

Barbour Webinar

Environmental Legislation in 2021: Preparing for a “ground-breaking” Environment Act and other key developments

Wednesday 27th January 2021
11:00am -12:00 pm (GMT)

Agenda

Introduction from **Teresa Higgins** Brand Director, Barbour EHS

Barbour EHS: an overview

- **Susanne Slade**, Head of New Business, Barbour EHS

Presentations from:

- **Simon Tilling**, Partner, Burges Salmon LLP
- **Stephen Lavington**, Senior Associate, Burges Salmon LLP
- **Sarah Sackville Hamilton**, Associate, Burges Salmon LLP

Questions and answers

Submit your questions via the chat box at anytime

Housekeeping

CPD certificate's can be obtained at the end of the webinar via the certification box in the console.

Slides are available in the 'Resources' section of the webinar console.

You will also receive the recording of this webinar and your CPD certificate by email.

For technical issues

Report them by using the Q&A inbox.

If you have no sound, please try refreshing the webinar.

There is also a 'help' guide in the taskbar at the bottom menu in your console.

Webinar Host



Teresa Higgins,
Brand Director, Barbour EHS

Speakers:



Simon Tilling,
Partner,
Burges Salmon LLP



Sarah Sackville Hamilton
Associate,
Burges Salmon LLP



Stephen Lavington,
Senior Associate,
Burges Salmon LLP



Susanne Slade
Head of New Business
Barbour EHS

Barbour EHS: an overview

Susanne Slade
Head of New Business



About Barbour

Safe in our knowledge since 1957



The only company to give a tool for both sides of the job.

Compliance

- **Legislation**
- **Environmental agency documents from DEFRA**
- **Legal registers**
- **Gaap analysis tools** for 14000 and 45000
- **Bespoke and general updates** providing a tick in the box for audits!
- **Guidance from trade associations** pulling factual helpful publishers not just legalise information.

All updated regularly from reliable and trustworthy sources.

Supporting Staff

- **Director's Briefing** – A high level overview to help you to brief senior management
- **Toolbox Talks** – Editable PowerPoint presentations to help brief your team
- **Employee Factsheet** – A communication tool to send out to your workforce
- **Risk assessment checklists**
- **Model policies**
- **Editable newsletter**
- **Bookmarking Tool** – Email alerts to ensure you remain compliant

PRODUCTS OFFERED:



Health & Safety



Environment and Energy



Offshore Safety



Fire & Security



Mental Health and Wellbeing



Estates and Facilities Management



Food Safety



International Services



Chemical Safety

Environment & Energy Module

Barbour's expert resources cover:

- Batteries
- F-Gas Regulations
- Carbon Management
- Hazardous Waste Management
- Climate Change Legislation and Climate Change Levy
- Environmental information system with audit checklists
- Implementing BS EN ISO 14001
- Packaging
- Environmental Impact Assessments
- Site Waste Management Plans
- ISO14001, Benefits and Overview
- Sustainability
- Environmental Permitting Scheme
- Water
- European Union Emissions Trading Scheme
- Zero to Landfill

Never before has the environment been such a focus, organisations need environmental management to lower their carbon footprint, reduce waste and be more sustainable.

Aside from protecting the environment as a whole, doing this can result in energy, water or waste management savings and can also increase profit through efficiency or productivity gains.

Maintaining compliance with environmental legislation is essential and can be achieved using Barbour's wealth of information and guidance.

Regular content updates

We work tirelessly to ensure the content is updated as necessary. Some recent updates include;

- Energy Management Systems BS EN ISO 50001
- Gas Safety
- Environmental prosecutions
- Statutory inspections during Covid
- Respiratory protective equipment use during Covid
- Preparing to reopen work premises
- Mobile/travelling employee safety and Covid
- Stress – this is the Wellbeing version
- Contact tracing
- First Aid

New documents added:

- New Zealand Quick Facts
- Sustainability Director's Briefing

In our library, we now have over 2,000 Covid related documents and guidance!

Request more information

Contact one of our friendly consultants today!

I can tell you its great but you need to see for yourself

How easy it is to use, how quickly you can edit information and how the updates work



Call us on 0845 300 0241



Email us on Barbour-marketing@informa.com



Visit www.barbour-ehs.com

Environmental Legislation in 2021:

**Preparing for a “ground-
breaking” Environment
Act and other key
developments**

**Burges Salmon LLP
27 January 2021**

YOUR SPEAKERS TODAY

Simon Tilling
Partner

M +44 (0) 7814 703 616
T +44 (0) 117 902 7794
E simon.tilling@burges-salmon.com



Stephen Lavington
Senior Associate

M +44 (0) 7812 228 119
T +44 (0) 117 307 6314
E stephen.lavington@burges-salmon.com



Sarah Sackville Hamilton
Associate

M +44 (0) 7812 321 760
T +44 (0) 117 902 7181
E sarah.sackvillehamilton@burges-salmon.com

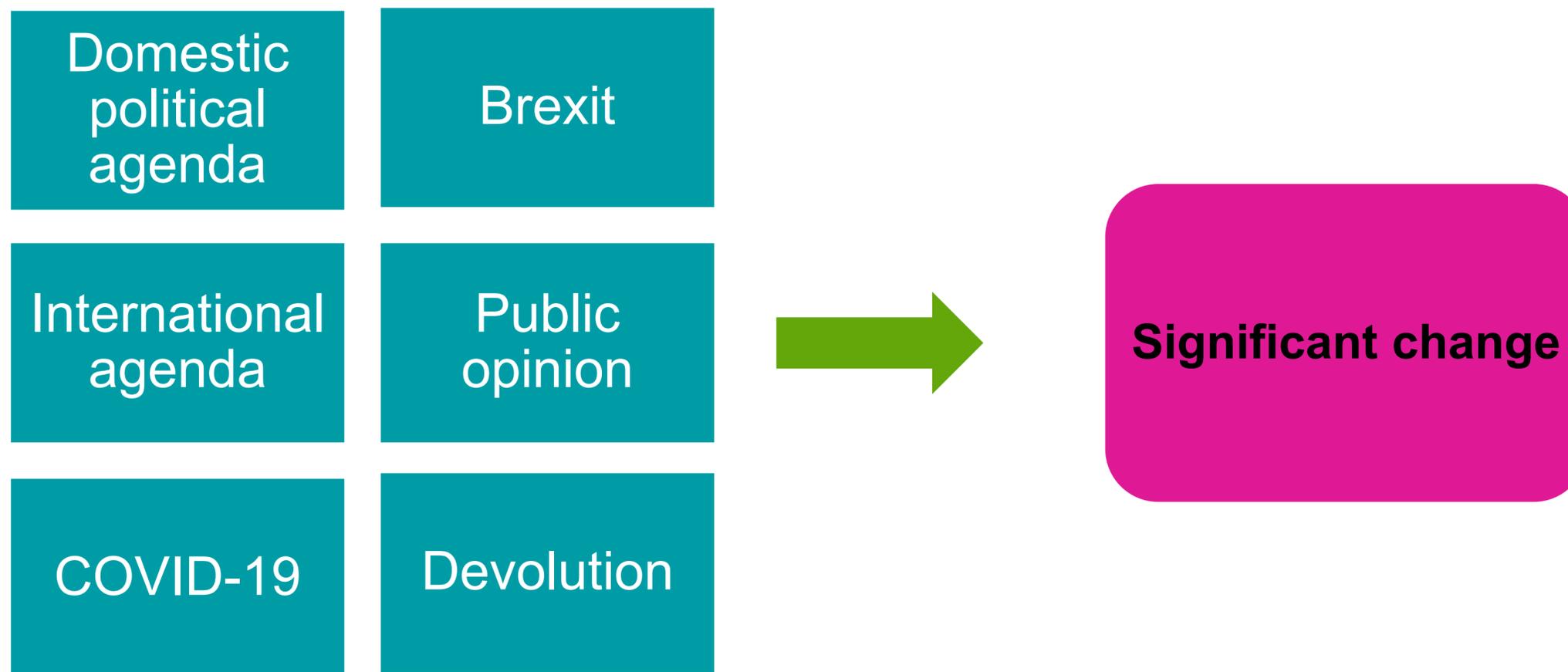


WHAT WE ARE GOING TO COVER

- Why 2021 will be a big year for environmental law
- The Environment Bill: is this the “ground-breaking” legislation the Government has promised?
- Carbon law: the return of UK ETS and the growing focus on carbon reporting
- Air quality, water quality and waste management: a new approach post Brexit?
- UK REACH: the new regime for chemicals regulation
- Q&A



ENVIRONMENTAL LAW: ALL CHANGE?



BREXIT: FACILITATING CHANGE

- **Why?**
 - 80-90% of UK environmental law is currently EU-derived
 - Environmental plans and enforcement by EU
 - Untangling of 40 years of law and governance



“...there is no point leaving the EU to keep everything the same... We must therefore challenge ourselves to think creatively, to innovate and to consciously avoid clinging to processes and procedures just because they are familiar... On environmental policy, we can do better or differently”

George Eustice, SoS for the Environment, speech on a green recovery, 20 July 2020

WHAT HAPPENED ON NEW YEAR'S EVE?

The basic principles:

- At 11pm UK on 31 December 2020, one market, the EU Single Market, became two markets: the EU Single Market and the GB Market
 - Under the Northern Ireland Protocol, Northern Ireland has special status (a hybrid market?)
 - To begin with, from day one, the *objective* is to have two markets but the same rules in both, so that businesses can continue operating now as they had been on 31 December 2020
 - Then the UK can choose to set its own path...
 - Subject of course to the new EU-UK Trade & Cooperation Agreement
 - The practical reality might not be so simple...
-

WHAT DOES THE LAW SAY NOW?

The European Union (Withdrawal) Act 2018, as amended by the European Union (Withdrawal Agreement) Act 2020

Section 2(1) *EU-derived domestic legislation*, as it has effect in domestic law immediately before [IP completion day], continues to have effect in domestic law on and after [IP completion day].

- This covers the **Directives**

Section 3(1) *Direct EU legislation*, so far as operative immediately before [IP completion day], forms part of domestic law on and after [IP completion day].

- This covers the **Regulations** and the **case law**

But the UK needs further legislation (Statutory Instruments) to make Regulations work

...this is maintaining the status quo ... but where do we go from here?

- 25 Year Environmental Plan published – 11 January 2018
- Delivered through the first ‘Environment Bill’ in a generation
- A new system of governance – hard-wired into the EU Withdrawal Act 2018

The 25 Year Environment Plan Goals

- Clean air
- Clean and plentiful water
- Thriving plants and wildlife
- A reduced risk of harm from environmental hazards such as flooding and drought
- Using resources from nature more sustainably and efficiently
- Enhanced beauty, heritage and engagement with the natural environment
- Mitigating and adapting to climate change
- Minimising waste
- Managing exposure to chemicals
- Enhancing biosecurity

“Make ours the first generation to leave the natural environment in a better state than we found it” (2019 Manifesto)

“The most ambitious environmental programme of any country on earth” (2020)

ENVIRONMENT BILL (1)

- **Current status**

- Draft Bill in Parliament December 2018, Bill formally introduced to Parliament in October 2019, Reintroduced 30 January 2020...
- Slow progress ... an Act in 2021?

- **Principles and Governance**

- Establishment of Office for Environmental Protection (OEP)
- OEP to provide advice to government
- OEP to investigate failures by public authorities to comply with environmental law
- Environmental principles made central to policy development

Principles

- the precautionary principle, so far as relating to the environment,
- the principle of preventative action to avert environmental damage,
- the principle that environmental damage should as a priority be rectified at source,
- the polluter pays principle,
- the principle of sustainable development,
- the principle that environmental protection requirements must be integrated into the definition and implementation of policies and activities.

ENVIRONMENT BILL (2)

Targets and improvement plans

- SoS to set at least one long-term (more than 15 years) target in 4 priority areas (air quality, water, biodiversity and waste)
- SoS to prepare an environmental improvement plan (for at least 15 years) – 25 YEP is 1st plan
- SoS must report annually on EIP
- SoS must review EIP every 5 years

Waste and Resource Efficiency (Part 3)

Air Quality (Part 4)

Water (Part 5)

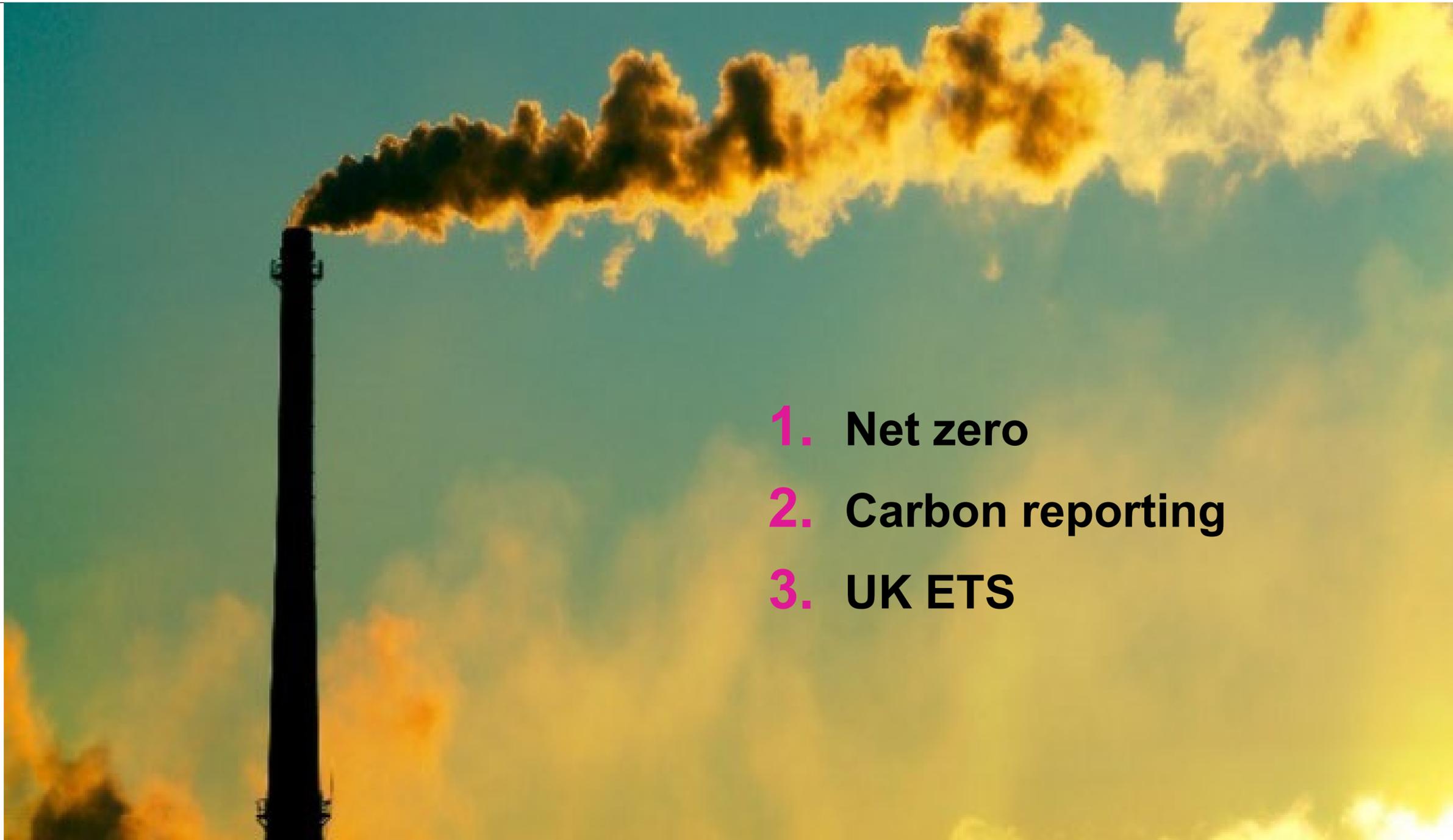
Nature and Biodiversity (Part 6)

Conservation Covenants (Part 7) and

REACH (Part 8)



THE CARBON AGENDA

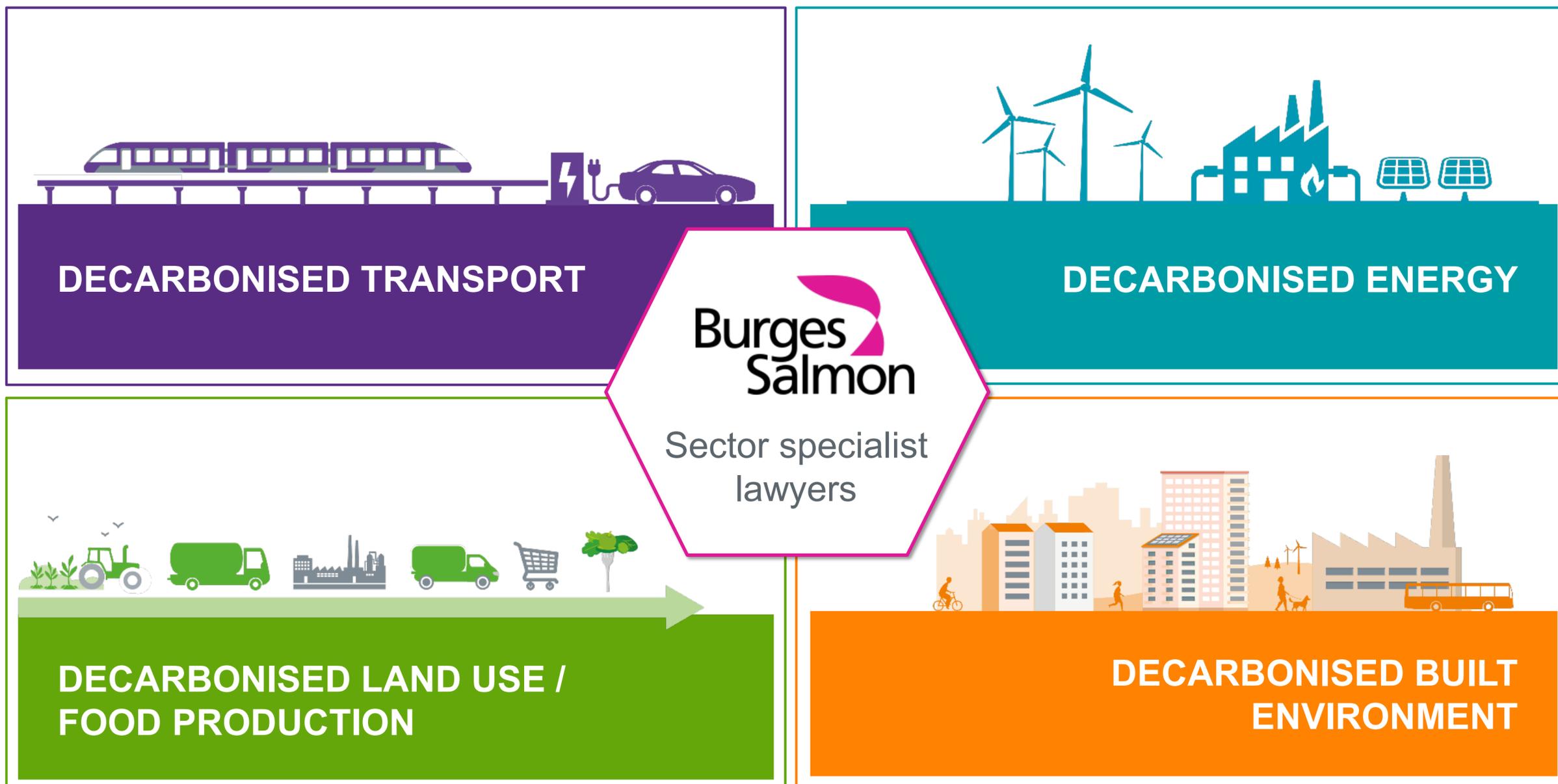


1. Net zero
2. Carbon reporting
3. UK ETS

CARBON: NET ZERO

Climate Change Act 2008

- 2008: 80% reduction in GHG emissions by 2050
- 2019: 100% reduction by 2050 → “Net Zero”



CARBON: REPORTING



CARBON: TRANSITIONING FROM EU ETS

- UK remained in EU ETS for 2020 compliance year
- May 2019: consultation on the future of UK carbon pricing
- July 2020: consultation response
- November 2020: Greenhouse Gas Emissions Trading Scheme Order 2020
- December 2020: Energy White Paper
- December 2020: Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2020



EU ETS

UK ETS
(linked or standalone)

Carbon Emissions Tax

CARBON: A UK ETS

- Launched January 2021
- Very similar in scope and approach to EU ETS
- Key difference: more stringent cap on allowances (initially 5% below Phase IV EU ETS)
- Policy levers within domestic control – Committee on Climate Change and net zero pressure
- Close of EU registry to UK operators: 31 April 2021

“The UK is a world-leader in tackling climate change, and thanks to the opportunities arising as we exit the transition period, we are now able to go even further, faster.” (BEIS)

Big (unanswered) question:
Standalone system or linked to EU ETS?

INDUSTRIAL EMISSIONS

- What does the Environment Bill mean for industrial emissions?
- 2019 Clean Air Strategy: “long-term commitment to integrated pollution control”
- EU BAT Conclusions will no longer be directly applicable... but influential?
- Derogations: more flexibility?
- Devolution: a single UK standard?



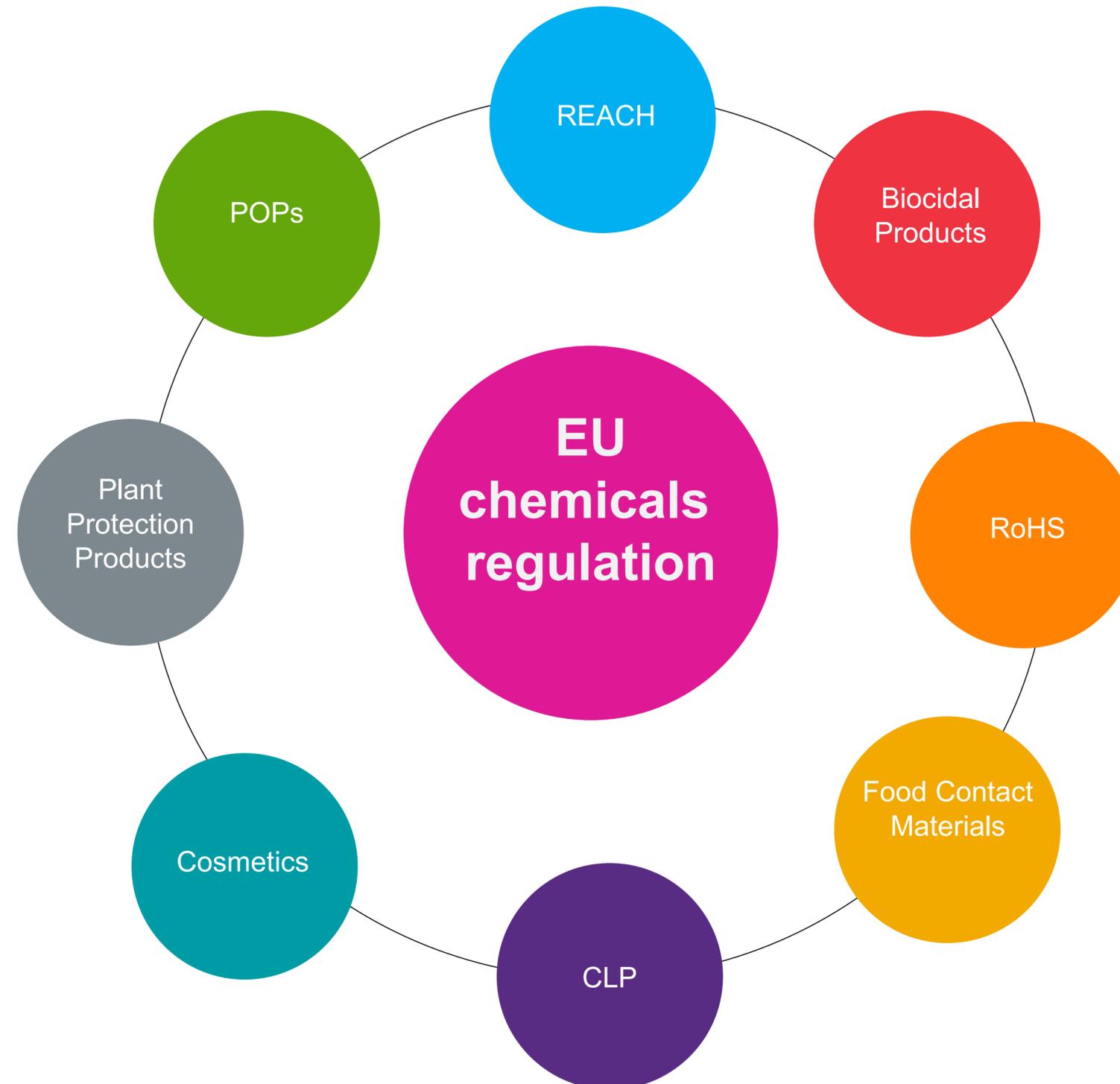
“... emissions from industrial sources still contribute to background levels of pollution throughout the UK. Reducing these emissions further, alongside action on other sources, will have a direct impact on the concentration of air pollutants in those places where people live and work.”
Clean Air Strategy

WASTE & PLASTICS

- Circular Economy: towards a zero waste society
- Part 3 Environment Bill: driving forward the Resource and Waste Strategy
- The plastics agenda and the Blue Planet II effect



EU CHEMICALS REGULATION



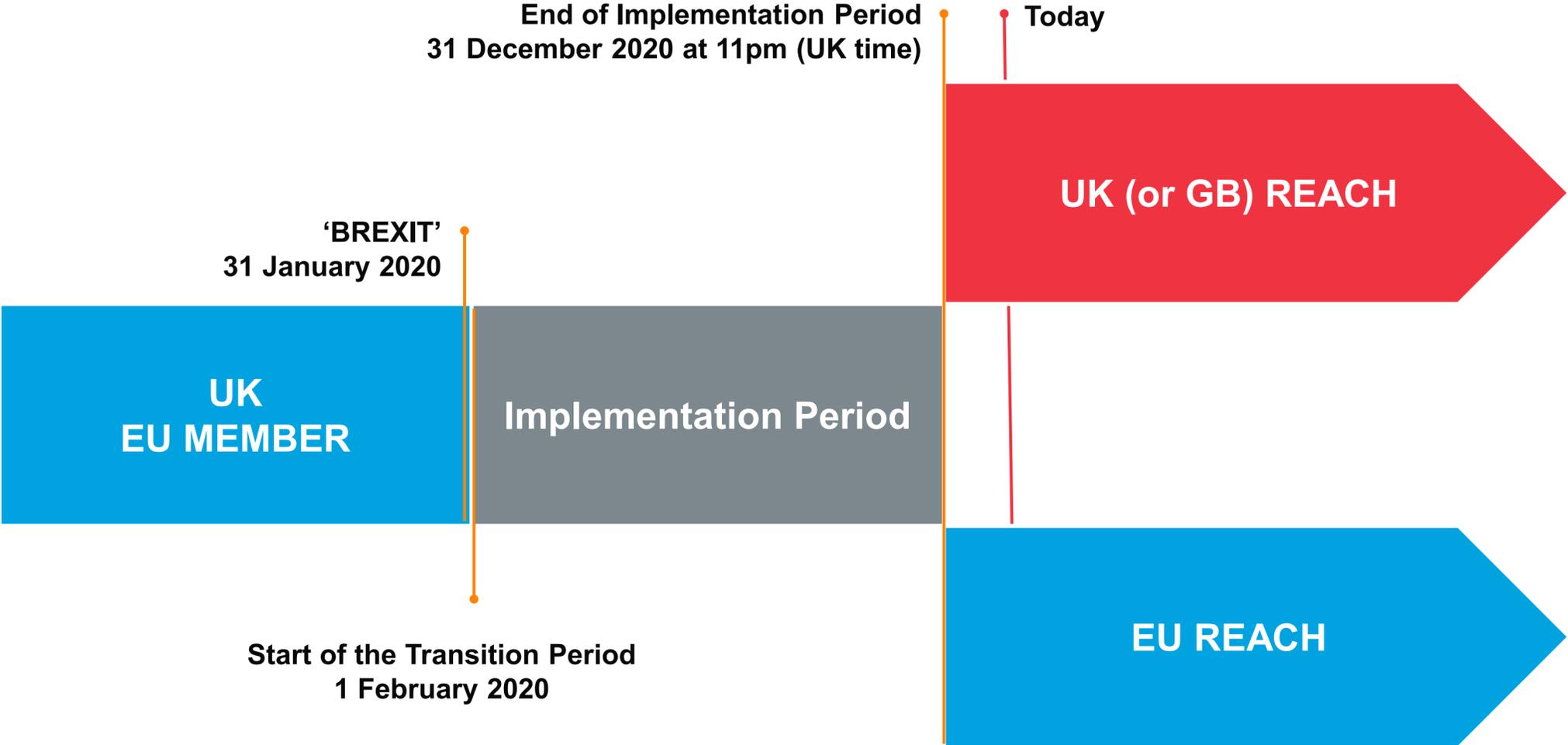
UK REACH IMPLEMENTING REGULATIONS

Regulation (EC) No 1907/2006 on the Registration, Evaluation, Authorisation and Restriction of Chemicals PLUS...

- REACH etc. (Amendment etc.) (EU Exit) Regulations 2019
 - REACH etc. (Amendment etc.) (EU Exit) (No.2) Regulations 2019
 - REACH etc. (Amendment etc.) (EU Exit) (No.3) Regulations 2019
- REACH etc. (Amendment etc.) (EU Exit) Regulations 2020
- The European Union (Withdrawal Agreement) Act 2020 (Schedule 5, Part 1, Section 1(1)) = subordinate legislation comes into force on 'IP completion day'.
- Environment (Miscellaneous Amendments) (EU Exit) Regulations 2020 amend The REACH etc. (Amendment etc.) (EU Exit) Regulations 2019 such that “*In the Schedules, for “exit day”, in each place it occurs, substitute “IP completion day”*”
- **PLUS...** The REACH Enforcement Regulations 2008
- **PLUS...** ‘Implementing Regulations’ (e.g. data-sharing, test methods etc.)
- **PLUS...** ECHA vs HSE/DEFRA Guidance

...and that's just REACH. Also BPR, CLP, FCM, CE marking...

TWO PARALLEL REGIMES



UK REACH: REGISTRATION

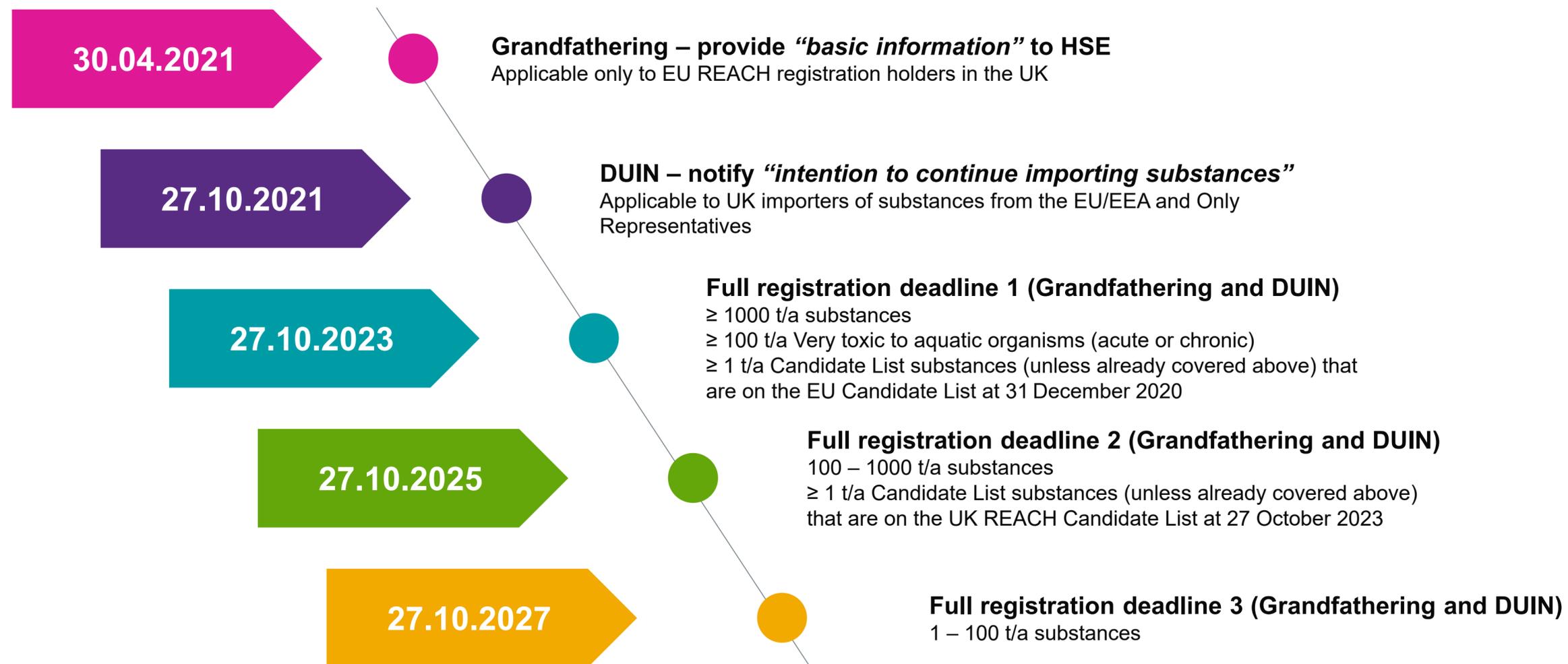
Separate registration needed for UK REACH

- UK REACH **Dossiers** will be submitted to the HSE via the *“Comply with UK REACH”* IT system
- Live from 1 January 2021

Transitional arrangements for UK businesses:

- **“Grandfathering”** - If UK entity holds an EU REACH registration (or if it did hold one, but it changed the name on the registration to an EU-27 entity in preparation for Brexit).
 - **“Downstream user import notification”** or **“DUIN”** - If UK entity was a downstream user but now becomes an importer as a result of UK REACH
-

TRANSITIONAL ARRANGEMENTS

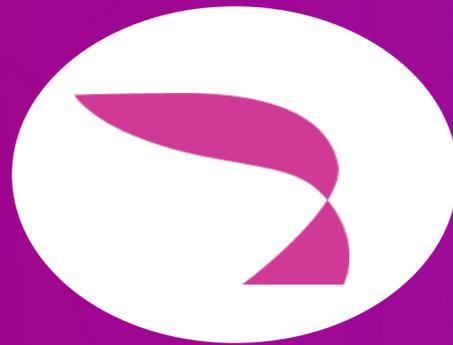


IS UK REACH A REPLICCA OF EU REACH?

- **No phase-in period**: don't confuse 'grandfathering' and DUINs as phase-in
 - Only Representative **DUINs are 'for' the customer** not the manufacturer
 - The UK **Health & Safety Executive** becomes 'the Agency'
 - Replicating role of ECHA and Member State Competent Authorities
 - Resourcing, capacity, skills and competencies
 - **Divergence through decisions**: How to choose the 'right' robust science?
 - The UK **First-Tier Tribunal** fulfils ECHA Board of Appeal's role
 - Judicial body
 - Expert support
 - The **Secretary of State** fulfils the European Commission's role
 - The **Northern Ireland** question
-

CONCLUDING THOUGHTS





www.burges-salmon.com

This presentation gives general information only and is not intended to be an exhaustive statement of the law. Although we have taken care over the information, you should not rely on it as legal advice. We do not accept any liability to anyone who does rely on its content.

© Burges Salmon 2020

Survey for February Q&A webinar

Send in your questions via the survey box that will appear once the webinar has finished. Can be ANY burning questions that you have come across in your organisation.

Some common areas include the following, but are not limited to:

- **Brexit**
 - **Environmental updates**
 - **Fire Safety Bill**
 - **Building Safety Bill**
 - **Covid-19**
 - **General Health & Safety**
-

Did you know?

Barbour offers more than just webinars, we provide a simplified, all-in-one solution, bringing you safety and health information from 800 trusted industry sources.

We help you to save time and stay compliant.

Our Products

