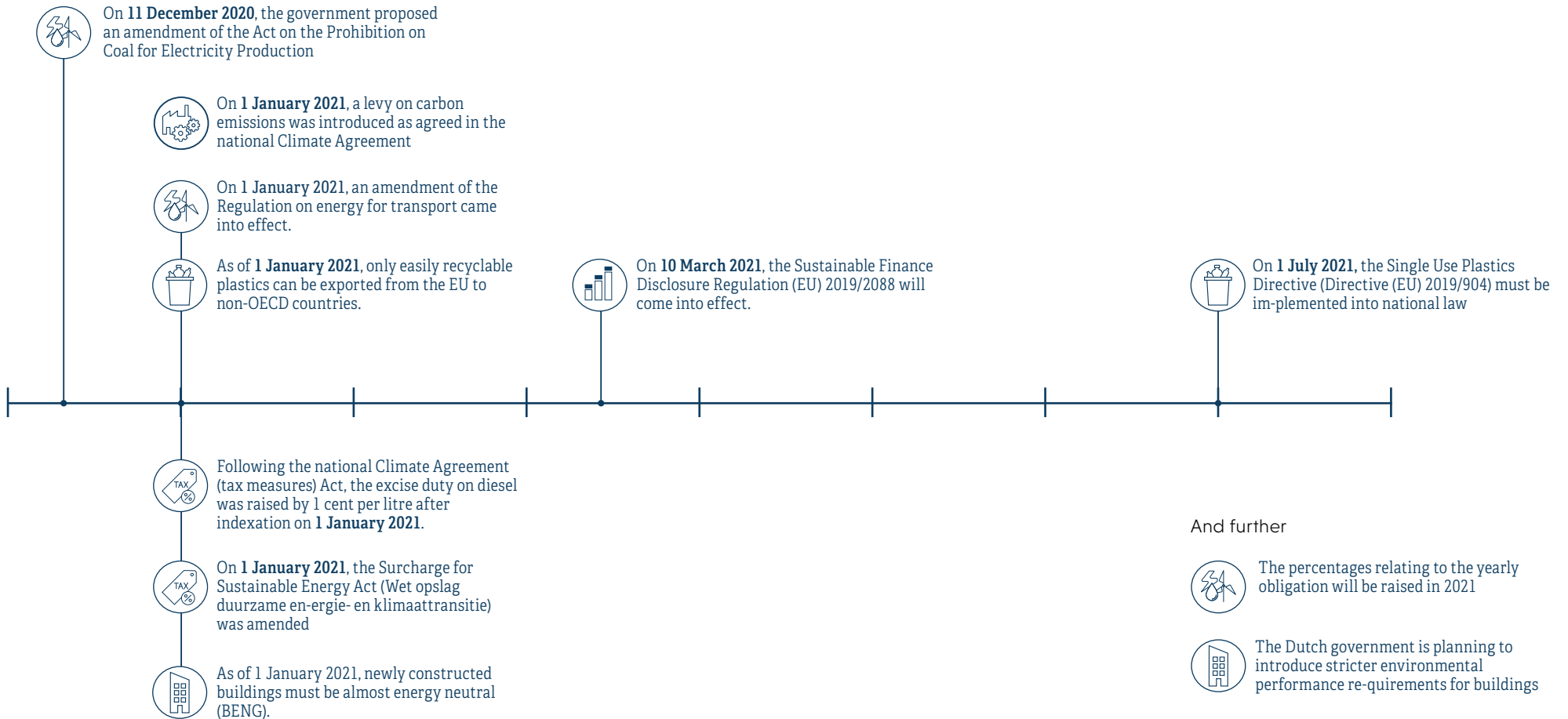


# Climate Change related legislation

*March 2021*

**HOUTHOFF**

# PLANNING





## INDUSTRY

On **1 January 2021**, a levy on carbon emissions was introduced as agreed in the national Climate Agreement (*Klimaatakkoord*). This levy, which is codified in the [Industry Carbon Tax Act](#) (*Wet CO<sub>2</sub>-heffing industrie*), will be in addition to the existing emission allowances which can be traded in the EU Emissions Trading System. However, if the price of emission allowances increases, the price of the levy will drop and vice versa. Also, a company is only obliged to pay a levy if the company emits more greenhouse gases than the exempt amount (dispensation rights). Due to the COVID-19 pandemic, the Dutch government decided to grant, relative to a company's emissions, a large amount of dispensation rights. The amount of dispensation rights granted per company will be lowered in a linear manner until 2030. The first changes are anticipated to take effect in 2023/2024.



## FINANCE

On **10 March 2021**, the [Sustainable Finance Disclosure Regulation \(EU\) 2019/2088](#) will come into effect. It aims to provide more transparency on sustainability within the financial markets in a standardised manner. Financial market participants, financial advisers and undertakings for collective investment are required, among other obligations, to disclose information on sustainability. Financial market participants should provide information about policies on the integration of sustainability risks into the investment decision-making process or advice. Participants should likewise disclose the adverse impacts of investment decisions on sustainability factors.



## ENERGY

On **1 January 2021**, [an amendment of the Regulation on energy for transport](#) (*Regeling energie vervoer*) came into effect. Companies that supply fuel to certain modes of transport, such as road traffic and railway traffic, have a yearly obligation to supply a certain amount of this fuel in the form of renewable energy. Until 31 December 2020, companies could supply biofuel to maritime transport to meet this yearly obligation. This changed on 1 January 2021, in the sense that, in the context of the maritime transport, only advanced biofuels can be registered in relation to the yearly obligation. Further, the percentages relating to the yearly obligation will be raised in 2021, because of [an amendment of the Decree on energy for transport](#) (*Besluit energie vervoer*). Finally, the same fuel suppliers that have a yearly obligation also have an obligation to reduce the amount of greenhouse gas emissions they emit. This obligation was due to end in March 2021, but on 25 November 2020 [an amendment of the Decree on energy for transport](#) was published. Following this amendment, the obligation to reduce the amount of greenhouse gas emissions is prolonged indefinitely.

On **11 December 2020**, the government proposed [an amendment of the Act on the Prohibition on Coal for Electricity Production](#) (*Wijziging van de Wet verbod op kolen bij elektriciteitsproductie in verband met beperking van de CO<sub>2</sub>-emissie*). As of 2025 or 2030 (depending on their properties), power plants will no longer be allowed to use coal to produce electricity. The amendment also limits the emissions relating to coal in the years 2021 up to and including 2024. In those years, the carbon emissions from coal-based electricity production will be limited to 35% of the amount of carbon emissions that would be produced if the power plant was running at full capacity.



## BUILT ENVIRONMENT

As of **1 January 2021**, newly constructed buildings must be almost energy neutral (BENG). This requirement, enacted in [the Energy Performance of Buildings Directive \(EU\) \(2010/31\)](#) has been implemented in [Articles 5.1 and 5.2 of the Building Decree 2012](#) (*Bouwbesluit 2012*). The BENG requirements regulate three aspects: (1) the maximum energy requirement; (2) the maximum primary fossil energy use; and (3) the minimum share of renewable energy. The BENG requirements differ per building type, such as housing and non-residential buildings. The same method, the NTA 8800, will be used both for determining the applicable energy label and the conformity with the BENG requirements. Since 1 January 2021, applications for environmental permits for all buildings must meet the BENG requirements.

The Dutch government is planning to introduce stricter environmental performance requirements for buildings. Although this requirement did not come into effect on **1 January 2021** due to technicalities, the (outgoing) Minister of the Interior and Kingdom Relations [stated in a letter to parliament](#) that she plans on implementing those requirements in the Building Decree 2012 as soon as possible in 2021. The Environmental Performance of Buildings (“**MPG**”) indicates the environmental impact of the materials used in buildings. The current norm of 1 will be lowered to 0.8 and will be continuously lower thereafter. The MPG will be halved by 2030 at the latest. Through the MPG, the Dutch government wants to achieve a more sustainable use of materials. The stricter requirements should encourage suppliers to develop more environmentally-friendly construction products.



## PLASTICS AND WASTE

As of **1 January 2021**, only easily recyclable plastics can be exported from the EU to non-OECD countries. This obligation was agreed during the fourteenth Meeting of the Conference of the Parties to the Basel Convention and was adopted by the Commission on 19 October 2020 ([Commission Delegated Regulation \(EU\) 2020/2174](#)).

On **1 July 2021**, [the Single Use Plastics Directive](#) (Directive (EU) 2019/904) must be implemented into national law. The Directive prohibits placing certain single-use plastic products, such as cutlery, straws and certain food containers, on the market. The Packaging Management Decree 2014 (*Besluit beheer verpakkingen 2014*) will be amended and the Single Use Plastics Decree (*Besluit kunstofproducten voor eenmalig gebruik*) will be adopted to implement the Single Use Plastics Directive. The draft decision on the amendment and the proposed decree has been published for consultation.



## TAX

Following the national Climate Agreement (tax measures) Act ([Wet Fiscale Maatregelen Klimaatakkoord](#)), the excise duty on diesel was raised by 1 cent per litre after indexation on 1 January 2021. Also, under [the Regulation revision of excise duty, tax on cars and motorcycles, vehicle tax, tax on environmental basis and Provinces Act 2021](#) (*Bijstellingsregeling accijns, belasting van personenauto's en motorrijwielen, motorrijtuigenbelasting, belastingen op milieugrondslag en de Provinciewet 2021*) the excise duty on other mineral oils will be raised due to indexation.

On **1 January 2021**, the Surcharge for Sustainable Energy Act (*Wet opslag duurzame energie- en klimaattransitie*) was amended. Following [this amendment](#), the tariffs relating to the Surcharge for Sustainable Energy will be raised in 2021 (and 2022). The amount of duty owed and the applicable tariff(s) are determined based on the amount of electricity and/or gas used by a company (or household).



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