

# Environment

## Brexit Monitoring Report

31 January – 2 April 2019



The Assembly and

BREXIT

The National Assembly for Wales is the democratically elected body that represents the interests of Wales and its people, makes laws for Wales, agrees Welsh taxes and holds the Welsh Government to account.

An electronic copy of this document can be found on the National Assembly website: [www.assembly.wales](http://www.assembly.wales)

Copies of this document can also be obtained in accessible formats including Braille, large print, audio or hard copy from:

**National Assembly for Wales**  
**Cardiff Bay**  
**CF99 1NA**

Tel: **0300 200 6317**

Email: [Elfyn.Henderson@Assembly.Wales](mailto:Elfyn.Henderson@Assembly.Wales)

Twitter: [@SeneddResearch](https://twitter.com/SeneddResearch)

Blog: [SeneddResearch.blog](http://SeneddResearch.blog)

LinkedIn: [Senedd Research, National Assembly for Wales](#)

© National Assembly for Wales Commission Copyright 2019

The text of this document may be reproduced free of charge in any format or medium providing that it is reproduced accurately and not used in a misleading or derogatory context. The material must be acknowledged as copyright of the National Assembly for Wales Commission and the title of the document specified.

National Assembly for Wales

**Senedd Research**

# Environment

## Brexit Monitoring Report

31 January – 2 April 2019

### Authors:

Elfyn Henderson, Francesca Howorth, Katy Orford, Chloe Corbyn, Lorna Scurlock, Robert Byrne and Siân Davies

Senedd Research acknowledges the parliamentary fellowship provided to Robert Byrne by the Engineering and Physical Sciences Research Council which enabled this monitoring report to be completed.

### Paper Overview:

Brexit will bring significant changes in the environmental policy area. Senedd Research has prepared this monitoring report for the Assembly's Climate Change, Environment and Rural Affairs Committee. It provides an update on recent Brexit developments that are of importance to environmental policy in Wales.



The Assembly and

BREXIT

## Contents

<b>1. Introduction</b> .....	<b>1</b>
<b>2. EU action</b> .....	<b>2</b>
<b>3. UK Government action</b> .....	<b>3</b>
<b>4. Welsh Government action</b> .....	<b>6</b>
<b>5. Scottish Government action</b> .....	<b>8</b>
<b>6. CCERA Committee action</b> .....	<b>9</b>
<b>7. Other National Assembly action</b> .....	<b>11</b>
<b>8. Other UK legislature action</b> .....	<b>12</b>
<b>9. Other key sources</b> .....	<b>14</b>

## 1. Introduction

This report provides an update on recent developments relating to Brexit in the environmental policy area. It has been prepared by Senedd Research for the Assembly's **Climate Change, Environment and Rural Affairs (CCERA) Committee** and covers the time period running from 31 January to 2 April 2019. The **previous report** covers 10 November 2018 to 30 January 2019.

This document provides an overview of UK-EU negotiations and developments within the UK that impact on the environmental policy area. It focuses on the activities of:

- The EU institutions;
- The governments and legislatures within the UK; and
- Provides other key sources of information.

For a full overview on the negotiations relating the UK's withdrawal from the EU, see Senedd Research's general **Brexit Monitoring Reports and Brexit Updates** that are prepared for the Assembly's **External Affairs and Additional Legislation (EAAL) Committee**. Information can also be found on the **Assembly and Brexit** webpages.

## 2. EU action

On 25 March the European Commission issued a **press release stating that it had completed its preparations for a possible no deal Brexit on 12 April**.

### Agriculture and food

In March the European Commission issued further Brexit preparedness notices:

- **EU food law** (PDF 389KB), replaces the previous notice published in February 2018;
- **Guidance on Customs matters in case of no deal** (PDF 458KB);
- **Guidance on Excise for ongoing movements of goods** (PDF 401KB); and
- **EU rules on customs debt and customs tariffs** (PDF 193 KB).

### Animal welfare

On 1 February the European Commission issued a Brexit preparedness notice on **Medicinal products for human and veterinary use** (PDF 165KB) and some accompanying **questions and answers** (PDF 607KB). They replace the previous notice published in January 2018.

## 3. UK Government action

### Air quality

On 14 February the UK Government and the devolved administrations launched a **consultation on the UK's National Air Pollution Control Programme (NAPCP)**. The *National Emissions Ceiling Regulations 2018* transpose obligations in the EU Directive on the reduction of national emissions of certain pollutants into domestic law. The regulations require the Secretary of State to prepare and publish a UK National Air Pollution Control Programme by 1 April 2019.

### Agriculture and food

On 11 February, the UK Government laid the **Common Agricultural Policy (Direct Payments to Farmers) (Amendment) (EU Exit) Regulations 2019** in the UK Parliament under negative procedure. The regulations alter legislation on Common Agricultural Policy (CAP) direct payments to create a direct payment framework for the UK.

On 26 February the UK Government published a notice on the **implications for business and trade of a no deal Brexit on 29 March**. The notice states that:

- Impacts on the UK's food and drink sector would be more pronounced in Wales, Scotland, and particularly Northern Ireland, than in England;
- Disruption to animal exports would likely be felt strongly by the Welsh lamb industry (92% of Welsh lamb exports by value go to the EU); and
- Fewer than 1 in 10 food items would be directly affected by delays across the short English Channel crossings and, in the absence of other action from Government, some food prices are likely to increase.

On 28 February **George Eustice resigned** as Minister of Agriculture, Fisheries and Food over the Prime Minister's handling of the Brexit process. Robert Goodwill was **appointed as his replacement** on 5 March.

### Animal welfare

On 20 February the UK Government **published a press release urging businesses to preparing for changes to animal imports and exports in the event a no deal Brexit**. The press release accompanied **new guidance** aimed at ensuring the import and export trade in animals can continue, and continue with high standards of animal welfare.

## Energy

On 6 February the UK Government published **guidance on energy and climate after Brexit**. The guidance sets out possible changes to areas including renewable energy, the nuclear industry and regulated carbon emissions.

On 11 March Claire Perry, Minister for Energy and Clean Growth, **issued a written statement on energy**. It states that the UK Government would bring forward legislation for a short extension to the deadline for UK operators participating in the EU Emissions Trading Scheme (ETS) to surrender their emission allowances for the 2018 scheme year.

The UK's membership in the EU ETS post-Brexit is uncertain. The UK Government is drawing up plans for a future UK-wide carbon pricing system linked with the EU ETS in the event that a Brexit deal is agreed. It has been noted in **ENDS Report** (article behind paywall) that in the event of a no deal, neither emissions trading obligations nor a carbon tax will apply to UK emitters in the first two months of 2019. It goes on to say that the UK Government will remove the need to surrender allowances for 2019 onwards, although affected companies will still be obliged to monitor, report and verify their emissions.

## Fisheries

On 14 February the then Minister for Agriculture, Fisheries and Food, George Eustice, **wrote to the House of Commons Foreign Affairs Select Committee** regarding preparations for maintaining the UK's access to key fishing stocks in the event of a no deal Brexit. He wrote:

... to ensure that there is no gap in the UK's access to key fishing stocks, the UK applied to the North East Fisheries commission (NEAFC) on January 8<sup>th</sup> ... The UK will also be applying to the North Atlantic Salmon Conservation Organisation (NASCO) along with five further multilateral fisheries agreements.

On 25 February George Eustice **wrote to the chair of the House of Commons Environment, Farming and Rural Affairs (EFRA) Committee** to set out the outcomes of his attendance at the December 2018 **AgriFish Council**.

On 27 February the UK Government issued a **press release urging fishermen to be 'Brexit-ready'** by registering with the International Maritime Organisation (IMO). This is required under European Commission contingency proposals to enable it to grant UK fishing vessels access to EU waters in certain circumstances after Brexit.

On 25 March Defra **published a summary of responses to its Fisheries White Paper consultation**.

## Nature conservation

On 20 March the **Third Reading of the Trade Bill** in the House of Lords took place. Four amendments were agreed, three from the UK Government and one opposition amendment. These were all agreed without a vote. The Bill has now returned to the House of Commons for **consideration of amendments** (otherwise known as ping-pong).

One of the amendments sets out the areas in which UK levels of statutory protection need to be maintained, including:

- Protection of animal and plant life or health;
- Animal welfare; and
- Environmental protection.

## Waste

On 25 March the UK Government **issued a press release** reminding companies that export waste from the UK to review their contingency plans in case of disruption at ports, should there be a no deal Brexit. The press release said that while all existing consents authorising the export of hazardous or green-list wastes will remain valid, there may be impacts on waste exports as a result of changes to border controls. The UK Government is advising waste firms to:

- Review their capacity and assess how long they can store waste on their sites;
- Identify alternative storage facilities that could accept waste;
- See if there are alternative export routes to market that avoid impacted ports;
- Identify any alternative recovery or disposal routes; and
- Contact haulage operators to discuss any potential changes to transport plans.

## 4. Welsh Government action

### Agriculture and food

On 21 March the Minister for Energy, Environment and Rural Affairs, Lesley Griffiths, issued a **written statement on the proposed post-Brexit future land management programme**. In the statement she announced her intention to publish the next consultation document before the Royal Welsh Show in July.

She also announced that the Welsh and UK Governments had agreed a **governance mechanism** on how the powers in the **UK Agriculture Bill** that relate to the World Trade Organisation (WTO) Agreement on Agriculture will be used. The mechanism will sit alongside the legislation. This had been the one remaining issue of disagreement between the two Governments in relation to the Bill.

On 26 March the Welsh Government laid a **Supplementary Legislative Consent Memorandum (LCM) on the UK Agriculture Bill** (PDF 162KB). The Supplementary LCM is required to reflect amendments made to the Bill during Committee Stage in the House of Commons. The amendments, if enacted, would allow:

- For a new scheme to redistribute Red Meat Levy funds between the levy boards of Wales, England and Scotland; and
- The Welsh Ministers to make regulations to reduce the direct payment ceiling for 2020 and to continue direct payments after 2020.

The Supplementary LCM also describes the governance mechanism agreed between the Welsh and UK Governments in relation to the WTO Agreement on Agriculture, discussed above.

### Energy

On 21 March the Welsh Government published its emissions reduction delivery plan for its first carbon budget period (2016-2020). **Prosperity for All: A Low Carbon Wales** looks at emissions reduction pathways, policies and proposals across a broad range of sectors. One area it discusses is the UK and Wales' future involvement in the EU ETS.

## Environmental governance and principles

On 18 March the Welsh Government launched a consultation on **environmental principles and governance in Wales post Brexit**. It seeks views on proposals to fill the environmental governance gap in the absence of EU functions. These include the monitoring, reporting and enforcement functions of the European Commission and the European Court of Justice and the core EU environmental principles of the **Treaty on the Functioning of the European Union**. A **written statement** accompanied the consultation launch.

### UK common frameworks

On 12 February the Counsel General and Brexit Minister, Jeremy Miles, issued **written statement on the European Union (Withdrawal) Act and Common Frameworks**

The Act requires the UK Government to report to the UK Parliament periodically on matters relating to common frameworks and the use made by the UK Government of powers under section 12 of the Act (the so-called 'freezing powers') to temporarily maintain existing EU law limits on devolved competence. The Assembly's Standing Orders require that any such report is laid before the Assembly within one day of having been laid in the UK Parliament. **The second such report was laid in the UK Parliament on 7 February.**

On 4 April the UK Government published a **revised analysis of the Common Frameworks**. This sets out progress to date in developing these, as well as changes to the initial analysis published last year.

### Statutory Instruments

The Welsh Government continues to lay SIs made under the *European Union (Withdrawal) Act 2018* for sifting by the Assembly's Constitutional and Legislative Affairs (CLA) Committee. The Committee's website **lists the SIs laid to date**; many of which are in the environmental policy area.

## 5. Scottish Government action

### Agriculture and food

On 13 February Cabinet Secretary for the Rural Economy, Fergus Ewing, **called on the UK Government to provide compensation to farmers** in the event of a no deal Brexit.

On 13 March the Scottish Government **published a factsheet on how Brexit could impact on Scotland's rural economy**.

On 20 March Fergus Ewing **reiterated that direct payments** are guaranteed at current levels until 2021 and that he was continuing to push the UK Government for confirmation that Pillar 2 funding is included under this funding guarantee

### Environmental governance and principles

On 16 February the Scottish Government **launched a consultation on environmental principles and governance in Scotland after Brexit**.

### Fisheries

On 4 March the Scottish Government **published a discussion paper on the future of Scottish fisheries management**.

## 6. CCERA Committee action

### Agriculture and food

On 6 and **20 March** the Committee heard from a range of stakeholders on the topics of food branding and food processing as part of its ongoing Rethinking Food Inquiry. Issues discussed included post-Brexit food and drink strategy, EU protected food names and access to labour.

During the **6 March meeting** the Committee also questioned Hybu Cig Cymru (Meat Promotion Wales) on the levy aspect of the Supplementary LCM for the UK Agriculture Bill.

### Environmental governance and principles

On the 14 March the Committee Chair **received correspondence** (item 5.5) from Lesley Griffiths regarding environmental principles and governance. This was in response to a letter from the Chair **dated 28 February** (item 3.4). This follows a **previous letter** (item 4.1) from the Minister on 7 February on environmental governance and principles.

### Fisheries

On 12 February the Committee **published its report** on the Welsh Government's **LCM on the UK Fisheries Bill**.

Lesley Griffiths **wrote to the Committee Chair** on 13 February in response to concerns raised during an evidence session in January, and **responded to the report** on 27 March. She states that she believes it is appropriate to deal with the provisions to which the LCM relates in the UK Bill to ensure a UK-wide approach to creating the post Brexit fisheries framework, but also states that she sees the provisions as transitional until the Welsh Government brings forward its own Welsh Fisheries Bill in the future.

## Nature conservation

On 7 and 21 February the Committee held evidence sessions as part of its inquiry entitled: **Biodiversity - the Public Goods Scheme**. The inquiry looked at how the Welsh Government's proposed Public Goods Scheme, set out in the **Brexit and Our Land Green Paper**, could be applied to restore biodiversity.

On 14 February the Committee Chair **received correspondence** (item 4.3) from the Minister regarding the Committee's work on the Public Goods Scheme's outcomes-based approach.

## 7. Other National Assembly action

### Agriculture and food

On 22 March the External Affairs and Additional Legislation (EAAL) Committee published **its second report on international trade agreements**. This includes a section on agriculture in the UK-Switzerland trade agreement.

### Fisheries

In February, the CLA Committee **published its report on the Welsh Government's LCM on the UK Fisheries Bill**.

## 8. Other UK legislature action

### Agriculture and food

On 6 February the EFRA Committee **took oral evidence on the work of Defra** from a number of Defra representatives. Discussion was mainly based on Defra readiness for different Brexit scenarios.

On 13 February, the House of Commons Public Accounts Committee **took oral evidence** from the Permanent Secretary for Defra, Clare Moriarty, on the Department's preparations for a no deal Brexit, as part of its **Brexit and the UK Border inquiry** regarding.

The Committee **published a report** as part of this work on 11 March. It concluded that 'Defra have been, and remain, over-optimistic in their preparations for a no deal Brexit' and 'we are concerned by Defra's admission there could be reductions in the availability and choice of some foods.

The House of Commons debated Brexit and agriculture a number of times during March: on **18 March**; **19 March**; **20 March**; and **28 March**.

On 19 March, the House of Lords **debated farming tariffs after Brexit**. The Parliamentary Under-Secretary of State, Defra, Lord Gardiner, said:

In agriculture, there will be tariff rate quotas for beef, poultry, sugar and rice, as well as tariffs for lamb, pigmeat, butter and cheddar-type cheeses. Further tariffs will be retained on products such as bananas, where preferential access to the UK market is important for developing countries. This tariff regime would apply for up to 12 months.

### Energy and climate change

On 6 February the UK Government **published guidance on** energy and climate change after Brexit. Among other things, the guidance covers:

- The EU ETS;
- The UK electricity market;
- The single electricity market in Northern Ireland, and
- Nuclear power.

On 11 March the UK Government **published guidance on** meeting climate change requirements if there is a no deal Brexit.

### Fisheries

On 8 February the House of Lords European Union Committee published its report: **Fisheries: implementation and enforcement of the EU landing obligation**.

On 20 February the House of Commons **debated Brexit and aquaculture**.

On 13 March the House of Commons **debated Brexit and fishing**.

### Nature conservation

On 27 March, during **oral evidence to the EFRA committee** the Secretary of State for Environment, Food and Rural Affairs, Michael Gove, said that Defra has appointed an official to record breaches of environmental law until the post-Brexit Office for Environmental Protection is established.

### UK common frameworks

On 25 March the Scottish Parliament Finance and Constitution Committee published its **Report on Common Frameworks**, March 2019

## 9. Other key sources

### Air quality

Brexit and Environment academic network, [Air quality law for the future: Fixing the fundamentals](#), February 2019

Brexit and Environment academic network, [Four approaches to urban air pollution after Brexit](#), February 2019

### Agriculture and food

AHDB, [Report on Brexit prospects for UK beef and sheep meat trade](#), February 2019

Centre on Constitutional Change, [Agriculture Faces Uncertain Future after Brexit](#), February 2019

Centre on Constitutional Change, [The repatriation of competences in agriculture after Brexit](#), March 2019

Centre on Constitutional Change, [GM foods, the US-UK Trade Negotiations and Scottish Food Production: A Heady Mix](#), March 2019

FoodDrinkEurope, [Letter to the European Commission calling for contingency measures in the event of a no deal Brexit](#), January 2019

Greener UK, [Commons Report Stage of the Agriculture Bill Briefing for MPs](#), March 2019

House of Lords Library, [Briefing paper on the theory and practice of tariffs](#), March 2019

House of Lords Library, [European Union Committee Report: Brexit: Food Prices and Availability](#), March 2019

NFU Cymru, [Brexit Update](#), February 2019

SPICe Briefing, [Agriculture and Land Use - Public money for public goods?](#), February 2019

RSPB Cymru, [Farming, the environment and the Welsh Uplands](#), March 2019

The UK in a Changing Europe blog, [No deal would have a severe impact on farmers, food and the environment](#), February 2019

The UK in a Changing Europe blog, [Brexit: farming on the edge?](#), February 2019

### Energy and climate change

Brexit and Environment academic network, [The repatriation of competences in climate and energy policy after Brexit](#), February 2019

Institute of Welsh Affairs, [A plan for Wales' renewable energy future: Essential actions to re-energise Wales by 2035](#), March 2019

The UK in a Changing Union blog, [The repatriation of competences in climate and energy policy after Brexit](#), February 2019

### Environmental governance and principles

Brexit and Environment academic network, [Environmental governance in Scotland: An analysis of the Scottish Government's consultation](#), February 2019

Brexit and Environment academic network, [Post-Brexit environmental governance in Wales: A review of the Welsh Government's consultation](#), March 2019

Brexit and Environment academic network, [Reality bites: The implications of scrutiny-free environmental law reform in Northern Ireland after Brexit](#), March 2019

Centre on Constitutional Change, [Environmental governance in Scotland: An analysis of the Scottish Government's consultation](#), February 2019

Greener UK, [The funding of the Office for Environmental Protection](#), March 2019

Greener UK blog, [Time is running out for Wales to protect its environment after Brexit](#), March 2019

House of Commons Library, [Briefing paper - Environmental principles and governance: the draft Bill](#), March 2019

UCL European Institute, [The next generation of environmental law: Environmental accountability and beyond in the draft Environment \(Principles and Governance\) Bill](#), March 2019

## Fisheries

Senedd Research, [UK Fisheries Bill 2017-19: Bill Summary](#), January 2019

House of Commons Library, [Fisheries and Brexit](#), March 2019

House of Commons Library, [The Fisheries Bill 2017-19](#), March 2019

The National Federation of Fishermen's Organisation, [Battle over Maximum Sustainable Yield](#), February 2019

The National Federation of Fishermen's Organisation, [Fishermen urged to be Brexit ready by registering with the IMO](#), March 2019

Seafish, March 2019:

- [UK Seafood Industry Guide Preparing your business for EU Exit](#)
- [Challenges for UK shellfish exporters](#)
- [UK-EU seafood trade under World Trade Organisation conditions](#)
- [UK international seafood trade \(EU and non-EU trade\)](#)
- [UK export trade and markets for selected shellfish species](#)
- [UK seafood industry response to WTO conditions - UK shellfish exporters and others](#)

SPICe Briefing, [Inshore fishing](#), February 2019

The UK in a Changing Europe blog, [What does a no deal Brexit look like for fishing?](#), February 2019

## Nature conservation

Brexit and the Environment academic network, [Interview: Charlotte Burns speaks to Environmental Politics about Brexit](#), February 2019

Greener UK blog, [How Brexit is already watering down environmental protections](#), March 2019

Institute for European and Environmental Policy, [Environmental policy risks and opportunities of different outcomes from the Brexit negotiations](#), February 2019

## Other

Brexit and the Environment academic network, [Will the Environment Bill be a force for greener planning?](#), February 2019

ENDS Report, [What a Brexit delay would mean for the environment](#), March 2019

Greener Alliance blog, [The message is clear, people want an ambitious Environment Bill](#), March 2019

Greener Alliance blog, [What would 'Norway' mean for nature laws?](#), March 2019

Greener Alliance blog, [There is no 'green Brexit' in no deal](#), April 2019

Greener UK, [Why the Environment Bill must enable a strategic approach to environmental planning](#), March 2019

Greener UK, [Recommended environmental improvements to the UK government's Brexit plans](#), March 2019

New Economics Foundation, [A green new deal for the UK](#), April 2019