

April 2020

Coronavirus disease (COVID-19)

Last month saw the UK go into 'lockdown' due to the coronavirus and this has of course had a huge knock-on effect on business and industry. Some of the most recent developments and responses to the outbreak are listed below. Shoosmiths are regularly publishing legal, regulatory and commercial updates related to the coronavirus [here](#).

Furloughing staff

Many employers have already taken steps to furlough staff so that they can access the government's coronavirus job retention scheme. The government is regularly reviewing and updating its guidance on the scheme so employers should keep a close eye on developments. Read an overview of the most recent guidance [here](#).

Staff immigration issues

The UK Visas and Immigration (UKVI) office has updated its policies in response to the coronavirus. Read more [here](#) and [here](#).

Company general meetings

Public companies must hold an annual general meeting (AGM) within six months of the end of the relevant financial year. As there is much uncertainty as to how long lockdown and/or social distancing provisions will remain in place, companies should be thinking about whether it is possible to obtain shareholder consent to electronic communication as well as considering making changes to their articles to ensure that the ability to hold a hybrid general meeting or virtual general meeting is available to them in the future if needed. Read more [here](#).

Coronavirus business support hub

The UK government has launched a new coronavirus business support hub which brings together key information for businesses on funding and support, business closures, your responsibilities as an employer, and managing your business during coronavirus. Access the hub [here](#).

Sporting events

Major sporting events have been cancelled or postponed, including the Tokyo Olympics, which will now be held in the summer of 2021; all elite football in England, which has been suspended until at least 30 April; and the 2020 British Open and Wimbledon tennis championships, which have both been cancelled altogether.

HSE's response

HSE recognises that COVID-19 poses potential challenges when fulfilling legal requirements for thorough examination and testing (TE&T) of plant and equipment due to additional precautions needed to help reduce risk of transmission of COVID-19.

HSE states on its website that it will adopt a pragmatic and proportionate approach towards enforcement action for non-compliance with statutory requirements which are directly attributable to the COVID-19 outbreak.

However, it is important to note that the HSE website highlights:

- The law for Lifting Operations and Lifting Equipment Regulations (LOLER) and Pressure Systems Safety Regulations (PSSR) remain in place;
- HSE's usual enforcement response will be to take no action if the only failing is that TE&T is not carried out by the required date;
- Equipment should only be used outside of its test regime if you can demonstrate that it is critical for essential work and that it can still be operated safely; and
- Companies must be able to demonstrate that they have made all reasonable attempts to have the TE&T carried out, made a thorough assessment of the increased risk and taken appropriate action to manage it.

RIDDOR reporting

The HSE website states that companies must only make a report under RIDDOR (The Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013) when:

- An unintended incident at work has led to someone's possible or actual exposure to coronavirus. This must be reported as a dangerous occurrence.
- A worker has been diagnosed as having COVID 19 and there is reasonable evidence that it was caused by exposure at work. This must be reported as a case of disease.
- A worker dies as a result of occupational exposure to coronavirus.

Further guidance can be found [here](#).

Environment Agency's response

On 3 April 2020, the EA published an Operational Update which states that frontline teams will remain active on the ground tackling priority issues such as flood risk and pollution; however, high risk assets and activities will be prioritised. Additionally, the EA will continue to carry out regulatory visits to sites that could cause serious environmental harm where required, but that officers are reducing regulatory visits to other sites and reviewing how best to regulate them. This suggests the EA will adopt a light-touch approach during the pandemic, apart from the most serious environmental incidents. Read more [here](#).

Member States' responses

Member States across the EU have implemented various measures relating to payroll, rent, taxes and liquidity. See FESI's table summarising these measures [here](#). Member states have also been implementing various restrictions related to retail, borders, schools and public gatherings. See FESI's table summarising these restrictions [here](#).

The European Commission's response

In response to the coronavirus outbreak, the European Commission (EC) has:

- Introduced [measures](#) aimed at improving coordination among Member States in mitigating the impact of the coronavirus and [guidelines](#) to help affected industries (under 'Resources').
- Issued new [practical advice](#) on how to implement its guidelines for border management.
- Issued [guidance](#) on the application of the UUC during this time.
- Published [Recommendation \(EU\) 2020/403](#) on conformity assessment and market surveillance procedures within the context of the coronavirus threat.
- Adopted [several harmonised standards](#) for manufacturers who produce face masks. Find further guidance [here](#); information about relevant duty rates and rules of origin [here](#); and details about the EC's relaxation on duties and VAT for such products [here](#).

Brexit update: the UK's negotiations with the EU

The UK government is seeking the same type of agreement with the EU as that which Canada has, and have made it clear that they are maintaining the line set out in the political declaration agreed last October, for “zero tariffs, zero quotas”. The government is also seeking a highly flexible approach to rules of origin modelled on the current arrangement between the EU and Japan, although so far this has had a negative response from the EU’s negotiating team. Read the full government publication on their approach to negotiations [here](#).

Negotiations on the future UK-EU relationship began on 2 March and the UK and the European Union on 15 April 2020 agreed dates for three, week-long negotiating rounds to reach a post-Brexit deal on their future relationship, with a high-level review of progress in June.

The negotiations will take place by videoconference in the weeks beginning April 20, May 11 and June 1. The negotiating dates were agreed at a meeting between EU negotiator Michel Barnier and his British counterpart David Frost, which was described in the statement as “constructive”

The Global Tariff Consultation

The government is planning on developing a new global tariff schedule which will come into force on 1 January 2021 and will be known as the Most Favoured Nation (MFN) Tariff.

It will replace the EU’s Common External Tariff and will apply to imports into the UK where the goods are not eligible for preferential treatment. DIT launched a four-week public consultation which the FSPA took an active part to reduce tariffs for the sports industry and which closed on 5 March.

The UK's negotiations with the US

Back in March, Boris Johnson promised to “drive a hard bargain” in negotiating a post-Brexit free trade deal with the US. A publication issued by the Department for International Trade (DIT) has set out the overall objectives of the negotiations, which include the following:

- To agree a deal that strengthens the economic relationship and promotes increased trade;
- To increase UK GDP by opening up opportunities for UK businesses and facilitating greater choice and lower prices for UK producers and consumers; and
- To secure appropriate provisions to promote open and fair competition.

The DIT publication also states that the government is aiming to reduce tariffs and other barriers to trade, but without compromising standards. Read the full DIT publication [here](#).

President Trump has promised a “massive” trade deal to support Brexit, so the UK government will probably be hoping to reach a deal before the US elections in November. However, there is no specific timeframe for negotiations to take place and in any event, commentators have suggested that achieving a comprehensive agreement in this timeframe is highly unlikely, especially now given the impact of the coronavirus outbreak.

Product compliance

Imported plastic packaging tax consultation

At Budget, the government announced further details about the Plastic Packaging Tax, which is due to be implemented in April 2022. The tax will apply to plastic packaging produced in or imported into the UK, that does not contain at least 30% recycled plastic and will be charged at a rate of £200 per tonne. Imported plastic packaging will be liable to the tax, whether the packaging is unfilled or filled. The aim of the policy is to incentivise businesses to use recycled material in the production of plastic packaging. The government has

launched a consultation and is seeking feedback from business of all sizes who import and/or export goods in plastic packaging. The consultation will close on 20 May. Read more about the tax [here](#) and respond to the consultation [here](#).

Swedish tax on chemicals in textiles

The Swedish government is considering implementing a tax on clothes and shoes containing REACH substances of very high concern (SVHCs). A team of experts, assigned by the government a year ago, submitted a report on 1 April that sets out a proposal for such a tax and the potential effects on the supply chain. The items of clothing which would be affected under the proposed tax include leather or artificial leather clothing specifically designed for sports and leisure; leather or artificial leather gloves; and footwear with rubber or plastic components. If approved, the tax would come into force on 1 April 2021. Read the full proposal [here](#) (in Swedish but with a summary in English). The proposal also contains the full list of the substances falling under the scope of the new tax (Annexes 1-5).

ECHA consultation on PFHxA

The European Chemicals Agency (ECHA) has launched a consultation on the proposed restriction of undecafluorohexanoic acid (PFHxA), its salts and related substances, which are often used in outdoor performance textiles. Read an indicative list of the substances within the scope of the proposal [here](#), the consultation guidelines [here](#), and respond to the consultation [here](#). The deadline to respond is 25 September 2020.

Trade

Sourcing goods from Cambodia

In February, the European Commission decided to withdraw part of the tariff preferences granted to Cambodia under the EU's Everything But Arms (EBA) trade scheme, due to the country's 'serious and systematic' human rights violations. The EBA tariff scheme has been crucial for the strong growth of the garment and footwear sector in Cambodia and the partial withdrawal of trade preferences will have a negative impact on many FESI members' sourcing strategies as standard tariffs will now apply for both garments and footwear, amongst other products. FESI has therefore written to the European Commission urging them to engage with the Cambodian government, and to the Prime Minister of Cambodia encouraging them to address the Commission's concerns. If the Cambodian government fails to take any action, the suspension will come into effect in August 2020. Read more about the Commission's decision [here](#).

EVFTA schedule

On 30 March, the European Council adopted a decision on the conclusion of a free trade agreement between the EU and Vietnam. Once the Vietnamese National Assembly has ratified the agreement (scheduled to take place in May 2020) the agreement will come into force a couple of months later (likely to be August 2020).

Russian labelling requirement

During the last WTO TBT committee meeting in Geneva, the EU addressed the issue of the Russian labelling requirement, requesting official clarifications and additional time for companies to comply. It will be key to ensure that as many countries as possible engage bilaterally on this issue to ensure smooth implementation.

Customs/Import VAT

HMRC are accepting requests for payment deadline extensions from registered importers who are facing severe financial difficulties as a direct result of the coronavirus. They will have to provide an explanation as to how the coronavirus has impacted their finances. Decisions will then be made, and relevant conditions for payment set, on a case-by-case basis. For further information please make contact via the [Customs Debt Policy inbox](#).

Corporate responsibility

Find a summary of current corporate responsibility and chemicals initiatives affecting the EU [here](#). Other recent development to note are as follows:

European Climate Law

The EC published this on 4 March. Its aim is to achieve climate-neutrality by 2050 through the establishment of a framework for the irreversible and gradual reduction of greenhouse gas emissions across the EU. The EC intends to launch the European Climate Pact in the third quarter of 2020, with the aim of engaging all sectors of society and the economy to play a role in the transition to a climate-neutral EU. Read more about this [here](#).

2020 Circular Economy Action Plan (CEAP)

The EC published this action plan on 11 March. It focuses on the design and production for a circular economy, with the aim of achieving climate-neutrality by 2050 while ensuring long-term competitiveness of the EU. Read more about the overall plan [here](#) and about the specific proposals relating to textile strategy [here](#). The EC has also launched a call for tenders for a 'study on the technical, regulatory, economic and environmental effectiveness of textile fibres recycling', the result of which will likely feed into the textile strategy expected for 2021.

European Industrial Strategy

The EC published this on 10 March. The strategy has three main drivers:

1. The green transition, with the European Green Deal being Europe's new growth strategy;
2. The digital transition, which allows industry and SMEs to be more proactive, provides workers with new skills, and supports decarbonisation of our economy; and
3. Competitiveness on the global stage, where the EU must leverage the impact of its single market to set global standards.

EU Industry Coalition relaunched

The coalition of EU trade associations has been relaunched to evaluate what can be done to protect the EU's single market, considering France's recently adopted circular economy and anti-waste law. The common interest is to ensure that companies do not need to make separate packaging or re-label for the French market.

Digital

CJEU ruling on online marketplaces and trademark rights

On 2 April, the Court of Justice decided that the "mere storage by Amazon, in the context of its online marketplace, of goods which infringe trademark rights, does not constitute an infringement by Amazon of those trademark rights". Read the CJEU press release on the case [here](#).

Roadmap on the GDPR

The EC has published a Roadmap on the application of the GDPR to inform stakeholders about the EC's work and timeline. The Roadmap will be open until 29 April 2020 and the adoption of the report is therefore expected between May and June 2020.