

Water (Special Measures) Bill [HL]

RUNNING LIST OF ALL AMENDMENTS ON REPORT

*Tabled up to and including
13 November 2024*

[Amendments marked ★ are new or have been altered]

Clause 1

LORD REMNANT

- ★ Clause 1, page 2, leave out lines 38 and 39

Member's explanatory statement

This amendment ensures that the rules about remuneration do not extend to individuals below board level.

LORD REMNANT

- ★ Clause 1, page 2, line 42, at end insert –
“(6A) The decision on whether such persons sit on a board, committee or panel is for the relevant undertaker to make.”

Member's explanatory statement

This amendment ensures that it is boards of water companies, rather than Ofwat, who decide which forum (boards, committees or panels) best suits their own requirements.

LORD REMNANT

- ★ Clause 1, page 4, line 25, leave out “2024” and insert “2025”

Member's explanatory statement

This amendment ensures that the provisions about performance-related pay do not have retroactive effect.

Clause 2

BARONESS HAYMAN OF ULLOCK

- ★ Clause 2, page 4, line 28, leave out “Before section 95” and insert “After section 205”

Member's explanatory statement

This amendment moves the provisions about pollution incident reduction plans to a different part of the Water Industry Act 1991, in consequence of the Minister's subsequent amendments extending Clause 2 to the water supply network.

BARONESS HAYMAN OF ULLOCK

- ★ Clause 2, page 4, leave out line 29 and insert—
 ““Pollution incident reduction plans

205A Duty to prepare and publish plans”***Member's explanatory statement***

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

BARONESS HAYMAN OF ULLOCK

- ★ Clause 2, page 4, line 30, leave out “sewerage” and insert “relevant”

Member's explanatory statement

This is one of a group of amendments extending Clause 2 so that it covers the water supply network as well as the sewerage network.

BARONESS HAYMAN OF ULLOCK

- ★ Clause 2, page 4, line 30, leave out “whose area is wholly or mainly in England”

Member's explanatory statement

This is one of a group of amendments extending Clause 2 to Wales.

BARONESS HAYMAN OF ULLOCK

- ★ Clause 2, page 4, line 35, leave out “sewerage”

Member's explanatory statement

This is one of a group of amendments extending Clause 2 so that it covers the water supply network as well as the sewerage network.

BARONESS HAYMAN OF ULLOCK

- ★ Clause 2, page 4, line 37, leave out “sewerage”

Member's explanatory statement

This is one of a group of amendments extending Clause 2 so that it covers the water supply network as well as the sewerage network.

BARONESS HAYMAN OF ULLOCK

- ★ Clause 2, page 5, line 9, leave out “sewerage”

Member's explanatory statement

This is one of a group of amendments extending Clause 2 so that it covers the water supply network as well as the sewerage network.

BARONESS HAYMAN OF ULLOCK

- ★ Clause 2, page 5, leave out lines 17 to 19

Member's explanatory statement

This amendment removes provision superseded by the Minister's amendment at page 5, line 38.

BARONESS HAYMAN OF ULLOCK

- ★ Clause 2, page 5, line 20, leave out “Secretary of State” and insert “Minister”

Member's explanatory statement

This is one of a group of amendments extending Clause 2 to Wales.

BARONESS HAYMAN OF ULLOCK

- ★ Clause 2, page 5, line 22, leave out “Secretary of State must consult the Environment Agency” and insert “Minister must consult the appropriate agency”

Member's explanatory statement

This is one of a group of amendments extending Clause 2 to Wales.

BARONESS HAYMAN OF ULLOCK

- ★ Clause 2, page 5, line 24, leave out “sewerage” and insert “relevant”

Member's explanatory statement

This is one of a group of amendments extending Clause 2 so that it covers the water supply network as well as the sewerage network.

BARONESS HAYMAN OF ULLOCK

- ★ Clause 2, page 5, line 25, leave out “Environment Agency” and insert “appropriate agency”

Member's explanatory statement

This is one of a group of amendments extending Clause 2 to Wales.

BARONESS HAYMAN OF ULLOCK

- ★ Clause 2, page 5, line 27, leave out from “The” to “before” in line 28 and insert “appropriate agency must consult the Authority and the Minister”

Member's explanatory statement

This is one of a group of amendments extending Clause 2 to Wales.

BARONESS HAYMAN OF ULLOCK

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

“(7A) A pollution incident reduction plan must include, or be published with, a statement by the chief executive of the undertaker that the chief executive has personally approved the plan.”

Member's explanatory statement

This amendment requires a pollution incident reduction plan to be approved by the chief executive of the undertaker in question.

BARONESS HAYMAN OF ULLOCK

- ★ Clause 2, page 5, line 31, leave out “sewerage” and insert “relevant”

Member's explanatory statement

This is one of a group of amendments extending Clause 2 so that it covers the water supply network as well as the sewerage network.

BARONESS HAYMAN OF ULLOCK

- ★ Clause 2, page 5, line 33, at end insert –

““appropriate agency” means –

- (a) the Environment Agency, in relation to relevant undertakers whose areas are wholly or mainly in England, and
- (b) the NRW, in relation to relevant undertakers whose areas are wholly or mainly in Wales;”

Member's explanatory statement

This is one of a group of amendments extending Clause 2 to Wales.

BARONESS HAYMAN OF ULLOCK

- ★ Clause 2, page 5, line 33, at end insert –

““chief executive”, in relation to an undertaker, means an employee of the undertaker who, alone or jointly with one or more others, is responsible under the immediate authority of the board of directors for the conduct of the whole of the business of the undertaker;”

Member's explanatory statement

This amendment defines “chief executive” for the purpose of the Minister’s amendments at page 5, line 29 and page 6, line 1.

BARONESS HAYMAN OF ULLOCK

- ★ Clause 2, page 5, line 36, at end insert –

““the Minister” means –

- (a) the Secretary of State, in relation to relevant undertakers whose areas are wholly or mainly in England, and
- (b) the Welsh Ministers, in relation to relevant undertakers whose areas are wholly or mainly in Wales;”

Member's explanatory statement

This is one of a group of amendments extending Clause 2 to Wales.

BARONESS HAYMAN OF ULLOCK

- ★ Clause 2, page 5, leave out lines 37 and 38 and insert –

““system”, in relation to a relevant undertaker, means –

- (a) in the case of a water undertaker, its supply system within the meaning of Chapter 1A of Part 2 (see section 17B);
 - (b) in the case of a sewerage undertaker, its sewerage system within the meaning of that Chapter (see section 17BA(7)).
- (10) In the case of a relevant undertaker that is both a water undertaker and a sewerage undertaker, the duty in subsection (1) is to be discharged in respect of both of its systems in a single plan.”

Member's explanatory statement

This is one of a group of amendments extending Clause 2 so that it covers the water supply network as well as the sewerage network.

BARONESS HAYMAN OF ULLOCK

★ Clause 2, page 5, line 38, at end insert –

“94EAA Implementation reports

- (1) A relevant undertaker must, together with each pollution incident reduction plan that it publishes (except the first), publish an implementation report.
- (2) An implementation report is a report containing the undertaker’s assessment of –
 - (a) the extent to which it succeeded in implementing the planned measures during the preceding calendar year, and
 - (b) to the extent that it failed to implement those measures during that year –
 - (i) the reasons for that failure, and
 - (ii) how the undertaker intends to avoid repeating that failure in respect of any measures in its current plan that are the same as, or similar to, those in respect of which the failure occurred.
- (3) In subsection (2), “the planned measures”, in relation to an undertaker and a calendar year, means the measures set out in its previous pollution incident reduction plans so far as they were (according to those plans) likely to be implemented in that year.
- (4) Subsections (6), (7) and (7A) of section 94EA apply in relation to implementation reports as they apply in relation to pollution incident reduction plans.”

Member's explanatory statement

This amendment requires water and sewerage undertakers to publish annual reports on their implementation of previous pollution incident reduction plans.

BARONESS HAYMAN OF ULLOCK

★ Clause 2, page 5, leave out lines 40 and 41 and insert –

- “(1) The duties of a relevant undertaker under sections 94EA(1) and 94EAA(1) are enforceable by the appropriate agency.”

Member's explanatory statement

This amendment is consequential on the Minister’s amendments extending Clause so that it covers the water supply network, the Minister’s amendment at page 5, line 38, and the Minister’s amendments extending Clause 2 to Wales.

BARONESS HAYMAN OF ULLOCK

- ★ Clause 2, page 6, leave out lines 1 to 3 and insert—
- “(2) If a relevant undertaker fails to comply with its duty under section 94EA(1) or 94EAA(1)—
- (a) the undertaker commits an offence, and
 - (b) the chief executive of the undertaker commits an offence, subject to subsection (2A).
- (2A) It is a defence for the chief executive to prove that they took all reasonable steps to avoid the failure.
- (2B) A person who commits an offence under this section is liable, on summary conviction or conviction on indictment, to a fine.”

Member's explanatory statement

This amendment makes the chief executive of an undertaker liable if the undertaker fails to comply with the new duties about pollution incident reduction plans, unless the chief executive has taken all reasonable steps to ensure compliance.

BARONESS HAYMAN OF ULLOCK

- ★ Clause 2, page 6, line 4, leave out “The offence under subsection (2)” and insert “An offence under this section”

Member's explanatory statement

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

BARONESS HAYMAN OF ULLOCK

- ★ Clause 2, page 6, line 5, leave out “Environment Agency” and insert “appropriate agency”

Member's explanatory statement

This amendment is consequential on the Minister's amendments extending Clause 2 to Wales.

BARONESS HAYMAN OF ULLOCK

- ★ Clause 2, page 6, line 6, at end insert—
- “(4) Where, in deciding how to exercise its functions in relation to a relevant undertaker, the appropriate agency has regard to the record of the undertaker in complying with its legal obligations concerning pollution, it must also have regard to the record of the undertaker in implementing measures set out in its pollution incident reduction plans.”

Member's explanatory statement

This amendment requires the Environment Agency and the Natural Resources Body for Wales to have regard to the record of undertakers in implementing their pollution incident reduction plans when deciding how to exercise regulatory functions.

BARONESS HAYMAN OF ULLOCK

- ★ Clause 2, page 6, line 6, at end insert –

“(4) In this section, “appropriate agency” and “chief executive” have the meanings given by section 94EA(9).”

Member's explanatory statement

This amendment is consequential on the Minister's amendments extending Clause 2 to Wales and the Minister's amendment at page 6, line 1.

After Clause 3

BARONESS HAYMAN OF ULLOCK

- ★ After Clause 3, insert the following new Clause –

“Nature-based solutions

In section 94A(3) of the Water Industry Act 1991 (matters to be addressed in drainage and sewerage management plans), after paragraph (e) insert –

“(ea) the use that is to be made of nature-based solutions, technologies and facilities within the undertaker's drainage system and sewerage system,.”

Member's explanatory statement

This amendment requires a sewerage undertaker's drainage and sewerage management plan to explain the intended contribution of nature-based solutions, technologies and facilities.

Before Clause 8

BARONESS HAYMAN OF ULLOCK

- ★ Before Clause 8, insert the following new Clause –

“Requirement for Ofwat to have regard to climate change etc

In section 2 of the Water Industry Act 1991 –

(a) after subsection (4) insert –

“(4A) In exercising or performing any such power or duty in accordance with those provisions, the Authority must also have regard to the need to contribute towards achieving compliance by the Secretary of State with the relevant environmental target duties, where the

Authority considers that exercise or performance to be relevant to the making of such a contribution.

- (4B) The “relevant environmental target duties” means—
- (a) the duty in section 1 of the Climate Change Act 2008 (UK net zero emissions target), and
 - (b) so far as the exercise or performance concerned relates to appointment areas wholly or mainly in England, the duty in section 5 of the Environment Act 2021 (other environmental targets);
- and for that purpose an “appointment area” is an area for which an appointment is held under Chapter 1 of Part 2.”;
- (b) in each of subsections (6A), (6B) and (7), for “(4)” substitute “(4A).”

Member's explanatory statement

This new clause requires Ofwat to have regard to the need to contribute to the achievement of Secretary of State’s targets on climate change and other environmental matters where relevant to its functions.

Clause 10

LORD REMNANT

- ★ Clause 10, page 14, leave out lines 7 to 9

Member's explanatory statement

This amendment ensures that compliant companies in the sector are not required to render financial assistance to recover SAO losses caused by another company under special administration.

Clause 13

BARONESS HAYMAN OF ULLOCK

- ★ Clause 13, page 19, line 18, at end insert “, so far as relating to undertakers whose areas are wholly or mainly in England;”

Member's explanatory statement

This amendment is consequential on the Minister’s amendments extending Clause 2 to Wales.

BARONESS HAYMAN OF ULLOCK

- ★ Clause 13, page 19, line 20, at end insert—
- “(d) section (*Nature-based solutions*), so far as relating to undertakers whose areas are wholly or mainly in England;”

Member's explanatory statement

This amendment provides for the commencement by regulations in England of the Minister’s new Clause after Clause 3.

BARONESS HAYMAN OF ULLOCK

- ★ Clause 13, page 19, line 20, at end insert –

“(d) section (*Requirement for Ofwat to have regard to climate change etc*), so far as relating to powers or duties exercised or performed in relation to appointment areas (within the meaning of the subsection (4B) inserted by the section) wholly or mainly in England.”

Member's explanatory statement

This amendment provides for the commencement by regulations in England of the Minister's new Clause before Clause 8.

BARONESS HAYMAN OF ULLOCK

- ★ Clause 13, page 19, line 24, at end insert –

“(aa) section 2 (pollution incident reduction plans), so far as relating to undertakers whose areas are wholly or mainly in Wales;”

Member's explanatory statement

This amendment is consequential on the Minister's amendments extending Clause 2 to Wales.

BARONESS HAYMAN OF ULLOCK

- ★ Clause 13, page 19, line 26, at end insert –

“(c) section (*Nature-based solutions*), so far as relating to undertakers whose areas are wholly or mainly in Wales;”

Member's explanatory statement

This amendment provides for the commencement by regulations in Wales of the Minister's new Clause after Clause 3.

BARONESS HAYMAN OF ULLOCK

- ★ Clause 13, page 19, line 26, at end insert –

“(c) section (*Requirement for Ofwat to have regard to climate change etc*), so far as relating to powers or duties exercised or performed in relation to appointment areas (within the meaning of the subsection (4B) inserted by the section) wholly or mainly in Wales.”

Member's explanatory statement

This amendment provides for the commencement by regulations in Wales of the Minister's new Clause before Clause 8.

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