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UKELA'S BATH CONFERENCE – 20 YEARS IN THE MAKING

The 2007 UKELA conference was officially a sell-out! Over 220 delegates and speakers booked onto the event at Bath University for a weekend of stimulating presentations, discussion and meeting old and new friends. Thanks again to the main sponsors – WSP and 39 Essex Street – for making it possible and to all the speakers and chairs of sessions who kindly supported UKELA's work.

From the feedback forms we know that nearly all of you enjoyed it, found it good value and plan to attend another one. Professor Peter Cox, from Exeter University, speaking on climate change science, was the most often mentioned highlight alongside dinner in the Pump Rooms.

Of course there were also a few gripes – the green housekeeping was not always supported by the University and many of you were upset by the piles of waste disposable cups generated after our coffee breaks. In our enthusiasm to provide a full speaker programme, there was not enough time for discussion. And then there was the 2am fire alarm which did provide an unexpected opportunity for discussion, perhaps not at the best time.

Environ kindly helped raise awareness of the carbon aspects of the conference and we monitored how people had travelled. Needless to say the relatively few journeys by plane outstripped the carbon emissions from all other modes of transport several times over. And well done to the person who travelled by bike. Environ's sponsorship of off-setting carbon equivalent to half a tonne per person easily covered the transport impacts and next year we will try to monitor more accurately and reduce our total impacts.

Thanks also go to No 5 Chambers for the stylish folders and Groundsure for our reusable bags. And a big thank you to Origin Events for their efficient organisation which was mentioned on many feedback forms.

Now the quest is on for next year's venue and all will shortly be revealed. Bookings will open in the autumn so you can get the date in your diary early. If anyone wants to help advise on the green housekeeping side of the conference, we'd like to factor this in at a much earlier stage. Please email Vicki.elcoate@ntlworld.com if you would like to join our small green housekeeping team, or if you have any other suggestions or offers of help or sponsorship for next year's conference.

A PERSONAL VIEW OF THE CONFERENCE

Begonia Filgueira of Gaia Law and new UKELA Council member

On the afternoon of Friday 22 June the country's environmental lawyers headed to Bath in search of something. I cannot say what each individual was after but I can guess that this something encompassed a degree of learning, debating, keeping informed, influencing policy, networking and catching up with friends and colleagues. What I can say with certainty is that no one was disappointed as there was plenty of the above on offer.

The conference opened with a question time panel like discussion on "The past, present and future of Environmental Law". One of the questions asked the panel to define or redefine sustainable

development. Some of the panel thought that the indefinable should remain so. Sara Parkin of Forum for the Future advocated a more hierarchical approach to sustainable development where, only if our environmental needs are partially met, can we allow for social and economic needs. Another audience member asked for practical day to day tips on how to help curtail climate change? Many alternatives were offered but the suggestion of Ric Navarro, of the Environment Agency, that we find someone warm to cuddle up to was the smartest thing I have heard for years!

All fired up after the first session we marched towards the Claverton Rooms where drinks awaited. People were greeting each other enthusiastically, there were lots of warm welcomes and sharing of experiences. The wine flowed and we shortly sat down for a buffet dinner. I can't remember at what time the bar closed but I do remember the fun and late snack Geo bars.

After the previous night's entertainment breakfast at Level 1 Café was not the easiest of feats. However as soon as I sat down and started to hear Professor Peter Cox's "An Overview on the Climate Change Challenge" I again felt revitalised. Here was an eminent scientist, from Exeter University and the Intergovernmental Panel on Climate Change, taking me through graphs I thought I would never understand and putting a positive message across. We are 0.7°C away from catastrophe but we can do something about it if energy waste is reduced. Julie Gledhill, of the Environment Agency, gave us a timely low down on flooding and how our flood defence legislation was out of date and not dealing with flooding properly. As I write parts of Lincolnshire, South Yorkshire, Nottinghamshire and Shropshire are under water and the EA has estimated the cost of the last two week's flooding at £2bn.

Dr Paul Zakkour, of the consultancy firm ERM, then talked on the challenges of getting carbon capture and storage widely accepted as a mitigation technology. There was general agreement that there was no "silver bullet" to solve climate change – all the approaches discussed should be potentially part of the package which would be needed to reduce emissions from the critical level. But some were more controversial than others, particularly some alternative energy sources which the conference highlighted.

Dr Gordon Edge of the British Wind Energy Association mapped out the huge potential the UK has to harness in natural wind, wave and tidal resources and how this will assist the UK in meeting its 20% reduction of CO2 emissions by 2020. Dr Edge also pointed out that some of the obstacles to growth of wind power in the UK are the inadequacy of the planning system and the lack of grid availability. To this we should add the unpopularity of on shore wind farms with some of the communities where they are to be placed.

Nuclear power features highly on the Government's agenda with Alistair Darling proclaiming on behalf of his government: "We have taken the preliminary view that nuclear power is in the public interest." UKELA took up this challenge and opened the floor to the nuclear debate with a panel made up of the Chairman of the Nuclear Industry Association, Peter Wilkinson a member of the Committee on Radioactive Waste Management and Jonathan Isted, a partner in Freshfields Bruckhaus Deringer which has represented the Nuclear Industry in the UK for two decades. The argument was put that the UK needs clean energy and nuclear is at the moment the cleanest and cheapest source of energy we can get. Peter Wilkinson, who voiced concerns about waste disposal, nuclear security and cost called for a wide anti-nuclear movement. He said there was a need for an energy review that looked at all the options, not biased towards nuclear.

There were some really hot topics for the working party sessions. The current opportunities to engage with government include: the Climate Change draft Bill; the Regulatory Enforcement and Sanctions draft Bill; the report of the review of Environmental Governance in Northern Ireland; the Energy White Paper, the Planning White Paper and its various "daughter" consultation papers, the National Waste Strategy, the Environmental Liability Directive and the Fairer and Better Environmental Enforcement work in Defra.

It was both a good taster session and signposted a need for further work on many of these important areas.

Saturday afternoon was taken up by various tours. Some went to the Roman Baths, others to the Jane Austen Centre and others took a walking tour with two excellent guides. There was just enough time to go back to halls, have a rest and get ready for our Gala Dinner. We met at the Victoria Art Gallery which was crammed with new and exciting art. An exquisite dinner at the Pump Room followed, where a string quartet played for our delight.

Guest Speaker Stephen Tromans, of 39 Essex Street and one of UKELA's founder members, with impeccable stand up timing, regaled us with tales of how he, Andrew Bryce and others came up with the idea of forming UKELA after a kebab (I always knew there was something strong in that stuff). He recounted how the Association was created fighting against such odds as recovering the subscription cheques from the claws of delinquent cats at the secretary's house, printing the journal on a faulty machine missing the "r" (imagine the United Kingdom Environmental Law Association chaired by Plof Lichald Macloly!) and the non existence of environmental law as a recognised discipline.

Sunday's proceedings started with European Commission Policy Officer Charles Pirotte delving into the Environmental Liability Directive and asking whether it really would harmonise environmental regimes in the Member States. Professor Mark Kibblewhite, of the National Soil Resources Institute, called for a soils directive and explained to us in technical terms why we should value our soil and what it means to humans to mistreat it. Did you know that the beautiful smell after rain is actually made by Actinomycetes's spores reacting to the rain in the soil? Sergiy Moroz of WWF discussed the Mining Waste Directive and how we are to deal with the European toxic legacy. Sergiy spoke passionately and in very human terms on what toxic waste can do to a community.

Sunday closed with a very learned review of the Year's Hottest cases by David Hart QC, of 1 Crown Office Row, and Justine Thornton, of 39 Essex Street. This was incredible value and I must confess that I have already used my case note.

It must be wonderful for those who were there at the beginning of UKELA twenty years ago to see how it has flourished and how UKELA, then and today, has made a real difference in shaping environmental law by contributing to policy developments at the highest level whilst still keeping the collegiate feeling untouched. I would like to thank UKELA for providing an open, friendly and intellectually gruelling forum for those interested in the environment to come together once a year, at least, to put the world at rights.

CONFERENCE PAPERS FOR BATH 2007

The papers for the Bath 2007 conference are being prepared by Rachel Caldin, of Environmental Law and Management. UKELA is very grateful to Rachel for her help. We hope to get a complimentary copy to all UKELA members by the end of the year.

DELEGATE'S CONFERENCE PACK AND BAGS

Were you unable to attend Conference this year but would like to receive the delegate pack? If so, we have a limited number for sale at £10 plus postage and packing of £5.00. If you booked to attend but could not come, your delegate pack is free but we would like you to pay the postage and packing. Please contact Alison Boyd at alisonboyd.ukela@ntlbusiness.com or on 01306 500090 to order your pack.

CLIMATE CHANGE BILL

A binding legal target to reduce carbon emissions and the teeth to make the target bite are vital, the UK Environmental Law Association (UKELA) has concluded in welcoming a government committee report today.

The Environment, Food and Rural Affairs (EFRA) Select Committee has supported the proposed Climate Change bill which would, for the first time, introduce a legally binding target to reduce carbon dioxide (CO2).

UKELA gave evidence to the EFRA Committee and told members that the challenge for the Bill would be to ensure effective enforcement. Resorting to the courts was unlikely to be the best way of enforcing the limit, but the public and Parliament would be able to scrutinise and keep up the pressure.

UKELA told the EFRA Committee that the proposed Climate Change Committee, which would monitor progress towards achieving the target, needs greater independence and more teeth and give greater weight to scientific advice. It should have the power of veto or the ability to force a motion in Parliament if the means to achieve the target appeared to be failing. The EFRA Committee's report supports this view.

The convenors of UKELA's Climate Change Working Party, Tom Bainbridge and Michael Woods, said: "The Bill provides a valuable framework but much will depend on the detail of the measures introduced to implement the targets.

"In our view the Bill would be considerably strengthened if the Committee's role was clarified and moved from what appears to be merely advisory, to a genuinely independent auditing and policing role."

BETTER REGULATION AND UKELA

UKELA Council agreed an aim in its strategic plan to engage better with and influence the better regulation agenda that is driving a number of fundamental changes to UK environmental laws.

To help with this engagement and to equip better our Working Parties to respond to Government consultations in a more consistent and resource-efficient manner a standard UKELA response template was prepared earlier this year. UKELA aims to underpin this template with a series of concise briefing notes on key issues to help those drafting responses.

Following a plenary session on better regulation at the 2006 UKELA Conference, in February 2007 UKELA together with the Institute for European Environmental Policy organised a high-level Chatham House session to examine the better regulation agenda. The first better regulation briefing note has been prepared by Council Members in the light of those sessions. We would welcome comments on how this note might be improved. If you have comments on the following briefing, could they be sent to Alison Boyd (alisonboyd.ukela@ntlbusiness.com), UKELA's Member Support Office by the end of July. Thank you.

Tim Jewell and Peter Kellett

"Making the Law work for a better environment" - Better regulation: a UKELA briefing

1. Purpose

1.1 This note aims to introduce UKELA members to better regulation ideas. UKELA has adopted a Strategic Plan with a specific aim for “better regulation”:

“To help deliver more effective and efficient environmental regulation including enforcement at the EU and UK level, not lower standards nor less regulation unless the same or better outcomes will be achieved.”ⁱ

This note should help UKELA engage more effectively with Better Regulation initiatives. It identifies some of the key features of “better regulation” as described by the EU, UK Government and regulators, highlights some of the most recent UK and EU developments, and provides links to other materials. Finally, it suggests some issues that appear sensible to consider when UKELA comments upon proposals.

2. What is “Better regulation”?

2.1 “Better regulation” describes a range of European and UK policies that are intended to influence reform of when and how the state regulates private behaviour. This includes behaviour that does, or might, give rise to negative environmental impacts.

2.2 Though better regulation policies are of general application, they are driving important changes to environmental law, and so for UKELA. Those implications relate both to the law itself – the form and content of legislative and other legal instruments in the environmental field – and whether and, if so, how environmental regulatory powers are exercised.

3. Key features of “better regulation” policy

3.1 The constituents of “regulation” itself are familiar. They include its character (whether to regulate, whether to do so legislatively, and how), its form (e.g., the purpose, scope and structure of particular regulatory mechanisms or groups of mechanisms), whether and how regulatory powers are to be exercisable or exercised, and the consequences that could arise from regulatory breaches. More contentious is what makes regulation or its constituent parts “good” or “better” than that it seeks to replace.ⁱⁱ

3.2 According to the UK Cabinet Office, “good” regulation has five core components: proportionality; accountability; consistency; transparency; and targetting.ⁱⁱⁱ Often added are substantive effectiveness, cost-effectiveness (for government, regulators and the regulated), coherence, fairness, practicability, and effective stakeholder involvement.^{iv} These factors are, of course, often intimately connected with identifying and assessing the “risks” that environmental rules might address. More general factors are whether regulation can itself create markets for environmental goods and services, drive innovation, and reduce business risk.^v

3.3 One view is that better regulation is simply concerned with introducing less onerous – or simply less – regulation, including lower environmental standards, or fewer controls over a narrower range of activities. “Better regulation” could cut red tape for business to the detriment of the environment.

3.4 Better regulation policy therefore lies at the heart of tensions between whether and how environmentally harmful behaviour is regulated, and what in fact government is trying to achieve in doing so. That tension is very familiar, but the language of “better regulation” may not be.

3.5 UKELA has therefore adopted an aim to support the removal of unnecessary administrative burdens but only if the same or better outcomes can be achieved through the proposed changes.

4. Implications for environmental law

4.1 There are few areas of environment policy not already regulated in one way or another. Indeed, it is because environment law is an area of such regulatory complexity that it is seen as a testing ground for the application of better regulation ideas.

4.2 Recent initiatives at European and UK level have tackled the whole life-cycle of regulatory measures, including:

- general issues relating to regulatory design;
- improving the processes through which proposals for new regulation are assessed against better regulation principles;
- particular proposals in relation to reforming specific areas of environmental law for better regulation reasons; and
- considering how environmental rules are applied and enforced.

4.3 The European Commission has concentrated on designing better tools to give effect to better regulation, including by working with member states.^{vi} It has focussed on pre-legislative screening of new proposals,^{vii} impact assessment,^{viii} and simplification of the existing 80,000 page *acquis communautaire*.^{ix} The Commission's impact assessment guidelines were reviewed in 2006. This work is complemented by the work of, e.g., the OECD, including through its *Guiding Principles for Regulatory Quality and Performance*.^x

4.4 In the UK, better regulation policy has already led to some reforms of environmental law. Changes already effected include modernisation of certain water rules,^{xi} “cross-compliance” in relation to agri-environment measures, and diversification in the types of mechanisms used to bring about environmental change.^{xii} More recent proposals relate to the consolidation and substantial restructuring of a wide range of existing environmental rules (e.g., the recent consultations on environmental permitting and compliance systems),^{xiii} longer term proposals in relation to a possible Marine Bill,^{xiv} proposals in relation to reform of regulatory penalties^{xv} and the implementation of the Environmental Liability Directive.

5. Key general developments in UK better regulation policy

There is now a substantial volume of material available on better regulation in the UK. Recent UK publications of particular interest include

- Report of the Defra Regulation Taskforce (2004);^{xvi}
- *Review of Regulatory Inspection and Enforcement* (the Hampton Review) (HM Treasury, March 2005);^{xvii}
- *Regulation – Less is More: Reducing Burdens, Improving Outcomes* (Better Regulation Executive, 2005);^{xviii}
- *Lifting the Burden: Defra Initial Regulatory Simplification Plan* (Department for Environment, Food and Rural Affairs, November 2005);^{xix}
- the Legislative and Regulatory Reform Bill (2006);

- Consultation on the Pollution Prevention and Control Act 1999 – review of the regulatory approach to some ‘Part B’ activities (Defra, February 2006);
- *Regulatory Justice: Sanctioning in a Post-Hampton World* (the Macrory Review Interim Report) (Cabinet Office, May 2006);
- *Review of the Implementation of European Legislation* (the Davidson Review) (Cabinet Office);^{xx}
- *The Tools to Deliver Better Regulation – Revising the Regulatory Impact Assessment: A Consultation* (Cabinet Office, July 2006);
- *Review of Enforcement in Environmental Regulation* (Defra, 2006);^{xxi}
- *Second consultation on proposals for creating a streamlined environmental permitting and compliance system* (Defra, WAG & Environment Agency September 2006) (see also the March 2006 consultation on this topic);
- the draft *Regulatory Enforcement and Sanctions Bill* published by Cabinet Office in May 2007.

6. Issues to consider when responding to proposals

UKELA is committed to contributing to better regulation discussions, and to influencing them, consistent with its strategic aims, and in particular, its better regulation aim. The following issues might be considered when assessing the “better regulation” merits of proposals:

- Are the outcomes of the proposal clearly defined?
- Do the proposals strike an appropriate balance between the better regulation factors set out above (at paragraph 3.2)
- Is the form of instrument proposed and manner in which powers are to be exercised appropriate? (see paragraph 3.1, above)
- Will the proposal contribute to administrative burden reduction targets that Government Departments have signed up to and if not why not and how could it be done better?
- Does the proposal contain an Impact Assessment (“IA”) and if so does the IA explain clearly how the impact of the proposals will be measured?
- Is there a “better” way to achieve the same or a similar outcome?
- Should the market failure the proposal seeks to address be left to continue – i.e. is a regulatory intervention appropriate at all?

See footnotes on back page.

DEFRA - LOCAL GOVERNMENT JOINT ENVIRONMENTAL PROSPECTUS

Environment Secretary Hilary Benn has stressed the central role Local Authorities have in fighting climate change as he launched the new Defra - Local Government Joint Environmental Prospectus

The Local Government White Paper (published in October 2006) set out a new performance framework for local government. The backbone of the new framework will be around 200 indicators covering all the Government's priorities for local delivery. Local Government will be required to report their performance against these indicators from April 2008. The Joint Environmental Prospectus provides an overview of the local and national governments' top environmental priorities. It sets out 10 key questions which local

leaders and chief executives can use to challenge their Councils to ensure that the environment is integrated throughout its concerns.

This practical checklist sets out how local authorities can:

- * Tackle climate change;
- * Protect the natural environment and resources, and break the link between waste and the economy;
- and
- * Improve the local environment.

Speaking before the Local Government Association's annual conference, Mr Benn said:

"Nothing is of greater importance to all of us today than the environment and the future of our planet. As councils and national governments we need to work together with citizens and businesses to provide a clean and green local environment and make sure that we are all tackling climate change and making best use of the world's limited resources.

"It's a task for all of us - G8 leader and council leader alike - and citizens too.

"This is the new politics. Personal responsibility. Not leaving it to others. I am my planet's keeper."

Details about the Joint Environmental Prospectus can be found at:

<http://defraweb/corporate/delivery/landscape/local/index.htm>

CPD POINTS AT UKELA EVENTS

If you are organising a UKELA event which may be eligible for CPD points please get in touch beforehand with Valerie Fogleman, the CPD co-ordinator (valerie.fogleman@lovells.com).

CPD points are good for UKELA, as they help attract attendees to events, and good for our members. However an event needs to meet the set down criteria and Val needs to secure approval for the event before it can be advertised as being eligible for CPD. The sort of events that might be eligible are anything with a speaker, papers, training content: eg London meetings, regional and working party meetings, seminars, subject specific events etc.

The conference in Bath was accredited for 6.5 CPD points (many people get in touch to ask this when filling out the annual return – so please note this down now).

WASTE WORKING PARTY SEEKS NEW CONVENOR

The Waste Working Party is looking for a new convenor. Andrew Bryce, the long-standing convenor and one of UKELA's founder members, is retiring from the role at the Bath conference.

Andrew was UKELA Chairman from 1988 to 1991 and was on the Council for a number of years.

Admitted as a solicitor in 1971, he was a partner at Cameron Markby (now part of CMS Cameron McKenna) where he set up and led the Environmental Group until his departure in 1994 to set up his own sole practice Andrew Bryce & Co specialising in environmental and health and safety law.

He acts for a number of clients in the waste, industrial and oil and gas sectors.

The Waste Working Party meets about four times a year and provides comment on various initiatives, either by meeting officials at an early stage or by written submissions. In the past the convenor has appeared before Government committees to provide an expert view.

a 12 month subscription will give you:-

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ENVIRONMENTAL LAW REVIEW

Environmental Law Review is a significant forum for the critical discussion of current and developing ideas in environmental law.

A special price for UKELA members is now available of just £25 (for print, electronic or print and electronic). This represents more than an 88% discount on the normal print price!

Take advantage of this special price TODAY – simply click here (www.vathek.com/ukela-order.shtml) and complete the online order form!

PLC ENVIRONMENT

PLC Environment is a new environmental law know-how service for lawyers in the private and public sectors, as well as other commercial practitioners (such as environmental consultants and EHS directors).

The service includes:

- clear and concise summaries of the law on a wide range of environmental topics
- standard documents (such as environmental warranties and indemnities), all of which are accompanied by detailed drafting notes
- e-mail alerts on key UK and EU environmental developments
- a Legislation Tracker that allows you to track the progress of key environmental legislation and new policy
- a guide to environmental law in other jurisdictions (such as the US, France and Brazil), including details of leading environmental lawyers and law firms in those jurisdictions

PLC Environment is run by a team of specialist environmental lawyers with a wide range of experience in both the private and public sectors (including Herbert Smith, Freshfields, Veale Wasborough and Defra).

For a free trial, e-mail subscriptions@practicallaw.com quoting ref: UKELA1 or call +44 (0) 207 202 1200

JOB OPPORTUNITY

BLAKE LAPHORN TARLO LYONS

Vacancy Environment Solicitor

Brief Description

Blake Laphorn Tarlo Lyons is a leading regional practice with an impressive track record of growth. Our specialist Environment team provide advice on the full range of environmental law issues to an enviable client base. We have 3 "leaders in their field" in the up-coming edition of the Chambers legal directory but we don't want to rest on our laurels.

You will report directly to Andrew Wiseman, head of the firm's Environment group. Andrew recently joined us and is well known as one of the country's leading experts. He is a former Chairman of the UKELA.

You will enjoy a varied workload of transactional, stand-alone advisory and contentious work. You will also be involved in practice development and have lots of direct client contact.

Whilst you will work hard in a challenging environment we will invest in your development and ensure you enjoy a sensible work/life balance. Hampshire is a great place to live and work.

Qualifications/Experience

- Confident and personable - able to place clients at ease and build rapport
- A team player - willing to support others and not stand on their dignity
- Relevant high quality experience
- Willingness to do some training/speaking/internal networking
- Motivated and ambitious
- 1-3+ yrs PQE

Location: Fareham

How to apply

Please email Kirsty Painter on recruitment@bllaw.co.uk quoting reference NC454 or telephone on 01489 555182

DIARY

WORKING PARTIES / COURSES / CONFERENCES / LECTURES / SEMINARS

STUDY GROUP ON THE EU AND SUSTAINABLE DEVELOPMENT: DEFINING SUSTAINABLE DEVELOPMENT WITHIN THE EU.

12th July 2007: University of Leeds, Leeds.

The University Association of Contemporary European Studies (UACES) Study Group on 'The EU and Sustainable Development' will be holding the third of the four planned meetings in Beechgrove House, University of Leeds, on 12th July 2007. This one-day workshop will focus upon 'Defining Sustainable Development within the EU'. All are welcome to attend; please contact [Dr. Jenny Fairbrass](#) by return email and indicate any specific dietary requirements. Paper proposals for a final meeting to be held in Leeds in September 2007 (on the topic of Theory and Practice in EU Environmental Policy) are invited. Please contact Jenny Fairbrass if you would like to offer a paper.

PLANNING AND SUSTAINABLE DEVELOPMENT WORKING PARTY

A session on the Planning White Paper is being held on 17 July 2007 at Beachcroft's offices at 100 Fetter Lane, London, EC4A 1BN. This has potential to impact on a number of the working parties' interests so please come and encourage others to come and participate. 5.30pm tea + coffee for a 6.00pm start. We anticipate the session will last about an hour and a half including discussion. Drinks and crisps to follow.

We will hear from Wendy LeLas and Catherine Davey, who have kindly volunteered to pull together the main UKELA response. Jonathan Powell, who is pulling together a response on the daughter consultation on the Appeals system is unable to join us but will let us have a written briefing for discussion. Please advise Anne Harrison if you intend to attend.

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UKELA LITIGATION WORKING PARTY

On 18th July 5-7pm at Freshfields the UKELA Litigation WP is going to review the Macrory based administrative penalties proposals in the Regulatory Enforcement and Sanctions Bill with a view to making a response to the current consultation.

Please let James Kennedy james.kennedy@freshfields.com who is kindly hosting know if they wish to attend in advance.

ENVIRONMENTAL LIABILITY, WASTE AND CLIMATE CHANGE

19th September 2007, Central London

£50 discount for UKELA members*

LexisNexis® Butterworth's annual environmental conference is your essential guide to this dynamic area of law.

Chaired by *Andrew Waite* of Berwin Leighton Paisner, industry experts including *Lord Daniel Brennan* QC of Matrix Chambers, *Valerie Fogelman* of Lovells and *Justine Thornton* of 39 Essex Street will explore the recent and upcoming environmental law challenges, ensuring that you:

- Get to grips with the UK and European **definition of waste**
- Keep up with the latest **climate change** legislation
- Understand what the **Environmental Liability Directive** will mean to you
- Discover how the new **producer responsibility** regime is working in practice

For more information please contact Ailsa Hardy on 020 7400 2733, email ailsa.hardy@lexisnexis.co.uk or visit our website at www.conferencesandtraining.com/environmental.

Please quote code 'UKELA' at time of booking.

MEGASITE CONTAMINATED LAND MANAGEMENT - CLEANING OUT THE AUGEAN STABLES ONE AT A TIME -

24-25 September 2007, Cafe Royal, London

Deindustrialisation has created large swathes of highly contaminated former industrial, mining and military lands throughout Europe. The scale, complexity and frequently exotic nature of soil and groundwater contamination at megasites poses difficult and often unique technical and management challenges to their rehabilitation and eventual reuse.

Confidence in strategy and technique must form the framework of the entire process. Regulation, technology and management must all continue to incorporate cooperation and the sharing of experience, knowledge, best practice and plans. This pan-European conference programme will contain 4 focussed themes: Characterisation, Assessment, Remediation and Management, which will be coupled with a Roundtable Discussion Forum. This conference will provide an ideal environment to create new avenues for both cooperation and the exchange of experience.

To receive more information regarding this Conference, please go to www.safetysiteevents.com/megasite07 or email daniel.clwassen@informa.com with your full contact details. UKELA members can obtain a 10% discount to this event by emailing daniel.clwassen@informa.com and quoting UKELA-Mega.

Sign up to the safety & nuclear newsletter by clicking on the attached link www.safetysiteevents.com/ns/newsletter.htm

WILD LAW

There are a few places left for our weekend workshop on Wild Law: A Response to Climate Change. This is your opportunity to join in a workshop to help develop solutions to global warming with leading experts on this area of jurisprudence. We aim to assemble people from diverse backgrounds to develop new ways of thinking. So if you are in industry, from a local authority or other regulatory body, working in government, from a community group or national NGO, campaigner, lawyer, environmental manager, academic – we would welcome your involvement. We have a limited number of student places and these are already over-subscribed. Thanks to funding from the Body Shop Foundation attendance fees are good value and we have discounted places for people on lower incomes.

Speakers are: Cormac Cullinan, an environmental lawyer based in Cape Town, South Africa, author of *Wild Law: A Manifesto for Earth Justice*, a director of the leading South African environmental law firm, Winstanley & Cullinan Inc, and CEO of EnAct International, an environmental governance consultancy; Professor Brian Goodwin, Visiting Scholar and Teacher on MSc in Holistic Science, Schumacher College, International Centre for Ecological Studies, Devon; Andrew Kimbrell, public interest attorney, activist and author, executive director of The Center for Food Safety in USA and founder of the International Center for Technology Assessment who was recently involved with the successful Massachusetts case; Peter Roderick, director of the Climate Justice Programme, a barrister with twenty years' experience in private practice, the oil industry, academia and the public interest environmental sector, and was Friends of the Earth's lawyer in London from 1996.

We hope you can join us in Derbyshire in September. See the website for further details www.ukela.org or contact alisonboyd.ukela@ntlbusiness.com

SCOTTISH CONFERENCE

UKELA's Scottish Group has organised a one day conference on "Environmental Issues in the Urban Environment" in Edinburgh on Tuesday November 13th.

The conference is chaired by Professor Kenneth Ross and the programme includes Environmental Case Law update by Sir Crispin Agnew and sessions on SEA and EIA, Public Health and Nuisance, The Whiteness Project; Enforcement of Environmental Law and Environmental Liability; Environmental Due Diligence in the Scottish Conveyancing Market and Sustainable Development.

Places for members are £145, non-members £175 and a limited number of free places for students. The booking form is on the diary section of www.ukela.org. For booking enquiries contact info@originevents.co.uk.

GARNER LECTURE

The date for this year's lecture will be Wednesday November 21st at 6pm. The event is being held in partnership with the Journal of Environmental Law and University College London. The speaker is M.C. Mehta, the leading Indian environmental lawyer, attorney in the Supreme Court of India, one of the founders of the Indian Council for Enviro-Legal Action (ICLEA), and director of the M.C. Mehta Environmental Foundation in New Delhi. M.C.'s landmark environmental cases in the Supreme Court of India have resulted in the protection of India's natural and cultural treasures – including the Ganges River and the Taj Mahal – from the adverse effects of pollution. In addition, M.C. played a key role in persuading India's Supreme Court to rule that Article 21 of the Indian Constitution, which guarantees each citizen the "right to life," necessarily includes the "right to a healthy environment."

In 2000, M.C. Mehta achieved a long-held dream to build an international facility for teaching public interest environmental advocacy. The foundation is a non-profit, non-governmental organization (NGO) working throughout India for the protection of the environment and citizens' rights. <http://www.mcmef.org/>.

Put the date in your diary – more details nearer the time.

REGIONAL GROUPS

WEST MIDLANDS

The next meeting of the West Midlands regional group will be in October and will be held in Birmingham. Speakers will give an update on environmental law issues and ELD. Further details will be circulated soon.

NORTH EAST

The next meeting will be in the Autumn on Reach. It will be held in Leeds. More details to follow shortly.

LEGAL UPDATES

Thanks to the EEL new service and Law Student Nina Pindham

Case T-182/06 Commission vs. the Netherlands

At the moment, Euro 4 norms laid down in Directive 98/69 allow for small particles emissions of up to 25mg/km from passenger cars and small commercial vehicles with diesel engines. The sale of cars that meet the Euro 4 norms cannot be prohibited by member states ex Art. 2(1) of Directive 98/69. The Netherlands asked permission to introduce stricter norms, aimed at limiting emissions to 5mg/km as of 1 January 2007 by means of an obligatory particle filter. The Commission rejected the Dutch request, made under Art. 95(5) EC Treaty. This judgment confirms the Commission's decision. While accepting that the emissions of particulate matter produced by diesel vehicles is acute and leads to not meeting quality norms laid down in Directive 1999/30, adoption of national measures that disrupt the functioning of the internal market is only allowed if the environmental problem is specific to the notifying state. The Dutch ambient air quality problems are not significantly different than those in other regions in the EU, according to the Court.

On 1 September 2009 filters will become obligatory throughout the EU because of the new Euro 5 norms adopted on 20 June 2007 in the form of EC Regulation No. 715/2007 that limit emissions to 5mg/km as of 1 September 2009. Meanwhile, 60 percent of diesel cars sold in The Netherlands already are equipped with a filter, no doubt as a result of a subsidy of 600 Euro that buyers receive in this case.

Other news

The Environment Council has reached an agreement on the revision of the Waste Framework Directive 2006/12/EC (adopted on 5 April 2006 as a replacement of the often amended Directive 75/442 on waste). Contrary to the present situation under the ECJ rulings in cases C-458/00 (Commission vs. Luxembourg) and C-228/00 (Commission vs. Germany), efficient waste incineration may now be classified as recovery operations. The ministers also confirmed their ambitions for a five stage waste hierarchy and found a solution for the disagreements on imports and exports of waste bound for recovery. The Council agreement received a lot of critique from environmental NGOs, but was supported by industry.

The Commission has published a green paper on options for EU action to adapt to climate change in Europe. The main point of this paper is that Europe faces a great challenge, because greenhouse gas emissions must be reduced drastically, and in the meantime measures must be taken to combat adverse impacts of climate change. The paper argues that all actors should be involved and therefore it recognises four priority actions: early action strategy development, global action, research and information gathering and setting up a European advisory group.

The European Commission has proposed aligning the EU system of classification labelling and packaging to the standards laid down in the UN's Globally Harmonised System (GHS). The Commission proposes replacing Directive 67/548/EEC (on labelling packaging and classification of substances) and 1999/45/EC (on preparations) by a new Regulation, which should contribute to the protection of human health and the environment from the effect of dangerous chemicals.

The European Parliament has voted for a Regulation on the banning of exports and the safe storage of metallic mercury (European Commission proposal COM(2006)0636). In this vote MEPs supported the idea of bringing forward the date of banning EU mercury exports. Additionally they opted for stricter regulations the laid down in the Commission proposal on the storage of mercury, and ask for a ban on mercury ore, mercury compounds and metallic mercury imports as of July 2010.

Dutch minister of environment, Jacqueline Cramer, has received a report on energy saving plans. This report is titled "Meer voor minder" (More for less) and was put together by three market parties in the energy sector.

The report states that by taking energy saving measures in existing buildings, it is possible to reduce the energy usage of more than half the building by more than 30 percent, within the upcoming twelve years.

Detailed proposals for the implementation of the UK's emissions trading scheme for large organisations in business and the public sector were set out on 13th June. The Carbon Reduction Commitment, announced in May's Energy White Paper, is a mandatory cap and trade scheme that will cap emissions from up to 5000 large business and public sector organisations. This is an auction-based emissions trading scheme for organisations using more than 6000 MWh/year from mandatory half-hour meters, equivalent to an electricity bill of around £500,000 a year at current prices. More details on the

consultation, which will run until 9 October, can be found at:
<http://www.defra.gov.uk/corporate/consult/carbon-reduc/>

The UK government published the *Household Energy Supplier Obligation from 2011: A Call for Evidence*, outlining the potential role of energy companies in increasing household energy efficiency until 2020 and cutting household emissions by up to 10%. Emissions from homes account for over a quarter of the UK's total emissions. An option being considered includes putting a cap on overall carbon emissions – setting an explicit obligation to reduce the carbon footprint of energy supplier's customers year on year. Alternatively, there could be an enhanced version of the current requirements under the Energy Efficiency Commitment Framework. The Supplier Obligation call for evidence can be found at: <http://www.defra.gov.uk/environment/climatechange/uk/household/supplier/index.htm>

UK ENVIRONMENTAL LAW ASSOCIATION

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For information about working parties and events, including copies of all recent submissions contact.

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E - LAW

The editorial team want articles, news and views from you for the next edition due to go out at in September 2007.

All contributions should be dispatched to Catherine Davey as soon as possible by email at:

catherine.davey@stevens-bolton.co.uk by 12 September 2007

Please use Arial font 11pt. Single space.

Letters to the editor will be published, space permitting

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ⁱ See UKELA Strategic Plan 2006-9 at:

<http://www.ukela.org/Downloads/Strategic%20Plan%202006%20-%202009.doc>

ⁱⁱ Baldwin and Cave, *Understanding Regulation: Theory, Strategy, Practice* (Oxford, 1999).

ⁱⁱⁱ *Regulation – Less is More: Reducing Burdens, Improving Outcomes* (March 2005):

<http://www.brc.gov.uk/downloads/pdf/lessismore.pdf>. On the Better Regulation Executive see:

<http://www.cabinetoffice.gov.uk/regulation>.

^{iv} *Delivering for the Environment: A 21st Century Approach to Regulation* (Environment Agency for England and Wales, 2003); European Commission Communications, *European Governance: Better lawmaking* (COM (2002) 275 final) and *Action Plan “Simplifying and improving the regulatory environment”* (COM 2002 (278) final).

^v *The Contribution of Good Environmental Regulation to Competitiveness: Paper by the Network of Heads of European Environment Protection Agencies* (2005): http://www.environment-agency.gov.uk/commondata/acrobat/prague_1229630.pdf

^{vi} See generally: http://ec.europa.eu/enterprise/regulation/better_regulation/index_en.htm; Commission Communication, *Better Regulation for Growth and Jobs in the European Union* (COM (2005) 97 final).

^{vii} COM (2005) 462 final.

^{viii} SEC (2005) 791;

http://ec.europa.eu/enterprise/regulation/better_regulation/impact_assessment/index.htm.

^{ix} COM (2005) 535 final; http://ec.europa.eu/enterprise/regulation/better_regulation/simplification.htm.

^x <http://www.oecd.org/dataoecd/19/51/37318586.pdf#search=%22oecd%20better%20regulation%22>

^{xi} E.g., in relation to abstraction licensing In England and Wales

<http://www.defra.gov.uk/environment/water/resources/abstraction/index.htm>, and the different approach taken to “controlled activities” in Scotland .

^{xii} []

^{xiii} <http://www.defra.gov.uk/environment/epp/> where a number of consultations can be accessed; see also (2006) 380 ENDS Report 3 and 38; (2006) 374 ENDS Report 36.

^{xiv} <http://www.defra.gov.uk/environment/water/marine/uk/policy/marine-bill/index.htm>

^{xv} http://www.cabinetoffice.gov.uk/regulation/reviewing_regulation/penalties/index.asp

^{xvi} <http://www.defra.gov.uk/corporate/regulat/rtf/rtf-report-0404.pdf>

^{xvii} <http://www.hm-treasury.gov.uk/media/A63/EF/bud05hamptonv1.pdf>

^{xviii} n. 1 above.

^{xix} <http://www.defra.gov.uk/corporate/regulat/regulat.asp>

^{xx} http://www.cabinetoffice.gov.uk/regulation/reviewing_regulation/davidson_review/index.asp

^{xxi} <http://www.defra.gov.uk/environment/enforcement/index.htm>