

Environment Bill

THIRD
MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
ON REPORT

The amendments have been marshalled in accordance with the Order of 6th September 2021, as follows –

Clauses 1 to 21	Schedule 11
Schedule 1	Clause 72
Clauses 22 to 47	Schedule 12
Schedule 2	Clauses 73 to 80
Clause 48	Schedule 13
Schedule 3	Clauses 81 to 92
Clause 49	Schedule 14
Schedule 4	Clauses 93 to 107
Clause 50	Schedule 15
Schedule 5	Clauses 108 and 109
Clause 51	Schedule 16
Schedule 6	Clauses 110 to 123
Clause 52	Schedule 17
Schedule 7	Clauses 124 to 130
Clause 53	Schedule 18
Schedule 8	Clauses 131 and 132
Clause 54	Schedule 19
Schedule 9	Clause 133
Clauses 55 to 65	Schedule 20
Schedule 10	Clauses 134 to 141
Clauses 66 to 71	Title

[Amendments marked ★ are new or have been altered]

**Amendment
No.**

Schedule 9

BARONESS JONES OF WHITCHURCH
VISCOUNT COLVILLE OF CULROSS
BARONESS BAKEWELL OF HARDINGTON MANDEVILLE

40

Page 188, line 39, leave out paragraph (b) and insert –

“(b) are made of plastic or any other single use material, and”

Member's explanatory statement

This amendment would broaden the proposed power in Clause 55 to enable regulations to be made about charges on all single use items, including plastic. This would provide a tool for Ministers to address single use culture and prevent existing materials being replaced by alternatives which cause similar levels of environmental harm.

Clause 57

BARONESS BAKEWELL OF HARDINGTON MANDEVILLE
BARONESS JONES OF MOULSECOOMB

41 Page 35, line 23, at end insert –

“(8A) The fifth condition is that flexible compostable materials must be collected alongside food waste, and must not except in exceptional circumstances be incinerated or landfilled at the end of life.

(8B) For the purposes of subsection (8A), “flexible compostable materials” means items independently certified in accordance with BS EN 13432 or BS EN 14995.”

LORD GOLDSMITH OF RICHMOND PARK

42 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

43 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

44 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

45 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.

Schedule 10

LORD GOLDSMITH OF RICHMOND PARK

46 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.

47 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.

48 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.

49 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.

Clause 68

LORD GOLDSMITH OF RICHMOND PARK

50 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.

Clause 68 - continued

- (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.

After Clause 73

BARONESS SHEEHAN
LORD BERKELEY
BARONESS FINLAY OF LLANDAFF
BARONESS WALMSLEY

51 Insert the following new Clause –

“Air quality: speed limits

- (1) The national speed limit for restricted roads in England is 20 miles per hour.
- (2) Nothing in this section affects the power of traffic authorities responsible for such roads to make exceptions to the national speed limit where appropriate.”

Member’s explanatory statement

The purpose of this amendment is to reduce the number of fine particulates released into the air from non-exhaust emissions (NEE), such as brake, tyre and road surface wear, by lowering the speed of traffic and promote driving behaviour that reduces braking and higher-speed cornering. Lowering speed limits is also intended to reduce the projected increase in electricity demand on the grid as EVs replace ICE vehicles.

LORD WHITTY
BARONESS BENNETT OF MANOR CASTLE
LORD RANDALL OF UXBRIDGE
BARONESS FINLAY OF LLANDAFF

52 Insert the following new Clause –

“Air quality and human health in rural areas: application of pesticides

- (1) The Secretary of State must by regulations make provision prohibiting the application of pesticides for the purposes of agriculture or horticulture near –
 - (a) buildings used for human habitation, and
 - (b) public or private buildings and associated open spaces where members of the public may be present, including but not limited to –
 - (i) schools and childcare nurseries, and
 - (ii) hospitals and health care facilities.
- (2) Regulations under subsection (1) must specify a minimum distance from any of the locations listed under subsection (1) to be maintained during the application of any pesticide.

After Clause 73 - continued

- (3) In determining the distance in subsection (2) the Secretary of State must be guided by the optimum distance that would make a significant difference in air quality for people using the locations listed in subsection (1).
- (4) In this section “public building” includes any building used for the purpose of education.
- (5) Regulations under this section are subject to the affirmative procedure.”

Member’s explanatory statement

In order to improve air quality and thereby protect human health and the environment in rural areas, this new Clause would require the Secretary of State to make regulations to prohibit the application of chemical pesticides near buildings and open spaces used by residents and members of the public.

BARONESS BAKEWELL OF HARDINGTON MANDEVILLE
BARONESS JONES OF WHITCHURCH

53

Insert the following new Clause –

“Protection of pollinators from pesticides

- (1) A competent authority must not authorise for use any pesticide product, active ingredient, safener or synergist unless it is satisfied that there will be no significant short-term negative effect, and no long-term negative effect, on the health of honeybees or wild pollinator populations.
- (2) A pollinator risk assessment report relating to the relevant substance must be published by an expert body.
- (3) The expert body must consist of individuals free from vested interests in pesticide use, who shall have been independently appointed.
- (4) The pollinator risk assessment report must include –
 - (a) data examining acute and chronic effects of the relevant substance on honeybees, bumblebees, solitary bees, butterflies and hoverflies,
 - (b) all relevant available scientific evidence relating to any pollinators,
 - (c) conclusions relating to the likely acute and chronic effects of the relevant substance on honeybees, bumblebees, solitary bees, butterflies, hoverflies and other pollinators,
 - (d) an assessment of the likelihood of synergistic effects, and
 - (e) the identification of any risks to pollinators where the available evidence is insufficient to reach a conclusion.
- (5) The expert body must consult the public on the draft content of the pollinator risk assessment report.
- (6) When making any authorisation decision the competent authority must –
 - (a) aim to achieve a high level of protection for pollinators,
 - (b) be satisfied that the requirements of subsections (2) to (5) have been met,
 - (c) consult all relevant authorities with environmental responsibilities,
 - (d) consult such other persons as the competent authority considers appropriate,

After Clause 73 - continued

- (e) lay before Parliament, and publish, a statement explaining why the competent authority is satisfied that the requirements of subsection (1) have been met,
 - (f) ensure the public has been informed by public notice early in the decision-making procedure, and in an adequate, timely and effective manner, that a decision will be made, and
 - (g) ensure the public has been consulted on the decision that the competent authority intends to make, including on any mitigation or restriction measures that are proposed.
- (7) The consultation period for the purposes of subsection (6)(g) must be of at least three months, except for emergency derogations where the period will be at least four weeks.
- (8) This section comes into force on 1 February 2023.
- (9) In this section—
- “authorisation of use” includes authorisation by derogation;
- “competent authority” means—
- (a) in relation to England, the Secretary of State;
 - (b) in relation to Wales, the Welsh Ministers;
 - (c) in relation to Scotland, the Scottish Ministers;
 - (d) the Secretary of State when acting with the consent of either or both the Welsh Ministers in relation to Wales and the Scottish Ministers in relation to Scotland.”

Member’s explanatory statement

The aim of this new Clause is to fix a gap in the pesticide authorisation process which currently omits any assessment on the long-term effects of pesticides on honey bees and omits any assessment of the effects on wild pollinators.

LORD KENNEDY OF SOUTHWARK
BARONESS JONES OF MOULSECOOMB

54

Insert the following new Clause—

“Air pollution and health

- (1) In performing duties under this section, the Secretary of State must ensure that protecting the health of members of the public is central to all government policies, guidance or otherwise.
- (2) The Secretary of State must—
 - (a) establish long-term targets for particulate matter, at levels which are no weaker than those set out in World Health Organization guidance as issued from time to time,
 - (b) achieve compliance with those targets as soon as possible,
 - (c) monitor air quality,
 - (d) publish live monitoring data and supplementary information in such a form that individuals understand their personal exposure to air pollution,

After Clause 73 - continued

- (e) provide public information at a national and local level to increase public awareness, in particular among vulnerable groups, of air pollution levels, health risks associated with air pollution and steps that would help to reduce personal exposure to air pollution, and
 - (f) ensure that the education, training and guidance given to healthcare professionals equips them to communicate the adverse effects of air pollution on health to patients and their carers.
- (3) For the purposes of subsection (2)(c) and (d), the Secretary of State must ensure that, within an area where air quality is poor, there are sufficient air quality monitors to ensure reasonable accuracy in relation to specific neighbourhoods within that area.”

LORD TOPE
 BARONESS JONES OF MOULSECOOMB
 LORD WHITTY
 LORD RANDALL OF UXBRIDGE

55

Insert the following new Clause –

“Air quality improvement areas

- (1) Where the air in a local authority area or any part thereof exceeds –
- (a) any air quality target set for NO₂ or PM₁₀ under section 1 (environmental targets),
 - (b) the PM_{2.5} air quality target set under section 2 (environmental targets: particulate matter), or
 - (c) the latest published World Health Organization guidelines for any of the air pollutants referred to in paragraph (a) or (b),
- the local authority for that area may designate the area, or part thereof, as an air quality improvement area.
- (2) Any designation under subsection (1) must –
- (a) state the date and time from which the designation is to take effect,
 - (b) state which restrictions are to apply in the area and to which types of plant,
 - (c) state the date and time from which each restriction is to apply (which may not be before the date and time referred to in subsection (2)(a)), and
 - (d) include a map of the area which exceeds any air quality target or guideline referred to in subsection (1) and which is to be designated.
- (3) At least two months before such a designation takes effect, the local authority must publish details of the designation giving a description of its effect (including which restrictions are to apply in the area) –
- (a) on the local authority’s website, and
 - (b) by advertisement in a newspaper circulating in the area to which the designation relates, such notice to be published on two separate occasions, the first publication to be not more than seven days after the making of the designation.

After Clause 73 - continued

- (4) The restrictions that the local authority may state are to apply in the area to which the designation relates under subsection (2) are such restrictions as may be applied in an air quality improvement area under regulations under this section.
- (5) The Secretary of State must make regulations specifying the restrictions that may be applied in an air quality improvement area.
- (6) Regulations under this section may –
- (a) include restrictions as to the type of plant that must or may not be used in an air quality improvement area including by reference to the amount of NO_x and PM emitted by that plant,
 - (b) include restrictions as to the time of day, period or occasion when the operation of stationary generators is prohibited in any premises in an air quality improvement area except during disruption of the supply of electricity to the premises,
 - (c) specify that restrictions apply only in respect of plant to be installed after a particular date,
 - (d) make different provision for different sizes or types of plant,
 - (e) make supplemental, incidental, transitional or consequential provision, and
 - (f) provide that breach of any of the regulations is to be an offence punishable on summary conviction by a fine not exceeding level 5 on the standard scale.
- (7) Regulations under this section –
- (a) are to be made by statutory instrument, and
 - (b) are subject to annulment in pursuance of a resolution of either House of Parliament.
- (8) In this section –
- “local authority” means –
- (a) any unitary authority in England,
 - (b) any district council in England, so far as it is not a unitary authority,
 - (c) the Common Council of the City of London in its capacity as a local authority and, as respects the Temples, the Sub-Treasurer of the Inner Temple and the Under-Treasurer of the Middle Temple respectively;
- “NO_x” means oxides of nitrogen comprising the sum of the volume mixing ratio (parts per billion by volume) of nitrogen monoxide (nitric oxide) and nitrogen dioxide expressed in units of mass concentration of nitrogen dioxide (g/m³ microgrammes per cubic metre);
- “plant” includes –
- (a) boilers fired by gaseous fuels which have a rated heat output of less than 1MW,
 - (b) non-road mobile machinery,
 - (c) stationary generators with a rated thermal input equal to or less than 1MW,
 - (d) solid fuel boilers with a rated heat output of less than 1MW,

After Clause 73 - continued

- (e) combined cooling, heat and power plant, and
- (f) combined heat and power plant;

“PM” means any particulate matter;

“unitary authority” means—

- (a) the council of a county, so far as it is the council of an area for which there are no district councils;
- (b) the council of any district comprised in an area for which there is no county council;
- (c) the council of a London borough.”

Member’s explanatory statement

This new Clause grants discretionary powers to local authorities in England to control emissions from combustion plant where the air in their area exceeds air quality targets or World Health Organization guidelines. The new Clause enables local authorities to designate their area an ‘Air Quality Improvement Area’, and requires the Secretary of State to specify by regulations the restrictions that may be applied by local authorities in an Air Quality Improvement Area.

LORD TOPE
BARONESS JONES OF MOULSECOOMB
LORD WHITTY

56 Insert the following new Clause—

“Stationary idling: increase of penalties

(1) In relation to a stationary idling offence committed in an air quality improvement area—

- (a) regulation 8(b) of the 2002 Regulations has effect as if for “£20” there were substituted “£100”;
- (b) regulation 17(6)(c) of the 2002 regulations has effect as if for “£20” there were substituted “£100” and for “£40” there were substituted “£150”.

(2) In this section—

“air quality improvement area” means an area so designated under section (*Air quality improvement areas*);

“stationary idling offence” means a contravention of, or failure to comply with, so much of regulation 98 of the Road Vehicles (Construction and Use) Regulations 1986 (S.I. 1986/1078) (stopping of engine when stationary) as relates to the prevention of exhaust emissions;

“the 2002 regulations” means the Road Traffic (Vehicle Emissions) (Fixed Penalty) (England) Regulations 2002 (S.I. 2002/1808).”

BARONESS JONES OF MOULSECOOMB

57 Insert the following new Clause—

“Air quality improvement areas

(1) Where the air in a local authority area or any part thereof exceeds—

- (a) any national air quality target set for NO₂, PM_{2.5} or PM₁₀ under section 1 (Environmental targets),

After Clause 73 - continued

- (b) the PM_{2.5} air quality targets set under section 2 (Environmental targets: particulate matter), or
- (c) the latest published World Health Organization guidelines for one or more air pollutants referred to in paragraph (a) or (b),

the local authority or the metro mayor for that area may designate the area, or part thereof, as an air quality improvement area.

- (2) Any designation under subsection (1) must –
 - (a) state the date and time from which the designation is to take effect,
 - (b) state which restrictions are to apply in the area and to which types of plant,
 - (c) state the date and time from which each restriction is to apply (which may not be before the date and time referred to in subsection (2)(a)), and
 - (d) include a map of the area which exceeds any air quality target or guideline referred to in subsection (1) and which is to be designated.
- (3) At least two months before such a designation takes effect, the designating local authority or metro mayor must publish details of the designation giving a description of its effect (including which restrictions are to apply in the area) –
 - (a) on the local authority's or the metro mayor's website, and
 - (b) by advertisement in a newspaper circulating in the area to which the designation relates, such notice to be published on two separate occasions, the first publication to be not more than seven days after the making of the designation.
- (4) The restrictions that the local authority or metro mayor may state are to apply in the area to which the designation relates are such restrictions as may be applied in an air quality improvement area under regulations under this section.
- (5) The Secretary of State must make regulations specifying the restrictions that may be applied in an air quality improvement area.
- (6) Regulations under this section may –
 - (a) include restrictions as to the type of plant that must or may not be used in an air quality improvement area including by reference to the amount of NO_x and PM emitted by that plant,
 - (b) include restrictions as to the time of day, period or occasion when the operation of stationary generators is prohibited in any premises in an air quality improvement area except during disruption of the supply of electricity to the premises,
 - (c) specify that restrictions apply only in respect of plant to be installed after a particular date,
 - (d) make different provision for different sizes or types of plant,
 - (e) make supplemental, incidental, transitional or consequential provision, and
 - (f) provide that breach of any of the regulations is to be an offence punishable on summary conviction by a fine not exceeding level 5 on the standard scale.

After Clause 73 - continued

- (7) All wood burning appliances shall be prohibited from—
- (a) sale in England from 1 January 2026, and
 - (b) use in England from 1 January 2029, subject to any necessary exemptions set out by the Secretary of State in regulations.
- (8) Any exemption referred to in subsection (7)(b) above must be limited to properties that are—
- (a) domestic residences,
 - (b) located outside urban areas, and
 - (c) not connected to the gas grid.
- (9) Regulations under this section—
- (a) are to be made by statutory instrument, and
 - (b) are subject to annulment in pursuance of a resolution of either House of Parliament.
- (10) In this section—
- “local authority” means—
- (a) any unitary authority in England,
 - (b) any district council in England, so far as it is not a unitary authority,
 - (c) the Common Council of the City of London in its capacity as a local authority and, as respects the Temples, the Sub-Treasurer of the Inner Temple and the Under-Treasurer of the Middle Temple respectively;
- “metro mayor” means a mayor of a combined authority;
- “NO_x” means oxides of nitrogen comprising the sum of the volume mixing ratio (parts per billion by volume) of nitrogen monoxide (nitric oxide) and nitrogen dioxide expressed in units of mass concentration of nitrogen dioxide (g/m³ microgrammes per cubic metre);
- “plant” includes—
- (a) boilers fired by gaseous fuels which have a rated heat output of less than 1MW,
 - (b) non-road mobile machinery,
 - (c) stationary generators with a rated thermal input equal to or less than 1MW,
 - (d) solid fuel boilers with a rated heat output of less than 1MW,
 - (e) combined cooling, heat and power plant, and
 - (f) combined heat and power plant;
- “PM” means any particulate matter;
- “unitary authority” means—
- (a) the council of a county, so far as it is the council of an area for which there are no district councils;
 - (b) the council of any district comprised in an area for which there is no county council;
 - (c) the council of a London borough;
- “wood burning appliances” means any fireplace, stove or other heating or cooking device that is fuelled by burning wood.

Member's explanatory statement

This amendment is to grant powers to local authorities and metro mayors in air quality improvement areas to apply restrictions to the use of combustion plant as specified in Regulations made by the Secretary of State and for ending the sale and use of wood burning appliances.

Clause 74

LORD GOLDSMITH OF RICHMOND PARK

58 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.

Clause 79

THE DUKE OF WELLINGTON
BARONESS ALTMANN
LORD OATES
BARONESS QUIN

59 Page 71, line 9, at end insert –

“(2A) A drainage and sewerage management plan must require the undertaker to implement, in conjunction with local authorities, the progressive separation of the foul water and surface water systems where possible.”

Member's explanatory statement

This amendment is intended to secure the separation, where possible, of drainage systems from the sewerage systems through a legal obligation placed on the water companies and local authorities in order to reduce harm from untreated discharges.

Clause 80

THE DUKE OF WELLINGTON
BARONESS ALTMANN
LORD OATES
BARONESS QUIN

60 Page 74, line 34, at end insert –

“141ZA Duty on sewerage undertakers to take all reasonable steps to ensure untreated sewage is not discharged from storm overflows

- (1) A sewerage undertaker must demonstrate improvements in the sewerage systems and progressive reductions in the harm caused by untreated sewage discharges.
- (2) The Secretary of State, the Director and the Environment Agency must exercise their respective functions under this and any other Act to secure compliance with this duty.”

Member's explanatory statement

The purpose of the amendment is to try to eliminate, not simply reduce, the harm caused to the environment and individual and public health by the discharge of untreated sewage into rivers, and to ensure that the various agencies use their powers of enforcement.

After Clause 80

LORD GOLDSMITH OF RICHMOND PARK

61 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;
 - (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 of storm overflow discharges.

62 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—
- (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.

63 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.

Clause 84

LORD CARRINGTON

64 Page 83, line 34, leave out “No”

Member's explanatory statement

This amendment seeks to remove the proposals for increased powers to vary or revoke abstraction rights without offering compensation to licence holders.

65 Page 84, line 1, leave out from “that“ to end of line 6 and insert “, having consulted relevant experts, the Secretary of State is satisfied that the revocation or variation is necessary to meet a relevant environmental objective, provided that the Secretary of State has had regard to the proportionality of the revocation or variation in the context of any benefit which may be delivered in achieving the relevant environmental objective.”

Member's explanatory statement

This amendment seeks to raise the evidential bar for removal or revocation of abstraction licences.

66 Page 84, line 10, leave out “no”

Member's explanatory statement

This amendment seeks to remove the proposals for increased powers to vary or revoke abstraction rights without offering compensation to licence holders.

67 Page 84, leave out lines 12 to 18

Member's explanatory statement

This amendment seeks to raise the evidential bar for removal or revocation of abstraction licences.

68 Page 84, line 29, leave out “No”

Member's explanatory statement

This amendment seeks to limit the circumstances in which 'excess headroom' can be removed from abstraction licences without compensation.

69 Page 84, line 37, leave out “No”

Member's explanatory statement

This amendment seeks to limit the circumstances in which 'excess headroom' can be removed from abstraction licences without compensation.

70 Page 84, line 38, leave out “each year during”

Member's explanatory statement

This amendment seeks to limit the circumstances in which 'excess headroom' can be removed from abstraction licences without compensation.

71 Page 84, line 40, leave out “75%” and insert “50%”

Member's explanatory statement

This amendment seeks to limit the circumstances in which 'excess headroom' can be removed from abstraction licences without compensation.

72 Page 84, line 41, leave out “that” and insert “each”

Member's explanatory statement

This amendment seeks to limit the circumstances in which 'excess headroom' can be removed from abstraction licences without compensation.

73 Page 84, line 45, at end insert “for existing and future water resource needs”

Member's explanatory statement

This amendment seeks to limit the circumstances in which 'excess headroom' can be removed from abstraction licences without compensation.

74 Page 85, line 1, leave out from third “the” to end of line 3 and insert “direction in subsection (1) is made.”

Member's explanatory statement

This amendment seeks to limit the circumstances in which 'excess headroom' can be removed from abstraction licences without compensation.

After Clause 88

LORD BERKELEY
BARONESS JONES OF MOULSECOOMB

75 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.”

Member’s explanatory statement

The water and sewerage regulations came into force on the Isles of Scilly in March 2020 but, on some islands, there is a statutory undertaker appointed for water supply but none for sewerage and no ability to comply with the sewerage regulations. This amendment would disapply the related Environment Agency charges until the necessary infrastructure is built and a statutory undertaker appointed.

Clause 90

LORD GOLDSMITH OF RICHMOND PARK

76 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.

77 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.

78 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

79 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.

80 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.

81 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.

After Clause 93

LORD DANNATT

BARONESS MCINTOSH OF PICKERING

BARONESS JONES OF MOULSECOOMB

82 Insert the following new Clause –

“Requirement to apply a sustainable drainage hierarchy to new surface and storm water connections

In the Water Industry Act 1991, leave out section 106B (requirement to enter into agreement before construction) and insert –

“106B Requirement to apply a sustainable drainage hierarchy to new surface and storm water connections

- (1) A person may exercise the right under section 106(1) in respect of a new surface or storm water connection only where they can demonstrate to the reasonable satisfaction of the relevant sewerage undertaker that using a higher priority for disposal of such water is not feasible.
- (2) Where feasible, surface water runoff must be used as a resource for non-potable uses.
- (3) Where appropriate, opportunities must be maximised across the site to infiltrate runoff into the ground.
- (4) Any remaining runoff must be discharged to a surface water or above ground surface water drainage system.
- (5) Where compliance with subsection (4) is not feasible, any remaining runoff must be discharged to a piped surface water drainage system.
- (6) Where compliance with subsection (5) is not feasible, any remaining runoff must be discharged to a combined sewer.”

Member's explanatory statement

This new Clause aims to minimise the impact of new housing development on levels of local flood risk and the likelihood of storm discharges of untreated sewerage effluent into rivers and coastal waters. It aims to ensure housing developers design systems according to a hierarchy of drainage options that seek to reduce to a minimum the volume of rainwater entering combined sewerage systems.

LORD CHIDGEY
BARONESS HAYMAN OF ULLOCK
BARONESS JONES OF MOULSECOOMB
BARONESS MCINTOSH OF PICKERING

83 Insert the following new Clause –

“Chalk streams

- (1) The Secretary of State must set priorities for relevant public authorities in relation to the protection and enhancement of chalk stream habitats, for the purpose of improving the conservation status of species and chalk streams' amenity value.
- (2) The Secretary of State must –
 - (a) instruct Natural England to consult on, and create, a new category of protection for chalk streams;
 - (b) report to Parliament no later than March 2022 on the Secretary of State's response to the Catchment Based Approach Chalk Stream Restoration Strategy, and lay before Parliament a draft plan for the implementation of the recommendations of that Strategy;
 - (c) report to Parliament every five years, starting with 2026, on progress in relation to the strategy, and an assessment of the condition of chalk streams, including plans for the next five-year period.”

Member's explanatory statement

This new clause provides the mechanism for developing a designation for chalk streams, which facilitates greater protection for them and their channels, aquifers, and floodplains, and drives greater resources and investment into the protection and management of chalk streams. It will require the government to adopt the recommendation set out in the Catchment Based Approach Chalk Stream Restoration Strategy to develop an action plan for the implementation of those recommendations, and report on progress.

Schedule 14

LORD GOLDSMITH OF RICHMOND PARK

84 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.

LORD KREBS

84A Page 222, line 17, at end insert –

- “(6) Within the period of six months beginning with the day on which this Act is passed, the Secretary of State must produce or revise the biodiversity metric, having particular regard to the ecological importance of –
- (a) diversity of habitat types and management approaches, including open mosaic habitat, scrubland, and habitats that mature slowly,
 - (b) the potential of individual sites to support rare, endangered and vulnerable species, and
 - (c) habitat connectivity across a landscape.
- (7) The Secretary of State must review the biodiversity metric at least annually and revise it to take into account –
- (a) any significant developments in scientific evidence, and
 - (b) any assessment of progress toward meeting targets set under Part 1 of the Environment Act 2021.”

Member’s explanatory statement

This amendment ensures that the Biodiversity Metric includes the ecological requirements of rare and endangered species, that it recognises the importance of habitat heterogeneity and connectedness, and that it is updated regularly in light of scientific evidence.

BARONESS JONES OF WHITCHURCH
 BARONESS PARMINTER
 LORD KREBS
 BARONESS JONES OF MOULSECOOMB

85 Page 223, line 47, leave out “30” and insert “125”

Member’s explanatory statement

This amendment ensures that habitat enhancement secured through planning decisions or the terms of a conservation covenant must be maintained for at least 125 years. This matches the definition of “perpetuity period” in section 5 of the Perpetuities and Accumulations Act 2009.

LORD GOLDSMITH OF RICHMOND PARK

86 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.

Clause 96

BARONESS JONES OF WHITCHURCH
 BARONESS PARMINTER
 LORD KREBS
 BARONESS JONES OF MOULSECOOMB

87 Page 98, line 5, leave out “30” and insert “125”

Member’s explanatory statement

This amendment makes clear that a biodiversity gain site is land where, among other things, environmental enhancement must be maintained for at least 125 years. This matches the definition of “perpetuity period” in section 5 of the Perpetuities and Accumulations Act 2009.

LORD GOLDSMITH OF RICHMOND PARK

88 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.

89 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 97

LORD KERSLAKE
 LORD OATES
 BARONESS BENNETT OF MANOR CASTLE

90 Page 99, leave out lines 27 and 28 and insert “Payments received under arrangements under this section are to be retained by local authorities for the following purposes (only) –”

Member’s explanatory statement

The effect of the amendment would be that credits would be retained by local authorities for local use in promoting biodiversity rather than retained by central government.

Clause 98

BARONESS PARMINTER
 BARONESS JONES OF WHITCHURCH
 BARONESS BOYCOTT
 LORD LUCAS

- 91 Page 101, leave out lines 5 to 9 and insert –
- “(2A) The authority must act in accordance with any relevant local nature recovery strategy in the exercise of relevant functions, including –
- (a) land use planning and planning decisions,
 - (b) spending decisions, including land management payments,
 - (c) delivery of biodiversity gain, and
 - (d) any other activities undertaken in complying with subsections (1) and (1A).”

Member’s explanatory statement

This amendment would require public authorities to exercise relevant functions in accordance with Local Nature Recovery Strategies. This would ensure that decisions that affect the natural environment such as planning decisions, net gain habitat enhancements and targeted investment in environmental land management are informed by the Strategies.

LORD TEVERSON
 THE EARL OF DUNDEE
 BARONESS BENNETT OF MANOR CASTLE

- 92 Page 101, line 9, at end insert –
- “(c) agroforestry.”

Member’s explanatory statement

The amendment enables agroforestry to be seen as a direct mechanism for public authorities to meet their biodiversity targets.

THE EARL OF CAITHNESS

- 92A Page 101, line 9, at end insert –
- “(c) nature-friendly farming.”

LORD GOLDSMITH OF RICHMOND PARK

- 93 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.

After Clause 99

LORD OATES

LORD KERSLAKE

BARONESS JONES OF WHITCHURCH

BARONESS JONES OF MOULSECOOMB

94

Insert the following new Clause—

“Local authority powers to further the general biodiversity objective

After section 40A of the Natural Environment and Rural Communities Act 2006 (as inserted by section 99) insert—

“40B Local authority powers to further the general biodiversity objective

- (1) Where it appears to a local authority that there is serious risk of destruction of biodiversity, or that there has been such destruction in the five years prior to this Act coming into force, in respect of any land designated under section 102(3) of this Act, it may serve notice to that effect (a “biodiversity contravention notice”) on any person who—
 - (a) is the owner or occupier of the land, or has any other interest in it, or
 - (b) is carrying out operations on the land or is using the land for any purpose.
- (2) A biodiversity contravention notice may require the person on whom it is served—
 - (a) to give information pertaining to any operations being carried out on the land, any use of the land and any other activities being carried out on the land,
 - (b) to provide the authority with access to the land, and
 - (c) to comply with such obligations to preserve biodiversity on the land,
 as may be specified in the notice.
- (3) A biodiversity contravention notice must inform the person on whom it is served—
 - (a) of the likely consequences of failing to respond to the notice and any enforcement action that may be taken, and
 - (b) of the effect of subsection (4).
- (4) A person who fails to comply with the requirements of a biodiversity contravention notice under subsection (3) is guilty of an offence and is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

After Clause 99 - continued

- (5) Where a local authority considers it necessary or expedient for any actual or apprehended destruction of biodiversity in respect of any land designated under a local nature recovery strategy to be restrained by injunction, it may apply to the court for an injunction, whether or not it has exercised or is proposing to exercise any other powers under this section.
- (6) On an application under subsection (5) the court may grant such an injunction as the court thinks appropriate for the purpose of preventing the destruction of biodiversity.
- (7) Rules of court may, in particular, provide for such an injunction to be issued against a person whose identity is unknown.
- (8) In this section “the court” means the High Court or the county court.
- (9) The Secretary of State may by regulations impose additional functions on local authorities to further the general biodiversity objective.
- (10) Regulations under this section are subject to the affirmative procedure.””

Clause 102

LORD GOLDSMITH OF RICHMOND PARK

95 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

96 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

97 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 107

THE EARL OF CAITHNESS

98 Page 109, leave out lines 40 to 42 and insert –

“(b) that the grant of the licence, based on scientific assessment, is not likely to be detrimental to the status of the population of the species of animal or plant at the scale to which the licence relates.”

Member’s explanatory statement

This amendment aims to ensure that the population of a species is maintained at a significant level by replacing the reference to 'survival' with 'status' and adding a reference to 'scale'. The amendment also introduces a requirement for a scientific assessment to be conducted.

After Clause 109

LORD KREBS

BARONESS PARMINTER

BARONESS JONES OF WHITCHURCH

BARONESS BENNETT OF MANOR CASTLE

99 Insert the following new Clause –

“Habitats Regulations: limits on powers to amend

- (1) The Secretary of State may only make regulations under section 108 or 109 –
- (a) for the purposes of –
 - (i) securing compliance with an international environmental obligation, or
 - (ii) contributing to the favourable conservation status of species or habitats or the favourable condition of protected sites;
 - (b) if the regulations do not reduce the level of protection provided by the Habitats Regulations, including protection for protected species, habitats or sites; and
 - (c) following public consultation and consultation with –
 - (i) the Office for Environmental Protection,
 - (ii) Natural England,
 - (iii) the Joint Nature Conservation Committee, and
 - (iv) other relevant expert bodies.”

Member’s explanatory statement

This amendment ensures that powers to amend the Habitats Regulations may only be used for the purposes of environmental improvement following consultation. It ensures that the level of environmental protection that must be maintained includes protection for important habitats, sites and species as well as overall environmental protection.

After Clause 110

BARONESS YOUNG OF OLD SCONE
LORD WHITTY
BARONESS BOYCOTT
LORD RANDALL OF UXBRIDGE

100 Insert the following new Clause—

“Duty to implement an enhanced protection standard for ancient woodland in England

- (1) The Government must implement an enhanced protection standard for ancient woodland, hereafter referred to as the “ancient woodland standard” in England as set out in subsections (2), (3) and (4) and this must have immediate effect.
- (2) The ancient woodland standard must set out the steps necessary to prevent further loss of ancient woodland in England.
- (3) The ancient woodland standard commits the Government to adopting a standard of protection which must be a requirement for all companies, persons or organisations involved in developments affecting ancient woodlands in England.
- (4) This standard must be that—
 - (a) any development that causes direct loss to ancient woodland or ancient woodland and ancient and veteran trees must be refused unless there are wholly exceptional reasons and, in addition, a suitable compensation strategy must be in place prior to development commencing,
 - (b) any development adjacent to ancient woodland must incorporate a minimum 50-metre buffer to provide protection, reduce indirect damage and provide space for natural regeneration,
 - (c) any ancient or veteran trees must be retained within a development site, including a root protection area and appropriate buffer zone.
- (5) This buffer zone must be whichever is greater of—
 - (a) an area which is a radius of 15 times the diameter of the tree with no cap, or
 - (b) 5 metres beyond the crown.”

Member’s explanatory statement

This amendment is intended to address the more than 800 ancient woodlands in England that are currently threatened by development. As a large number of these threats result from indirect effects of development next to ancient woodland, these changes will improve the weight afforded to protecting these irreplaceable habitats in planning policy.

After Clause 111

BARONESS JONES OF WHITCHURCH
 LORD KREBS
 LORD TEVERSON
 BARONESS BENNETT OF MANOR CASTLE

101 Insert the following new Clause—

“Duty to prepare a Tree Strategy for England

- (1) The Government must prepare a Tree Strategy for England as set out in this section.
- (2) The strategy must set out the Government’s vision, objectives, priorities and policies for trees in England, including individual trees, woodland and forestry, and set out other matters with respect to the promotion of sustainable management of trees in these contexts.
- (3) The Tree Strategy for England must include the Government’s targets and interim targets with respect to—
 - (a) the percentage of England under tree cover;
 - (b) hectares of new native woodland creation achieved by tree planting;
 - (c) hectares of new native woodland creation achieved by natural regeneration;
 - (d) the percentage of native woodland in favourable ecological condition;
 - (e) hectares of Plantations on Ancient Woodland Sites (PAWS) undergoing restoration;
 - (f) the condition of England’s Long Established Woodlands; and
 - (g) hectares of Long Established Woodlands undergoing restoration.
- (4) The Tree Strategy for England must set out—
 - (a) England’s contribution to the 30,000 hectares of woodland to be planted in the United Kingdom each year, as set out in the Ten Point Plan for a Green Industrial Revolution and England Trees Action Plan 2021-2024;
 - (b) a plan for the maintenance of the trees and woodlands planted under the England Trees Action Plan 2021-2024; and
 - (c) which authorities or individuals are responsible for the maintenance of the trees and woodlands planted under the England Trees Action Plan 2021-2024.
- (5) The Government must publish—
 - (a) an annual statement on progress against the Tree Strategy for England; and
 - (b) any revisions of the Tree Strategy which may be necessary.
- (6) The Government must publish a revised Tree Strategy for England within the period of 10 years beginning with the day on which the strategy or its most recent revision was published.”

Member’s explanatory statement

This new Clause would make the preparation of a tree strategy for England a statutory requirement. Among other things, such a strategy would have to include a range of targets for the protection, restoration and expansion of trees and woodland in England.

LORD TEVERSON
THE EARL OF DUNDEE
BARONESS BENNETT OF MANOR CASTLE

102 Insert the following new Clause—

“Establishing and maintaining agroforestry systems

- (1) The Secretary of State must prepare and publish an agroforestry strategy for England for the purpose of assisting responsible authorities with their tree planting and biodiversity targets, including local nature partnerships.
- (2) “Agroforestry systems” means land management systems which integrate trees into productive farming landscapes, and includes silvopasture, hedgerows with standards, coppice, orchards and farm woodland.”

Member’s explanatory statement

This amendment is intended to allow responsible authorities to invest in agroforestry systems, integrating biodiversity, farming, and landscape management objectives.

THE EARL OF KINNOULL
THE EARL OF CAITHNESS
LORD COLGRAIN

103 Insert the following new Clause—

“Duty to set an animal damage protection standard in England when planting trees

- (1) The Secretary of State must by regulations establish a standard as set out in this section to be observed in England when planting trees in relation to mitigating the risk of damage caused by animals to newly planted trees (“the animal damage protection standard”).
- (2) The animal damage protection standard must be binding on land where, after regulations under this section come into force, public money has been given as subsidy for the planting of the trees.
- (3) The animal damage protection standard must be binding on land owned by the Government or public bodies including but not limited to local authorities, the Forestry Commission and the agencies owning or operating public roads and railways.
- (4) The animal damage protection standard must be advisory to other landowners and managers and the Secretary of State must make reasonable efforts to promote the standard.”

Member’s explanatory statement

This amendment is designed to deal with the risk that animals such as deer and grey squirrels present to planting.

LORD HARRIES OF PENTREGARTH
BARONESS YOUNG OF OLD SCONE

104 Insert the following new Clause –

“Duty to implement a biosecurity standard in England when planting trees

- (1) The Secretary of State must by regulations establish a biosecurity standard in England to be observed by government bodies, agencies or their third party contractors when planting trees for the purposes of preventing the transmission of tree pests and diseases.
- (2) The regulations must set out steps to secure the biosecurity of trees in England, including the actions that Her Majesty’s Government must take to support this goal through implementation and promotion of the biosecurity standard through the course of a biosecurity transition period as specified in the regulations.
- (3) The regulations must ensure that the biosecurity transition period gives government bodies, agencies or their third party contractors sufficient time to bring their internal programmes into line with the objectives of the biosecurity standard.
- (4) The biosecurity standard must ensure that trees to which the standard applies have been grown within the United Kingdom for their entire lifetime.
- (5) Regulations under this section are subject to the affirmative procedure.
- (6) The Secretary of State must promote the creation of new tree nurseries and develop a Tree Nursery Strategy with input from relevant parties, including but not limited to industry bodies, local government, and the devolved administrations, to improve the quantity of qualifying stock and address any issues in the supply chain.”

Member’s explanatory statement

This amendment would require the Government to adhere to a biosecurity standard when sourcing trees for planting by either itself, its agencies or third-party contractors for associated environmental works. This is to prevent importing tree pests and diseases, with subsequent tree losses which could negate the government’s tree cover commitments and their contribution to climate change mitigation and adaptation.

After Clause 112

THE EARL OF CAITHNESS

105 Insert the following new Clause –

“Expiry

- (1) Regulations under Part 6 expire after the period of five years beginning with the day on which this Act is passed.
- (2) The Secretary of State may by regulations substitute a later date for the purposes of subsection (1).
- (3) Before exercising the power under subsection (2), the Secretary of State must review the effectiveness of the regulations in Part 6 to which the power relates and conduct an assessment of the policies or provisions thereunder relative to the general duty to conserve and enhance biodiversity, having regard to a broad range of factors, including –

After Clause 112 - continued

- (a) targets set by regulations under sections 1(3)(c) and 3 and those set out in an environmental improvement plan that relate to biodiversity;
 - (b) international biodiversity targets;
 - (c) the effectiveness of actions taken by Natural England and other responsible authorities appointed by the Secretary of State;
 - (d) consultation with conservation non-government organisations, other relevant expert bodies and the public;
 - (e) the costs involved.
- (4) Regulations under this section are subject to the affirmative procedure.”

Member’s explanatory statement

This amendment introduces a sunset provision after five years for regulations made in relation to biodiversity conservation in Part 6 of the Bill. If the Secretary of State wishes to renew the current regulations then he or she must conduct an analysis of the effectiveness of the policies and actions taken by Government and its agencies in achieving national and international obligations.

Schedule 17

LORD RANDALL OF UXBRIDGE

106

Page 240, line 42, at end insert –

- “2A (1) A regulated person in relation to a forest risk commodity must not use that commodity, or a product derived from that commodity, in their UK commercial activities unless the source organism was not grown, raised, or cultivated on land that was forest at the date this paragraph comes into force, or an earlier date specified in regulations made by the Secretary of State, and has since been degraded or converted to agricultural use.
- (2) Without limiting sub-paragraph (1), forest is regarded as degraded if its tree canopy cover (excluding trees planted for the purpose of producing timber or other commodities) has decreased due to human activity.
- (3) Sub-paragraph (1) does not apply to source organisms grown, raised or cultivated by indigenous peoples, or other communities with customary land use rights, in accordance with their customary rights and practices.
- (4) A regulated person in relation to a forest risk commodity must not use that commodity, or a product derived from that commodity, unless free, prior and informed consent has been obtained in relation to that commodity from indigenous peoples in accordance with their rights under international law, and from other local communities.”

Member’s explanatory statement

This amendment would require, with exceptions, that a regulated person does not use forest risk commodities or products derived from those commodities in their UK commercial activities if they are derived from land that is deforested after the commencement of Schedule 17 or an earlier date set by regulation.

- 107 Page 246, line 18, at end insert –
- “(e) the impact of the relevant provisions on the rights of indigenous peoples and other affected communities, including their efforts to protect their lands and forests;
 - (f) whether further action is required to ensure the elimination of the conversion of forest to agricultural use for the purposes of producing commodities, or products derived from commodities, which are used in UK commercial activities.
- (2A) As part of a review the Secretary of State must consult persons with relevant expertise on the matters specified in sub-paragraph (2)(a) to (f).”

Member’s explanatory statement

These amendments would strengthen the review provision to ensure that the rights of indigenous peoples are considered, a consultation is held and the Secretary of State takes steps to eliminate forest risk commodities from UK commercial activities.

- 108 Page 246, line 25, at end insert –
- “(c) the steps which the Secretary of State will take to ensure the elimination of the conversion of forest to agricultural use for the purposes set out in sub-paragraph (2)(f).”

Member’s explanatory statement

These amendments would strengthen the review provision to ensure that the rights of indigenous peoples are considered, a consultation is held and the Secretary of State takes steps to eliminate forest risk commodities from UK commercial activities.

BARONESS MEACHER
BARONESS HAYMAN OF ULLOCK

- 108A Page 246, line 27, leave out “second” and insert “first”

Member’s explanatory statement

This amendment aims to ensure a review of the efficacy of the deforestation provisions at the earliest opportunity.

- 108B Page 246, line 29, leave out “third” and insert “second”

Member’s explanatory statement

This amendment aims to ensure a review of the efficacy of the deforestation provisions at the earliest opportunity.

- 108C Page 246, line 34, at end insert –
- “17A The Secretary of State may by regulations extend the scope of this Schedule to forest risk commodities where the deforestation has been deemed legal under local laws.”

Member’s explanatory statement

This amendment would grant an ability for Ministers to extend those provisions by regulations to commodities produced on land where deforestation has taken place and has been deemed legal under local laws.

Clause 113

THE EARL OF DEVON
BARONESS JONES OF WHITCHURCH
LORD OATES
VISCOUNT RIDLEY

109 Page 113, line 25, leave out “appears from” and insert “is stated within”

Member’s explanatory statement

This amendment, along with another, adds formality to the process of creating a conservation covenant to reflect the serious, long-term nature of the commitments being made, and to ensure conservation covenants include provisions regarding the duration of the obligation and the consideration due to the landowner in return for the commitments given.

110 Page 113, line 27, leave out “in writing signed by the parties.” and insert “signed as a deed by the parties,

- (d) the agreement makes provision for the payment of consideration to the landowner, or states that no consideration is to be provided, and
- (e) the agreement includes provision regarding the duration or end date of the agreement.”

Member’s explanatory statement

This amendment adds formality to the process of creating a conservation covenant to reflect the serious, long-term nature of the commitments being made, and to ensure conservation covenants include provisions regarding the duration of the obligation and the consideration due to the landowner in return for the commitments given.

THE EARL OF CAITHNESS

111 Page 114, line 25, at end insert –

- “(5) The written consent of all relevant freeholders must be sought by all relevant leaseholders before any conservation covenant agreement is put in place.
- (6) Regular review clauses must be included in all conservation covenant agreements, with a minimum frequency of 10 years.
- (7) The review clauses must link directly to management plan cycles.
- (8) The periodic review cycle must be linked to aims and objectives defined in site management plans.
- (9) Any test for the measurement of outcomes of the conservation covenant agreement must be referenced within the Agreement itself.
- (10) Any test must make reference to section 41 of the Natural Environment and Rural Communities Act 2006 (biodiversity lists and action (England)).
- (11) Reviews must be commissioned from independent and competent persons.
- (12) All conservation covenant agreements must contain a remedy for situations where the desired outcomes of the conservation covenant agreement have not been met.
- (13) Any negotiations between the parties regarding the renewal of existing conservation covenant agreements must be commenced within a period of 12 months from the term date.

Clause 113 - continued

- (14) All conservation covenant agreements must contain an Alternative Dispute Resolution (ADR) clause which specifies that, in the event of a dispute arising from the implementation of the conservation covenant agreement –
- (a) the parties (or their successors in title) must first attempt to settle the matter by mediation, failing which they must appoint an arbitrator or independent expert to decide the matter, and
 - (b) where they are unable to agree the identity of the mediator, arbitrator or independent expert, they must apply to the President of the RICS (or any other relevant body) or their deputy for the time being to appoint one.
- (15) Where a responsible body is negotiating conservation covenant agreements or any associated management agreements, it must have due regard to –
- (a) public benefit and the need to maintain a sustainable balance between competing land uses, including developed uses such as residential and commercial development, and the non-developed uses such as agriculture, forest, open land and water, and
 - (b) strategic food security and the maintenance of Grades 1, 2 and 3a of agricultural land for food production.”

Clause 115

THE EARL OF DEVON
 BARONESS JONES OF WHITCHURCH
 LORD OATES
 VISCOUNT RIDLEY

112 Page 115, line 17, leave out “at least some” and insert “all”

Member’s explanatory statement

This amendment requires that, where a Responsible Body is not a public body or a charity, all of its main activities should relate to conservation.

Clause 128

THE EARL OF DEVON
 BARONESS JONES OF WHITCHURCH
 LORD OATES
 VISCOUNT RIDLEY

113 Page 122, line 17, at end insert –

“(c) the Secretary of State terminates the covenant under subsection (6A).”

Member’s explanatory statement

This amendment, along with another, gives the Secretary of State the ability to terminate a conservation covenant, after consulting with the landowner, if it is not possible to transfer it to another Responsible Body as an alternative to becoming the Responsible Body him- or herself.

114 Page 122, line 21, at end insert –

“(6A) If custodian of a conservation covenant, the Secretary of State may, after consultation with the landowner, discharge the conservation covenant if the Secretary of State is unable to secure the transfer of that conservation covenant to another responsible body.”

Member’s explanatory statement

This amendment, along with another, gives the Secretary of State the ability to terminate a conservation covenant, after consulting with the landowner, if it is not possible to transfer it to another Responsible Body as an alternative to becoming the Responsible Body him- or herself.

115 Page 122, line 28, at end insert –

“(9) The period for which the Secretary of State is the custodian of a conservation covenant must not exceed 12 months, and if the Secretary of State has not exercised the powers under subsection (5) within 12 months, the Secretary of State is deemed to have discharged the covenant under subsection (6A).”

Member’s explanatory statement

This amendment limits the period for which the Secretary of State can be the custodian of a conservation covenant, and thus limits the period during which the custodian has no liability with respect to the performance of any obligation of the Responsible Body thereunder.

After Clause 132

THE EARL OF CAITHNESS

116 Insert the following new Clause –

“Mechanism to migrate existing non-statutory conservation covenants

The Secretary of State must create a mechanism to facilitate the migration of existing non-statutory conservation covenants to a statutory basis if both parties so agree.”

After Clause 136

BARONESS YOUNG OF OLD SCONE

THE EARL OF CAITHNESS

BARONESS BENNETT OF MANOR CASTLE

BARONESS BOYCOTT

117 Insert the following new Clause –

“Land use framework for England

- (1) The Secretary of State must, no later than 31 March 2023, lay a land use framework for England before Parliament.
- (2) The framework must set out –
 - (a) the Secretary of State’s objectives in relation to integrated land use within a sustainable land use framework;
 - (b) principles to guide decisions by government and public authorities on the most effective use of land;
 - (c) proposals and policies for meeting the objectives; and

After Clause 136 - continued

- (d) the timescales over which those proposals and policies are expected to take effect.
- (3) The objectives, principles, proposals and policies referred to in subsection (2) must contribute to—
 - (a) achievement of multifunctional land use, balancing the range of needs for land, including agriculture and food production;
 - (b) achievement of objectives in relation to mitigation of and adaptation to climate change, including achieving carbon budgets under Part 1 of the Climate Change Act 2008;
 - (c) sustainable development including the use of land for development and infrastructure;
 - (d) the achievement of objectives of the 25 Year Environment Plan for halting the decline of biodiversity.
- (4) Before laying the framework before Parliament, the Secretary of State must publish a draft framework and consult with—
 - (a) such bodies as he or she considers appropriate, and
 - (b) the general public.
- (5) The Secretary of State must, no later than—
 - (a) 5 years after laying a framework before Parliament under subsection (1), and
 - (b) the end of every subsequent period of 5 years,
 lay a revised framework before Parliament under the terms set out in subsections (2) to (4).
- (6) The Secretary of State must, no later than 3 years after the laying of a framework before Parliament under this section and at three year intervals thereafter, lay before Parliament a report on the implementation of the framework and progress in achieving the objectives, principles, proposals and policies under subsection (2).”

Member’s explanatory statement

This new Clause would provide a land use context to enable the Secretary of State and public authorities to make optimal decisions about the multifunctional uses of land to achieve the targets, plans and policies for improving the natural environment and other purposes.

BARONESS BOYCOTT
THE EARL OF CAITHNESS
BARONESS MCINTOSH OF PICKERING
BARONESS HAYMAN OF ULLOCK

118

Insert the following new Clause—

“National Food Strategy

- (1) Within two months of the day on which this Act is passed, the Secretary of State must review the National Food Strategy (the “Strategy”) in the light of this Act, in particular the Strategy’s approach to addressing the effect of food production and agriculture on—
 - (a) biodiversity, and

After Clause 136 - continued

- (b) greenhouse gas emissions.
- (2) In conducting the review the Secretary of State must consider –
 - (a) the implications of this Act for the Strategy and any changes that should be made to the Strategy as a result,
 - (b) how the provisions of this Act, including functions given to the Secretary of State by virtue of it, should be implemented to give effect to the Strategy, and
 - (c) any related matters.
- (3) The Secretary of State must publish the review and lay it before Parliament.”

LORD LEA OF CRONDALL

LORD WHITTY

BARONESS BENNETT OF MANOR CASTLE

119 Insert the following new Clause –

“Economic and environmental goals

Within six months of the day on which this Act is passed the Secretary of State must publish plans to incorporate a metric for reducing greenhouse gas emissions as a coefficient of GDP growth.”

Member’s explanatory statement

This amendment would require the Secretary of State to publish plans on a metric for greenhouse gas emissions as a coefficient of GDP growth (i.e. the degree to which greenhouse gas emissions are growing more or less than GDP). The metric could be published alongside regular GDP updates with the intention that the coefficient should, over time, reduce.

BARONESS MCINTOSH OF PICKERING

120 Insert the following new Clause –

“Assessment of cumulative impact of offshore windfarms

- (1) The Secretary of State may by regulations provide that, before planning permission is granted for the construction of an offshore windfarm, an independent assessment must have been undertaken on the cumulative impact of the construction of such windfarms on –
 - (a) the environment,
 - (b) marine life, and
 - (c) the countryside,
 both onshore and offshore.
- (2) Regulations under this section are subject to the affirmative procedure.”

Member’s explanatory statement

An assessment of the cumulative impact is intended to ensure that any potential damage to the environment will be strictly controlled and limited.

LORD RANDALL OF UXBRIDGE
BARONESS BENNETT OF MANOR CASTLE
BARONESS BOYCOTT
LORD TEVERSON

121 Insert the following new Clause—

“Duty to produce a global footprint target timetable

- (1) The Secretary of State must produce a document specifying the timetable under which the Secretary of State will set a global footprint target in accordance with this section.
- (2) The dates to be specified in this document are the dates on which the Secretary of State will—
 - (a) by regulations set a global footprint target, and
 - (b) require this target to be met.
- (3) The dates to be specified in this document shall be no later than—
 - (a) 31 January 2023, in the case of setting the target, and
 - (b) 31 December 2030, in the case of the date by which the target is required to be met.
- (4) The Secretary of State must—
 - (a) publish the document in such a manner as the Secretary of State thinks fit, and
 - (b) lay the document before Parliament.
- (5) The Secretary of State must take the steps specified in subsection (4) within six months of the day on which this Act is passed.
- (6) For the purposes of this section—
 - (a) “global footprint” means the environmental impact of—
 - (i) goods produced or consumed, and
 - (ii) services receivedin England, wherever the environmental impact occurs;
 - (b) “global footprint target” means a target set by regulations which requires a significant reduction in global footprint.”

Member’s explanatory statement

This amendment requires ministers to publish a timetable by which they will set a global footprint target in regulations. It stipulates dates for setting the target in regulations and the deadline by which the target must be met.

LORD FAULKNER OF WORCESTER
LORD FORSYTH OF DRUMLEAN
LORD BRADSHAW
THE EARL OF CLANCARTY

122 Insert the following new Clause—

“Non-application to smoke emissions from heritage vehicles or historic buildings

- (1) For the avoidance of doubt, this Act has no application to the emission of smoke from—

After Clause 136 - continued

- (a) the chimney of a railway locomotive, the chimney of a road vehicle or portable or stationary engine, or the funnel of a vessel in respect of which the emission of the smoke is an intrinsic feature of the functioning of the motive power concerned and in respect of which such motive power has been preserved, restored or recreated for heritage purposes;
 - (b) the chimney of an historic building or the chimney or other outlet of a museum intended to portray the means of internal heating of the rooms in such building or museum or facilities for the cooking of food or the provision of other services therein.
- (2) In this section –
- “heritage purposes” means a state of affairs intended to display a transport mode or machinery in a past setting for educational, recreational or tourist purposes;
- “smoke” includes grit, dust or other matter derived from the burning of solid, liquid or gaseous substances.”

LORD BROWNE OF LADYTON
 THE EARL OF SHREWSBURY
 LORD RANDALL OF UXBRIDGE
 BARONESS JONES OF WHITCHURCH

123 Insert the following new Clause –

“Reduction of lead poisoning from shot

- (1) The Wildlife and Countryside Act 1981 is amended in accordance with subsections (2) and (3).
- (2) After section 5(1)(c)(viii) insert –
 - “(ix) any form of lead ammunition used in a shotgun.”
- (3) After section 11(1)(d) insert –
 - “(e) uses lead ammunition in a shotgun for the purposes of killing or taking any wild animal”.
- (4) The provisions in this section come into force on 31 July 2023.”

Member’s explanatory statement

This new Clause intends to provide an effective regulation to protect wildlife, the environment and human health by replacing widely-used toxic lead gunshot with alternatives. It intends to ensure a supply of healthy game for the market, whilst meeting societal requirements and those of shooting, food retail and conservation stakeholders.

BARONESS NEVILLE-ROLFE
 BARONESS BENNETT OF MANOR CASTLE

124 Insert the following new Clause –

“Encouraging the use of reusable nappies

- (1) The relevant national authority must work with industry and retailers to develop a strategy for the reduction of single-use nappy waste with measurable targets and deadlines.

After Clause 136 - continued

- (2) The relevant national authority must work with industry and retailers to adopt a single, coordinated national reusable nappy financial incentive scheme in every local authority in England to improve accessibility of reusable nappies and to promote the environmental and financial benefits to families.
- (3) The relevant national authority must encourage local authorities to complement this national scheme with local education and support for parents, caregivers and nursery settings, including support for nappy libraries, or through hiring dedicated local nappy education providers.”

BARONESS BENNETT OF MANOR CASTLE
BARONESS BOYCOTT

125

Insert the following new Clause—

“Information for consumers on nappy and adult incontinence products

- (1) The relevant national authority must by regulations establish environmental standards for nappies and adult incontinence products.
- (2) The standards must define the characteristics required for a nappy or adult incontinence product to be traded, advertised or promoted as—
 - (a) “reusable”;
 - (b) “biodegradable”;
 - (c) “eco-friendly”;
 - (d) “environmentally friendly”; and
 - (e) other such similar terms as may be defined in the standards.
- (3) The regulations may provide for nappies or adult incontinence products or the packaging in which they are contained to bear a mark signifying that they meet the environmental standards.
- (4) The trading, advertising or promotion of a nappy or adult incontinence product is an unfair commercial practice for the purposes of the Consumer Protection from Unfair Trading Regulations 2008 (S.I. 2008/1277) if—
 - (a) that product is described using a term used in subsection (2)(a) to (d) or a similar term defined in regulations under subsection (1) but does not meet the relevant standards, or
 - (b) that product or its packaging bears the mark in subsection (3) but does not meet the relevant standards.
- (5) The regulations must establish standards for labelling the packaging of all nappies and adult incontinence products, which may include the adoption of recognisable symbols, to inform consumers that the products should not under any circumstances be placed into the sewerage system, but instead into the household waste receptacle.
- (6) Regulations under this section are subject to the affirmative procedure.”

After Clause 136 - continued

BARONESS BENNETT OF MANOR CASTLE
BARONESS BOYCOTT
BARONESS WHITAKER
BARONESS RITCHIE OF DOWNPATRICK

126 Insert the following new Clause—

“Ecocide

- (1) It is an objective of Her Majesty’s Government to support the negotiation of an amendment to the Statute of the International Criminal Court, done at Rome on 17th July 1998, to establish a crime of ecocide.
- (2) In pursuance of subsection (1), a relevant Minister of the Crown must promote discussion of such an amendment, either independently or jointly with other sovereign states, within the Working Group on Amendments of the International Criminal Court within 12 months of this Act being passed.
- (3) In this section “ecocide” refers to unlawful or wanton acts committed with knowledge that there is a substantial likelihood of severe and either widespread or long-term damage to the environment being caused by those acts.”

BARONESS BENNETT OF MANOR CASTLE

126A Insert the following new Clause—

“Right of access to land

- (1) Within two years of the day on which this Act is passed, the Secretary of State must publish a draft Bill to provide for a statutory right to access land for recreational purposes and educational activities, including building of understanding of natural or cultural heritage, provided that the land is accessed responsibly in accordance with a code of practice, with landowners having the responsibility to take reasonable action to ensure the right can be exercised.
- (2) The Bill must provide that the right to access land must extend to rivers and other waterways.
- (3) The Bill must provide that the right to access land does not extend to land on which a building or other structure, plant or machinery, or a caravan or other structure stands, and the curtilage of such, a sports field or land planted with a crop.”

Clause 139

LORD FAULKNER OF WORCESTER
 LORD FORSYTH OF DRUMLEAN
 THE EARL OF CLANCARTY
 LORD BRADSHAW

127 Page 127, line 35, at end insert –

“(10) Nothing in this Act permits regulations or other subordinate legislation to be made so as to enable a local authority or other public authority to prohibit or curtail in the locality or area for which it has responsibility all or any of the following activities –

- (a) the emission of smoke from the chimney of a railway locomotive, the chimney of a road vehicle or portable or stationary engine, or the funnel of a vessel, regarding which the emission of the smoke is an intrinsic feature of the functioning of the motive or other power concerned and in respect of which such motive or other power has been preserved, restored or recreated for heritage purposes;
- (b) the emission of smoke from the chimney of an historic building or the chimney or other outlet of a museum intended to portray the means of internal heating of the rooms in such building or museum or facilities for the cooking of food or the provision of other services therein.

(11) In subsection (10) –

“heritage purposes” means a state of affairs intended to display a transport mode or machinery in a past setting for educational, recreational or tourist purposes; and

“smoke” includes grit, dust or other matter derived from the burning of solid, liquid or gaseous substances.”

Clause 142

LORD GOLDSMITH OF RICHMOND PARK

128 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

129 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.

130 Page 130, line 29, at end insert –

“(1a) 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.

Environment Bill

THIRD
MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
ON REPORT

9 September 2021
