

Client Alert

The Environment Act 2021, Highly Anticipated Legislation Crucial to UK Supply Chain Operations

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In November 2021 the UK Government's Environment Bill, an eagerly awaited piece of legislation, finally became law. This highly anticipated piece of legislation will impact both the food and retail sector through numerous measures as outlined below.

Now known as the Environment Act 2021, at its core, the Act intends to accelerate and enhance our environmental protection focusing on setting clear targets, plans and policies for improving the natural environment. There are four key priority areas: air quality, biodiversity, water and waste with a strong commitment to reverse the decline in species by 2030 through improving habitats for nature and tackling deforestation.

As 80% of the world's deforestation is linked to agricultural production, the Act has sought to combat further habitat destruction through targeted measures on UK businesses and supply chains. Illegal deforestation is linked to a number of commodities in the UK including; soya, palm oil, timber, pulp and paper, beef and leather, rubber and cocoa. It is now illegal for UK businesses to use key commodities if they have not been produced in line with local laws where protection of natural ecosystems is at the forefront.

Resultingly greater systems of due diligence will be required, businesses should identify and obtain information on commodities used, undertaking a risk review that relevant local laws were complied with when obtaining those. To substantiate this requirement, an annual reporting obligation on deforestation in a UK business's supply chain will follow six months from the end of the UK financial year.

The aim of such measures is to build greater resilience, traceability and sustainability in the UK's supply chain whilst contributing to the end of the climate crisis.

Comment

One commented flaw with the Act is that it currently only restricts forest risk commodities produced 'illegally' under that producer's country laws. Notably the Brazilian Government is in the process of passing a package of laws that will ultimately weaken or abolish forest protections further. Two related Bills have been approved in Brazil's lower House of Parliament and are awaiting a vote in the Senate.

Although Brazilian Environmental Minister Joaquim Leite announced at COP26 that the country would update its climate goals to include zero illegal deforestation by 2028 his comments sat in stark contrast to the statistic published thereafter. The Amazon rainforest experienced its highest deforestation rates in 15 years with

speculation that almost all was through illegal conduct. This undoubtedly highlights a crucial gap in the Environment Act and the need for international collaboration to eliminate deforestation.

What's next

Secondary legislation is required to implement the provisions of the Act and on 3 December 2021 the secondary legislation consultation was released by Defra. Therefore, further intricacies on the legislation, including but not limited to, which commodities will be in scope of the regulations, which businesses will be subject to the provisions and how the requirements will be enforced, will be provided in due course with the consultation closing 11 March 2022.

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

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