

# Act now

Last year, the Environment Act became law. Dentons' trainee **Amy Gault** gives a round-up of the legal framework, and explains what businesses need to know

**T**he Environment Act 2021 became law on 9 November 2021, two years after first being presented to parliament. It provides a legal framework for governance and specific improvement of the environment, as well as a roadmap for further detailed secondary legislation. By October 2022, we should see draft legislation in which the Secretary of State sets long-term targets for resource efficiency and waste reduction. A volume of further secondary legislation will follow, although government has given minimal indication of anticipated timings (other than as set out below).

First, the act enables government to place new obligations on producers to prevent or reduce the amount of a product or material that becomes waste, and to sustain minimum levels of – or promote an increase in – reuse, recycling or redistribution of such products or materials. It also enables government to make producers responsible for the full net cost of managing products and packaging when disposed of. A Defra consultation on this closed in June 2021, and the government intends to publish its response early this year. The consultation suggested that extended producer responsibility (EPR) will be introduced in stages, starting with the appointment of the Scheme Administrator in early 2023 and having a fully operational EPR scheme by the end of 2024.

Another key development is that national authorities now have the power to make and enforce regulations dealing with resource efficiency requirements and the provision of resource efficiency information. Requirements may be imposed on anyone connected with the manufacture, import, distribution, sale or supply of a product (medicinal, veterinary, food and energy-related products are excluded) and relate to a wide range of areas, including: the product's impact on the natural environment; its expected life; how it was manufactured; disposal and recyclability; and pollutants (including greenhouses gases) emitted during production, use and disposal.

The act grants national authorities the power to create deposit return schemes (DRS) in England and each of the devolved administrations. Scotland has announced its DRS will start in 2023, and a full governmental response to England and Wales' DRS consultation is expected early this year, with a DRS likely to be introduced within the next five years.

The act will also introduce new, stricter rules around household



(or similar in nature and composition to household) waste collection from domestic, non-domestic, commercial and industrial premises, including that recyclable waste must be collected separately from general waste. Within recyclable waste, glass, metal, plastic, paper and card, food and garden waste must all be collected separately. There are some exemptions if one can prove, by written statement, that to comply would be technically or economically impossible, or that not doing so has no significant environmental impact.

National authorities may also create an electronic waste-tracking system, requiring specific information to be logged by waste controllers – for example, in relation to the processing, movement and transfer of waste – and provide the option for these obligations to be discharged by a third party. Further, regulations may be introduced to prohibit or restrict certain hazardous waste activities and set requirements on hazardous waste storage (for example, quantity limits) and record keeping.

Finally, the act created the Office of Environmental Protection, a new independent environmental watchdog that will monitor environmental progress and hold public authorities to account.

It will be important for the waste industry to anticipate the changes arising from the Environment Act, both to future-proof their businesses as necessary now and to ensure compliance. ●