



Briefing Paper

The Environment Act

March 2022

This briefing paper sets out the current progress of the Environment Act 2021, the proposed targets and their areas, the current powers to enforce the law, their implications, and the type of organisations likely be impacted.

Please note certain provisions may change within the legislation. This briefing paper intends to make businesses aware of the potential and current changes to business practice as a result of increased environmental standards. Owing to the act's size and scope only key highlights are included in this briefing.

Introduction

The Environment Act is the UK's post-Brexit environmental protection framework to ensure strong environmental governance. The act is aimed at driving environmental performance across the public and private sector. The new Office for Environmental Protection will enforce, advise and scrutinise activity around the act.

The act has provisions to improve the environmental performance of four focus areas: air quality, resource efficiency and waste reduction, biodiversity and nature, and water. However, focus areas require secondary legislation to be enacted before they can be implemented.

These areas will have legally binding long-term (fifteen year) targets set by the 31st October 2022. An additional target will be set on Particulate Matter (PM) 2.5, which is a primary contributor to poor air quality and adverse public health. Interim five-year targets will be set in Environmental Improvement Plans (EIP). The first EIP interim targets will be based off the 25 Year Environmental Plan.

The Department for Environment, Food and Rural Affairs has released proposed targets, which are currently out for consultation (ending in May 2022). They can be found [here](#).

The act means government policy that impacts the environment significantly must have 'due regard' for five key environmental principles. These being the precautionary, prevention of pollution, rectification of damage at source, polluter pays, and integration into policy and activities principles.

The Environment Act will change public and private sector environmental practice and influence the development of national policy areas and its associated projects, such as 'levelling up'. Businesses must consider how the four focus areas may impact their operations and trade. This includes how businesses within their value chains will be affected, especially those in highly regulated environments and/or trading with the public sector.

The act's legislative measures must consider the implications on business competitiveness in balance with required environmental controls. If environmental controls must be taken, they will not be overproportionate to what is necessary. Additionally, legislative intervention is unlikely if the market can demonstrate effective and successful control of environmental impact.

This briefing paper follows the structure of listing the proposed targets, the associated legislative powers, why they are being set and the implications of the regulations for organisations.

Air Quality

Proposed Targets

The proposed air quality targets on PM 2.5 are:

- An annual mean concentration target of 10 micrograms per cubic meter in England by 2040
- A population exposure reduction target of 35% by 2040 from a 2018 baseline

Why?

Poor air quality causes premature deaths and damage to buildings. The health and social costs of air pollution in England could reach £5.3 billion by 2035¹.

Implications

Public Sector

Councils and other public bodies will be required to improve local air quality, predominantly through tackling sources of domestic air pollution. Therefore, local councils will need to adapt their air quality policy in line with the targets set by 31 October 2022. These will drive further activity to reduce air pollution domestically. Local authorities, such as Birmingham City Council, have already started to address air quality within urban areas by introducing and expanding Clean Air Zones.

Businesses

Vehicle manufacturers and non-road machinery products can be recalled if non-compliant with environmental/air quality standards. Businesses in associated supply chains will be impacted, especially those with products relating to air quality and environmental performance, such as catalytic converters and certain engine parts.

Failure to meet emissions standards will increase business costs, disrupt operations and strain resources through recall. Vehicle manufacturers will experience more stringent environmental/ air quality performance emissions standards. Automotive supply chain businesses will have to ensure compliant environmental products.

Resource Efficiency and Waste Reduction

Proposed Targets

The proposed targets for resource efficiency and waste reduction are:

- Reduce residual waste by 50% per capita by 2042 from a 2019 baseline. 2019 residual waste per capita is estimated to be 560kg
- Resource efficiency targets are still being considered, which aim to improve resource re-use, redistribution, recovery, and recycling

The act includes powers allowing the Government to address environmental performance at every stage of the product lifecycle.

For the aforementioned target areas, the Government has powers to:

¹ Public Health England (2018) New tool calculates NHS and social care costs of air pollution. Available [here](#).

- Impose producer responsibility obligations on specified products or materials. Extended Producer Responsibility (EPR) regulations were previously going to be enforced from April 2023, however, they have been delayed with no new timeline given. Nonetheless, EPR will present many changes.
- Request specific information on the resource efficiency of specified products as well as their inputs, materials and production techniques. Medicinal, veterinary medical and food products are excluded, but not packaging for these products. This information can cover:
 - Life expectancy
 - Product design
 - Availability or cost of component parts, tools
 - Anything else required to maintain or repair the product, feasibility and cost of upgrading, disposal methods
 - Anything else relevant to repairing, maintaining, remanufacturing or lifecycle of the product
- Introduce a deposit scheme to sustain, promote or secure an increase in the recycling or reuse of materials and/or reduce littering or fly tipping
- Provision to charge sellers of single use items, or those made partly or fully from plastic, including those that are supplied in connection with goods or services

Why?

The UK Government has targeted the elimination of avoidable plastic waste by the end of 2042 and achieving zero avoidable waste by 2050. Improving waste and resource efficiency could create over 200,000 jobs and add £75 billion to the UK economy².

Implications

Those who are connected with a product manufacture, import, distribution, sale or supply can be affected and/or if your product has a significant impact on the natural environment. Penalties for non-compliance include:

- Prohibition on supply and/or sale of product
- Requirements to provide information to others in supply chain and government
- Criminal sanctions (for deposit return scheme)

Businesses should therefore keep accurate records of product and process environmental performance, with evidence for compliance monitoring systems in place to avoid penalties.

Biodiversity and Nature

Proposed Targets

The proposed biodiversity and nature targets are:

- By 2042, increase species abundance by 10% compared to 2030 levels
- Restore or create more than 500,000 hectares of wildlife-rich habitats outside of protected sites by 2042, compared to 2022 levels
- Increase tree area by 3% to 17.5% of total land area in England by 2050
- Improve the England-level GB Red List Index of species extinction by 2042, compared to 2022 levels. The Red List measures change in sample species at risk of extinction

² WRAP (2020) How moving to a Circular Economy can help the UK to Build Back Better. Available [here](#).

- Achieve favourable condition for 70% of designated features in Marine Protected Areas by 2042, and the remainder to be in recovering condition

Other previously announced changes include:

- A legally binding target to halt the decline in species abundance by 2030
- Housing development sites will need to demonstrate a 10% net gain in biodiversity for a minimum of 30 years
- Large businesses with forest risk commodities in their UK commercial activities will be mandated to carry out deforestation due diligence across their products

Why?

Biodiversity contributes to functioning ecosystems which provide key ecosystems services. These include clean air, clean water, climate regulation, pest control, soil formation, and food provisions. The UK has experienced biodiversity decline rates higher than any G7 country, and 90% of countries have better biodiversity performance than the UK³. Additionally, if we classed tropical deforestation as a country, its greenhouse gas emissions would rank the third highest globally, only behind China and America⁴.

Implications

Local Nature Recovery Strategies

Local authorities will be required to produce Local Nature Recovery Strategies (LNRS). These include mapping and identifying priorities for local nature and wider environmental goals. LNRS must be reassessed every five years to identify opportunities for enhancement and will guide planning authorities and developers on biodiversity.

Biodiversity Net Gain

Developers must demonstrate a 10% net gain in biodiversity at housing and development sites. Developers must submit a biodiversity net gain plan to the local authority for approval, alongside usual planning application documents, demonstrating their intended actions to achieve on-site net gain. If this is not achievable, off-site biodiversity enhancements are required, through purchasing biodiversity credits.

Deforestation

There is a mandatory requirement for large businesses involved with forest risk commodities to conduct a due diligence process. This includes:

- The prohibition of unlawfully produced forest risk commodities on deforested land
- Businesses must create a due diligence system for each regulated commodity. This includes identifying, assessing and mitigating the risk of illegally produced commodities entering supply chains
- Businesses must publicly report their activity

Fines and other civil sanctions can be issued for non-compliance. It should be noted that timber is not in the scope of the act, neither are wastes used as biofuel. There is exemption for businesses using small commodity quantities.

³ The Guardian. 2021 Half of Britain's biodiversity has gone. See [here](#).

⁴ World Resources Institute. See more [here](#).

Water

Proposed Targets

The proposed targets on water quality and availability are:

- Reduce nitrogen, phosphorus and sediment pollution from agriculture by 40% by 2037 from a 2018 baseline
- From treated wastewater, reduce phosphorous loading by 80% by 2017 from a 2020 baseline
- In England, reduce the use of public water supply per capita by 20% by 2037 from a 2019/2020 baseline
- Various targets on reducing abandoned mine chemical pollution

Previously, the UK Government set a target of a 50% reduction in water pipe leakage.

For the aforementioned targets, the Government has powers to:

- Impose regulations for a mandatory water efficiency label to encourage use and purchase of more water efficient products for business and domestic use
- The water industry must report every five years on their drainage and sewerage management. This includes working in collaboration with each other for environmental improvements, managing supply and demand, and water resilience
- Where appropriate, expand legislation to include rainwater harvesting, water re-use and storage options
- Introduce measures to address storm overflow pollution
- Monitor the most harmful pollutants

Local authorities will also be encouraged to adopt the minimum building standard of 110 litres per person per day for all new builds in areas which are water stressed or that have a clear need.

Why?

- The Environment Agency warns England could run short of water within 25 years without necessary policy action
- Just under 3 billion litres of water (equivalent to 1180 Olympic sized swimming pools) is lost every day to leaks across England and Wales⁵
- Phosphorous and nitrate quantities have exceeded planetary thresholds causing significant damage⁶

Implications

Water companies will have to collaborate more to deliver the right infrastructure for maintaining the future supply and cleanliness of water.

Businesses operating water intensive activities and/or that release nitrates and/or phosphorous will be most affected, such as the agricultural sector. Water efficiency labelling is likely to impact many manufacturers that use high amounts of water, such as those in the fashion and construction industries.

Developers working with local authorities will be encouraged to build more water efficient buildings.

⁵ BBC (2020). See [here](#).

⁶ Stockholm Resilience Centre (2015). Planetary Boundaries. See [here](#).

What does the act mean overall for businesses?

The impact of the act will be far reaching in driving further environmental progress through policy, industry and the public sectors. Businesses affected by this legislation should review their activities and products that are most at risk of non-compliance, to improve environmental performance at minimum in line with interim targets set in Environmental Improvement Plans (EIPs). The act's final targets must be set by 31 October 2022. Therefore, businesses need to be aware of the targets, using them as a benchmark for their own activity. This can be achieved through considering the proposed targets as a baseline.

The long-term targets will give stakeholders a clear direction of expectations for environmental performance across the private and public sector. This act will drive a pattern of change similar to the Government's 2050 net zero target, where businesses have followed with their own more progressive net zero targets. Furthermore, businesses can expect increased environmental stipulations, and increased demand for environmental disclosure in tenders.

Therefore, we encourage businesses to start considering and developing their activity within the environmental target areas to meet moral, legal and social expectations. Implementing this will result in competitive advantages.

How the Chambers can help

The Greater Birmingham Chambers of Commerce and Coventry and Warwickshire Chamber of Commerce supports businesses to understand, respond and adapt to environmental business issues, best practice, and policy developments. This includes researching businesses trends, informing members and engaging them in these issues. The Sustainable Business Series campaign has a variety of content on environmental best practice, guidance and knowledge, including themes that support areas of the Environment Act, such as the circular economy. Details of the campaign, amongst other environmental support, is available [here](#).



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