



## IEEP UK Divergence Newsletter

Newsletter #2

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### Latest news

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4. Extended Producer Responsibility - packaging

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5. Glyphosate

#### In Focus...

The Retained EU Law (Revocation and Reform) Act 2023

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# From the UK

Here's the latest on UK environmental policy...

[New Highly Protected Marine Areas \(HPMAs\) declared in England](#) - Three HPMAs came into force in England on 5 July 2023 at [Allonby Bay](#), [North East of Farnes Deep](#) and [Dolphin Head](#).

**Environmental Improvement Plan** - Northern Ireland [has missed the statutory deadline](#) for publishing its EIP.



**UK ETS Expansion** - The UK ETS Authority announced the outcome of a [consultation on Developing the UK Emissions Trading Scheme](#) on 3 July. Alongside changes in cap allowances, there will be a significant change for the aviation sector in that free allocations will come to an end by 2026. The UK ETS will also expand its coverage with domestic maritime emissions falling under scope by 2026 (in the EU, this is set for 2024) and energy from waste and waste incineration by 2028.

Meanwhile in the EU....



**EU ETS' Next Phase** - The EU [legislated](#) for the gradual phase out of free allocations for the airline industry in May 2023 and set the same 2026 target deadline as the UK ETS. Similarly, the UK's plan to expand its ETS to the domestic maritime sector for vessels over 5,000 gross-tonnage resembles [EU plans](#) which were published in May 2023. Under those plans, a phased approach to surrendering allowances will be introduced leading to all domestic maritime voyages, half of extra-EU voyages and emissions from ships at berth in EU ports being affected by 2026.

**Extended Producer Responsibility (EPR)** - The payment of packaging fees rules have been postponed to October 2025. The fees had been due to start in October 2024 though companies are still obliged to collect packaging data for 2023. By way of comparison, EU countries must have an operational packaging EPR system set up by the end of 2024 and [further tightening of rules](#) is currently being debated by the European Parliament.

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## From the EU

5 July was a busy day!

**EU Parliament approves EU [Nature Restoration Law](#) (NRL)** - The saga continues from our last report on the

travails of the EU's draft **NRL**. Despite the law not receiving approval in the European Parliament's environment committee, it went forward to Plenary where a narrow majority of MEP's voted in favour of the legislation but with modifications. The Council agreed with the Commission that the overall target of restoration of 20% of the EU's land and sea areas by 2030 should be included. The Trilogue process has begun but will not resume until September.



[EU Carbon Border Adjustment Mechanism comes into force](#) - The EU's regulation for a **Carbon Border Adjustment Mechanism (CBAM)** came into force on 16 May 2023, aiming to address the risk of 'carbon leakage' to other countries as a result of high climate ambition from EU policies.

Beginning on 1 October 2023, the **CBAM** will apply to carbon intensive industries deemed at risk of carbon

**leakage:** cement, iron and steel, aluminium, fertilisers, electricity and hydrogen and capture 50% of emissions covered by the EU ETS when implemented. Importers of goods will begin by reporting on embedded greenhouse gases in their imports using their own methodology to begin with, and a set methodology from 2025. #

From January 2026, **importers will have to surrender CBAM certificates** equivalent to the embedded GHG amounts involved and this will be based on the EU ETS carbon price. The phasing out of EU ETS free allocations will happen at the same time as the phasing in of CBAM.

[Soil Strategy for 2030](#) - As part of the Commission's package of measures on the 'sustainable use of natural resources', proposals for a [Soil Monitoring Law](#) were announced on 5 July, in line with the strategy, published in November 2021. It aims to ensure that all EU soils are in a 'healthy condition' by 2050 and puts in place a monitoring framework that would provide data on soil health across the member states. However, it does not include any binding targets which had been called for by many.



[New Genomic Techniques \(NGT\)](#) - On the same day as soil legislation, the European Commission proposed a regulation on New Genomic techniques. It establishes a regulatory framework for NGT plants and their products to take account of the latest advances in biotechnology to adapt the existing framework for NGT plants that are considered to be 'safe'.

[Waste Framework Directive](#) - A proposal on a targeted revision focusing on textiles and food waste was also published on 5 July. It aims to tackle the growing trend of 'fast fashion' by adding in Extended Producer

Responsibility (EPR) rules to the textiles sector set lower EPR fees for those that design-in future eco-design standards (such as recyclability, repairability and reusability), and clarify rules for exports of textiles outside of the EU. On food waste, binding targets are proposed for Member States: a 10% reduction for upstream processing and manufacturing and 30% for restaurants, retail and householders by 2030 (based on 2020 levels).

It would also require **Member States to introduce national food waste prevention programmes** including public information campaigns. In contrast, England's 2018 waste and resources strategy promised a consultation on textiles by the end of 2025 and a consultation on legal powers to introduce mandatory targets for food waste prevention. These consultations have not yet launched and it is unclear whether they will be.

[EU Regulator approves Glyphosate in farming](#) - The European Food Safety Authority (EFSA) concluded that glyphosate remains safe to use in farming (see [factsheet](#)). **Glyphosate** was last approved for use in the EU in 2017, and the five-year license was renewed for another 12 months last December. The assessment by EFSA will help the Commission and Member States decide whether to re-register or ban the controversial herbicide. This negotiation process is expected to start in October. Meanwhile, in the UK glyphosate remains approved for use until at least 2025.

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## In Focus...

[The Retained EU Law \(Revocation and Reform\) Act 2023](#)

The Retained EU Law (Revocation and Reform) Act 2023 received Royal Assent on 29 June 2023.

Key features include giving 'relevant national authorit[ies]' the power to amend, revoke or retain EU law, to revoke 587 pieces of legislation on 31 December 2023, allows for some of those 587 laws to be 'preserved' but only for a time limited period, ends the special legal status of Retained EU Law (REUL) on the UK statute book and renames it 'assimilated law', removes the supremacy of EU law in the UK and changes the interpretation and effect of REUL, and requires ministers to report every 6 months to Parliament about progress with and plans for future reform of retained EU law.

There are several key dates for the diary:

**~31 October 2023** – the 'preservation' power to save bits of REUL expires

**~31 December 2023** - the first tranche of REUL disappears from UK statute and all other REUL becomes known as 'assimilated law'.

**~ (At the latest) 22 January 2024** (*and 6 months thereafter*) - report to Parliament on reform of REUL / assimilated law.

**~ 23 June 2026** - Final reporting period ends and the power to amend or revoke REUL / assimilated law ends.

The initial list of laws to be revoked by the end of 2023 will inevitably lead to divergence with the EU, many of which are relating to the environment. However, most of these are not consequential and the list is a significant reduction in the number of laws that were in the firing line when the Bill was first introduced.

Government ministers said that high levels of environmental protection would remain but an amendment tabled to make this a legally binding commitment were defeated. It remains to be seen whether or not the powers to revoke or amend will lead to *consequential* divergence with the levels of environmental protection seen when the UK was a member of the EU.

Both the Scottish and Welsh governments made clear their opposition to the Bill in several different respects, including its coverage of legislation that they consider to be devolved rather than reserved to the UK Government. How far the three governments will coordinate in actions they take in response to the new Act remains to be seen but there is no reason to believe that they will take the same approach to issues arising, such as the choice of measures to revoke or reform.

Divergence in environmental legislation may increase over time.



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This newsletter is part of IEEP UK's 'Divergence Project' dedicated to tracking and reporting shifts in environmental policy happening in the UK and EU, assessing the degree of alignment or divergence between them, and analysing the potential impacts for the environment and climate as a result.

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