

Clean air and the Environment Bill

9th May 2019

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Introduction

On 18 July 2018, Prime Minister Theresa May, announced that the Government would introduce a wide-ranging Environment Billⁱ that will cover sectoral environmental regulation and standard setting in areas such as air quality, wildlife and habitats, better management of resources, water and waste.ⁱⁱ The Bill aims to create a crucial piece of legislation to maintain protection for our environment after leaving the European Union.

Timing for the introduction of any new legislation is uncertain with recent news that Government is considering a delay to the Queen's speechⁱⁱⁱ, necessary for introducing new legislation.

As part of the UK Government's latest plans, ministers have formally directed 38 English and Welsh local authorities to carry out feasibility studies and produce their own individual proposals to deliver compliance with legal levels of Nitrogen Dioxide (NO₂) in their areas in the shortest possible time.^{iv}

Air quality features prominently within the proposed legislation and many of the measures proposed are outlined out in the Government's Clean Air Strategy 2019^v. Commitments are set out in the strategy to introduce an up to date legislative framework for tackling air pollution at national and local level and also to strengthen local authority powers with respect to air quality.

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The draft Environment (Principles and Governance) Bill,^{vi} was published on 19 December 2018, and will be included as part of the wide-ranging Environment Bill when introduced into Parliament – as set out in a House of Commons Research Briefing^{vii}. The Bill also includes a proposal for the creation of an independent oversight body, the Office for Environmental Protection (OEP).

City leaders brought together by UK100 have recognised the opportunity presented by the Environment Bill to put in place world leading legislation for clean air. Together, they have agreed a number of priorities^{viii} that need to be included in the upcoming Environment Bill in order to improve air quality across the U.K.

Proposed legislation

The Bill will focus predominantly on the following key areas:

- establish a pioneering new system of green governance
- improve air quality
- restore and enhance nature
- improve waste management and resource efficiency
- improve surface water, ground water and waste water management

While the Bill seeks to set out how the Government will maintain environmental standards in the event of the UK leaving the EU, it also looks to support existing legislation in place concerning local air quality and the framework of local powers and duties.

The Bill will seek to build upon The Environment Act 1995^{ix} which established The Environment Agency as well as the designation of Air Quality Management Areas. It will also integrate the Clean Air Act 1993^x, introduced to address air pollution from smog caused by widespread burning of coal for residential heating and by industry. These two current pieces of legislation will provide a key base from which the Bill will be able to expand upon.

Pre-legislative scrutiny

Formal scrutiny of the draft Environment (Governance and Principles) Bill has been carried out in the UK Parliament by both by The Environment, Food and Rural Affairs Committee^{xi} and also The Environmental Audit Committee^{xii} - both raising significant concerns.

Environment Audit Committee Chair Mary Creagh MP stated that:

“The draft Bill means that if we leave the EU we will have weaker environmental principles, less monitoring and weaker enforcement, and no threat of fines to force government action.”

While Environment, Food and Rural Affairs Committee Chair Neil Parish MP said:

“Although the Government has made a real attempt to establish a robust framework for environmental governance, the draft Bill clearly fails to meet its own ambition to ‘ensure the environment is even better protected in future’ as we exit the EU. In some areas it actually marks a significant regression on current standards.”

The Environment Bill has also been discussed within Parliament on a number of occasions.

A debate on air pollution in the House of Lords^{xiii} led Baroness Kennedy to question whether the Environment Bill will include binding targets in line with WHO air quality standards on particulate matter, and whether the new office for environmental protection proposed in the Bill will have the power to hold the Government to account for breaching air quality standards.

Commentary from stakeholders

In-line with comments from MP's, other stakeholders have greeted the draft Bill with mixed reaction.

The Aldersgate Group^{xiv} of major businesses, academic institutions and civil society organisations criticised the lack of clarity provided by the draft Bill. The group noted that the ambition will have limited impact on business investment decisions and will not provide the market signal needed to increase investment in the natural environment.

Client Earth^{xv} has described the Bill as a step in the right direction but noted that there is still a long way to go before the new watchdog has the strong legal teeth needed to protect our environment. Client Earth also note that Brexit risks setting the UK back on environmental protection and that this bill gives us the chance to remedy that.

GreenerUK^{xvi}, a group of 14 major environmental organisations, have stated that the draft Bill does... *'...not yet provide a sufficient degree of equivalence with the current EU oversight, scrutiny and enforcement arrangements, will not meet the terms of the Withdrawal Agreement and will fall short of delivering the government's ambition for a "world-leading body to give the environment a voice and hold the powerful to account" and "a pioneering new system of green governance"'*.

Greener UK has commented widely on the draft Bill and have produced a number of briefings^{xvii}.

Clean air legislation priorities of local leaders

The second National Clean Air Summit^{xviii} took place in February 2019 and was attended by the Secretary of State for Environment, The Secretary of State for Health and 20 local leaders from across the UK. Local leaders who attended the summit agreed a series of priorities which they believe need to be included in the upcoming Environment Bill in order to improve air quality across the U.K. The priorities of local leaders are as follows:

As city leaders we are committed to playing our part in seizing the once in a generation opportunity presented by the Environment Bill to put in place world leading legislation for clean air.

It is vital that local action is adequately funded and supported by activity across government, including by its agencies such as Highways England and Network Rail, if air pollution is to be improved. This includes supporting the Government's Environment Bill proposed legislation, which must:

- Adopt World Health Organization recommended air pollution limits as legally binding targets to be achieved by 2030 to guarantee the highest health standards that are supported by improved monitoring that assesses air quality and the powers to enforce.
- Create an independent watchdog that is adequately funded and empowered to hold the Government to account, including through legal action and the levelling of fines, and review and be able to require action needed to reduce air pollution from Government and other public bodies such as Highways England.

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- Grant Local Authorities the powers they need, with necessary resources, to deliver zero emission transport networks.
- Enable the setting and enforcement of ambitious standards for local air quality, including for solid fuel stoves. Including powers for regional authorities to control emissions from other fixed sources, such as boilers and combined heat and power sources as well as set energy efficiency standards including for existing buildings.
- Establish adequately resourced local powers to set and enforce emission zones for Non-Road Mobile Machinery.
- Require co-ordinated action from private and public bodies to improve air quality, such as: ports, Highways England, Network Rail, Homes England, Environment Agency and Directors of Public Health, and provide necessary resource to enable activity.

Signatories to the above priorities at the 2nd National Clean Air Summit 14th February:

Sadiq Khan, Mayor of London

Andy Burnham, Mayor of Greater Manchester

Dan Jarvis, Mayor of the Sheffield City Region

Steve Rotheram, Mayor of the Liverpool City Region

Joe Anderson, Mayor of Liverpool City Council

Cllr Ian Ward, Leader, Birmingham City Council

Cllr Christopher Hammond, Leader, Southampton City Council

Cllr Susan Brown, Leader, Oxford City Council

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Cllr Nick Forbes, Leader, Newcastle City Council

Cllr Lewis Herbert, Leader, Cambridge City Council

Cllr Tim Warren, Leader, Bath & North East Somerset Council

Cllr Adam Paynter, Leader, Cornwall County Council

Cllr James Lewis, Deputy Leader of Leeds City Council

Cllr Craig Cheney, Deputy Mayor of Bristol

Cllr Adam Clarke, Deputy City Mayor, Leicester City Council

Cllr Toby Neal, Cabinet Member, Community Protection, Nottingham City Council

Sarah Muckle, Director of Public Health, Bradford Metropolitan District Council

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About UK100

UK100 is a highly ambitious network of local government leaders, which seeks to devise and implement plans for clean air and the transition to 100% clean energy that are ambitious, cost effective and take the public and business with them

Footnotes

ⁱ House of Commons Liaison Committee, 18 July 2019 [Q101-103](#)

ⁱⁱ House of Commons Library. Environmental Principles and Governance: the draft Bill. Briefing paper no 8484, 30 Jan 2019, p3 and [Environment Bill: Policy Paper](#), 19 December 2018

ⁱⁱⁱ BBC News, 29 April 2019 [Theresa May 'unlikely' to hold another Queen's speech](#)

^{iv} Department for Environment, Food & Rural Affairs and Department for Transport, 2019 [Air quality plan for nitrogen dioxide \(NO2\) in UK \(2017\): air quality directions](#)

^v [Clean Air Strategy 2019](#)

^{vi} [Draft Environment \(Principles and Governance\) Bill](#)

^{vii} House of Commons, January 30 2019, [Research Briefing - Environmental principles and governance: the draft Bill](#)

^{viii} UK100 [National Clean Air Summit 2019](#)

^{ix} [The Environment Act 1995](#)

^x [Clean Air Act 1993](#)

^{xi} Environment, Food and Rural Affairs Committee, 23 April 2019 [Scrutiny of the draft Environment \(Governance and Principles\) Bill](#)

^{xii} Environmental Audit Committee, 24 April 2019 [Scrutiny of the draft Environment \(Governance and Principles\) Bill](#)

^{xiii} Hansard, House of Lords, 8 April 2019 [Air pollution debate](#)

^{xiv} Aldersgate Group, 31 January 2019 [Written evidence submitted to the Environmental Audit Committee Inquiry](#)

^{xv} Client Earth, 19 December 2018 [UK Government announces Environment Bill: ClientEarth reaction](#)

^{xvi} Greener UK, [Written evidence to the Environmental Audit Committee Inquiry](#)

^{xvii} Greener UK, [Briefings on the Environment Bill](#)

^{xviii} UK100 [National Clean Air Summit 2019](#)