POLICY AND LEGISLATION ON AIR POLLUTION

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Policy and legislation on air pollution: Key elements

- Governance arrangements
- Policy objectives and tools to achieve these
- Rights and obligations
- Compliance and enforcement
How to reduce air pollution?

COMMAND AND CONTROL MEASURES

• Performance standards
• Best available technology regulations

ECONOMIC INSTRUMENTS

■ Taxes (internal)
■ Tariffs (external)
■ Emission trading
The layers of law and policy

International

EU

UK

Scotland
Key International Instruments

1979 Convention on Long-Range Transboundary Air Pollution ("LRTAP Convention") and its eight protocols

1985 Vienna Convention for the Protection of the Ozone Layer, 1987 Montreal Protocol on Substances that Deplete the Ozone Layer (ODS) and its amendments


‘Mixed’ agreements
The role of international law

- Emission reduction obligations in relation to LTARP, ODS and GHGs
- Phasing out of LTARP and ODS
- Carbon pricing
Key EU Instruments - LRTAP

- Directive 2008/50/EC on ambient air quality and cleaner air for Europe
- Directive 2016/2284 on the reduction of national emissions of certain atmospheric pollutants
- Directive 2015/2193 on the limitation of emissions of certain pollutants into the air from medium combustion plants
- Directive 2016/802 relating to a reduction in the sulphur content of certain liquid fuels
The role of EU law - LRTAP

- Setting **air quality standards** - Member States to adopt and implement air quality plans (Directive 2008/50/EC on ambient air quality and cleaner air for Europe);

- Setting national **emission reduction targets** - Member States to develop National Air Pollution Control Programmes by 2019 (Directive 2016/2284 on the reduction of national emissions of certain atmospheric pollutants);

- Setting **emission and energy efficiency standards** for key **sources** of air pollution, from vehicle emissions to products and industry
Key EU Instruments - ODS

Commission Regulation (EU) 537/2011 on the mechanism for the allocation of quantities of controlled substances allowed for laboratory and analytical uses

Commission Regulation (EU) No 291/2011 on essential uses of controlled substances other than hydrochlorofluorocarbons (HFCs) for laboratory and analytical purposes

Commission Decision 2010/372/EU on the use of controlled substances as process agents

Regulation (EC) 1005/2009 on substances that deplete the ozone layer (ODS)
The role of EU Law - ODS

- Monitoring and reporting ODS emissions (with obligations that overlap with those under EU climate change law)
- The phasing out of ODS (Regulation 1005/2009 on substances that deplete the ozone layer and related instruments)
- Standards concerning products (e.g. Directive 2006/40/EC relating to emissions from air conditioning systems in motor vehicles, ‘MAC Directive’; and Regulation No 517/2014 concerning fluorinated greenhouse gases, ‘F-gas Regulation’)

Other relevant EU law instruments

### Industrial Emissions

- **Regulation 749/2014**: Information reported by Member States pursuant to Regulation (EU) 525/2013 and of Directive 2010/75/EU on **industrial emissions**
- **Regulation 1907/2006**: Concerning the Registration, Evaluation, Authorisation and Restriction of **Chemicals** (REACH)
- **Regulation 850/2004**: On **persistent organic pollutants**

### Climate Change

- **Regulation No 525/2013**: And related instruments on the monitoring and reporting **greenhouse gas emissions** and related information
- **Directive 2003/87/EC**: And related instruments on the establishment and functioning of a scheme for **greenhouse gas emission allowance trading**
- **Regulation (EU) 2018/841**: Inclusion of **greenhouse gas emissions and removals from land use, land use change and forestry** in the 2030 climate and energy framework
In 2018 the EU Commission referred the UK to the CJEU for failing to respect agreed air quality limit values and for failing to take appropriate measures to keep exceedance periods as short as possible. The infringement action concerns the significant and persistent exceedances of limit values for NO₂.

In May 2018 the Commission has also issued additional letters of formal notice to the UK on the grounds that they have disregarded EU vehicle type approval rules.

The UK Parliament Environmental Committee’s Fgases inquiry has revealed that not all relevant EU law instruments have been properly transposed into UK law. After Brexit, the UK will no longer be able to rely on extant institutional and regulatory arrangements. Brexit will leave a gap in governance that needs to be urgently addressed.
A 2018 UK Parliament report notes:

The Government should establish appropriate institutions and agencies to independently enforce air quality requirements. Furthermore, the Government should establish in primary legislation a requirement that UK air pollution standards are at least as high as equivalent standards in the EU, and that the relevant enforcement agency must have equivalent powers, standards and enforcement mechanisms as the equivalent agencies in the EU.

➢ the first matter has been taken care (at least in part) of by the Air Quality (Amendment of Domestic Regulations) (EU Exit) Regulations 2018

➢ the second matter remains to be addressed