



House of Commons

NOTICES OF AMENDMENTS

given up to and including

Wednesday 9 December 2020

New Amendments handed in are marked thus ★

☆ *Amendments which will comply with the required notice period at their next appearance*

Amendments tabled since the last publication: 6 to 20

CONSIDERATION OF BILL (REPORT STAGE)

ENVIRONMENT BILL, AS AMENDED

NOTE

This document includes all amendments tabled to date and includes any withdrawn amendments at the end. The amendments have been arranged in the order in which they relate to the Bill.

Caroline Lucas
Jonathan Edwards

NC1

To move the following Clause—

“Environmental Principles: public authorities

- (1) A public authority, must, when exercising their functions (including the making of policy and legislation), act in accordance with the environmental principles currently in effect.
- (2) The duty in subsection (1) does not apply to policy relating to Wales.

Environment Bill, continued

- (3) In this section, “legislation” means—
- (a) an Act of Parliament; and
 - (b) subordinate legislation.”

Member’s explanatory statement

This new clause would require public authorities to act in accordance with environmental principles when exercising their functions.

Bill Wiggin

NC2

To move the following Clause—

“Assessment of Plans

- (1) The Conservation of Habitats and Species Regulations 2017/1012 are amended as follows.
 - (2) In Regulation 63 (Assessment of implications for European sites and European offshore marine sites) the following are amended—
 - (a) in paragraph (1) for “must” substitute “may”;
 - (b) in paragraph (3) for “must” substitute “may”;
 - (c) in paragraph (4) for “must” substitute “may”;
 - (d) omit paragraph (5) and insert “In the light of the conclusions of the assessment, and subject to regulation 64, the competent authority may take the assessment into account in deciding whether it will agree to the plan or project”; and
 - (e) in paragraph (6) for “must” substitute “may”.”
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Bill Wiggin

NC3

To move the following Clause—

“Phosphates Levels

In making decisions on planning decisions, the competent authority can disregard any impact of the potential build and its long-term consequences on the level of phosphates in the water.”

Environment Bill, *continued*

Chris Grayling
 Sir Desmond Swayne
 Caroline Nokes
 Mr Philip Hollobone
 Dame Cheryl Gillan

NC4

To move the following Clause—

“Protected species: Hedgehog

- (1) The Wildlife and Countryside Act 1981 is amended in accordance with subsection (2).
- (2) At the end of Schedule 5 (*Animals which are protected*) insert—

“hedgehog

Erinaceus europaeus”

Member’s explanatory statement

This new clause would add the hedgehog to the list of protected animals under the Wildlife and Countryside Act. This would introduce a legal imperative to search for hedgehogs in developments, and a legal imperative to mitigate for them.

Neil Parish

2

Clause 2, page 2, line 24, leave out subsection (2) and insert—

“(2) The PM2.5 air quality target must—

- (a) be less than or equal to air quality guidelines established by the World Health Organization in 2005; and
- (b) have an attainment deadline on or before 1 January 2030.”

Member’s explanatory statement

This amendment is intended to set parameters on the face of the Bill to ensure that the PM2.5 target will be at least as strict as the 2005 WHO guidelines, with an attainment deadline of 2030 at the latest.

Tim Loughton
 Sir Roger Gale

5

Clause 4, page 3, line 31, at end insert “, and

- (c) interim targets are met.”

Member’s explanatory statement

This amendment places a duty on the Secretary of State to meet the interim targets they set.

Environment Bill, *continued*

Secretary George Eustice

6

★ Clause 6, page 5, line 2, at end insert—

“(9) In this section “England” includes—

- (a) the English inshore region, and
- (b) the English offshore region,

within the meaning of the Marine and Coastal Access Act 2009 (see section 322 of that Act).”

Member’s explanatory statement

This amendment provides that in Clause 6 England includes the English inshore region and the English offshore region.

Sir Geoffrey Clifton-Brown
Mr Jonathan Djanogly
Mr Ian Liddell-Grainger
Mrs Pauline Latham
Sir Charles Walker
Richard Drax

Mr Robert Goodwill

Bill Wiggin

4

Clause 16, page 10, line 15, at end insert—

“(3A) When applying the precautionary principle, the policy statement must comply with the provisions of the regulator’s code and must include—

- (a) a procedure for identifying and recording risk; and
- (b) a procedure for identifying and recording the social, economic and cultural impacts of action and inaction.

(3B) The policy statement in subsection (3A) must also include instructions for taking into account all activities with an environmental impact on any area of land under consideration and a procedure for ensuring that any action taken—

- (a) is proportionate to the risk posed by each activity on the land being considered; and
- (b) balances short term impacts against the achievement of the land’s conservation objectives.

(3C) The precautionary principle should only apply in response to risks that are—

- (a) more than hypothetical in nature; and
- (b) serious and irreversible.”

Member’s explanatory statement

This amendment sets out the definition of the precautionary principle when it is used in accordance with the provisions of this Bill.

Environment Bill, *continued*

Caroline Lucas
Jonathan Edwards

1

Clause 18, page 11, line 20, leave out from “benefit” to end of clause and insert—
“(3) Subsection (1) does not apply to policy so far as relating to Wales.”

Member’s explanatory statement

This amendment removes the proportionality limitation and the exceptions for armed forces, defence policy, tax, spending and resources from the requirement to have due regard to the policy statement on environmental principles.

Secretary George Eustice

7

★ Clause 73, page 63, line 18, at end insert—

“and the regulations may provide that a reference in the regulations to a standard is to be construed as a reference to that standard as it has effect from time to time.”

Member’s explanatory statement

This amendment provides that regulations under Clause 73 specifying relevant environmental standards may specify standards as they have effect from time to time. This power to make ambulatory references will avoid the need to amend the regulations each time standards are updated.

Sir Charles Walker
Sir Oliver Heald
Stephen McPartland
Sarah Owen
Rachel Hopkins
Rosie Duffield

Caroline Nokes

3

Clause 82, page 79, line 22, after “damage” insert “, including damage from low flows”

Secretary George Eustice

8

★ Clause 91, page 91, line 31, leave out “section 154(1) of the Criminal Justice Act 2003” and insert “paragraph 24(2) of Schedule 22 to the Sentencing Act 2020”

Member’s explanatory statement

Section 154(1) of the Criminal Justice Act 2003 has been replaced by paragraph 24(2) of Schedule 22 to the Sentencing Act 2020. This amendment updates the cross-reference in consequence.

Environment Bill, *continued*

Secretary George Eustice

9

- ★ Schedule 3, page 143, line 38, at end insert—

“(aa) explains why the OEP considers that the alleged failure, if it occurred, would be serious, and”

Member’s explanatory statement

Under paragraph 9 of Schedule 3 the OEP may give a relevant public authority an information notice if it has reasonable grounds to suspect that the authority has failed to comply with relevant environmental law, and it considers that the failure, if it occurred, would be serious. This amendment requires the information notice to explain why the OEP considers that the alleged failure, if it occurred, would be serious.

Secretary George Eustice

10

- ★ Schedule 3, page 144, line 28, at end insert—

“(aa) explains why the OEP considers that the failure is serious, and”

Member’s explanatory statement

Under paragraph 10 of Schedule 3 the OEP may give a relevant public authority a decision notice if it is satisfied, on the balance of probabilities, that the authority has failed to comply with relevant environmental law, and it considers that the failure is serious. This amendment requires the decision notice to explain why the OEP considers that the failure is serious.

Secretary George Eustice

11

- ★ Schedule 3, page 146, line 4, at end insert “, but only if—

(a) it is satisfied, on the balance of probabilities, that the authority has failed to comply with relevant environmental law, and

(b) it considers that the failure is serious.”

Member’s explanatory statement

This amendment provides that the OEP may only bring a review application against a relevant public authority if it is satisfied on the balance of probabilities that the authority has failed to comply with relevant environmental law, and it considers the failure is serious. This aligns the conditions for bringing a review application with the conditions for giving a decision notice.

Secretary George Eustice

12

- ★ Schedule 3, page 146, line 5, leave out sub-paragraph (2)

Member’s explanatory statement

The OEP may only bring a review application after it has given a decision notice. This amendment removes the OEP’s power to bring a review application in relation to conduct occurring after a decision notice is given, which is similar or related to the conduct described in the decision notice.

Secretary George Eustice

13

- ★ Schedule 3, page 146, line 12, leave out “or (2)”

Member’s explanatory statement

This amendment is consequential on the removal of paragraph 12(2) of Schedule 3 by Amendment 12.

Environment Bill, *continued*

Secretary George Eustice

14

- ★ Schedule 3, page 146, line 43, at end insert “, and
(b) the urgency condition is met.”

Member’s explanatory statement

This amendment provides that the OEP may only bring a judicial review under paragraph 13 of Schedule 3, rather than proceeding by way of information notice, decision notice and review application, in urgent cases. Amendments 15 and 16 define what is meant by urgent.

Secretary George Eustice

15

- ★ Schedule 3, page 146, line 44, leave out from beginning to “(rather” in line 45 and insert “The urgency condition is that making an application under sub-paragraph (1)”

Member’s explanatory statement

This amendment, together with Amendment 16, provides that a case is urgent only if it is necessary to bring a judicial review, rather than proceeding by way of information notice, decision notice and review application, to prevent or mitigate serious damage to the natural environment or to human health.

Secretary George Eustice

16

- ★ Schedule 3, page 147, line 1, after “12)” insert “is necessary”

Member’s explanatory statement

See Amendment 15.

Secretary George Eustice

17

- ★ Schedule 3, page 147, line 11, leave out sub-paragraph (5) and insert—
“(5) Sub-paragraph (6) applies to proceedings (including any appeal) that—

- (a) are in respect of an application for judicial review, and
- (b) relate to an alleged failure by a relevant public authority to comply with relevant environmental law (however the allegation is framed in those proceedings).

- (6) If the OEP considers that the alleged failure, if it occurred, would be serious, it may apply to intervene in the proceedings (whether it considers that the relevant public authority has, or has not, failed to comply with relevant environmental law).”

Member’s explanatory statement

This amendment provides that the OEP may apply to intervene in a judicial review relating to an alleged failure by a relevant public authority to comply with relevant environmental law only if it considers that the failure, if it occurred, would be serious. If that test is satisfied, it may apply to intervene whether or not it considers that the authority has in fact failed to comply with relevant environmental law.

Secretary George Eustice

18

- ★ Schedule 3, page 152, line 6, after “10(1)(b)” insert “, 12(1)(b)”

Member’s explanatory statement

This amendment is consequential on Amendment 11. It requires the OEP’s enforcement policy to set out how the OEP will determine whether a failure to comply with relevant environmental law is serious for the purposes of paragraph 12(1)(b) of Schedule 3, which is inserted by Amendment 11.

Environment Bill, continued

Secretary George Eustice

19

- ★ Schedule 3, page 152, line 6, after “13(1)” insert “and (6)”

Member’s explanatory statement

This amendment is consequential on Amendment 17. It requires the OEP’s enforcement policy to set out how the OEP will determine whether a failure to comply with relevant environmental law is serious for the purposes of paragraph 13(6) of Schedule 3, which is inserted by Amendment 17.

Secretary George Eustice

20

- ★ Schedule 3, page 152, line 35, at end insert—

“23A After section 24 (guidance on the OEP’s enforcement policy and functions) insert—

“24A Guidance on the OEP’s Northern Ireland enforcement policy and functions

- (1) The Department of Agriculture, Environment and Rural Affairs in Northern Ireland may issue guidance to the OEP on the matters listed in section 22(6) (OEP’s enforcement policy), so far as relating to the OEP’s Northern Ireland enforcement functions.
- (2) The OEP must have regard to the guidance in—
 - (a) preparing its enforcement policy, so far as relating to its Northern Ireland enforcement functions, and
 - (b) exercising its Northern Ireland enforcement functions.
- (3) The Department may revise the guidance at any time.
- (4) The Department must lay before the Northern Ireland Assembly, and publish, the guidance (and any revised guidance).
- (5) The OEP’s “Northern Ireland enforcement functions” are its functions under paragraphs 6 to 15 of Schedule 3.”

Member’s explanatory statement

This amendment provides that the Department of Agriculture, Environment and Rural Affairs in Northern Ireland may issue guidance to the OEP on the matters listed in clause 22(6) (OEP’s enforcement policy), so far as relating to the OEP’s Northern Ireland enforcement functions. The OEP must have regard to the guidance in preparing its enforcement policy and exercising its Northern Ireland enforcement functions.

ORDER OF THE HOUSE [26 FEBRUARY 2020, AS AMENDED 4 MAY 2020,
22 JUNE 2020 AND 28 SEPTEMBER 2020]

That the following provisions shall apply to the Environment Bill:

Committal

1. The Bill shall be committed to a Public Bill Committee.

Proceedings in Public Bill Committee

2. Proceedings in the Public Bill Committee shall (so far as not previously concluded) be brought to a conclusion on Tuesday 1 December 2020.
3. The Public Bill Committee shall have leave to sit twice on the first day on which it meets.

Environment Bill, *continued*

Proceedings on Consideration and up to and including Third Reading

4. Proceedings on Consideration and any proceedings in legislative grand committee shall (so far as not previously concluded) be brought to a conclusion one hour before the moment of interruption on the day on which proceedings on Consideration are commenced.
5. Proceedings on Third Reading shall (so far as not previously concluded) be brought to a conclusion at the moment of interruption on that day.
6. Standing Order No. 83B (Programming committees) shall not apply to proceedings on Consideration and up to and including Third Reading.

Other proceedings

7. Any other proceedings on the Bill may be programmed.
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