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# POLICY AND LEGISLATION ON AIR POLLUTION

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# Policy and legislation on air pollution: Key elements



# 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



Inter-  
national



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

1992 United Framework Convention of Climate Change, 1997 Kyoto Protocol, and 2015 Paris Agreement

‘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 on (...) information reported by Member States pursuant to Regulation (EU) No 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

# Challenges (1)

- 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 NO<sub>2</sub>**
- 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 [Egases 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.

# Challenges (2)

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