets Authority (CMA) have started the implementation process with consultations on paid subscription contracts, the unfair commercial practices provisions in the DMCCA, and the dual enforcement regime. In 2025, we will see secondary legislation bringing some of the new consumer protection regime into effect.

The paid subscription regime is not expected to come into effect until spring 2026. See our Insight for more information on these consultations.

Now is the time for businesses to start complying with the new legislation to avoid the more stringent enforcement regime as well as any reputational damage due to non-compliance.

Dynamic pricing and secondary ticketing

Following the problems that arose last year as a result of Ticketmaster's sale of Oasis tickets for the band's upcoming reunion concert, the CMA launched an investigation into Ticketmaster, as well as a separate project to consider "dynamic pricing". We can expect more on this from the CMA during 2025, including a call for evidence. See this Regulatory Outlook for details.

In the meantime, the government has begun the year by launching a consultation on the secondary ticketing market, as well as a call for evidence on "dynamic pricing" in the live events sector. Its election manifesto included a commitment to improve consumer protection in relation to ticket resales.

The government wants to ensure that fans are protected from misleading or harmful practices, have better access to live events, are not forced to buy tickets from ticket touts who purchase multiple tickets and sell them at highly inflated prices (often resulting in fans being priced out of the market entirely), and are able to resell tickets to other fans when they cannot attend an event. It also wants to protect the live events sector by ensuring that the profits that often end up in the pockets of the ticket touts go to the sector instead.

Through the consultation, the government hopes to understand better the hurdles faced by primary vendors, secondary platforms and enforcers seeking to prevent ticketing scams, as well as the extent to which online platforms are shaping consumers' ticket-buying decisions.

The government is also seeking views on various proposals, including:

- Introducing a cap on ticket resale prices, which would be no more than the original price or a certain percentage above it, and limiting the number of tickets an individual can resell to the amount they were originally allowed to purchase.
- Increasing accountability for ticket resale websites and apps, for example by requiring them to verify ticket ownership before listing it for resale and providing consumer refunds.
- Strengthening enforcement by raising the potential level of fines and introducing a licensing system for resale platforms.
- Expanding safeguards in the primary ticket market.

Some of these proposals may seem familiar as they were in fact first raised during the passage of the Digital Markets, Competition and Consumers bill through Parliament last year, but rejected by the previous government.

The government currently has no preferred approach on which proposals to introduce, although it is committed to introducing new consumer protection rules in this area in some form. The outcome of the consultation will inform the measures to be adopted.

The government has also launched a call for evidence on pricing practices in the live events sector. It is seeking evidence on how ticket pricing practices, including dynamic pricing (when prices are quickly adjusted to match demand), work in the live events sector, the impact of current practices on consumers, and whether the current consumer framework needs to be modified to ensure fairness for consumers.

The consultation and the call for evidence both close on **4 April 2025**.

Consumer law

Amendments to Price Marking Order in force from October 2025

The Price Marking (Amendment) Order 2024 will amend the UK Price Marking Order 2004, which sets out the pricing information that a trader, whether online or offline, must include on price labels for the goods it is selling. See this Regulatory Outlook for details of the changes.

By the time the amendment order comes into force on 1 October 2025, the CMA's strengthened consumer enforcement powers under the DMCCA should be in force (see above). Businesses should therefore be prepared for the new rules to ensure compliance by October this year.

EU Digital Fairness Act

In October 2024, the European Commission published its long-awaited "fitness check" of EU consumer law (see our Insight), which found that the EU consumer law framework needs to be adapted if it is to provide a high level of consumer protection online. One possible outcome, which has been widely talked about, is a new Digital Fairness Act. This would in theory address some of the problematic practices identified in the fitness check, such as dark patterns, addictive design, social media influencer marketing and content personalisation issues.

However, no proposal from the Commission has yet materialised and it has been reported that it should not be expected in 2025 either. The Commission has indicated that there will be a call for evidence or public consultation in 2025 on a potential new Act, and an impact assessment of specific policy options will be developed.

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Cyber-security

Cyber-security

NCSC Annual Review

The National Cyber Security Centre (NCSC) published its annual review of the key developments and highlights between 1 September 2023 and 31 August 2024. Among other things, key takeaways from the report include:

- In 2024, there was an increase in both the frequency and severity of cyber incidents. The agency dealt with 430 incidents that needed its assistance, up from 371 the previous year. The sectors with the highest reported ransomware activity to the NCSC included academia, manufacturing, IT, legal, charities and construction.
- Ransomware was identified as the most widespread and disruptive cyber threat to UK organisations. The report highlighted the significant impact of supply chain attacks on critical national infrastructure on a substantial proportion of the UK population.
- Collaborating with government and private organisations, including the ICO, as well as the legal and insurance sectors, to create joint guidance on "ransom discipline" with the goal of reducing the number of ransomware payments made by victims. The guidance has since been internationalised through the Counter Ransomware Initiative.
- Nation-state threat actors and cyber criminals are increasingly leveraging artificial intelligence to amplify the volume and impact of cyber attacks.

It is anticipated that the UK will focus on helping organisations improve their cyber capabilities to better defend against cyber attacks. In his first major speech as head of the NCSC, Richard Horne emphasised the need for organisations to collectively boost resilience against increasingly sophisticated cyber risks.

Horne called on public and private organisations to "see cyber security as both an essential foundation for their operations and a driver for growth", and to encourage the technology market to take a "secure-by-design" approach. Upcoming legislation and regulation, such as the new Cyber Security and Resilience Bill, will also form an important part of strengthening the country's cyber defences. This bill aims to expand the reach of current cyber security regulations by incorporating additional services and supply chains.

EU Commission calls on 23 Member States to complete NIS2 transposition

The implementation deadline for the revised NIS2 Directive, which brings new sectors and digital services into scope of the cyber security regulation, passed on 17 October 2024.

The European Commission opened infringement procedures against the remaining 23 Member States who have yet to complete transposition of the NIS2 Directive into national laws. A letter of formal notice was sent to the remaining Member States which failed to meet the 17 October 2024 deadline. They have two months from receipt of the letter to respond and to complete their transition and notify their measures to the Commission.

Organisations should now assess if they are likely to fall within the scope of NIS2 and prepare in advance to meet the new obligations.

Cyber Resilience Act enters into force

The Cyber Resilience Act (CRA) came into force on 10 December 2024. As previously reported, the CRA introduces strict cybersecurity requirements for products with digital elements, such as connected home devices. Potential fines for non-compliance with the CRA are up to €15m or 2.5% of the worldwide annual turnover.

The CRA has a 36-month transition period, meaning manufacturers will have to place products that comply with the new obligations on the EU market by 11 December 2027.

Track the Act on our Digital Regulatory Timeline.

ESAs issue statement on DORA implementation

The European Supervisory Authorities (ESAs) issued a statement on the application of the Digital Operational Resilience Act (DORA). The ESAs called on financial entities and ICT third-party service providers to ensure they are ready to comply with the DORA and its associated technical standards and guidelines from its application date on 17 January 2025.

Cyber-security

The ESAs also invite ICT third-party service providers that meet the criticality criteria published in May 2024 to assess their operational set-up against the DORA requirements. The first designation of critical ICT third-party service providers is expected to take place in the second half of 2025.

Track the progress of the Act on our Digital Regulatory Timeline.

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Data law

Data law

Data (Use and Access) Bill

The much-anticipated draft data legislation, the UK's Data (Use and Access) Bill (DUA bill), introduced in October 2024, is currently progressing through Parliament. In the House of Lords, it has navigated the second reading and committee stages, and is scheduled to enter the Report stage - a further chance to closely scrutinise and make changes - on 21 January. After that, the amended bill will make its way through equivalent stages in the House of Commons, and is likely to become law in 2025.

The DUA bill is about a lot more than data protection. It is, fundamentally, about making better use of data across many sectors of the UK economy; be that energy, telecoms, infrastructure, health and social care or financial services. It does that, for example, by creating a framework for smart data schemes (similar to the open banking regime), which will then be introduced via secondary legislation across relevant sectors (such as energy or telecoms); by introducing a certification framework for digital identity verification systems; and by specific targeted reforms to UK data protection laws. It also includes a reform to the Information Commissioner's Office's (ICO) structure and powers.

It is a wide-ranging bill, with many intricate provisions, much of it amending existing legislation or setting up frameworks to be fleshed out later in secondary legislation. There are plenty of areas of controversy, with significant debate expected on provisions such as those easing restrictions on automated decisions making (which has implications for the use of some artificial intelligence (AI) systems). Several aspects of the DUA bill are likely to impact on organisations' data privacy compliance regimes. In particular, those who do business in EU countries will need to consider whether they can in practice take advantage of any easing in restrictions, or whether it will be easier to have one common approach which is compliant both with the DUA bill's provisions and the EU General Data Protection Regulation.

The DUA bill will be particularly interesting for sectors such as network and utility providers, science and statistical research teams, financial services, IT, telecoms, and healthcare system providers, as well as social media platforms and other digital service providers. However, some provisions, such as the changes to data protection law and cookie consents, are relevant to almost all organisations. Affected businesses should keep an eye on the bill as it moves forward, consider its potential impact on them, and ensure that compliance documentation, projects and contracts which might be affected are flexible enough to take account of its development.

See our Insight exploring the DUA bill (as first published) in more detail. See here for a copy of the bill in its current draft.

ICO priorities

Artificial intelligence

AI is a key priority for the ICO due to the technology's potential to pose high risks to individuals' privacy if it is not developed and used in a responsible way. The ICO believes that public trust in AI is extremely important and is focussing on several areas of AI:

fairness in AI;

- dark patterns;
- AI-as-a-service;
- AI and recommender systems;
- biometric data and biometric technologies; and
- privacy and confidentiality in explainable AI.

In December 2024, the ICO published a response to input it received in the course of its five-part consultation series on generative AI. The regulator set out its analysis, views and current expectations on how specific areas of data protection law apply to generative AI systems. See AI section for more information.

Organisations developing and/or deploying AI systems need to monitor the ICO's updates as well as follow its existing guidance as this is an important area for the regulator.

Children's data

The protection of children's data is another ongoing focus for the regulator. Last year, the ICO set out its 2024-2025 priorities for protecting children's personal information online as part of its children's code strategy. The ICO is particularly focused on social media and video-sharing platforms. The ICO outlined priority areas where further progress is needed, including:

- ensuring that children's profiles are **private by default**, and that geolocation settings are turned off by default;
- ensuring that **profiling children for targeted advertisements** is turned off by default unless there is a compelling reason to use profiling;
- the use of children's information in, and the design of, **recommender systems**, since algorithmically-generated content feeds can expose children to harmful content, as well as leading them to spend more time on a platform than they otherwise would, which in turn increases the probability of them giving away more personal information; and
- ensuring that parental consent is obtained for processing the personal data of children **under 13 years old**.

The ICO undertook a review of a sample of social media and video-sharing platforms, focusing on these priority areas, and specifically asked some of them to explain issues relating to default privacy settings, geolocation and age assurance. See this Regulatory Outlook for more information.

The ICO is dedicated to ensuring that the internet is a safe and privacy-friendly environment for children. A research report produced for the ICO shows that children often do not see entering personal information, posting updates, and interacting with algorithms as "data sharing" or consider their data rights. The ICO intends to provide further updates on its children's code strategy, and continue to engage with industry, so businesses need to make sure they follow the ICO's guidance in this area, and improve their practices where needed, as the regulator continues its drive to encourage compliance.

See also Digital Regulation.

Adtech and use of cookies

The ICO's work to crack down on misuse of cookies in advertising continues apace, with the regulator's recent actions and statements show its ongoing proactive approach to ensuring that organisations comply with data protection laws when using advertising cookies.

In 2023, the ICO asked 53 of 100 UK's top websites to make changes to their advertising cookie practices. The regulator was concerned that some websites did not give users fair choices over whether or not to be tracked for personalised advertising. The ICO also emphasised that it must be as easy to reject all non-essential cookies as to accept them. In January last year, the ICO confirmed that it had received a positive response to its call to action, and would be turning to the next 100 websites, and then the 100 after that. See this Regulatory Outlook for more details.

Further, in September 2024, the ICO reprimanded Sky Betting and Gaming for unlawfully processing people's cookie-derived personal data, and sharing it with advertising technology companies, before users had been asked for consent. See this Regulatory Outlook for more information.

The ICO's updated draft guidance on cookies and other tracking technologies was published on 20 December 2024, with a consultation running until 14 March 2025. It is notable that the updates to the existing guidance focus on areas such as online advertising, the wider range of tracking technologies beyond simply cookies, and on consent mechanisms We are also expecting to see the ICO's position on the cookie "consent or pay" business model during the course of this year.

While the ICO works to persuade organisations to change practices without the need for enforcement action and to set compliance expectations and standards, it is also prepared to apply the full range of regulatory powers to drive compliance.

The EU's regulators are also active in this space, for example:

- the European Data Protection Board (EDPB) recently adopted guidelines on the extent to which relevant provisions of the EU ePrivacy Directive (equivalent to provisions in the UK's Privacy and Electronic Communications Regulations 2003) apply to a wider range of tracking technologies than simply cookies;
- the EDPB also published an opinion on whether "consent or pay" models are compatible with the requirements for freely given consent to be required to use cookies and other tracking technologies; and
- the French regulator last month issued a formal notice reminding companies of cookie consent requirements, following the service of compliance orders on several website publishers. This was prompted by its investigation of multiple complaints about the use of "dark patterns" with cookie consent banners, aimed at making it less likely that users would reject cookies.

The ICO and EDPB approaches are in many respects similar, but are not identical. Businesses need to keep up to date with the approaches of the ICO, the EDPB and other relevant national regulators to this and other technology issues in order to stay compliant, avoid any enforcement action, and streamline their data privacy compliance and governance functions to take account of relevant regulatory regimes.

EDPB plans for 2025

The EDPB adopted its work programme for 2024-2025 in October 2024. This year we are expected to see various guidance and position papers from the EDPB, tackling issues such as cookie "consent or pay" models and the interplays between EU data protection law on the one hand, and the EU AI Act, the Digital Services Act and the Digital Markets Act on the other. See this Regulatory Outlook for more information.

In addition, we look forward to hearings, opinions and judgement in data cases from the EU Court of Justice (CJEU) and other EU courts over the course of 2025, including on areas such as:

- The appropriate legal basis for processing personal data where a transport provider collects a data subject's title (such as Mr or Mrs) for the purposes of that person buying a ticket (*Mousse* case, published 9 January 2025)
- Factors relevant when assessing whether a data processing authority can characterise a data subject's complaint as "excessive", and so refuse to deal with it, merely because a data subject has filed multiple complaints (*Österreichische Datenschutzbehörde* case, published 9 January 2025)
- Intermediary liability in EU GDPR compliance (Russmedia Digital and Inform Media Press, expected in February 2025)

EDPB opinion on AI models

The EDPB has (at the request of the Irish data protection regulator) issued an opinion on the processing of personal data in the context of AI models, which considers:

- how to assess and demonstrate (on a case by case basis) whether an AI model is anonymous, such that it would be considered not to involve personal data, including steps that can be taken during the model training phase of development;
- whether and how legitimate interest can be a legal basis for the training or use of AI models, including considering whether processing of the personal data is 'necessary' or whether there is a less intrusive way of pursuing the relevant legitimate interest; and
- whether the deployment of an AI model which has been trained with unlawfully processed personal data, but where the AI model itself is deemed to have been effectively anonymised, will be outside the scope of the data protection regime.

The EDPB's opinion is important for the major companies who develop their own large language models and other AI models trained on data which includes personal data, but it is also significant for many other organisations using such AI systems. For example, businesses incorporating these AI models into their own AI systems for internal deployment, or using them to provide services to third parties, should consider whether their risk and impact assessments properly assess the data privacy position, and whether the terms of contracts with suppliers and customers deal adequately with responsibility and liability for data privacy compliance in respect of AI model training.

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Digital regulation

Digital regulation

UK Online Safety Act 2023

This year we will see some of the Online Safety Act 2023 (OSA), designed to improve user safety in the online world, coming into effect. The OSA became law in October 2023 and, while some provisions are already in effect, compliance with the main duties on user-to-user and search services (to mitigate against illegal harms) will not kick in until March 2025. Other specific rules relating to the protection of children and the additional duties for categorised services are still awaiting the finalisation of Ofcom's codes of practice and regulatory guidance.

Marking a major milestone in the OSA's implementation, Ofcom's illegal harms codes of practice and guidance were published in December 2024. This signalled the start date for services to comply with the new rules on conducting illegal content risk assessments.

All in-scope services must complete their illegal content risk assessment, to evaluate the risk of harms to users resulting from the presence of illegal content on their service, by 16 March 2025. Subject to Parliamentary approval of the codes of practice, services will need to implement the recommended measures set out in these codes (or be using other effective measures to protect users from illegal content) by 17 March 2025**.**

Ofcom's updated online safety roadmap, including important dates for compliance, outlines its further plans for 2025. These include final children's access assessments guidance, coming in January 2025, draft guidance on protecting women and girls coming in February 2025 and additional protections for children from harmful content to be published in April 2025. See our Insight for further detail on implementation. Ofcom also intends to publish an additional consultation on further illegal content codes of practice measures in spring 2025.

In November 2024, the government published its draft Statement of Strategic Priorities for online safety setting out its focus areas that it expects Ofcom to have regard to. This is the first extensive official statement by the Labour government addressing the OSA, since it took office in July 2024, and it expects industry to adhere to it. See this Regulatory Outlook for more information.

Ofcom has also made it clear that it is ready to enforce the OSA. The risk of non-compliance is high, as the online safety regulator has the power to fine companies up to £18m or 10% of their qualifying worldwide revenue, whichever is greater and, in very serious cases, it can apply for a court order to block a site in the UK. Services therefore need to act now.

Key dates

January 2025 –Ofcom due to publish its final children's access assessments guidance; service providers will then have three months to complete their children's access assessment process.

16 March 2025 – by this date in-scope services need to complete an illegal content risk assessment to evaluate the risk of illegal content on their service.

17 March 2025 – from this date providers will need to implement the measures set out in Ofcom's illegal content codes (or be using other effective measures to protect users from illegal content).

April 2025 – Ofcom plans to publish its children's risk assessment guidance and the first version of its protection of children codes of practice. Services likely to be accessed by children then have three months to carry out a children's risk assessment.

June-July 2025 – Ofcom plans to publish its register of categorised services.

July 2025 – Ofcom's codes of practice on the protection of children are expected to come into force. Services likely to be accessed by children must comply with the child safety duties from this point.

UK Media Act 2024

The UK Media Act 2024 became law in May 2024, but most of its provisions depend on secondary legislation to become effective. Implementation is also dependent on action from Ofcom.

In February 2024, the regulator published a roadmap setting out its timelines for implementation of each part of the Act. A range of publications from Ofcom are expected in 2025, including, in Q1 2025, a consultation on modernisation of the public service broadcasting (PSB) framework and a consultation on the draft video-on-demand (VoD) services regime codes and guidance.

The Media Act 2024 (Commencement No. 1) Regulations 2024 were made in August 2024, marking the first step towards the PSB prominence framework and the "Tier 1" VoD services regime becoming effective. However, both need further codes, guidance and regulations before they will become fully operative. See our Insight for more details.

VoD services regime

In September 2024, the government pushed forward the commencement of the Tier 1 VoD regime by asking Ofcom to produce a report on the state of the UK VoD market, which the government must consider when formalising the Tier 1 service regime.

According to Ofcom's roadmap, the secretary of state is expected to designate the VoD services in scope of the new regime in the beginning of 2025, and Ofcom's final VoD code and guidance is anticipated towards autumn.

Availability and prominence regime

Under the Act, Ofcom is also obliged to provide a report to the secretary of state with recommendations on the designation of "television selection services" (TSS), a new online availability and prominence regime for PSBs' TV apps distributed on connected TV platforms. Under the regime, TSS that are designated by the secretary of state will have to ensure that Ofcom-designated PSB TV apps are available, prominent and easily accessible on the platform.

The regulator is now consulting on its statement on the principles and methods it will apply when preparing the report. The consultation closes on 5 February 2025. Ofcom plans to issue final statements by April 2025 and it is expected that decisions on designation will be made in the second half of 2025.

Ofcom must also consult on codes of practice on prominence and accessibility, as well as guidance on agreement objectives, which is expected towards the end of 2025. Designated TSS will not need to comply with the prominence and accessibility duties until the beginning of 2026.

On 14 November 2024, the Internet Television Equipment Regulations 2024 came into force, setting out the devices that are considered to be "internet television equipment" for the purposes of the prominence framework. See this Regulatory Outlook for more details.

Regulation of radio services

Part 5 of the Media Act, which regulates commercial radio, was brought into force via secondary legislation on 17 October 2024. See this Regulatory Outlook for more details.

Part 5 covers, among other things, local analogue commercial radio licences and their renewal. Previously, renewal was only available if the licence holder was also broadcasting a digital radio service on a "relevant" DAB multiplex. The Act introduces an additional, alternative statutory basis for licensees to apply for renewal if there is a "relevant" DAB multiplex available, but it is not "suitable" for their needs. Ofcom is now consulting on its approach to considering renewal applications under this new renewal route. Essentially, Ofcom is proposing that a "relevant" local or small-scale multiplex should be considered "unsuitable" in relation to an analogue services only if there is a substantial difference in the size of their coverage areas. The consultation closes on 5 February 2025.

Key dates

January-March 2025 – the secretary of state is expected to designate in-scope VoD services and Ofcom will consult on its VoD code of practice and guidance.

April-June 2025 – Ofcom will publish its final statements on PSB framework modernisation, following consultation.

April-June 2025 – Ofcom will publish its consultation on a draft code of practice and guidance on the Listed Events regime, having conducted a call for evidence at the beginning of 2025.

July-September 2025 – Ofcom will publish the final VoD code and guidance.

Digital regulation

Second half of 2025 – Ofcom will publish the lists of designated PSB TV apps and TSS.

October-December 2025 – Ofcom will consult on codes of practice on prominence and accessibility, as well as guidance on agreement objectives

October-December 2025 – Ofcom will consult on dispute resolution and enforcement under the availability and prominence regime.

Digital Markets, Competition and Consumers Act: the year to comply

Please see Consumer law.

EU Digital Fairness Act

Please see Consumer law.

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Employment, contingent workforce and immigration

Employment, contingent workforce and immigration

What is on the cards for employers in 2025?

2025 looks set to be an active period for employers. As well as continuing to take the necessary steps to comply with the new legal duty to prevent sexual harassment, which came into force in October 2024, employers will be keeping a careful watch on the progress of the Employment Reform Bill and the government's other proposals set out in its Next Steps paper which accompanied the publication of the bill.

Employment law reforms

The Employment Reform Bill was published in October 2024 and is currently going through the parliamentary committee stage before returning to the House of Commons this January. The government has already listed a number of amendments to the bill, including a new power which increases the time limit for bringing employment tribunal claim (listed in a new schedule to the bill) from three to six months, as well as publishing four consultations (which all closed in December) on specific aspects of the reforms proposed.

As well as the proposals in the bill, employers can also expect the new government to progress in parallel other reforms set out in its Next Steps paper, including the publication of the draft Equality (Race and Disability) Bill which will push forward proposals around equal pay rights and pay transparency and potentially a non-legally binding Code of Practice on a right to switch off. At the end of last year, the House of Commons Women and Equalities Committee launched an inquiry to examine options for reform of paternity and shared parental leave and is conducting a call for evidence which will last until 31 January 2025.

It is important to remember that these proposals are not yet law and the government has indicated that many of them will not come into force until 2026, with the reforms to unfair dismissal protection not becoming a day one right until autumn 2026. However, we are anticipating a number of further consultations on the proposals to be published in 2025, alongside a number of wider reviews, for example, on collective redundancies, TUPE and health and safety.

You can track the status of the government's employment law reforms and actions to consider on our dedicated microsite.

On 16 January, we will be holding our "looking ahead" webinar at which our employment lawyers Emma Wills Davies and Nicholas Haywood will discuss some of the key features of the employment law reforms being progressed by the new government, with a specific focus on bringing your workforce back to the office, protecting staff from sexual harassment and managing increased risks arising from the new unfair dismissal proposals. Please register here to join us.

Get Britain Working white paper

At the end of 2024, the government published its "Get Britain Working" white paper. The paper's stated intention is to reform employment, health and skills support to tackle rising economic inactivity levels, support people into good work and create an inclusive labour market in which everybody can participate and progress in work

As part of its work, the government will launch an independent review into the role of UK employers in promoting health and inclusive workplaces, considering what more can be done to enable employers to increase the recruitment and retention of disabled people and those with a health condition, including via the new jobs and careers service; preventing people becoming unwell at work and promoting good, healthy workplaces; and undertaking early intervention for sickness absence and increase returns to work.

The review will run until summer 2025 and the government has stated that it will involve "wide-ranging engagement with employers, employees, trade unions, health experts and disabled people and those with health conditions". It is intended to "complement the government's Make Work Pay reforms, which will tackle job insecurity and expand flexible working" (see above).

Future dates

20 January 2025: Power to increase protective awards in fire and rehire scenarios

Statutory provisions will come into force providing that an Employment Tribunal has the power to increase or reduce any protective award it makes by up to 25% for any unreasonable failure to comply with the provisions of the statutory code on dismissal and re-engagement. A tribunal already has a power to increase or reduce compensation, as the case may be, by up to 25% on related unfair dismissal claims.

April 2025: Rise in statutory minimum pay rates and statutory family leave payments

Employment, contingent workforce and immigration

Increases to the statutory minimum wage rates were announced in the autumn budget, alongside the increases to the rate of employer national insurance. From 1 April 2025 the new rates will be as follows:

- The national statutory living wage will rise from £11.44 to £12.21 per hour.
- The national statutory minimum wage for 18 to 20 year olds will increase from £8.60 to £10.00 per hour.
- The national statutory minimum wage for those under 18 and the minimum rate for apprentices will increase from £6.40 to £7.55 per hour.

The following anticipated increases to statutory payments for family leave have been announced from April 2025 (subject to confirmation):

- Statutory sick pay will increase from £116.75 to £118.75 per week.
- Statutory maternity pay, maternity allowance, statutory adoption pay, statutory paternity pay, statutory shared parental pay and statutory parental bereavement pay will increase from £184.03 to £187.18 per week.
- The lower earnings limit to qualify for statutory payments will increase from £123 to £125, except for maternity allowance which will remain at £30 per week.

From mid-2025: Employment Rights Bill expected to receive Royal Assent

While it is anticipated that the bill will receive Royal Assent during 2025, many of the reforms will not come into force until later (the government has indicated that many reforms will not come into force until 2026, and unfair dismissal reforms will not come into force until autumn 2026 at the earliest). However, there are a small number of specific provisions which will come into force on the date the bill receives Royal Assent or shortly after and which are centred around trade union rights.

'All change' for UK contingent working and gig platforms: 7 predictions for 2025 to 2030

As reported in our November issue, around the world there is increasing government and media focus on the apparent inexorable growth in gig working and non-standard employment models and the general precariousness of some types of work.

We have analysed how the commercial models of staffing companies and platforms and the use of contingent workers will be affected by proposed tax, employment law and regulatory changes including the UK Employment Rights Bill and October 2024 Budget proposals.

In our full report we provide details of our seven predictions for 2025 to 2030. This includes increases in employment taxes such as employers NICs, "day one" rights for employees and rights to guaranteed working hours for workers leading to increased interest in self-employment models. In the October Budget, the government announced increases in employers NICs. It has committed to increase national minimum wage rates and is planning to introduce, by 2026, statutory employment law entitlements for employees from "day one" of employment. These include the right not to be unfairly dismissed, and the right of so-called "zero hours" workers to guaranteed working hours and to have notice of shifts and shift changes. This will put up employment costs significantly for all employers, especially in relation to new recruits and people who might otherwise only be engaged for a short time.

Additionally, we predict that there will be an increase in agency worker usage via staffing companies. The UK is likely to retain this mode of engagement for several years, at least, as an alternative to employment and self-employment. Because these agency workers will not be "employees", many organisations may see using agency workers as a way of minimising the impact of day-one employment rights for new starters (and possibly guaranteed hours rights). However, organisations using this approach will need to watch out for possible anti-avoidance rules imposing limits on when agency workers status can be used and, at some stage, guaranteed hours rights may be introduced for some types of agency worker.

Further, any surge in tax-driven self-employment will reduce when HMRC steps up enforcement action in the next few years, building on preparatory steps currently being taken by HMRC under IR35 and other tax measures. In addition, the move towards agency worker arrangements (in which organisations minimise the impact of the new developments by using staffing companies to engage workers on a traditional PAYE worker basis) are likely to be given further momentum by the increasing volume of HMRC action against what might otherwise be another "work around" for those organisations: that is, the use of self-employment arrangements.

There is also activity relating to umbrella arrangements at the "dodgy" end of that industry, with effective closures of some umbrellas using powers under VAT law and possible criminal action. This activity is mainly on a confidential basis at the moment, but a series of high-profile tax assessments are expected to be raised against major organisations in the next 18 months before HMRC runs out of time (in April 2026) to bring claims for 2021-2 – the first tax year under the new IR35 regime. Platforms face a challenge under this as well because the new Platform Reporting Regulations will require them from January 2025 to report to HMRC all payments via the platform to providers of services since January 2024.

If you would like a copy of the full report, covering the UK Employment Rights Bill and 2024 Budget announcements about NICs and umbrellas, please contact one of the Osborne Clarke experts below.

UK immigration: what's on the horizon?

Our latest UK Immigration Update takes a look at what is on the horizon for UK business immigration in 2025, as well as providing a more detailed look at the government's proposal to close the "skills gap" by linking the granting of skilled worker visas to the training of the domestic workforce.

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Environment

Environment

More clarity in the Voluntary Carbon Market

The Voluntary Carbon Market (VCM) is a marketplace where companies, organisations or individuals can buy and sell carbon credits on a voluntary basis, outside of regulatory or compliance frameworks. These carbon credits represent the reduction or removal of one tonne of carbon dioxide (CO_2) or its equivalent in other greenhouse gases (GHGs) from the atmosphere. However there is still some uncertainty regarding the credibility of the market.

On 15 November 2024, the Department for Energy Security and Net Zero (DESNZ) published six principles to encourage responsible participation in the voluntary carbon markets. These state that organisations should:

- only use voluntary market credits after making every reasonable effort to reduce their own impacts and those of supply chain partners;
- utilise high integrity credits;
- measure and disclose planned use of credits as part of their sustainability reporting;
- follow best practice guidance when disclosing their transition plans, including long-term and interim targets and strategies;
- ensure green claims are accurate; and
- collaborate with others to support the development of high-integrity markets.

The introduction of these principles indicates the government's commitment to making the VCM a reliable tool for businesses to use to achieve their net-zero targets. This is further shown through the announcement that the government will consult on these principles and their implementation, as well as the integrity of the market more generally, in early 2025. It is likely that the use of the VCM will increase in 2025 as these principles add clarity for prospective market participants.

Continued drive towards net zero

Net Zero Transition Plans open for consultation

In April 2022, the Transition Plan Taskforce (TPT) was created to develop a framework to help companies with their climate transition plans. The TPT's Final Disclosure Framework offers voluntary guidance for creating these plans. Currently, UK companies are not required to publish transition plans. However, the government plans to consult on its commitment to mandate certain UK companies to produce transition plans.

As we move into 2025, companies should consider how they will transition to achieve net zero.

UK's new climate target for 2035 under its nationally determined contribution and a commitment on delivering 30by30

On 12 November 2024, the government announced the UK's new climate target for 2035, stating that the UK must reduce its territorial greenhouse emissions by 81% from 1990 levels by 2035. Additionally, the Department for Environment, Food and Rural Affairs (DEFRA) has published an updated policy paper outlining how the government will achieve its target to protect 30% of the UK's land for biodiversity by 2030.

These updated targets will necessitate rapid government action to address climate change and achieve net zero. As we move into 2025, we can expect government policy to continue evolving to drive progress towards net zero.

Implementation of the Finance Bill 2025 following the Autumn Budget

Following the Autum Budget released in October 2024, the first version of the Finance Bill 2025 was published. The bill is currently at the committee stage of the parliamentary process. Once enacted, this legislation will have an impact on several environmental areas in 2025:

- Firstly, the government announced that the UK plastic packaging tax rates (PPT) will increase with CPI inflation for 2025-2026. This tax applies to the import and production of plastic packaging containing less than 30% recycled content. Companies should be aware of this tax increase as they move into the new year.

- Secondly, the government has confirmed that increased landfill tax rates will take effect from 1 April 2025, aligning with the retail price index (RPI). The policy aims to reduce the amount of material being disposed of at landfill sites and the incentivise the use of alternative, non-landfill options.

In 2025, companies should prepare for these tax increases and consider their impact throughout their supply chains.

The Environment Agency has published new guidance on new non-statutory regulatory appeals process

On 3 December 2024, the Environment Agency published new guidance on how to appeal a regulatory decision. The guidance explains the procedure for challenging a recent regulatory decision or a failure to act in accordance with the Regulator's Code. It details what constitutes a regulatory decision and explains the stages of the regulatory appeals process:

- Pre-regulatory appeal discussion (Stage 1): applicants need to raise their concerns with the officer or team responsible for the regulatory decision within 14 calendar days of the decision date.
- Regulatory appeal (Stage 2): if the issue remains unresolved, a regulatory appeal must be submitted within 28 calendar days of receiving the Environment Agency's stage 1 response.

Following this, the Environment Agency will conduct an initial screening review, then allocate the regulatory appeal to an impartial person who was not involved in the original decision, who will review the decision and aim to provide an outcome within 28 days. For any further assistance with this process, please get in touch with Osborne Clarke's environment team.

Developments to the UK Emissions Trading Scheme

The UK Emissions Trading Scheme (UK ETS) is a crucial tool in the UK's strategy to reduce greenhouse gas emissions and transition to a low-carbon economy. By setting a cap on emissions and enabling the trading of allowances, it provides both environmental and economic benefits, encouraging businesses to reduce their carbon footprint.

Consultations expand the scope of the UK ETS

On 28 November 2024, the UK ETS Authority released two consultations detailing an expansion in the scope of the UK ETS.

- The maritime sector consultation proposes including the maritime sector in the UK ETS starting from 2026.
- The second consultation suggests incorporating the non-pipeline transport of CO2 into the UK ETS.

The expansion of the UK ETS into these additional sectors demonstrates the government's commitment to advancing towards net zero and leveraging this trading scheme.

Response to free allocation consultation

In December 2023, a consultation was launched focusing on the free allocation review of emissions allowances under the UK ETS. The aim is to better identify those most at risk of carbon leakage and ensure a fair distribution of free allocations. The government responded to this consultation on 28 November 2024, confirming proposals to be implemented in 2025:

- Ensuring that participants who permanently cease their operations do not receive excess free allocation in their final year.
- Making sure that the free allocation received in a participant's final year of operation is proportionate to their actual activity levels.
- Ensuring that the free allocation received in a participant's final year of operation is proportionate to their actual activity levels.

These changes are expected to come into force in February 2025 following the enactment of the Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2025.

Response to consultation aligning the second free allocation period of UK ETS with CBAM

Environment

In September 2024, the government launched a consultation to align the second free allocation period of the UK Emissions Trading Scheme (ETS) with the introduction of the UK Carbon Border Adjustment Mechanism (CBAM). On 16 December 2024, the Department for Energy Security and Net Zero (DESNZ) published its response.

It has confirmed that the start of the second allocation period will be moved from 2026 to 2027, aligning it with the introduction of the UK CBAM.

A two-stage application process for the second allocation period will be introduced:

- First stage (1 April to 30 June 2025): Operators wishing to apply for free allocation will submit a baseline data report;
- Second stage (1 April to 30 June 2026): Operators will confirm their intention to continue their free allocation application.

This effectively extends the current allocation period to include 2026. However, those wishing to apply for second free allocation period must begin the first stage in 2025.

New climate finance goal from COP 29

From 11 to 24 November 2024, the international climate conference (COP 29) was held in Baku, Azerbaijan. The parties to COP 29 came to a new climate finance agreement, the New Collective Quantified Goal on Climate Finance (NCQG). This agreement aims to:

- Triple climate finance from developed countries to developing countries to $300 billion annually by 2035;
- Increase total climate finance to developing countries to $1.3 trillion annually by 2035, including public, private and multilateral development bank sources (Baku Finance Goal);
- Encourage voluntary climate finance contributions from large emerging economies through South-South cooperation.

This key finance outcome presents some international action against climate change.

First reports under the Corporate Sustainability Reporting Directive

Please see ESG.

Carbon Border Adjustment Mechanism (CBAM): looking ahead

Please see ESG.

Businesses have a preparation window for the EU Deforestation Regulation

Please see ESG.

Will a green taxonomy be introduced in the UK?

Please see ESG.

UK Sustainability Reporting Standards to be consulted on in Q1 2025

Please see ESG.


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Environmental, social and governance

Environmental, social and governance

Businesses have a preparation window for the EU Deforestation Regulation

The EU's Deforestation Regulation (EUDR) was initially set to take effect from 30 December 2024. The EUDR mandates that companies placing specific commodities - cattle, cocoa, coffee, oil palm, rubber, soya and wood - and related products on the EU market must demonstrate these products are deforestation-free and provide a due diligence statement.

On 2 October 2024, the European Commission published a proposal to amend the EUDR, delaying its application to 30 December 2025 for large companies and 30 June 2026 for SMEs. The proposal also offers guidance on the functionality of the information system, key definitions, traceability obligations and penalties. This was formally adopted by both the European Parliament and Council and published in the Official Journal on 23 December 2024.

The delay aims to ensure companies can effectively comply with the regulation. To assist with this, an additional FAQs document has been published. Companies obligated under the EUDR should now use 2025 to prepare for its implementation.

As part of this preparation, businesses should register on the EUDR information system (Deforestation Due Diligence Registry), which allows operators, traders, and authorised representatives to submit their due diligence statements. Registration opened on 4 December 2024 following a publication in the Official Journal. This additional 12-month period provides businesses with a window to prepare before the EUDR obligations commence on 30 December 2025.

First reports due under the EU Corporate Sustainability Reporting Directive

The Corporate Sustainability Reporting Directive (CSRD) expands the existing requirements under the Non-Financial Reporting Directive 2014/95/EU (NFRD). Mandating a broader range of EU-based large and listed companies as well as non-EU companies if they generate over €150 million trading in the EU, to report on sustainability annually. This directive will consequently impact global markets and supply chains.

The CSRD is currently being transposed across the European Union, with varying degrees of national implementation. However, the European Commission has initiated infringement procedures against 17 Member States that have not yet transposed the CSRD. Businesses should view this as a warning and take proactive measures to prepare for CSRD requirements, even in regions where it has not been fully implemented.

The CSRD will become particularly significant from 2025, as the first companies (those already subject to the NFRD) will be required to report in line with the CSRD for the financial year 2024, with large undertakings not already subject to the NFRD being obligated from 2026. Companies subject to the CSRD will need to be ready to meet these obligations.

Will the introduction of the Corporate Sustainability Due Diligence Directive lead to an omnibus legislation?

The Corporate Sustainability Due Diligence Directive (CS3D) entered into force on 25 July 2024, establishing a due diligence duty on large companies to identify, address , report and mitigate adverse human rights and environmental impacts identified across their global value chains. Similar to the CSRD, this directive applies to EU companies and large non-EU companies. The obligations will not start applying to companies until 2027, and Member States have until 26 July 2026 to transpose the directive into national law.

While these obligations may seem distant, the EU has recently announced its intention to merge the CSRD, the CS3D and the Taxonomy into one "omnibus" regulation. Therefore, moving into 2025, companies who fall within these obligations should look out for any advancements in this consolidating piece of legislation. The omnibus regulation is expected to maintain substantive reporting requirements while simplifying the process.

The European Commission and the European Financial Reporting Advisory Group (EFRAG) are likely to continue providing practical guidance and implementation support to help companies navigate the new regulatory landscape. This support will be essential in ensuring that businesses can effectively comply with the consolidated reporting requirements.

Will a green taxonomy be introduced in the UK?

In the EU

The EU Taxonomy is a classification system that enables financial and non-financial companies to share a common definition of economic activities deemed environmentally sustainable. This system is closely aligned with the goal of achieving net zero emissions by 2050, aiding the EU in meeting its climate and energy targets for 2030. The EU Taxonomy came into force on 12 July 2020.

Businesses that comply with this regulation should stay informed about the aforementioned omnibus legislation, as it may alter their future obligations.

UK Green Taxonomy

The UK is currently consulting on its own UK Green Taxonomy, having released a consultation on 14 November 2024. The consultation seeks input on whether this implementation would support investment in activities aligned with sustainability goals and help mitigate greenwashing.

The consultation window is still open, and those with opinions on whether this addition would complement existing sustainable finance policies should participate. The consultation closes on 6 February 2025.

Regulating ESG rating providers

On 19 November 2024, the Council of the EU adopted a new regulation on ESG rating activities. This regulation aims to make rating activities within the EU more consistent and transparent, thereby boosting investor confidence in sustainable financial products. Although the regulation will only apply 18 months after its entry into force, it signifies a more serious effort towards the regularisation and integration of ESG principles.

In the UK, at end of last year, the government published its consultation response on the future regulatory regime for ESG ratings providers which was accompanied by draft regulations which would implement the regime. Comments can be made on the draft regulations by 14 January. The government will finalise the legislation in 2025 and the FCA will then consult on the specific requirements. ESG rating providers should follow the developments of this reform closely in order to start preparing for compliance when necessary.

Taskforce on Nature-related Financial Disclosures

The Taskforce on Nature-related Financial Disclosures (TNFD) has developed a set of disclosure recommendations and guidance that encourage and enable businesses to assess, report and act on their nature-related dependencies.

On 27 October 2024, the TNFD published a discussion paper on nature transition plans. The paper is open for consultation until 1 February 2025.

It outlines what should be included in a transition plan, such as an organisation's goals, targets, actions, accountability mechanisms, and intended resources to address the Kunming-Montreal Global Biodiversity Framework.

Those wishing to respond to the consultation should do so by early 2025.

UK Corporate Governance Code

The FRC's new UK Corporate Governance Code, published last year, will apply to all companies listed in the commercial companies category or the closed-ended investment funds category on the London Stock Exchange for financial years beginning on or after 1 January 2025. The only exception is the new requirements to report annually on the effectiveness of risk management and internal controls (Provision 29) which will apply to financial years beginning on or after 1 January 2026. See our Insight for more details.

The Audit Reform and Corporate Governance Bill

The King's Speech, delivered to Parliament on 17 July 2024, included the draft Audit Reform and Corporate Governance Bill designed to strengthen audit and corporate governance.

The bill aims to introduce a new accounting regulator, the Audit, Reporting and Governance Authority (ARGA), to replace the Financial Reporting Counsel. ARGA will have a range of new statutory responsibilities and powers. The government has stated that it intends that the revamped regulator will uphold standards and independent scrutiny of companies' accounts, as well as accountability for company directors. Ultimately the bill will lead to greater director accountability, with the regulator having the power to investigate and sanction company directors for serious failures in relation to their financial reporting and audit responsibilities. While there is no official timeline for implementation of the bill, a draft may be available by the end of 2025.

Carbon Border Adjustment Mechanism: looking ahead

The Carbon Border Adjustment Mechanism (CBAM) is a tool designed to tackle carbon leakage and ensure that the carbon emissions associated with the production of carbon-intensive goods are fairly priced. This will affect the aluminium, cement, fertiliser, hydrogen and iron and steel sectors. At present, CBAM only applies to goods entering the EU. However, starting in 2027, this mechanism will also be implemented in the UK. It is crucial for companies to consider the carbon-intensive goods within their supply chain in preparation for the introduction of UK CBAM and as the transition period for EU CBAM comes to a close.

EU CBAM

In the European Union, CBAM has been in force since 1 October 2023. Since then, importers have been subject to phased obligations during a transition period that lasts until 31 December 2025. Currently, importers to whom CBAM applies must report quarterly to the European Commission, detailing the quantity of goods, embedded emissions, indirect emissions, and the carbon price due.

From 31 December 2024, importers will need to fulfil an additional requirement: they must complete their applications to become authorised CBAM declarants by 1 January 2026. Failure to meet this deadline will result in a prohibition on importing goods into the EU after that date. Therefore, those intending to import in scope goods into the EU from 2026 should use the year 2025 to complete the registration process.

UK CBAM

Following closely behind, HM Treasury and HM Revenue & Customs have published the government response to the March 2024 consultation on the design and administration of the proposed UK CBAM. The response confirms that UK CBAM will be introduced on 1 January 2027 and will likely replicate a lot of the EU CBAM obligations. There are a few noticeable differences, including the omission of electricity from the product scope and the use of emissions certificates.

Therefore, we recommend that UK businesses consider the EU CBAM obligations and prepare their operations for the 2027 implementation, as well as staying informed as to the introduction of UK CBAM legislation.

UK Sustainability Reporting Standards to be consulted on in Q1 2025

In 2021, the International Sustainability Standards Board (ISSB) was established to create global standards serving as a baseline for sustainability reporting. These standards were introduced to provide investors with a more regulated perspective on the sustainability practices of companies. In 2023, the ISSB unveiled two new standards: IFRS S1 (General Requirements for Disclosure of Sustainability-related Financial Information) and IFRS S2 (Climate-related Disclosures).

The UK government has previously announced its intention to introduce its own sustainability framework, initially referred to as the UK Sustainability Disclosure Standards, but now renamed the UK Sustainability Reporting Standards (UK SRS). The UK SRS are modelled on IFRS S1 and S2, aiming to establish standard requirements for UK-listed companies to report sustainability-related information to their investors. These standards are currently awaiting approval, with the government planning to consult on the draft UK SRS in the first quarter of 2025.

European Commission finalises EU-Mercosur trade deal

The European Commission has announced that negotiations for a EU-Mercosur partnership agreement have concluded. The aim of this agreement is to enhance sustainability, boost trade and investment, support EU farmers, and increase the competitiveness of EU companies.

Measures included in the agreement include removing non-tariff barriers to trade in goods, ensuring the Paris Climate Agreement is effectively implemented, lowing tariffs on critical raw materials and derived products to incentivise Mercosur exports to the EU and cheaper imports for the EU. It also contains a commitment to halt deforestation by 20230.

Over 350 EU products are protected in the agreement by a geographic indication to ensure EU food and drink producers can market their distinctive regional products. Further the agreement maintains the EU's food safety standards, allowing both sides to adopt protective measures for human, animal, and plant health, including in situations when scientific information is inconclusive. It also addresses antimicrobial resistance, promotes animal welfare standards, and enhances information flow to prevent unsafe products from entering the market.

Questions and answers on the agreement can be found here.

This agreement underscores the EU's commitment to further sustainable trade by incorporating the Paris Climate Agreement as an essential element, implementing concrete measures to preserve biodiversity and tackle deforestation, and ensuring high sustainability standards in critical raw materials trade and investment.

Environmental, social and governance

The UK's Sustainable Disclosure Requirements

With the Sustainable Disclosure Requirements and investment labels regime (SDR), the Financial Conduct Authority (FCA) has introduced a package of measures designed to clamp down on greenwashing in the financial sector. Initially introduced to cover fund managers and in some instances distributors, the regime is now expanding to encompass firms providing portfolio management services (meaning investment firms, operating under a MiFID authorisation).

The rules stand side-by-side with the new anti-greenwashing rule that applies to all firms with a FSMA Part 4A permission, and the detailed general guidance provided by the regulator on the rule, setting out what firms should take into account when making sustainability claims.

The SDR has introduced rules relating to:

- the use of four official sustainable investment labels;
- restrictions on the use of sustainability-related terms in product naming and marketing;
- the provision of detailed information for investors in precontractual, ongoing product-level and entity-level disclosures;
- the provision of consumer-facing information relating to the key sustainability features of a product; and
- requirements for distributors relating to product-level information.

The FCA had proposed earlier in 2024 that portfolio management firms would be subject to SDR's marketing and labelling rules, which would apply from 2 December 2024, and that the periodic and entity-level disclosures would follow the same implementation timetable as applies to asset managers. However, the regulator has had to backtrack, and the implementation dates for portfolio managers are no longer definitive. Recognising the practical challenges portfolio managers will have in implementing the regime, the FCA is now planning to publish a policy statement, including the final rules, in Q2 2025.

In due course, the FCA is expected to extend the regime to encompass pension and other investment product providers and financial advisers. It may also eventually cover overseas funds that market into the UK, but this will depend on HM Treasury, which may have different priorities given its different statutory objectives.

The depth of the regime is also expected to expand over time, providing for more disclosures and transparency as the eco-system for underpinning ESG and sustainability reporting develops.

Firms providing portfolio management services should track these developments as they progress to ensure they are aware of any changes that may affect them.

The EU's Sustainable Finance Disclosure Regulation

The EU's Sustainable Finance Disclosure Regulation (SFDR) imposes harmonised transparency and disclosure requirements on financial market participants and financial advisers. In-scope firms must comply, including considering how sustainability risks are incorporated into their investment decision-making processes and how the remuneration of individuals is consistent with sustainability issues.

This year, the regime has been subject to a wholesale review following a consultation on SFDR that closed on 22 December 2023 and, potentially, a major overhaul could take place.

Status of reforms

The key points the consultation raised were:

- whether the current requirements of the SFDR are fit for purpose;
- the interaction with other sustainable finance legislation;
- what potential changes to the disclosure requirements for financial market participants might be relevant;
- whether the establishment of a categorisation system for financial products, potentially akin to the UK's SDR labelling regime, would be helpful; and
- whether all financial products should be subject to uniform disclosure requirements irrespective of sustainability claims.

The Commission had planned to publish a report on suggested reform of the SFDR in the second quarter of 2024, however, this is now tentatively expected in mid-2025.

Environmental, social and governance

Principal Adverse Impacts updates

A PAI is any impact of investment decisions or advice that results in a negative effect on sustainability factors, such as environmental, social and employee concerns, respect for human rights, anti-corruption, and anti-bribery matters. Their application under the SFDR is one of the most vexing issues in practice.

In October, the European Supervisory Authorities (ESAs) published a final report on PAI disclosures under the SFDR. PAI disclosures aim to show the negative impact of financial institutions' investments on the environment and people, and the actions taken to mitigate them. The ESAs have assessed both entity and product-level PAI disclosures.

Overall, the ESAs noted positive progress on several elements compared to previous years. For example, improvements on the level and quality of disclosed information were identified. In particular, significant improvements were identified in product PAI disclosures, although the share of products disclosing PAI information remains quite low. However, the overall level of compliance with the SFDR provisions is still not yet fully satisfactory, according to the ESAs.

ESMA's guidelines on funds' names using sustainability-related terms

Meanwhile, in a significant development, ESMA has issued comprehensive guidelines for funds that use ESG or sustainability terms in their names. The guidelines are intended to ensure that investors are protected against unsubstantiated or exaggerated sustainability claims in fund names. They also provide asset managers with clear and measurable criteria to assess their ability to use ESG or sustainability-related terms in fund names.

Despite these being "guidelines", they go further than you might assume. They are far reaching and include substantial provisions that have an impact on how to manage portfolios. For example, the ESG names or sustainability-related terms are not a finite list. It is a case-by-case assessment of which funds are in-scope which will cause interpretational uncertainty as to the reach of the guidelines. Where in-scope, they have a material impact on how the fund's portfolio must be managed.

The guidelines apply to new funds created on or after 21 November 2024. There is a transitional period for funds existing before the application date that lasts until 21 May 2025. The general consensus is that the guidelines also apply to non-EEA AIFs marketed by non-EEA AIFMs via national private placement regimes into EU Member States.

EEA NCAs had to notify ESMA of the extent to which they intend to comply with the guidelines by 21 October 2024. While ESMA has not published the results of these notifications, we are aware that at least 13 Member States have done so. Whether the guidelines should have been issued as Level 1 regulation, rather than Level 3, is potentially open to challenge.

Firms should track these developments as they unfold to ensure they are aware of any changes that may affect them.

New climate finance goal from COP 29

Please see Environment.

Developments to the UK Emissions Trading Scheme

Please see Environment.

EU Regulation prohibiting products in the Union market made using forced labour enters into force

Please see Modern slavery.

Modern slavery in public procurement

Please see Regulated procurement.

Please also see our latest international ESG Knowledge Update, for a round-up of legal, regulatory and market news.

Environmental, social and governance

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Fintech, digital assets, payments and consumer credit

Fintech, digital assets, payments and consumer credit

Fintech and digital assets

UK regulation of cryptoassets

In November 2023, the Conservative government declared its plan to implement the Organisation for Economic Co-operation and Development's Cryptoasset Reporting Framework (CARF) by 2027, along with 47 other jurisdictions. The CARF requires reportable cryptoasset service providers (RCASPs) to collect and report information about their users and transactions to the relevant tax authority. In the UK, the CARF will apply from 1 January 2026, with the first reports due by 31 May 2027.

Crypto Roadmap

In November 2024, the Financial Conduct Authority (FCA) published its Crypto Roadmap, which set out indicative timelines towards the ultimate regulation of cryptoassets generally.

The Property (Digital Assets etc) Bill

On 11 September 2024, the Property (Digital Assets etc) Bill was introduced in Parliament. Once enacted, for the first time in British history, digital holdings – including cryptocurrency, non-fungible tokens such as digital art, and carbon credits – can be considered as personal property under the law. The new law is intended to give legal protection to owners and companies against fraud, while helping judges deal with complex cases where certain types of digital holdings are disputed or form part of settlements.

The government is yet to set out its proposed timing for the implementation of the bill.

Cryptoasset Service Providers (Due Diligence and Reporting Requirements) Regulations

Alongside the Autumn 2024 Budget, HMRC published the draft Cryptoasset Service Providers (Due Diligence and Reporting Requirements) Regulations 2025. The draft regulations incorporate CARF rules and outline due diligence, record-keeping and reporting obligations for UK RCASPs. They also require RCASPs to notify users when a report is made and to register with HMRC by specific deadlines. Penalties for non-compliance are included, aligned with those for digital platforms, except where CARF rules differ. The regulations also feature a targeted anti-avoidance rule to prevent arrangements aimed at avoiding obligations.

The final regulations are expected to be made in 2025 to come into force on 1 January 2026.

FCA update on cryptoassets regulation

On 26 November 2024, the FCA published an update on plans to regulate cryptoasset activity, including a roadmap to full cryptoasset-related regulation. Although it is not yet clear when the new regime will come into force, it is expected at some stage in 2026.

A discussion paper was published by the FCA on 16 December 2024 informing on the development of rules for cryptoasset admissions and disclosures and cryptoasset market abuse and aiming to reduce consumer harms and promote confidence and trust in the UK cryptoasset market by:

- improving regulatory clarity so that there are clear and consistent "rules of the game" for firms and consumers;
- ensuring that consumers have the requisite information before buying or selling cryptoassets;
- requiring controls and processes to bring about fair and orderly trading conditions; and
- further reducing risks of money laundering and losses to fraud.

The FCA has invited feedback on its proposals on the regulation of cryptoassets from both UK and international stakeholders by 14 March 2025.

UK regulation of stablecoins used as a means of payment

Under the previous government, HM Treasury had intended to bring forward secondary legislation in early 2024, subject to available parliamentary time. In light of the general election, however, there were few developments in this area. See this Regulatory Outlook for previous developments on this topic.

The publication of the FCA's Crypto Roadmap in November 2024 referred, however, to upcoming developments in respect of fiat-backed stablecoins – namely, the release in the first and second quarter of 2025 of a consultation paper covering the following issues:

- Backing assets.
- Redemption.
- Custody.
- Record-keeping.
- Reconciliations.
- Segregation of assets.
- Use of third parties.
- Prudential considerations, including the introduction of a new prudential sourcebook, covering capital, liquidity and risk management.

Use of AI and machine learning in financial services

Financial services firms increasingly use artificial intelligence (AI) and machine learning across a range of areas, including fraud and money laundering detection, interacting with customers, assessing risk (especially insurance risk), and assessing creditworthiness and affordability. This upward trend is likely to continue due to increased availability of data, improvements in computational power, and the wider availability of AI skills and resources.

On 4 November 2024, the FCA published a new webpage on its AI Input Zone, an online feedback platform which forms part of its AI Lab, seeking a wide range of views from different market participants to understand what transformative AI use cases may develop and what the FCA can do to support opportunities for beneficial innovation.

The FCA has encouraged stakeholders to submit responses to these questions by 31 January 2025. Stakeholders can also apply to participate in other elements of the AI Lab that may be of interest, such as the AI Spotlight and the AI Sprint, both of which are being held in January 2025.

See the AI section for more information on UK government policy approach to regulation of AI.

Payments

Safeguarding requirements

FCA Safeguarding Consultation

The Payment Services Regulations 2017 (PSRs) and Electronic Money Regulations 2011 (EMRs) impose safeguarding requirements on firms to protect customer funds received for the provision of a payment service or issuance of e-money, known as "relevant funds". The FCA published a consultation paper in September 2024 on changes to the safeguarding regime, following which the FCA has planned to replace the existing safeguarding regime with one more in the style of the Client Assets Sourcebook (CASS).

The proposed changes are to meet the FCA's aims of ensuring firms have a clearer picture of the amount of funds requiring protection, such funds are immediately protected, and – if the worst should happen to a firm and they enter insolvency – that the prompt return of customer funds can take place.

The following changes are proposed to be made to the legislative and regulatory regime:

- **Interim stage**. Interim handbook rules and guidance to improve compliance with the existing safeguarding requirements in the EMRs and the PSRs by establishing a new chapter 15 in the FCA's CASS sourcebook; and
- **End-state stage**. Updating the safeguarding requirements of the EMRs and PSRs by way of legislative amendment and implementing further new rules and guidance in CASS Chapter 15, including for relevant funds and assets to be held on trust for customers and for all funds to be safeguarded from the moment they are received from third parties.

To give firms sufficient implementation time, the FCA has proposed an implementation period of six months for the interim rules and 12 months for the end-state rules. Comments on the proposals were invited until 17 December 2024. The FCA plans to publish final interim rules with an accompanying Policy Statement in the first half of 2025.

Independent review of the PESAR

On 12 December 2024, HM Treasury launched an independent review of the Payment and Electronic Money Institution Insolvency Regulations 2021, which introduced the Payment and Electronic Money Special Administration Regime (PESAR). The aim of the PESAR was to provide clarity in the event of an insolvency of a regulated payment service provider (PSP) or electronic money institution, to achieve quicker distributions for customers and a greater level of protections before distributions can be made.

HM Treasury is required to appoint an independent reviewer to assess how PESAR is working in practice. An interim update with initial conclusions is due by September 2025, with a final report – to be subsequently laid in Parliament – due no later than the end of 2025.

Tackling authorised push payment fraud

The new maximum reimbursement limits for victims of Faster Payments authorised push payment (APP) fraud set by the Payment Systems Regulator (PSR) and for APP fraud payments made through the Clearing House Automated Payment System (CHAPS) set by the Bank of England (BoE), came into effect on 7 October 2024.

The PSR has also published guidance to support PSPs in assessing whether an APP scam claim raised by a consumer is reimbursable under the Faster Payments system and CHAPS reimbursement rules.

See this Regulatory Outlook for more details.

Both the PSR and BoE will closely monitor the impact of the new maximum limits and are expected to perform an evaluation of effectiveness after 12 months of operation.

In a related development, the Payment Services (Amendment) Regulations 2024 came into force on 30 October 2024, allowing PSPs to delay the execution of a payment transaction by up to four business days when there are reasonable grounds to suspect fraud or dishonesty. This delay affects outbound payments only: PSPs are already permitted to delay inbound payments under existing anti–money laundering legislation, though new FCA guidance does also deal with delays to inbound payments.

To supplement this new payments delay legislation, the FCA published a revised approach document on 22 November 2024 with guidance for firms that provides clarity on how the FCA expects PSPs to apply the legislative changes and enables a risk-based approach to payments.

Consumer-facing terms and conditions must be updated to reflect reimbursement rights of consumers by 9 April 2025. In order to provide customers with sufficient notice of the changes, at least two months' advance notice must be provided. PSPs not directly caught by the rules will need to finalise contractual arrangements with third party PSPs through whom they access the relevant payment systems.

Interchange and card scheme and processing fees market reviews

Interchange fees review

In December 2023, the PSR published an interim report on its market review into UK-European Economic Area consumer cross-border interchange fees, initiating a consultation which closed on 31 January 2024.

The market review aimed to understand the rationale for the fivefold increase in cross-border interchange fees in card-not-present transactions since the UK left the EU and stopped benefiting from the EU Interchange Fee Regulation.

The PSR's final report was published on 13 December 2024, concluding that the current levels of interchange fees require regulatory intervention by way of price cap. The PSR released a consultation paper on the same day, inviting comments until 7 February 2025 on their proposals, which include adopting a two-stage approach to a price cap remedy:

- Stage 1. An initial, time-limited cap (for a transitional period while an appropriate methodology for determining the most appropriate level of a price cap is developed and implemented) set at 0.2% for debit cards and 0.3% for credit cards.

- Stage 2. A longer-term cap (which may be higher or lower than in stage 1), developed during the Stage 1 period.

Card fees review

On 21 May 2024, the PSR released an interim report on its market review of card scheme and processing fees, initiated due to concerns about high fees.

The PSR has provisionally concluded that the market for scheme and processing services is not functioning well or in the best interests of all users. Key findings include a lack of effective competition in the system, card issuers having higher-than-expected profit margins and overly complex card scheme and processing fees. The PSR aims to publish its final report in the first quarter of 2025.

Consumer finance

Regulation of buy-now pay-later products

The new Labour government has progressed plans to expand the regulatory perimeter to include interest-free "buy now, pay later" (BNPL) and other currently unregulated short-term interest-free credit products provided by third-party lenders. Once the new rules come into force, BNPL providers and products will likely be subject to a range of new requirements, set out in the FCA rules, including pre-contractual disclosures, creditworthiness assessments and in relation to the form and content of the credit agreement.

There will be exemptions for some agreements where there is limited risk of consumer detriment and where regulation would otherwise adversely impact day-to-day business activities.

In October 2024, HM Treasury published a consultation, which closed on 29 November 2024, alongside a draft statutory instrument, the Financial Services and Markets Act 2000 (Regulated Activities etc.) (Amendment) Order 2025, expected to come into effect during the course of 2025. See this Regulatory Outlook for details.

While the October 2024 consultation has added greater depth to the government's plans to regulate BNPL, it has indicated that the FCA will have a wide ambit to set out the final rules in its Handbook on matters such as information requirements, affordability and creditworthiness assessments, and complaints handling. Borrowers will be able to take complaints to the Financial Ombudsman Service and firms will be required to embed the Consumer Duty into their BNPL products.

While the processes of BNPL regulation and Consumer Credit Act (CCA) reform may overlap and inform each other, the outcomes of BNPL regulation will not be determinative of the broader regulatory regime put in place through reform of the CCA.

Motor finance

Complaints

The FCA announced a review into whether motor finance customers have been overcharged because of the past use of discretionary commission arrangements (DCAs) in January 2024. They also paused the eight-week deadline for a final response to relevant customer complaints, to prevent disorderly, inconsistent and inefficient outcomes for consumers, as well as knock-on effects on firms and the market, while the FCA determined the best way forward.

In September, this complaint-handling pause was extended, and the FCA now intends to set out the next steps in its review into the past use of DCAs in May 2025. The FCA has also extended the pause to the deadline for motor finance firms (lenders or brokers) to provide a final response to customer complaints regarding motor finance commissions (both DCAs and non-DCAs) until 4 December 2025.

The additional time will also allow the regulator to consider the impact relevant cases in the Court of Appeal, most notably the decision in *Johnson v Firstrand Bank Limited t/a Motonovo Finance* (see below for further details).

High Court decision

On 17 December 2024, the High Court found in favour of the Financial Ombudsman Service in a judicial review of its decision to uphold a complaint relating to a DCA in a motor finance agreement. Particularly significant is the court's finding that, where a FCA rule and one of the FCA's Principles for Businesses occupy the same territory, compliance with the rule will not automatically mean compliance with a principle, due to the "overarching nature" of the principles.

As a result, a firm could be compliant with FCA rules, yet still be found in breach of a FCA principle. Such a conclusion could have broad implications for regulated firms and extend beyond the context of motor finance commission arrangements.

Broker commissions judgment: Johnson, Wrench and Hopcraft

The Court of Appeal decision in *Johnson v Firstrand Bank Limited t/a Motonovo Finance* has muddied the waters on fiduciary duties, agency relationships and disclosure of commissions in the motor finance industry – and driven a "coach and horses" through FCA rules and market understanding in relation to credit broking more generally. Osborne Clarke's Future of Financial Services Podcast takes a look at the implications of this decision.

The judgment suggests that a credit broker only has to be "in a position to influence or affect the borrower's decision on finance to be treated as both an agent and a fiduciary of the borrower (encapsulated in the concept of a "disinterested duty"). In other words, a fiduciary duty exists in a wider range of circumstances than previously understood.

On 11 December 2024, the Supreme Court announced that it has granted permission to appeal – a decision welcomed by the FCA. The appeals will be listed in the Hilary term of 2025 (that is, before 16 April 2025).

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Food law

Food law

UK

Could 2025 be the year that further progress is made on authorising innovative foods?

At the end of last year, several announcements highlighted a drive in innovation which could streamline the process for bringing alternative proteins, such as cell-cultivated products to market. Key developments include the introduction of the Regulatory Innovation Office (RIO) and the Food Standards Agency's (FSA) regulatory sandbox.

One of the four initial areas of focus for the RIO is on engineering biology, which can create new products such as cultivated meats. The RIO's aim is to help regulators bring innovative products to market safely. In addition to the RIO, the FSA's regulatory sandbox will provide pre-application support to cell-cultivated products companies, addressing key questions such as labelling issues and nomenclature before market entry. By allowing businesses to test new developments under regulatory supervision, the sandbox aims to reduce the time and cost associated with regulatory approval.

Significant investment by the government is also being directed towards alternative protein research. A notable example from last year was the launch of the £38 million National Alternative Protein Innovation Centre (NAPIC), dedicated to advancing research in this field. This adds to the already growing private-sector research hubs such as the Cellular Agriculture Manufacturing Hub, Microbial Food Hub and Bezos Centre for Sustainable Protein.

Last year in the UK we saw the first lab-grown meat used for pet food receiving regulatory approval. This was a significant and welcomed milestone for cultivated meats. This development should be monitored by businesses seeking to bring similarly innovative products to market. Whilst this development was within the animal feed sector, it will be interesting to see whether this has a positive impact on the FSA's approach to alternative proteins being approved for human consumption and whether there is any impact on consumer behaviour as consumers become more familiar with the types of technologies used to manufacture these products.

These announcements suggest that 2025 could see a positive shift in the application process of alternative proteins, making it easier for these products to reach the market in the future.

Regulated Products Reform Update

The FSA ran a consultation on proposals to reform the authorisation process for regulated products. Regulated products are food and feed products which require authorisation before they can be sold and include food additives, flavourings, novel foods, genetically modified organisms (GMOs) as food and feed, food contact materials and feed additives. Currently the process is slow and burdensome on the regulator, meaning few applications have been authorised under the current regime. Two proposals to reform the regime have been put forward:

1. to remove renewal requirements (currently every ten years) for feed additives, food or feed containing, consisting of or produced from GMOs and smoke flavourings; and
2. to remove the process of laying legislation after ministerial authorisation of a regulated product, which currently slows down the approval process. Instead the authorisation would be added to an official register, following a ministerial decision, which the FSA said will speed up the process.

In September 2024, the FSA published the response to the consultation highlighting broad support from stakeholders. As such, they will continue with the above two proposals to reform the regulated products authorisation process and the responses they received will inform finalisation of the legislation which we anticipate will be published in 2025.

The progress of this consultation will likely mean changes being introduced for regulatory reform in 2025, further supporting the development and market entry of innovative food products as explored above.

Regulations under the Genetic Technology (Precision Breeding) Act 2023

Food law

As reported in our October issue, the government has said it would introduce secondary legislation under the Genetic Technology (Precision Breeding) Act 2023 as soon as parliamentary time allows. The environment secretary has now confirmed the government plans to introduce it by the end of March. The regulations will aim to simplify the authorisation process for bringing new products to market, to make "things fairer for SMEs and boosting investment", and will allow precision-bred products to be rolled out across the country. Although the Act covers both plants and animals, these initial regulations will only apply to plants. Therefore, businesses should stay informed about the development of these regulations and be prepared to engage in any potential consultations.

Prepare for incoming HFSS restrictions in October 2025

From 1 October 2025, there will be a ban on advertisements for less healthy food and drink (also referred to as products high in fat, salt or sugar (HFSS))being shown on TV before 21:00 in the UK.

Ads within Ofcom-regulated on-demand programme services will be subject to the same 21:00 watershed, and otherwise paid-for ads for in-scope food and drink products will be banned completely online.

The government has laid the Advertising (Less Healthy Food Definitions and Exemptions) Regulations 2024 before Parliament and published guidance on them.

Businesses should promptly review the details to determine whether they are affected by the new restrictions and understand what steps they need to take to ensure compliance by October 2025.

Additionally, for those businesses operating in England, they should also be aware that the restrictions on volume price promotions, such as buy one, get one free" and "get three for the price of two," of HFSS products are also due to come into force in October 2025.

FSA withdraw on plans for supermarkets to conduct own food safety inspections

A paper on the national level regulation (see our September issue) was discussed at the Food Standards Agency's (FSA) Board meeting on 11 December 2024. Within this the FSA revealed from discussions with stakeholders that greater transparency is needed around the trial that was conducted. The paper sets out following this engagement concerns were raised over how the process would work in detail, including how it would interact with the work of primary authorities and local authorities, how risks would be managed, and how complaints would be dealt with.

In response to this, the FSA has developed an engagement plan on two key areas:

1. **Intensive engagement on the proof-of-concept trial and immediate next steps:** This involves providing delivery partners and key stakeholders with better insights into the trial, opportunities to ask questions, and share reflections. The next steps will be co-designed with stakeholders through a new Senior Steering Forum. This activity has already started and will continue into early 2025.

2. **Strategic level discussions on the future of regulation:** An additional forum will be created for comprehensive discussions about reform with representatives from regulatory delivery partners, businesses, and consumers. This will cover all building blocks for reform and potential legislative changes, starting in early 2025.

It will return to the Board with its proposals in June 2025 and so businesses should keep on top of progress with this initiative.

CBD Novel Food Applications

A paper on CBD novel food applications was also discussed at the FSA's December Board meeting. The paper outlines that the FSA and Food Standards Scotland have published the first safety assessments for CBD novel food applications, which have now entered the risk management phase. Recommendations to ministers across Great Britain will follow an eight-week public consultation starting in early 2025, with the first recommendations expected in Spring/Summer 2025.

To guide the FSA's approach to the risk management of CBD applications with positive safety assessments, the Board was asked to consider and agree on the following principles:

1. **Consumer Safety:** Protect public health by providing clear advice on the safe consumption of CBD.
2. **Proportionality:** Ensure decisions protect public safety without disproportionately limiting consumer choice or the CBD industry.
3. **Ensuring Compliance:** Only authorised CBD novel foods will remain on the market after assessments are complete, despite a pragmatic approach allowing certain products to stay temporarily.
4. **Supporting Enforcement:** Ensure decisions and recommendations support retailers and enforcement in preventing non-compliant products from remaining on the market.
5. **Maintaining Trust:** Maintain consumer trust in food safety and the FSA by managing legal and reputational risks.

These principles will guide the FSA's risk management approach in making recommendations to ministers, particularly concerning THC levels and protecting vulnerable groups, including under 18s.

The Board broadly agreed with the principles and approach for risk management of CBD as set out in the paper and asked them to consider how the potential presence of a controlled substance in CBD products will be managed.

With further progress being made with these applications, it marks an exciting time for those looking to place CBD products on the UK market.

Ending the sale of high caffeine energy drinks to under 16s

The government set out in the King's Speech 2024 that it plans to end the sale of high caffeine energy drinks to under 16s. We have not yet seen any further details of this proposal from the government and so further details could be provided in 2025.

National Food Strategy to be published this year

The government is due to publish its National Food Strategy in 2025 which is expected to include details on tackling obesity levels, reduce environmental impact and help with food security whilst boosting investment. The report is anticipated to touch on issues set out in Lord Darzi's recent report on the NHS which focused on the issue of obesity, as well as building on Henry Dimbleby's National Food Strategy from 2021 which also covered measures to help reduce obesity such as introducing a sugar tax. Once published, businesses should review the report to see what measures the government has proposed and engage with any stakeholder initiatives where relevant.

EU

Updates to EU novel good guidance

The European Food Safety Authority (EFSA) has updated the guidelines for applications for novel foods in the EU. This includes both scientific and administrative guidance that will apply to all new novel food applications from February 2025. These updates aim to keep the safety assessment processes current with the evolving novel food industry, incorporating further detail where gaps were identified since the regime entered into force.

The guidance was updated to reflect changes in the EU legal framework for novel foods and recent advances in food research and innovation. The updates aim to keep the safety assessment processes current with the evolving novel food industry, incorporating further detail where gaps were identified. The new guidance clarifies definitions and data requirements, helping applicants submit higher-quality applications for a more efficient risk assessment process. Applicants must provide detailed information on the novel food, including its production, composition, expected consumption, safety data, and potential allergens. The updates will apply to all new novel food application submitted from February 2025 so businesses must ensure they are following these new guidelines when making applications from this date.

EU genomic techniques regulation

In February last year, the European Parliament adopted its position on new genomic techniques (NGT) and agreed with the European Commission's proposal to have two different categories and two sets of rules for NGT plants. Currently all plants obtained by NGTs are subject to the same rules as genetically modified organism (GMO). Under the proposal, NGT plants that could also occur naturally or by conventional breeding (NGT 1 plants) would be exempted from the requirements of the GMO legislation, and will be subject to a verification procedure set out in the proposal. For NGT 2 plants, the GMO framework still applies meaning they will be subject to the stricter requirements of GMO legislation including the authorisation procedure.

The Parliament's adopted position mandates labelling for all NGT plant products, unlike the Commission's proposal, which only required it for NGT 1 plants. For NGT 2 plants, which support a sustainable agri-food system, the Parliament agreed to expedite the risk assessment but insisted on adhering to the precautionary principle.

Additionally, the Parliament's proposal bans patents on NGT plants, plant material, genetic information, and process features to *"avoid legal uncertainties, increased costs, and new dependencies for farmers and breeders"*.

The Council of the EU has yet to adopt its negotiating position, and we await further details. Once adopted, negotiations between the two bodies are expected to begin in 2025. Businesses should stay informed about these developments.

PFAS restrictions in food contact materials in the PPWR

The Packaging and Packaging Waste Regulation (PPWR) is due to come into force in the EU in early 2025. The regulation restricts the use of Per- and polyfluoroalkyl substances (PFAS) in food contact packaging. Packaging which contains PFAS above certain thresholds will be banned from being placed on the market. The ban would come into force 18 months after the PPWR enters into force, meaning this will come into force approximately mid-2026.

This provision will have a huge impact on food businesses who will need to ensure any food contact materials they are placing on the market will need to not contain PFAS over the thresholds as set out in the PPWR. In 2025, businesses should conduct an audit of their packaging to understand which packaging will need to be changed in order to comply with this new restriction.

For more on the PPWR, please see the Products section.

Ban of Bisphenol A in food contact materials to come into effect in 2026

In June 2024, Member States endorsed a proposal from the Commission to ban Bisphenol A (BPA) in food contact materials. The European Commission adopted the this proposal on 19 December 2024, following the European Parliament and the Council agreeing to pass it into EU law, and it was then published in the Official Journal of the EU.

BPA is a chemical substance used in the manufacture of certain plastics and resins. This ban will mean that food contact materials, such as reusable plastic drink bottles and coatings used on metal cans, will not be allowed to contain BPA. This ban will come into effect on 20 July 2026, with some limited exceptions where no alternatives exist, to allow industry time to adapt and avoid disruption in the food chain.

In 2025, businesses will need to identify a safe alternative to replace BPA in food contact materials and articles in order to ensure it is in compliance with these changes.

Preparing for the implementation of the EU Deforestation Regulation

Please see ESG.

Food law

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Health and Safety

Health and Safety

Grenfell Report Phase 2: Government recommendations to be published

In response to the Grenfell Tower Inquiry Phase 2 Report, published on 4 September 2024, the prime minister promised a response within six months. In his statement in the House of Commons, Sir Keir Starmer set out wide-ranging ambitions for reform, ranging from forcing freehold owners to assess their buildings and enter remediation schemes, to introducing a new Residential Personal Emergency Evacuation Plan policy. For further detail, please see our Insight.

Given the prime minister's commitment to respond in full to the Phase 2 report within six months, we can expect to see the government's response published in the first quarter of the new year. Businesses operating in the construction industry should watch this space closely, as it seems almost certain that changes will need to be implemented across many businesses.

Residential Personal Emergency Evacuation Plans (PEEPs) could soon be required

In Phase 1 of the Grenfell Tower Inquiry, it was recommended that the owner and manager of every high-rise residential building be legally required to prepare personal emergency evacuation plans (PEEPs) for all residents whose ability to self-evacuate may be compromised (such as those with reduced mobility or cognition).

On 2 December 2024, the government published its response to a further consultation on PEEPs, which took place between May and August 2022. This consultation sought views on proposals for Responsible Persons (RPs) to identify and engage with mobility-impaired residents, offering them Person-Centred Fire Risk Assessments to determine reasonable interventions and share this information with the local fire and rescue service for operational response planning.

The consultation outlined a five-step process that formed the Emergency Evacuation Information Sharing proposals. These steps are:

1. Defining the building evacuation strategy
2. Identification of those needing support to evacuate
3. Person-Centred Fire Risk Assessment checklist
4. Sharing information with the local FRS
5. The FRS access and use this information in the event of a fire

Based on responses from enforcing authorities, RPs, building owners, residents, disability groups, and others, the consultation reached 15 conclusions, which included, among others, recommendations to introduce the 5-step process above and create a "Residential PEEP" and to make Residential PEEPS mandatory for higher-risk buildings. The consultation also recommended introducing a "Person-Centred Fire Risk Assessment", which will mandate RPs to engage with vulnerable residents when preparing a risk assessment, and to share information about vulnerable residents with local Fire and Rescue services.

The government will work with various stakeholders and representative bodies to develop operational guidance, policies, and toolkits. Subject to parliamentary approval, new regulations will be laid to enact the above outcomes on Residential PEEPs and building-level evacuation plans as soon as the parliamentary timetable allows. We anticipate further updates on this in 2025.

Review of building regulations guidance

The Building Safety Regulator (BSR) has been asked by the deputy prime minister to undertake a review of Approved Documents which provide further guidance on implementation of the Building Regulations 2010. This review follows on from the Grenfell Tower Inquiry Phase 2 Report which highlighted issues with the documents as currently drafted and will be important to consider when carrying out any building work, and as part of building safety considerations broadly.

During early 2025, the BSR will set up a review panel. The process will include:

- Agreeing on the panel's terms of reference.

- Appointing a Chair to lead the panel.
- Selecting members to assist in achieving its goals.

Further details will be announced in due course and we anticipate any changes to the documents to be announced in 2025.

HSE report on fatalities and deaths

Our November 2024 Regulatory Outlook reported on the publication of Health and Safety Executive's (HSE) annual work-related ill health and injury statistics for 2023/24.

While there was a slight overall year-on-year decrease in the number of employees suffering from ill health when compared with 2022/23, almost half of reported ill-health cases relate to mental health conditions. Mental health-related illness cases peaked during the coronavirus pandemic and, whilst there has been a slight decrease when compared with 2022/23, the current rate of stress, anxiety and depression remains higher than pre-pandemic levels.

The cost of ill-health to businesses is staggering. According to the HSE, an estimated 33.7 million working days were lost in 2022/23 due to self-reported work-related ill health or injury. The financial cost amounted to £21.6 billion.

As businesses head into 2025, the well-being of employees must be high up the list of priorities. Businesses should review their policies and practices for supporting employees with illness, particularly in relation to mental health, where it is necessary to have in place appropriate procedures to identify signs of poor mental health, and intervene where necessary.

Worker Protection (Amendment of Equality Act 2010) Act 2023: New guidance published on the duty to prevent sexual harassment

On 12 November 2024, the Equality and Human Rights Commission (EHRC) issued new guidance to employers on the duty to prevent sexual harassment in the workplace, which came into force on 26 October 2024. The Worker Protection (Amendment of Equality Act 2010) Act 2023 (the Act) introduced a new section 40A into the Equality Act 2010, which requires employers to take reasonable steps to prevent sexual harassment of their employees, including harassment perpetrated by third parties.

The change of legislation requires employers to take a risk-based approach to risks of sexual harassment and EHRC guidance promotes the carrying out of risk assessments from which to assess what 'reasonable steps' can be identified.

There are a number of EHRC and CIPD guidance documents published to support employers but businesses may find that working with colleagues who are used to dealing with risk management and compliance issues (including H&S advisors) will be well placed to support HR teams to carry out this analysis and identify whether systems and procedures already in place in the organisation will be adequate to address the new requirements.

A failure to put in place reasonable steps exposes businesses to regulatory investigation and enforcement by the EHRC irrespective of whether any actual sexual harassment incident has taken place as well as enhanced awards risked in sexual harassment Tribunal claims.

Duty of employers to prevent sexual harassment- further developments

As mentioned in our October Regulatory Outlook, a private members' bill has been introduced in the House of Commons to amend the Health and Safety at Work etc. Act 1974 to place a requirement on employers to take proactive measures to prevent violence and harassment in the workplace; to make provision for protections for women and girls in the workplace; and to require the Health and Safety Executive to publish a Health and Safety Framework on violence and harassment in the workplace, including violence against women and girls in the workplace.

The first reading in the House of Commons was on 21 October, and the second reading has now been delayed to Friday 7 March 2025. In the lead up to the bill's second reading, you should keep an eye on any associated developments and changes to the scope of the bill, especially given the new duty on employers to prevent employees from being subjected to sexual harassment at work (see below).

Health and Safety

Martyn's Law

The Terrorism (Protection of Premises) Bill, also referred to as Martyn's Law or the Protect Duty, continues to makes its way through the Parliamentary process at pace. With the second reading completed in the House of Lords on 7 January and now moving to Committee Stage, we expect to see the bill receive Royal Assent in 2025.

The Home Office expects at least 24 months to pass before Martyn's Law is implemented after Royal Assent, with the bill's duties coming into force in 2027. This implementation period allows time for:

- the Security Industry Authority to establish how it will support dutyholders with meeting their obligations under the bill, and how it will undertake enforcement action in instances of breach;
- those responsible for premises and events caught by duties under the bill to understand their new obligations; and
- dedicated guidance and support to be provided by the Home Office and the Security Industry Authority.

To prepare for these upcoming duties, it is worth organisations taking the time to assess whether their premises or events fall within the standard tier or enhanced duty tier of the bill, to understand the obligations that may apply to their business operations.

To prepare to meet those obligations, organisations can refer to the recently released factsheets that accompany the bill. These cover topics such as scope of premises; scope of events; reasonable expectation of numbers of individuals present; responsible person; standard duty requirements; enhanced duty requirements; and regulation, sanctions and enforcement.

Update on the government's 'Plan to Make Work Pay'

At the end of last year, the government published a new policy paper, "Next Steps to Make Work Pay", outlining the steps it will take to bring its employment based manifesto pledges into force. As part of its original "Plan to Make Work Pay" document, published in June 2024, the Labour Party pledged to "review health and safety guidance and regulations with a view to modernising legislation and guidance where it does not fully reflect the modern workplace".

The main focus of the government's new policy paper is on the new Employment Rights Bill but it highlights other planned reforms that will be delivered under non-legislative methods including "modernising health and safety guidance". It is not clear exactly what changes will be implemented, however at this stage the government has indicated that as part of its longer-term delivery of reforms (autumn 2024 and onwards) they will be looking at the following with a view to modernising the legislation and guidance:

- neurodiversity awareness in the workplace;
- how to modernise health and safety guidance with reference to extreme temperatures;
- whether existing regulations and guidance is adequate to support and protect those experiencing the symptoms of long Covid; and
- ensuring health and safety reflects the diversity of the workforce.

Therefore, we expect the government in 2025 to start conducting reviews of these areas which may then lead to potential updates of the legislation and guidance.

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Modern slavery

Modern slavery

EU Regulation prohibiting products in the Union market made using forced labour enters into force

As reported in our November issue, the Council of the EU adopted the regulation prohibiting products in the Union market that are made using forced labour. Under the new regulation, if a product is deemed to have been manufactured using forced labour, it will be prohibited from being sold on the EU market (including online) and products will be seized at EU borders. If evidence can be provided to authorities that forced labour has been eliminated, then the product may be able to return to the EU market.

On 12 December 2024, the regulation was published in the Official Journal of the EU and therefore entered into force on 13 December. It will become applicable on 14 December 2027.

While the regulation will not come into effect for three years, businesses need to start planning to map and understand the risks in their supply chains, and start to implement effective measures to mitigate those risks in 2025.

Consultation on eradicating modern slavery in NHS supply chains

The government is currently running a consultation on proposals to prevent goods that are linked with modern slavery entering supply chains for the NHS. New regulations will be introduced to legally require public bodies procuring goods and services for the NHS to identify and mitigate the risk of modern slavery in supply chains. The consultation closes on 13 February 2025, see the Regulated procurement section for more.

Although the regulations will only apply to public bodies in England procuring goods and services for the NHS, their introduction reflects a broader trend of businesses being required to proactively address the risks of modern slavery in their supply chains. The introduction of these regulations signals to businesses that supply chain transparency is becoming increasingly important. In 2025, even businesses not subject to specific legal requirements should be considering the risks arising from their supply chains and how they want to mitigate those risks.

Reform of the Modern Slavery Act 2015

As reported in our October issue, a House of Lords select committee published a report evaluating the impact and effectiveness of the Modern Slavery Act (MSA) 2015 following the UK Parliament's request for a review.

The committee's report, "The Modern Slavery Act 2015: becoming world-leading again", is generally critical of the existing legislation, with the committee stating that the UK's response to modern slavery "*has not kept up with the advances of other nations*".

The report highlights areas where the UK has fallen behind in its approach to tackling modern slavery and offers a series of recommendations for improvement, such as strengthening reporting requirements and aligning UK due-diligence laws with international standards.

The government published its response to the report on 16 December. The response does not suggest that significant substantive reform of the MSA is on the short-term priority list for the UK government. In terms of increasing transparency in supply chains, it has said that it will conduct a review of legislative and non-legislative measures to tackle forced labour and increase transparency in global supply chains, and that that will be done in "due course". The response also indicates the government is considering the scope and nature of the Section 54 reporting obligation itself, including the potential application to public sector organisations, and will provide further details on this review in the future.

In response to the committee's recommendation for import laws banning goods produced by companies known to use forced labour, which would align with the EU's Forced Labour Regulation as set out above, the government has said it will continue to assess and monitor the effectiveness of existing measures and the impact of new policy tools.

With the EU introducing the Corporate Sustainability Due Diligence Directive, the Corporate Sustainability Reporting Directive, and the EU Forced Labour Regulation, there is an opportunity for the UK to take steps to align domestic law with EU requirements that many UK companies will directly or indirectly be impacted by anyway. The response does not suggest such substantive change is coming soon. However, businesses should still keep abreast of any changes that may be introduced, particularly given the increased risk of penalties for non-compliance.

Recent enforcement action

Tesco migrant labour claim

Modern slavery

Tesco is facing a modern slavery lawsuit from former workers at the VK Garment Factory (VKG) in Thailand. The workers allege that they were forced to work 99-hour weeks in poor conditions for low pay. They also claim that they were trapped in a cycle of debt bondage and forced labour.

There have been media reports that VKG relied on cheap Burmese labour, often illegally. The workers also allege that the auditors failed to report the abuses that they flagged.

The workers are suing Tesco for alleged negligence and unjust enrichment. This is the first time a UK company has faced legal action in the English courts over a foreign garment factory.

Organisations with international supply chains will want to watch this closely, as the outcome of this case will have ramifications for future claims brought by workers alleging forced labour in supply chains.

Honey

The honey industry is facing new demands to overhaul its supply chain after allegations that more than 90% of sampled products bought from large British -retailers failed authenticity tests.

This follows an EU investigation published in 2022 that found 46% of imported sampled products were suspected to be fraudulent, including all 10 honey samples from the UK.

Honey importers in the UK and some experts challenge the reliability of such testing, but these allegations again illustrate the importance of transparent supply chains that can provide assurance on origin and authenticity of a product. Organisations should bear in mind that a lack of insight into supply chains can mask other compliance risks, including fraud, bribery and forced labour. To mitigate these risks, organisations should regularly undertake supply chain mapping and due diligence.

We anticipate that in 2025 an increasing range of companies, across different sectors, will be facing allegations and concerns related to conditions in their supply chains. Having a clear plan of action for such scenarios, based upon effective supply chain mapping, risk identification and practically implemented mitigation measures, should help organisations limit their exposure to such risks and then respond effectively if such allegations do arise anyway.

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UK

Product Regulation and Metrology Bill

The Product Regulation and Metrology Bill, published on 4 September, has completed its committee stage and will next be read at the report stage. This bill is intended to modernise the UK's management of product and metrology regulations and in practice is expected to facilitate closer alignment with European Union approaches.

The bill provides little detail as to how current legislation will be changed and instead delegates significant power to the secretary of state (and by proxy, the Office for Product Safety and Standards) to draft and introduce secondary legislation to enact changes.

The bill has been subject to a high level of scrutiny due to this low level of detail. A number of amendments were proposed during the committee stage ranging from jurisdictional scope, environmental considerations, the definition of a product, the definition of an online marketplace, enhancements to consumer safety, reviews of technical standards and enforcement powers.

The importance of the bill for the UK's product regulatory framework cannot be overstated as it will form the primary UK legislation addressing product compliance for the next generation. Our key points to watch in 2025 will be (i) the potential change to the definition of a "product" to include intangible items, and (ii) the flexibility of the bill which could allow for a change of the definition of "online marketplaces".

The bill is estimated to receive Royal Assent in April or May 2025.

Tobacco and Vapes Bill

As reported in our November issue, the Tobacco and Vapes Bill was introduced and had its first reading on 5 November. The bill introduces a number of provisions relating to the sale and distribution of tobacco and vapes including prohibiting the sale of tobacco to people born on or after 1 January 2009. It also includes provisions about the licensing of retail sales and the registration of retailers, product information requirements, and to ban the manufacturing and sale of oral tobacco products such as snus. The bill passed its second reading on 26 November and a date for committee stage is yet to be announced.

A consultation on the Tobacco and Vapes Bill has been launched by the Public Bill Committee. Comments on the bill can be made until 30 January 2025.

Businesses affected by this legislation should keep on top of the bill's progress and understand the effect it will have on them.

To note, the bill sits separately to the recently introduced regulations banning the supply and sale of single-use vapes from 1 June 2025 as set out in our October Regulatory Outlook.

EU

EU General Product Safety Regulation

The EU's General Product Safety Regulation (GPSR) came into effect on 13 December 2024.

There are three key points to note:

- Products are subject to overarching safety requirements. They must be safe when placed on the market and remain safe throughout their lifespan. The definition of what is considered a product has been significantly expanded, covering intangibles such as freestanding software and AI tools as well as tangibles.
- Manufacturers must conduct ongoing risk analysis and maintain technical documentation for all their products for ten years.
- There have also been significant updates to packaging and labelling requirements to improve product traceability.

See our dedicated microsite for more on the GPSR.

While the GPSR does not apply directly to the UK, it is particularly relevant since the UK is in the process of updating its product safety regime. Based on industry feedback on the Product Regulation and Metrology Bill, it is evident that stakeholders are keen for an UK system that is closely aligned to the EU's and the UK regulator is aware of this. The GPSR is therefore a helpful indicator of the requirements that may be introduced in the UK.

EU Product Liability Directive

The EU Product Liability Directive entered into force on 8 December 2024. Member States have until 9 December 2026 to implement the directive into national law.

Key elements include an extension of the definition of a "product" to include digital files and software, clear allocation of civil liability when products are repaired by third parties outside of the original manufacturer's control, easier access to evidence for consumer claimants, and a new framework for assigning liability for damages arising from non-EU originating products.

Although the date of application for the new Product Liability Directive is not until the end of 2026, businesses will need to start taking steps now in order to prepare. For example, businesses should review their processes to guard against an increased risk of being sued over allegations that products are defective, and ensure that documentation related to products is updated to account for increased disclosure obligations.

If you would like to receive our infographic which sets out further detail on the incoming changes and practical steps you can be taking now, then please get in touch.

The directive can also be tracked through our Digital Regulatory Timeline.

EU Toy Safety Regulation

The European Parliament will continue to work on the Toy Safety Regulation (intended to replace the Toy Safety Directive) in 2025.

We will continue to monitor any updates released throughout the year. Please see a past Regulatory Outlook for the 2024 position.

Wild world of digital regulation

In the world of artificial intelligence (AI), a number of different pieces of legislation are coming to the fore. This software is now covered by the GPSR, the Product Liability Directive, and incoming obligations under the AI Act with the prohibited AI list taking effect in February 2025.

Also of note is the resumption of work on the AI Liability Directive. It is not yet clear what direction the legislation with take with Nils Behrndt, from the European Commission, indicating at a recent meeting that discussions have proven challenging.

The key point to take away here is that there is a lot of new law coming into play which will alter the regulatory landscape for digital technologies throughout 2025 and beyond.

EU Cyber Resilience Act

The Cyber Resilience Act (CRA) will introduce cybersecurity requirements for products with digital elements which aim to protect consumers and businesses from products with inadequate security features. The CRA will require manufacturers to ensure that their products meet minimum technical requirements for cyber security from the design and development phase and throughout the whole product lifecycle. It is possible this could include carrying out third-party conformity assessments.

Certain types of products with digital elements deemed safety critical will be subject to stricter conformity assessment procedures, reflecting the increased cyber security risks they present.

The proposal also introduces transparency requirements, by requiring manufacturers to disclose certain cyber security aspects to consumers.

The CRA entered into force on 10 December 2024. The CRA has a 36-month transition period, meaning it will apply from 11 December 2027.

Product sustainability

UK

Government announces reforms to WEEE to bring OMPs under regulations

The government has published its response to the consultation on reforming the producer responsibility system for waste electricals. The consultation sought views on: introducing a producer-financed household collection system for waste electrical and electronic equipment (WEEE); enhancing retailer obligations for free collection on delivery, in-store takeback and customer communication; designating online marketplaces as producers with obligations similar to UK manufacturers and importers; creating a new category for vapes, with costs borne by those placing them on the market; and establishing a new WEEE scheme administrator.

The devolved nations will respond to these proposals in full in 2025 but will implement the following immediate changes:

New obligations for online marketplaces

- When facilitating sales into the UK market from overseas traders, online marketplaces will need to contribute to the cost of collection, treatment, reuse and recycling of WEEE; and
- online marketplaces will need to join an approved WEEE compliance scheme, pay a registration fee and report data on the weight of electrical and electronic equipment placed on the UK market by overseas traders.

A new category for vapes

- Will amend regulations to require vape producers to report product weight in a new category.
- Will amend WEEE reporting obligations to reflect the new category.

Regulations will be amended in 2025, with obligations starting in 2026.

Ban on single-use vapes comes into force on 1 June 2025

The Environmental Protection (Single-use Vapes) (England) Regulations 2024 have been made and come into force on 1 June 2025. The regulations ban the sale and supply of single-use vapes from 1 June 2025, allowing businesses sufficient time to adapt and run-down remaining stock. A single-use vape is one which is not refillable and/or rechargeable.

Businesses that sell and supply single-use vapes will need to ensure that from 1 June 2025 they are not placing these products in the market or they could risk enforcement action being taken against them.

Regulations made to introduce the extended producer responsibility regime for packaging

The regulations introducing the extended producer responsibility regime (EPR) - the Producer Responsibility Obligations (Packaging and Packaging Waste) Regulations 2024 (EPR regulations) - were made on 11 December 2024 and came into force on 1 January 2025. The EPR scheme obligates producers of household packaging waste to pay the full cost of the disposal of this waste. The EPR regulations set out the producers who are obligated under the EPR and requires in-scope producers to record-keep and report their packaging data, continue to ensure that a proportion of the packaging they supply by material type (card, glass, plastic, metal, etc) is recycled and to provide evidence of recycling to the regulator, as well as obligating producers to assess the recyclability of packaging.

The EPR regulations allow for both civil and criminal sanctions. Initially, regulators will help businesses to achieve compliance, but civil and criminal penalties can be imposed if necessary. Regulators may issue compliance notices or variable monetary penalties, with criminal sanctions applied only in severe cases which, if appliable, would result in a fine. As such businesses in scope need to ensure throughout 2025 they are complying with the requirements of the EPR regulations, such as reporting relevant data (see below).

Businesses to start paying fees under EPR from October 2025

Throughout 2024, businesses in scope of the EPR scheme have been collecting and reporting relevant data. The first fees under the EPR scheme are due from October 2025 using the data collected from 2024. Businesses within scope must ensure that they pay any related fees.

Businesses in scope should also be aware that from January 2025, the data for 1 July to 31 December 2024 needs to be reported. The deadline to report this data by is 1 April 2025.

Reporting packaging recyclability under EPR

From 1 January 2025, liable producers who supply household packaging must assess the recyclability of that packaging and report the results of the assessment to the relevant environmental regulator. Only large producers must report their recyclability assessment data. The first reports under the EPR regulations must be submitted on or before 1 October 2025, for the period 1 January to 30 June 2025.

In line with this, guidance has been published outlining how to assess the recyclability of packaging and states that packaging will be categorised using a red, amber, green rating system, which will influence disposal fees through "fee modulation". Full details of how fees will be modulated is to be published in 2025. The guidance also sets out what businesses can do to get help assessing packaging, which includes using third party providers and adds that an official register of compliance schemes will be published by PackUk (part of the Department for Environment, Food & Rural Affairs) in 2025.

Businesses in scope must ensure they, or a third party provider, carry out these recyclability assessments of its household packaging and submit the results of these by 1 October 2025.

Changes to separation of waste for businesses from 31 March 2025

From 31 March 2025, the Separation of Waste (England) Regulations 2024 will start to apply which legally requires businesses and relevant non-domestic premises in England to separate their recyclable waste, with the exception of garden waste. Business will be required to separate their waste into the following three streams: dry recyclable materials (plastic, metal, glass, paper and card); food waste; and black bin waste (residual waste).

By default, businesses need to separate paper and card from other dry recyclables unless the relevant waste collector collects them together or they apply an exemption as detailed below. Businesses should discuss how dry recyclable waste will be collected with their chosen waste collector.

Businesses are able to co-collect paper and card with other dry recyclable materials where separate collection is technically or economically impracticable or provides no significant environmental benefit. If relying on one or more of these exemptions, businesses will need to produce a short-written assessment explaining their decision and substantiating this with evidence. Guidance has been published to assist businesses with this.

Preparing for the Deposit Return Scheme

As reported in our November issue, the UK government has committed to implementing a deposit return scheme across England, Northern Ireland and Scotland in October 2027 and has laid draft regulations for the scheme. In 2025, we expect these regulations to be made into law and for the government to work with industry to ensure the DRS is developed in a way that works for businesses as well as consumers. Businesses should continue to engage with the government, where relevant, as plans for the DRS progress.

Circular economy strategy

The government has formed a Circular Economy Taskforce which will help build a circular economy in the UK and help to end the throwaway culture. Scotland, Wales and Northern Ireland have already published strategies on how they are committed to the circular economy and the UK government will be publishing its strategy for England in 2025.

The UK government and devolved nations are discussing plans for wider reforms reflecting strategic priorities in the drive towards a circular economy across the UK and this will be set out in 2025. Businesses should keep abreast of the government's plans for moving toward a circular economy as this is likely to involve regulatory changes.

EU

Packaging and Packaging Waste Regulation

On 16 December 2024, the Packaging and Packaging Waste Regulation (PPWR) was formally adopted by the Council of the EU, marking the end of its legislative journey. The regulation will now be published in the EU's Official Journal and will enter into force. The regulation will be applied 18 months after the date of entry into force.

The PPWR introduces several significant changes to packaging regulations, including:

- By 2030, all packaging must be recyclable, with specific criteria and performance grades to be established. Some exemptions apply, such as for certain medical products.
- Plastic packaging must contain a minimum percentage of recycled content, with specific targets set for 2030 and increasing by 2040.
- An "empty space" ratio limit of 50% will be enforced.
- Packaging must be minimised in weight and volume to the minimum whilst ensuring its functionality.
- A harmonised labelling system will be introduced to simplify sorting and disposal.
- Certain single-use plastic packaging formats (such as individual portions of condiments, sauces, milk creamer and sugar in hotels, bars and restaurants) will be banned from 2030.
- The use of per- and polyfluoroalkyl substances (PFAS) in food contact packaging will be restricted under de minimis thresholds 18 months from when the PPWR enters into force (so approximately mid-2026).
- Extended producer responsibility obligations will require businesses to contribute financially to packaging waste management.
- By 1 January 2029, mandatory deposit return schemes will be introduced for single-use plastic and metal beverage containers.
- Three years after the PPWR enters into force, the takeaway sector must offer reusable packaging options for hot or cold beverages and ready-prepared food.

The PPWR will significantly impact businesses operating within the EU. With the legislation now confirmed, it is crucial for businesses to familiarise themselves with the upcoming changes and understand their implications. These new measures will necessitate adjustments in packaging practices, including the methods and materials used for packaging products.

Ecodesign for Sustainable Products Regulation

The Ecodesign for Sustainable Products Regulation (ESPR) entered into force on 18 July 2024. Over time, the regulation will extend the current ecodesign framework to all physical goods placed on the EU market. This will be done via delegated acts introduced by the European Commission.

At the end of 2024, the Commission called for applications for the Ecodesign Forum. This forum is a group of experts on ecodesign for sustainable products and energy labelling who will act as an advisory body to the Commission in relation to the ecodesign requirements they will introduce.

The Commission is to adopt the first working plan under the ESPR by 19 April 2025, which will outline which products will be prioritised over the coming years in terms of secondary legislation. The Commission is expected to prioritise a number of product groups in its first working plan, including iron, steel, aluminium, textiles (notably garments and footwear), furniture, tyres, detergents, paints, lubricants and chemicals. Once published, businesses should review the working plan to understand which product groups will soon be subject to new ecodesign requirements and whether this will impact them.

The ESPR provision banning the destruction of unsold consumer products comes into force on 19 July 2026. The first products to fall within this are footwear, apparel and clothing accessories so those businesses who place these products on the Union market should be preparing throughout 2025 ahead of this prohibition.

FAQs on the ESPR can be found here.

Right to repair

The Right to Repair Directive entered into force on 30 July 2024. This legislation aims to promote sustainability by increasing the repair and reuse of defective products. It introduces obligations for producers to repair goods and amends consumer rights for defective products.

Member States will need to implement national laws, regulations and administrative provisions to comply with the directive by 31 July 2026. Currently the right to repair only applies to those products which have repairability requirements as set out in ecodesign legislation, such as fridges and washing machines. However, this list will expand as further ecodesign requirements for products are introduced via the ESPR.

In 2025 businesses should consider whether the design of their products may need to be changed to make repairs easier and whether opportunities are presented to them by new repairs and refurbishments. Additionally, it would be advisable to start communicating changes within supply chains so all are aware of what is on the horizon.

See our previous Eating Compliance for Breakfast webinar recording and relevant slides on the directive.

New ecodesign requirements for smartphones and slate tablets to come into effect

New ecodesign requirements will apply from 20 June 2025 for smartphones, mobile phones other than smartphones, cordless phones and slate tablets. Manufacturers should have been preparing themselves for these new requirements throughout 2024 and should continue to do so in early 2025 ahead of it coming into effect.

The legislation requires, among other things, that devices are able to be effectively repaired and that spare parts should be available to professional repairers or end users, and it introduces requirements to ensure devices are protected from dust and water and are resistant to accidental drops.

Examples of practical steps businesses could take include communicating with supply chains regarding the requirement for spare parts and thinking about the design of products and how they might be made more durable or more easily repairable.

Energy labelling of smartphones and slate tablets to come into effect

As detailed in a past Regulatory Outlook, the European Commission proposed new rules relating to the energy labelling of smartphones and tablets which have been published in the EU Official Journal.

Devices that are put onto the Union market will have to display information on their energy efficiency and battery endurance, as well as displaying a repairability score.

These rules will apply from 20 June 2025 and manufacturers should have been preparing themselves for these new requirements throughout 2024 and should continue to do so in early 2025. Part of this preparation should include building an understanding of how to calculate repairability scores and ensuring the correct energy efficiency labels are applied to products in scope.

Updates on PFAS restrictions

In November we reported on the European Chemicals Agency's (ECHA) update on the progress of its restriction proposal for per- and polyfluoroalkyl substances (PFAS). In 2025 further updates will be provided by ECHA on the restrictions affecting PFAS.

Further to this proposal which looks at restricting around 10,000 PFAS, the European Commission also adopted new measures under REACH to restrict the use of undecafluorohexanoic acid (PFHxA) and PFHxA -related substances. These are sub-groups of PFAS (see our October issue for more). These restrictions will start to apply from 10 October 2026 so during 2025 businesses who will be impacted by these measures should be preparing for these changes.

Sustainable Batteries Regulation

The EU Sustainable Batteries Regulation came into effect on 18 February 2024. Obligations under the regulation are being implemented through a phased approach. CE marking rules are already in place, requiring all batteries, whether incorporated into products or supplied separately, to be CE marked.

In 2025 further obligations will come into effect. From 18 August 2025:

- All batteries will need to bear a "separate collection symbol".
- Due diligence requirements need to be complied with if an economic operator meets the following thresholds: have a net turnover of €40 million or more in the penultimate financial year; or are part of a group which exceeds the limit of €40 million.
- Extended producer responsibility will apply to batteries meaning producers will be responsible for the end of life collection and treatment of batteries.
- Member States must lay down rules on applicable penalties. These must be "effective, proportionate and dissuasive" and will vary across EU Member States.

Businesses should review the regulation to determine applicability to their batteries and ensure compliance with upcoming changes.

Further, from 18 February 2027, products with portable batteries must be designed so that the batteries are readily removable and replaceable by the end user during the product's lifetime. Some narrow exclusions apply for products designed for use in water and certain medical devices, and instead these batteries only need to be removable by an independent professional. While this obligation is further down the line, in 2025 businesses should be looking to their product designs to understand what changes may need to be made to comply with this requirement.

European Parliament: resuming unfinished business

On 13 November 2024, the European Parliament (EP) announced the list of legislative files under Rule 250 which it will resume business in the new legislature. Generally, if the EP does not conclude work on a file before it breaks up for the European elections, the file is deemed to have lapsed. However, under Rule 250 of the EP Rules of Procedure, the EP's Conference of Presidents can decide to continue work on unfinished files. One of these files was the amendments to the Waste Framework Directive. This amendment, as currently drafted, will introduce new measures to support the circular economy and reduce waste from textiles in the EU including for Member States to introduce extended producer responsibility (EPR) schemes for textile waste.

Businesses have a preparation window for the EU Deforestation Regulation

Please see ESG.

Carbon Border Adjustment Mechanism: looking ahead

Please see ESG.

Life Sciences and healthcare
Medical Device regulatory reform

At the start of 2024, the UK Medicines and Healthcare products Regulatory Agency (MHRA) released its roadmap on the future regulatory framework of medical devices with core elements of the new framework expected to be in place in 2025. A reminder of the progress the MHRA has made so far is as follows:

The Medical Devices (Post-market Surveillance Requirements) (Amendment) (Great Britain) Regulations 2024 were made on 16 December 2024. These regulations amend the Medical Devices Regulations 2002 to impose more stringent requirements and obligations on manufacturers to undertake post-market surveillance (PMS) practices on their medical devices. Changes being introduced include to PMS system and plan, preventative actions and reporting obligations. They come into force on 16 June 2025. See our Insight for more.

A consultation on routes to market for medical devices and in vitro diagnostic (IVD) devices ran from 14 November and closed on 5 January (see our November issue for more). The responses received will be used to shape the regulatory reform.

Products

The MHRA updated its roadmap in December outlining that the PMS SI is to pass by January 2025 with guidance to be published in June. It also sets out that the response to the consultation on routes to market for medical devices and IVDs will be published in early/mid 2025, with the regulations to be introduced by the end of 2025. It is important to note that this document is live and so subject to change.

2025 will be a pivotal year for medical device regulatory reform in the UK. Businesses must stay informed about the upcoming changes and understand their implications for compliance.

Regarding developments in the EU, the EU implemented the EU Medical Device Regulation (MDR) in 2017 to replace existing directives, however it did not come into force until 26 May 2021 due to delays caused by the Covid-19 pandemic. The MDR reforms included expanding the definition of "medical device" to include previously unregulated products like cosmetic contact lenses and introduced stricter conformity assessment procedures, risk-based classifications, and increased obligations for high-risk devices.

Despite progress, significant delays have occurred in transitioning to the new rules due to a shortage of notified bodies, supply chain issues, and manufacturers' unpreparedness. To prevent further disruptions, the Commission extended the transition periods for compliance: high-risk devices until December 2027, medium-risk devices until December 2028, and lower-risk devices until December 2029.

The Commission has also launched a new consultation on the effectiveness of EU regulations on medical devices and in vitro diagnostic medical devices. Comments are to be made by 21 March 2025.

See our Insight for more on medical device reform in the UK and EU.

MHRA and AIaMD

Last year, the MHRA launched the AI Airlock which is a regulatory sandbox for AI as a medical device (AIaMD) (previously covered here). The project is intended to help the MHRA identify and address challenges in regulating AIaMD.

In December, the MHRA announced the selection of five innovative AI technologies for its AI Airlock pilot scheme. The manufacturers will be able to test their products and collect evidence under the supervision of the MHRA which will then support the approval of their product. The findings from the pilot will be announced in 2025 and will inform future AI Airlock projects and influence future UK AI Medical Device guidance.

Businesses seeking to bring AIaMD to the UK market should, when made available, review the findings published from the pilot to understand how the regulatory framework may be changing for AIaMD. Additionally the MHRA intends to publish guidance on cybersecurity and human factors specific to AIaMD by spring 2025 which businesses should keep an eye out for.

Additionally, with the MHRA's 2024/25 business plan focusing on innovation, alongside the creation of the new Regulatory Innovation Office (RIO) (see our Insight for more) which will initially be focusing on digital healthcare, we anticipate there to be further progress made in the AIaMD sphere in 2025.

See also our Insight 'Is the MHRA creating the right conditions to encourage UK investment in AI products?' for a detailed examination of the MHRA's strategic approach to AI.

Clinical trials regulatory reform

On 12 December the UK's new clinical trials regulations were laid before Parliament. Once made into law, these will come into force following a 12-month implementation period. The changes were trailed via a 2022 consultation and government statements since. Some of the changes that will have most impact for sponsors and clinical research organisations include:

- **"Combined Review" -** This is a change to the approval procedure for clinical trials, combining what had been separate applications for authorisation from the MHRA and Ethics Committees - This aims to speed up the procedure for approval, to under 60 days.
- **Research Ethics Committees (RECs)-** Specific requirements for the make-up of RECs have been dropped, and replaced with provisions in line with international good clinical practice standards. This may reduce some of the barriers to launching a clinical trial.

- **Transparency -** This is now a key principle, with requirements to register trials in a public register, and publish a summary to share outcomes with participants. It is hoped that making research and results publicly available will encourage participation.
- **Consent** - Processes to seek and record participant consent are to be simplified in "lower risk" trials. This will interest manufacturers of medicines that have already been approved but show promise in treating additional conditions.

The new regulations, brought in via amendments to the Medicines for Human (Clinical Trials) Regulations 2004, are an example of the UK's approach to updating legacy EU regulations since Brexit. The UK government sees these changes as promoting the UK as a venue for high-quality clinical trials, to improve treatment for patients in the NHS and attract investment in the UK economy. In light of these reforms, industry and government will be watching trends relating to numbers of trials held in the UK and rates of patient participation.

The MHRA recently ran a webinar on implementing the new clinical trials regulations which you can watch here. Within this it was outlined that throughout 2024 the MHRA has been developing guidance on the regulations and started stakeholder engagement in November 2024, which will continue until March 2025. In March/April 2025 the final draft-guidance will be published, with the aim of publishing the final guidance in August 2025. Businesses should engage with the MHRA to help finalise this guidance.

Reform of the NHS

In 2025, significant reforms to the NHS are expected to be announced, with Wes Streeting to publish his 10 year Health Plan in spring 2025 detailing the government's plans on reforming the NHS.

Lord Darzi's recent report highlights several key areas for potential reform, including digital transformation, clinical trials, health data, and AI. The report underscores the need for integrating advanced digital solutions, simplifying clinical trial processes, leveraging rich health datasets, and adopting AI to enhance patient care.

The government's response indicates a commitment to long-term reform, suggesting that these areas will be focal points in the upcoming changes. Businesses should review the 10 year Health Plan when published to understand what changes the government is looking to introduce and how this might impact them.

Windsor Framework: changes now in force for medicines

Changes to the supply of medicines from Great Britian to Northern Ireland (NI) being introduced under the Windsor Framework (WF) came into force on 1 January 2025. Under the WF, the MHRA will now licence all medicines, that previously required EU-wide authorisation, in accordance with UK law which will require "UK Only" labelling . This allows all types of medicines to be supplied with a single licence and pack for the entire UK. The MHRA has produced guidance which explains the main changes the WF introduces and also see our September issue for more.

Businesses that are placing medicines on the NI market should review this guidance to ensure they are familiar with these changes and are complying with the new rules.

Relaunch of the Innovative Licensing and Access Pathway

The MHRA has published a statement of policy intent on relaunch of the Innovative Licensing and Access Pathway (ILAP). The ILAP is a pre-market pathway which comprises of an innovation Passport designation and a target development profile and provides applicants with access to a toolkit to support the design, development and approvals process. The ILAP is "focused on getting the most transformative new medicines to patients in the NHS more quickly."

The new ILAP will target medicines that have not started their confirmatory trials, providing more chances to benefit from the pathway's support. Key improvements include:

- Enhanced bespoke service through selective entry and dialogue between ILAP partners and developers.
- Simpler roadmap and more predictable timelines for better planning.
- NHS involvement as a core partner, focusing on operational planning and system readiness for new medicines.
- Prioritised scheduling for ILAP Joint Scientific Advice, Access Forums, MHRA scientific advice, pre-submission meetings, and access to Clinical Practice Research Datalink.
- Future-proofing to accelerate access for transformational products, including drug-device combinations.

The new ILAP will open to applications in March 2025, with full details of the pathway to be published in January 2025 so businesses interested in applying should review this when published.

Regulations for medicines manufactured at the 'point of care' and modular manufacturing

As previously reported, the draft Human Medicines (Amendment) (Modular Manufacture and Point of Care) Regulations 2024 have been laid to amend the Human Medicines Regulations 2012 and the Medicines for Human Use (Clinical Trials) Regulations 2004 to provide a new regulatory framework for medicines manufactured at the "point of care" (POC), and modular manufacturing (MM), where products are manufactured in modular, relocatable units.

The amending regulations will allow for medicines to be manufactured and supplied at the POC and support MM. They come into force six months after the date they are made which we expect to happen in early 2025. Detailed guidance on the new framework will be published by the MHRA in advance of the regulations coming into force.

Design for Life roadmap: building a circular economy for medical technology

Last year, the Department of Health and Social Care launched a Design for Life roadmap to reduce the amount of single-use medtech used in the NHS and reduce reliance on products imported from foreign countries. Further details of this can be found in our October issue, but we anticipate further information to be published on this in 2025. Businesses should keep abreast of developments with the roadmap and engage in any stakeholder consultations where relevant.

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Regulated procurement

Regulated procurement

New procurement regime to go live

The Procurement Act 2023 received Royal Assent in October 2023 and is due to "go-live" on 24 February 2025 after a delay from the originally anticipated October 2024 date. The delay was due to the new government revising the National Procurement Policy Statement (NPPS) to reflect their policy priorities for public procurement.

In addition to our series of webinars and Insight articles on the key changes in the Act, we have also published our "Getting your house in order" series of videos, checklists and infographics aimed at preparing suppliers for implementation. All of this content can be found on our microsite, which acts as a one-stop shop for preparation for the Act to "go-live".

Transitional arrangements apply as we move from the current procurement regulations to the Procurement Act - only new procurements launched after the go-live date will be governed by the new Act. As a reminder, any procurement started prior to go-live (or contracts already awarded) will remain under the existing regulations, including in relation to any future modifications or extensions. The government has confirmed that there will be no mixing of the two regimes; the end point for the application of the old regime is the termination of the relevant contract or framework or procurement where no contract is awarded.

The Procurement Act 2023 (Consequential and Other Amendments) Regulations 2025 (the 2025 Regulations), which were laid in Parliament on 9 December 2024, are also scheduled to come into force on 24 February 2025, in line with the Act. The 2025 Regulations primarily make chances to other pieces of legislation (for example, amending references in the Public Contracts Regulations 2015 (PCR 2015)), but also include additional elements, such as the calculation provisions for horizontal and vertical procurement. The 2025 Regulations also update the thresholds in Schedule 1 of the Act to align with those in use since January 2024.

Launch of the Central Digital Platform

Onboarding and registration for contracting authorities for the much-anticipated Central Digital Platform (CDP) is set to begin in late January 2025, with the timing of onboarding and registration for suppliers to be confirmed. "Go-live" for the CDP will be at 00:01 on 24 February 2025, in line with the Procurement Act. A full list of the information needed for registration is available on the Factsheet.

Suppliers will be able to register and update their core business information on the platform, including records of accreditations and financial information, which can then be shared across multiple bids and customers. Suppliers will also be able to upload information on connected persons to the CDP. Suppliers should note, however, that contracting authorities will continue to run procurements using a range of procurement platforms; this means that while core business information can be drawn from the CDP and need not be repeated, submission of tender-specific responses will continue to require interaction with separate platforms.

New National Procurement Policy Statement

Commencement of the Act was delayed in order to allow the new Labour government further time to re-draft the NPPS, which sets out the government's strategic priorities for public procurement, and how contracting authorities can support their delivery. It was explained in a written parliamentary statement on 12 September 2024 that the government's view was that the current NPPS "*does not meet the challenge of applying the full potential of public procurement to deliver value for money, economic growth and social value*."

To inform the development of the new NPPS, a stakeholder survey was launched on 7 October 2024, and closed on 4 November 2024. The government hopes that, following the delay of the Act's go-live date and with fresh input from stakeholders, the new NPPS can better address "*this Government's priorities for public procurement in support of [their] missions*." The new NPPS is expected to be published in advance of commencement of the Act on 24 February 2025.

Unlike under previous legislation, the NPPS is now to be provided for at section 13 of the Act, mandating contracting authorities to have regard to it when conducting public procurements.

The NHS and the 10-Year Health Plan

Health and Social Care Secretary, Wes Streeting, announced on 13 November 2024 plans to prepare an ambitious 10 Year Health Plan aimed squarely at overhauling the NHS, following Lord Darzi's report detailing the deterioration of the NHS in recent years.

Regulated procurement

With the 10 Year Health Plan, the government intends to deliver plans for - among other things - new neighbourhood health centres, the creation of a single digital patient record using the NHS App, and the optimisation of NHS digital systems to allow NHS staff to share data more easily. Underpinning these changes is the intention of moving "*from sickness to prevention*", with the aim to shorten the amount of time people spend in ill health and prevent illnesses before they happen.

As a part of the 10 Year Health Plan, the government launched a platform for members of the public, as well as NHS staff and experts, to share their experiences, views and ideas for fixing the NHS via the Change NHS online platform, which was live for input until the start of 2025. Following the closure of the platform, the government plans to publish the 10 Year Health Plan in spring 2025.

This reform will go hand-in-hand with other government initiatives focused on upgrading the NHS, including the "Design for Life Roadmap" focused on integrating a circular economy into medical technology, and the "NHS net zero supplier roadmap". We have set out the milestones for the NHS Net Zero Supplier Roadmap in an earlier Insight.

Modern slavery in public procurement

As a part of the government's initiatives in tackling modern slavery in public procurement, it has proposed the draft National Health Service (Procurement, Slavery and Human Trafficking) Regulations 2024 (the NHS PSHT Regulations), aimed at combatting modern slavery and ensuring NHS supply chains and business activities are free from ethical and labour standards abuses.

The consultation to the NHS PSHT Regulations, which provide the draft form of the regulations alongside accompanying guidance, was published on 21 November 2024 and closes at 11:59pm on 13 February 2025. The government has invited public bodies, suppliers and interested members of the public via the consultation.

Prompt payment for all businesses

Looking ahead, the government has published a new Procurement Policy Note (PPN), PPN 018, which is set to replace PPN 015 from 1 October 2025. PPN 018 does not majorly deviate from its predecessor – both set out how payments approaches can be taken into account in the procurement of major contracts. The primary change between the two is the reduction of the average payment days threshold. Currently, suppliers are required to pay invoices in their supply chain within an average of 55 days. From 1 October 2025, a supplier must demonstrate it pays all its invoices in its supply chain within an average of 45 days, and is paying 95% of invoices within 60 days (90% with an action plan).

The change ties in with the increased focus within the Act on easing the burden on small, medium enterprises (SMEs), for whom the cash-flow implications of late payments pose a key challenge and a hindrance to increased SME involvement in public contracts.

As a reminder, once the Act is live, it will mandate that all contracts awarded under it include an even stricter 30-day payment term, which is implied in contracts even if not explicitly written into them. This term applies to contracting authorities, requiring prompt payment of suppliers but is also mirrored in provisions affecting any sub-contracts which are wholly or substantially for the purpose of contributing to the performance of the public contract, meaning suppliers will also need to pay their own supply chain within 30 days.

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Sanctions and Export Control

Sanctions and Export Control

Sanctions Regulations come into force

As previously reported, the Sanctions (EU Exit) (Miscellaneous Amendments) (No.2) Regulations 2024 were laid before Parliament on 14 November 2024. The regulation, which makes a number of changes to the UK sanctions regimes, came into force on 5 December 2024.

A reminder that the extension of reporting obligations to high value dealers, art market participants, letting agents and insolvency practitioners will come into force on 14 May 2025. This is to allow the Office for Financial Sanctions Implementation (OFSI) to complete further industry engagement.

It is anticipated that the OFSI will continue to cooperate with its international partners in countries such as the US, in combatting Russia's circumvention of sanctions. It is expected that OFSI will collaborate with other regulators including the new Office for Trade Sanctions Implementation (OTSI), in enforcing sanctions and export controls. Firms should make sure they are aware of the changes to reporting obligations to ensure they remain compliant.

To find out more, register to attend our "Future of Financial Services Week" webinar, where Osborne Clarke's experts will discuss recent developments in financial crime and provide a roadmap for compliance.

Russian sanctions circumvention guidance for exporters

The OTSI has published new guidance aimed at supporting exporters and manufacturers in the UK to identify Russian sanctions evasion practices and help businesses to develop strategies to reduce the risk of their goods being diverted to Russia.

The document highlights that it remains the responsibility of UK businesses to determine the extent of their sanctions risk exposure and to develop safeguards and controls. The guidance contains information on:

- the goods most at risk of being illegally diverted to Russia (the Common High Priority List);
- third countries that businesses should consider conducting enhanced due diligence for when exporting at-risk products;
- red flag indicators of potential export control and sanctions evasion;
- compliance best practice and enhanced due diligence procedures;
- the enforcement powers of the OTSI and HMRC in the event of a trade sanctions breach; and
- additional resources to help businesses in managing their risk and meeting compliance obligations.

OTSI and the Department for Business and Trade published supplementary guidance for businesses involved in the export and making available of common high priority items and other items critical to Russian weapons systems and military development.

The document clarifies that while contractual clauses prohibiting buyers and importers from re-exporting items subject to Russia sanctions to Russia, the inclusion of "no-Russia" clauses in export contracts may represent a component of due diligence best practice and reduce the risk of involvement in a potential sanctions breach through the businesses' customers.

OFSI general licences

The following general licences were revoked on 5 December 2024:

- General Licence INT/2024/4836676, for payments to the FCA from or on behalf of a designated person.
- General Licence INT/2023/3626884, for designated persons to make payments to Companies House
- General Licence INT/2023/3781228, for payments to local authorities.
- General Licence INT/2024/4881897, for payments to be made to the revenue authorities by or on behalf of a designated person.

The above payments are now covered by the required payments exception introduced under the Sanctions (EU Exit) (Miscellaneous Amendments) (No. 2) Regulations 2024.

Sanctions and Export Control

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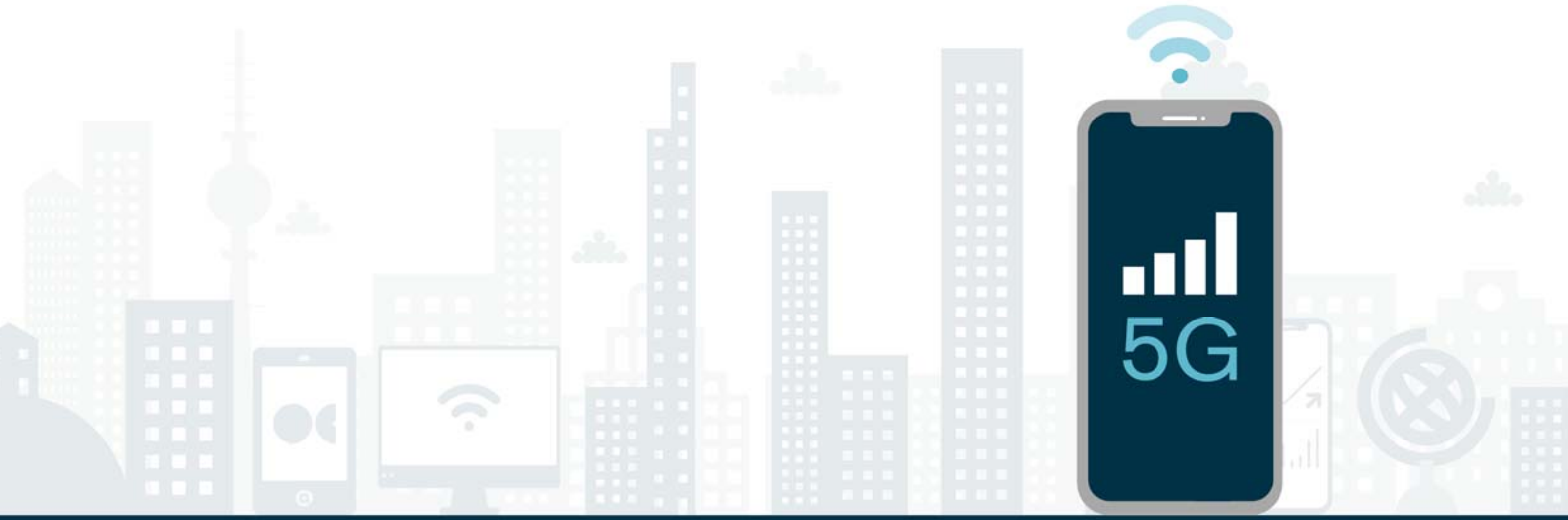

Telecoms

Telecoms

Ofcom plan of work consultation

Ofcom has now published its proposed "Plan of Work" for 2025/26, which sets out its key focus areas for the next financial year.

The regulator's priority outcomes are "Internet and Post we can rely on", "Media we trust and value", "We live a safer life online", and "Enabling wireless in the UK economy".

Some of the key initiatives for which Ofcom has planned to deliver these outcomes in the telecoms sector include:

- using powers provided by the Telecommunications (Security) Act 2021 to monitor providers' compliance with the new security framework;
- taking enforcement action against companies that do not comply with the Illegal Content Code of Practice and the Protection of Children Codes of Practice (once approved by Parliament); and
- awarding the mmWave spectrum (26 GHz and 40 GHz), designing rules for the award of 1.4 GHz spectrum and continuing to explore authorisation options for the upper 6 GHz band.

Ofcom has asked for responses to its proposed plan of work by 5pm on 29 January 2025.

March deadline for TSA compliance

For communications providers with relevant annual turnover of over £50million but less than £1billion the 31 March 2025 deadline is fast approaching for compliance with the measures set out in the Telecommunications Security Code of Practice. Before April arrives, in-scope providers must ensure that they have identified and remedied any potential weaknesses in areas such as:

- governance processes;
- third party supplier management;
- network oversight functions; and
- protection of customer data.

Failure to comply can result in fines of up to ten per cent of turnover and so it is essential that providers waste no time in implementing the necessary measures.

Implementation of gaining provider led switching for business customers

Under the Ofcom General Conditions there is an obligation for all providers of fixed-line broadband and voice services to offer customers a gaining provider-led switching solution. Now that One Touch Switch has been launched for residential customers, the industry's focus will now shift to the business switching solution.

In December, the One Touch Switching Company (TOTSCo) has published a letter advising that plans for the launch of a business solution are likely to be shared in early 2025. The goal is then for businesses to be able to start integration testing with the solution in Q2 2025.

If you would like to discuss any of these issues, or better understand how best to bring your business processes in line with the telecoms security or switching rules, please contact one of our experts.

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