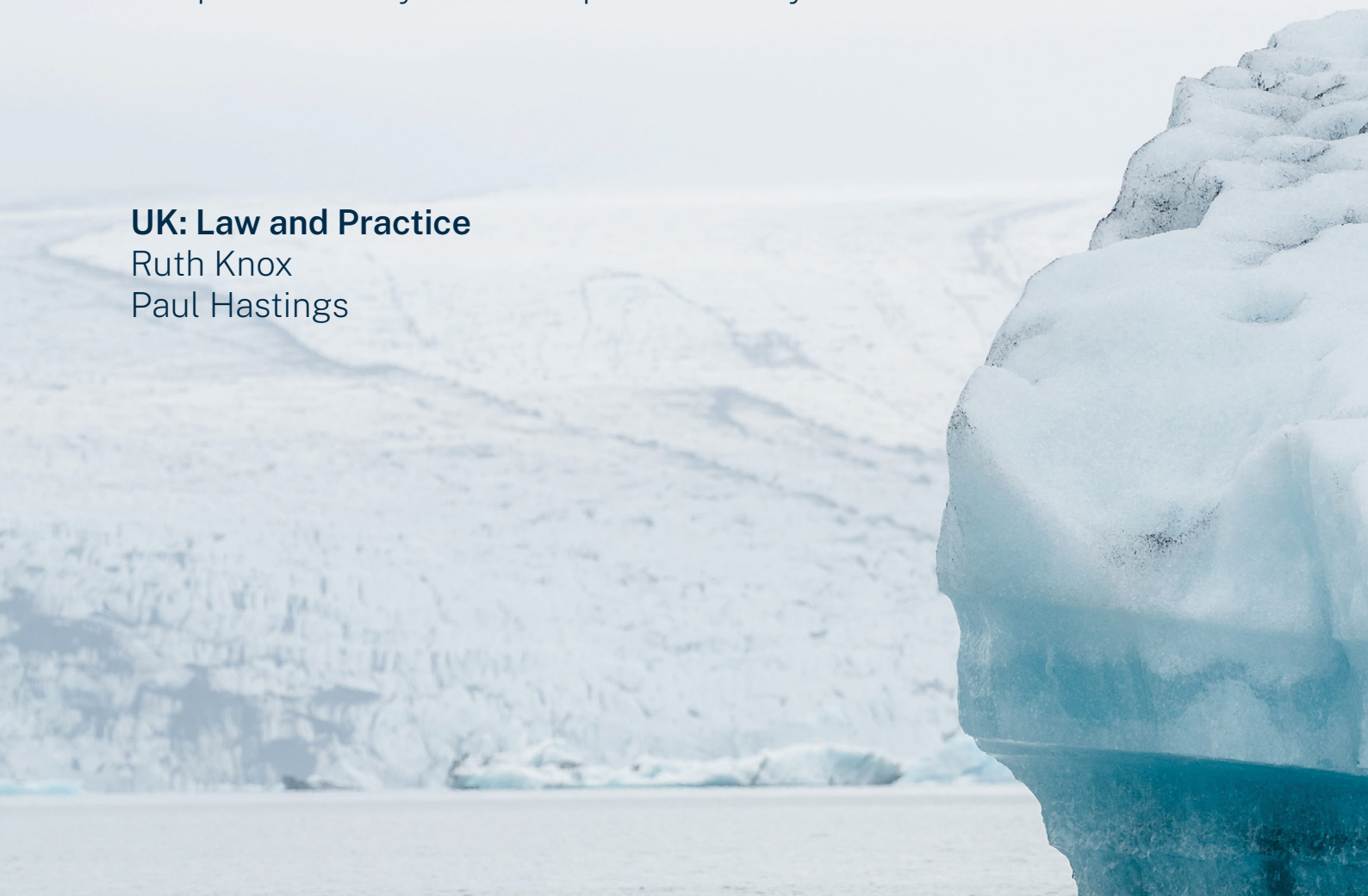

CHAMBERS GLOBAL PRACTICE GUIDES

Climate Change Regulation 2025

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UK: Law and Practice

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Law and Practice

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Paul Hastings is a leading global law firm, pre-eminent in cross-border transactions and solving complex legal problems. Its market-leading environment and climate change team provides strategic guidance and pragmatic legal counsel to industrial, energy and private equity clients as they address environmental and climate change challenges around the world. The lawyers' experience includes advising global public companies and financial institutions on the raft of changing environmental and climate change regula-

tory developments. They advise across a full range of environmental regulatory compliance matters and renewable energy projects, including wind, hydrogen, nuclear and biomass. The team assists with drafting legislation to ensure responsible use of resources at the international, national and local levels, as well as preparing clients to participate in voluntary carbon credit projects and carbon trading systems at the regional or international level.

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1. Multilateral Climate Change Legal Regime

1.1 Multilateral Climate Change Legal Regime

The United Kingdom of Great Britain and Northern Ireland (UK) signed the UN Framework Convention on Climate Change (UNFCCC) on 12 June 1992 and ratified the convention on 8 December 1993.

The UK signed the Kyoto Protocol of the UNFCCC on 29 April 1998 and ratified the protocol on 31 May 2002. The UK signed the Paris Agreement on 26 April 2016 and ratified the agreement on 18 November 2016.

The UK has played a significant role in the UNFCCC negotiations over the years, primarily as part of the EU bloc. The UK was also one of the first nations to commit to reducing national climate change-inducing greenhouse gas emissions (GHGs) under law, through the Climate Change Act 2008, which is underpinned by a carbon budget-setting process, which sets a legally binding, five-year cap on the quantity of GHGs which can be produced from UK-based assets.

We set out below a summary of the most recent positions adopted by the UK.

Mitigation

The UK submitted its 2035 national determined contribution (NDC) target to the UNFCCC on 30 January 2025. This target seeks to cut emissions to 81% below 1990 levels by 2035. The UK will produce an updated cross-economy plan in due course, outlining the policies needed to deliver Carbon Budgets 4-6 and the 2030 and 2035 NDCs on the pathway to achieving the overarching target of net zero by 2050. The UK's initial NDC, which was submitted to the UNFCCC in December 2020, committed the UK to reducing GHGs by at least 68% by 2030, compared to 1990 levels.

Adaptation

As part of the COP28 outcome on the global goal on adaptation, the UK Government adopted the UAE Framework for Global Climate Resilience. The UK Government published the Third National Adaptation Programme pursuant to the Climate Change Act in July 2023 ("NAP3"). It specifies the actions that the

government will take over the following five years to adapt infrastructure, the natural environment, the built environment, industry and business to the effects of climate change. The most recent Adaptation Communication was provided to the UNFCCC by the UK on 19 October 2021.

Climate Finance

In the UK's Biennial Finance Communication to the UNFCCC submitted in December 2024 (the "**Biennial Communication**"), the UK pledged to increase its **International Climate Finance contribution** ("UK ICF") contribution from £5.8 billion over the 2015 to 2021 period to £11.6 billion over the 2021 to 2026 period. The UK also co-chairs the Taskforce on Access to Climate Finance, which has published a set of Principles and Recommendations to underpin how climate finance providers and recipients might access and use climate finance more effectively.

Capacity-Building

The Glasgow Climate Pact (established during the UN Climate Change Conference in Glasgow, COP26) included a call for increased grant-based climate finance. The UK support for grant-based climate finance at the end of 2022 was 87%. The UK's Partnering for Accelerated Climate Transitions programme ("UK PACT") aims to improve the capacity of key public, private and civil society institutions to reduce emissions. UK ICF aims to provide capacity building to drive change towards low-carbon, climate-resilient and nature-positive development paths.

Technology Transfer

The Biennial Communication notes that UK ICF has provided wide-ranging support for technology-driven research and development, and early deployment to enable technology-driven innovation that will help developing countries decarbonise high-emission sectors.

Loss and Damage

At COP28 in Dubai, the UK committed up to £40 million to establish a new Fund for responding to Loss and Damage (FRLD). The UK has a full seat on the FRLD Board and is working to target its support to particularly vulnerable countries including LDCs and SIDS. Other examples of the UK's work include

Weather and Climate Information Services for Africa, the Santiago Network for Loss and Damage and the START Network.

Equity in Climate Change Responses

In establishing its NDC, the UK sought to take into account the principle of equity in the Paris Agreement. The review of the NDC involved consideration of the UK's Crown Dependencies and Overseas Territories, the UK's approach to gender, Just Transition (ie, the just transition of the workforce and the creation of decent work and good-quality jobs in accordance with nationally defined development priorities) and public engagement.

Common but Differentiated Responsibilities and Respective Capabilities

In a similar vein, the principle of common but differentiated responsibilities and respective capabilities (CBDR) was also considered, in light of different national circumstances. There is no international consensus on which indicators should be used, and so the UK considered a range of internationally recognised effort-sharing metrics and took into account other independent assessments of the level of ambition of the UK's NDC.

1.2 Regional Climate Change Legal Regimes

The UK's NDC is an economy-wide emissions reduction target for England, Scotland, Wales and Northern Ireland and for those Crown Dependencies and Overseas Territories included within the UK's ratification of the Paris Agreement.

Climate policy is devolved to Scotland, Wales and Northern Ireland and to the Crown Dependencies and Overseas Territories. The approaches taken differ across these regions.

The Department for Energy Security and Net Zero (DESNZ) has oversight of the UK's international and domestic climate and energy policy.

Northern Ireland

Northern Ireland's Climate Change Act includes a net zero GHG emissions reduction target by 2050 and a 48% reduction target by 2030. The Northern Ireland Assembly approved a 77% GHG emissions reduction

target by 2040 against 1990 levels in December 2024. The Department of Agriculture, Environment and Rural Affairs will publish five-yearly Climate Action Plans which will set out how each carbon budget period will be achieved.

Scotland

Delegated legislation made pursuant to Scotland's Climate Change (Scotland) Act 2009 established a net zero GHG emissions reduction target by 2045. The Climate Change (Emissions Reduction Targets) (Scotland) Act 2024 enables the levels of carbon budgets to be set once the latest advice has been received from the UK Climate Change Committee.

Wales

Wales's emissions reduction targets are set through the Environment (Wales) Act 2016. In March 2021, the Welsh Assembly committed Wales to achieving net zero emissions in 2050. Carbon Budget 2 (2021-25) is subject to a 37% average reduction, with no international offsets, Carbon Budget 3 (2026-30) is subject to a 58% average reduction, and 2030 is subject to a 63% reduction.

2. National Policy and Legal Regime (Overview)

2.1 National Climate Change Policy

Role of the Climate Change Committee

The Climate Change Committee is an independent non-departmental public body established under the Climate Change Act 2008 to advise UK and devolved governments on emissions reduction targets and on progress in meeting those targets. The UK Government sought advice from the Climate Change Committee in respect of the NDCs, including the recently updated NDC.

Influence of the Intergovernmental Panel on Climate Change (IPCC)

The UK's current GHG Inventory (a comprehensive record of GHGs within the UK, its Crown Dependencies and Overseas Territories, compiled annually and submitted to the UNFCCC) utilises the 2006 IPCC Guidelines for National Greenhouse Gas Inventories, the 2013 IPCC Kyoto Protocol Supplement and the

2013 IPCC Wetlands Supplement. The UK accounts for emissions and removals in accordance with the methodologies and common metrics assessed by the IPCC. The Climate Change Committee is also heavily influenced by the IPCC in that it opines based on Paris Agreement-consistent equity metrics and scenarios. The IPCC's Special Report on warming of 1.5°C, published in 2018, was a key piece of evidence underpinning the Climate Change Committee's recommendation to the UK Government to adopt a 2050 net zero GHG emissions reduction target.

Participation in the IPCC's 7th Assessment Cycle

The UK has been invited to nominate Coordinating Lead Authors, Lead Authors and Review Editors to produce the IPCC's Seventh Assessment Report. The Seventh Assessment cycle began in January 2024 and will run until 2029. Applications closed in April 2025.

The UK's NDCs

The UK's refreshed 2035 NDC seeks to cut emissions to 81% below 1990 levels by 2035. The UK will produce an updated cross-economy plan in due course, outlining the policies needed to deliver Carbon Budgets 4-6 and the 2030 and 2035 NDCs on the pathway to achieving the overarching target of net zero by 2050. The UK's initial NDC, which was submitted to the UNFCCC in December 2020, committed the UK to reducing GHGs by at least 68% by 2030, compared to 1990 levels.

The focus of the UK's NDC is on climate change mitigation. While the UK recognises the criticality of climate change adaptation, the UK will submit an updated Adaptation Communication to the UNFCCC in due course. NAP4 is expected to be published in 2028. NAP3 sets out extensive plans to protect, restore and create coastal and marine habitats and manage the risks and opportunities to marine species, habitats and fisheries.

The NDCs heavily influence UK climate policy, both directly and indirectly. For instance, when the UK committed to a net zero GHG emissions reduction target, this manifested in law through the Climate Change Act 2008 (2050 Target Amendment) Order 2019. In October 2021, the UK Government published its Net Zero Strategy, and in 2022, the High Court

found it was inadequate and did not include matters that were material to the issue of whether the Climate Change Act 2008 targets could be met. The UK Government then published the Carbon Budget Delivery Plan, which was also subsequently found by the High Court in May 2024 to not meet the Climate Change Act 2008 requirements.

The UK publishes Transparency Reports every two years, the purpose of which is to articulate to the UNFCCC and to the public the progress in implementation of the NDCs established under the Paris Agreement.

2.2 National Climate Change Legal Regime Climate Change Act 2008

The UK was one of the first nations to commit to reducing national climate change-inducing GHGs under law, through the Climate Change Act 2008, which is underpinned by a carbon budget-setting process that sets a legally binding five-year cap on the quantity of GHGs that can be produced from UK-based assets.

Role of Climate Change in the UK Constitution

While the UK does not have a written constitution, it has a constitution that comprises written and unwritten conventions, treaties, statutes and common law. Certain commentators consider protection against the harm created by climate change to be a human right, and this argument has been led in a number of cases before the English courts. For example, in *R (Plan B Earth and others) v The Prime Minister and others*[2021] EWHC 3469 (Admin), the High Court of England and Wales refused an application for judicial review by climate litigation charity Plan B in respect of the UK Government's investment decisions concerning roads, condition-free loans for fossil fuel-based companies and a natural gas project in Mozambique. The claim was based on the grounds that the government's financing of the climate crisis was a violation of local residents' human rights (under the Human Rights Act 1998), of UK law (Climate Change Act 2008) and of international law (Paris Agreement). The Court held all grounds of the claim should be refused owing to procedural defects. Regarding the role of human rights in UK litigation, see 'Human Rights' in 2.5 Climate Litigation and *R (Friends of the Earth) v Secretary of State for Environment, Food and Rural Affairs*[2024] EWHC 2707 (Admin).

Regarding UK regulation of the carbon markets, see **‘Command and Control Measures’ and ‘Incentive Schemes’ in 3.1 Policy/Regulatory Instruments and Spheres of Government/Sectors**.

Other Legislative and Regulatory Tools to Frame the National Response to Climate Change

The UK also frames its national response to climate change through a number of other legislative instruments:

- disclosures required by UK companies through climate-related financial disclosure regimes (see **‘Long-Standing Disclosure Regimes’ in 3.1 Policy/Regulatory Instruments and Spheres of Government/Sectors**);
- the regulation of the carbon footprint of heavy industry through the UK Emissions Trading Scheme (see **‘UK ETS’ in 3.1 Policy/Regulatory Instruments and Spheres of Government/Sectors**); and
- the incentivisation of low-carbon energy generation through financial instruments (see **‘Incentive Schemes’ in 3.1 Policy/Regulatory Instruments and Spheres of Government/Sectors**).

2.3 Bilateral/Multilateral Co-Operation Co-Operation With Other Paris Agreement Parties

The UK and EU maintain co-operation in respect of the discharge of their respective obligations under the Paris Agreement, having committed in May 2025 to link the EU Emissions Trading System and the UK Emissions Trading Scheme. This linkage seeks to ensure allowances issued under both systems will be mutually recognised for compliance and create the conditions for mutual exemptions from the respective Carbon Border Adjustment Mechanisms.

Framework for Operationalising Article 6 Paris Agreement

The UK intends to meet its NDC through domestic emissions reductions and removals. Nevertheless, it reserves the right to use co-operative approaches under Article 6 of the Paris Agreement. Such co-operative approaches may include international emissions reductions or removals, such as Article 6.4 Emissions Reductions (“Article 6.4 ERs”) or those which result from linking the UK Emissions Trading System to another emissions trading scheme. If the UK were

to use co-operative approaches, its position is that such use would be accounted for in accordance with relevant decisions adopted by the Conference of the Parties serving as the Meeting of the Parties to the Paris Agreement (CMA). As such, the UK has adopted a conservative approach to the use of the Article 6.2 mechanism.

In its submission to the UNFCCC on matters related to the Article 6.4 mechanism dated March 2023, the UK asked the CMA for more clarity on the connection between the Article 6.2 international registry and other registries. In addition, the UK seeks communication standards to be developed to support a clear central reconciliation process across registries in order to ensure correct accounting of Internationally Transferable Mitigation Outcomes (ITMOs) across registries. The UK has also clearly stated it is open to supporting a connection between the mechanism registry and other registries.

The UK firmly opposes the inclusion of emissions avoidance as an additional Article 6 activity that can generate Article 6.4 ERs (including avoided fossil fuel extraction) to safeguard environmental integrity and prevent a disconnect between Article 6.4 ERs and Article 6.2 reporting and accounting requirements. The UK has also asked for a CMA-level decision on the minimum information to be provided in an Article 6.4 authorisation statement to ensure adequate tracking of authorised Article 6.4 ERs, including the application of corresponding adjustments. The UK has also noted that the Article 6.4 ERs should be marked if they are authorised for use towards an NDC, or are authorised for use towards other international mitigation purposes, in a manner that enables linking to tracking information. The UK has concerns that Article 6.4 authorisation statement revisions could create significant accounting and reporting complications, in turn posing risks to environmental integrity, and so has welcomed further technical work on the types of revisions that could be permitted.

The UK’s position is that there are other levers beyond the Article 6 mechanism which are better suited to address conservation activities, including Article 5 of the Paris Agreement and the voluntary carbon market.

Formal Bilateral Agreements Relating to Co-Operation on Achieving Mitigation (Including Role of the Private Sector)

See 'Climate Finance', 'Capacity-Building' and 'Technology Transfer' in **1.1 Multilateral Climate Change Legal Regime**.

In addition to UK ICF, the UK has committed alongside other developed countries to jointly mobilise USD100 billion per year in climate finance to developing countries from public and private sources. In order to meet the scale of finance needed to tackle the climate crisis, the UK seeks to mobilise the private sector and position the UK as the green finance capital of the world, including taking steps to set a world-leading sustainable finance regulatory framework. The UK is also party to Just Energy Transition Partnerships, multilateral platforms between developed and emerging economies to deliver climate finance that supports developing countries, such as South Africa's Just Energy Transition Partnership.

The UK also seeks to ensure that its new bilateral Official Development Assistance is aligned with the Paris Agreement.

Implementation Evidence

Between April 2011 and March 2024, UK ICF supported over 100 million people to cope with the impact of climate change, and reduced or avoided 105 million tonnes of GHG emissions.

The UK has committed about £500 million to several international programmes supporting developing country access to carbon markets and other forms of results-based finance.

The UK Government is also expected to support UK PACT, a Just Energy Transition Partnership with the Government of Colombia.

Designated National Authority to Deal With the Paris Agreement Credit Mechanism

DESNZ is the designated national authority to deal with the Paris Agreement's Article 6.4 mechanism.

Links to Existing Carbon Market Mechanisms

While the voluntary carbon market is a decentralised global market of private actors voluntarily buying and selling carbon credits that represent the removal or reduction of CO₂, the UK Government has demonstrated interest in regulating this market beyond the UK's Paris Agreement commitment.

The UK Government issued a consultation paper in April 2025 on raising integrity in the voluntary carbon and nature markets where, among other matters, it invited views on the UK Government's proposal to endorse the VCMI Claims Code as representing best practice and the ICVCM CCP's as representing a minimum quality requirement. The consultation also emphasised the importance of tackling leakage risks (ie, the displacement of negative environmental impacts to outside the supply area) through standards such as those set out under Article 6.4 of the Paris Agreement.

In the consultation paper, the UK Government explicitly recognised that project developers of mitigation activity (eg, engineered or nature-based removals) within the UK may wish to sell credits generated in the UK through the Paris Agreement Crediting Mechanism. The UK would need to put in relevant governance arrangements to enable such trading.

2.4 Key Policy/Regulatory Authorities

The key policy and administrative authorities responsible for climate change policy development are:

- Climate Change Committee (including the Adaptation Sub-Committee)
- Department for Energy Security and Net Zero (DESNZ)
- Department for Environment, Food and Rural Affairs (DEFRA)
- Department for Business, Energy and Industrial Strategy (BEIS)
- HM Treasury
- Environmental Audit Committee of the House of Commons
- Office of Gas and Electricity Markets (Ofgem)
- Transition Finance Council

By virtue of its mandate under the Climate Change Act 2008, the Climate Change Committee holds a high level of influence over the UK Government on the evolution of climate change policy in the UK. The Department for Energy Security and Net Zero holds a significantly larger policy portfolio compared to DEFRA on climate change policy development. BEIS oversees the climate-related financial disclosure regulations applicable to companies and limited liability partnerships enacted pursuant to the Companies (Strategic Report) (Climate-related Financial Disclosure) Regulations 2022 and the Limited Liability Partnerships (Climate-related Financial Disclosure) Regulations 2022. While the Environmental Audit Committee does not hold executive power, it does have considerable influence in public discourse through its scope, which is to examine how government departments' policies influence the environment and sustainable development. Ofgem is responsible for administering the Contracts for Difference scheme, which incentivises investment in renewable energy by providing developers with price stability through guaranteeing a "strike price". The Transition Finance Council is a newly created non-departmental public body whose aim is to leverage the UK's existing strengths to become the best place in the world to credibly raise transition capital.

The key governance and regulatory authorities responsible for regulatory enforcement in respect of climate change regulation are:

- Financial Reporting Council (FRC)
- Financial Conduct Authority (FCA)
- Environment Agency (EA)
- Office for Environmental Protection (OEP)
- Local authorities

The FRC is responsible for enforcement of climate-related financial disclosure regulation applicable to AIM and large private companies. The FCA is responsible for oversight and enforcement of the climate-related financial disclosure regulation enshrined in UK listing rules and the ESG Sourcebook applicable to companies listed on the London Stock Exchange and FCA-authorized firms respectively. The EA has oversight of the UK Emissions Trading Scheme, the Environment Act 1990, the Environmental Permitting

(England and Wales) Regulations 2016, the Energy Savings Opportunity Scheme 2014 and flooding.

2.5 Climate Litigation

Climate Change Litigation

Climate change-related litigation has become a new strand of case law in the UK and can be examined through two lenses: pursuit of private actor defendants and, separately, public sector defendants.

The Finch case

In *R (on the application of Finch on behalf of the Weald Action Group) v Surrey County Council and others* [2024] UKSC 20, Horse Hill Developments sought planning permission from Surrey County Council to retain and expand an existing onshore oil well site and to drill four new wells enabling the production of hydrocarbons from six wells over a period of 25 years. The environmental impact assessment considered the environmental impacts of the direct releases of GHGs from within the well site boundary but not the impact of downstream GHGs that would result from the extracted oil subsequently being refined and used as fuel. The Supreme Court held that the local authority's decision to grant planning permission without taking the downstream GHGs into account was unlawful.

Friends of the Earth litigation

The litigation led by Friends of the Earth provides a rich source of evidence of the varying interpretations of role of the Paris Agreement in judicial review of administrative decision-making in recent years.

In *R (Friends of the Earth and others) v Secretary of State for BEIS* [2022] EWHC 1841 (Admin), the High Court allowed a judicial review challenge to the UK's October 2021 Net Zero Strategy on the basis that the strategy did not include matters that were material to the issue of whether the targets set under the Climate Change Act 2008 could be met.

Similarly, in *R (Friends of the Earth and others) v Secretary of State for Energy Security and Net Zero* [2024] EWHC 995 (Admin), the High Court upheld a further judicial review finding that the Secretary of State had failed to comply with their obligations under the Climate Change Act 2008 in relation to their approval of proposals and policies in the UK Government's Car-

bon Budget Delivery Plan which purported to fill gaps in the Net Zero strategy.

However, in *R (Friends of the Earth) v Secretary of State for Environment, Food and Rural Affairs* [2024] EWHC 2707 (Admin), the High Court dismissed the application for judicial review of NAP3. Friends of the Earth has indicated that it is applying to the European Court of Human Rights.

In *R (Friends of the Earth and others) v Heathrow Airport* [2020] UKSC 52, the UK Supreme Court overturned the Court of Appeal's decision that had allowed the judicial review of the UK Airports National Policy Statement. The Supreme Court held that the Paris Agreement and government announcements did not constitute "government policy" for the purposes of the Planning Act 2008 and, as such, the Secretary of State had not breached their duty under the Planning Act 2008 to have regard to the desirability of mitigating and adapting to climate change, ie, by failing to consider the Paris Agreement beyond the extent to which it had already been considered.

In *R (Friends of the Earth) v Secretary of State for International Trade/UK Export Finance* [2023] EWCA Civ 14, the Court of Appeal dismissed an application for judicial review of a decision by UKEF to provide export finance to a liquified natural gas project in Mozambique. The court confirmed the department should be granted a significant margin of appreciation as it was the first UK government department to assess climate change impacts in the context of a long-term foreign project.

In *Friends of the Earth v Secretary of State for Leveling Up, Housing and Communities* [2024] EWHC 2349 (Admin), the High Court ordered the quashing of the 2022 planning permission granted by the Secretary of State for a new underground coal mine at Whitehaven, Cumbria on the basis that the Secretary of State had breached EIA requirements pursuant to the Town and Country Planning Act 1990 by not assessing the impact of GHG emissions from the burning of mined coal (applying the *Finch* case).

By contrast, in *R (on the application of Greenpeace) v Secretary of State for Energy Security and Net Zero*

[2023] EWHC 2608 (Admin), the High Court refused applications for judicial review of a decision by the Department for Energy Security and Net Zero to launch a new North Sea oil and gas licensing round on the basis that the UK Government did not need to take into account Scope 3 GHG emissions when preparing the strategic environmental assessment of its Offshore Energy Plan.

The Shell decision – s172 and s174 Companies Act

In *ClientEarth v Shell* [2023] EWHC 1897, the High Court dismissed ClientEarth's derivative claim pursuant to Section 261 (1) of the Companies Act 2006 against the board of Shell in its capacity as a shareholder, alleging that Shell's directors acted in breach of their duties under (i) Section 172 of the Companies Act 2006 to promote the success of the company for the benefit of its membership as a whole and (ii) Section 174 of the Companies Act 2006, which requires directors to act with reasonable care, skill and diligence, because of their failure to develop a robust climate change risk mitigation strategy. The claim was rejected on the basis that ClientEarth had not brought the case in good faith, and there was no universally accepted methodology as to how Shell might be able to achieve the targeted reductions referred to in its energy transition strategy.

Other Key Causes of Action

UK Prospectus Regulation

In *R (ClientEarth) v Ithaca Energy Plc* [2023] EWHC 3301 (Admin), the High Court refused ClientEarth's application for permission to apply for judicial review of the FCA's decision to approve the prospectus of UK oil and gas company Ithaca Energy plc. The UK Prospectus Regulation did not impose a separate requirement for the issuer to disclose its assessment of risk and materiality.

Misrepresentation Act 1967; law of negligence; misrepresentation

Statutory claims on the basis of the Misrepresentation Act 1967 or civil claims on the basis of the law of negligence or misrepresentation are not yet a significant feature of English law. Nevertheless, these avenues remain open to non-governmental organisations that may be frustrated at the variable outcomes resulting

from pursuit of the other causes of action summarised in this chapter.

Product-related claims

We also know that substantial litigation in respect of “greenwashing”, or investigations in respect of misrepresentation of the nature and depth of a company’s “green” credentials, has emerged in the UK in recent years. The Advertising Standards Agency (ASA) has proven to be a prolific enforcer of anti-greenwashing provisions in the UK Code of Non-broadcast Advertising and Direct & Promotional Marketing (“UK CAP”). By way of example, the ASA upheld a series of complaints against HSBC on the basis that it had acted in breach of the UK CAP through a series of advertisements featuring environmental claims that omitted material information in respect of its contribution to carbon dioxide and GHG emissions through other business lines.

Claims may also be brought on the basis of consumer protection law where a consumer relied on greenwashing claims as part of their purchase of a particular product regulated by the Sale of Goods Act 1979.

Human rights

We are starting to see the emergence of litigation founded on various articles of the European Convention on Human Rights where a claimant has suffered as a result of deteriorating air quality, eg, *R (on the application of Mathew Richards) v EA* [2025] EWHC 1269 (Admin). In that case, the High Court approved an application for judicial review of a failure by the EA to take over operational responsibility for managing high sulphate was emanating from a landfill site in breach of statutory requirements. The court also granted permission for judicial review on the basis that the EA continues to owe positive obligations under Article 2 (Right to Life) and Article 8 (Right to a Private Life) of the European Convention on Human Rights, reflecting a broader theme of international climate change litigation founded on human rights arguments.

3. National Policy and Legal Regime (Mitigation)

3.1 Policy/Regulatory Instruments and Spheres of Government/Sectors Long-Standing Disclosure Regimes

Since 2013, companies in scope of annual reporting requirements under the Companies Act 2006 have been required to publish details of their carbon footprint and carbon intensity of operations. The Companies (Strategic Report) (Climate-related Financial Disclosure) Regulations 2022 and the Limited Liability Partnerships (Climate-related Financial Disclosure) Regulations 2022 amended these provisions to place requirements on certain publicly listed companies, large private companies and LLPs to publish disclosures pursuant to the Task Force on Climate-related Financial Disclosures (TCFD).

The long-standing compliance regime in respect of energy efficiency in the UK is the Energy Savings Opportunity Scheme, which emerged in 2014 as the implementing legislation for the EU Energy Efficiency Directive. It requires in-scope entities to assess energy savings opportunities across their in-scope group and submit a declaration to the EA when this has been completed.

The UK led the world on climate-related financial disclosures for listed entities when it introduced changes to the UK Listing Rules in 2020 to require premium listed entities to report against the TCFD. In 2021, these disclosure requirements were extended to standard listed entities, and the UK subsequently committed to mandate TCFD-aligned disclosures across the UK economy by 2025.

FCA ESG Sourcebook and Sustainability Disclosure Requirements

The UK took the step of mandating TCFD-aligned disclosures for in-scope FCA-authorised firms from December 2021 in the new ESG Sourcebook, which forms part of the FCA Handbook for regulated firms. This was followed by the publication of the UK Sustainability Disclosure Requirements by the FCA in November 2023 (SDR), which sought to regulate misleading claims about sustainability and require detailed disclosures by FCA-regulated firms in respect

of financial products marketed on the basis of sustainability. The UK Government has recently published a consultation paper on expanding the SDR to require disclosures aligned with the International Sustainability Standards Board's IFRS standards (including S1 and S2 – Climate-related Disclosures) of a broader range of corporates including “economically significant” private companies, non-listed companies and pension schemes.

Transition Finance Market Review

In April 2022, the UK Government launched the Transition Plan Taskforce to develop a framework to help companies communicate their plan to achieve net zero to their stakeholders. The Taskforce subsequently published the Transition Plan Taskforce Disclosure Framework. DESNZ has recently published a consultation on implementation routes for the Transition Plan Taskforce Disclosure Framework, which will also examine the transition plan elements of the International Sustainability Standards Board disclosure standards.

Command and Control Measures

Sector-specific and non-sector-specific regulatory regimes specify command and control measures in respect of GHG emissions from certain businesses; eg, the automotive sector is regulated by the Vehicle Emissions Trading Scheme Order 2023, which implements the UK's net zero strategy through requiring a certain percentage of manufacturers' new car and van sales to be zero emission from 2024. The Environmental Permitting Regulations 2016 also specify limits for emissions of certain GHGs by certain permitted installations, eg, nitrogen dioxide emission limits for certain combustion plants.

Carbon Tax/Levies

The Climate Change Levy (CCL) is an environmental tax charged on the energy (electricity, natural gas, liquid petroleum, liquid hydrocarbon gas, solid fuels) that businesses use. The main rates of the CCL for gas, electricity and solid fuels were recently increased in line with the Retail Price Index; however, the rate for liquefied petroleum gas remains frozen. A Carbon Price Support rate is applied to supply of fossil fuels for use in electricity generation in order to encourage

the generation of low carbon electricity by increasing the price paid for emitting carbon dioxide.

Climate Change Agreements (CCAs) are voluntary agreements between sector association and the EA and embed targets for energy-intensive installations to improve energy efficiency or reduce their carbon footprint, in return for which they benefit from reduced CCL rates. The UK Government confirmed in 2024 that a new CCA scheme will commence on 1 January 2026 and last for five years.

The Review of Electricity Market Arrangements (REMA)

REMA was launched in 2022 to support the decarbonisation of power in the UK and, citing the Secretary of State for Energy Security and Net Zero, “make Britain a clean energy superpower”. REMA's objectives include providing for a fair, affordable, secure and efficient electricity market. One of the main challenges considered in REMA is the mismatch between where electricity is generated and the availability of transmission networks to transmit electricity to consumers which results in high network and balancing costs.

On 10 July 2025, the UK government published the outcome of its review. A key outcome has been the decision to reform the national pricing model rather than introduce zonal measures to provide different pricing for different locations. This was the most discussed part of the three-year review process. Other outcomes include:

- A Strategic Spatial Energy Plan mapping the ideal locations for electricity and hydrogen generation and storage across Great Britain
- Reforms to the Transmission Network Use of Systems
- Reforms to enable the National Energy System Operator to improve balancing and settlement

Reasons for maintaining national pricing include that it provides certainty for businesses to invest and better supports clean power targets. The Government will implement measures to improve operational efficiency for a renewables-based power system through the SSEP and changes to market arrangements. The Reformed National Pricing Delivery Plan is due in late

2025 and the first iteration of SSEP is due to be published in 2026.

UK ETS

In May 2025, a common understanding issued by the European Commission and the UK indicates that any linking agreement in respect of the EU and UK ETS should create the conditions for goods originating from the EU and UK to benefit from mutual exemptions from the respective UK and EU CBAMs.

The UK established the UK Emissions Trading Scheme (“UK ETS”) in January 2021, which establishes caps on GHG emissions from regulated sectors including manufacturing facilities, power stations and aviation. Regulated businesses are required to (i) hold a GHG emissions permit, (ii) surrender an equal number of emissions allowances to the total volume of emissions generated from their in-scope installations in any given year and (iii) monitor, report on and verify the GHG emissions from regulated installations. Allowances can be purchased at auction, and some are allocated for free by the EA. It is overseen by the UK ETS Authority, which publishes the carbon price every year. The EA and FCA are the regulators for the UK ETS.

The UK ETS also applies to GHG emissions from UK domestic flights, flights between the UK and Gibraltar, and flights from the UK to the EEA.

The UK Government has recently consulted on including the maritime sector and non-pipeline transportation of carbon dioxide in the UK ETS.

UK Carbon Border Adjustment Mechanism

The UK Government issued a consultation paper in March 2024 on the creation of a UK carbon border adjustment mechanism (“UK CBAM”), which would apply a levy on the GHG emissions embedded in certain carbon-intensive imported products from 1 January 2027. The levy seeks to create a situation where the prices paid for the goods are comparable to what they would have cost had they been produced in the UK.

Associated changes to the UK ETS (eg, reduced free allocations of UK allowances), coupled with UK CBAM, seek to move the UK towards decarbonisa-

tion. The second allocation period of UK ETS will be delayed by one year in order to align with the launch of UK CBAM in 2027.

UK CBAM will apply to imports of aluminium, cement, fertilisers, hydrogen, iron and steel. Those subject to UK CBAM will be required to submit a CBAM return and pay a fee at the end of each accounting period based on the carbon content of their imports and the UK’s carbon price.

Incentive Schemes

The generation of low-carbon power in the UK has historically been subject to a number of incentive schemes regulated by Ofgem and various implementing legislative instruments. For instance, the Renewables Obligation (RO) scheme, introduced in 2002, requires electricity suppliers to source a specific proportion of their electricity from renewable sources. This is achieved through requiring UK electricity suppliers to present a certain number of RO certificates to Ofgem in respect of each MWh of electricity they supply to non-exempt customers during an obligation year.

The Contracts for Difference (CfD) regime replaced the RO in 2017 as the main support mechanism for new medium to large-scale low carbon energy generation. Between the CfD regime’s introduction and the RO scheme’s closure in 2017 for almost all new capacity, projects could choose between the two schemes. Some generators operated under both (a dual scheme), and grace periods were offered for delayed deployments. Qualifying generating stations will continue to be supported under the RO scheme until their accreditation expires. “Early years” generators shall retire from the scheme in 2027.

RO certificates remain unchanged in terms of policy and structure.

4. National Policy and Legal Regime (Adaptation)

4.1 Policy/Regulatory Instruments and Spheres of Government/Sectors

Regarding what national policy/regulatory mechanisms specifically apply to climate change adaptation and how are these framed and implemented, see ‘Adaptation’ in 1.1 Multilateral Climate Change Legal Regime and ‘The UK’s NDCs’ in 2.1 National Climate Change Policy.

Regarding the extent to which NDC adaptation objectives are supported in national policy/regulatory instruments, see ‘The UK’s NDCs’ in 2.1 National Climate Change Policy.

Regarding whether climate change adaptation is an issue for consideration in the granting of environmental permits/authorisations, see ‘The Finch case’ and *Friends of the Earth v Secretary of State for Levelling Up, Housing and Communities* [2024] EWHC 2349 (Admin) under ‘Friends of the Earth litigation’ in 2.5 Climate Litigation.

5. Responses to International Developments

5.1 Carbon Markets

Regarding the UK’s participation in the Paris Agreement Crediting Mechanism, see ‘Framework for Operationalising Article 6 Paris Agreement’ in 2.3 Bilateral/Multilateral Co-Operation.

DESNZ is the designated national authority to deal with the Paris Agreement’s Article 6.4 mechanism.

Regarding the UK’s carbon market administrative and governance processes, see ‘UK ETS’ in 3.1 Policy/Regulatory Instruments and Spheres of Government/Sectors.

Regarding the UK’s participation in the voluntary carbon market, see ‘Links to Existing Carbon Market Mechanisms’ in 2.3 Bilateral/Multilateral Co-Operation. The UK voluntary carbon market has grown rapidly over the past five years, with growing corporate

demand driving an increase in the cost of offsets and support services. Two example regimes in the UK are the Woodland Carbon Code (the largest carbon standard in the UK, with over 1,500 registered projects) and the Peatland Code, which have their own registries. In addition, the London Stock Exchange’s Voluntary Carbon Market designation was launched in 2022 to identify funds and operating companies admitted to the Main Market or AIM which are investing in climate change mitigation activities such as carbon sequestration, clean energy and new climate technologies.

Regarding UK regulation of the carbon markets, see ‘Command and Control Measures’, ‘UK ETS’ and ‘Incentive Schemes’ in 3.1 Policy/Regulatory Instruments and Spheres of Government/Sectors.

Links to Online Carbon Market-Related Information

Publicly available carbon market-related information can be found via the following weblinks:

[Supply and Demand in the UK Voluntary Carbon Market July 2022](#) (Climate Change Committee)

[Voluntary carbon and nature markets: raising integrity – consultation document \(accessible webpage\)](#) (gov.uk)

[Voluntary Carbon Market](#) (London Stock Exchange)

5.2 European Union Carbon Border Adjustment Mechanism (CBAM)

See ‘UK Carbon Border Adjustment Mechanism’ in 3.1 Policy/Regulatory Instruments and Spheres of Government/Sectors.

6. Liability for Climate Change and ESG Reporting

6.1 Climate Financial Reporting

See ‘Long-Standing Disclosure Regimes’ in 3.1 Policy/Regulatory Instruments and Spheres of Government/Sectors regarding the TCFD.

Non-governmental organisations have been highly active in petitioning regulators for enforcement proceedings against companies subject to TCFD dis-

closure obligations. For example, see ‘UK Prospectus Regulation’ in **2.5 Climate Litigation**. In 2016, ClientEarth submitted formal complaints to the FRC alleging that two oil and gas companies, SOCO International plc and Cairn Energy plc, had breached their corporate disclosure duties under Section 414C of the Companies Act 2006. The complaints were not upheld by the FRC.

Currently, UK-incorporated businesses do not typically report against IFRS S1 and/or IFRS S2, and any such reporting would be made on a voluntary basis. See ‘FCA ESG Sourcebook and Sustainability Disclosure Requirements’ in **3.1 Policy/Regulatory Instruments and Spheres of Government/Sectors**.

Also see ‘Long-Standing Disclosure Regimes’, ‘FCA ESG Sourcebook and Sustainability Disclosure Requirements’ and ‘Transition Finance Market Review’ in **3.1 Policy/Regulatory Instruments and Spheres of Government/Sectors**.

6.2 Directors’ Climate Change Liability

Regarding directors ‘liability for climate change impacts’, see ‘The Shell decision – s172 and s174 Companies Act’ in **2.5 Climate Litigation**. Also, in the decision of *McGaughey v Universities Superannuation Scheme Ltd* [2023], the Court of Appeal held that derivative claims on behalf of a pension trustee company against certain directors and former directors were dismissed on the basis that the derivative claim procedure which founded the claim that the directors had breached their general duties by failing to plan for fossil fuel divestments was available only in exceptional circumstances.

Regarding the extent to which infrastructural investments or financing arrangements that may have negative climate change impacts are the target of regulatory and/or civil society attention, see ‘The Finch case’, ‘Friends of the Earth litigation’ and ‘Human rights’ in **2.5 Climate Litigation**.

6.3 Shareholder or Parent Company Liability

As a technical matter under English law, it is possible for shareholders or a parent company to be held liability in respect of damages caused by climate change and/or breaches of climate change regulation. The

two most recent authorities that would underpin this scenario under English law are (i) *Vedanta Resources plc and another v Lungowe & others* [2019] and *Okpabi and others v Royal Dutch Shell plc* [2021]. In the *Vedanta* case, 1,826 Zambian residents brought a claim against Vedanta, a UK-incorporated parent company, and its subsidiary, Konkola Copper Mines plc, which was incorporated in Zambia, for personal injury, loss and damage caused by the discharge of waste from a copper mine. The Supreme Court held that there was sufficient evidence to establish a triable case against Vedanta on the issue of whether Vedanta owed a duty of care to the Zambian residents. This decision was based on the established general principles for liability under tort law, and was determined through examining the high level of control exerted by Vedanta over Konkola, evidenced in part through the group-wide environmental policies and procedures through which Vedanta exercised such control.

Similarly, in *Okpabi*, a group of Nigerian residents living in an area impacted by leaks from pipelines and infrastructure operated by the Shell Petroleum Development Company of Nigeria alleged that the spills had caused damage in breach of the duties of care owed by the subsidiary and parent company. The Supreme Court again permitted the claims to be heard before the English courts on the basis that there was sufficient evidence of control exercised by the parent company over the subsidiary to raise a triable issue of whether there was a duty of care owed by the parent company to the Nigerian residents. Four related claims are now pending before the English courts.

In practice, however, it is not likely that a parent company could be held liable for damages caused by the contribution of a subsidiary to climate change as we do not yet have a court decision that holds a parent company liable in respect of any such fact pattern.

6.4 ESG Reporting and Climate Change

See ‘Long-Standing Disclosure Regimes’, ‘FCA ESG Sourcebook and Sustainability Disclosure Requirements’ and ‘Transition Finance Market Review’ in **3.1 Policy/Regulatory Instruments and Spheres of Government/Sectors**.

7. Transactions

7.1 Due Diligence

Most climate change due diligence conducted on M&A, finance and property jurisdictions in the UK remains limited in nature. This is in part because diligence of sustainability risks (include those arising out of or in connection with climate change) is not a mandatory legal requirement, unlike under the law of the EU.

In addition, the UK Planning and Infrastructure Bill (which at the time of writing had passed its second reading in the House of Lords) seeks to increase the amount of electricity produced from renewable sources by permitting the use of forestry land for such purposes. The Bill also provides for strategic planning to be conducted through spatial development strategies which will seek to improve climate resilience. The Bill also seeks to ensure that development corporations (ie, statutory bodies established for urban development and regeneration) have due regard to sustainable development and climate change mitigation and adaptation.

8. Climate-Friendly Investment Support

8.1 Renewable Energy

See 'Incentive Schemes' in 3.1 Policy/Regulatory Instruments and Spheres of Government/Sectors.

8.2 Other Support

See 1.1 Multilateral Climate Change Legal Regime and 2.3 Bilateral/Multilateral Co-Operation.

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