

Water (Special Measures) Bill [HL]

MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
ON REPORT

[Amendments marked ★ are new or have been altered]

**Amendment
No.**

Clause 1

THE DUKE OF WELLINGTON

- 1★** Clause 1, page 2, line 2, after “consumers” insert “and representatives from environmental groups”

Member's explanatory statement

This amendment, in conjunction with another amendment in the Duke of Wellington's name to clause 1, seeks to ensure that undertakers take into consideration the views of environmental groups alongside the views of consumers.

LORD CROMWELL
BARONESS JONES OF MOULSECOOMB
LORD SIKKA
LORD ROBOROUGH

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

“(d) requiring a relevant undertaker to report not less than annually to the Authority on actual or planned financial structuring or restructuring of the undertaker, including debt levels, commercial strategy and any associated risks, including to the long-term sustainability of the undertaking.”

Member's explanatory statement

The amendment requires that financial engineering becomes a regular focus area for timely reporting in order to assist in regulators' understanding and alert them in good time to risks or distortions in a water company.

BARONESS MCINTOSH OF PICKERING

- 3 Clause 1, page 2, line 8, at end insert –
- “(iia) meeting relevant standards issued under the Flood and Water Management Act 2010, in particular the standards in Schedule 3 (sustainable drainage),”

LORD REMNANT

- 4 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.

THE DUKE OF WELLINGTON

- 5★ Clause 1, page 2, line 41, after “consumers” insert “and representatives from environmental groups”
- Member's explanatory statement***
This amendment, in conjunction with another amendment in the Duke of Wellington’s name to clause 1, seeks to ensure that undertakers take into consideration the views of environmental groups alongside the views of consumers.

THE DUKE OF WELLINGTON

- 6★ Clause 1, page 2, line 42, leave out “board,”
- Member's explanatory statement***
This amendment seeks to give consumers and environmental groups a forum to represent their interests without impacting the effectiveness of the board of a relevant undertaker.

LORD REMNANT
THE DUKE OF WELLINGTON

- 7 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 CROMWELL
BARONESS JONES OF MOULSECOOMB

8 Clause 1, page 2, line 42, at end insert –

- “(6A) The Authority must arrange quarterly meetings between its own representatives and civil society organisations for the purposes of –
- (a) regular, recorded feedback from civil society to regulators on water and water-related environment issues;
 - (b) highlighting priorities and timelines for specific action;
 - (c) reviewing progress against actions agreed at previous meetings;
 - (d) minuting the discussions, including actions agreed, and publishing these on the Authority’s website, or by any means that is in due course equally accessible to the public, within 10 calendar days of each meeting.”

Member's explanatory statement

This amendment will oblige regulators and water companies to engage effectively and formally with civil society and to record transparently feedback, agreed actions and performance outcomes.

BARONESS BAKEWELL OF HARDINGTON MANDEVILLE

9★ Clause 1, page 4, line 21, at end insert –

“35E Rules about performance-related pay

- (1) Within one month of the day on which the Water (Special Measures) Act 2024 is passed, 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 sewage discharges, spills, or leaks (“the pay prohibition”).
- (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 this section –
 - (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;
 - (c) “specified” means specified in rules under this section.
- (4) To issue rules under this section, the Authority must follow the procedures in section 35C.”

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.

LORD REMNANT

- 10 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.

LORD ROBOROUGH
LORD BLENCATHRA

- 11 Clause 1, page 4, line 25, at end insert –

“(5) The first rules issued under section 35B of the Water Industry Act 1991 (as inserted by subsection (3)) must be published by the Authority within six months of this Act coming into force and provided to the Secretary of State and do not take effect until the Secretary of State has made regulations made by statutory instrument to bring them into effect.

(6) 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.”

Clause 2

BARONESS HAYMAN OF ULLOCK

- 12 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

- 13 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

- 14 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

- 15 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

- 16 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

- 17 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

- 18 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

19 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

20 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

21 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

22 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

23 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

24 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

25 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 MCINTOSH OF PICKERING

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

“(7A) Before preparing a pollution incident reduction plan, a sewerage undertaker must consult with farmers, local authorities, developers and others to identify natural flood prevention solutions to prevent pollution incidents.”

Member's explanatory statement

This amendment would require consideration of opportunities to retain water through natural solutions to prevent sewage mixing in combined sewers with excess rainfall, causing pollution incidents.

BARONESS HAYMAN OF ULLOCK

27 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

28 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 NRBW, 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

29 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

30 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

31 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

32 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

33 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

- 34 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

- 35 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

- 36 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

- 37 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

38 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.

Clause 3

LORD CROMWELL
BARONESS BROWNING
BARONESS JONES OF MOULSECOOMB

39 Clause 3, page 6, line 18, at end insert—

“(e) the date by which an explanation of reasons why the discharge occurred is expected to be made publicly available.”

LORD CROMWELL
BARONESS JONES OF MOULSECOOMB

40 Clause 3, page 6, line 26, at end insert “including both on the website, or subsequent public and remotely accessible information display technology, of the undertaking and simultaneously sent to the Authority, which must then provide for timely posting of discharge information from all undertakers in one place that is remotely accessible by the public”

Member's explanatory statement

This amendment would ensure that certain information is more readily accessible, including in a single and coordinated location for the public and civil society to access in as near to real time as practicable.

THE DUKE OF WELLINGTON

41★ Clause 3, page 8, line 6, at end insert—

“141H Emergency overflow permit restriction

An environmental permit to allow an emergency overflow may not be granted to a sewerage undertaker solely for the reason of an electrical power failure at sewage disposal works.”

Member's explanatory statement

This amendment seeks to prevent the granting of permits which allow emergency overflows in the case of electrical power failures at sewage disposal works.

After Clause 3

BARONESS HAYMAN OF ULLOCK

42 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.

BARONESS MCINTOSH OF PICKERING

43 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 BOYCOTT

44★ After Clause 3, 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) In regulation 4 of the Environmental Information Regulations 2004 (S.I. 2004/3391) (dissemination of environmental information), in paragraph (4)(b), at the end insert “; and
 - (c) all effluent or wastewater treatment works monitoring data held by water and sewerage undertakers appointed under the Water Industry Act 1991, to include operational monitoring data in addition to any data required under permits issued under the Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/1154).”
- (3) Section 50 of the Freedom of Information Act 2000 (application for decision by Commissioner) as read with regulation 18 of the Environmental Information Regulations 2004 (enforcement and appeal provisions) shall 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 (S.I. 2004/3391).”

Member's explanatory statement

This amendment would reduce the difficulties and obstacles 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 for investigation.

Clause 6

THE DUKE OF WELLINGTON

45★ Clause 6, page 10, line 9, after “if” insert “the Authority,”

Member's explanatory statement

This amendment would add Ofwat as a relevant agency with the obligation to impose a fixed monetary penalty on a water company in respect of a specified offence.

After Clause 6

BARONESS BAKEWELL OF HARDINGTON MANDEVILLE

46★ 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) any relevant regulations under section 2 of the Pollution Prevention and Control Act 1999 (regulation of polluting activities etc) related to water pollution;
 - (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 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.

THE DUKE OF WELLINGTON

47★ After Clause 6, insert the following new Clause—

“Water Restoration Fund: payment from penalties

- (1) Any monetary penalties imposed by the Environment Agency, the Nature Resources Body for Wales or the Authority for offences in relation to water pollution must be paid into the Water Restoration Fund.
- (2) The Water Restoration Fund must use money from such penalties for expenditure on measures to improve the quality of the freshwater environment in England and Wales.”

Member's explanatory statement

This amendment would require the money from penalties imposed on water companies for water pollution offences to be paid into the Water Restoration Fund. It would also require the Water Restoration Fund to spend this money on measures to improve the quality of the freshwater environment in England and Wales.

Before Clause 8

BARONESS HAYMAN OF ULLOCK
BARONESS WILLIS OF SUMMERTOWN

48 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.

BARONESS JONES OF MOULSECOOMB
LORD SIKKA

49 Before Clause 8, insert the following new Clause –

“Giving the Authority a primary duty to protect the environment

- (1) Section 2 of the Water Industry Act 1991 (general duties with respect to water industry) is amended as follows.
- (2) After subsection (2A)(a), insert –
 - “(aa) to further the environmental objective;”
- (3) After subsection (2D), insert –
 - “(2DZA) The environmental objective mentioned in paragraph (2A)(aa) above is –
 - (a) to protect the environment;
 - (b) to ensure compliance by persons engaged in commercial activities concerned with the provision of water and sewerage services with all relevant legal obligations on –
 - (i) sewage collection, treatment and disposal,
 - (ii) the abstraction of water resources, and
 - (iii) the conservation of biodiversity, and
 - (c) to contribute to meeting all relevant targets set out under the Environment Act 2021.””

Member's explanatory statement

This amendment aims to place a clear and unambiguous environmental duty on Ofwat.

Clause 10

LORD REMNANT

50 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.

LORD ROBOROUGH
LORD BLENCATHRA

51★ Leave out Clause 10

Member's explanatory statement

This amendment would prevent consumers in England from being charged higher water bills to cover any losses incurred by the Government as a result of the Secretary of State's decision to make a special administration order.

Clause 11

LORD ROBOROUGH
LORD BLENCATHRA

52★ Leave out Clause 11

Member's explanatory statement

This amendment would prevent consumers in Wales from being charged higher water bills to cover any losses incurred by the Government as a result of the Secretary of State's decision to make a special administration order.

After Clause 12

BARONESS JONES OF MOULSECOOMB
LORD SIKKA

53 After Clause 12, insert the following new Clause—

“Prohibition on bail-out of water company shareholders and creditors

- (1) The Secretary of State and His Majesty's Treasury must not directly or indirectly discharge, assume, or guarantee any debts of legal entities in any water company group subject to proceedings under section 24 of the Water Industry Act 1991 (special administration orders made on special petitions), except in accordance with subsection (2).
- (2) The special administrator of a water company may reduce the debts owed by the regulated entity to its creditors by between 50 and 100 per cent, taking into account the persistence of pollution, the breaches of terms of appointment, the level of returns on capital while pollution or breaches occurred, and the priority given to returns on capital over principal duties.
- (3) The prohibition set out in subsection (1) and the reduction of debts set out in subsection (2) must not include pension, wage and other obligations owed to employees, excluding any past or current member of a board of directors, within the water company group.”

Member's explanatory statement

This amendment aims to allow 50-100% of debts to be cancelled in the event of special administration proceedings, taking into account the seriousness of environmental breaches, excessive returns on capital, costs that creditors have already imposed on the public, and any risk-taking.

BARONESS JONES OF MOULSECOOMB

54 After Clause 12, insert the following new Clause –

“Special administration for breach of environmental and other obligations

- (1) Section 24 of the Water Industry Act 1991 (special administration orders made on special petitions) is amended as follows.
- (2) After subsection (2)(a), insert –
 - “(aa) that there have been failures resulting in enforcement action from the Authority or the Environment Agency on three or more occasions to –
 - (i) maintain efficient and economical water supply,
 - (ii) improve mains for the flow of clean water,
 - (iii) provide sewerage systems that are effectually drained,
 - (iv) comply with the terms of its licence, or
 - (v) abide by anti-pollution duties in the Environmental Protection Act 1990, Water Resources Act 1991, or the Environmental Permitting (England and Wales) Regulations 2016 (SI 2016/1154);”
- (3) After subsection (2), insert –
 - “(2A) In support of an application made by virtue of subsection (1)(a) in relation to subsection (2)(aa), the Secretary of State must compile and present to the High Court records of –
 - (a) water pipe leaks,
 - (b) sewage spilled into waterways, bathing waters, and private properties, and
 - (c) falling below international standards of effective water management.””

Member's explanatory statement

This amendment aims to require the Secretary of State to place a water company into special administration arrangements if they breach certain environmental or other conditions.

LORD GASCOIGNE
LORD ROBOROUGH

55 After Clause 12, insert the following new Clause –

“Licence conditions about nature recovery

In the Water Industry Act 1991, after section 17FB insert –

“17FC Nature recovery

- (1) It is a condition of all licences granted under section 17A (water supply licences) that relevant undertakers must give due consideration to nature-based solutions targeted at reducing flood risk and pollution

incidents, improving water quality and benefiting nature restoration in their catchment area.

- (2) The Authority must not take any action that discourages or prevents a relevant undertaker from making an investment in accordance with subsection (1).”

Member's explanatory statement

This amendment would make it a condition of all water companies' licences to consider nature-based solutions to flood risk, improving water quality and benefiting nature restoration in their catchment area, and prevent the regulator from discouraging or stopping such investments.

LORD SIKKA
BARONESS JONES OF MOULSECOOMB

56★ After Clause 12, insert the following new Clause –

“Special administration: criminal convictions

In section 24 of the Water Industry Act 1991 (special administration orders made on special petitions), after subsection (2)(e) insert –

- “(f) that the company has been the recipient of two or more criminal convictions in a five-year period.”

Member's explanatory statement

This amendment aims to exert pressure on companies to operate within the law by preventing water companies with numerous criminal convictions from remaining in business.

LORD SIKKA
BARONESS JONES OF MOULSECOOMB

57★ After Clause 12, insert the following new Clause –

“Governance structure of the Authority

After section 1A of the Water Industry Act 1991 (Water Services Regulation Authority), insert –

“1B Governance structure of the Authority

- (1) The board of directors of the Authority regulating water companies must have –
- (a) at least 25% of its members elected by its employees, and
 - (b) at least 25% of its members chosen by local authorities in the water catchment area, in consultation with independent environmental and consumer groups.
- (2) Every employee and bill-payer has the right to be entered on the register of the Authority.

- (3) Employees as a group are entitled to a minimum of 25% of the total votes in the general meeting of the Authority.
- (4) Bill-payers as a group are entitled to a minimum of 25% of the total votes in the general meeting of the Authority.
- (5) Every employee and bill-payer is entitled to cast a binding vote on remuneration of all directors.””

Member's explanatory statement

The Clause would empower employees and bill-payers to have an effective say in the affairs of the Authority.

LORD ROBOROUGH
LORD BLENCATHRA

58★ 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) The Secretary of State may by regulations made by statutory instrument implement a limit on borrowing by a relevant undertaker.
- (2) Where a relevant undertaker has total borrowing exceeding the limit set by regulations made under subsection (1), the relevant undertaker may not make a payment of dividends, capital, assets, or interest to shareholders or controlling entities.
- (3) 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.””

BARONESS JONES OF MOULSECOOMB

59★ After Clause 12, insert the following new Clause –

“Review of the costs of bringing water companies into public ownership

- (1) The Secretary of State must, within six months of the passing of this Act, lay before each House of Parliament a report evaluating the costs of bringing water companies into public ownership.
- (2) The report must contain an analysis of –

- (a) the extent to which the market value of water companies is based on expectations that the United Kingdom Government, or water bill payers, are underwriting the future profits of the water companies;
- (b) options for compensating shareholders and bondholders, including potential discounts linked to dividend payouts and failures to invest in infrastructure;
- (c) the likely capital and revenue costs of transferring water companies into public ownership;
- (d) a comparison of the likely difference in total costs to taxpayers and water bill payers between transferring water companies into public ownership and not doing so.”

Member's explanatory statement

This amendment requires a full assessment of the costs of bringing water companies into public ownership, discounting the extent to which the market value of water companies is based on taxpayers and water bill payers underwriting the future profits of the water companies.

Clause 13

BARONESS HAYMAN OF ULLOCK

- 60 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

- 61 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

- 62 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

63 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

64 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

65 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.

Water (Special Measures) Bill [HL]

MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
ON REPORT

18 November 2024

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