

House of Commons Environment, Food and Rural Affairs Committee and Environment Audit Committee.

Environment Bill inquiry

Written Evidence submitted by the London Forum of Amenity and Civic Societies

(The London Forum of Amenity and Civic Societies represents over 100 amenity and civic societies across London.)

Summary of Evidence

1. The Environment Bill is welcome in some respects, especially in providing for the setting of some environmental targets and in setting up a body to monitor progress. But its framework is much weaker than the present EU framework, especially in limiting the number of statutory environmental targets that the Government must set; and in not providing for penalties in the form of substantial fines. Hence it is highly likely that under this framework environmental quality will deteriorate compared with member states in the EU.

Detail

2. The rest of this evidence takes the Committees' questions in order.

a) Does the Environment Bill meet the Government's commitment to non-regression from EU environmental standards?

3. The Bill does not ensure non-regression from EU environmental standards. Key reasons for this are:
 - i) The Government will be required to set far fewer statutory targets than are required at present under the EU framework (see under question d. below). Nor is there any requirement to keep pace with future developments in EU environmental legislation. Where no targets are set

under the Bill, there is no legal framework to ensure standards are complied with, unlike at present.

- ii) The Office of Environmental Protection (OEP) will not have the power to levy fines on the Government, unlike in the current EU framework. While fines have rarely imposed by the European Court of Justice, the threat of fines has been fundamental to motivating EU governments, including in the UK, to comply with EU law

b) Does the Bill ensure that the Government and public bodies will act in accordance with environmental principles and law and be held to account if they don't?

4. The Bill does not appear to ensure this, especially because:

- i) The Bill requires the Government only to have 'due regard' to environmental principles.
- ii) Certain key parts of Government action policy are excluded from coverage, especially taxation, resource allocation within Government, and matters concerned with the armed forces and national security.

c) Will the Office for Environmental Protection (OEP) have the powers, resources and independence from Government to effectively fulfil its role?

5. Some powers of the OEP are likely to make a difference, especially in publicly holding the Government to account on environmental policy. But there are significant deficiencies in the Bill, especially in that:

- i) Members of the OEP are appointed by Government itself, in striking contrast to the largely external appointment process in relation to the EU Commission and European Court of Justice;
- ii) The OEP's main role is in holding the Government to account over failures to implement environmental law. But if environmental law covers far fewer targets than it does at present (see answers to d) below, then the OEP's role is inevitably diminished, compared with the role of the EU Commission and ECJ at present.

iii) The OEP will not have the powers to impose fines on the Government, in contrast to the current powers of the ECJ. Instead the main legal process appears to be via judicial review. This means that the Government is likely to be less motivated to meet legal requirements than at present, where the EU Commission and ECJ impose a very rigorous infractions process against apparent failures in implementation.

d) Are there concerns about the powers and provisions (including on setting targets) relating to air quality, biodiversity, water resource management and waste management and whether they will be effective? Has the Government provided enough detail on the secondary legislation, or other non-legislative policy measures, that would be required?

6. The biggest concern is that the Bill only requires a small number of different kinds of target to be set, generally only one target per environmental area (such as waste, water etc.). The main exception is air quality; but even here only one kind of target is required to be set (yearly ambient levels of PM 2.5 plus one other target).
7. This contrasts hugely with the present situation, where under EU legislation many different limits apply. For example, in air quality, EU limits apply to ambient levels of nitrogen dioxide, particulates and other pollutants, national emissions ceilings of several kinds of pollutants, and to industrial emissions levels of several pollutants. So to require only two air quality targets is a huge reduction in legal requirements, made all the more striking, when it is the annual limit of nitrogen dioxide in the air that the UK, as well as other EU countries, has had such difficulty in meeting, a target which the Government has not committed to retaining in the Bill. As a second example, current EU requirements on provisions on waste provide a wide range of different legal limits, including on waste prevention, recycling of a range of different kinds of products and on packaging.
8. A third example is in relation to water. The EU water framework directive requires water to be of good quality measured over several different aspects (biological, hydro-morphological, etc) and has objectives for both surface water and groundwater, as well as requirements for involving outside interests in river basin management plans. But it does not seem at all likely that all these different

dimensions of the directive will be retained in a regime which only appears to require a single statutory objective to be laid down on water.

9. So if the UK is only legally expected to meet only one (or two with air quality) limit per environmental area, this is a huge reduction in legal requirements, and hence greatly limits the scope of how far the Government will be accountable to the OEP, compared with how the position would be if all current EU requirements were reflected in the Bill.
10. Some areas currently included in EU directives, for example noise (where currently noise maps and noise management plans are required), are arguably excluded from the Bill altogether, though this is not entirely clear.
11. The Bill also allows the Government in effect to choose its own targets, rather than, as now, having to negotiate them in the EU; this seems likely to lead to less demanding limits being set, and only those which the Government will be reasonably confident of achieving.
12. It is also the case that the Government has not provided detail on what policy measures would be required to meet even those targets that would apply – for example it is unclear what steps the Government would take to meet the proposed PM2.5 limit.

e) Does the Bill allow for common frameworks for governance and principles to ensure there is coherent implementation of environmental policy across the UK? What steps do the UK Government and Devolved Administrations need to take to make that a reality?

13. (As a London-based organisation we are not commenting on these issues.)

f) Has sufficient consideration been given to the resource implications of the Bill for national and local government and other public bodies?

14. It does not appear that sufficient consideration has been given to this issue. We have already noted that resource allocation between departments has been excluded from the scope of 'environmental law'

as defined in the bill, and therefore effectively outside the scope of the OEP.

15. More broadly, the Government has not provided any clear estimates of the resources, or economic costs and benefits of the Bill's provisions.

Changes required in the Environment Bill

16. In the light of these concerns, we believe that changes to the Bill should include:

- i) A requirement to maintain the same number of targets, objectives and limits as in existing EU environmental legislation and to add on additional targets, objectives and limits as EU environmental legislation is developed and amended for the future.
- ii) Appointments to the Board of the Office for Environmental Protection to be approved by Parliament.
- iii) The exclusions from the scope of key aspects of the Bill in respect of military, taxation and spending to be dropped.
- iv) Environmental matters not clearly within the scope of the Bill, such as noise, to be added.
- v) Powers of fining to be given to the OEP.

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