

Amendment list

Environment Bill report stage

A new approach to environmental protections will be vital in tackling the climate and nature emergency, and in guaranteeing rapid action to fix the plastic pollution crisis. However, the Environment Bill currently fails to lock in gold-standard protections on issues like plastics, or to underpin these ambitions with the governance framework we need to keep on track: a comprehensive approach to applying our environmental principles, binding interim targets and a fully independent, world-leading watchdog. The following amendments will be crucial if the UK Environment Act is to be the world-leading legislation we so desperately need. **Please vote in favour of amendments 1, 2, 5, 23 and 39, and new clauses 1 and 11.**

To ensure a truly independent environmental watchdog: Amendment 23

Amendment 23 removes Clause 24, which provides the Secretary of State with a power to issue guidance to the Office for Environmental Protection (OEP) and requires the OEP to have regard to this guidance. This is important because Clause 24 undermines the independence of the OEP and is not necessary to ensure good governance.

While Minister Pow claimed during Committee that this power is intended to be helpful and does not constitute a right for government to dictate to the OEP, in practice the Secretary of State is the OEP's boss and, like all employees, the OEP is likely to feel bound to follow it. This means the SoS will have the ability to fundamentally shape the OEP's remit, work and approach – on key issues such as whether a case is serious enough to merit enforcement action. This could allow for attention to be diverted away from cases for reasons other than their environmental significance.

Ministers do not have a similar power to issue guidance in relation to other enforcement bodies, such as the Equality and Human Rights Commission or the Information Commissioner. Like the OEP, these bodies have powers to take legal action against government for suspected breaches of relevant law and therefore it is appropriate that they are able to shape their strategy and carry out activities without government interference. The guidance power in Clause 24 currently undermines the independence and credibility of the watchdog and provides future governments with undue opportunity to control a body charged with holding government to account.

Additionally, the guidance power is simply unnecessary. Routes to OEP accountability are already incorporated into the bill. Clause 23(5) requires the OEP to consult such persons as it considers appropriate before preparing, revising or reviewing its strategy. Paragraph 232 of the Explanatory Notes clarifies that this could include government. As a non-departmental public body the OEP will also be subject to a tailored review every three to five years.

To ensure all public bodies properly consider environmental principles: Amendment 1 and NC1

Amendment 1 removes limitations which would undermine the legal effect of the environmental principles.

As currently formulated, Clause 18 could allow huge swathes of the government to act in ways that damage the environment, and impede opportunities for legal challenge or proper remedy when problems occur. Subclause (2) introduces a 'proportionality loophole', which creates the potential for future governments to trade off environmental principles against socio-economic considerations, thus weakening environmental protections. Subclause (3) allows the Ministry of Defence, the Treasury, and those 'spending [...] resources within government' to make decisions without regard for the environmental principles. Amendment 1 would remove subclause (2) from the word "benefit", and also the entirety of subclause (3), while maintaining the exclusion of application to Wales.

Friends of the Earth believes Subclause (2b) is unnecessary, Subclause (1) requires nothing more than consideration of the principles during decision making – it does not require a disproportionate level of action.

The exclusions in Subclause (3) would appear to risk a fragmented and uncoordinated approach to environmental protection. International environmental law and national requirements such as EIA already apply to the MoD. It controls many of our protected environmental areas, and carries out activities to support

them. MoD actions also have the potential to damage ecosystems and cause pollution. Government spending decisions impact upon our environmental footprint and on the capacity of public bodies to protect and restore our environment. It is entirely correct, therefore, that the environmental principles form part of any decision making in relation to these parts of government function. Consideration of the principles does not require that they are prioritised over and above national security or economic stability, but would support good environmental outcomes and highlight areas in which MoD or spending decisions routinely come into conflict with application of the principles to inform future policy making.

New Clause 1 adds a clear and strong requirement that all public authorities act in accordance with the environmental principles when exercising their functions.

Currently, subclause (1) restricts duties in relation to the environmental principles to a requirement for the minister to have 'due regard' during policymaking. This undermines their existing role in routinely guiding day to day administration affecting the environment, as the impact of the environmental principles in UK law has historically gone beyond guiding only Ministers in the making of policy. New Clause 1 reintroduces a direct duty on all public authorities to ensure that the legal weight of these principles is maintained.

Central government will always have the power to propose amendments to primary legislation if specific principles lose relevance or become relevant in the future. However, if public authorities have no duty in relation to the principles, the introduction of new environmental principles or moves to amend outdated approaches will have limited impact. New Clause 1 therefore ensures ongoing join-up between the different levels of government, and supports the government in fulfilling its guarantee that environmental protections will not be weakened now that the UK has left the EU, by clarifying that all public bodies must continue to act in accordance with the principles when carrying out their functions.

To make interim targets binding: Amendment 5

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

Targets not only support Ministers and government departments to maintain focus on key issues but also provide certainty for businesses, and allow the public to judge progress against environmental objectives. However, we are concerned that if the Secretary of State is required only to meet long-term targets, action may be slow, patchy and intermittent.

The mechanism to set and review progress on interim targets is already contained within this bill. Each new Environmental Improvement Plan (EIP) is envisaged to lay out new interim targets and review progress on long-term targets set out under the Environment Bill. If these targets are not binding upon the Secretary of State it would be a huge missed opportunity to ensure the EIP system drives sustained, tangible environmental improvement - and would undermine the rationale for setting such goals in the first instance.

Amending this bill to require successive future governments to achieve these interim targets will support immediate and unceasing progress towards long-term targets, provide ongoing impetus for the aims outlined in the 25 Year Environment Plan, and place wider environmental improvement on the same footing as climate action by replicating the approach of the Climate Change Act to guaranteed short term action.

To guarantee a joined-up approach to plastic pollution: New Clause 11

This amendment requires the Secretary of State to set targets to reduce plastic pollution and reduce the volume of non-essential single-use plastic products sold.

The Bill currently states that the Secretary of State should set targets to cover 'waste and resource efficiency' but it does not specify what that target would cover. The Bill also establishes measures such as the Extended Producer Responsibility, deposit return schemes and charges for single-use items. However, these are focused on end-of-life solutions, whereas this amendment would focus on products sold, creating a holistic joined up policy approach, and sending a clear market signal.

The real solutions to the plastic pollution crisis are to reduce our consumption and production of plastics in the first place and make sure that the plastic products we do produce are designed to be reused. The average Briton's annual plastic waste includes 242 plastic bottles, 109 single-use coffee cups and 209 crisp packets, plastic, vast amounts of which find their way into our soils, our rivers, our oceans, and the air we breathe. This amendment aims to tackle the source of the problem by guaranteeing a joined-up approach to plastics reduction. It does not propose a phase-out date for plastics, so as to allow time for evidence to be gathered on issues such as the trade-off between the carbon footprint and pollution impact of alternatives to plastic, and to consider the impacts of Covid-19 on clearly defining non-essential single-use plastics.

This amendment has the support of an alliance of NGOs working on plastic pollution including Friends of the Earth, the Federation of Women's Institutes, Surfers Against Sewage, Keep Britain Tidy, City to Sea and Common Seas. The call for plastic pollution reduction targets to be set in the Environment Bill also has cross-sector support from businesses, representatives from faith, academic and student organisations, and NGOs.

To ensure action on air pollution is in line with WHO guidelines: Amendment 2

The amendment would kick start action to ensure that all parts of the country meet current WHO guideline levels for PM2.5 pollution by 2030 at the latest. The guidelines were agreed in 2005 and recommend an annual mean concentration of no more than 10 micrograms per cubic metre ($\mu\text{g}/\text{m}^3$). In line with the government's approach, rather than proposing a target on the face of the Bill, this amendment sets the minimum parameters for this new target to help speed up its adoption in subsequent secondary legislation.

The UK government has already rightly identified the need to take action in this area to better protect people's health and has said it intends to set strong targets for air quality. As part of this, it has specifically committed to adopting a new binding target for PM2.5 through the Bill.

However, as it stands, the Bill does not set a minimum level of ambition or a deadline for its achievement and Defra's target setting process for the Bill would mean that the new PM2.5 target would not be set until October 2022. This risks delaying any substantial decisions to tackle this harmful pollutant for almost two years.

To ensure transparency and scrutiny of emergency authorisations of pesticides including bee harming neonicotinoids: Amendment 39

This amendment places requirements on Ministers to allow parliamentary scrutiny of exemptions granted to allow pesticides banned under retained EU law (such as neonicotinoid insecticides), where they are likely to impact bees and other species covered by an environmental improvement plan.

The UK government recently granted an emergency authorisation for neonicotinoid treated seeds to be used for sugar beet crops in 2021. A similar application was turned down in 2018 because the risks to bees and the wider environment were considered to be too great. Since then scientific evidence of harm to bees and other wildlife from exposure to neonicotinoids has grown. It is not clear why the UK government has come to a different conclusion this time. The details of the application and the expert advice relating to it, including the effectiveness of the mitigation measures have not been published.

Although similar decisions have been made under EU law by Member States these are now subject to scrutiny by independent scientists on the European Food Safety Authority (EFSA). This level of independent scrutiny does not now apply in the UK. This amendment would ensure that future decisions in the UK are subject to parliamentary scrutiny.

Friends of the Earth also supports the following:

- The Greener UK coalition – briefings available [here](#)
- The Healthy Air Coalition – briefing available [here](#)

For further information or queries, please contact Kierra Box, Friends of the Earth, on kierra.box@foe.co.uk