

# Environment Bill

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## AMENDMENTS TO BE MOVED ON REPORT

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### Clause 3

LORD GOLDSMITH OF RICHMOND PARK

Page 3, line 6, leave out “further the objective of halting” and insert “halt”

***Member’s explanatory statement***

*This amendment requires the Secretary of State, when setting or amending the species abundance target, to be satisfied that meeting the target or the amended target would halt a decline in the abundance of species.*

### Clause 25

LORD GOLDSMITH OF RICHMOND PARK

Page 15, line 18, leave out subsections (3) and (4)

***Member’s explanatory statement***

*This amendment is consequential on Lord Goldsmith’s next amendment to Clause 25.*

Page 15, line 21, at end insert –

- “(6) Before issuing the guidance, the Secretary of State must –
  - (a) prepare a draft, and
  - (b) lay the draft before Parliament.
- (7) If before the end of the 21 day period –
  - (a) either House of Parliament passes a resolution in respect of the draft guidance, or
  - (b) a committee of either House of Parliament, or a joint committee of both Houses, makes recommendations in respect of the draft guidance,the Secretary of State must produce a response and lay it before Parliament.
- (8) The Secretary of State may prepare and lay before Parliament the final guidance, but not before –
  - (a) if subsection (7) applies, the day on which the Secretary of State lays the response required by that subsection, or

**Clause 25 - continued**

- (b) otherwise, the end of the 21 day period.
- (9) The final guidance has effect when it is laid before Parliament.
- (10) The Secretary of State must publish the guidance when it comes into effect.
- (11) The “21 day period” is the period of 21 sitting days beginning with the first sitting day after the day on which the draft guidance is laid under subsection (6).
- (12) “Sitting day” means a day on which both Houses of Parliament sit.
- (13) The Secretary of State may revise the guidance at any time (and subsections (6) to (12) apply in relation to any revised guidance).”

***Member’s explanatory statement***

*This amendment provides for Parliamentary scrutiny of draft guidance under Clause 25.*

**Clause 57**

LORD GOLDSMITH OF RICHMOND PARK

Page 39, line 33, at end insert –

“(7) The Secretary of State must lay before Parliament, and publish, the guidance.”

***Member’s explanatory statement***

*This amendment requires guidance under inserted section 45AZE of the Environmental Protection Act 1990 concerning the separation of waste to be laid before Parliament and published.*

**Clause 58**

LORD GOLDSMITH OF RICHMOND PARK

Page 43, line 46, at end insert “or the Scottish Environment Protection Agency”

***Member’s explanatory statement***

*This amendment allows the Scottish Ministers to make provision under the new section 34CA(1) of the Environmental Protection Act 1990 so as to empower the Scottish Environment Protection Agency to impose civil sanctions.*

**Clause 64**

LORD GOLDSMITH OF RICHMOND PARK

Page 57, line 28, after “Schedule 4” insert “or 5”

***Member’s explanatory statement***

*This amendment enables the Environment Agency, the Natural Resources Body for Wales and the Scottish Environment Protection Agency to require payment of charges to recover the costs of their functions under regulations under Schedule 5 to the Bill.*

**Clause 65**

LORD GOLDSMITH OF RICHMOND PARK

Page 58, line 41, after “Schedule 4” and insert “or 5”

***Member’s explanatory statement***

*This amendment enables the Department of Agriculture, Environment and Rural Affairs in Northern Ireland to require payment of charges to recover the costs of its functions under regulations under Schedule 5 to the Bill.*

**Clause 68**

LORD GOLDSMITH OF RICHMOND PARK

Page 62, line 21, at end insert –

- “(4A) The Secretary of State must lay before Parliament and publish guidance, and any revised guidance, issued by the Secretary of State under this section.
- (4B) The Welsh Ministers must lay before Senedd Cymru and publish guidance, and any revised guidance, issued by the Welsh Ministers under this section.”

***Member’s explanatory statement***

*This amendment requires guidance under inserted section 88B of the Environmental Protection Act 1990 concerning littering enforcement to be laid before Parliament or Senedd Cymru as appropriate, and published.*

**Clause 74**

LORD GOLDSMITH OF RICHMOND PARK

Page 65, line 10, leave out “negative” and insert “affirmative”

***Member’s explanatory statement***

*This amendment provides for regulations under Clause 74 to be subject to affirmative procedure.*

**After Clause 80**

LORD GOLDSMITH OF RICHMOND PARK

Insert the following new Clause –

**“Reporting on discharges from storm overflows**

In Chapter 4 of Part 4 of the Water Industry Act 1991 (as inserted by section 80 above), after section 141D insert –

**“141DA Reporting on discharges from storm overflows**

- (1) Where there is a discharge from a storm overflow of a sewerage undertaker whose area is wholly or mainly in England, the undertaker must publish the following information –
- (a) that there has been a discharge from the storm overflow;
  - (b) the location of the storm overflow;

**After Clause 80 - continued**

- (c) when the discharge began;
- (d) when the discharge ended.
- (2) The information referred to in subsection (1)(a) to (c) must be published within an hour of the discharge beginning; and that referred to in subsection (1)(d) within an hour of it ending.
- (3) The information must –
  - (a) be in a form which allows the public readily to understand it, and
  - (b) be published in a way which makes it readily accessible to the public.
- (4) The duty of a sewerage undertaker under this section is enforceable under section 18 by –
  - (a) the Secretary of State, or
  - (b) the Authority, with the consent of or in accordance with a general authorisation given by the Secretary of State.
- (5) The Secretary of State may by regulations make provision for exceptions from the duty in subsection (1) or (2) (for example, by reference to descriptions of storm overflows, frequency of discharge or the level of risk to water quality).
- (6) Before making regulations under this section the Secretary of State must consult such persons as the Secretary of State considers appropriate.
- (7) The Secretary of State may not make regulations under this section unless a draft of the statutory instrument containing the regulations has been laid before, and approved by resolution of, each House of Parliament.””

***Member’s explanatory statement***

*This amendment requires sewerage undertakers in England to report in near-real time on the duration and volume of storm overflow discharges.*

Insert the following new Clause –

**“Monitoring quality of water potentially affected by discharges**

- (1) In Chapter 4 of Part 4 of the Water Industry Act 1991, after section 141DA insert –

**“141DB Monitoring quality of water potentially affected by discharges from storm overflows and sewage disposal works**

- (1) A sewerage undertaker whose area is wholly or mainly in England must continuously monitor the quality of water upstream and downstream of an asset within subsection (2) for the purpose of obtaining the information referred to in subsection (3).
- (2) The assets referred to in subsection (1) are –
  - (a) a storm overflow of the sewerage undertaker, and
  - (b) sewage disposal works comprised in the sewerage system of the sewerage undertaker,
 where the storm overflow or works discharge into a watercourse.
- (3) The information referred to in subsection (1) is information as to the quality of the water by reference to –

**After Clause 80 - continued**

- (a) levels of dissolved oxygen,
  - (b) temperature and pH values,
  - (c) turbidity,
  - (d) levels of ammonia, and
  - (e) anything else specified in regulations made by the Secretary of State.
- (4) The duty of a sewerage undertaker under this section is enforceable under section 18 by –
- (a) the Secretary of State, or
  - (b) the Authority, with the consent of or in accordance with a general authorisation given by the Secretary of State.
- (5) The Secretary of State may by regulations make –
- (a) provision as how the duty under subsection (1) is to be carried out (for example, provision as to the type of monitor to be used and where monitors must be placed);
  - (b) provision for exceptions from the duty in subsection (1) (for example, by reference to descriptions of asset, frequency of discharge from an asset or the level of risk to water quality);
  - (c) provision for the publication by sewerage undertakers of information obtained pursuant to subsection (1).
- (6) Before making regulations under this section the Secretary of State must consult such persons as the Secretary of State considers appropriate.
- (7) The Secretary of State may not make regulations under this section unless a draft of the statutory instrument containing the regulations has been laid before, and approved by resolution of, each House of Parliament.”
- (2) In section 213 of the Water Industry Act 1991 (power to make regulations) in subsection (1), for “or 105A” substitute “105A, 141DA or 141DB”.

***Member’s explanatory statement***

*This amendment requires sewerage undertakers to monitor and report on the quality of water in watercourses potentially impacted by discharges from storm overflows and sewage disposal works.*

Insert the following new Clause –

**“Report on elimination of discharges from storm overflows**

- (1) The Secretary of State must prepare a report on –
  - (a) the actions that would be needed to eliminate discharges from the storm overflows of sewerage undertakers whose areas are wholly or mainly in England, and
  - (b) the costs and benefits of those actions.
- (2) The Secretary of State must publish the report before 1 September 2022.
- (3) The report must be laid before Parliament once it is published.”

**Member's explanatory statement**

*This amendment requires the Secretary of State to produce a report on the actions that would be needed to eliminate discharges from storm overflows in England, and their costs and benefits, before 1 September 2022.*

**After Clause 88**

LORD BERKELEY

Insert the following new Clause—

**“Isles of Scilly: disapplication of water quality legislation**

- (1) Article 3 of the Isles of Scilly (Application of Water Legislation) Order 2020 (S.I. 2020/214) has effect as if—
  - (a) at the end of paragraph (1) there were inserted “and to paragraph (3)”, and
  - (b) after paragraph (2) there were inserted—
    - “(3) Part 3 of the Water Resources Act 1991 does not apply to the following islands—
    - (a) Bryher;
    - (b) St Martins;
    - (c) St Agnes.”
- (2) Accordingly, no charges may be levied under the Environment Agency (Environmental Permitting) (England) Charging Scheme in relation to the application of the Order on those islands.
- (3) Subsections (1) and (2) are repealed if a nominated water or sewerage undertaker has demonstrated to the Water Services Regulation Authority and the Environment Agency that it has invested in infrastructure so as to comply with the requirements of the Order.”

**Clause 90**

LORD GOLDSMITH OF RICHMOND PARK

Page 90, line 17, leave out “, in particular,”

**Member's explanatory statement**

*This amendment, together with Lord Goldsmith's other amendments to Clause 90, changes a consequential amendment power being inserted into the Land Drainage Act 1991 from a power to amend any Act, to a power to amend the Land Drainage Act 1991.*

Page 90, line 18, leave out “, repeals or revokes” and insert “or repeals”

**Member's explanatory statement**

*See Lord Goldsmith's amendment to Clause 90, page 90, line 17.*

Page 90, line 19, leave out “an enactment (including”

**Member's explanatory statement**

*See Lord Goldsmith's amendment to Clause 90, page 90, line 17.*

**Clause 92**

LORD GOLDSMITH OF RICHMOND PARK

Page 93, line 19, leave out “, in particular,”

***Member’s explanatory statement***

*This amendment, together with Lord Goldsmith’s other amendments to Clause 92, changes a consequential amendment power being inserted into the Land Drainage Act 1991 from a power to amend any Act, to a power to amend the Land Drainage Act 1991.*

Page 93, line 20, leave out “, repeals or revokes” and insert “or repeals”

***Member’s explanatory statement***

*See Lord Goldsmith’s amendment to Clause 92, page 93, line 19.*

Page 93, line 21, leave out “an enactment (including”

***Member’s explanatory statement***

*See Lord Goldsmith’s amendment to Clause 92, page 93, line 19.*

**Clause 96**

LORD GOLDSMITH OF RICHMOND PARK

Page 98, line 48, at end insert –

“(6A) Regulations under this section may amend subsection (2)(b) so as to substitute for the period for the time being specified there a different period of at least 30 years.”

***Member’s explanatory statement***

*This amendment allows the Secretary of State to vary the period for which habitat enhancement of biodiversity gain sites must be maintained, subject to a minimum of 30 years.*

Page 99, line 3, at end insert –

“(8A) The Secretary of State must keep under review –

- (a) the supply of land for registration in the biodiversity gain site register;
- (b) whether the period specified in subsection (2)(b) or in paragraph 9(3) of Schedule 7A to the Town and Country Planning Act 1990 can be increased under subsection (6A) or paragraph 9(4) of that Schedule without adversely affecting that supply.”

***Member’s explanatory statement***

*This amendment requires the Secretary of State to keep under review the supply of land for registration in the biodiversity gain site register and whether the period for which habitat enhancement must be maintained could be increased (see Lord Goldsmith’s amendment to Schedule 14).*

**Clause 98**

LORD GOLDSMITH OF RICHMOND PARK

Page 101, line 9, at end insert –

- “(2B) The Secretary of State must issue guidance to local planning authorities as to how they are to comply with their duty under subsection (2A)(a) when complying with subsections (1) and (1A) in their capacity as such authorities.
- (2C) Guidance under subsection (2B) must be –
- (a) published by the Secretary of State in such manner as the Secretary of State thinks fit,
  - (b) kept under review, and
  - (c) revised where the Secretary of State considers it appropriate.
- (2D) The first guidance under subsection (2B) must be published by the Secretary of State within the period of two years beginning with the day on which section 98 of the Environment Act 2021 comes into force.”

***Member’s explanatory statement***

*This amendment requires the Secretary of State to give guidance to local planning authorities as to how they are to take a local nature recovery strategy into account when discharging their duties under new section 40(1) and (1A) of the Natural Environment and Rural Communities Act 2006 concerning the conservation and enhancement of biodiversity.*

**Clause 102**

LORD GOLDSMITH OF RICHMOND PARK

Page 104, line 42, at end insert –

“(7) The Secretary of State must lay before Parliament, and publish, the guidance.”

***Member’s explanatory statement***

*This amendment requires guidance under Clause 102 of the Bill concerning the content of local nature recovery strategies to be laid before Parliament and published.*

**Clause 105**

LORD GOLDSMITH OF RICHMOND PARK

Page 106, line 34, at end insert –

“(7A) The Secretary of State must lay before Parliament, and publish, the guidance.”

***Member’s explanatory statement***

*This amendment requires guidance under Clause 105 of the Bill concerning species conservation strategies to be laid before Parliament and published.*

**Clause 106**

LORD GOLDSMITH OF RICHMOND PARK

Page 108, line 40, at end insert –

“(8A) The Secretary of State must lay before Parliament, and publish, the guidance.”



**Member's explanatory statement**

*This amendment requires guidance under Clause 106 of the Bill concerning protected site strategies to be laid before Parliament and published.*

**Clause 142**

LORD GOLDSMITH OF RICHMOND PARK

Page 129, line 4, at end insert –

“( ) section (*Report on elimination of discharges from storm overflows*) (report on elimination of discharges from storm overflows) extends to England and Wales;”

**Member's explanatory statement**

*This amendment provides for the duty of the Secretary of State to prepare a report on the elimination of discharges from storm overflows to extend to England and Wales.*

**Clause 143**

LORD GOLDSMITH OF RICHMOND PARK

Page 130, line 4, at end insert “and section (*Report on elimination of discharges from storm overflows*) (report on elimination of discharges from storm overflows);”

**Member's explanatory statement**

*This amendment provides for the duty of the Secretary of State to prepare a report on the elimination of discharges from storm overflows to come into force two months after Royal Assent.*

Page 130, line 29, at end insert –

“(la) sections (*Reporting on discharges from storm overflows*) and (*Monitoring quality of water potentially affected by discharges*) (reporting and monitoring duties relating to discharges from storm overflows etc);”

**Member's explanatory statement**

*This amendment provides for the proposed new duties of sewerage undertakers relating to reporting and monitoring to come into force by commencement regulations.*

**Schedule 3**

LORD GOLDSMITH OF RICHMOND PARK

Page 160, leave out lines 12 to 14

**Member's explanatory statement**

*This amendment is consequential on Lord Goldsmith's next amendment to Schedule 3.*

Page 160, line 16, at end insert –

“(6) Before issuing the guidance, the Department must –  
(a) prepare a draft, and  
(b) lay the draft before the Northern Ireland Assembly.

**Schedule 3 - continued**

- (7) If before the end of the 21 day period the Northern Ireland Assembly passes a resolution in respect of the draft guidance, the Department must produce a response and lay it before the Assembly.
- (8) The Department may prepare and lay before the Northern Ireland Assembly the final guidance, but not before—
  - (a) if subsection (7) applies, the day on which the Department lays the response required by that subsection, or
  - (b) otherwise, the end of the 21 day period.
- (9) The final guidance has effect when it is laid before the Northern Ireland Assembly.
- (10) The Department must publish the guidance when it comes into effect.
- (11) The “21 day period” is the period of 21 sitting days beginning with the first sitting day after the day on which the draft guidance is laid under subsection (6).
- (12) “Sitting day” means a day on which the Northern Ireland Assembly sits.
- (13) The Department may revise the guidance at any time (and subsections (6) to (12) apply in relation to any revised guidance).”

***Member’s explanatory statement***

*This amendment provides for scrutiny by the Northern Ireland Assembly of draft guidance relating to the OEP’s Northern Ireland enforcement functions.*

**Schedule 5**

LORD GOLDSMITH OF RICHMOND PARK

Page 171, line 37, after “appoint” insert “, or make provision for the appointment of,”

***Member’s explanatory statement***

*This amendment enables regulations to make provision for the appointment of an administrator for extended producer responsibility.*

**Schedule 10**

LORD GOLDSMITH OF RICHMOND PARK

Page 193, line 23, after “without” insert—

- “(a) the consent of a person entitled to grant access to material on or accessible from the premises, or
- (b) ”.

***Member’s explanatory statement***

*This amendment clarifies that the powers of search etc in inserted paragraph (ka) of section 108(4) of the Environment Act 1995 may be exercised with consent as well as with a warrant.*

Page 193, line 27, after “without” insert “consent or”

***Member’s explanatory statement***

*This amendment is consequential on Lord Goldsmith’s amendment to Schedule 10, page 193, line 23.*

Page 193, line 35, after “require” insert “consent or”

***Member’s explanatory statement***

*This amendment is consequential on Lord Goldsmith’s amendment to Schedule 10, page 193, line 23.*

Page 193, line 37, after “done” insert “without them”

***Member’s explanatory statement***

*This amendment is consequential on Lord Goldsmith’s amendment to Schedule 10, page 193, line 23.*

#### **Schedule 14**

##### **LORD GOLDSMITH OF RICHMOND PARK**

Page 222, line 17, at end insert –

“(6) The Secretary of State must lay the biodiversity metric, and any revised biodiversity metric, before Parliament.”

***Member’s explanatory statement***

*This amendment requires the Secretary of State to lay the biodiversity metric and any revised biodiversity metric before Parliament.*

Page 223, line 48, at end insert –

“(4) The Secretary of State may by regulations amend sub-paragraph (3) so as to substitute for the period for the time being specified there a different period of at least 30 years.”

***Member’s explanatory statement***

*This amendment allows the Secretary of State to vary the period for which onsite habitat enhancement must be maintained, subject to a minimum of 30 years.*

# Environment Bill

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*26 August 2021*

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