



**COUNTRY
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Caribbean Islands

ENVIRONMENTAL, SOCIAL AND GOVERNANCE

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This country-specific Q&A provides an overview of environmental, social and governance laws and regulations applicable in Caribbean Islands.

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CARIBBEAN ISLANDS ENVIRONMENTAL, SOCIAL AND GOVERNANCE



1. Climate - the law governing operations that emit Greenhouse Gases (e.g. carbon trading) is addressed by Environment and Climate Change international guides, in respect of ESG: a. Is there any statutory duty to implement net zero business strategies; b. Is the use of carbon offsets to meet net zero or carbon neutral commitments regulated; c. Have there been any test cases brought against companies for undeliverable net zero strategies; d. Have there been any test cases brought against companies for their proportionate contribution to global levels of greenhouse gases (GHGs)?

a. Is there any statutory duty to implement net zero business strategies; There is no such obligation in any of the Caribbean jurisdictions.

b. Is the use of carbon offsets to meet net zero or carbon neutral commitments regulated; There is no such obligation in any of the Caribbean jurisdictions

c. Have there been any test cases brought against companies for undeliverable net zero strategies; We are not aware of any such test cases in any of the Caribbean jurisdictions.

d. Have there been any test cases brought against companies for their proportionate contribution to global levels of GHGs? There is no precedent for this basis of action in any of the Caribbean jurisdictions at present.

2. Biodiversity - are new projects required to demonstrate biodiversity net gain to receive development consent?

There is no such obligation in any of the Caribbean jurisdictions.

3. Water - are companies required to report on water usage?

There are no current mandatory requirements to report on water usage in any of the Caribbean jurisdictions.

4. Forever chemicals - have there been any test cases brought against companies for product liability or pollution of the environment related to forever chemicals such as Perfluoroalkyl and Polyfluoroalkyl Substances (PFAS)?

No test cases have been brought in in any of the Caribbean jurisdictions to date.

5. Circularity - the law governing the waste hierarchy is addressed by the Environment international guide, in respect of ESG are any duties placed on producers, distributors or retailers of products to ensure levels of recycling and / or incorporate a proportionate amount of recycled materials in product construction?

There are obligations to ensure levels of recycling in the following Caribbean Jurisdictions:

Barbados-*The Returnable Containers Act 1986* provides for the control of the sale of beverages in beverage containers, the payment of a deposit on beverage containers, a refund for the return of those containers and the final disposal of unused or usable containers.

British Virgin Islands -*The Plastic Litter Reduction and Container Deposit Bill* once enacted seeks to establish a recycling fund for the collection and disbursement of the proceeds of a levy on prescribed items. Jamaica- The Government recently announced that it would be focusing on a Deposit Refund Scheme for plastic bottles,

backed by legislation.

Trinidad & Tobago- *Trinidad and Tobago Solid Waste Management Company (SWMCOL) legislation* provides that consumers pay a deposit fee on purchase of beverage products. This fee is refunded when the empty container is returned. Thus although there is no statutory duty placed on producers, distributors or retailers of products, there is a duty placed on the Environmental Management Authority (EMA), under s. 44 of the *Waste Management Rules, 2021 (established under section 26 of the Environmental Management Act Chapter 35:05)* to institute mechanisms to encourage waste minimisation including establishing waste prevention programmes, plans or measures and establishing cooperation with local authorities and private sector businesses on waste management practices, including actions that make waste recycling easier.

These Waste Management Rules came into operation on May 31, 2022, and apply to the generation, processing, treatment, packaging, storage, transportation, collection, disposal, recovery, recycling or other activities related to the treatment of waste other than radioactive waste. Under these Rules, the EMA have initiated recycling programmes, such as the ICARE Programme, however these remain voluntary. There has been a Waste Recycling Bill, 2015 in the pipelines for some time, however it has not yet been passed into law.

6. Plastics - what laws are in place to deter and punish plastic pollution (e.g. producer responsibility, plastic tax or bans on certain plastic uses)?

Anguilla- A ban on the import, manufacture, distribution and use of plastic bags and Styrofoam is in place by virtue of the Single Use Plastics (Prohibition) Regulations, 2019.

Antigua & Barbuda- a ban on the import, manufacture, distribution and use of Single-use plastic bags and Styrofoam containers by virtue of the External Trade (Shopping Plastic Bags Production) Order, 2017 and External Trade (Import Prohibition) Order, 2017 (Statutory Instrument No. 44, 2017)

British Virgin Islands- a ban on the import, manufacture, distribution and use of single-use plastics is being considered by Parliament by virtue of the Plastic Litter Reduction and Container Deposit Bill, 2022. This bill is still being processed and has not been passed into law.

Barbados- a ban on the import, manufacture, distribution

and use of Single-use plastic bags and Styrofoam containers by virtue of the Plastic and Styrofoam the Control of Disposable Plastics Act 2020.

Dominica- A ban on the import, manufacture, distribution and use of plastic bags and Styrofoam exists in Dominica as a matter of policy however no actual law has been passed mandating this.

Grenada- A ban on the import, manufacture, distribution and use of Single-use plastic bags and Styrofoam containers by virtue of Non-Biodegradable Waste Control Act 9 of 2018.

Guyana- A ban on the import, manufacture, distribution and use of Styrofoam products by virtue of the Environmental Protection (Expanded Polystyrene Ban) Regulations, 2015 (No. 8 of 2015). Legislation to ban single use plastics is also under consideration.

Jamaica- A ban on the import, manufacture, distribution and use of Styrofoam and single-use plastic bags by virtue of the Trade (Plastic Packaging Materials Prohibition) Order and the Natural Resources Conservation (Plastic Packaging Materials Prohibition) Order 2018.

Saint Lucia- A ban on the import, manufacture, distribution and use Importation of Styrofoam by virtue of the Styrofoam and Plastic Food Service Containers (Prohibition) Act No. 22 of 2019

Saint Kitts & Nevis – A ban on the import, manufacture, distribution and use of single use plastics will be introduced via a phased approach and the ban of plastic bags should start in December 2024 by virtue of the Environmental Protection Bill 2024 shortly titled Restriction on Single-Use-Plastic Bill.

St. Vincent- A ban on the import, manufacture, distribution and use of single use plastics and Styrofoam by virtue of the Environmental Health Control of Disposable plastics Regulation 2019.

Trinidad and Tobago- A ban on the import, manufacture, distribution and use of plastic bags and Styrofoam is under consideration but no bill has been passed.

7. Equality Diversity and Inclusion (EDI) - what legal obligations are placed on an employer to ensure equality, diversity and inclusion in the workplace?

All the Caribbean jurisdictions contain anti-discrimination provisions in their labour legislation which prohibits discrimination of employees in the workplace. However,

there is generally no positive obligation to take special measures designed to promote equality, diversity, and inclusion.

8. Workplace welfare - the law governing health and safety at work is addressed in the Health and Safety international guide, in respect of ESG are there any legal duties on employers to treat employees fairly and with respect?

There are currently no specific ESG legal duties on employers to treat employees fairly and with respect in any of the Caribbean jurisdictions.

9. Living wage - the law governing employment rights is addressed in the Employment and Labour international guide, in respect of ESG is there a legal requirement to pay a wage that is high enough to maintain a normal standard of living?

There no living wage in any of the Caribbean jurisdictions, there is only a minimum wage in place.

10. Human rights in the supply chain - in relation to adverse impact on human rights or the environment in the supply chain: a. Are there any statutory duties to perform due diligence; b. Have there been any test cases brought against companies?

a. Are there any statutory duties to perform due diligence;

There are currently no statutory duties to perform due diligence on the supply chain relating to human rights in any of the Caribbean jurisdictions.

b. Have there been any test cases brought against companies?

There have been no test cases in any of the Caribbean jurisdictions, to date.

11. Responsibility for host communities, environment and indigenous populations - in relation to adverse impact on human

rights or the environment in host communities: a. Are there any statutory duties to perform due diligence; b. Have there been any test cases brought against companies?

a. Are there any statutory duties to perform due diligence;

Guyana-Chapter 029:01 Amerindian Act does not provide any statutory duties to perform due diligence.

b. Have there been any test cases brought against companies?

There have been no test cases against companies however a challenge has been brought against the Government of Guyana. In Isseneru v the Government of Guyana (2013), the Inter-American Commission on Human Rights (IACHR) ruled that the state failed to "adequately recognize, respect and protect the community's territorial rights" when it granted mining permits on ancestral lands without prior consultation or consent. The state violated "...the right to indigenous collective territorial property of the Isseneru community and its members because the mining operations developed by Messrs. Lalta Narine and Joan Chang were not the subject of prior consultations, socioenvironmental impact assessments, or reasonable benefit-sharing mechanisms before they began implementation.

12. Have the Advertising authorities required any businesses to remove adverts for unsubstantiated sustainability claims?

We are not aware of such situations in any of the Caribbean jurisdictions.

13. Have the Competition and Markets authorities taken action, fined or prosecuted any businesses for unsubstantiated sustainability claims relating to products or services?

We are not aware of any such action being taken in any of the Caribbean jurisdictions.

14. Have there been any test cases brought against businesses for unsubstantiated enterprise wide

sustainability commitments?

We are not aware of any precedents for this kind of case in any of the Caribbean jurisdictions.

15. Is there a statutory duty on directors to oversee environmental and social impacts?

Anguilla- s. 119 of the *Business Companies Act 2022*– Directors have an obligation to promote the success of a company and in so doing must consider the impact of the Company’s operations on the community and the environment.

16. Have there been any test cases brought against directors for presenting misleading information on environmental and social impact?

There is no precedent for this yet in any of the Caribbean jurisdictions.

17. Are financial institutions and large or listed corporates required to report against sustainable investment criteria?

There is no such obligation in any of the Caribbean jurisdictions.

18. Is there a statutory responsibility on businesses to report on managing climate related financial risks?

There is no such obligation in any of the Caribbean jurisdictions.

19. Is there a statutory responsibility on businesses to report on energy consumption?

There is no such obligation in any of the Caribbean jurisdictions.

20. Is there a statutory responsibility on businesses to report on EDI and / or gender pay gaps?

There is no such obligation in any of the Caribbean jurisdictions.

21. Is there a statutory responsibility to report on modern day slavery in the supply chain?

There is no such obligation in any of the Caribbean jurisdictions.

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