



Environment briefing note | February 2017

## **#10ThingsSH you need to know about product stewardship and businesses' obligations to disclose environmental information**

**This is the penultimate article in our product stewardship series and addresses the regulations requiring businesses to report on environmental information. Businesses located in the UK and the EU are now required to publish non-financial information (including environmental information) under the 'Information Directive', EC Directive 2014/95/EU.**

**As with large businesses across the entire European economy, businesses importing, manufacturing, selling and disposing goods within the UK product market will be bound by the Information Directive.**

**Despite the Brexit uncertainty these rules will continue to apply in the UK (with perhaps a few tweaks), as the underlying EU Directives have now been fully transposed into domestic legislation.**

### **What businesses are caught by these additional reporting requirements?**

1. The Information Directive only applies to large public interest entities, or PIEs: publicly traded companies, credit institutions, insurance undertakings, and any other undertakings of significant public relevance as designated by the UK or other member states in the EU.
2. To fall under the Information Directive, PIEs must have more than 500 employees, and an annual balance sheet of greater than €20 million, or annual turnover of greater than €40 million.
3. Within the EU, around 6,000 entities will come within the PIE classification.

### **What must these businesses do in order to comply with the Directive's requirements?**

4. PIEs meeting the above criteria will be required by the Information Directive to disclose the following environmental information as part of their annual reporting:
  - Brief description of the group's business model;
  - Policies used to address environmental matters, including due diligence processes implemented;
  - Outcome of policies;
  - Principle risks related to matters linked to groups operations, including its business relationships, products, services which are likely to cause adverse impacts in those areas and how the group manages those risks; and
  - Non-financial key performance indicators.
5. These policies should focus on the following sectors: current and foreseeable impacts on the environment, and health and safety; the use of renewable and non-renewable energy; the extent of greenhouse gas emissions; water use; and air pollution.
6. If a business does not have any environmental policies, then it must issue a statement explaining why it holds that position.

## While the Information Directive goes further than previous attempts to ensure environmental reporting by large PIEs, it is certainly nothing for businesses to be afraid of:

7. It is estimated that the new reporting requirements will only cost each PIE less than £5,000 per year, reflecting the fact that the Directive is merely a system used to provide a fair and comprehensive view of a PIE's policies, outcomes and risks – by no means a comprehensive environmental auditing programme.
8. As well as fairly benign reporting requirements, PIEs are given some flexibility in the reporting process:
  - Instead of supplying environmental information as part of the PIE's yearend or financial report, the PIE may issue a separate report during the year containing the requisite environmental information;
  - If a PIE is involved in negotiations or a major development, and the environmental reporting requirements would seriously prejudice its interests, the reporting rules can be relaxed so long as this will not limit potential investors' fair and balanced understanding of the PIE's practices; and
  - Subsidiary companies' requirements are able to be met by the parent, meaning that disclosure requirements can be discharged at a group level rather than by each separate affiliate.

## Is your business complying, and if not, what are the consequences?

9. In the UK, these rules have now been incorporated into the Companies Act, and failure to report non-financial information can lead to director liability.
10. PIEs should take steps to ensure they are meeting their reporting requirements. Whether adopting an internal review team, or appointing external advisors, speak to Stephenson Harwood's environment group in order to find out what is the best option for your business.

## How can Stephenson Harwood help?

More than ever, environmental and climate change issues are at the heart of law and policy, impacting every business sector. Stephenson Harwood's environment group has experience advising domestic and international product manufacturers on the full range of EU-led, product-based regulations.

To keep track of our full Product Stewardship Series keep an eye on **Stephenson Harwood's news and insights page**, or follow us on Twitter **@SH\_EnviroPlan** and look out for our hashtag **#10thingsSH**.

For further information please contact us.



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