

# MAYOR OF LONDON

## Written Evidence: Environment Bill 2019-21

May 2020

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### Overview

The Environment Bill is a once-in-a-generation opportunity to set the UK on a pathway to becoming a world leader in environmental protection. All branches and tiers of Government have a role to play in protecting the environment and, through it, human health. This is more apparent than ever as we enter recovery from the worst pandemic in a century.

**It is therefore vital that this set-piece legislation helps all levels of government to act, rather than constraining them. As it stands, this Bill does not clearly and sufficiently achieve that purpose.**

- The draft Bill could weaken key protections across the environment – either now or in the future.
- We need new laws to address today’s air pollution crisis. Air quality in London and the rest of the UK should meet World Health Organization (WHO) limits, to safeguard the health of the many millions of UK citizens affected by poor air quality. This is even more urgent given the emerging evidence linking air pollution with an increased vulnerability to the most severe impacts of COVID-19.
- The draft Bill ignores requests from devolved authorities for additional powers.
- Four areas require urgent attention:
  - Targets and monitoring
  - Oversight and regulation (Office for Environmental Protection)
  - Collaborative working (Local Air Quality Management Framework)
  - Reform of the Clean Air Act

Insofar as the Bill will impact London and Londoners, the most critical flaws relate to air quality, the lack of additional powers to tackle non-transport sources of pollution, and the new processes for oversight. This briefing sets out some of the Mayor’s most pressing concerns about the Bill and recommendations to address them.

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## COVID-19 and air quality

Analysis undertaken before the COVID-19 pandemic predicted that the Mayor's air quality policies, including the ULEZ, could result in a cost saving to London's NHS and social care system of around £5 billion and one million fewer new air pollution-related hospital admissions in London.<sup>i</sup>

Since then, the pandemic and resulting lockdown have had an unprecedented impact on air quality in London.<sup>ii</sup>

- There have been huge reductions in nitrogen dioxide (NO<sub>2</sub>), especially at roadside sites. Central London roadside locations have seen a fall in daily average NO<sub>2</sub> of around 40 per cent. These reductions are in addition to those already delivered by the Mayor's air quality programme.
- One of London's busiest roads, Marylebone Road, has seen a reduction in daily average NO<sub>2</sub> of 48 per cent and Oxford Street has seen a reduction of 47 per cent.
- Despite these improvements, London has had particulate pollution episodes during lockdown. This exposes that London's poor air quality is not just the result of traffic pollution and further action is required on other sources.

There is also emerging scientific evidence that air pollution can increase vulnerability to the most severe impacts of COVID-19<sup>iii</sup>. And experts have shown that COVID-19 has exposed, once again, that vulnerable communities are bearing an unjust burden of dirty air<sup>iv</sup>. Yet the most deprived Londoners most likely to be exposed to air pollution are least likely to own a car.

As it stands, this Bill is a legacy of a previous Government, responding in large part to pressures created by Brexit. Since it was drafted, the context has changed immeasurably, as COVID-19 has exposed the fragility in our society and deep flaws in our economy.

A YouGov poll in April showed that only nine per cent of Britons want to return to life as normal after the end of the lockdown – and fifty-one per cent of respondents said they had noticed cleaner air<sup>v</sup>. **This Bill must be amended to safeguard the environmental gains that have been shown to be possible. It is an opportunity to build a cleaner, greener, more equal future.**

## The effectiveness of local action

The Mayor of London, Metro Mayors, and combined and local authorities have shown a willingness to act before, and sometimes more ambitiously than, Government, and to use their powers to achieve results. The Mayor of London's track record has shown how effective local and regional action can be.

- The introduction of air quality policies in London, including the world's first Ultra Low Emission Zone (ULEZ), contributed to a reduction of 44 per cent in roadside NO<sub>2</sub> in the central London ULEZ zone between February 2017 to January 2020<sup>vi</sup>.
- In January 2020, there were 44,100 fewer polluting vehicles being driven in the central zone every day with 79 per cent of vehicles in the zone meeting the ULEZ emissions standards – up from 39 per cent in February 2017.

**However, existing powers are simply no longer effective enough if we are to meet our increasingly, and rightly, ambitious goals to reduce emissions, protect health and enhance the natural environment.**

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If no wider action is taken by the Government to reduce air pollution:

- around 550,000 Londoners would develop diseases attributable to air pollution over the next 30 years.
- the cumulative cost to the NHS and social care system in London is estimated to be £10.4 billion,
- In addition to the costs to NHS and social care system, air pollution has a wider economic impact. The wider cost to London's economy, including the cost of premature death and loss of working days, is estimated to be £3.7 billion per year. Given the current challenges the economy faces, this is more important than ever.

Cities have unique environmental challenges, but as shown in London, regional authorities have a unique perspective that means they can bring together climate change, air quality, greening and biodiversity, waste management, and other environmental concerns into coherent, effective strategies that maximise co-benefits, including social and economic benefits. For instance, well-designed local policies to support the take up of electric vehicles can integrate support for jobs in manufacturing, servicing, and supply chains as well as reducing air pollution, greenhouse gas, and noise emissions.

**This Bill therefore misses the opportunity to devolve further powers to regional authorities, so that they can take more effective action targeted at local circumstances.** The effectiveness of such an approach is demonstrated in the success of the ULEZ. By contrast, successive Governments have failed to use their existing broad powers to regulate across a range of environmental issues.

For instance, the Bill does not provide, or provide a framework for, action on a wide range of non-transport air pollution sources that are not currently well regulated, including Non-Road Mobile Machinery (NRMM), Combined Heat and Power (CHP), commercial cooking, and domestic and commercial gas use. In London, the Mayor has already set out measures to tackle some of these sources through planning or other powers; but the impact could be much greater if the scope of his existing powers were extended to include order making powers for all sources of pollution.

## ***Funding requirements***

With the necessity for further powers comes the need to provide funding. The Agriculture Bill, introduced shortly after the Environment Bill, introduces significant powers for Government to fund and otherwise support action to improve the environment. The Environment Bill is a missed opportunity to set up a framework for similar incentives or non-legislative measures to support local and regional authorities take action to achieve environmental goals, including meeting WHO standards for air pollution.

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## 1. Targets and monitoring

- The Environment Bill creates a framework for setting new environmental targets on air quality, water, biodiversity and resource efficiency and waste reduction.
- The minimum requirement is for one target in each area that must be set by 2022 and met *no sooner* than 15 years later. An additional target must be set specifically for PM<sub>2.5</sub>, which may or may not be a long-term target.
- Targets may subsequently be lowered or revoked, except for the PM<sub>2.5</sub> target which may not be revoked but can be lowered. This stands in stark contrast to the current arrangements where, for instance, air and water quality targets are legally binding from the outset and set in the primary EU legislation, meaning they cannot be altered without significant scrutiny.
- Interim targets may also be set, but these are non-binding.
- While the Government is required to report on standards set internationally, there is no requirement for new targets to meet or exceed present targets, or to be strengthened in line with international advice or precedent.
- The interaction between binding long-term targets, non-binding interim targets, improvement plans, annual reports on long term targets, reports on international developments (which do not need to contain recommendations) and target reviews is complex and highly dependent on the motivations of the Government of the day.
- There is emerging scientific evidence that air pollution can increase vulnerability to the most severe impacts of COVID-19<sup>vii</sup>.
- Notably, Dr Maria Neira, Director Public Health, Environmental and Social Determinants of Health at the World Health Organization, has said the Government needs to raise the ambition in its Environment Bill. Her recommendation is for *“all governments to try to move as soon as possible to our guidelines because we need to save the lives of those who are dying because of exposure to air pollution and those who are suffering.”*<sup>viii</sup> **Progress towards meeting the WHO-recommended levels must be expedited.**
- **The net effect of the current provisions in the Bill is to allow Government not only to delay action but also to remove or weaken targets at a later date if they appear hard or expensive to meet. This fundamentally undermines the purpose of target setting in the first place.**

### Recommendations:

- 1.1. **Clause 2 should be amended to set an initial PM<sub>2.5</sub> target in line with current WHO-recommended levels (10 µg/m<sup>3</sup> annual mean concentration) to be met by 2030 (Amendment 1 in the Appendix).** The Mayor has produced evidence to show that this is achievable even in the most difficult areas of London. Recent monitoring data shows that some parts of London already meets this standard, giving further confidence that this standard could be achieved across London, and the UK, by 2030.
- 1.2. Clause 3 should be amended to prevent the Government of the day from rolling back or revoking from existing targets (Amendment 2 in the Appendix).

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- 1.3. Clause 20 should be amended and to require targets to be strengthened when the required report on “International environmental protection legislation” shows the UK to be falling behind international standards (Amendment 3 in the Appendix).
- 1.4. Clause 4 should be amended to give interim targets the same effect as targets (Amendment 13 in the Appendix).

## 2. Office for Environmental Protection and governance

- The Environment Bill creates a new Office for Environmental Protection as a replacement for the existing oversight provided by the European Commission and the European Court of Justice.
- Experience such as the Client Earth court cases and the subsequent threat of EU fines have shown the value of effective independent oversight with appropriate powers in ensuring Governments take action to meet their environmental commitments.
- In order to be effective, regulators need to be independent financially and operationally of the Government of the day and have significant powers to enforce their rulings.
- The Bill includes the adoption of environmental principles, but these are subject to wide-ranging exclusions and exemptions, limiting their relevance, scope, and impact on policy making.

### Recommendations:

- 2.1. Clauses 1-5 and 12 of Schedule 1 should be amended to make senior appointments and funding of the OEP subject to Parliamentary rather than Government approval (Amendment 4 in the Appendix).
- 2.2. Clause 33 of the Bill should be amended to allow the OEP to impose fines or require other remedies when issuing its decision notices (Amendment 5 in the Appendix).
- 2.3. Clause 18 should be amended remove the exclusions in subsection 2 (b) and (3) (b) (Amendment 6 in the Appendix).
- 2.4. Clause 19 should be amended to make it the default position that all new Bills should be accompanied by a statement as to their compatibility with environmental principles and targets, similar to the statement of compatibility with human rights legislation required for all new Bills (Amendment 7 in the Appendix).

## 3. Changes to the Local Air Quality Management (LAQM) Framework

- The existing LAQM Framework was created in the 1995 Environment Act and predates the creation of Metro Mayors and combined authorities.
- In London, the Mayor has shown what can be achieved on air quality with political will, a strategic city-wide approach, and effective partnership working with other tiers of government. Similarly, other Metro Mayors and combined authorities are taking or planning effective action that suits the specific needs of their areas.

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- Reform is clearly needed to enable similar collaborative working in other parts of the country. However, the Bill fails to grapple with the limitations of the current arrangements for LAQM.
- **Crucially, the Bill undermines the strategic role of Metro Mayors and combined authorities by excluding them from the new arrangements for designation of air quality partners.**
- The Bill introduces a duty to maintain air quality where standards are met. However, the duty is not universal and only applies within an Air Quality Management Area. Existing rules mean that an Air Quality Management Area can only be declared where there is already an exceedance and can be revoked once the exceedance is removed. This means that the new duty would only apply where not needed, and vice versa.
- It is clear that detailed work will be needed to flesh out concepts such as air quality partners. However, the failure to adequately address the substantial, strategic role that is already being played by Metro Mayors in improving air quality is critical to the functioning of the LAQM regime and not a technical detail that can be sensibly worked out in guidance documents after the fact. **This must therefore be changed in the Bill itself (see below).**

## Recommendations:

- 3.1 Ideally the whole of Schedule 11 should be rethought, but as a minimum the following amendments should be made to address the most significant flaws.
- 3.2 Schedule 11 sections 8 and 10 should be amended to allow the Mayor of London, the other Metro Mayors and Combined Authorities to also be able to designate “Air Quality Partners” relevant to their air quality plans and strategies, and to provide guidance on how the duty to cooperate should function with respect to lower tier authorities in their area (Amendment 8 in the Appendix).
- 3.3 Schedule 11 clause 6 should be amended to separate the duty to maintain compliance with air quality standards and objectives from the requirements specific to air quality management areas (Amendment 9 in the Appendix).

## 4. Changes to the Clean Air Act

- The Clean Air Act was last updated in 1993, but its core elements remain rooted in the 1950s.
- The Bill makes minor amendments to the Clean Air Act to support the introduction of new regulations for the sale of solid fuels and to enable civil, rather than criminal, prosecution of dark smoke offences.
- However, the new civil procedure for smoke offences is prohibitively complex to use and reduces the penalty from a maximum of £3,000 to a maximum of £300. The complexity of the new scheme, coupled with a fine that is unlikely to give full cost recovery, make it highly likely that most local authorities would not practically be able to use these powers.
- The failure of the existing Clean Air Act to set modern standards for, or require the use of, low pollution appliances in smoke control areas is not addressed. The Mayor of London has requested these powers given the unique challenges London faces in meeting WHO recommended guidelines for PM<sub>2.5</sub>.

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## Recommendations:

- 4.1 Clause 3 of Schedule 12 introduces a new “Schedule 1A” to the Clean Air Act. This new Schedule 1A should be amended to remove the need for a “notice of intent” and a “final notice”, replacing them instead with a single fixed penalty notice (Amendment 10 in the Appendix).
- 4.2 Schedule 12 should amend clause 21 of the Clean Air Act to require that the Secretary of State can only exempt appliances from the provisions of the Clean Air Act if they meet at least the applicable Ecodesign standard. Or, if the Government is not willing to use this power itself, devolve local order making powers to control pollution from solid fuel appliances to devolved strategic authorities, such as the Metro Mayors (Amendment 12 in the Appendix).
- 4.3 Schedule 12 should amend clause 20 of the Clean Air Act to make it an offence to burn a solid fuel in any appliance other than an approved appliance within a smoke control zone. Or, as above, devolve this power to devolved strategic authorities, such as the Metro Mayors (Amendment 11 in the Appendix).

## Contact

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<sup>i</sup> <https://www.london.gov.uk/what-we-do/environment/pollution-and-air-quality/modelling-long-term-health-impacts-air-pollution-london>

<sup>ii</sup> [https://www.london.gov.uk/sites/default/files/london\\_response\\_to\\_aqeg\\_call\\_for\\_evidence\\_april\\_2020.pdf](https://www.london.gov.uk/sites/default/files/london_response_to_aqeg_call_for_evidence_april_2020.pdf)

<sup>iii</sup> <https://projects.iq.harvard.edu/covid-pm>

<sup>iv</sup> <https://www.nrdc.org/experts/gina-mccarthy/pollution-not-equal-opportunity-killer-nor-COVID-19>

<sup>v</sup> [https://drive.google.com/file/d/1d60r6cdZ8YXDjyAeVK\\_rLb82bg2r8yT2/view](https://drive.google.com/file/d/1d60r6cdZ8YXDjyAeVK_rLb82bg2r8yT2/view)

<sup>vi</sup> [https://www.london.gov.uk/sites/default/files/ulez\\_ten\\_month\\_evaluation\\_report\\_23\\_april\\_2020.pdf](https://www.london.gov.uk/sites/default/files/ulez_ten_month_evaluation_report_23_april_2020.pdf)

<sup>vii</sup> <https://projects.iq.harvard.edu/covid-pm>

<sup>viii</sup> <https://airqualitynews.com/2020/05/07/the-big-interview-dr-maria-neira-world-health-organization/>

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## Appendix 1: Amendments proposed by the GLA

	Environment Bill Clause	Suggested amendment	Explanation
1	<p><b>Clause 2: Environmental targets: particulate matter</b></p> <p>(1) The Secretary of State must by regulations set a target (“the PM<sub>2.5</sub> air quality target”) in respect of the annual mean level of PM<sub>2.5</sub> in ambient air.</p> <p>(2) The PM<sub>2.5</sub> air quality target may, but need not, be a long-term target.</p> <p>...</p>	<p><b>Clause 2(2), page 2, line 20, delete and insert:</b></p> <p>“(2) The PM<sub>2.5</sub> air quality target must-</p> <p>(a) be at least as stringent as the World Health Organization air quality guideline for the annual mean level of PM<sub>2.5</sub> in ambient air published in 2005;</p> <p>(b) have an attainment deadline of 2030 at the very latest”</p>	<p>This amendment introduces a target for PM<sub>2.5</sub> at the recommended WHO level to be met by 2030. It is also put forward by Client Earth.</p>
2	<p><b>Clause 3</b></p> <p><b>3 Environmental targets: process</b></p> <p>...</p> <p>(3) The Secretary of State may make regulations under section 1 or 2 which revoke or lower a target (the “existing target”) only if satisfied that—</p> <p>(a) meeting the existing target would have no significant benefit compared with not meeting it or with meeting a lower target, or</p> <p>(b) because of changes in circumstances since the existing target was set or last amended the environmental, social, economic or other costs of meeting it would be disproportionate to the benefits.</p> <p>(4) Before making regulations under section 1 or 2 which revoke or lower a target the Secretary of State must lay before Parliament, and publish, a statement explaining why the Secretary of State is satisfied as mentioned in subsection (3).</p> <p>(5) Regulations lower a target if, to any extent, they—</p>	<p><b>Clause 3(3):</b></p> <p>After the words “The Secretary of State may” insert the word “not”. Delete the words from “only if” to the end of 3 (3) (b)</p> <p>Delete sub-clauses 3(4) and 3(6).</p> <p>Other amendments should be made as set out in row 2 of the table in appendix 2.</p>	<p>This amendment prevents the Government of the day from weakening or revoking targets after they are set.</p>

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	<p>(a) replace the specified standard with a lower standard, or</p> <p>(b) replace the specified date with a later date.</p> <p>(6) Regulations under section 2 may not revoke the PM2.5 air quality target (but may amend it in accordance with this section).</p> <p>...</p>		
3	<p><b>Clause 20</b></p> <p><b>20 Reports on international environmental protection legislation</b></p> <p>(1) The Secretary of State must report on developments in international environmental protection legislation which appear to the Secretary of State to be significant.</p> <p>...</p> <p>(6) A report under this section must be laid before Parliament, and published, as soon as reasonably practicable after the end of the reporting period to which it relates.</p>	<p><b>After sub-clause (6) Insert a new sub-clause (7):</b></p> <p>(7) Where a report under this section identifies international environmental law or standards that provides greater protection than an existing target the Secretary of State must, within 6 months, make regulations under section 1 or 2 that meet or exceed the level of protection identified by the review.</p>	<p>This amendment ensures that the targets will be updated in line with international best practice and advice.</p>
4	<p><b>Clause 21/Schedule 1</b></p> <p><b>Schedule 1: The Office for Environmental Protection</b></p> <p><i>Membership</i></p> <p>1 (1) The OEP is to consist of—</p> <p>...</p> <p>(2) The members are to be appointed by the Secretary of State and the OEP in accordance with paragraphs 2 and 3.</p> <p>...</p> <p><i>Appointment of non-executive members</i></p>	<p><b>Schedule 1, clause 1(2):</b> After the words “Secretary of State and the OEP, insert the words: “...with the consent of the Environment Food and Rural Affairs Committee of the House of Commons and...”</p> <p><b>Schedule 1, clause 2(1):</b> After the words “Secretary of State”, insert the words: “...with the consent of the Environment Food and Rural Affairs Committee of the House of Commons”</p> <p><b>Schedule 1, clause 3 (3):</b> After the words “Secretary of State” insert the words:</p>	<p>These amendments ensure parliamentary scrutiny, via the Environment Food and Rural Affairs Committee, of senior appointments and budgets for the OEP.</p>

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<p>2 (1) Non-executive members are to be appointed by the Secretary of State.</p> <p>...</p> <p><i>Appointment of executive members</i></p> <p>3</p> <p>...</p> <p>(3) The Secretary of State must be consulted before a person is appointed as chief executive.</p> <p>...</p> <p><i>Interim chief executive</i></p> <p>4 (1) The Secretary of State may appoint a person as an executive member to act as chief executive of the OEP (“an interim chief executive”) until the appointment of the first chief executive by the Chair under paragraph 3(1).</p> <p>...</p> <p><i>Terms of membership</i></p> <p>5</p> <p>...</p> <p>(6) A non-executive member—</p> <p>(a) ceases to be a member of the OEP upon becoming its employee,</p> <p>(b) may resign from office by giving notice to the Secretary of State, and</p> <p>(c) may be removed from office by notice given by the Secretary of State on the grounds that the member—</p> <p>(i) has without reasonable excuse failed to discharge the member’s functions, or</p> <p>(ii) is, in the opinion of the Secretary of State, unable or unfit to carry out the member’s functions.</p> <p>...</p> <p><i>Funding</i></p>	<p>“and the Environment Food and Rural Affairs Committee of the House of Commons”</p> <p><b>Schedule 1, clause 4 (1):</b> After the words “Secretary of State”, insert the words: “...with the consent of the Environment Food and Rural Affairs Committee of the House of Commons”</p> <p><b>Schedule 1, clause 5:</b> Insert a new sub-clause (7): “(7): A notice under paragraph 6 (c) may only be given where the secretary of state has first obtained the consent of the Environment Food and Rural Affairs Committee of the House of Commons.”</p> <p><b>Schedule 1, clause 12:</b> After the words “such sums as the Secretary of State”, insert the words: “, acting on the advice of the Environment Food and Rural Affairs Committee of the House of Commons,”</p>	
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	<p>12 (1) The Secretary of State must pay to the OEP such sums as the Secretary of State considers are reasonably sufficient to enable the OEP to carry out its functions.</p>		
5	<p><b>Clause 33 Decision notices</b>            (1) The OEP may give a decision notice to a public authority if—            (a) the OEP is satisfied, on the balance of probabilities, that the authority has failed to comply with environmental law, and            (b) it considers that the failure is serious.</p> <p>(2) A decision notice is a notice that—            (a) describes a failure of a public authority to comply with environmental law, and            (b) sets out the steps the OEP considers the authority should take in relation to the failure (which may include steps designed to remedy, mitigate or prevent reoccurrence of the failure).            ...</p>	<p><b>Clause 33 (2) (b)</b>            Replace the word “should” with the word “must”            Insert new sub-clauses (c) and (d)            (c) Sets out any fines payable in respect of damage to health or the environment incurred in relation to the failure.            (d) Any fines levied under part (c) must;                (i) Be determined by a recognised method to be sufficient to compensate for or mitigate the damage caused by the failure, and                (ii) Used or paid out solely to projects intended to mitigate the damage or to compensate those who have been harmed by the failure.</p>	<p>This amendment gives the OEP the power to issue binding instructions and levy fines as well as setting out the purposes for which any money raised by fines may be used.</p>
6	<p><b>Clause 18 Policy statement on environmental principles: effect</b>            (1) A Minister of the Crown must, when making policy, have due regard to the policy statement on environmental principles currently in effect.</p> <p>(2) Nothing in subsection (1) requires a Minister to do anything (or refrain from doing anything) if doing it (or refraining from doing it)—            (a) would have no significant environmental benefit, or            (b) would be in any other way disproportionate to the environmental benefit.</p>	<p><b>Clause 18 (2) (b) and 3(b)</b>            Delete subsection 2(b)            In subsection 3(b), after the word “taxation” delete the words “spending or the allocation of resources within government,”</p>	<p>This amendment applies environmental principles to a broader range of Government activity, including spending and the allocation of resources.</p>

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	<p>(3) Subsection (1) does not apply to policy so far as relating to—</p> <p>(a) the armed forces, defence or national security,</p> <p>(b) taxation, spending or the allocation of resources within government, or</p> <p>(c) Wales.</p>		
7	<p><b>Clause 19 Statements about Bills containing new environmental law</b></p> <p>(1) This section applies where a Minister of the Crown in charge of a Bill in either House of Parliament is of the view that the Bill as introduced into that House contains provision which, if enacted, would be environmental law.</p> <p>(2) The Minister must, before Second Reading of the Bill in the House in question, make—</p> <p>(a) a statement to the effect that in the Minister’s view the Bill contains provision which, if enacted, would be environmental law, and</p> <p>(b) a statement under subsection (3) or (4).</p> <p>(3) A statement under this subsection is a statement to the effect that in the Minister’s view the Bill will not have the effect of reducing the level of environmental protection provided for by any existing environmental law.</p> <p>(4) A statement under this subsection is a statement to the effect that—</p> <p>(a) the Minister is unable to make a statement under subsection (3), but</p>	<p><b>Delete sections 19 (1) to 19(4) and replace with the following:</b></p> <p>“(1)A Minister of the Crown in charge of a Bill in either House of Parliament must, before Second Reading of the Bill—</p> <p>(a)make a statement to the effect that in the Minister’s view the Bill will not have the effect of reducing the level of environmental protection provided for by any existing environmental law and that the Bill is compatible with the Environmental Principles set out in section 16(5) and the policy statement required by section 16 (1). or</p> <p>(b)make a statement to the effect that although he is unable to make a statement under subsection (a) the government nevertheless wishes the House to proceed with the Bill.</p> <p>(2)The statement must be in writing and be published in such manner as the Minister making it considers appropriate.”</p>	<p>This amendment applies the consideration of environmental principles to all legislation.</p>

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	(b) Her Majesty’s Government nevertheless wishes the House to proceed with the Bill.		
8	<p><b>Clause 69 and Schedule 11</b></p> <p><b>Schedule 11: Local air quality management framework</b></p> <p>...</p> <p>8 After section 85 insert—</p> <p><b>“85A Duty of air quality partners to co-operate</b></p> <p>(1) For the purposes of this Part, an “air quality partner” of a local authority means a person identified by that authority in accordance with section 82(5)(b) or (c).</p> <p>(2) An air quality partner of a local authority must provide the authority with such assistance in connection with the carrying out of any of the authority’s functions under this Part as the authority requests.</p> <p>(3) An air quality partner may refuse a request under subsection (2) to the extent it considers the request unreasonable.</p> <p><b>85B Role of air quality partners in relation to action plans</b></p> <p>(1) Where a local authority in England intends to prepare an action plan it must notify each of its air quality partners that it intends to do so.</p> <p>(2) Where an air quality partner of a local authority has been given a notification under subsection (1) it must, before the end of the relevant period, provide the authority with proposals for particular</p>	<p><b>In section 8 amend the new section 85A of the Environment Act 1995 as follows:</b></p> <p>After the words “85a Duties of air quality partners” insert the words:</p> <p>“and strategic air quality partners”</p> <p>In section 85A (1), after the words “section 82(5)(b) or (c)”, insert the words:</p> <p>“and a “strategic air quality partner” means a person identified by the Mayor of London in accordance with section 86A (1a).”</p> <p>After section 85A (2) insert the following:</p> <p>“2a A strategic air quality partner must provide the Mayor with such assistance in connection with the carrying out of any of the Mayor’s functions under Part 351A (3) (e) of the GLA Act 1999 as the Mayor requests”</p> <p>After section 85A (3) insert the following:</p> <p>3a A strategic air quality partner may refuse a request under subsection (2a) to the extent it considers the request unreasonable.</p> <p>In section 8 the new section 85B of the Environment Act 1995 insert:</p> <p><b>85C Role of strategic air quality partners in relation to the Mayors Environment Strategy</b></p> <p>(1) Where the Mayor of London intends to prepare or revise a London Environment Strategy (the Strategy) he must notify</p>	<p>These amendments extend the concept of air quality partners to include partners who have a potentially strategic role in London and clarifies how this would work where there is also a local partnership role with a London Borough.</p> <p>Similar amendments should also be made in respect of other metro Mayors and combined authorities, but the GLA does not have the detailed knowledge of the legislation creating these authorities needed to draft these amendments in detail.</p>

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<p>measures the partner will take to contribute to the achievement, and maintenance, of air quality standards and objectives in the area to which the plan relates.</p> <p>(3) An air quality partner that provides proposals under subsection (2) must—</p> <p>(a) in those proposals, specify a date for each particular measure by which it will be carried out, and</p> <p>(b) as far as is reasonably practicable, carry out those measures by those dates.</p> <p>(4) An action plan prepared by a local authority in England must set out any proposals provided to it by its air quality partners under subsection (2) (including the dates specified by those partners by virtue of subsection (3)(a)).</p> <p>(5) The Secretary of State may direct an air quality partner to make further proposals under subsection (2) by a date specified in the direction where the Secretary of State considers the proposals made by the partner under that subsection are insufficient or otherwise inappropriate.</p> <p>(6) A direction under subsection (5) may make provision about the extent to which the further proposals are to supplement or replace any other proposals made under subsection (2) by the air quality partner.</p> <p>(7) An air quality partner must comply with any direction given to it under this section.”</p> <p>...</p> <p>10 For section 86A substitute—</p> <p><b>“86A Role of the Mayor of London in relation to action plans</b></p>	<p>each of his strategic air quality partners that he intends to do so.</p> <p>(2) Where a strategic air quality partner of the Mayor has been given a notification under subsection (1) it must, before the end of the relevant period, provide the Mayor with proposals for particular</p> <p>measures the partner will take to contribute to the achievement, and maintenance, of national air quality standards and objectives and the objectives set out in the Strategy in Greater London.</p> <p>(3) A strategic air quality partner that provides proposals under subsection (2) must—</p> <p>(a) in those proposals, specify a date for each particular measure by which it will be carried out, and</p> <p>(b) as far as is reasonably practicable, carry out those measures by those dates.</p> <p>(4) The Strategy must set out any proposals provided to it by its strategic air quality partners under subsection (2) (including the dates specified by those partners by virtue of subsection (3)(a)).</p> <p>(5) The Mayor may direct an air quality partner to make further proposals under subsection (2) by a date specified in the direction where the Mayor of State considers the proposals made by the partner under that subsection are insufficient or otherwise inappropriate.</p> <p>(6) A direction under subsection (5) may make provision about the extent to which the further proposals are to supplement or</p>	
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# MAYOR OF LONDON

	<p>(1) Where a local authority in London intends to prepare an action plan it must notify the Mayor of London (referred to in this section as “the Mayor”).</p> <p>(2) Where the Mayor has been given a notification under subsection (1) by a local authority in London the Mayor must, before the end of the relevant period, provide the authority with proposals for particular measures the Mayor will take to contribute to the achievement, and maintenance, of air quality standards and objectives in the area to which the plan relates.</p> <p>(3) Where the Mayor provides proposals under subsection (2), the Mayor must—</p> <p>(a) in those proposals, specify a date for each particular measure by which it will be carried out, and</p> <p>(b) as far as is reasonably practicable, carry out those measures by those dates.</p> <p>(4) An action plan prepared by a local authority in London must set out any proposals provided to it by the Mayor under subsection (2) (including the dates specified by the Mayor by virtue of subsection (3)(a)).</p>	<p>replace any other proposals made under subsection (2) by the strategic air quality partner.</p> <p>(7) An air quality partner must comply with any direction given to it under this section.</p> <p>(8) Where a strategic air quality partner is also identified as an air quality partner of any Local Authority within Greater London the Mayor may issue guidance to the Local Authority and the air quality partner regarding the discharge of the requirements of sections 85A and 85B.</p> <p>In section 10 of schedule 11, amend the new section 86A as follows:</p> <p>After the words “86A Role of the Mayor of London in relation to action plans”, insert the words:</p> <p><b>“and strategic air quality partners</b></p> <p>(1a) Where, in the preparation of his Environment Strategy, The Mayor of London identifies relevant sources of emissions that the Mayor considers are, or might be, responsible (in whole or in part) for any failure to achieve air quality standards or objectives in Greater London or failure to achieve the air quality objectives set out in the London Environment Strategy, the Mayor must identify the relevant public authority, or the Agency, who has functions of a public nature in relation to that source.”</p>	
9	<p><b>Clause 69 and Schedule 11</b></p> <p><b>Schedule 11: Local air quality management framework</b></p> <p>...</p>	<p>After the words “section 83 insert-“, insert the words:</p> <p><b>83AA Duties in relation to the maintenance of air quality standards</b></p>	<p>This amendment creates a free-standing duty to maintain compliance with air quality limits</p>

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	<p>6 After section 83 insert—  <b>“83A Duties of English local authorities in relation to designated areas</b>  (1) This section applies in relation to a local authority in England.  (2) A local authority must, for the purpose of securing that air quality standards and objectives are achieved in an air quality management area designated by that authority, prepare an action plan in relation to that area.  (3) An action plan is a written plan that sets out how the local authority will exercise its functions in order to secure that air quality standards and objectives are achieved in the area to which the plan relates.  (4) An action plan must also set out how the local authority will exercise its functions to secure that air quality standards and objectives are maintained after they have been achieved in the area to which the plan relates.  ...  <b>Clause 70 and Schedule 12</b>  <b>Schedule 12: Smoke control in England and Wales</b>  3 After Schedule 1 insert—  “SCHEDULE 1A</p>	<p>(1) Where air quality standards and objectives are already achieved in their area local authorities in England must set out how the local authority will exercise its functions to secure that air quality standards and objectives are maintained.  (2) Where air quality standards and objectives are already achieved in Greater London the Mayor must set out in the London Environment Strategy how the Mayor will exercise its functions to secure that air quality standards and objectives are maintained.  (3) Where air quality standards and objectives are already achieved in a combined authority area the combined authority must set out how they will exercise their functions to secure that air quality standards and objectives are maintained.</p> <p>Section 3 of schedule 12 inserts a new schedule 1A into the Clean Air Act 1993. The new Schedule 1A should be amended as follows:  At line 7 delete the words “Notice of intent” and insert the words “Penalty notice”</p>	<p>where this is already achieved.</p> <p>This amendment reduces the number of notices that need to be served in relation to smoke offences to a single penalty notice and introduces</p>
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<p>PENALTY FOR EMISSION OF SMOKE IN SMOKE CONTROL AREA IN ENGLAND</p> <p>...</p> <p><i>Notice of intent</i></p> <p>2 (1) This paragraph applies where a local authority is satisfied, on the balance of probabilities, that on a particular occasion smoke has been emitted from a relevant chimney within a smoke control area declared by that authority.</p> <p>(2) The local authority may give to the person liable a notice under this paragraph (a “notice of intent”).</p> <p>(3) A notice of intent must—</p> <p>(a) inform the person that the local authority is satisfied as specified in sub-paragraph (1),</p> <p>(b) specify the occasion referred to in sub-paragraph (1),</p> <p>(c) inform the person that the local authority proposes to impose a financial penalty under this Schedule (including the proposed amount of the penalty), and</p> <p>(d) give details regarding the person’s right to object to the imposition of a financial penalty.</p> <p>...</p> <p><i>Right to object to proposed financial penalty</i></p> <p>4 (1) A person to whom a notice of intent is given may, within the period of 28 days beginning with the day after that on which the notice was given—</p> <p>(a) object in writing to the local authority on a ground specified in sub-paragraph (2), and</p> <p>(b) provide evidence that supports the objection.</p> <p>...</p> <p><i>Decision regarding a final notice</i></p> <p>5 (1) Where a local authority in England has given a notice of intent to a person, the authority may impose</p>	<p>In section 2 (2) after the words “this paragraph” delete the words “(a notice of intent)”</p> <p>After subsection 2 (3) insert a new subsection: “(4) The penalty notice must require the financial penalty to be paid within the period of 28 days beginning with the day after that on which the notice was given.”</p> <p>In Section 4 (1) delete the words “notice of intent” and insert the words “penalty notice”</p> <p>Delete sections 5 and 6</p> <p>In Section 7 (1) (a) delete the words “notice of intent or a final notice” and insert the words “penalty notice”</p> <p>In section 7 (1) (b) delete the words “final notice” and insert “penalty notice”.</p> <p>In section 7 (2) delete the words “notice of intent or final notice” and insert the words “penalty notice”</p> <p>After subsection 7 (2) insert a new subsection 7(3):</p> <p>“(3) Where an objection to a penalty notice has been made under section 4, a local authority must either decide to give notice withdraw the penalty notice under paragraph (1) or give notice that they have decided not to withdraw the penalty notice within 28 days of receiving the objection.</p> <p>Delete section 8 (1) and replace with:</p>	<p>consequential amendments to maintain the rights to object to a notice and appeal to the tribunal.</p>
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<p>a financial penalty on the person if the local authority so decides within—</p> <p>(a) the period of 56 days beginning with the day on which an objection is made under paragraph 4, or</p> <p>(b) if no such objection is made, the period of 56 days beginning with the day after the day on which the period mentioned in paragraph 4(1) ended.</p> <p>(2) If the local authority decides not to impose a financial penalty on a person, or does not decide to impose a financial penalty on the person within the period specified in sub-paragraph (1), the authority must give a notice to that person that informs the person that a financial penalty will not be imposed.</p> <p><i>Final notice</i></p> <p>6 (1) This paragraph applies where a local authority in England decides to impose a financial penalty on a person who was given a notice of intent.</p> <p>(2) The local authority may impose a financial penalty by a notice given to that person (a “final notice”).</p> <p><i>Decision regarding a final notice</i></p> <p>5 (1) Where a local authority in England has given a notice of intent to a person, the authority may impose a financial penalty on the person if the local authority so decides within—</p> <p>(a) the period of 56 days beginning with the day on which an objection is made under paragraph 4, or</p> <p>(b) if no such objection is made, the period of 56 days beginning with the day after the day on which the period mentioned in paragraph 4(1) ended.</p> <p>(2) If the local authority decides not to impose a financial penalty on a person, or does not decide to</p>	<p>“8 (1) A person who receives notice under section 7(3) above that the Local Authority has decided not to withdraw a penalty notice may, within the period of 28 days beginning with the day after that on which the notice was given, appeal against the notice to the First-tier Tribunal</p>	
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# MAYOR OF LONDON

<p>impose a financial penalty on the person within the period specified in sub-paragraph (1), the authority must give a notice to that person that informs the person that a financial penalty will not be imposed.</p> <p><i>Final notice</i></p> <p>6 (1) This paragraph applies where a local authority in England decides to impose a financial penalty on a person who was given a notice of intent.</p> <p>(2) The local authority may impose a financial penalty by a notice given to that person (a “final notice”).</p> <p>(3) A final notice must specify—</p> <ul style="list-style-type: none"><li>(a) the amount of the financial penalty,</li><li>(b) the reasons for imposing the penalty,</li><li>(c) information about how to pay the penalty,</li><li>(d) the period for payment of the penalty, and</li><li>(e) information about rights of appeal.</li></ul> <p>(4) The final notice must require the financial penalty to be paid within the period of 28 days beginning with the day after that on which the notice was given.</p> <p><i>Withdrawal or amendment of notices</i></p> <p>7 (1) A local authority may at any time—</p> <ul style="list-style-type: none"><li>(a) withdraw a notice of intent or a final notice, or</li><li>(b) reduce the amount of the financial penalty specified in a final notice.</li></ul> <p>(2) The power in sub-paragraph (1) is to be exercised by giving notice to the person to whom the notice of intent or final notice was given.</p> <p><i>Appeals</i></p> <p>8 (1) A person on whom a financial penalty is imposed by a final notice may, within the period of 28 days beginning with the day after that on which the notice</p>		
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	was given, appeal against the notice to the First-tier Tribunal. ...		
11	<p><b>Clause 70 and Schedule 12</b></p> <p><b>Schedule 12: Smoke control in England and Wales</b></p> <p>N/A: new section</p>	<p><b>After Section 4 of schedule 12:</b></p> <p><b>Either:</b></p> <p><b>Insert a new section 4a:</b></p> <p>4a After section 20 (3) delete the words “(4)In proceedings for an offence under this section it shall be a defence to prove that the alleged emission was not caused by the use of any fuel other than an authorised fuel” and insert:</p> <p>“(4) If, on any day, any fuel other than an authorised fuel is burned in any fireplace in any building within a smoke control area, the occupier of the building shall be guilty of an offence.”</p> <p><b>Or</b></p> <p><b>Insert a new section 4a:</b></p> <p>4a After Section 20 insert:</p> <p>20A: Powers of the Mayor of London in respect of Smoke Control areas</p> <p>(1) The Mayor of London may make alterations to the provisions of section 20 insofar as they apply to Smoke Control Zones within Greater London.</p> <p>(2) Such alterations may only be made if it appears desirable or expedient for the purpose of directly or indirectly facilitating the achievement of any policies or proposals set out in the</p>	<p>This row suggests two possible amendments: the first would amend the operation of Smoke Control Zones nationwide to prohibit the use of non-authorised fuels.</p> <p>The second alternative would give the power to prohibit the use of unauthorised fuels in London to the Mayor of London, subject to the approval of the Secretary of State and other restrictions.</p>

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		<p>London Environment Strategy for the achievement or maintenance of air quality standards or objectives.</p> <p>(3) Any alterations to Section 20 must be contained in an order—</p> <p>(a) made under this section by the Mayor, and</p> <p>(b) submitted to, and confirmed (with or without modification) by, the Secretary of State.</p>	
12	<p><b>Clause 70 and Schedule 12</b></p> <p><b>Schedule 12: Smoke control in England and Wales</b></p> <p>N/A: new section</p>	<p><b>After Section 4b of schedule 12:</b></p> <p><b>Either:</b></p> <p><b>Insert a new section 4b:</b></p> <p><i>4b After the words “21 Power to exempt certain fireplaces” delete subsection A1 and insert new subsections:</i></p> <p><i>AA1 If, on any day, any fireplace in any building within a smoke control area is used to burn any solid fuel, the occupier of the building shall be guilty of an offence.</i></p> <p>A1 For the purposes of the application of this Part to England, the Secretary of State may exempt any class of fireplace from the provisions of section AA1 if he is satisfied that such fireplaces can be used for burning of authorised fuels without producing any emissions in excess of the limits set out in regulations made under section A5</p>	<p>This row suggests two possible amendments: the first would amend the operation of Smoke Control Zones nationwide to prohibit the use of non-authorised appliances.</p> <p>The second alternative would give the power to prohibit the use of unauthorised appliances in London to the Mayor of London, subject to the approval of the Secretary of State and other restrictions.</p>

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		<p>After subsection A4 insert the words:</p> <p>A5 Within six months of the coming into force of this part the Secretary of State shall make regulations setting out the emission limits for fireplaces referred to in section A1. The first regulations shall set emission limits at least in accordance with the relevant European Ecodesign regulations, subsequent regulations made under this part may not reduce the emission limits below those set out in the European Ecodesign regulations.</p> <p><b>Or</b></p> <p><b>Insert a new section 4b:</b></p> <p>4b After Section 21 insert:</p> <p>21A: Powers of the Mayor of London in respect of Smoke Control areas</p> <p>(1) The Mayor of London may make alterations to the provisions of section 21 insofar as they apply to fireplaces Smoke Control Zones within Greater London.</p> <p>(2) Such alterations may only be made if it appears desirable or expedient for the purpose of directly or indirectly facilitating the achievement of any policies or proposals set out in the London Environment Strategy for the achievement or maintenance of air quality standards or objectives.</p> <p>(3) Any alterations to Section 21 must be contained in an order—</p>	
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		(a)made under this section by the Mayor, and (b)submitted to, and confirmed (with or without modification) by, the Secretary of State.	
13	<b>4 Environmental targets: effect</b> It is the duty of the Secretary of State to ensure that— (a) targets set under section 1 are met, and (b) the PM2.5 air quality target set under section 2 is met.	<b>After subsection 4(b) insert the words:</b>  (c) the interim targets set under sections 10 or 13.	This amendment places a duty on the secretary of state to meet the interim targets set out in environmental improvement plans.