

Clean Air (Human Rights) Bill [HL]

[AS AMENDED IN COMMITTEE]

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B I L L

[AS AMENDED IN COMMITTEE]

TO

Establish the right to breathe clean air; to require the Secretary of State to achieve and maintain clean air in England and Wales; to involve the UK Health Security Agency in setting and reviewing pollutants and their limits; to enhance the powers, duties and functions of various agencies and authorities in relation to air pollution; to establish the Citizens' Commission for Clean Air with powers to institute or intervene in legal proceedings; to require the Secretary of State and the relevant national authorities to apply environmental principles in carrying out their duties under this Act and the clean air enactments; and for connected purposes.

BE IT ENACTED by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Overview

- (1) Everyone has the right to breathe clean air and the Human Rights Act 1998 is to be read as though this were a Convention right.
- (2) The Secretary of State must, subject to subsection (3), achieve clean air throughout England and Wales within five years of the passing of this Act and maintain clean air throughout England and Wales thereafter. 5
- (3) Where the duty in subsection (2) cannot be achieved for a particular pollutant in a given zone or agglomeration on or before 1 January 2028 the Secretary of State may postpone the deadline by a maximum of five years for that particular pollutant, in relation to the specified zone or agglomeration only on condition that the Secretary of State— 10
 - (a) takes into account advice from the Citizens' Commission for Clean Air (CCCA) and the Committee on Climate Change; and
 - (b) sets a new deadline for achieving clean air and maintaining it thereafter; and 15

- (c) publishes a clean air plan that shall demonstrate how the new deadline will be achieved before the new deadline for the particular pollutant in the zone or agglomeration to which the postponement would apply; and
- (d) has not already postponed the deadline beyond 1 January 2028; and 5
- (e) lays a statement before Parliament explaining the failure to achieve clean air throughout England and Wales by 1 January 2028 and how it will be achieved throughout England and Wales by 1 January 2033 and maintained thereafter.
- (4) The Secretary of State must provide the necessary funding to the relevant national authorities and to the CCCA to fulfil their duties under this Act. 10
- (5) For the purposes of this Act—
- “clean air” means air that does not contain banned pollutants or pollutants, concentrations or emissions above the limits or levels of exposure (which may be zero) which are set out in— 15
- (a) Schedule 1 (pollutants relating to local and atmospheric pollution);
- (b) Schedule 2 (indoor air pollutants);
- (c) Schedule 3 (pollutants causing primarily environmental harm); and 20
- (d) Schedule 4 (pollutants causing climate change)
- to this Act;
- “the limits for pollutants” in Schedules 1 to 4 are set for short, medium or long-term time frames and the units referred to in those Schedules are— 25

<i>Unit</i>	<i>Definition</i>	
mg/m ³	Milligrams per cubic metre	
µg/m ³	Micrograms per cubic metre	30
ng/m ³	Nanograms per cubic metre	

- “pollutants” means those particles, gases or other substances that are emitted directly into the air or formed from secondary chemical reactions in the air, including smoke, grit, dust, fumes, aerosols, volatile organic compounds, carbon dioxide and other greenhouse gases; 35
- “the relevant national authorities” are—
- (a) the Environment Agency (EA);
- (b) the Committee on Climate Change (CCC);
- (c) local authorities in England and Wales; 40
- (d) the Civil Aviation Authority (CAA);
- (e) National Highways;
- (f) Historic England;
- (g) Natural England; and
- (h) Network Rail. 45

2 Environmental targets: particulate matter and nitrogen dioxide

- (1) In section 2(1) of the Environment Act 2021, for “set a target (“the PM_{2.5} air quality target”) in respect of the annual mean level of PM_{2.5} in ambient air”, substitute “establish limit values to be attained throughout England and Wales for the annual mean concentration in ambient air of—
 - (a) nitrogen dioxide (NO₂) to be less than or equal to 40 µg/m³ by 1 January 2024;
 - (b) NO₂ to be less than or equal to 20 µg/m³ by 1 January 2030; and
 - (c) PM_{2.5} to be less than or equal to 10 µg/m³ by 1 January 2030.”
- (2) Omit subsection (2) of section 2 of the Environment Act 2021.
- (3) In subsection (4) of section 2 of the Environment Act 2021, for “setting the PM_{2.5} air quality target” substitute “implementing the NO₂ and PM_{2.5} limit values”.
- (4) Omit subsections (6) and (7) of section 2 of the Environment Act 2021.

3 Reviewing and revising the pollutants and limits in Schedules 1 to 4

- (1) The CCCA must on an annual basis review the pollutants and the limits set out in Schedules 1 to 3.
- (2) The CCCA, in carrying out a review under subsection (1), must—
 - (a) take into account the best available scientific knowledge, guidance and good practice statements on ambient air pollutants from the World Health Organization (WHO);
 - (b) take advice from the UK Health Security Agency and epidemiologists about the effects of pollution on public health;
 - (c) take into account the best available scientific knowledge, guidance and good practice statements on indoor air pollutants from the WHO;
 - (d) take into account the best available scientific knowledge and guidance on atmospheric pollutants from the United Nations Economic Commission for Europe (UNECE);
 - (e) consult and seek advice from scientists on the effects of air pollution on the environment;
 - (f) apply the precautionary principle; and
 - (g) include a public consultation in accordance with the Aarhus Convention.
- (3) Following a review under subsection (1), the CCCA must advise the Secretary of State as to whether additional pollutants should be added to Schedules 1, 2 and 3 or whether the pollutant limits in those Schedules should be lowered in order to protect life, health or the environment.
- (4) In advising the Secretary of State under subsection (3), the CCCA must have regard to—
 - (a) pollutant emissions and concentrations;
 - (b) human exposures and health impacts and outcomes;
 - (c) the need to address pollution across England and Wales in all settings where people spend time including the worst locations;
 - (d) the needs of sensitive population groups including children, the elderly and other individuals who are particularly susceptible to air pollution;
 - (e) exposure to pollutant concentrations when travelling by public transport in ambient air or underground;

- (f) biogeographical region-specific ozone flux models and critical levels for individual plant species or groups.
- (5) The Committee on Climate Change (CCC) must on an annual basis review the pollutants and the limits listed in Schedule 4.
- (6) The CCC, in carrying out a review under subsection (5), must – 5
- (a) take into account the best available scientific knowledge and advice from the Intergovernmental Panel on Climate Change (IPCC);
 - (b) consult and seek advice from scientists about the effects of air pollution on the climate;
 - (c) apply the precautionary principle; and 10
 - (d) include a public consultation in accordance with the Aarhus Convention.
- (7) Following a review under subsection (5), the CCC must advise the Secretary of State as to whether new pollutants should be added to Schedule 4 or whether the limits in Schedule 4 should be lowered in order to protect the environment and safeguard future generations, including emission limits on international aviation landing in or taking off from the United Kingdom. 15
- (8) In advising the Secretary of State under subsections (3) and (7), the CCCA and the CCC may advise setting the limits for pollutants and emissions under Schedules 1 to 4 for a short, medium or long-term time frame (see section 21). 20
- 4 Amending the pollutants and limits in Schedules 1 to 4**
- (1) Following the receipt of advice under section 3, the Secretary of State must lay before Parliament a draft statutory instrument containing an order amending Schedules 1 to 4 to include additional pollutants (and their limit values which may be zero) and to lower any limits. 25
- (2) Following the publication of new guidance by the WHO, Inter Governmental Panel on Climate Change (IPCC) and UNECE, the Secretary of State may lay before Parliament a draft statutory instrument containing an order amending Schedules 1 to 4 to include additional pollutants (and their limit values which may be zero) and to lower any limits. 30
- (3) Before laying before Parliament a draft of a statutory instrument containing an order under subsection (1), the Secretary of State must take into account –
- (a) the advice received from under sections 3(3) and 3(7);
 - (b) revised guidance and good practice statements from the WHO, IPCC and UNECE; and 35
 - (c) the precautionary principle.
- (4) In case of conflict between the advice received under sections 3(3) and 3(7) and guidance and good practice statements under subsection (3)(b), any additional pollutants should be listed and the lower limit values should be adopted.
- (5) If the order makes provision different from that recommended by the CCCA or the CCC or the guidance or good practice statements of the WHO, IPCC or UNECE the Secretary of State must also publish a statement setting out the reasons for that decision. 40
- (6) A statement under this section may be published in such manner as the Secretary of State thinks fit. 45

- (7) A statutory instrument containing an order under this section may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (8) Where Schedules 1 to 4 are amended and a new pollutant limit is added or a limit is reduced in accordance with, but after the commencement of all sections of, this Act the new or amended limit will take effect after a period of 12 months, beginning with the date on which the relevant amending regulations come into force. 5

5 Secretary of State's duty: assessing air pollutants

- (1) The Secretary of State must ensure— 10
- (a) the accurate and regular assessment of air pollution in England and Wales; and
 - (b) the provision of detailed information about air pollution in England and Wales to the public;
- and may make regulations by statutory instrument to comply with this duty. 15
- (2) Regulations about assessing air pollution in England and Wales under subsection (1) must ensure—
- (a) the consistent use of established air pollution zones and agglomerations;
 - (b) the sampling, measurement and modelling of ambient air pollutants, including the deposition of pollutants, listed in Schedule 1; 20
 - (c) the sampling, measurement and reporting of indoor air pollutants listed in Schedule 2;
 - (d) the sampling, measurement and modelling of ambient pollutants causing primarily environmental harm listed in Schedule 3; and 25
 - (e) the sampling, measurement, modelling and reporting of other air pollutants causing climate change listed in Schedule 4.
- (3) The regulations must—
- (a) require assessment of ambient air pollution in England and Wales in accordance with the Air Quality Standards Regulations 2010 (as amended) (S.I. 2010/1001); 30
 - (b) require owners of buildings which—
 - (i) are used as places of work and to which health and safety provisions apply; or
 - (ii) are regularly accessed by members of the public, including children, 35
 to assess and report concentrations of indoor air pollutants measured in representative locations relative to the most up to date WHO air quality guidelines;
 - (c) require developers to assess and report concentrations of indoor air pollutants measured in representative locations relative to the most up to date WHO air quality guidelines in newly refurbished or constructed residential developments during the first 12 months of occupation; 40
 - (d) require the assessment of the deposition of air pollutants in accordance with the criteria in the Gothenburg Protocol; 45
 - (e) require UK based organisations of all sizes to report their greenhouse gas pollutants;

- (f) require the assessment of greenhouse gas pollutants in accordance with the requirements of the Climate Change Act 2008; and
- (g) amend assessment methods in accordance with subsection (10) below.
- (4) The regulations must ensure that daily information regarding ambient concentrations of the pollutants listed in Schedule 1 is provided to members of the public through a range of formats. 5
- (5) The information under subsection (4) must include –
- (a) information on observed exceedances of the limits listed in Schedule 1 presented as averages according to the relevant averaging period set out in Schedule 1; 10
- (b) forecasts of ambient concentrations of the pollutants listed in Schedule 1 for that day and each of the following four days;
- (c) information about the location and types of populations affected by exceedances under paragraph (a) including possible health effects and recommended behaviours; 15
- (d) information on possible sources of pollutants and recommendations for preventative actions that could be taken by those in charge of the sources to reduce pollution or exposure to it.
- (6) The regulations must ensure that, where any information threshold or alert threshold specified under Schedule 1 is forecast to be exceeded or actually exceeded, necessary steps must be taken to inform members of the public by means of radio, television, newspapers and the internet. 20
- (7) The Secretary of State must publish a report within six months of this section coming into force, and within the period of six months beginning with the end of each subsequent calendar year, summarising the effects of each of the pollutants exceeding the limits over the relevant time frame, according to the appropriate averaging period, listed in Schedules 1 to 4. 25
- (8) The CCCA must review annually the Secretary of State’s compliance with –
- (a) the limits in Schedules 1 to 4, and
- (b) subsections (1) to (7), 30
- during the previous calendar year.
- (9) Following the review under subsection (8), the CCCA must advise the Secretary of State as to whether any methods of assessment, publication or reporting should be discontinued, amended or improved or whether methods of assessment, publication or reporting should be added with effect from the start of the subsequent calendar year. 35
- (10) Following the receipt of advice under subsection (9), the Secretary of State must lay before Parliament a draft statutory instrument containing an order amending assessment, publication or reporting methods.
- (11) Before laying before Parliament a draft of a statutory instrument containing an order under subsection (10), the Secretary of State must take into account – 40
- (a) the advice received under subsection (9);
- (b) the precautionary principle; and
- (c) the desirability of ensuring continuity and comparability of reporting.
- (12) If the order makes provision different from that recommended by the CCCA, the Secretary of State must also publish a statement setting out the reasons for that decision. 45

- (13) A statement under this section may be published in such manner as the Secretary of State thinks fit.
- (14) A statutory instrument containing an order under this section may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.

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6 Secretary of State's duty: additional provisions

- (1) In exercising their duty under section 1 of this Act, the Secretary of State must comply with the United Nations Convention on Long-Range Transboundary Air Pollution and its protocols as listed in Schedule 5.
- (2) In carrying out their duty under section 1, the Secretary of State must work with the relevant national authorities and exercise his or her powers under the clean air enactments listed in Schedule 6 and other Acts in accordance with this duty.
- (3) Notwithstanding any other provision of this Act, the Secretary of State may, upon receipt of evidence that a pollution source or combination of sources (including moving sources) presents an imminent and substantial threat to current or future public health or the environment, take proportionate and necessary action to restrain any person or persons responsible for causing or contributing to the alleged pollution, to stop the emission of air pollutants, and to preserve the right to breathe clean air.
- (4) Within the period of 14 days beginning with the day on which they exercised the power under subsection (3), the Secretary of State must lay a statement before both Houses of Parliament setting out—
- (a) what action they took; and
 - (b) why, in the Secretary of State's opinion, such action was necessary and proportionate.
- (5) Regulations must enable the sale and use of appliances generating wholly renewable energy.
- (6) Regulations must enable energy efficiency improvements to domestic and non-domestic premises that reduce energy use and emissions of carbon dioxide.
- (7) Regulations must restrict the sale and use of combustion appliances that emit pollutants to the air.

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7 Environment Agency

- (1) The Environment Act 1995 is amended as follows.
- (2) In section 4(1) (principal aim and objectives of the Agency)—
- (a) after “other enactment” insert “such as the clean air enactments set out in Schedule 6 to the Clean Air (Human Rights) Act 2022 or any other enactment governing the EA's functions in relation to the regulation of ambient air quality or controlling pollution and emissions at source”; and
 - (b) after “whole”, insert “including to achieve and maintain clean air throughout England and Wales”.

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8 Committee on Climate Change

(1) The Climate Change Act 2008 is amended as follows.

(2) After section 32 (functions of the Committee) insert –

“32A Duty to advise on emission limits

It is the duty of the Committee to advise the Secretary of State on emission limits under section 3 (reviewing and revising pollutants and limits in Schedules 1 to 4) of, and Schedule 4 to, the Clean Air (Human Rights) Act 2022.” 5

(3) In section 38 (duty to provide advice or other assistance on request) after subsection (1)(d), insert – 10

“(e) the authority’s duty under the Clean Air (Human Rights) Act 2022.”

9 Local authorities

(1) Local authorities in England and Wales have a duty, subject to subsection (2), to achieve clean air throughout their area within five years of the coming into force of this Act and maintain clean air throughout their area thereafter. 15

(2) Where the Secretary of State has postponed the deadline under section 1 of this Act by a maximum of five years for a particular pollutant in relation to a specified zone or agglomeration that falls partly or wholly within a local authority’s area, the local authority must – 20

(a) take into account advice from the CCCA and the CCC; and

(b) send and publish a letter to the Secretary of State annually giving the local authority’s reasons for failing to comply with the limits set out in Schedules 1 to 3; and

(c) comply with the new deadline for that pollutant which cannot be later than 1 January 2033. 25

(3) Local authorities in England and Wales must exercise their powers and functions, including under section 2 of the Local Government Act 2000 (promotion of wellbeing) and the clean air enactments, to improve the environmental wellbeing of their local area and reduce exposure for members of the public to the pollutants listed in Schedule 1 in accordance with the duty set out in subsection (1). 30

(4) The Secretary of State must provide money to local authorities from central funds sufficient for them to carry out their duties under this Act.

(5) In this section, the “clean air enactments” are those enactments listed in Schedule 6 and any other enactment governing a local authority’s functions in relation to – 35

(a) regulating ambient air quality or controlling pollution and emissions at source;

(b) land use planning; 40

(c) traffic planning, including actions as a Highways Authority;

(d) building regulation; and

(e) statutory nuisance.

(6) In this section “local authority” means, in relation to England and Wales –

(a) a county council; 45

- (b) a district council;
 - (c) a London borough council;
 - (d) the Mayor of London;
 - (e) the Common Council of the City of London in its capacity as a local authority; 5
 - (f) the Council of the Isles of Scilly;
 - (g) a combined authority; and
 - (h) port authorities.
- (7) In this section “port authority” means, in relation to England and Wales, a statutory harbour body established for the purpose of administering, preserving and improving a port, including an airport, that may include docks, landing places or other works or land. 10
- 10 The Office for Environmental Protection**
- The Office for Environmental Protection must exercise its functions so as to ensure the achievement of clean air. 15
- 11 Civil Aviation Authority**
- (1) The CAA must in exercising its functions –
- (a) contribute to the maintenance of clean air in England and Wales; and
 - (b) apply the provisions of the UN Convention on Transboundary Pollution and its protocols as listed in Schedule 5. 20
- (2) The Civil Aviation Act 1982 is amended as follows.
- (3) In section 4 (general objectives), after subsection (1)(b) insert –
- “(c) to contribute to the maintenance of clean air in England and Wales and respect for the right to breathe clean air under section 1 of the Clean Air (Human Rights) Act 2022.” 25
- 12 National Highways**
- (1) The Infrastructure Act 2015 is amended as follows.
- (2) In section 5 (general duties), after subsection (2)(a) insert –
- “(aa) to contribute to the maintenance of clean air under the Clean Air (Human Rights) Act 2022; 30
 - (ab) to follow instructions given to it by the Secretary of State to contribute to the achievement of clean air.”
- 13 Historic England**
- (1) The National Heritage Act 1983 is amended as follows.
- (2) In section 33 (the Commission’s general functions), after subsection (2)(f) insert –
- “(g) shall contribute towards achieving and maintaining clean air, as prescribed by the Clean Air (Human Rights) Act 2022 and the clean air enactments as listed in Schedule 6 to that Act.” 35

14 Natural England

- (1) The Natural Environment and Rural Communities Act 2006 is amended as follows.
- (2) In section 2 (general purpose), after subsection (2)(e) insert—
 - “(f) contribute towards achieving and maintaining clean air, as prescribed by the Clean Air (Human Rights) Act 2022 and the clean air enactments as listed in Schedule 6 to that Act.”

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15 Network Rail

- In section 4(1) of the Railways Act 1993, after paragraph (g) insert—
- “(h) to contribute towards achieving and maintaining clean air, as prescribed by the Clean Air (Human Rights) Act 2022 and the clean air enactments as listed in Schedule 6 to that Act.”

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16 The establishment of the Citizens’ Commission for Clean Air

- (1) There will be a body corporate known as the Citizens’ Commission for Clean Air (the “CCCA” or the “Clean Air Commission”).
- (2) The CCCA must, by exercising the powers conferred by this Act, monitor and enforce the right to breathe clean air and the duties to achieve and maintain clean air in England and Wales.
- (3) The constitution of the CCCA is set out in Schedule 7.

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17 Judicial review and other legal proceedings

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- (1) The CCCA may institute or intervene in legal proceedings, whether for judicial review or otherwise, if it appears to the CCCA that the proceedings are relevant to the duty to achieve and maintain clean air and compliance with relevant duties, powers and functions under the clean air enactments.
- (2) The CCCA may assist an individual who is or may become party to legal proceedings if—
 - (a) the proceedings relate to, or may relate to, the right to breathe clean air or the duty to achieve and maintain clean air;
 - (b) the individual is a member of the public who has the right of access to justice under the Aarhus Convention; or
 - (c) they have reason to believe that an individual was a victim of a breach of the right to breathe clean air.
- (3) The CCCA may assist individuals with actions for private nuisance.

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18 Duty to maintain clear air: assessment

- (1) The CCCA may assess the extent to which the Secretary of State, the relevant national authorities and others have complied with their duties under this Act and the clean air enactments.
- (2) Where the CCCA has reason to believe that any persons or relevant national authorities have failed to comply with their duty, the CCCA may issue a notice requiring them—
 - (a) to comply with their duty;

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- (b) to take specific steps in order to achieve compliance; and
 - (c) to provide to the CCCA written information of the steps taken, or proposed to be taken, for the purpose of complying with their duty.
 - (3) A notice issued by the CCCA under subsection (2) must specify –
 - (a) the period of time which the information must cover; and 5
 - (b) the manner in which the information is to be provided.
 - (4) A person or public authority which receives a notice under this section must comply with it within the period of 28 days beginning with the day on which they received the notice.
 - (5) If the CCCA has reason to believe that a person or public authority which has received a notice under this section has failed to comply with a requirement of the notice, the CCCA may apply to the Court for an order requiring the person to comply. 10
- 19 Duty to maintain clean air: reporting**
- (1) The CCCA must – 15
 - (a) report annually to the Secretary of State on the Secretary of State’s compliance with the provisions of this Act;
 - (b) lay this report before both Houses of Parliament; and
 - (c) send a copy of this report to the European Environment Agency.
 - (2) The report must be published by the CCCA. 20
- 20 Environmental principles**
- In exercising their functions and carrying out their duties under this Act and the clean air enactments, the Secretary of State and the relevant national authorities must, in addition to safeguarding public health and the right to breathe clean air, apply the following environmental principles – 25
- (a) prevention, which means that environmental regulation must anticipate, prevent and attack the causes of environmental harm;
 - (b) precaution, which means that where there are threats of serious or irreversible damage to the environment, including human health, lack of full scientific certainty must not be used as a reason for postponing cost-effective measures to prevent harm; 30
 - (c) polluter pays, which means that the costs of pollution or of clean-up should be borne by the person responsible for causing the pollution;
 - (d) use of the best available scientific knowledge;
 - (e) rectification at source, which means that environmental damage should, as a priority, be remedied at its source; 35
 - (f) integration, which means that environmental protection requirements should be integrated into the definition and implementation of all policies and activities, in particular with a view to promoting sustainable development; 40
 - (g) conservation of the ecosystem structure and functioning, in order to maintain ecosystem services;
 - (h) anticipation, prevention or minimisation of the causes of climate change and mitigation of its adverse effects; and
 - (i) sustainability, which means to take into account the health of present generations and the needs of future generations. 45

21 Interpretation

In this Act –

- “the Aarhus Convention” means the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters, adopted on 25 June 1998; 5
- in Schedule 3, “AOT40” is the accumulated amount of ozone over the threshold value of 40 parts per billion;
- “the clean air enactments” are those enactments listed in Schedule 6 as amended from time to time;
- “combustion appliance” includes – 10
- (a) boilers fired by gaseous fuels which have a rated heat power output of less than 1MW,
 - (b) solid fuel boilers with a rated heat output of less than 1MW,
 - (c) combined cooling, heat and power plant,
 - (d) combined heat and power plant, 15
 - (e) domestic and commercial cooking equipment,
 - (f) fireplaces and wood burning stoves,
 - (g) non-road mobile machinery,
 - (h) stationary generators with a rated thermal output of less than 1MW. 20
- “indoor air” refers to the quality of air in buildings;
- “limits” means the concentrations, emissions or exposures set out in Schedules 1 to 4;
- “long-term” means a period of time of a calendar year or more;
- “medium-term” means a period of time of more than 24 hours and less than a calendar year; 25
- “national authorities” has the meaning given in section 1;
- “pollutants causing primarily environmental harm” includes those causing acidification, eutrophication, haze or smog as listed in Schedule 3; 30
- “renewable energy” means energy generated from any naturally occurring, theoretically inexhaustible, source such as solar, wind, tidal, geothermal or hydroelectric power, excluding non-renewable sources such as fossil fuels, biomass, wood and nuclear fuels.
- “short-term” means a period of time less than or equal to 24 hours; and 35
- “units” are the maximum permitted mathematical mean for the averaging period defined.

22 Extent, commencement and short title

- (1) This Act extends to England and Wales only.
- (2) Except as provided for by subsection (3), this Act comes into force on the day on which it is passed. 40
- (3) Section 5 comes into force on such day as the Secretary of State may by regulations made by statutory instrument appoint, provided this is within 12 months of the passing of this Act.
- (4) This Act may be cited as the Clean Air (Human Rights) Act 2022. 45

SCHEDULES

SCHEDULE 1

Section 1

POLLUTANTS RELATING TO LOCAL AND ATMOSPHERIC POLLUTION

1 Pollutant concentrations

<i>Pollutant</i>	<i>Unit</i>	<i>Averaging period</i>	
Black carbon	6 µg/m ³	24 hours (35 permitted exceedances per year)	5
	3 µg/m ³	1 year	
Benzene (C ₆ H ₆)	3.5 µg/m ³	1 year	
1, 3 Butadiene	2.25 µg/m ³	1 year	10
Formaldehyde (HCHO)	8.6 µg/m ³	1 year	
Ground-level ozone (O ₃)	240 µg/m ³ (alert threshold)	1 hour	
	180 µg/m ³ (information threshold)	1 hour	15
	100 µg/m ³	Running 8 hours (3 permitted exceedance days per year)	20
	60 µg/m ³	Peak season*	
Lead	0.25 µg/m ³	1 year	
Nitrogen dioxide (NO ₂)	200 µg/m ³	1 hour (18 permitted exceedances each year)	
	25 µg/m ³	24 hours	25
	10 µg/m ³	1 year	
Particulate matter (PM _{0.1} , PM ₁ , PM _{2.5} and PM ₁₀)	PM _{0.1} : 2,000 particles/cm ³	1 hour	
	PM _{0.1} : 1,000 particles/cm ³	24 hours	

<i>Pollutant</i>	<i>Unit</i>	<i>Averaging period</i>	
Particulate matter (PM _{0.1} , PM ₁ , PM _{2.5} and PM ₁₀)	PM ₁ : 10 µg/m ³	24 hours (4 permitted exceedance days per year)	5
	PM ₁ : 3.5 µg/m ³	1 year	
	PM _{2.5} : 80 µg/m ³ (alert level)	Running 8 hours	
	PM _{2.5} : 15 µg/m ³	24 hours (4 permitted exceedance days per year)	10
	PM _{2.5} : 5 µg/m ³	1 year	
	PM ₁₀ : 45 µg/m ³	24 hours (4 permitted exceedance days per year)	
	PM ₁₀ : 15 µg/m ³	1 year	15
Polycyclic aromatic hydrocarbons (PAHs) expressed as concentration of benzo(a)pyrene	0.25 ng/m ³	1 year	20
Sulphur dioxide (SO ₂)	500 µg/m ³	10 minutes (24 permitted exceedances per year)	
	40 µg/m ³	24 hours (4 permitted exceedance days per year)	25

* Average of daily maximum 8-hour mean O₃ concentration in the six consecutive months with the highest six-month running-average O₃ concentration.

2 Pollutant exposures 30

<i>Pollutant</i>	<i>Unit</i>	<i>Averaging period</i>	
Particulate matter (PM _{2.5})	PM _{2.5} : 4 µg/m ³ (population weighted exposure within each zone and agglomeration)	5% per calendar year until the limit is reached	35

SCHEDULE 2

Section 1

INDOOR AIR POLLUTANTS

1 Biological indoor air pollutants (dampness and mould)

<i>Pollutant</i>	<i>Concentration</i>	<i>Averaging period</i>
Dampness	Zero	n/a
Mould	Zero	n/a

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2 Pollutant-specific guidelines (chemical pollution)

<i>Pollutant</i>	<i>Unit</i>	<i>Averaging period</i>
Benzene (C ₆ H ₆)	3.5 µg/m ³	1 year
1, 3 Butadiene	2.25 µg/m ³	1 year
Carbon monoxide (CO)	4 mg/m ³	24 hours
	10 mg/m ³	8 hours
	35 mg/m ³	1 hour
	100 mg/m ³	15 minutes
Formaldehyde (HCHO)	8.6 µg/m ³	1 year
Hydrogen sulphide (H ₂ S)	7 µg/m ³	30 minutes
	0.15 µg/m ³	24 hours
Nitrogen dioxide (NO ₂)	200 µg/m ³	1 hour (no exceedances)
	25 µg/m ³	24 hours
	10 µg/m ³	1 year
Naphthalene	0.01 mg/m ³	1 year
Polycyclic aromatic hydrocarbons (PAHs) expressed as concentration of benzo(a)pyrene	Zero	n/a
Radon	100 becquerels/m ³	3 months
Tetrachloroethylene	0.25 mg/m ³	1 year
Trichloroethylene	Zero	n/a

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3 Pollutant concentrations

<i>Pollutant</i>	<i>Unit</i>	<i>Averaging period</i>	
Particulate matter (PM _{0.1} , PM ₁ , PM _{2.5} and PM ₁₀)	PM _{0.1} : 2,000 particles/ cm ³	1 hour	
	PM _{0.1} : 1,000 particles/ cm ³	24 hours	
	PM ₁ : 10 µg/m ³	24 hours (4 permitted exceedance days per year)	5
	PM ₁ : 3.5 µg/m ³	1 year	
	PM _{2.5} : 15 µg/m ³	24 hours (4 permitted exceedance days per year)	10
	PM _{2.5} : 5 µg/m ³	1 year	
	PM ₁₀ : 45 µg/m ³	24 hours (4 permitted exceedance days per year)	15
	PM ₁₀ : 15 µg/m ³	1 year	

SCHEDULE 3

Section 1

POLLUTANTS CAUSING PRIMARILY ENVIRONMENTAL HARM

1 Pollutant concentrations

<i>Pollutant</i>	<i>Unit</i>	<i>Calendar year</i>	
Ammonia (NH ₃)	3 µg/m ³	1 year	20
Ground-level ozone (O ₃)	AOT40 (calculated from 1 hour values) 6,000 µg/m ³ hours	Summer (1 April to 30 September)	25
Nitrogen oxides (NO _x) (expressed as NO ₂)	75 µg/m ³	24 hours	
	30 µg/m ³	Calendar year	
Sulphur dioxide (SO ₂)	20 µg/m ³	Calendar year and winter (1 October to 31 March)	30

2 Pollutant emissions

<i>Pollutant</i>	<i>Unit</i>	<i>Calendar year</i>
Ammonia (NH ₃)	283 kilotonnes	2020
	271 kilotonnes	2025
	258 kilotonnes	2030
Non-methane volatile organic compounds (NMVOCs)	689 kilotonnes	2020
	671 kilotonnes	2025
	654 kilotonnes	2030
Oxides of nitrogen (NO _x)	724 kilotonnes	2020
	579 kilotonnes	2025
	434 kilotonnes	2030
Particulate matter (PM _{2.5})	79 kilotonnes	2020
	70 kilotonnes	2025
	61 kilotonnes	2030
Sulphur dioxide (SO ₂)	292 kilotonnes	2020
	188 kilotonnes	2025
	85 kilotonnes	2030

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SCHEDULE 4

Section 1

POLLUTANTS CAUSING CLIMATE CHANGE

1 Non-fluorinated gases

<i>Pollutant or measure</i>	<i>MtCO₂e</i>	<i>Period or calendar year</i>	
“Net UK carbon account” as defined in section 27 of the Climate Change Act 2008	2,544	2018 to 2022 (3rd budget)	5
	1,950	2023 to 2027 (4th budget)	
	1,725	2028 to 2032 (5th budget)	10
	965	2033 to 2037 (6th budget)	
	Zero	2050	
Methane (CH ₄)	Reduce emissions by around 19% below 2015 levels	2030	15
Nitrous oxide (N ₂ O)	Reduce emissions by around 19% below 2015 levels	2030	20

2 Fluorinated gases

<i>Pollutant</i>	<i>MtCO₂e</i>	<i>Calendar year</i>	
Hydrofluorocarbons	Reduce emissions by at least 79% below 2015 levels	2030	25
	Reduce emissions by at least 86% below 2015 levels	2036	
Nitrogen trifluoride	Reduce emissions by at least 68% below 2016 levels	2030	30
Perfluorocarbons	Reduce emissions by at least 68% below 2016 levels	2030	
Sulphur hexafluoride	Reduce emissions by at least 68% below 2016 levels	2030	35

SCHEDULE 5

Section 6

THE PROTOCOLS TO THE UNITED NATIONS ECONOMIC COMMISSION FOR EUROPE’S
CONVENTION ON LONG-RANGE TRANSBOUNDARY AIR POLLUTION

- | | | |
|---|---|----|
| 1 | The 1984 Geneva Protocol on Long-Term Financing of the Cooperative Programme for Monitoring and Evaluation of the Long-range Transmission of Air Pollutants in Europe (EMEP). | 5 |
| 2 | The 1985 Helsinki Protocol on the Reduction of Sulphur Emissions or their Transboundary Fluxes by at least 30 per cent. | |
| 3 | The 1988 Protocol concerning the Control of Nitrogen Oxides or their Transboundary Fluxes. | 10 |
| 4 | The 1991 Geneva Protocol concerning the Control of Emissions of Volatile Organic Compounds or their Transboundary Fluxes. | |
| 5 | The 1994 Oslo Protocol on Further Reduction of Sulphur Emissions. | |
| 6 | The 1998 Aarhus Protocol on Heavy Metals, as amended on 13 December 2012. | 15 |
| 7 | The 1998 Aarhus Protocol on Persistent Organic Pollutants (POPs), as amended on 18 December 2009. | |
| 8 | The 1999 Gothenburg Protocol to Abate Acidification, Eutrophication and Ground-level Ozone, as amended on 4 May 2012. | |

SCHEDULE 6

Section 6

20

THE CLEAN AIR ENACTMENTS

Health

- | | | |
|---|--|----|
| 1 | The clean air enactments related to health are— | |
| | (a) the Public Health Act 1925; | |
| | (b) the Public Health Act 1936; | 25 |
| | (c) the Public Health Act 1961; | |
| | (d) the Noise and Statutory Nuisance Act 1993; | |
| | (e) the Health and Social Care Act 2012; | |
| | (f) the Well-being of Future Generations (Wales) Act 2015. | |

Pollution and air quality

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|---|---|----|
| 2 | The clean air enactments related to clean air and pollution are— | |
| | (a) the Clean Air Act 1956; | |
| | (b) the Clean Air Act 1968; | |
| | (c) the Clean Air (Emission of Grit and Dust from Furnaces) Regulations 1971 (S.I. 1971/162); | 35 |
| | (d) the Control of Pollution Act 1974; | |
| | (e) the Clean Air Act 1993; | |
| | (f) the Motor Fuel (Composition and Content) Regulations 1999 (S.I. 1999/3107); | |

- | | | |
|-----|--|----|
| (g) | the Pollution Prevention and Control Act 1999; | |
| (h) | the Air Quality (England) Regulations 2000 (S.I. 2000/928); | |
| (i) | the Air Quality (Wales) Regulations 2000 (S.I. 2000/1940 (W.138)); | |
| (j) | the Pollution Prevention and Control (England and Wales) Regulations 2000 (S.I. 2000/1973); | 5 |
| (k) | the Sulphur Content of Liquid Fuels (England and Wales) Regulations 2007 (S.I. 2007/79); | |
| (l) | the Air Quality Standards Regulations 2010 (S.I. 2010/1001); | |
| (m) | the Air Quality Standards (Wales) Regulations 2010 (S.I. 2010/1433 (W.126)); | 10 |
| (n) | the Air Quality Standards (Amendment) Regulations 2016 (S.I. 2016/1184); | |
| (o) | the Motor Fuel (Composition and Content) and Merchant Shipping (Prevention of Air Pollution from Ships) (Amendment) Regulations 2010 (S.I. 2010/3035); | 15 |
| (p) | the Ecodesign for Energy-Related Products Regulations 2010 (S.I. 2010/2617); | |
| (q) | the Clean Air (Miscellaneous Provisions) (England) Regulations 2014 (S.I. 2014/3318); | |
| (r) | the Sulphur Content of Liquid Fuels (England and Wales) (Amendment) Regulations 2014 (S.I. 2014/1975); | 20 |
| (s) | the Pollution Prevention and Control (England and Wales) Regulations 2000 (S.I. 2000/1973); | |
| (t) | the Large Combustion Plants (England and Wales) Regulations 2002 (S.I. 2002/2688); | 25 |
| (u) | the Environmental Permitting (England and Wales) (Amendment) Regulations 2018 (S.I. 2018/110). | |

Aviation

- 3 The clean air enactment related to aviation is the Civil Aviation Act 1982.

Environment

- 4 The clean air enactments related to the environment are –
- | | | |
|-----|--|----|
| (a) | the Environmental Protection Act 1990; | |
| (b) | the Environmental Protection (Prescribed Processes and Substances) Regulations 1991 (S.I. 1991/472); | |
| (c) | the Environment Act 1995; | 35 |
| (d) | the Local Government Act 2000; | |
| (e) | the Environmental Assessment of Plans and Programmes Regulations 2004 (S.I. 2004/1633); | |
| (f) | the Clean Neighbourhoods and Environment Act 2005; | |
| (g) | the Environmental Permitting (England and Wales) (Amendment) Regulations 2013 (S.I. 2013/390); | 40 |
| (h) | the Environmental Permitting (England and Wales) (Amendment) (No. 2) Regulations 2013 (S.I. 2013/766) | |
| (i) | the Environmental Permitting (England and Wales) (Amendment) (No. 2) Regulations 2016 (S.I. 2016/475); | 45 |
| (j) | the Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/1154); | |

- (k) the Environmental Act 2021.

Vehicles

- 5 The clean air enactments related to vehicles are—
- (a) the Road Vehicles (Construction and Use) Regulations 1986 (S.I. 1986/1078); 5
 - (b) the Road Traffic Offenders Act 1988;
 - (c) the Road Traffic Reduction Act 1997;
 - (d) the Road Traffic (Vehicle Emissions) (Fixed Penalty) (England) Regulations 2002 (S.I. 2002/1808);
 - (e) the Road Vehicles (Construction and Use) (Amendment) Regulations 2004 (S.I. 2004/1706); 10
 - (f) the Non-Road Mobile Machinery (Emission of Gaseous and Particulate Pollutants) (Amendment) Regulations 2014 (S.I. 2014/1309);
 - (g) the Road Vehicles (Construction and Use) (Amendment etc.) (No. 2) Regulations 2017 (S.I. 2017/1251). 15

Planning

- 6 The clean air enactments related to planning are—
- (a) the Town and Country Planning Act 1990;
 - (b) the Planning Act 2008; 20
 - (c) the Localism Act 2011;
 - (d) the Neighbourhood Planning Act 2017.

Climate change

- 7 The clean air enactments related to climate change are—
- (a) the Greater London Authority Act 1999; 25
 - (b) the Motor Fuel (Composition and Content) Regulations 1999 (S.I. 1999/3107);
 - (c) the Climate Change and Sustainable Energy Act 2006;
 - (d) the Persistent Organic Pollutants Regulations 2007 (S.I. 2007/3106);
 - (e) the Sulphur Content of Liquid Fuels (England and Wales) Regulations 2007 (S.I. 2007/79); 30
 - (f) the Climate Change Act 2008;
 - (g) the Promotion of the Use of Energy from Renewable Sources Regulations 2011 (S.I. 2011/243);
 - (h) the Renewable Transport Fuel Obligations (Amendment) Order 2011 (S.I. 2011/2937); 35
 - (i) the Greenhouse Gas Emissions Trading Scheme Regulations 2012 (S.I. 2012/3038);
 - (j) the Motor Fuel (Road Vehicle and Mobile Machinery) Greenhouse Gas Emissions Reporting Regulations 2012 (S.I. 2012/3030); 40
 - (k) the Offshore Combustion Installations (Pollution Prevention and Control) Regulations 2013 (S.I. 2013/971);
 - (l) the Renewable Transport Fuel Obligations (Amendment) Order 2013 (S.I. 2013/816);
 - (m) the Fluorinated Greenhouse Gases Regulations 2015 (S.I. 2015/310); 45

- (n) the Ozone-Depleting Substances Regulations 2015 (S.I. 2015/168);
- (o) the Alternative Fuels Infrastructure Regulations 2017 (S.I. 2017/897).

Shipping

- 8 The clean air enactments related to shipping are –
- (a) the Merchant Shipping (Prevention of Air Pollution from Ships) Regulations 2008 (S.I. 2008/2924); 5
 - (b) the Merchant Shipping (Prevention of Air Pollution from Ships) (Amendment) Regulations 2010 (S.I. 2010/895);
 - (c) the Merchant Shipping (Prevention of Air Pollution from Ships) and Motor Fuel (Composition and Content) (Amendment) Regulations 2014 (S.I. 2014/3076); 10
 - (d) the Merchant Shipping (Monitoring, Reporting and Verification of Carbon Dioxide Emissions) and the Port State Control (Amendment) Regulations 2017 (S.I. 2017/825).

Habitats 15

- 9 The clean air enactments related to habitats are –
- (a) the European Union’s General Union Environment Action Programme to 2020: Living well, within the limits of our planet (the 7th Environment Action Programme);
 - (b) the Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012); 20
 - (c) the Conservation of Offshore Marine Habitats and Species Regulations 2017 (S.I. 2017/1013).

SCHEDULE 7

Section 16

CONSTITUTION OF THE CITIZENS’ COMMISSION FOR CLEAN AIR 25

Mission

- 1 The Citizen’s Commission for Clean Air (CCCA) must exercise the powers conferred by this Act, and in order to monitor and enforce the right to breathe clean air and the duties to achieve and maintain clean air in England and Wales, its guiding principles must include – 30
- (a) the environmental principles set out in section 20;
 - (b) demonstrating in its actions independence from the Government and upholding domestic laws to protect and improve the environment;
 - (c) ensuring that standards are set to protect public health and the environment; 35
 - (d) assessing and improving compliance with relevant environmental law by the Government and the relevant national authorities including the achievement of the limits in Schedules 1 to 4;
 - (e) undertaking inquiries and formal investigations to identify systemic risks; 40
 - (f) making recommendations and issuing compliance notices;
 - (g) involving and representing members of the public; and

(h) properly requesting resources and powers to fulfil its duties.

2 The CCCA must work collaboratively with all other similar bodies and the relevant national authorities across all parts of the United Kingdom.

Membership

3 The Secretary of State must appoint between 10 and 15 individuals as members of the CCCA (to be known as “Commissioners”). 5

4 The chief executive of the CCCA (appointed under paragraph 22) must be a Commissioner ex officio.

5 In appointing Commissioners, the Secretary of State must –
(a) appoint an individual only if the Secretary of State considers that the individual – 10

- (i) has experience or knowledge relating to a relevant matter; or
- (ii) is suitable for appointment for some other reason; and

(b) have regard to the desirability of the Commissioners collectively having sufficient experience and knowledge relating to the relevant matters. 15

6 For the purposes of paragraph 5, the relevant matters are those matters in respect of which the CCCA has functions including and in particular –

- (a) health;
- (b) human rights; 20
- (c) environmental protection;
- (d) climate change;
- (e) enforcement powers;
- (f) law;
- (g) planning; 25
- (h) science; and
- (i) public involvement in decision making.

7 A Commissioner must hold and vacate office in accordance with the terms of their appointment (subject to this Schedule).

8 The appointment of a Commissioner must be expressed to be for a specified period of not less than two years and not more than five years. 30

9 A Commissioner whose period of membership has expired may be reappointed.

10 A Commissioner may resign by giving notice in writing to the Secretary of State. 35

11 The Secretary of State may dismiss a Commissioner who is, in the opinion of the Secretary of State, unable, unfit or unwilling to perform their functions.

12 Paragraphs 3 and 5 to 11 do not apply to the chief executive of the CCCA.

Chairperson

13 The Secretary of State must appoint – 40

- (a) a Commissioner as Chairperson; and
- (b) one or more Commissioners as deputy Chairperson or Chairpersons.

14	The Chairperson must – (a) preside over meetings of the CCCA; (b) perform such functions as may be specified in the terms of their appointment; and (c) perform such other functions as may be assigned to them by the CCCA.	5
15	A deputy Chairperson – (a) may act for the Chairperson when they are unavailable, and (b) must perform – (i) such functions as may be specified in the terms of their appointment; and (ii) such other functions as the Chairperson may delegate or assign to them.	10
16	The Chairperson or a deputy Chairperson – (a) must vacate office if they cease to be a Commissioner; (b) may resign by giving notice in writing to the Secretary of State; and (c) otherwise must hold and vacate office in accordance with the terms of their appointment (and may be reappointed at a later date).	15
17	If the Chairperson resigns they cease to be a Commissioner (but they may be reappointed as a Commissioner at a later date).	20
18	The chief executive may not be appointed Chairperson or deputy Chairperson.	
19	The CCCA may regulate its own proceedings (subject to this Schedule).	
20	The CCCA must determine a quorum for its meetings.	
21	At least five Commissioners must participate in the process by which a determination under paragraph 20 is made.	25
<i>Staff</i>		
22	The CCCA – (a) must appoint a chief executive; and (b) may appoint other staff.	30
<i>Committees</i>		
23	The CCCA may establish one or more committees, to be known as advisory committees, to advise the CCCA.	
24	An advisory committee may include any of the following – (a) Commissioners; (b) staff; (c) other non-Commissioners.	35
25	The CCCA may establish one or more committees to whom the CCCA may delegate functions, to be known as decision-making committees.	
26	A decision-making committee may include any of the following – (a) Commissioners; (b) staff;	40

- (c) other non-Commissioners.
- 27 The CCCA must ensure that the Chairperson of each decision-making committee is a Commissioner.
- 28 In allocating its resources the CCCA must consider the duty of each decision-making committee to exercise their functions. 5
- 29 A member of a committee must hold and vacate office in accordance with the terms of their appointment by the CCCA, which may include provision for dismissal.
- 30 The CCCA –
 - (a) may, to any extent, regulate the proceedings of a committee and may, in particular, determine a quorum for meetings; 10
 - (b) may, to any extent, permit a committee to regulate its own proceedings and may, in particular, enable a committee to determine a quorum for meetings; and
 - (c) may dissolve a committee. 15

Annual Report

- 31 The CCCA must for each financial year prepare a report on the performance of its functions in that year, to be known as its annual report.
- 32 An annual report must, in particular, evaluate the CCCA’s performance of its functions. 20
- 33 The CCCA must send each annual report to the Secretary of State within the period of six months beginning with the end of the financial year to which the report relates.
- 34 A copy of each annual report received under paragraph 33 must be laid before both Houses of Parliament by the Secretary of State. 25

Money

- 35 The Secretary of State may pay to the Chairperson, any deputy Chairperson and each Commissioner –
 - (a) such remuneration as the Secretary of State may determine; and
 - (b) such travelling and other allowances as the Secretary of State may determine. 30
- 36 The CCCA may pay to, or in respect of, the Chairperson, any deputy Chairperson and each other Commissioner, such sums as the Secretary of State may determine by way of, or in respect of, pensions, allowances or gratuities. 35
- 37 The Secretary of State may make grants to the CCCA of such amount and subject to such conditions as the Secretary of State thinks fit.

Status

- 38 The CCCA must not –
 - (a) be regarded as the servant or agent of the Crown; or
 - (b) enjoy any status, immunity or privilege of the Crown. 40

- 39 Service as Commissioner or employee of the CCCA is not employment in the civil service of the State.

Freedom of information

- 40 In Part VI of Schedule 1 to the Freedom of Information Act 2000 (public bodies) after “The Children’s Commissioner for Wales” insert “The Citizens’ Commission for Clean Air”.

Clean Air (Human Rights) Bill [HL]

A

B I L L

[AS AMENDED IN COMMITTEE]

To establish the right to breathe clean air; to require the Secretary of State to achieve and maintain clean air in England and Wales; to involve the UK Health Security Agency in setting and reviewing pollutants and their limits; to enhance the powers, duties and functions of various agencies and authorities in relation to air pollution; to establish the Citizens' Commission for Clean Air with powers to institute or intervene in legal proceedings; to require the Secretary of State and the relevant national authorities to apply environmental principles in carrying out their duties under this Act and the clean air enactments; and for connected purposes.

Baroness Jones of Moulsecoomb

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