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IEEP UK Divergence Newsletter

Newsletter #5

31 January 2024

 [IEEP UK Report Launch](#) 

Divergence in UK/EU environmental policy: The state of play

As part of IEEP UK's divergence project, we have spent the last two years conducting in-depth monitoring of crucial areas of environmental policy where the UK may have diverged from the EU, either in practice or law. Our review of the latest developments in 2023 and what this might mean for the UK's environmental and climate landscape will be released later this week, but a summary is available [here](#).

As part of the paper's launch, we will host an online event with an expert panel and followed by Q&A in February. For more information on how to register and details about our event, please keep an eye out in your inbox in the coming days.

We look forward to seeing you there!

For any queries, please email us at enquiries@ieep.eu

Latest news

- **Post-Brexit environmental divergence** shows UK trails the EU
- **UK CBAM** scheme announced from 2027
- EU agrees new **Transfrontier Waste Shipping rules**
- European Parliament bans **greenwashing**
- Spanish spill shines spotlight on **EU microplastics**
- UK lays pathway for **net-zero vehicles** by 2035
- **Neonicotinoids**: EU objects to raising limits while UK grants emergency approval
- **Biodiversity Net Gain** launch date set for England
- **Ecocide legislation** advances in EU and UK
- EU countries meet for **interim 2040 climate targets**



Post-Brexit divergence places UK environmental protections at risk

An in-depth investigation by the Guardian, drawing from IEEP UK's work tracking and monitoring UK-EU divergence, has shown the UK is falling behind the EU in almost every area of environmental policy. As the EU has aimed to strengthen its green measures since the UK departed the bloc, British environmental standards have fallen. In some cases, as seen with the Retained EU Law (Revocation and Reform) Act 2023, the Government has taken active measures to remove EU-derived legislation from the UK's statute book, many of which maintained a high level of protection for nature, water, air quality, among others.

Read more on our website [here](#) and the Guardian's reporting [here](#).

UK announces CBAM scheme from 2027

The UK Government set out some high-level detail of its proposed carbon border adjustment mechanism (CBAM) in an [announcement](#) made on 18th December. Much of the detail remains to be determined, with a consultation expected later in 2024 on design and delivery of the mechanism.



Although there are some similarities, as it stands there are some key areas of divergence with the [EU's CBAM](#), the transitional period for which started on 1st October 2023:

Timescales: The UK Government's stated intention is to "implement" the UK CBAM by October 2027. The EU's transitional period runs up to end 2025, with the full scope of the [CBAM Regulation](#) entering into force on 1st January 2026.

[Read more on our website](#) 



EU reaches political agreement on future transfrontier waste shipments rules


The European Parliament and the Council reached a [political agreement](#) on 16th November on the future new Regulation on waste shipments. The Regulation aims to implement the EU's obligations under the Basel Convention on the Control of Transboundary Movements of Waste and Their Disposal (the Basel

Convention), ensuring that the EU takes greater responsibility for its waste and does not export its environmental challenges to other countries. The new rules will also make it easier to use waste as a resource.

[Read more on our website](#) 

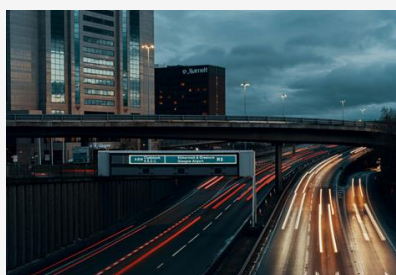
European Parliament adopts new law banning greenwashing

On 17th January, the European Parliament voted in favour of a new [Green Claims Directive](#) that will outlaw generic environmental claims and other misleading product information. Only sustainability labels based on approved certification schemes or established by public authorities will be allowed. The new rules also aim to tackle early obsolescence by banning practices including unfounded durability claims; presenting software updates as necessary when they only enhance functionality; presenting goods as repairable when they are not; and inducing consumers to replace consumables earlier than necessary for technical reasons.

[Read more on our website](#) 

Spanish spill shines spotlight on EU microplastic laws

After more than 25 million tonnes of PET plastic pellets, known as nurdles, [fell from a container ship](#) off north-western Spain, affecting dozens of coastal communities, the European Parliament is working on its response to a [European Commission proposal](#) to introduce monitoring and prevention requirements for shipments of nurdles to avoid future environmental



UK lays out pathway for Net Zero Vehicles by 2035

The UK Government [announced](#) on 20 September 2023 that it would amend some of its net zero objectives,

degradation. How the draft legislation evolves before the EU elections could open the door to potential legal divergence between the UK and EU on microplastic pollution.

In the UK, Parliament passed a [ban on microbeads](#) –tiny pieces of plastic commonly found in cosmetic and personal care products– in 2018 to reduce plastic pollution and, last year, the Government approved a [ban on single-use plastics](#). However, since then, the Government has not enacted any further legislation on microplastics.



including pushing the ban on petrol and diesel engine cars from 2030 to 2035. This 5-year delay brings the UK [back] into line with the EU's stated aim for [net zero mobility](#).

The legislation enacting a '[zero-emission vehicle \(ZEV\) mandate](#)' came into force on 01 January 2024. The mandate creates a pathway towards all new cars and vans being zero emission by 2035, with an interim target of 80% of new cars and 70% of new vans sold in Britain to be zero emission by 2030.

The EU's net-zero mobility package was agreed in March 2023 and aims for a 100% zero-emission road fleet by 2035 as part of its [climate law](#). However, it allows for an [exemption](#) for some cars sold from 2035 onwards to run on e-fuels, a technology still not produced at scale but is considered carbon neutral. The UK has yet to factor e-fuels into its emissions-reduction strategy for road transport, as it is currently considering [sustainable fuels in aviation \(SAFs\)](#), as part of its [Transport Decarbonisation Plan](#).

Neonicotinoids: EU Parliament objects to raising limits for imports, UK Government grants emergency approval for fourth year running.

The European Commission has [withdrawn](#) its proposal to raise the limit found in imports of the pesticide, thiacloprid, a type of neonicotinoid, banned in the EU from 2020, after the European Parliament objected the motion. On the other hand the UK government has [granted emergency approval](#) to use a neonicotinoid pesticide, Cruiser SB (made up of thiamethoxam) for the fourth year running to use on sugar beet crops.

Launch date confirmed for Biodiversity Net Gain in England



Defra has [confirmed](#) that the package of biodiversity net gain (BNG) regulations that were laid in Parliament last year will be applicable from 12th February 2024. This means that, from this date, major developments that are not otherwise exempt will have to deliver net gains for biodiversity. The stated aim of the policy and legislation is 'positive outcomes for nature, better places for communities and more consistent and transparent requirements for developers'.

BNG will be mandatory for 'major development' in England from that date – defined as residential developments with 10 or more dwellings or where the site area is greater than 0.5 hectares. BNG for small sites (residential development where the number of dwellings is between 1 and 9 or, if an unknown number, where the site area is less than 0.5 hectares; or commercial development where the floor space created is less than 1,000 m² or the total site area is less than 1 ha) will be mandatory from 2nd April.

[Read more on our website](#) 

Action on ecocide makes inroads in the EU and UK

November saw a surge of action on ecocide – [defined](#) by an independent expert panel in June 2021 as “unlawful or wanton acts committed with knowledge that there is a substantial likelihood of severe and either widespread or long-term damage to the environment being caused by those acts”.

The EU reached a [provisional agreement](#) on 17th November on a draft directive for new offences related to environmental crimes, including those “comparable to ecocide”. This qualified offence is triggered if the “destruction of, or widespread and substantial damage of an ecosystem or habitat in a protected site, or to the quality of air, soil or water” is proved. Those found guilty could face prison sentences of up to 10 years, and higher financial penalties. This would include offences comparable to “ecocide” without naming the concept per se. The Directive leaves the remit for prosecution to Member States which could lead to divergent interpretations and asymmetric enforcement levels across the EU.



An “[Ecocide Bill](#)” was introduced in the House of Lords on 30th November, aiming to close the gap in criminal law in England and Wales to prevent perpetrators of the most severe environmental harms from escaping accountability. The Bill is likely to reach its [second reading](#) in Spring 2024. Serious environmental damage that directly results from decisions made by those in the most senior positions of power would lead to criminal prosecution and potentially custodial sentences under the proposed bill.

Similar legislation is also under consideration in a number of EU Member States, including Belgium, Italy, the Netherlands and Spain. As each is taking a slightly different approach, the potential for divergence remains.

In an effort to 'keep pace' with the EU and deter environmental damage in Scotland, the Scottish Government is considering [backing](#) a Labour MSP's proposal on an [ecocide bill](#). The proposal, which was lodged on 7th November and is out to consultation until 9th February, would create a "singular overarching piece of legislation" integrating all aspects of environmental harm, covering air, land, water and soil in an effort to mirror the EU.

EU countries meet to discuss 2040 interim climate targets

The European Commission is due to publish a proposal on 06 February 2024 that sets an interim climate target for 2040 to reduce emissions by 90% relative to 1990.

This is a requirement under its existing [climate law](#), which commits the EU to reducing emissions by at least 55% by 2030 and net zero by 2050. At the same time, the Commission is also required to report on the projected indicative greenhouse gas budget for 2030-2050. The latest [report](#) from the European Scientific Advisory Board on Climate Change has



By contrast, GHG emissions for the UK were down by 46% below 1990 levels (based on 2022 figures). Although there is no 2040 UK-wide emissions reduction target, the UK's [sixth carbon budget](#) sets an effective emissions reduction target of 78% by 2035.

However, the Climate Change Committee's [2023 Progress Report to Parliament](#) is critical of the UK's implementation pace, also echoed by a recent

recommended a 90-95% cut and emphasised the need for effective implementation by EU member states to achieve EU Green Deal targets.

However, this is going to be challenging. The current level of emission reduction across the EU as a whole is around 32%,and based on the Commission's [assessment](#) of draft National Energy and Climate Plans (NECPs), Member States are going to fall short of the 2030 target (NECP's put the Member States at 51% vs, the required 55%).

House of Lords Committee [report](#).

As IEEP UK reported recently, actions taken by the current Government, such as opening a [new coal mine](#) in Cumbria and [fast-tracking oil and gas](#) development in the North Sea, have dented the [UK's climate leadership](#) -despite the renewable energy rollout in the UK being ahead of the EU average.

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For more information, please check IEEP UK's website [here](#)

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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