

Water (Special Measures) Bill [HL]

RUNNING LIST OF ALL AMENDMENTS IN COMMITTEE OF THE WHOLE HOUSE

*Tabled up to and including
21 October 2024*

[Amendments marked ★ are new or have been altered]

Clause 1

BARONESS BAKEWELL OF HARDINGTON MANDEVILLE

Clause 1, page 1, line 8, leave out “may” and insert “must”

Member's explanatory statement

This amendment requires Ofwat to issue rules about remuneration and governance.

BARONESS BAKEWELL OF HARDINGTON MANDEVILLE

Clause 1, page 1, line 16, after “to” insert “prevent all sewage discharges, spills, or leaks, and”

Member's explanatory statement

This amendment would mean a water company could not give performance-related pay to persons holding senior roles if a water company has failed to prevent all sewage discharges, spills or leaks.

This also includes legal spill.

BARONESS MCINTOSH OF PICKERING

Clause 1, page 1, line 17, after “standards” insert “, provided the undertaker is satisfied that the failure to meet relevant standards was due to a failing on the part of the person holding the senior role and not another person, including a developer”

BARONESS MCINTOSH OF PICKERING

Clause 1, page 1, line 23, after “standards” insert “, provided the undertaker is satisfied that the failure to meet relevant standards was due to a failing on the part of the person holding the senior role and not another person, including a developer”

EARL RUSSELL

Clause 1, page 2, line 3, at end insert –

“(d) requiring a relevant undertaker to have arrangements in place for environmental experts to be members of a board, committee or panel of a relevant undertaker.”

Member's explanatory statement

This amendment would require Ofwat to create rules to compel water companies to place environmental experts on their board, committee, or panel.

BARONESS MCINTOSH OF PICKERING

Clause 1, page 2, line 8, at end insert –

“(iia) meeting relevant standards issued under Schedule 3 of the Flood and Water Management Act 2010 (Sustainable Drainage),”

BARONESS MCINTOSH OF PICKERING

Clause 1, page 2, line 8, at end insert –

“(iia) meeting relevant standards issued under the Flood and Water Management Act 2010,”

BARONESS BAKEWELL OF HARDINGTON MANDEVILLE

Clause 1, page 2, line 40, leave out “may” and insert “must”

Member's explanatory statement

This amendment requires Ofwat, as part of their rules on consumer representation, to require water companies to place consumers on their board, committee, or panel.

BARONESS BAKEWELL OF HARDINGTON MANDEVILLE

Clause 1, page 2, line 44, leave out “may” and insert “must”

Member's explanatory statement

This amendment requires Ofwat to direct water companies to perform certain actions if it considers them to be contravening rules under new section 35B.

After Clause 1

BARONESS BAKEWELL OF HARDINGTON MANDEVILLE

After Clause 1, insert the following new Clause—

“Rules about performance-related pay

- (1) The Water Industry Act 1991 is amended as follows.
- (2) After section 35D (inserted by section 1 of this Act), insert—

“35E Rules about performance-related pay

- (1) The Authority must issue rules prohibiting a relevant undertaker from giving to persons holding senior roles performance-related pay in respect of any financial year in which the undertaker has failed to prevent all sewage discharges, spills, or leaks.
- (2) The rules issued under subsection (1) must include—
 - (a) provision designed to secure that performance-related pay which, if given by a relevant undertaker, would contravene the pay prohibition on the part of the undertaker, is not given by another person;
 - (b) that any provision of an agreement (whether made before or after the issuing of the rules) is void to the extent that it contravenes the pay prohibition;
 - (c) provision for a relevant undertaker to recover any payment made, or other property transferred, in breach of the pay prohibition.
- (3) For the purposes of subsection (1)—
 - (a) “performance-related pay” means any payment, consideration or other benefit (including pension benefit) the giving of which results from the meeting of any targets or performance standards on the part of the relevant undertaker or the person to whom such payment, consideration or benefit is given;
 - (b) a person holds a “senior role” with a relevant undertaker if the person—
 - (i) is a chief executive of the undertaker,
 - (ii) is a director of the undertaker, or
 - (iii) holds such other description of role with the undertaker as may be specified.”

Member's explanatory statement

This amendment creates a new section in the Water Industry Act 1991 to require Ofwat to ban bonuses for water company bosses if they fail to prevent sewage discharges, spills, or leaks.

Clause 2

BARONESS BAKEWELL OF HARDINGTON MANDEVILLE

Clause 2, page 4, line 30, after “Each” insert “water and”

Member's explanatory statement

This amendment ensures that both water-only providers and sewerage providers are required to prepare pollution incident reduction plans.

BARONESS BAKEWELL OF HARDINGTON MANDEVILLE

Clause 2, page 4, line 31, leave out “and publish” and insert “, publish and implement”

Member's explanatory statement

This amendment would require water companies to implement pollution incident reduction plans. Current drafting only requires them to prepare and publish.

BARONESS PARMINTER

Clause 2, page 4, line 35, at end insert –

“(2A) A water or water and sewerage undertaker must take all reasonable steps to implement the measures described in its pollution incident reduction plan.”

Member's explanatory statement

This amendment would place a duty on water or water and sewage companies to implement the pollution incident reduction plans which this section would require them to publish.

BARONESS BAKEWELL OF HARDINGTON MANDEVILLE

Clause 2, page 5, line 19, at end insert –

“(ga) any environmental risks from pollution incidents, and specify steps to mitigate identified risks, and”

Member's explanatory statement

This amendment addresses the gap in the proposed pollution reduction plans by requiring the identification and mitigation of environmental risks.

BARONESS BAKEWELL OF HARDINGTON MANDEVILLE

Clause 2, page 5, line 25, leave out “and publication” and insert “, publication, and implementation”

Member's explanatory statement

This amendment is consequential on another amendment in the name of Baroness Bakewell of Hardington Mandeville.

BARONESS JONES OF MOULSECOOMB

Clause 2, page 5, line 29, at end insert –

“(7A) A sewerage undertaker must have regard to opportunities for nature-based solutions to be used to reduce pollution and to deliver other environmental benefits when preparing and publishing a pollution incident reduction plan.”

Member's explanatory statement

This amendment would require consideration of opportunities to use nature-based solutions to address pollution within pollution incident reduction plans.

BARONESS PARMINTER

Clause 2, page 5, line 40, after “94EA(1)” insert “or 94EA(2A)”

Member's explanatory statement

This would ensure that the proposed implementation duty in another amendment in the name of Baroness Parminter is enforceable by the Environment Agency.

BARONESS PARMINTER

Clause 2, page 6, line 2, after “94EA(1)” insert “or 94EA(2A)”

Member's explanatory statement

This would make the failure to implement pollution incident reduction plans, as required by another amendment in the name of Baroness Parminter, an offence alongside the existing offence of not publishing a plan.

Clause 3

EARL RUSSELL

Clause 3, page 6, line 16, at end insert –

“(ba) the volume and concentration of the discharge;”

Member's explanatory statement

This amendment would require water companies to publish the volume and concentration of discharge from an emergency overflow.

EARL RUSSELL

Clause 3, page 6, line 26, at end insert –

“(c) be published on one website.”

Member's explanatory statement

This amendment would require water companies to publish data on one website, to increase transparency and ease of access for the public.

BARONESS MCINTOSH OF PICKERING

Baroness McIntosh of Pickering gives notice of her intention to oppose the Question that Clause 3 stand part of the Bill.

After Clause 3

BARONESS MCINTOSH OF PICKERING

After Clause 3, insert the following new Clause—

“Report on implementation of Schedule 3 of the Flood and Water Management Act 2010

The Secretary of State must, within six months of the passing of this Act, lay before each House of Parliament a report on the effect of this Act on the implementation of Schedule 3 of the Flood and Water Management Act 2010 (Sustainable Drainage).”

BARONESS BROWNING

After Clause 3, insert the following new Clause—

“Right to communicate with public sewers

In section 106(4) of the Water Industry Act 1991 (right to communicate with public sewers), after paragraph (b) insert—

“(c) the predicted or actual volume of sewerage to be discharged into the public sewer would exceed the capacity of sewerage infrastructure.””

Clause 5

BARONESS HAYMAN OF ULLOCK

★ Clause 5, page 10, line 4, at end insert—

“(6) But an offence is to be regarded for the purposes of this section as committed by a water supply licensee or sewerage licensee only if it is committed by such a licensee in the course of the activities to which its licence relates.”

Member's explanatory statement

This amendment provides that Clause 5 applies to water supply and sewerage licensees only in relation to their licensed activities.

Clause 6

BARONESS HAYMAN OF ULLOCK

- ★ Clause 6, page 11, line 9, at end insert –
“(11) Section 5(6) also applies for the purposes of this section.”

Member's explanatory statement

This amendment provides that Clause 6 applies to water supply and sewerage licensees only in relation to their licensed activities.

After Clause 6

BARONESS BAKEWELL OF HARDINGTON MANDEVILLE

After Clause 6, insert the following new Clause –

“Water Restoration Fund

- (1) No more than 60 days after the day on which this Act is passed, the Secretary of State must by regulations make provision for the establishment, operation and management of a Water Restoration Fund.
- (2) A Water Restoration Fund is a fund –
 - (a) into which any monetary penalties imposed for specified offences must be paid, and
 - (b) out of which payments must be made for expenditure on measures to improve the quality of the freshwater environment in England.
- (3) The Secretary of State must by regulations list the specified offences for the purpose of this section, which must include –
 - (a) any relevant provisions of the Water Resources Act 1991, including –
 - (i) section 24(4) (unlicensed abstraction or related works or contravening abstraction licence);
 - (ii) section 25(2) (unlicensed impounding works or contravening impounding licence);
 - (iii) section 25C(1) (contravening abstraction or impounding enforcement notice);
 - (iv) section 80 (contravening drought order or permit);
 - (v) section 201(3) (contravening water resources information notice);
 - (b) regulations under section 2 of the Pollution Prevention and Control Act 1999 (regulation of polluting activities etc);
 - (c) regulations under section 61 of the Water Act 2014 (regulation of water resources etc).
- (4) A statutory instrument containing regulations 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.

- (5) The Secretary of State may by regulations made by statutory instrument add to the list of offences specified in subsection (3).
- (6) The provisions in this section replace any existing provision for the sums received for specified offences, including in section 22A(9) of the Water Industry Act 1991 (penalties).”

Member's explanatory statement

This amendment would require all funds from fines on water companies for environmental offences to be ringfenced for the Water Restoration Fund, for spending on freshwater recovery.

EARL RUSSELL

After Clause 6, insert the following new Clause –

“Power to revoke licences

After section 17R of the Water Industry Act 1991 insert –

“17S Power to revoke licences

The Authority may revoke a water supply and sewerage licence (WSSL) with six months’ notice.””

Member's explanatory statement

This amendment provides Ofwat with the power to remove a water supply and or sewerage licence with six months’ notice.

EARL RUSSELL

After Clause 6, insert the following new Clause –

“Environmental Duties with respect to Chalk Streams

- (1) The Water Industry Act 1991 is amended as follows.
- (2) After section 4, insert –

“4A Environmental Duties with respect to Chalk Streams

- (1) Where a relevant undertaker operates, or has any effect on chalk streams, that undertaker must –
 - (a) secure and maintain “high ecological status” of chalk streams, and
 - (b) clearly mark chalk streams which are of “high ecological status”.
- (2) In this section “high ecological status” relates to the classification of water bodies in The Environment (Water Framework Directive) (England and Wales) Regulations 2017.””

BARONESS BROWNING
BARONESS MCINTOSH OF PICKERING

After Clause 6, insert the following new Clause –

“Duty to comply with water main requisition

In section 41 of the Water Industry Act 1991 (duty to comply with water main requisition), after subsection (4) insert –

- “(4A) The duty to provide water under this section shall not apply to provision for a proposed new development where the water undertaker has notified the developer and the planning authority that –
- (a) it does not have sufficient water resources available, or
 - (b) it believes that the provision of water to the new proposed development would be likely to lead to unacceptable damage being caused to a protected site.”

BARONESS MCINTOSH OF PICKERING

★ After Clause 6, insert the following new Clause –

“Overflows: sanction exception

In section 19 of the Water Industry Act 1991 (exemptions to duty to enforce), after subsection (1)(a) insert –

- “(aza) that the contravention arose from waste materials being deposited into the water system by consumers;”

Member's explanatory statement

This amendment is intended to probe whether provision additional to section 19(1)(aa) of the Water Industry Act 1991 is needed to exempt water companies from sanctions where an emergency overflow results from cooking fat, wet wipes etc.

Clause 7

BARONESS HAYMAN OF ULLOCK

★ Clause 7, page 11, line 25, leave out from “if” to end of line 28 and insert “–

- (a) it is held by a water undertaker or sewerage undertaker, or
- (b) it is held by a water supply licensee or sewerage licensee, within the meaning of the Water Industry Act 1991, for the purposes of the activities to which its water supply licence or sewerage licence relates;”

Member's explanatory statement

This amendment provides that Clause 7 applies to water supply and sewerage licensees only in relation to their licensed activities.

BARONESS HAYMAN OF ULLOCK

- ★ Clause 7, page 11, line 29, leave out “a reference to such licences includes those” and insert “regulations under this section may apply to water industry licences”

Member's explanatory statement

This amendment is consequential on the Minister's previous amendment.

After Clause 7

BARONESS PARMINTER
 BARONESS BAKEWELL OF HARDINGTON MANDEVILLE
 LORD RANDALL OF UXBRIDGE
 BARONESS JONES OF MOULSECOOMB

After Clause 7, insert the following new Clause –

“Water regulator obligations

Duties of water regulators for clean water

- (1) Section 2 of the Water Industry Act 1991 (General duties with respect to water industry) is amended as follows –
 - (a) omit paragraph (2A)(c);
 - (b) in subsection (2B), omit from “promoting” to “services” and insert “ensuring –
 - (a) clean and wholesome drinking water,
 - (b) bathing waters of excellent quality,
 - (c) lakes, rivers and beaches of high ecological status,
 - (d) the conservation of water resources, and
 - (e) reasonable water bills.”
- (2) In section 3 of the Water Industry Act 1991 (General environmental and recreational duties), in subsection (2), before paragraph (a) insert –
 - “(aa) a requirement to achieve excellent quality of all bathing waters, lakes, rivers and beaches of high ecological status, and elimination of sewage, waste and other pollution so far as reasonably practicable from all waterways;”

Member's explanatory statement

This new clause would change the duties of Ofwat to be compatible with the public interest. It would eliminate the prioritisation of corporate welfare and reform the duties of Ofwat to be for clean water, conservation and reasonable water bills. This would bring English water regulation up to the standards of, and improve upon, the Water (Scotland) Act 1980, section 1.

BARONESS BAKEWELL OF HARDINGTON MANDEVILLE

After Clause 7, insert the following new Clause –

“Abolition of the Water Services Regulation Authority

- (1) The Water Industry Act 1991 is amended as follows.
- (2) For section 1A (Water Services Regulation Authority) substitute the following –

“1A Abolition of the Water Services Regulation Authority

- (1) The body corporate known as the Water Services Regulation Authority (in this Act referred to as “the Authority”) is abolished.
- (2) All references to the duties and functions of the Authority in this Act or any other enactment are null and void.”
- (3) Omit Schedule 1A (The Water Services Regulation Authority).”

Member's explanatory statement

This amendment abolishes Ofwat.

BARONESS BAKEWELL OF HARDINGTON MANDEVILLE

After Clause 7, insert the following new Clause –

“Clean Water Authority

- (1) There shall be a body corporate to be known as the Clean Water Authority for the purpose of carrying out the duties conferred on it by this section.
- (2) The general duties of the Clean Water Authority are as follows –
 - (a) to issue guidance to undertakers, and enforce the implementation of that guidance, requiring undertakers to meet excellent standards concerning –
 - (i) the provision of clean and wholesome drinking water,
 - (ii) the maintenance of bathing waters of excellent quality,
 - (iii) the maintenance of lakes, rivers and beaches of high ecological status,
 - (iv) the conservation of water resources, and
 - (v) the charging of reasonable water bills;
 - (b) to issue rules prohibiting a relevant undertaker from giving to persons holding senior roles performance-related pay in respect of any financial year in which the undertaker has failed to prevent all sewage discharges, spills, or leaks; or failed in any other relevant matter as determined by the Authority;
 - (c) to swiftly revoke the licence of water companies that have performed poorly, as defined by the Authority, with particular regard to the standards set out in paragraph (a);

- (d) to require relevant undertakers to have arrangements in place for environmental experts to be members of a board, committee or panel of the undertaker;
- (e) to issue stringent and legally-binding targets concerning sewage discharges affecting bathing waters and highly sensitive nature sites;
- (f) to mandate that undertakers publish publicly-accessible live time data on the recorded volume, duration and number of sewage spills;
- (g) to perform unannounced inspections with regard to the duties under this subsection.

(3) In this section, “undertaker” means a water undertaker or sewerage undertaker.”

Member's explanatory statement

This amendment establishes the Clean Water Authority and provides it with duties concerning water company governance and performance standards.

EARL RUSSELL

After Clause 7, insert the following new Clause—

“Review of the water industry

- (1) The Secretary of State must consider as part of any review into the water industry the following—
 - (a) the functions and performance of the Water Services Regulation Authority, and the case for its abolition;
 - (b) whether a public benefit company could better perform the role of current undertakers.
- (2) The consideration under subsection (1)(a) must analyse the case for replacing the Water Services Regulation Authority with a new corporate body known as the Clean Water Authority, with the following general duties—
 - (a) to issue guidance to undertakers, and enforce the implementation of that guidance, requiring undertakers to meet excellent standards concerning—
 - (i) the provision of clean and wholesome drinking water,
 - (ii) the maintenance of bathing waters of excellent quality,
 - (iii) the maintenance of lakes, rivers and beaches of high ecological status,
 - (iv) the conservation of water resources, and
 - (v) the charging of reasonable water bills;
 - (b) to issue rules prohibiting a relevant undertaker from giving to persons holding senior roles performance-related pay in respect of any financial year in which the undertaker has failed to prevent all sewage discharges, spills, or leaks, or failed in any other relevant matter as determined by the Authority;
 - (c) to swiftly revoke the licence of water companies that have performed poorly, as defined by the Authority, with particular regard to the standards set out in paragraph (a);

- (d) to require relevant undertakers to have arrangements in place for environmental experts to be members of a board, committee or panel of the undertaker;
- (e) to issue stringent and legally-binding targets concerning sewage discharges affecting bathing waters and highly sensitive nature sites;
- (f) to mandate that undertakers publish publicly-accessible live time data on the recorded volume, duration and number of sewage spills;
- (g) to perform unannounced inspections with regard to the duties under this subsection.”

Member's explanatory statement

As part of any future review into the water industry, such as the one the Minister committed to at Second Reading, this amendment would require that any review must consider the abolishment of Ofwat, the potential of public benefit companies, and the establishment of a new regulator called the Clean Water Authority.

BARONESS BROWNING

After Clause 7, insert the following new Clause –

“Water resources management plans: general duty

After section 37C of the Water Industry Act 1991 (water resources management plans: provision of information), insert the following new section –

“37CA Water resources management plans: general duty

- (1) It shall be the duty of every water undertaker to carry out the long-term measures for water resources provision included in any of its water resources management plans.
- (2) A water undertaker shall publish interim reports every six months on all projects and schemes listed in any of its water resources management plans.
- (3) The duties of a water undertaker under this section shall be enforceable under section 18 (orders for securing compliance with certain provisions) –
 - (a) by the Secretary of State, or
 - (b) with the consent of or in accordance with a general authorisation given by the Secretary of State, by the Director.””

Clause 8

BARONESS HAYMAN OF ULLOCK

★ Clause 8, page 12, line 32, at end insert –

“but, in relation to water supply licensees and sewerage licensees, includes those functions only so far as performed in respect of the activities to which their licences relate.””

Member's explanatory statement

This amendment provides that Clause 8 applies to water supply and sewerage licensees only in relation to their licensed activities.

After Clause 9

BARONESS BOYCOTT

After Clause 9, insert the following new Clause—

“Water and sewerage undertakers: the Environmental Information Regulations 2004

- (1) A water or sewerage undertaker appointed under the Water Industry Act 1991 is a public authority for the purposes of the Environmental Information Regulations 2004.
- (2) After regulation 4 (dissemination of environmental information), paragraph (4)(b) of the Environmental Information Regulations 2004 insert—
 - “(c) all effluent or wastewater treatment works monitoring data held by water and sewerage undertakers appointed under the Water Industry Act 1991 including operational monitoring data in addition to any data required under permits issued under the Environmental Permitting (England and Wales) Regulations 2016.”
- (3) Section 50 of the Freedom of Information Act 2000 as read with regulation 18 of the Environmental Information Regulations 2004 is to be read as if a request for information made by the complainant to a public authority includes a complaint concerning any failure proactively to publish information under regulation 4 of the Environmental Information Regulations 2004.”

Member's explanatory statement

This amendment would remove some of the difficulties that the public experience in getting access to real-time and operational data held by the water companies pursuant to their roles as sewerage undertakers under the Water Industry Act 1991 and would enable any failure to proactively publish such data to be referred to the Information Commissioner.

After Clause 12

BARONESS BROWNING

After Clause 12, insert the following new Clause—

“Form and contents of licences

- (1) The Water Resources Act 1991 is amended as follows.

- (2) In section 46 (form and contents of licences), after subsection (7) insert –
- “(8) All licences granted to water undertakers for the abstraction of water from surface or groundwater sources must include a condition requiring the continuous measurement or monitoring of volumes abstracted.
 - (9) The information required under subsection (8) must be made publicly available at all times and should be published online in real time.
 - (10) For those licences which precede the coming into force of subsections (8) and (9), the measures in those subsections will be required when the licence comes under review or by 31 December 2027, whichever is the earlier.”
- (3) In section 197 (provision of information about water flow etc.), after subsection (2) insert –
- “(2A) It shall be the duty of every water undertaker to publish in real time the flow and abstraction volume data for every abstraction licence that relates to abstractions from rivers.””

BARONESS WILLIS OF SUMMERTOWN
BARONESS PARMINTER
BARONESS YOUNG OF OLD SCONE

After Clause 12, insert the following new Clause –

“Climate change and nature duty

After section 2(2A) of the Water Industry Act 1991 (general duties with respect to the water industry) insert –

- “(2AA) In exercising and performing the powers and duties mentioned in subsection (1) above, the Secretary of State or, as the case may be, the Authority must take all reasonable steps to contribute to –
- (a) the achievement of biodiversity targets set under sections 1 to 3 of the Environment Act 2021,
 - (b) the achievement of targets set under Part 1 of the Climate Change Act 2008 (carbon target and budgeting), and
 - (c) adapting to current or predicted impacts of climate change identified in the most recent report under section 56 of the Climate Change Act 2008 (report on impact of climate change).””

LORD ROBOROUGH
LORD BLENCATHRA

After Clause 12, insert the following new Clause—

“Rules about borrowing

After section 154B of the Water Industry Act 1991 (financial assistance for major works), insert—

“CHAPTER III

RULES ABOUT BORROWING FOR UNDERTAKERS

154C Restriction on borrowing

- (1) Where a relevant undertaker has total borrowing of 60 per cent of their regulated assets or more, the relevant undertaker may not make a payment of dividends, capital, assets, or interest to shareholders or controlling entities.
- (2) Borrowing under subsection (1) shall be calculated from the audited company accounts of the relevant undertaker annually and returns approved by the regulator based on that.
- (3) A relevant undertaker may not take borrowing above 60 per cent of their regulated assets by any shareholder returns.
- (4) This section voids any relevant guarantees given by a relevant undertaker to any other company.””

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