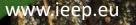
## Divergence of environmental policy post Brexit

Initial reflections by IEEP UK

Michael Nicholson Tuesday 07 June 2022







## **Tracking divergence**

- Significant divergence vs., minor or inconsequential divergence
- Tracking & Recording ----- Prioritising ----- Analysing
- Experiences of 'Tracking and recording' post Brexit [environment] legislation so far:
  - Enormously challenging
  - Large number of secondary pieces of legislation on environment, climate, energy, agriculture, fisheries etc
  - In numbers, so far (from 01 January 2021):
    - Over 100 pieces of UK legislation (including SSI's, WSI's and NI Statutory Rules), pertinent to the environment, climate, fisheries, agriculture, energy... 98% are SI's, unsurprisingly very little is primary.
    - Over 260 pieces of EU legislation e.g., Decisions, Regulations (though ~ half are related to biocidal products and plant protection products)



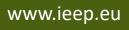




## 2010 Industrial Emissions Directive (IED) – Dynamic Alignment or Selective Alignment?

- Critical regulation for 50,000 industrial activities across Europe establishing regulatory processes and framework for performance objectives
- Earlier this year European Commission proposed an amendment to IED will this cause divergence from the UK?
- UK transposition of different types, e.g.:
  - Copy out of IED into Statutory Instrument (SI) so amendment at EU level will not be matched in UK
  - Cross-reference to IED in the SI so implementation in UK would track change at EU level.
- More complexity, e.g., IED itself cross-refers to other EU law (waste, EIA, etc.). But 2019 withdrawal SI explicitly broke those links.
- Note the UK has indicated further changes, so adding to complexity of understanding divergence.
- Conclusion: amending EU law would cause some divergence from the UK, but in other areas, the UK could continue to be linked to the changes.



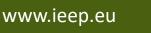




## **Chemicals regulation – a case of 'Divergence by Default'?**

- 1. A new EU Chemicals Strategy in October 2020: *EU Chemicals Strategy for Sustainability* = An EU REACH v.2.0... Leading to more work for UK to stay broadly aligned?
- 2. Lack of access to EU REACH chemicals safety database (containing detailed and complex data of over 20,000 known chemicals)
- 3. eNGO concern that UK taking less protective approach, e.g. change in approach to designating substances of very high concern (SVHCs)
- 4. Lack of regulatory capacity UK only able to consider a fraction of protective EU controls
  - EU: 5 chemical substances have been banned since Brexit and 20 are in the pipeline of the restriction process
  - UK: currently 2 of those restrictions are being taken forward in the UK lead ammunition and tattoo ink.









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