

8 New and proposed legislation

This table, prepared by **Dentons UK and Middle East LLP**, provides a regularly amended guide to new and proposed legislation that will affect the construction industry. In addition to EU Directives and UK legislation, the table includes notes highlighting discussion papers issued by both government and non-government organisations, and commentary on the latest developments.

State of play table 241

Subject area Title and reference Comments

UK

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| Climate change | UK net zero carbon target set for 2050 | <p>Following recommendations made by the Committee on Climate Change (CCC) in early May 2019, the government has announced it will reduce its 2050 targets for greenhouse gases (GHG) to net zero.</p> <p>Several prominent contractors were among those who wrote to the Prime Minister supporting the CCC's net zero recommendations. Read more in the commentary: <i>A green legacy for Theresa May – a radical new target of net zero emissions by 2050 and a challenge for construction</i>.</p> |
| Climate change | New framework for the transition of new and existing buildings to become net zero carbon by 2050 | <p>Following a consultation in February 2019, the UK Green Building Council (UKGBC) has published a new framework, 'Net Zero Carbon Buildings: A Framework Definition', for the transition of new and existing buildings to become net zero carbon by 2050.</p> <p>The framework 'provides an overarching framework of consistent principles and metrics that can be integrated into tools, policies and practices, and aims to build consensus in the industry on the approach to decarbonising buildings'.</p> <p>The framework sets out approaches to dealing with the reduction of emissions and energy use in both construction and operation.</p> |
| Licensing | Construction Licensing Task Force set up | <p>A Construction Licensing Task Force has been established to improve quality and standards and to address the construction industry's poor reputation. The task force now has its own website, which highlights the fact that, currently in the UK, anyone can legally carry out construction work regardless of their skills or competence. Headed up by Liz Peace and supported by various bodies including the Federation of Master Builders and the Royal Institution of Chartered Surveyors, the task force will consider and develop a compulsory licensing scheme for construction.</p> |
| Value Added Tax | VAT reverse charge for building and construction services | <p>On 1 October 2019, HMRC will change the way it collects Value Added Tax (VAT). Aimed at improving the recovery of VAT from suppliers who charge their customers VAT but then fail to pay it on to HMRC, the Value Added Tax (Section 55A) (Specified Services and Excepted Supplies) Order 2019, SI 2019/892 was made on 30 April 2019 and will come into force on 1 October 2019.</p> <p>The order will introduce the domestic reverse charge: the customer receiving the service will no longer pay the VAT due to the supplier but to HMRC instead. The customer can then recover the VAT (subject to normal VAT recovery rules). Only individuals and businesses registered for VAT will be subject to this change: it does not apply to consumers.</p> <p>Government guidance 'VAT: domestic reverse charge for building and construction services', published on 7 June 2019 (which supplements guidance given in November 2018), sets out who and what services are affected. The guidance: includes lists of included/excluded services and a flowchart to check whether the reverse charge applies to you; explains how to prepare for the change (including letting your clients/suppliers know if you are affected, ensuring your accounting systems and software can deal with the new system and reviewing the effect on your cash flow); and highlights the difference between the Construction Industry Scheme (CIS) and the reverse charge.</p> <p>HMRC acknowledges, through the guidance, that some might find implementation of the new VAT system difficult. It will therefore 'apply a light touch in dealing with any errors in the first 6 months of the new legislation' – provided those in error are trying to comply and acting in good faith. Penalties could well follow if not.</p> <p>Further guidance can also be found on the VAT online portal: www.gov.uk/send-vat-return</p> |
| Building regulations | Reforms to the building safety regulation system – government consultation | <p>The Ministry of Housing, Communities and Local Government is running a consultation on its plan to make building regulations stronger and more effective, <i>Building a Safer Future</i> (published in December 2019).</p> <p>The consultation, <i>Building a Safer Future: Proposals for reform of the building safety regulatory system</i>, follows the recommendations made by Dame Judith Hackitt in her <i>Independent Review of Building Regulations and Fire Safety</i> following the Grenfell Tower fire in June 2017. Dame Judith's report highlighted the need for a culture change in the construction industry, including changes to how homes are designed, built, maintained and managed in the future.</p> <p>The survey, which encourages residents to have their say, can be accessed at www.surveymonkey.co.uk/r/BuildingSafetyConsultation. The consultation will end on 31 July 2019.</p> |

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| Modern slavery | Final report of the Independent Review issued | <p>The Independent review of the <i>Modern Slavery Act 2015</i> published its final report on 22 May 2019: www.gov.uk/government/publications/independent-review-of-the-modern-slavery-act-final-report</p> <p>Consolidating the four interim reports issued earlier this year, it sets out 80 recommendations (see pp 21 to 28) and some extra commentary. Particularly important recommendations include measures that improve transparency in supply chains and strengthen the effect and reach of s 54 of the Act including that:</p> <ul style="list-style-type: none"> • slavery and human trafficking statements be made mandatory and a new offence under the <i>Company Directors Disqualification Act 1986</i> be created to cover failure to make a statement in a company where slavery is later found; • companies no longer be allowed to simply state that they have taken no steps to address modern slavery in their supply chains; • modern slavery statements be kept in a central repository; and • sanctions for non-compliance be strengthened and an enforcement body to deal with non-compliant companies be addressed sooner than planned. <p>The government will now consider the recommendations and set out its responses in due course.</p> |

A green legacy for Theresa May – a radical new target of net zero emissions by 2050 and a challenge for construction

The UK's current target for reducing greenhouse gas (GHG) emissions by 80 per cent by 2050 was set by the *UK Climate Change Act* in 2008. Ten years on, global focus on the need for climate change continues to intensify. On 12 June 2019, following recommendations by the Committee on Climate Change (CCC) (see *Net Zero, The UK's contribution to stopping global warming* and 'Net Zero – Technical Report'), the UK government announced it will amend the UK emissions target to net zero GHG by 2050.

This commitment will be made legally binding through the Climate Change (Net Zero UK Carbon Account) Bill 2018–19, a Private Member's Bill introduced into Parliament by MP Alex Chalk on 30 April 2019. Measures to achieve this radical and exemplary target will require drastic reductions to the emissions created by our homes, transport system, industries and agriculture and will affect everyone in the UK.

The UK could therefore become the first G7 country to legislate for net zero emissions. However, achieving the target will depend on other countries following the UK's example.

In its report, the CCC state that, if the UK's commitment was replicated globally in conjunction with 'near-term reductions in emissions', this target would deliver a greater than 50 per cent chance of limiting the world's temperature increase to 1.5C.

Prime Minister Theresa May has left it open for the UK to revisit the decision within five years to protect

the UK from unfair competition from others taking no measures to cut their emissions. Scotland has committed to net zero emissions by 2045 and Wales has indicated it will reduce to net zero, despite the government suggesting a 95 per cent cut in emissions to take account of Wales farming industry.

It remains to be seen what steps the government will take to meet the targets. The construction industry emits a significant proportion of the overall GHG emissions and has a key part to play in ensuring the UK meets the new 2050 target. Clients can make a difference by taking a lead, working closely with their supply chains and adapting procurement policies that require GSG net-zero projects that can be operated and managed sustainably.

Such requirements will incentivise contractors and their supply chain to embed innovation in their businesses and embrace – or create – new working methods and materials. Some Tier 1 contractors are already adapting – including several who wrote to Theresa May supporting the UK's commitment.

The background to the Bill and why MP Alex Chalk brought in the Bill are set out starkly in MP Alex Chalk's speech to Parliament on 30 April: it is worth a read: [https://hansard.parliament.uk/commons/2019-04-30/debates/9ECD0AF0-6797-4BE7-A3C2-AC8E45CF8B57/ClimateChange\(NetZeroUKCarbonAccount\)](https://hansard.parliament.uk/commons/2019-04-30/debates/9ECD0AF0-6797-4BE7-A3C2-AC8E45CF8B57/ClimateChange(NetZeroUKCarbonAccount))

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