

Environment Bill

COMMONS REASONS, AMENDMENTS IN LIEU AND AMENDMENT TO A LORDS AMENDMENT

[The page and line numbers refer to HL Bill 16, the bill as first printed for the Lords]

Before Clause 1

LORDS AMENDMENT 1

1 Insert the following new Clause—

“Purpose and declaration of biodiversity and climate emergency

- (1) The purpose of this Act is to address the biodiversity and climate emergency domestically and globally.
- (2) As soon as reasonably practicable and no later than one month beginning with the day on which this Act is passed, the Prime Minister must declare that there is a biodiversity and climate emergency domestically and globally.
- (3) The Government must have regard to this purpose and declaration when implementing the provisions of this Act.”

COMMONS REASON

The Commons disagree to Lords Amendment 1 for the following Reason –

1A *Because the provision made by the Amendment is unnecessary.*

Clause 1

LORDS AMENDMENT 2

2 Page 2, line 1, at end insert—
“(e) soil health and quality.”

COMMONS REASON

The Commons disagree to Lords Amendment 2 for the following Reason –

- 2A** *Because it is not necessary for soil health and quality to be a priority area in order to set a target.*

Clause 2

LORDS AMENDMENT 3

- 3** Page 2, line 21, leave out subsection (2) and insert –

- “(2) The PM_{2.5} air quality target must –
- (a) be less than or equal to 10µg/m³,
 - (b) so far as practicable, follow World Health Organization guidelines, and
 - (c) have an attainment deadline on or before 1 January 2030.”

COMMONS REASON

The Commons disagree to Lords Amendment 3 for the following Reason –

- 3A** *Because the powers conferred by clause 2 should not be limited in the manner proposed.*

Clause 4

LORDS AMENDMENT 12

- 12** Page 3, line 26, at end insert –
- “(c) interim targets are met.”

COMMONS REASON

The Commons disagree to Lords Amendment 12 for the following Reason –

- 12A** *Because the Secretary of State should not be placed under a statutory duty to meet interim targets.*

Clause 18

LORDS AMENDMENT 28

- 28** Page 11, line 24, leave out paragraphs (a) and (b)

COMMONS REASON

The Commons disagree to Lords Amendment 28 for the following Reason –

- 28A** *Because it affects the areas of taxation, spending and the allocation of resources within government, and the Commons do not offer any further Reason, trusting that this Reason may be deemed sufficient.*

Clause 24

LORDS AMENDMENT 31

31 Leave out Clause 24 and insert the following new Clause—

“OEP independence

- (1) The OEP has complete discretion in the carrying out of its functions, including in—
 - (a) preparing its enforcement policy,
 - (b) exercising its enforcement functions, and
 - (c) preparing and publishing its budget.
- (2) At the start of each period of multi-annual funding and no later than 1 April 2023, the Secretary of State must lay before Parliament, and publish, a statement setting out the multi-annual budget which they intend to provide to the OEP.
- (3) The Secretary of State must lay before Parliament, and publish, a statement responding to any request from the OEP for additional funding due to a change in the body’s responsibilities or functions, within three months of that request being received.
- (4) In making or terminating appointments under paragraph 1 and paragraph 5 of Schedule 1, the Secretary of State must obtain the consent of the Environment, Food and Rural Affairs and Environmental Audit Committees of the House of Commons.”

COMMONS DISAGREEMENT AND AMENDMENTS IN LIEU

The Commons disagree to Lords Amendment 31 but propose amendments 31A and 31B as amendments in lieu –

31A Page 14, line 35, leave out subsections (3) and (4)

31B Page 14, line 38, 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
 - (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).”

Clause 37

LORDS AMENDMENT 33

33 Page 22, line 23, leave out subsection (8) and insert –

- “(8) Where the court makes a statement of non-compliance it may grant any remedy that may be granted by it on a judicial review other than damages.
- (8A) In determining whether it would be in the interests of justice to grant a remedy, the court must have regard to –
 - (a) the nature and consequences of the authority’s failure to comply with environmental law, and
 - (b) the likelihood that the grant of a remedy would cause –
 - (i) substantial hardship to, or substantial prejudice to the rights of, any person other than the authority, or
 - (ii) any detriment to good administration.”

COMMONS REASON

The Commons disagree to Lords Amendment 33 for the following Reason –

33A *Because the circumstances in which the court may grant a remedy on an environmental review should not be altered in the manner proposed.*

After Clause 72

LORDS AMENDMENT 43

43 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,
 - (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.”

COMMONS REASON

The Commons disagree to Lords Amendment 43 for the following Reason –

43A

Because the law already makes provision to protect pollinators from the effect of pesticides.

After Clause 78

LORDS AMENDMENT 45

45 Insert the following new Clause –

“Storm overflows

- (1) In Part 4 of the Water Industry Act 1991 (sewerage services), after Chapter 3 insert –

“CHAPTER 4

STORM OVERFLOWS

7 **141A 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.
- 14

141B Storm overflow discharge reduction plan

- (1) The Secretary of State must prepare a plan for the purposes of –
- (a) reducing discharges from the storm overflows of sewerage undertakers whose area is wholly or mainly in England, and
 - (b) reducing the adverse impacts of those discharges.
- (2) The reference in subsection (1)(a) to reducing discharges of sewage includes –
- (a) reducing the frequency and duration of the discharges, and
 - (b) reducing the volume of the discharges.
- (3) The reference in subsection (1)(b) to reducing adverse impacts includes –
- (a) reducing adverse impacts on the environment, and
 - (b) reducing adverse impacts on public health.
- (4) The plan may in particular include proposals for –
- (a) reducing the need for anything to be discharged by the storm overflows;
 - (b) treating sewage that is discharged by the storm overflows;
 - (c) monitoring the quality of watercourses, bodies of water or water in underground strata into which the storm overflows discharge;
 - (d) obtaining information about the operation of the storm overflows.
- (5) When preparing the plan the Secretary of State must consult –
- (a) the Environment Agency,
 - (b) the Authority,
 - (c) the Council,

- (d) Natural England,
 - (e) sewerage undertakers whose area is wholly or mainly in England, or persons representing them, and
 - (f) such other persons as the Secretary of State considers appropriate.
- (6) The Secretary of State must publish the plan before 1 September 2022.
 - (7) The Secretary of State may at any time revise the plan, having consulted the persons referred to in subsection (5), and must publish any revised version.
 - (8) The plan, and any revised version of it, must be laid before Parliament once it is published.

141C Progress reports on storm overflow discharge reduction plan

- (1) The Secretary of State must publish reports (“progress reports”) relating to the plan under section 141B.
- (2) A progress report is to contain the Secretary of State’s assessment of—
 - (a) the progress made, during the period to which the report relates, in implementing the proposals in the plan (or any revised version of it), and
 - (b) the effect of that progress on the matters referred to in section 141B(1)(a) and (b).
- (3) The first progress report must relate to the period of three years beginning with the day on which the plan under section 141B is first published.
- (4) Subsequent progress reports must relate to successive periods of five years after the period referred to in subsection (3).
- (5) A progress report must be published within 12 weeks following the last day of the period to which it relates.
- (6) A progress report must be laid before Parliament once it is published.

141D Annual reports on discharges from storm overflows

- (1) A sewerage undertaker whose area is wholly or mainly in England must publish annual reports in relation to the undertaker’s storm overflows (“storm overflow reports”).
- (2) A storm overflow report must specify, for each of the sewerage undertaker’s storm overflows—
 - (a) the location of the storm overflow;
 - (b) the watercourse, body of water or underground strata into which the storm overflow discharges;
 - (c) the frequency and duration of discharges from the storm overflow in the period to which the report relates;
 - (d) where the information is available, the volume of each discharge in that period;

- (e) information on any investigations that have taken place or improvement works that have been undertaken in relation to the storm overflow during that period.
- (3) Storm overflow reports are to relate to successive calendar years, starting with 2021.
- (4) A storm overflow report must be published by a sewerage undertaker before 1 April in the year after the calendar year to which it relates.
- (5) A storm overflow report must –
 - (a) be in a form which allows the public readily to understand the information contained in the report, and
 - (b) be published in a way which makes the report readily accessible to the public.
- (6) The duties of a sewerage undertaker under this section are 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.

141E Environment Agency reports

- (1) The Environment Agency must publish annual reports in relation to the operation of storm overflows of sewerage undertakers whose area is wholly or mainly in England.
- (2) A report under this section must specify –
 - (a) the location of the storm overflows;
 - (b) the watercourse, body of water or underground strata into which the storm overflows discharge;
 - (c) the frequency and duration of discharges from the storm overflows in the period to which the report relates;
 - (d) where the information is available, the volume of each discharge in that period.
- (3) Reports under this section are to relate to successive calendar years, starting with 2021.
- (4) A storm overflow report must be published by the Environment Agency –
 - (a) before 1 April in the year after the calendar year to which it relates, and
 - (b) in such manner as the Environment Agency thinks fit.

141F Interpretation of Chapter 4

- (1) In this Chapter, references to a storm overflow of a sewerage undertaker are to any structure or apparatus –
 - (a) which is comprised in the sewerage system of the sewerage undertaker, and
 - (b) which, when the capacity of other parts of the system downstream or of storage tanks at sewage disposal works is exceeded, relieves them by discharging their excess contents into inland waters, underground strata or the sea.

- (2) References in this Chapter to discharges from a storm overflow do not include discharges occurring as a result of—
- (a) electrical power failure at sewage disposal works,
 - (b) mechanical breakdown at sewage disposal works,
 - (c) rising main failure, or
 - (d) blockage of any part of the sewerage system downstream of the storm overflow.
- (3) Section 17BA(7) (meaning of sewerage system of a sewerage undertaker) applies for the purposes of subsection (1).”

COMMONS AMENDMENT

The Commons agree with the Lords in their Amendment 45 and propose amendment 45A as an amendment thereto –

45A Leave out lines 7 to 14

After Clause 106

LORDS AMENDMENT 65

65 Insert the following new Clause –

“Habitats Regulations: limits on powers to amend

The Secretary of State may only make regulations under section 105 or 106 –

- (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.”

COMMONS REASON

The Commons disagree to Lords Amendment 65 for the following Reason –

65A *Because the powers conferred by clauses 105 and 106 should not be limited in the manner proposed.*

After Clause 107

LORDS AMENDMENT 66

66 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.”

COMMONS REASON

The Commons disagree to Lords Amendment 66 for the following Reason –

66A *Because the National Planning Policy Framework and the Forestry Commission and Natural England’s standing advice already make provision to protect ancient woodland in England.*

Clause 110

LORDS AMENDMENT 67

67 Page 109, line 13, 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.”

COMMONS DISAGREEMENT AND AMENDMENTS IN LIEU

The Commons disagree to Lords Amendment 67 but propose amendments 67A to 67E as amendments in lieu –

- 67A** Clause 110, page 109, line 13, leave out “in writing signed” and insert “executed as a deed”
- 67B** Clause 120, page 115, line 33, leave out “in writing signed” and insert “executed as a deed”
- 67C** Clause 121, page 116, line 1, leave out “in writing signed” and insert “executed as a deed”
- 67D** Clause 122, page 116, line 15, leave out “in writing signed” and insert “executed as a deed”
- 67E** Clause 124, page 117, line 6, leave out “in writing signed” and insert “executed as a deed”

Schedule 3

LORDS AMENDMENT 75

- 75** Page 155, leave out lines 2 to 16 and insert –

“24A OEP independence in Northern Ireland

- (1) The OEP has complete discretion in the carrying out of its functions in Northern Ireland, including in –
- (a) preparing its enforcement policy,
 - (b) exercising its enforcement functions, and
 - (c) preparing and publishing its budget.
- (2) In making and terminating appointments under paragraph 2(2B) and paragraph 5(8B) of Schedule 1, the Northern Ireland Department must obtain the consent of the Committee for Agriculture, Environment and Rural Affairs of the Northern Ireland Assembly.”

COMMONS DISAGREEMENT AND AMENDMENTS IN LIEU

The Commons disagree to Lords Amendment 75 but propose amendments 75A and 75B as amendments in lieu –

- 75A** Page 155, leave out lines 12 to 14

- 75B** Page 155, 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.
- (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).”

Schedule 9

LORDS AMENDMENT 85

- 85 Page 183, line 31, leave out paragraph (b) and insert—
“(b) are made of plastic or any other single use material, and”

COMMONS DISAGREEMENT AND AMENDMENTS IN LIEU

The Commons disagree to Lords Amendment 85 but propose amendments 85A, 85B and 85C as amendments in lieu –

- 85A Clause 54, page 32, line 39, leave out “plastic”
- 85B Schedule 9, page 183, line 28, at end insert—
“(1A) Regulations made by the Secretary of State may specify only items which—
(a) are single use items, and
(b) are supplied in connection with goods or services.”
- 85C Schedule 9, page 183, line 29, leave out “The regulations” and insert “Regulations made by the Welsh Ministers or the Department of Agriculture, Environment and Rural Affairs in Northern Ireland”

Schedule 16

LORDS AMENDMENT 94

- 94 Page 234, line 27, leave out “second” and insert “first”

COMMONS REASON

The Commons disagree to Lords Amendment 94 for the following Reason –

- 94A *Because the timetable for the Secretary of State’s review of legislation relating to forest risk commodities should not be brought forward.*

LORDS AMENDMENT 95

95 Page 234, line 29, leave out “third” and insert “second”

COMMONS REASON

The Commons disagree to Lords Amendment 95 for the following Reason –

95A *Because the timetable for the Secretary of State’s review of legislation relating to forest risk commodities should not be brought forward.*

Environment Bill

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LORDS AMENDMENT

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