FREETHS

Sustainability Horizon Scanner

Key updates for UK businesses when it comes to what's on the horizon for sustainability related regulation

December 2025

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Contents

Letter from the Editors

Welcome to our winter edition of the Freeths sustainability horizon scanner. This is our recently launched six-monthly update, focusing on what you need to know about what's coming down the track when it comes to sustainability related regulation. We've not looked to summarise existing law, rather think about what's next.

We also have a featured opinion section with this edition's opinion reflecting on how to unlock nature markets and drive private finance into nature recovery. Our featured article on the other hand is squarely in the often overlooked 'S' of ESG and provides practical insights for employers on how to prepare for the UK's upcoming Employment Rights Bill, the most radical change to English employment law in a generation.

Before we dive in, it would be remiss of us not to acknowledge the recent rollbacks and delays in ESG and wider sustainability regulation across the globe.

Our view will always be that integrating sustainability and ethical decision-making into the core of business practices is responsible business planning and sensible risk management.

We recently launched our first Corporate Conscience Index after surveying 250 GCs and Chief Legal Officers across UK corporates. The resulting report examines how businesses today are approaching ethical decision-making, where business conscience meets commercial reality and where the gaps remain. You can learn more about our findings here.

With that in mind, we trust that you will enjoy this December 2025 edition of the sustainability horizon scanner and find it useful. If you have any questions, feedback or would like information on how we can support your business in its sustainability aspirations, please get in touch with the editors below.

Meet your team

Kirstin Roberts
Director

0345 166 6299
0786 678 2532
kirstin.roberts@freeths.co.uk

Shraiya Thapa
Knowledge Management Lawyer

0345 404 4101
0791 869 6418
shraiya.thapa@freeths.co.uk

Annabel Walker
Senior Associate

0345 646 0439
0781 278 0278
annabel.walker@freeths.co.uk

Featured Opinion: How do we unlock nature markets?

There is clear enthusiasm for nature markets – landowners, investors, consultants and corporates see value in the growth of nature markets. It is also widely accepted that private finance is needed if we are to meet our national and international nature based targets, and ultimately drive the nature restoration that we need. We have seen encouraging growth in compliance markets, in particular mandatory biodiversity net gain ("**BNG**") which requires developers to deliver 10% BNG so land is left in a better state than it was prior to development. Upcoming BNG rules for Nationally Significant Infrastructure Projects are expected to boost this demand further.

In the voluntary market, where companies choose to invest in nature rather than being mandated, the UK is home to the Woodland Carbon Code and the Peatland Carbon Code. Both are well respected certification standards for nature-based carbon removal projects in the UK, giving buyers confidence that they are purchasing credible and deliverable carbon credits.

So what's missing? Why aren't these markets developing as quickly as we would like? Political and legislative uncertainty continues to undermine investor confidence and slow market development. Proposals to remove small sites from BNG, for example, risks undermining the market in BNG units. In the voluntary market, while some companies are buying nature credits or investing in nature restoration, they are the exception rather than the norm. Investing in nature recovery is a long-term game - landowners and investors need the confidence that there will be demand for the ecosystem benefits that they produce now and into the future.

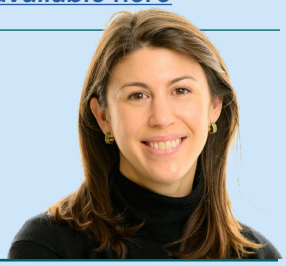
On 24 September, Freeths hosted an 'Unlocking Nature Markets Event' in London where a range of different stakeholders shared ideas about how to overcome the challenges faced by nature markets. Nature-based sector pathways (often referred to as 'Nature Positive Pathways') featured as something which could provide the focus and certainty needed to drive investment. Much like the established carbon sector pathways (which set out the actions required by each sector to enable the government to meet its net zero target), nature positive pathways would set out how different economic sectors should contribute to nature restoration. This could provide the link between nature-based targets, the economy and business to help incentivise private investment.

In terms of next steps, the government's updated Environmental Improvement Plan 2025 was published on 1 December. This includes a commitment to mobilise private investment to restore and protect nature. Actions to meet this commitment include developing Nature Positive Pathways and taking steps in 2026 to streamline and strengthen nature market governance. These are positive steps, but only time will tell whether they can be delivered effectively and at the speed required to help drive private finance into nature markets and ultimately nature recovery.

For key takeaways from Freeths' Nature Markets event, please see our report available here

Annabel Walker
Senior Associate

0345 646 0439
0781 278 0278
annabel.walker@freeths.co.uk



ESG reporting

Update on UK Sustainability Reporting Standards ("UK SRS")

Recap

TCFD aligned reporting will be augmented and replaced by the UK SRS which derives from the IFRS standards. The UK intends to formally endorse the IFRS standards through the introduction of UK SRS. On 25 June 2025, the UK government published a now closed consultation on the exposure drafts of UK SRS (UK SRS S1 and UK SRS S2), alongside consultations on (i) introducing an oversight regime for providers of third-party assurance services for sustainability-related financial disclosures and (ii) options to take forward climate-related transition plan requirements.

Impacted entities

To be confirmed but likely entities which are already subject to mandatory TCFD aligned reporting. The exposure drafts consultation sought views on whether 'economically significant private companies' should report against UK SRS where there is likely to be 'strong public and investor' interest.

On the horizon

The UK government is due to make a final decision on whether to endorse the exposure drafts of UK SRS in Autumn 2025. If endorsed, final versions of UK SRS will be made available for any entity to use initially on a voluntary basis. The government will separately assess whether to introduce any legal or regulatory requirements in relation to UK SRS.

ISO and GHG Protocol to merge standards

Recap

On 9 September 2025, the International Organization for Standardization ("**ISO**") and the Greenhouse Gas Protocol ("**GHG Protocol**") announced a partnership to merge their existing standards and to co-develop new standards for GHG emissions accounting and reporting.

Impacted entities

Companies which use either or both standards for emissions accounting.

On the horizon

Given that the vast majority of companies currently use either or both frameworks for emissions quantification and reporting, the harmonisation of the standards should simplify and ease regulatory burdens. There is however no timeframe yet on when the joint standard will be implemented.

ESG reporting

European Parliament endorses further proposal to reduce ESG reporting requirements

Recap

On 17 April 2025, the 'Stop-the-clock' directive entered into force, delaying implementation timelines under the Corporate Sustainability Due Diligence Directive ("**CS3D**") and the Corporate Sustainability Directive ("**CSRD**"). The 'Stop-the-clock' directive forms part of the European Commission's Omnibus I package which seeks to reduce sustainability reporting burdens and enhance competitiveness through targeted amendments to existing sustainability related regulation. On 13 November 2025, European Parliament endorsed a further Omnibus I proposal known as the Requirements Proposal to further reduce the scope and obligations under both CS3D and CSRD.

Impacted entities

From a UK perspective the current position is that for CS3D, in scope entities are (i) non-EU companies with an annual net turnover generated in the EU over EUR 900 million and (ii) non-EU companies with an annual net turnover generated in the EU over EUR 450 million, with obligations applying from 26 July 2028 and 26 July 2029 respectively. For CSRD, the reporting obligations for non-EU companies start from 1 January 2028, with the Requirements Proposal looking to increase the in-scope threshold to companies that have generated a net turnover of more than EUR 1.5 billion in the EU.

On the horizon

In terms of next steps, trilogue negotiations (Commission, Council and Parliament) commenced on 18 November, with the aim to finalise legislation by the end of 2025. Given that the final scope of the Omnibus package remains uncertain, we recommend that UK companies continue preparations in line with the highest applicable reporting and diligence standards which will also stand them in good stead for implementation of UK SRS.

The Science Based Targets initiative ("SBTi") publishes second draft of revised Corporate Net Zero Standard

Recap

On 6 November 2025, SBTi released a second draft of its revised Corporate Net Zero Standard for public consultation. Key changes include the introduction of a new mechanism for recognising carbon credits through an Ongoing Emissions Responsibility Framework, with 'Ongoing Emissions' referring to emissions which are not yet abated ahead of the relevant net zero year. The updated draft of the standard incentivises companies to take early, voluntary action to address their ongoing emissions.

Impacted entities

Organisations which currently have SBTi targets or are looking to set SBTi targets in the future.

On the horizon

The consultation closes on 8 December 2025. SBTi is targeting early 2026 for launch of the Corporate Net Zero Standard Version 2.0. The SBTi is encouraging companies that have not yet set targets to do so as soon as possible as efforts undertaken under Version 1.3 of the standards will continue to provide a strong foundation for future alignment with Version 2.0. All companies will be required to use Version 2.0 from 1 January 2028.

Environment

Planning and Infrastructure Bill inches closer to approval

Recap

Under Part 3 of the Planning and Infrastructure Bill ("**PIB**") developers will be given the choice to fund 'nature restoration' through contributions into a new Nature Restoration Fund ("**NRF**"). These developer contributions can then be used by Natural England to fund conservation measures set out under Environmental Delivery Plans ("**EDPs**"), which will be drafted by Natural England and approved by the Secretary of State.

This new approach will only apply to certain developments and in certain areas which are expressly covered by EDPs. In certain circumstances developers may be compelled to make contributions into the NRF in areas where their developments are covered by EDPs, although the government anticipates this will be rare. Where no EDP exists, or where developers choose not to participate, current environmental regulations will continue to apply.

Impacted entities

For housebuilders and developers it is anticipated that payments into the NRF will be a 'one stop shop' for the developers who are covered by EDPs because this new centralised approach is intended to reduce the delays and costs associated with developers individually addressing their own impacts on protected sites and species. Local planning authorities can expect to see major changes in how environmental protections are managed through the planning system in areas covered by EDPs.

On the horizon

The PIB's passage has been controversial and a number of amendments were proposed in the House of Lords, both by the government and opposition Lords. Most of the significant amendments made by the House of Lords (such as those on chalk streams or limiting the scope of EDPs) were overturned during the parliamentary 'ping pong' process, with only those changes backed by the government being retained.

It is still not clear when, following Royal Assent, the first EDPs will be drafted by Natural England and approved by the Secretary of State. It is understood Natural England has already been working on EDPs for some time, so there may be a flurry of EDPs once these powers come into force. Before that happens, however, government will need to introduce the secondary legislation pertaining to EDPs. It is likely that the focus of the first EDPs will be on development currently stalled by nutrient issues.

Environment

C G Fry Supreme Court decision lands

Recap

The long-awaited Supreme Court judgment in C G Fry arrived on 22 October 2025. The case is about the requirement for planning decision makers to undertake Habitats Regulations Assessments ("**HRA**") in the case of multi-stage planning consents and how this applies to reserved matters applications and the discharge of planning conditions where a HRA was not carried out at the planning permission stage. The case was a 'win' for the developer (C G Fry) due to a narrow, associated point relating to the specific facts of the case for Ramsar sites under planning policy (which are not designated 'European sites' covered by the Habitats Regulations).

Impacted entities

Developers which are seeking planning permission, particularly for Ramsar sites.

On the horizon

Our view is that the case overall is bad news for developers. The one piece of good news is limited to those developers who find themselves in a particularly unusual set of 'C G Fry circumstances' but, in any event, the benefit is likely to be short-lived due to proposed changes to the law as per recent amendments to the PIB. For further analysis, please see our article here.

ISO publishes new standard on biodiversity

Recap

On 7 October 2025, ISO published the world's first international standard (ISO 17298) to help guide organisations 'to embed biodiversity into their core strategies, operations and decision-making processes'. The new standard is designed to be interoperable with ISO 14001, ISO 26000, the Task Force on Nature-related Financial Disclosures ("**TNFD**"), and the Sustainable Development Goals.

Impacted entities

Companies which currently use ISO standards or are looking to do so. ISO states that the standard is suitable for a wide range of users, from SMEs and large corporates to public institutions and cities.

On the horizon

The standard will help organisations that are looking to implement a framework to understand their biodiversity impacts, dependencies and risks as well as identify opportunities for nature positive finance. Adoption of the standard will help organisations align with existing and future sustainability standards, particularly TNFD which is currently a voluntary framework but may become mandatory in due course particularly for larger companies.

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Products and waste

EU introduces food waste targets and Extended Producer Responsibility ("EPR") for textiles

Recap

On 10 September 2025, the European Parliament and Council approved Directive (EU) 2025/1982 ("**Directive**"), a revision to the Waste Framework Directive (Directive 2008/98/EC) that introduces new measures to prevent and reduce waste from food and textiles across the EU.

For food waste, the Directive sets binding food waste targets for Member States that by 31 December 2030 there will be (i) a 10% reduction of food waste from food processing and manufacturing and (ii) a 30% reduction of food waste per capita in retail, food services and households. For textiles, the Directive introduces a mandatory EPR that requires textile producers to cover the costs of the collection, sorting, and recycling of textile waste.

Impacted entities

The Directive applies to all producers who make textiles available in the EU, including producers that are established outside of the EU, for example a UK company placing any of the following into the EU market: clothing and accessories, hats, footwear, blankets, bed and kitchen linens or curtains.

On the horizon

Member States have until 17 June 2027 to transpose the Directive into domestic legislation with requirements to establish an EPR scheme by 17 April 2028. While the UK is still in the process of rolling out its first EPR legislation (for packaging), we already know that EPR for textiles is likely to be next. Therefore, watching how it works in Europe will guide business on what is going to happen in the UK.

Products and waste

Mandatory digital waste tracking start date confirmed

Recap

On 10 July 2025, Defra confirmed that mandatory digital waste tracking will be introduced from October 2026. Digital waste tracking seeks to record information on waste from the point it is produced to the point it is disposed of. Initially requirements will apply to receiving site operators before expanding to other operators from April 2027.

Impacted entities

The expectation is that mandatory digital waste tracking will ultimately affect every waste producer, processor, carrier and broker with the movement of waste digitally tacked through a central Defra system.

On the horizon

Whilst digital tracking is a UK-wide initiative, waste policy is a devolved matter so it is promising that current timelines are targeting that all nations introduce secondary legislation to mandate the use of the service by April 2026. Impacted entities will need to factor in data management practices, comprehensive training and operational costs ahead of implementation.

Defra outlines reforms to the waste carrier, broker and dealer ("WCBD") system

Recap

On 22 August 2025, Defra published a policy paper setting out plans to improve the WCBD system in England. The current system does not differentiate between small and large players or the risks posed by the types and quantities of waste handled by them. Planned reforms include (i) changing from a registration to a permit-based system, (ii) introducing enhanced background checks to operate as a waste carrier, broker or dealer and (iii) introducing a technical competence requirement.

Impacted entities

Terminology will change from WCBD to 'waste controllers' and 'waste transporters'. Examples of 'Waste controllers' are brokers, dealers, consultants and waste sites, whereas 'waste transporters' would be hauliers, contractors and delivery drivers. Also impacted are 'controller-transporters' such as waste sites that control and transport waste, skip companies and waste collection companies.

On the horizon

Following the publication of the policy paper, a House of Lords inquiry on waste crime found multiple regulator failings. While there is currently no fixed date for implementation of the reforms, we expect there will be continued focus on strengthening the compliance framework for businesses involved in transporting and managing waste as well as enhanced enforcement of waste crime.

Products and waste

Wales launches consultation on Deposit Return Scheme ("DRS")

Recap

On 19 August 2025, the Welsh government launched a now closed consultation on how its DRS scheme should operate. The DRS will introduce a refundable deposit on both single-use and reusable drinks containers with the aim to reduce litter and increase recycling rates of containers made from glass, polyethylene terephthalate plastic, steel and aluminium.

Impacted entities

Businesses which place single-use and reusable drink containers made of the applicable materials onto the Welsh market. Please contact Kirstin Roberts if you'd like to receive our detailed flowchart for businesses to assess whether they are impacted.

On the horizon

The Welsh government are examining both including glass in the Wales scheme and for glass, making the scheme reuse focused rather than being an only recycling focused DRS. There are proposals to introduce reuse targets that will require a minimum percentage of drinks containers to be collected for reuse, rather than used once and recycled. While there is a difference in scope between the DRS in Wales and other schemes within the UK (particularly the inclusion of glass), the consultation is looking at a phased approach that will include transition arrangements such as a zero deposit for single-use glass containers to avoid the need for changes to labelling, production, or distribution systems.

The business concerns are that firstly if the Wales DRS lags behind the DRS of the other nations, criminals will exploit that time lag. Secondly, will businesses be stung in the same way as they were when Scotland was introducing its first DRS, by having to invest heavily in order to be ready for the Wales DRS deadline (including for the inclusion of glass and re-use) and then finding that Westminster invokes the UK Internal Market Act 2020 (UKIMA). As the Senedd's own website says: "The Welsh Government's desire to include glass in its DRS is complicated by the UK Internal Market Act 2020 (UKIMA), which the Cabinet Secretary referred to in his written statement."

Products and waste

Online marketplaces under new obligations for waste electricals

Recap

On 12 August 2025, the obligations under the Waste Electrical and Electronic Equipment ("**WEEE**") (Amendment, etc.) Regulations 2025 were extended to include operators of online marketplaces who place electrical and electronic equipment ("**EEE**") onto the UK market from non-UK based suppliers. The new WEEE regulations also introduce a new product category for vapes and electronic cigarettes so they will no longer be reported under 'toys, leisure and sports equipment' to ensure better granularity of data.

Impacted entities

Operators of online marketplaces who place EEE on the UK market from non-UK based suppliers.

On the horizon

Depending on how much EEE the online marketplace places on the UK market, they will either need to register as a small producer or join a Producer Compliance Scheme and start paying towards the collection and recycling of their share of e-waste from 1 January 2026.

Enforcement of waste landfill ban in Scotland delayed until 2028

Recap

The Waste (Scotland) Regulations 2012 provisions include a ban on biodegradable municipal waste going to landfill which is due to be implemented from 31 December 2025. However in light of evidence that not all required treatment capacity and logistics will be in place by the end of the year, on 29 October 2025 the Scottish Environment Protection Agency ("**SEPA**") issued a Temporary Regulatory Position Statement ("**TPRS**") that it will still implement but not enforce the ban for up to two years provided certain conditions are met.

Impacted entities

Waste producers and managers and landfill operators in Scotland will have to apply for a six-month exemption from the ban via a notification form to SEPA. The exemption can be renewed until the expiry of the TPRS on 31 December 2027. Anecdotally, we heard before the delay in implementation of the ban that many smaller waste management companies such as skip hire businesses, think the ban will put them out of business.

On the horizon

According to SEPA, additional energy-from-waste facilities which are currently being built are expected to begin operations between 2026 to 2027 which should help with the 'capacity' gap of treating waste from landfill.

Featured TCLP clause: Marni's Clause

Going forward, we want our sustainability horizon scanner to highlight the excellent work of The Chancery Lane Project ("**TCLP**"), a trusted charity that looks to use the power of legal documents and process to deliver fast and fair decarbonisation.

This edition's featured clause is Marni's Clause: Report on Title – Commercial Real Estate. This clause is based on the sample report on title wording published by The Law Society of England and Wales in its Practice Note on Climate Change and Property (May 2025). However, Marni's Clause goes into more detail, encouraging clients to consider wider implications of climate risk or to seek further (non-legal) advice given the potential vulnerability of physical real estate.

Lucy Johnson
Associate Director Knowledge Management Lawyer,
Real Estate
0345 128 7977
0777 303 5884
lucy.johnson@freeths.co.uk

"Following the release of The Chancery Lane Project's template reporting clause on climate change, we made the decision to include this wording (rather than the Law Society suggested wording) in our internal guidance and template reports because TCLP's wording goes further to highlight the wider potential implications of climate change on the Real Estate market and better aligns with our B Corp status and internal sustainability goals. We hope that by using this wording moving forward, more clients will be climate change aware and embrace sustainable practices."

Lucy Johnson, Associate Director Knowledge Management Lawyer, Real Estate

Energy

GHG Protocol opens consultation on Scope 2 emissions

Recap

On 20 October 2025, the GHG Protocol published a public consultation on proposed updates to its Scope 2 emissions guidance. Scope 2 emissions refer to 'indirect' emissions from an organisation's purchased or acquired electricity, steam, heat and cooling. Scope 2 emissions are calculated using location-based and market-based methods.

The market-based method allows for the use of market instruments such as renewable energy certificates to offset Scope 2 emissions. A key feature of the consultation is a proposal to introduce hourly and location matching requirements to more closely align the timings and locations of electricity generation and consumption.

Impacted entities

Organisations which use the GHG Protocol for emissions reporting, as well as electricity generators who sell their power and corresponding renewable energy certificates to such organisations.

On the horizon

The consultation reflects a renewed and continuing focus on more granular matching of renewable energy generation and consumption, including the usage of Renewable Energy Guarantees of Origin. If the consultation's proposals are implemented, organisations will need to significantly review their existing power purchase arrangements as well as their power procurement strategies going forward.

Reforms incoming for the demand connections queue

Recap

Following the reforms to the grid connection landscape for electricity generators, Ofgem has published a letter stating that it will be considering reforms to the demand (electricity import) side of the connections queue due to an excessive growth in demand applications, with the volume of applicants now far exceeding forecasts for electricity demand.

Impacted entities

Any business that imports electricity, but particularly large users such as industrial and commercial sites and data centres, with the latter accounting for a significant share of growth in the queue.

On the horizon

We expect Ofgem to introduce reforms as outlined in the letter within the next year, including stricter milestones and enhanced security requirements. The regulator has also indicated that, in line with the government's wider Industrial Strategy, it is looking to prioritise 'strategic' demand connections. This will be welcome news for data centres, albeit there will likely be a strong focus on viable projects which are in 'needed' locations.

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Energy

Heat network regulation going live from January 2026

Recap

From 27 January 2026, the heat network sector will become regulated for the first time. The regulation introduces the new roles of 'network operator' and 'heat supplier'. These entities will need to comply with new authorisation conditions or risk individual and corporate liability in due course. For more information, please see the heat network regulation and zoning section of our website.

Impacted entities

Entities which are deemed 'network operators' and 'heat suppliers' which we expect will include a number of residential and commercial property developers and landlords as well as local authorities which own or manage buildings containing a heat network or are connected to one.

On the horizon

Ofgem is due to publish the final version of the authorisation conditions later this year ahead of the regulation going live. Minimum technical standards will follow next year, in conjunction with the government's final response on heat network zones, geographical areas within which connection into a heat network will become the default for new build development and potentially existing buildings too.

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Greenwashing

CMA gains fining powers for up to 10% of global turnover

Recap

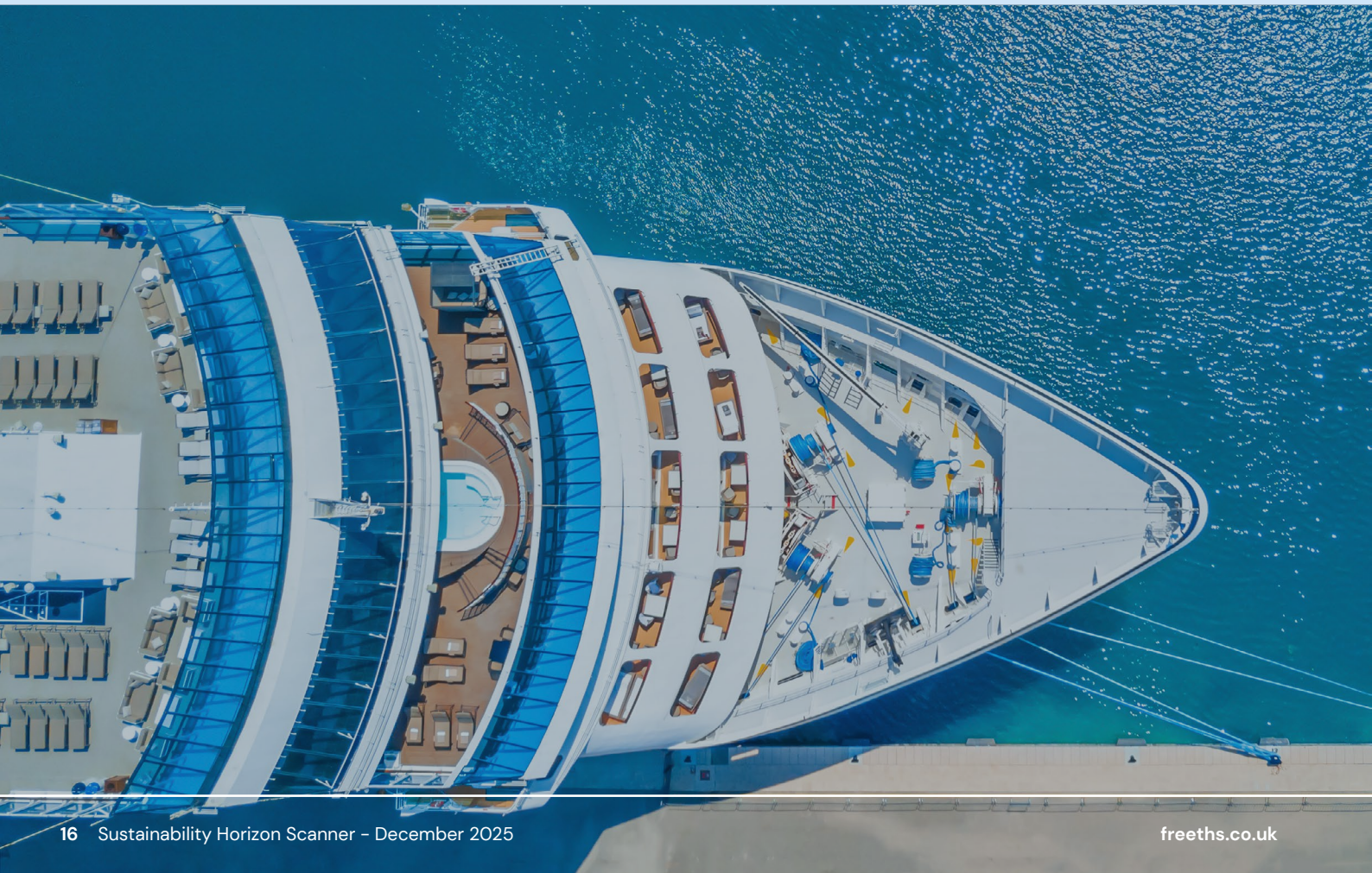
On 6 April 2025, the Competition and Markets Authority's ("**CMA**") new fining powers came into force in accordance with the Digital Markets, Competition and Consumers Act 2024. Notably under this new consumer regime, if a company breaches consumer protection law (which can include greenwashing), the CMA can issue a fine of up to 10% of global turnover.

Impacted entities

Any business in the UK with consumer facing communications.

On the horizon

We expect the CMA will not hesitate to use its new fining powers when it comes to greenwashing in due course, in line with continuing greenwashing scrutiny from the Advertising Standards Authority ("**ASA**") with examples of recent rulings including Red Tractor and also four travel companies in respect of environmental claims about cruises. We also expect continuing alignment between various UK regulators e.g. the ASA, CMA and the Financial Conduct Authority as well as regulators in the EU on greenwashing standards and enforcement.



Supply chains

The UK Joint Committee on Human Rights ("JCHR") publishes report on forced labour in UK supply chains

Recap

On 24 July 2025, the JCHR published a report following its inquiry earlier this year into the effectiveness of the UK's legal and voluntary frameworks in addressing forced labour risks in supply chains. The JCHR found that the UK's current patchwork of domestic legsilation has not prevented goods linked to forced labour from entering the UK market. The report recommends that government introduces clearer and more robust legislation within one year of the report's publication.

Impacted entities

The JCHR's recommendations are wide-ranging and if implemented by government, would impact a significant number of UK businesses, including small and medium sized businesses when it comes to mandatory human rights due diligence requirements.

On the horizon

Although the report concludes that the UK has fallen behind international trading partners in its approach to addressing forced labour in supply chains, we are seeing a general UK policy shift to incentivising shorter, more locally focussed supply chains. The EU's Forced Labour Regulation ("**FLR**") is a step ahead and will from 14 December 2027 prohibit the placing and making available in the EU, or the export from the EU, of any product made using forced labour. This will directly impact UK companies which place or make available products in the EU and may signal the direction of travel for future UK legislation on forced labour.

Employment

Employment Rights Bill approaches Royal Assent

Recap

The Employment Rights Bill ("**ERB**"), introduced to Parliament on 10 October 2024, is currently at consideration of amendments stage. The ERB includes significant reforms to UK employment law. Proposals include but are not limited to flexible working as the default for all roles, paternity and parental leave entitlements as 'day one' rights, bereavement leave for all, protections from dismissal for pregnant employees and returning mothers, employer liability for third party harassment and a heightened duty on employers to prevent sexual harassment.

Impacted entities

Given the nature of the proposals, all employers will need to invest time adapting to the new regulations albeit to varying degrees.

On the horizon

The government expects that most reforms in the ERB will take effect no earlier than 2026. Further detail on many policies in the ERB will be enacted through regulations and in some cases, codes of practice, after Royal Assent of the ERB. Employers will need to pay close attention to ongoing and upcoming consultations in respect of the proposals and once the ERB is live, prepare to review their employee management and recruitment practices. For more information, please see our Featured Insight.

Featured Insight: Preparing for the Employment Rights Act: a strategic guide for employers

Published on 6 October 2025

Author: Melanie Stancliffe

The forthcoming Employment Rights Act, expected to come into force at the start of 2026 will mark the most radical changes to English employment law in a generation. The Labour Government has promised to reshape work and make it pay. With implementation staggered through 2026 and 2027, employers must act now to prepare for the most comprehensive reform in decades.

Key reforms: What changed?

Day-One Employment Rights

The CBI and others have been vocal about the "chilling effect" on the economy of the prospect of employees gaining the right to claim unfair dismissal from day one of employment. There is likely to be a probationary period (Initial Period of Employment (IPE)), of six-nine months, during which a "light touch" dismissal procedure will apply but this will not apply to redundancy so a full redundancy process will need to be followed.

Zero-hours contracts and shift rights

This has been diluted from a ban on zero hours contracts to a ban on their "exploitative use". From 2027, workers (including agency staff) are expected to gain:

- The right to request a minimum number of hours based on their average hours worked
- The right to reasonable notice of shifts; and
- Compensation for cancelled or curtailed shifts if they are changed too late.

Harassment prevention duties

This follows on from the employer's current duty to prevent harassment which was introduced in October 2024. Employers will in future be required to take all reasonable steps to prevent:

- Harassment by their own staff; and
- Harassment by clients, contacts and third parties with whom they have contact in performing their role.

Guidance is expected on what steps will be considered reasonable.

Fire and rehire restrictions

Following the P&O controversy, the government will make it more difficult, but not impossible, for employers to dismiss staff who won't accept changes to their terms and then re-engage them. Dismissals for refusing contractual changes to pay, pension, hours and holiday/leave are to become automatically unfair, unless employers can demonstrate genuine financial necessity.

Trade union and industrial relations reform

The new legislation will strengthen union rights and simplify recognition processes. Employers must prepare for:

- The likely reduction to 50% of the turnout to call strike action
- The reduced threshold of more than 2% (currently more than 10%) of the bargaining unit for a union to be recognized by the employer (and negotiated with).

Extended time limits

The period you need to consult with employees about a redundancy is expected to double from 90 – 180 days. The penalty for a failure to consult will also be doubled, so you will need to allow a longer period for downsizing.

Currently, a claim must usually be started within the Employment Tribunal within three months. This is expected to double to six months so employees will have a longer period to start claims like unfair dismissal and discrimination claims, which may allow you more time to resolve issues, but you'll need to ensure your witnesses are still available.

Practical steps for employers to take now

Improve recruitment processes

With day-one unfair dismissal rights, recruitment must be robust, so you should:

- improve your recruitment processes
- ensure the induction and job descriptions set clear expectations
- train your managers in recruitment and performance managers to regularly monitor new hires
- upskill or recruit the right managers to adopt fair dismissal processes.

Future-proof employment contracts

Update your template contracts and agree changes to your employees' contracts to:

- include a statutory probationary period aligned with the IPE,
- allow the business the right to vary terms (e.g. location, duties, hours); and
- ensure employees' duties to cooperate with the business after employment ends.

It will be easier to agree changes to contracts now before the new law takes effect.

Ensure compliance with payments

The new Fair Work Agency is to be set up, however compliance with the minimum payments required by law is already enforced by other government agencies so you need to ensure you comply with:

- National Living Wage/ National Minimum Wage (e.g. £12.21/hour for an adult from April 2025).
- Holiday pay; and
- Statutory Sick Pay (which is going to become payable from day one).

Employers should audit their payroll systems and policies now so that they avoid penalties or being named and shamed, which could impact staff attraction and retention.

Include cooperation clauses

To ensure that you have the support of your witnesses in any future litigation requiring former employees to cooperate with investigations or proceedings, even post-employment by adding clauses in:

- Employment contracts and
- Settlement Agreements.

Strengthen industrial relations

To reduce the appetite to move towards unionisation, it would be helpful for employers to:

- Foster open communication and
- Engage with staff forums

... so that workers see their issues being addressed without the need to resort to further intervention.

Final thoughts

The Employment Rights Act is a call to action. Employers who prepare early - by updating contracts, training staff on harassment, training managers on performance, and engaging with staff will not only ensure compliance but also future-proof their business and build a more resilient and inclusive workplace.

Awards and accreditations

FREETHS

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