



The Scottish Parliament
Pàrlamaid na h-Alba

Màiri McAllan MSP
Cabinet Secretary for Transport, Net
Zero and Just Transition
Scottish Government

**Net Zero, Energy and Transport
Committee**

c/o Clerk to the Committee
Room T3.40
The Scottish Parliament
Edinburgh
EH99 1SP

By email only

netzero.committee@parliament.scot

5 September 2023

Dear Màiri,

UK Retained EU Law (Revocation and Reform) Act 2023 - environmental provisions

Thank you for your letter of 31 July 2023 providing further information on environmental provisions of the UK Retained EU Law (Revocation and Reform) Act 2023. There are several areas of your response on which the Committee seeks further clarification.

Intergovernmental discussions

In your response you have stated “revocation of these regulations is a policy decision, which will mean a significant gap emerges until an alternative approach to reporting can be agreed and implemented across the four nations.”

Could you please provide details of—

- Your interpretation of the significance of the gap as compared with the [UK Government’s view](#);
- The practical implications removal of the reporting requirements has on pollutant reduction;
- Is a common approach to reporting being developed across the four nations and if so, when is this anticipated to be complete?
- What are the implications of non-reporting in the gap that could exist between mandatory reporting milestones?

I note you are “seeking further information from the UK Government on its Secondary Legislation programme under the Act and its potential impact on environmental law”.

- The Committee would welcome an update on this from the Scottish Government once the impacts of the UK Government’s secondary legislation programme are known.

The Committee had also asked for an update on discussions and progress to resolve disagreements over air quality provisions “or any other environmental measures listed in Schedule 1 whose inclusion concerns the Scottish Government.” The Committee notes the Scottish Government’s [response](#) to the Constitution, Europe, External Affairs and Culture Committee providing an updated Schedule 1 analysis.

Keeping pace power

You suggested the creation of an equivalent of the National Air Pollution Control Programme in Scotland would be “dependent on a separate policy approach to this issue being developed in Scotland” and that your “preferred position remains for a joint UK approach to continue, subject to acceptable proposals being put forward by Defra”.

The Committee seeks confirmation it is the Scottish Government’s understanding that DEFRA *is* working to put forward proposals for a joint UK approach.

If it is not the case the UK Government is working on a replacement scheme, is it the Scottish Government’s intention to replicate the NAPCP for Scotland (and associated governance requirements such as for public participation and public body duties to have regard to the plan) in order to keep pace?

Implications of the removal of air quality laws in Schedule 1

In your response you told the Committee—

“There are other provisions in law requiring the Scottish Ministers to produce air quality plans and strategies. However, there is no specific requirement in any of these provisions for the publication of the information set out in the NAPCP.”

As the [investigation](#) by Environmental Standards Scotland into Air Quality confirmed, “the system of governance and oversight of air quality is overly complex and opaque”.

The Committee therefore seeks details of air quality governance arrangements to understand the legal and governance framework remaining after the removal of NAPCP arrangements, including—

- The other provisions in law which require the Scottish Ministers to produce air quality plans and strategies, including for delivery of reducing pollutants (including any legal requirements for public participation in the plan or requirements for public bodies to have regard to the plan).
- How the loss of the publication of the NAPCP information will impact on delivery of air quality plans and strategies, including for the delivery of pollutant reduction.
- The legal basis for the role of Scottish Ministers in the UK-wide air quality plan as required by the Environment Act 1995 (as amended).

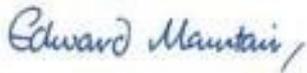
- To what extent any amendments made to the Environment Act 1995 by the UK Environment Act 2021, pertaining to air quality plans and reporting, apply in Scotland (including for SEPA and local authorities).
- Whether the 2007 Air Quality Strategy for England, Scotland, Wales and Northern Ireland represents the currently applicable UK-wide air quality plan in Scotland, what legal requirements there are for review in relation to that plan, and how that plan works together with CAFS2 (noting there is also an updated 2023 air quality strategy for England).

The Committee notes your preference for “a UK-wide NAPCP to continue” and that the Common Framework on Air Quality includes a requirement for updates through the NAPCP. The Committee seeks your view on the operation of this Common Framework and evaluation of this by the administrations of the UK.

In light of the 31 October deadline for preserving REUL listed on Schedule 1 of the Act, on behalf of the Committee, I request a response by 20 September.

Thank you. I look forward to hearing from you.

Yours sincerely,

A handwritten signature in blue ink that reads "Edward Mountain".

Edward Mountain MSP
Convener
Net Zero, Energy and Transport Committee