Parliamentary Briefing - November 2022

Retained EU Law Bill and the threat to the UK's water environment

Summary

Anglers care passionately about our rivers, still waters and marine environment. In pursuing our sport, we spend a great deal of time by the water and have witnessed at first hand the devastating impact of pollution and abstraction which have seen our rivers and still waters decline. The UK is now woefully behind the targets set with just 14% our waterbodies achieving Good Ecological Status and many of England's precious chalk streams are at serious risk. Water quality is getting worse not better and over the last two years our rivers have had to endure over 760,000 incidents of sewage spills lasting for a total of 5.7 million hours.

The Angling Trust is keen to continuing to work with the new ministerial team at DEFRA on solutions to the problems our rivers and still waters face. Whether that is from sewage pollution, agricultural pollution, over-abstraction, or the impact of invasive species. It is clear to us that if the government is to achieve its ambitions set out in the 25 Year Environment Plan then the regulators, the Environment Agency and OFWAT, not only need the resources necessary but must show the leadership needed to tackle the problems our rivers and still waters face.

However, a major threat to making progress in these areas had arisen with publication of new Retained EU Law (Revocation and Reform) Bill which has the potential to reverse what limited legal protections our waterbodies currently have. As we set out in this briefing many of these protections are derived from existing EU regulations and whilst there is always scope for improvement simply revoking them would be an extremely retrograde step and would inevitably increase the rate of decline.

Introduction

The Retained EU Law (Revocation & Reform) Bill[1] is intended to 'save, repeal, replace, restate or assimilate 'the retained EU law (known as REUL) applying in the UK. The Bill will cover over 2,400 pieces of REUL, which will either be dropped or adapted into UK law.[2]

This is not simply a tidying up exercise; the Government's own figures suggest that 570 pieces of the REUL sit with DEFRA (the highest number of any Government department) – we believe that even this high number is an underestimate.[3] These regulations constitute the protections we all rely on for clean air, clean water, and access to green space, as well as providing crucial safeguards for a struggling natural world. The Bill is currently in committee, as it currently stands its intention is that these protections will now either amended, reaffirmed, or be dropped from UK law. A deadline for completing this exercise has been set for the end of 2023, with an option to extend the deadline to 2026. This does not give enough time to give each regulation due consideration, with proper stakeholder consultation, and with the necessary cross-referencing needed to ensure a change in one area does impact of other areas of environment protection.

In short, should this bill proceed as currently drafted it will constitute a major threat to the protection of our rivers, freshwater water bodies and estuaries. This briefing focuses on some the potential impacts on those environments.

More polluted rivers

- The Water Environment (Water Framework Directive) (England and Wales) Regulations 2017
- The Reduction and Prevention of Agricultural Diffuse Pollution (England) Regulations 2018
  (Also known as the Farming Rules for Water)
- The Urban Wastewater Treatment (England & Wales) Regulations 1994

What do the regulations do?

The Water Framework Directive drives holistic action to prevent the deterioration of the water environment and to improve water quality. It requires all waterbodies to reach good status and brings water companies, community, and environmental stakeholders together behind this objective. The Directive has driven £3.7bn of investment in water quality over the past six years, resulting in measured improvements in 14.5% of waterbodies.[4]

The Reduction and Prevention of Agricultural Diffuse Pollution regulations are designed to reduce pollution causes by the washing of farmed soils, and the chemicals and animal waste

[1] https://bills.parliament.uk/bills/3340/publications
[2] https://public.tableau.com/app/profile/governmentreporting/viz/UKGovernment-RetainedEULawDashboard/Guidance
[3] See https://www.mcsuk.org/news/analysis-the-retained-eu-law-bill/
[4] https://www.oecd.org/environment/resources/England-case-study-water-quality-and-agriculture-diffuse-pollution.pdf (p2)

bound up in those soils, into rivers. This is a significant cause of river pollution, with agricultural pollution affecting 40% of water bodies[5] (by way of comparison, sewage pollution from storm overflows affects 36% of water bodies). As the Environment Agency Chief Executive Sir James Bevan told the Environmental Audit Committee last year ‘‘Statistically, the largest sector that is impacting our waters, in one way or another, is the farming sector.[6]’’

The Urban Wastewater Treatment (England & Wales) Regulations 1994 set out requirements relating to the collection, treatment and discharge of urban wastewater. These requirements have been the main driver for investment in primary wastewater treatment over recent decades.

What effect would weakening the regulations have?

Weakening the Water Framework Directive would undercut a framework that effectively drives holistic action to improve water quality across frontline organisations. The lessening of this central impetus could see progress towards cleaning up our rivers stall, with individual improvement measures becoming siloed. The holistic action driven by the Directive is also important for marine recovery – having healthier rivers at their estuarine and coastal stages flows into a having healthier ocean. The slackening of the drive to recover freshwater health would also impact on the recovery of the wider marine environment.

The Environment Agency’s CEO St James Bevan argued for an ending to the “one out, all out” requirement of the directive[7]. Such a change would fundamentally alter the holistic approach that underpins the directive. Given the Environment Agency and the government failure to meet the requirements of the directive, first failing to meet the original target of 100% of water bodies meeting “good” or better standards, then shifting the goal to 75% of rivers to be in their “near natural” state by 2027[8], which they are not course to achieve, this change would represent an admission of failure and a deprioritising of the government stated ambitions for the environment. It would be contrary to the 2019 Conservative Manifesto commitment to “protect and restore the natural environment”.

Weakening the Agricultural Diffuse Pollution regulations would allow increased levels of agricultural pollutants in our rivers. These pollutants are devastating to freshwater wildlife, reducing oxygen levels, and even killing fish outright in areas of particular concentration.

Weakening the Urban Wastewater Treatment (England & Wales) Regulations would reduce the pressure on water companies and developers to provide primary wastewater infrastructure sufficient to meet the meet the needs of urban areas, especially when they are growing. This increases the risk of insufficiently treated wastewater from urban areas spreading pollution across the freshwater network.

[5] https://committees.parliament.uk/publications/8460/documents/88412/default/
[6] https://committees.parliament.uk/oralevidence/2434/pdf/
[7] https://www.gov.uk/government/speeches/bregulation-rethinking-regulation-after-brexit
[8] https://www.gov.uk/government/publications/25-year-environment-plan/25-year-environment-plan-our-targets-at-a-glance

Which animals, plants and habitats would be worst affected?

- Freshwater fish are particularly vulnerable to water pollution events, which can result in increased incidence of freshwater fish dying en masse.[9]
- Salmon populations illustrate the scale of population decline in our rivers, driven in part by pollution. 2021 figures showed a sharp fall in salmon stocks in rivers in England & Wales, with rivers classified as being "at risk" for salmon rising from 20 rivers (48%) in 2020 to 31 rivers (74%) in just one year.[10]
- Freshwater habitats are highly connected spaces, and declines in one population rapidly affect others. Fish species, invertebrate species, and aquatic plants are all impacted from pollution exacerbated by the current level of underfunding and lack of monitoring and enforcement and will be further impacted through reckless deregulation.

Additional Impacts

The Conservation of Habitats and Species Regulations 2017

The current Habitat Regulations include a crucial provision preventing any development that could adversely affect the integrity of a SAC or SPA. This is particularly important for those rivers which are catagorised as SAC, for example the River Wye. It is through these regulations that the current requirement for "nutrient neutrality" with regard to new development have been developed, and which are driving changes and enhancements at the local level. Any weakening of this language through redrafting could allow unsustainable developments going ahead on or around important riverine habitats, even when they would cause impacts damaging to protected sites.

This could lead to the degradation of England's most important and vulnerable nature sites, including nationally and internationally important natural habitats, and consequent damage to the wider natural environment.

Invasive Alien Species (Enforcement and Permitting) Order (2019)

The Invasive Alien Species (Enforcement and Permitting) Order (2019) lists invasive species of concern and sets out rules to prevent their introduction and spread. It underpins an invasives enforcement regime, including criminal sanctions for people introducing invasive species of concern into the UK.

Invasive species, such as the American signal crayfish, pennywort, and killer shrimps can devastate native wildlife populations, accelerating species decline. These impacts also have an economic cost – in 2010 a Defra-commissioned report estimated that invasive species cost

9 https://www.rspb.org.uk/globalassets/downloads/our-work/troubled-waters-report
10 https://anglingtrust.net/2022/07/26/further-decline-as-government-and-regulators-continue-to-fail-salmon/
11 https://www.researchgate.net/publication/298559361_The_Economic_Cost_of_Invasive_Non-Native_Species_on_Great_Britain

the UK economy £1.7 billion a year.[11] Inflation suggests that figure would now be at least £2.2billion, the increased spread and number of invasive species since 2010 would make this figure higher still.

The Invasive Alien Species (Enforcement and Permitting) Order is only the piece of current legislation that works to prevent the introduction of invasive species. Other pieces of legislation regarding invasive species work only to prevent their spread, and do not contain powers to stop the introduction of them in the first place. The weakening of the order would open a breach in the UK's defences against invasive species.

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