

The Environmental Rights Bill

June 2023

OVERVIEW

This document is in five parts:

1. “A manifesto commitment”,
2. The “two page version”,
3. What and why – a political overview,
4. International law and the science,
5. An “Explanatory Memorandum” for the draft Bill, and
6. The draft Bill - to show it can be done.

A MANIFESTO COMMITMENT?

“Nature and our climate are in crisis. Pollution of our air and water threatens everyone’s health. The UK has often advocated high standards, but successive Governments have dragged their heels in delivering. We will legislate for a right to a clean, healthy and sustainable environment for all. We will empower people to hold public bodies to account on pollution, climate change and the nature crisis.”

HEADLINES

- Our environment is in crisis: habitat loss, species extinction, raw sewage in rivers, polluted air, devastating impacts of climate change ever more obvious.
 - People feel let down by UK public bodies. Indeed, the current Government is actively promoting climate busting energy and transport schemes and undermining nature and pollution protections.
 - We here propose an Environmental Rights Bill to enshrine a UK legal right to a clean, healthy and sustainable environment for everyone; and to strengthen the ability of citizens to hold public bodies to account when it comes to the environment, pollution and climate change.
 - The Bill would give proper effect to the United Nations Aarhus Convention, ratified by the UK in 2005 but only ever partly implemented in the UK and would incorporate into UK law the right to a clean, healthy and sustainable environment, recognised by the United Nations General Assembly in 2022 and then recommended for implementation at the national level by the Council of Europe.
 - The Bill would help meet the demand for public action to ensure a healthier quality of life. It would match many people's personal initiatives with proposals firmly based in the UK's existing international law commitments and the latest scientific understanding.
 - Part 1 would establish the fundamental human right to a clean, healthy and sustainable environment for everyone.
 - Part 2 would implement the Aarhus right of access to environmental information.
 - Part 3 would implement the Aarhus right to public participation in environmental decision-making.
 - Part 4 would implement the Aarhus right of access to environmental justice.
 - Part 5 deals with general and consequential matters.
 - The Bill would promote environmental democracy and transparency, ensuring that the UK meets its international environmental obligations and commitments while protecting the lives, health and well-being of the UK population.
 - The Bill would prevent the watering down of environmental standards by the backdoor through the failure to enforce or to disclose relevant information, or through the persecution of those seeking to protect the environment for the public good.
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THE TWO PAGE VERSION

Everyone knows our environment is in crisis: loss of habitat, extinction of species, raw sewage pumped into rivers. The air we all breathe is so polluted that tens of thousands of people die from its effects each year in the UK, and the devastating impacts of climate change have become ever more obvious in the UK, as well as internationally.

The UK has historically been proactive on the international environmental scene – often promoting strong protections in the EU and UN, but that has not led to consistent action at home. Successive Governments have continued to promote climate busting energy and transport schemes and undermined nature and protections against pollution.

Many people feel that they are doing their bit: by recycling, using electric vehicles and public transport, flying less, cycling, or by considering what they eat and where it comes from, but they feel UK legal protections and UK public bodies have lagged behind.

In 2005, the UK ratified the United Nations Aarhus Convention. Article 1 of which establishes the basic international right to a clean, healthy and sustainable environment for everyone, across Europe and beyond. In 2023, people everywhere – including the UK - should be enjoying that right, yet the UK is the country to declare the Aarhus right to a clean, healthy and sustainable environment merely ‘aspirational’ – effectively denying its relevance to people in the UK. The protection of the UK’s children from air pollution or its people from unsafe bathing water should never be considered an aspiration. Nor should the protection of the UK’s nature, the heritage we all share, be considered merely aspirational.

The Aarhus Convention also puts ordinary people at the heart of tackling climate change and protecting and enhancing their environment, including through holding public bodies properly to account for their environmental actions. Some of the Aarhus Convention took effect in the UK via EU law or in other ways. But the process has been piecemeal and incomplete. This matters because Aarhus gives ordinary people the right to demand information from public bodies that might seek to hide the truth, and the right to have a say in decisions about their lives and neighbourhoods. It also provides people with the right to have their day in court to challenge the environment-related decisions taken by government that affect their lives.

At the December 2022 United Nations Montreal Conference on Biodiversity, the UK was an enthusiastic signatory to 23 targets to address overexploitation, pollution, fragmentation and unsustainable agricultural practices. Yet the UK lags woefully at home. At Montreal, Parties to the Biodiversity Convention agreed to protect 30% of the world’s lands, inland waters, coastal areas and oceans.¹ But the UK is one of the most nature depleted countries in the world and the 30% target will not be achievable without significantly strengthening and expanding our existing protected areas

¹ See <https://www.cbd.int/article/cop15-cbd-press-release-final-19dec2022>.

network.² The post Brexit opportunity to ensure that public money spent on agriculture is genuinely focussed on improving practices has been missed by Government.

Similarly, United Nations agreements on Climate Change have been lauded and ratified by the UK at an international level. The last Labour Government enacted the world-leading Climate Change Act 2008, but subsequent UK Governments often seem set on undermining those requirements: allowing new coal mines, licensing new oil and gas fields in the North Sea, agreeing major road schemes and failing to address the impacts of frequent flying. These actions all illustrate the complete disconnect between what is needed and what is being done.

Public bodies must urgently act on climate change, on nature and on ensuring we all live in a healthy environment. People and communities want to hold them to account but are frustrated by a lack of transparency and commitment from public bodies, and by the lack of legal routes to apply pressure. Some disagree with the direct action to which others have resorted, even though sympathetic to their concerns, but legal alternatives for action are limited. People feel frustrated and disempowered. Civil society should not be persecuted for defending the environment, but recent legislative reforms and some judicial practice disproportionately curb even the right to peaceful protest, to defend actions in court or to challenge unlawful decisions or actions by public bodies in the courts.

This proposal offers an opportunity for a progressive government to address these issues, including through establishing and promoting in the UK a clear right to a clean, healthy and sustainable environment for all; and by enabling people and communities to take action to spur public bodies into acting effectively to address the environmental threats which concern us all.

The draft Bill would meet a demand for public action to ensure a healthier quality of life and to match many people's personal initiatives with proposals firmly based on the UK's international law commitments and the latest scientific understanding. It sets out the basis for everyone in the UK to enjoy the human right to a clean, healthy and sustainable environment; and for the UK to match its stated international ambition and commitments with equivalent ambition at home, including by empowering individuals and communities to ensure environmental action by public bodies.

Link is thus proposing an Environmental Rights Bill to implement the United Nations Aarhus Convention in domestic law following Brexit (and therefore replace the retained EU environmental legislation which had implemented some, though not all, aspects of Aarhus across the EU and thus in the UK).

To show what that might look like we have prepared the draft Bill in five sections:

² See <https://www.rspb.org.uk/about-the-rspb/about-us/media-centre/press-releases/new-report-shows-the-uk-is-the-least-effective-g7-member-at-protecting-nature/>. See also https://www.wcl.org.uk/docs/ELUK_briefing_30x30_land_and_sea_for_nature's_recovery_01092021.pdf.

- Part 1 establishes the basic right to a clean, healthy and sustainable environment for everyone and seeks to protect the public's fundamental right to safeguard the environment without fear of persecution and harassment;
- Part 2 implements the Aarhus Convention right of access to environmental information (building on the Freedom of Information Act 2000 and Environmental Information Regulations 2004);
- Part 3 implements the Aarhus Convention right to public participation in environmental decision-making;
- Part 4 implements the Aarhus Convention right of access to environmental justice;
- Part 5 deals with general and consequential matters.

Ensuring the full implementation of the United Nations Aarhus Convention will provide the tools to allow people to hold public bodies to account in meeting their statutory obligations and would help to address the current failure to meet legal standards in relation to air quality, water quality and biodiversity.

The Bill promotes environmental democracy and transparency, ensuring that the UK meets its international environmental obligations and commitments while protecting the lives and health and well-being of the UK population. It will guard against the watering down of environmental standards by the backdoor through the failure to enforce or to disclose relevant information and through the persecution of those seeking to protect the environment for the public good.

WHAT AND WHY – A POLITICAL OVERVIEW

Introduction

1. There is a growing and widespread recognition – by people and many parliamentarians - that our environment is in crisis. Many people feel that they are doing their bit to protect the environment as individuals, but that more is needed from our legal framework and our public bodies to meet the challenge of protecting the UK environment and the health and well-being of the UK population.
2. This proposal offers an opportunity for a progressive government to address those challenges, including through establishing and promoting a clear right to a clean, healthy and sustainable environment for all, and by enabling people and communities to take action to spur public bodies into acting effectively to address the environmental threats which concern us all.
3. It would meet a popular cry for public action for the UK to comply with international obligations and standards which are necessary protect the environment and our health, and which are based on the latest scientific understanding.

Action must be taken to tackle the crisis

4. Nature and our climate face unprecedented threats. Pollution increasingly harms the health and well-being of everyone. There is – for example - a renewed awareness that people (including vulnerable children) are dying from pollution of the air we all breathe, that raw sewage is still legally being pumped into our rivers by private water companies with insufficient regulatory oversight; and that the Government is going backwards on much of what is needed to tackle climate change (even as the effects of climate change become ever more obvious at home and abroad).
5. Many people in the UK are increasingly and enthusiastically taking action to change their own behaviours to protect the environment – through recycling, switching to electric vehicles and public transport, flying less often, cycling, and through their personal purchasing decisions, including around food.
6. But they also realise that more is needed, and people want public bodies to match their personal commitment. It is clear that public bodies must take urgent action on climate change and nature and ensure we all live in a clean, healthy and sustainable environment. People and communities want to hold these bodies properly to account for that, but they find themselves frustrated by a lack of transparency and commitment from public bodies, and by the lack of legal routes to apply pressure to help secure action. Some disagree with the direct action to which some people have resorted, even though they are sympathetic to their concerns, but legal alternatives for action are limited. People feel frustrated and disempowered.

Promoting high standards on the International stage but lagging behind at home

7. These are not just UK issues. Pollution and climate change do not respect national boundaries. Unsurprisingly, the international community and international law has responded with the adoption of important laws and policies designed to meet the global challenge of protecting the planet for people and for nature. The UK has often promoted high expectations internationally. That international commitment needs to be delivered at the national level.
8. Under both international human rights law and environmental law, States must not - through their own actions - violate the right to a clean, healthy and sustainable environment for all, or other human rights related to healthy ecosystems and biodiversity; and they must protect those rights from being violated by third parties, in particular businesses, by ensuring that they operate within lawful parameters; and they must establish, implement and enforce appropriate and effective laws, policies and programmes to fulfil these rights.
9. In these areas, the UK has historically been proactive on the international scene – often promoting strong protections within the EU and via relevant UN bodies. But these outward-facing commitments have not translated into consistent action domestically.

Biodiversity

10. For example, at the Montreal Conference on Biodiversity in December 2022, the UK was an enthusiastic signatory to a landmark agreement setting 23 targets to address overexploitation, pollution, fragmentation and unsustainable agricultural practices. Yet the UK lags woefully behind in taking action on those things at home.
11. Under the current Government, the UK is promoting environmental protections and action internationally while its countryside and its people suffer a second-rate response. For example, at Montreal, the Parties to the Biodiversity Convention signed up to the protection of 30% of the world's lands, inland waters, coastal areas and oceans,³ but the UK is one of the most nature depleted countries in the world. Respected NGO, Wildlife & Countryside Link, points out that the 30% target will not be achievable without significantly strengthening and expanding our existing protected areas network.⁴

Climate change

12. Likewise, the United Nations agreements on Climate Change, including the Paris Agreement, have been lauded and ratified by the UK at an international level.
13. The last Labour Government enacted the Climate Change Act 2008, rightly identified as a world-leading domestic response to climate change, but subsequent UK Governments have not lived up to its promise and even seem set on undermining its requirements and intent: new coal mines, the proposed expansion of oil and gas fields in the North Sea, major road schemes and a failure to address the impacts of frequent flying all illustrate the complete disconnect between what is needed and what is being done. Urgent action is required by all public bodies to avoid a climate catastrophe.
14. This grave situation is further exacerbated by the latest post Brexit proposals which seek to roll back core environmental protections (simply because they were implemented to give effect to EU law and even though many of them were promoted by the UK within the EU framework). What has been dressed up as "taking control" post Brexit is in fact a profound attack (seemingly just for the sake of being seen to be 'anti-EU') on basic protections for those living in the UK. Protections that guard not just our natural environment, but also the environmental standards that have profound implications for human health: through limiting exposure to harmful chemicals and preventing air pollution, water pollution, and much more.

The Aarhus Convention

³ See <https://www.cbd.int/article/cop15-cbd-press-release-final-19dec2022>.

⁴ See <https://www.rspb.org.uk/about-the-rspb/about-us/media-centre/press-releases/new-report-shows-the-uk-is-the-least-effective-g7-member-at-protecting-nature/>. See also https://www.wcl.org.uk/docs/ELUK_briefing_30x30_land_and_sea_for_nature's_recovery_01092021.pdf.

15. As long ago as 2005, the UK ratified the United Nations Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (known as the Aarhus Convention after the Danish city where it was signed).
16. The Aarhus Convention aims to ensure that citizens and their groups across Europe (well beyond the EU) can be at the heart of tackling climate change and protecting and enhancing the environment. The Aarhus Convention is an important blueprint for action to protect the environment and for environmental democracy. The Convention is based on the fundamental right to a clean, healthy and sustainable environment and the three ‘pillars’ of access to environmental information, public participation in environmental decision-making and access to justice. It is this framework which ensures that the right to a clean, healthy and sustainable environment can have a practical, real-world impact on people’s safety and well-being and on the environment that they value.
17. Some elements of the Aarhus Convention took effect in the UK via EU law, others in other ways. But the process has been piecemeal and incomplete. There is much to do.
18. Other international obligations such as the United Nations Convention on the Rights of the Child also expressly require environmental action by states whilst many other human rights treaties are considered to address environment concerns. Again, the gulf between what the UK commits to internationally and delivers at home is clear.

The right to a clean, healthy and sustainable environment

19. Article 1 of the Aarhus Convention recognises the international law right which is now known as the right to a clean, healthy and sustainable environment for everyone. It is fundamental and obvious: in 2023, people across the world – including the UK - should be enjoying that right but they are not.
20. Yet the UK is the only Aarhus Party to declare this right to be merely ‘aspirational’ – effectively denying its relevance to people in the UK. The UK repeated that sleight again when it came to the recent UN Human Rights Council Resolution 48/13 on the human right to a clean, healthy and sustainable environment,⁵ although in July 2022 it did vote in favour of UN General Assembly Resolution 76/300 which recognised the right as a human right.⁶ Not a single country voted against the Resolution (161 voted in favour, eight abstained).
21. In failing to recognise, clearly and unequivocally, the right to a clean, healthy and sustainable environment, the UK is out of line with the evolution of

⁵⁵ Resolution of 18 October 2021, available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G21/289/50/PDF/G2128950.pdf?OpenElement>.

⁶⁶ Resolution of A/RES/76/300 of 28 July 2022, available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N22/442/77/PDF/N2244277.pdf?OpenElement>.

international law. It lags behind other countries in failing to recognise the right, both at the international and domestic levels, for people in the UK. The realisation of this qualified right by public body action in the UK is long overdue. The protection of all the UK's children from the harmful impacts of air pollution or the UK's population from the risks posed by unsafe bathing water should never be considered an aspiration. Nor should the protection of the UK's natural beauty and ecological health be considered merely aspirational. These 'public goods' belong to everyone, regardless of income or background, and must be protected with the seriousness and urgency that requires. The right to grow up breathing clean air should never be a privilege for the few.

People want action and to be able to act

22. People everywhere are worried about lack of progress in areas such as improving air quality in our cities; about the lack of action on climate change; and about the rolling back of many longstanding environmental protections, relating to the protection of nature and of water quality for example.
23. People in the UK no longer trust our public bodies to take sufficient action to bring about the required change, or even maintain existing protection levels.
24. People and communities across the UK want to be at the heart of ensuring action in these unprecedented times, whether in their community, nationally or internationally – whether in protecting their local area or the wider world. Meanwhile, civil society should not be persecuted for defending the environment, but recent legislative reforms are disproportionately clamping down on the process of challenging public bodies in the courts and even the right to peaceful protest.

A possible response?

25. This document sets out a proposal – in the form of a draft bill – for how the UK could match its international ambition and commitments with action at home; how every person, as well as the environment, in the UK could enjoy the environmental rights and protections enjoyed by others, including in being empowered as individuals and communities to ensure effective action by public bodies.
26. It does so by proposing an Environmental Rights Bill to implement the United Nations Aarhus Convention in domestic law following Brexit, (which had implemented some aspects of Aarhus across the EU and thus in the UK). We have presented the draft in detail to show how this might be done.
27. The draft Bill is in five sections:
 - a. Part 1 establishes the basic human right to a clean, healthy and sustainable environment for everyone which underlies 'the three pillar' rights from the Aarhus Convention: access to information, public participation and access to justice in environmental cases. It also seeks to

protect the public's fundamental right to safeguard the environment without fear of persecution and harassment;

- b. Part 2 implements the right of access to environmental information (building on the Freedom of Information Act 2000 and Environmental Information Regulations 2004);
- c. Part 3 implements the right to public participation in environmental decision making in relation to decisions, plans, programmes and other acts covered by the Convention;
- d. Part 4 implements the right of access to justice;
- e. Part 5 deals with general and consequential matters.

28. Ensuring the full implementation of all aspects of the Aarhus Convention in this way would provide the tools needed for people to hold public bodies to account in meeting their statutory obligations and addressing the current failure to meet those standards in relation to (among other things) air quality, water quality and biodiversity.

29. The Bill will also promote environmental democracy and transparency and ensure that the UK meets its international environmental obligations and commitments, as well as protecting the lives and health and well-being of its own people and all those under its jurisdiction. It will guard against the watering down of environmental standards by the backdoor through the failure to enforce protections, or to disclose relevant information, and the persecution of those seeking to protect the environment for the public good. The framework laid down by this Bill would support the more effective operation of the Office for Environmental Protection (as does, to a more limited extent, the current legislative framework implementing the Convention) by securing greater accountability for public bodies taking action in respect of the environment). Any costs arising from this Bill are essentially administrative but should in any event be weighed against the costs of not securing more effective action on the environment in terms of the grave impacts on life, health, amenity and ecological health of the UK.

30. At the time of drafting, the Retained EU Law (Revocation and Reform) Bill is in Parliament, and even if the Bill becomes an Act, its impact will not be clear for many months. Decisions of the Aarhus Compliance Committee on a number of relevant complaints are awaited. What we present below will need to be adapted to respond to the outcome of those processes.

31. The Bill is complementary to "Ella's Law" which addresses the specific issue of air quality. This Bill focusses more broadly on the right to a clean, healthy and sustainable environment and the implementation of the Aarhus Convention.

THE ENVIRONMENTAL RIGHTS BILL 2025: HOW THIS FITS WITH INTERNATIONAL LAW AND THE SCIENCE

Overview

32. Given the discrepancy between the UK's stance on the international stage and what happens domestically, including through the action of public bodies, this Bill could be seen as the UK catching up. The Bill would enable the UK to be both politically ambitious while staying well within the envelope of what the UK has already promoted across the world.
33. To secure environmental democracy and ensure the delivery of the substantive protections laid down in other environmental legislation, the draft Bill gives effect to provisions of the United Nations Aarhus Convention, including the right to a clean, healthy and sustainable environment for everyone referenced in the Preambles to the Convention and its Articles 1 and 3.
34. Giving effect to the rights laid down in the Convention in turn requires the application of other principles of human rights law, without which the implementation of the Convention would be compromised.
35. Part I requires public bodies to act to secure everyone's right to a clean, healthy and sustainable environment and to protect that right without fear of harassment or persecution (the latter as provided in Article 3(8) of the Convention).
36. Part II requires public bodies to respect the right of access to environmental information and builds on the provisions of the Environmental Information Regulations 2004 and the Freedom of Information Act 2000.
37. Part III requires public bodies to respect the right of public participation in environmental decision-making by reference to existing obligations under other legislation whilst also ensuring that the relevant provisions of the Convention are fully implemented.
38. Part IV puts into domestic law the right of access to justice in environmental (Aarhus) cases and addresses certain key issues which arise in the context of UK implementation.
39. Part V deals with consequential and general matters.

Implementation of the Aarhus Convention

40. The Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment has stated that:

“The legal recognition of [the right to a safe, clean, healthy and sustainable environment] can itself be considered a good practice, whether by means of constitutional protection, inclusion in environmental legislation or through ratification of a regional treaty that includes the right.”

41. The Special Rapporteur refers to the Aarhus Convention in this context.⁷
42. Article 1 of the Convention introduces its three themes: (1) rights of access to information, (2) public participation in decision-making, and (3) access to justice in environmental matters.
43. As outlined in the Preamble, the procedural and substantive obligations laid down in the Convention must be considered in a coherent way in the light of relevant human rights principles, including the need for special obligations towards those in vulnerable situations such as children, the elderly and those with health conditions.
44. In this way, the Convention's provisions meet areas of particular concern in the UK including in relation to the health and ecological impacts of poor air quality⁸, poor water quality⁹ and harm to and loss of biodiversity¹⁰.

UK Areas of Particular Environmental Concern

45. In relation to air quality, the House of Commons EFRA Committee on Air Pollution stated in 2021 that:

“Air pollution is the largest environmental risk to UK public health... It is an issue that our predecessor Committees returned to several times, concluding the Government had failed to address the scale of the challenge.

It has been estimated that every year up to 64,000 of all premature deaths may be linked to air pollution, with up to 40,000 premature deaths linked to exposure to particulates and nitrogen dioxide... This was starkly highlighted by the Coroner's verdict in December 2020, into the death of Ella Roberta Adoo Kissi-Debrah who died aged nine on 15 February 2013 who lived near the South Circular Road in south-east London... He concluded that Ella “died of asthma contributed to by exposure to excessive air pollution” and the medical causes of death were recorded as, “acute respiratory failure”, “severe asthma”, and for what is believed to be the first time, “air pollution exposure.” He continued that:

Air Pollution was a significant contributory factor to both the induction and exacerbations of her asthma. During the course of

⁷ See The Right to a healthy environment: good practices A/HRC/43/53 of 30 December 2019, paras 9 and 11.

⁸ House of Commons EFRA Committee Report on Air Pollution (11 February 2021): <https://publications.parliament.uk/pa/cm5801/cmselect/cmenvfru/468/46802.htm> and see the Coroner's Report into the death of Ella Roberta Kissi-Debrah (16 December 2020) here: <https://www.innersouthlondoncoroner.org.uk/news/2020/nov/inquest-touching-the-death-of-ella-roberta-adoo-kissi-debrah>.

⁹ House of Commons Environmental Audit Committee report on Water Quality in Rivers (13 January 2022) here: <https://publications.parliament.uk/pa/cm5802/cmselect/cmenvaud/74/summary.html>.

¹⁰ House of Commons Environmental Audit Committee Report on Biodiversity in the UK: bloom or bust? (30 June 2021: available here: <https://publications.parliament.uk/pa/cm5802/cmselect/cmenvaud/136/136-report.html>).

her illness between 2010 and 2013 she was exposed to levels of [NO₂] and Particulate Matter in excess of World Health Organisation (WHO) Guidelines. The principal source of her exposure was traffic emissions. During this period there was a recognized failure to reduce the level of NO₂ to within the limits set by EU and domestic law which possibly contributed to her death.

Nationally there has been a long-term decline in overall emission levels in the last 50 years as emissions controls were implemented “on energy production and vehicles in the 1980s and 90s”. The National Centre for Atmospheric Science (NCAS) explained the reduction in emissions had slowed in recent years... Urban NO_x have fallen since 2015 as issues with diesel vehicles are “now being slowly addressed”, and should fall further with a new emissions standards for cars, and more electric vehicles.... PM_{2.5} concentrations have remained flat... Meanwhile, little progress has been made in reducing NH₃ emissions, despite the agricultural sector’s efforts.” (paras 8 and 9)

46. In relation to water quality in 2022, the Environmental Audit Committee stated:

“Getting a complete overview of the health of our rivers and the pollution affecting them is hampered by outdated, underfunded and inadequate monitoring regimes. It is clear, however, that rivers in England are in a mess. A ‘chemical cocktail’ of sewage, agricultural waste, and plastic is polluting the waters of many of the country’s rivers. Water companies appear to be dumping untreated or partially treated sewage in rivers on a regular basis, often breaching the terms of permits that on paper only allow them to do this in exceptional circumstances. Farm slurry and fertiliser run off is choking rivers with damaging algal blooms. Single use plastic sanitary products—often coated with chemicals that can harm aquatic life—are clogging up drains and sewage works and creating ‘wet wipe reefs’ in rivers. Revolting ‘fatbergs’ as big as blue whales are being removed from sewers, costing companies and their customers in the region of £100 million a year. Not a single river in England has received a clean bill of health for chemical contamination. Disturbing evidence suggests they are becoming breeding grounds for antimicrobial resistance.

A step change in regulatory action, water company investment, and cross-catchment collaboration with farmers and drainage authorities is urgently required to restore rivers to good ecological health, protect biodiversity and adapt to a changing climate.

We expect to see far more assertive regulation and enforcement from Ofwat and the Environment Agency to restore our rivers to their natural glory.” (emphasis added)

47. In response, the Government stated that:

“Restoring water quality is a priority for the Government. We have already taken significant action in a range of areas including tackling sources of pollution, investing in river restoration and setting out long term plans and targets to drive further improvements. This includes our current consultation on the first suite of targets under the Environment Act 2021, which sets out proposals for several new legally-binding, targets to restore the water environment and improve water quality and availability...These targets will act as powerful tools to deliver cleaner water, increase biodiversity and protect the water environment for future generations.

However, as the committee rightly points out, we agree that there is more to do, and we intend to set out a comprehensive approach to improving water quality in our update of the 25 Year Environment Plan in January 2023¹¹.”

48. In relation to biodiversity, the Environmental Audit Committee noted in its report of June 2021 that the UK is one of the most nature-depleted countries in the world and that:

“The State of Nature report has shown that since the 1970s 41 per cent of all UK species surveyed have declined, while 15 per cent of species within the UK are said to be threatened with extinction...The abundance of the species of greatest conservation concern; the UK’s priority species, have declined by 60 per cent... “(para 3)

Among the many issues addressed by the Committee, it went on to consider the progress made under the 25 Year Environment Plan (published in 2018) and noted that:

“Defra published its latest annual progress report in June 2020. Of the 17 ‘headline’ indicators reported against the ten environmental goals, less than half (seven) were reported as progressing, three were reported as deteriorating and the rest were reported as ‘stable’... The NCC’s own assessment of the country’s natural assets found that five out of seven natural asset groups were deteriorating, and no natural asset group was making progress in meeting existing targets and commitments... The NCC concluded that the Government was not on course to achieve its objective to improve the environment within a generation. The NCC strongly critiqued the Government’s methods for analysing progress against the Plan and challenged the subsequent results. (para 139, emphasis added)

¹¹ The Government’s full response to the EAC’s recommendations is available at <https://publications.parliament.uk/pa/cm5803/cmselect/cmenvaud/164/report.html>

The 25 Year Environment Plan is not yet supported by clear, ambitious, quantified statutory targets and milestones. The Environment Bill will provide a statutory underpinning for five of the goals in the Plan, but government has not set long-term objectives for the other five plan areas or how its goals will be met. The current significant improvement test for targets within the Environment Bill is ultimately decided by the Secretary of State. We agree with the Natural Capital Committee that the test is highly subjective.” (para 156)

49. On the 28 October 2022, the Government confirmed that there would be a delay in adopting the environmental targets for air quality, clean water and biodiversity provided for under the Environment Act.¹² The delay in adopting these targets which underpin the new statutory framework for environmental protection had been heavily criticised.¹³ The delay breaches the deadline set down in the Environment Act 2021 (31 October 2022). The targets were eventually adopted in December 2022, but they are seriously flawed and will fail to ensure that key environmental concerns are addressed including in relation to water quality and the condition of protected nature areas. The targets set for wildlife abundance will fail to reverse decades of species declines – instead recovery will flatline.¹⁴

50. In the light of these grave concerns as to the state of the UK environment and the associated impacts on public health and ecological integrity, the key importance of people being able to hold public bodies to account is clear. Accordingly, the importance of the United Nations Aarhus Convention in securing rights of access to information, public participation and access to justice cannot be overstated. This is about empowering people in their communities rather than just relying on yet more under-resourced public bodies like the Office of Environmental Protection. The existence of these rights is fundamental to the right to a clean, healthy and sustainable environment for everyone (Article 1 of the Convention). The evolving scientific and legal context within which those rights are applied reinforces the need for a robust and effective domestic legal framework for its implementation.

Ensuring Accountability

51. As the current Government stated in its 25 Year Environment Plan:

¹² <https://questions-statements.parliament.uk/written-statements/detail/2022-10-28/hcws347>.

¹³ <https://www.theguardian.com/politics/2022/oct/28/ministers-admit-delays-will-cause-government-to-breach-environment-act>. <https://www.rcplondon.ac.uk/news/senior-health-leaders-say-government-must-publish-targets-reduce-air-pollution-without-delay>.

¹⁴ See <https://www.wildlifetrusts.org/news/environment-act-targets-defy-public> and see <https://environment-analyst.com/uk/108985/government-urged-to-fill-gaps-in-environment-act-targets>.

“Transparency and accountability are key features of successful reform programmes and will be built into our environmental reforms.” (page 138)

However the Plan did not address the UN Aarhus Convention rights and their role in securing the effective reforms that environmental law and policy in the UK so clearly need. That gap is filled by this Bill.

52. The scientific context within which the rights laid down by the Aarhus Convention should be considered include the reports of the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (IPBES); the Intergovernmental Panel on Climate Change (IPCC) and standards set by the World Health Organisation (WHO) including its air quality guidelines¹⁵ as well as other key relevant standards and treaty recommendations on pollution and other standards.¹⁶

53. In relation to the legal context within which the Aarhus Convention is applied, it is important to have regard to the legal obligations/standards which underpin international and domestic policy on the need to protect, preserve and improve the state of the environment and to ensure sustainable and environmentally sound development. The Preamble to the Aarhus Convention affirms:

“... the need to protect, preserve and improve the state of the environment and to ensure sustainable and environmentally sound development.” (Fifth Recital)

“The Parties to the Aarhus Convention also recognize that adequate protection of the environment is essential to human well-being and the enjoyment of basic human rights, including the right to life itself.” (Sixth Recital)

54. Furthermore, the connection between environmental rights and duties of protection is also clear from the Convention’s Preamble:

“Recognizing also that every person has the right to live in an environment adequate to his or her health and well-being, and the duty, both individually and in association with others, to protect and improve the environment for the benefit of present and future generations.” (Seventh Recital)

¹⁵ Even in the European Union, air quality standards fail to meet the WHO guidelines. For example, the annual fine particulate limit is 2 1/2 times higher than the WHO recommendation.

¹⁶ See the list of relevant agreements and standards in relation to pollution at para’s 15-16 of the Special Rapporteur’s 2022 report on *The right to a clean, healthy and sustainable environment: non-toxic environment* A/HRC/49/53 including the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade; the Stockholm Convention on Persistent Organic Pollutants; the International Health Regulations (2005); the Minamata Convention on Mercury and the International Code of Conduct on Pesticide Management and the Globally Harmonized System of Classification and Labelling of Chemicals.

55. The recognition of the fundamental importance of international environmental obligations to the protection of the right to life is reflected in General Comment No 36 on the Right to Life, in which the Human Rights Committee stated that:

“The obligations of States parties under international environmental law should thus inform the content of article 6 of the Covenant, and the obligation of States parties to respect and ensure the right to life should also inform their relevant obligations under international environmental law.” (para 62)

56. In fully incorporating the Aarhus Convention into domestic law it will be important to ensure that the mutually informed approach referenced in the Convention itself and in General Comment No 36 is also reflected in domestic law so that the two systems operate coherently and effectively.

57. The Parties to the 2015 Paris Agreement on Climate Change have acknowledged that:

“...climate change is a common concern of humankind, Parties should, when taking action to address climate change, respect, promote and consider their respective obligations on human rights, the right to health, the rights of indigenous peoples, local communities, migrants, children, persons with disabilities and people in vulnerable situations and the right to development, as well as gender equality, empowerment of women and intergenerational equity,” (Eleventh Recital)

58. The UN Convention on the Rights of the Child, ratified by the UK in 1991, explicitly requires that States act in the best interests of the child and consider “the dangers and risks of environmental pollution” (Article 24 (2) (c)). Article 12(2)(b) of the International Covenant on Economic, Social and Cultural Rights provides that the steps Parties must take to achieve the full realization of the right to health “shall include those necessary for ... the improvement of all aspects of environmental and industrial hygiene”.

59. Courts around the world, as well as those in the UK, have addressed the relationship between human rights law and the environment, for example the European Court of Human Rights has ruled that water pollution can violate several human rights, including the right ‘to the enjoyment of a healthy and protected environment’ **Tătar v. Romania** (application No. 67021/01), 27 January 2009. The Inter-American Court of Human Rights has held that: “the right to a healthy environment, unlike other rights, protects the components of the environment, such as forests, rivers and seas”, Inter-American Court of Human Rights, **Advisory Opinion OC-23/17**, 15 November 2017, para. 62.

Some specifics of the draft Bill

60. **Part 1 of the Bill** would establish a duty on relevant public authorities to act consistently with the right to a clean, healthy and sustainable environment for

everyone. The Aarhus Convention seeks to make a contribution to the realisation of that right by imposing obligations on state actors in relation to the procedural rights covered by the three pillars of the Convention (which is a significant contribution to the realisation of the fundamental right).

61. In adopting this Bill, the UK may wish to withdraw the Declaration to the Aarhus Convention it made on signature and confirmed on ratification which states:

“The United Kingdom understands the references in article 1 and the seventh preambular paragraph of this Convention to the 'right' of every person 'to live in an environment adequate to his or her health and wellbeing' to express an aspiration which motivated the negotiation of this Convention and which is shared fully by the United Kingdom. The legal rights which each Party undertakes to guarantee under article 1 are limited to the rights of access to information, public participation in decision-making and access to justice in environmental matters in accordance with the provisions of this Convention.”

62. Alternatively, the adoption of the Bill and in particular Part One could be described as an exercise in domestic sovereignty – to realise this aspiration – rather than necessarily altering the UK’s position on what the Convention requires. However the recent statement made by the UK on the adoption of UN General Assembly Resolution 76/300 appears to move away, to some extent, from characterising the right as merely aspirational in that the UK stated that: the right ‘derives from existing international economic and social rights law - as a component of the right to an adequate standard of living, or the right to the enjoyment of the highest attainable standard of physical and mental health’.¹⁷

63. **International recognition:** On 8 October 2021, the UN Human Rights Council adopted a resolution recognizing, for the first time at the global level, the human right to a clean, healthy and sustainable environment (Resolution 48/13). The new resolution ‘should be a catalyst for universal recognition in constitutions, legislation and regional human rights treaties, as well as for accelerated action to address the global environmental crisis’.¹⁸ Resolution 48/13 recognises that a commitment to a healthy environment already exist in other international agreements (like Aarhus, which was agreed in 1998). The UK is perhaps the only Aarhus Party to declare the right to a healthy environment as aspirational - and it did so again with reference to Resolution 48/13.¹⁹ The UK is not in this respect

¹⁷ Statement available at <https://www.gov.uk/government/speeches/explanation-of-vote-on-resolution-on-the-right-to-a-clean-healthy-and-sustainable-environment>.

¹⁸ See The right to a clean, healthy and sustainable environment: non-toxic environment.

Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, A/HRC/49/53 12 January 2022.

¹⁹ Although the UK did also provide a caveat to its position, namely that the right is inherent in existing conventional international law, see for example the right to an adequate standard of living in ICESCR:

in line with the evolution of international law in relation to the right to a healthy environment and lags other countries in not recognising the right either at the international or domestic level.²⁰ There is a growing international trend for the adoption of environmental rights legislations which either ascribe rights to ecological actors (including in New Zealand, Spain, Ecuador and the Philippines) or attempt to strike a balance/consider the mutual protection of both ecological actors and humans with respect to the environment (including in Bolivia, Australia, Uganda and New Zealand). It is clear that the realisation of this qualified right (because this Bill seeks to establish obligations only in relation to state actors) is long overdue.

64. The adoption of the HRC Resolution signals a new approach, as indicated by Special Rapporteur in his 2022 Report: ‘States and businesses must vigorously pursue zero pollution and the elimination of toxic substances, rather than merely trying to minimize, reduce and mitigate exposure to these hazards. Prevention, precaution and non-discrimination must be the paramount principles in environmental policymaking’. This includes biodiversity:

“Healthy ecosystems and biodiversity are substantive elements of the right to a healthy environment, as recognized by regional tribunals, national laws and national jurisprudence. See SR Report Human rights depend on a healthy biosphere A/75/161 15 July 2020.” (para 33)

65. A right to a clean, healthy and sustainable environment for everyone therefore clearly encompasses universal human rights. The proposal also includes protection of biodiversity/nature and encompasses healthy functioning ecosystems, alongside access to nature/biodiversity – giving effect to us all having a right to a healthy natural environment²¹. UN General Assembly Resolution 76/300 recognizes the right to a clean, healthy and sustainable environment as a human right and no state voted against the Resolution (8 abstained, the UK voted in favour).

66. In order also to safeguard the UK from regressive action such as the wholesale repeal of decades of environmental legislation (adopted with the active participation of the UK) without proper consideration of the potential damage

Explanation of vote on resolution on the right to a clean, healthy and sustainable environment - GOV.UK (www.gov.uk).

²⁰ See the concurring judgment of Judge Serghides in *Pavlov v Russia* (Application no. 31612/09), 11 January 2023, in which he examines and supports the emergence of a sub-right of an environmental character under Article 8 ECHR by reference to the principle of effectiveness. See also calls for an additional Protocol to the ECHR to address the right to a healthy environment, including on 27 September 2022, the recommendation of the Committee of Ministers to member States to reflect on the nature, content and implications of the right to a clean, healthy and sustainable environment and, on that basis, actively consider recognising at the national level this right as a human right that is important for the enjoyment of human rights and is related to other rights and existing international law, Recommendation CM/Rec(2022)20 .

²¹ See the references to the importance of nature and green spaces to mental health in the EAC Report on Biodiversity: <https://committees.parliament.uk/publications/6498/documents/70656/default/>. See paras 165, 203, 262 and 331-336 and the conclusions and recommendations, para 38.

to public health and the UK environment, this Bill underscores the fundamental rights on which such environmental protection rests.

67. Recognised legal principles, including the principles of prevention of harm, precaution, equality and non-regression are also relevant to the incorporation of the requirements of the Convention. The Convention refers in its opening recital to Article 1 of the Stockholm Declaration on the Human Environment which states:

“Man has the fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being, and he bears a solemn responsibility to protect and improve the environment for present and future generations.”

68. The fifth recital to the Convention affirms:

“the need to protect, preserve and improve the state of the environment and to ensure sustainable and environmentally sound development” (emphasis added)

69. Prevention of harm and the need to improve the environment for this and future generations reflect a more general principle of non-regression.

70. In relation to non-regression, the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment has recently confirmed that:

“States must adopt science-based standards for pollution and toxic substances, based on international guidance from organizations including WHO, the Food and Agriculture Organization of the United Nations (FAO) and UNEP. Once these standards are in place, the principle of non-regression means the State cannot ignore them or establish levels that are less protective without adequate justification, which would compromise its obligation to ensure the progressive development of the rights to health and the environment. (para 58)²²

71. The Special Rapporteur has also highlighted the issue of ‘sacrifice zones’, a specific form of regression. He states:

“The continued existence of sacrifice zones is a stain upon the collective conscience of humanity. Often created through the collusion of Governments and businesses, sacrifice zones are the diametric opposite of sustainable development, harming the interests of present and future generations. The people who inhabit sacrifice zones are exploited, traumatized and stigmatized. They are treated as disposable, their voices ignored, their presence excluded from decision-making processes and

²² A/HRC/49/53, 22 January 2022: The right to a clean, healthy and sustainable environment: non-toxic environment.

their dignity and human rights trampled upon. Sacrifice zones exist in States rich and poor, North and South, (29) A/HRC/”

72. In relation to the principle of progressive realisation, the Special Rapporteur has confirmed that while the right to a healthy environment may not be fulfilled immediately, States are obligated to move as expeditiously and effectively as possible towards the goal of full realization, applying the maximum available resources. Some obligations, such as non-discrimination and non-regression, are immediate.²³ These human rights obligations should be considered alongside the principles laid down in section 17(5) of the Environment Act including prevention, integration and precaution which reflect international law. As is stated in the 25 Year Environment Plan:

“A healthier environment also helps deliver social justice and a country that works for everyone. For example, pollution affects us all but it is the most disadvantaged in society who suffer more.” (page 16)

73. **Human rights-based approach:** In the light of the clear link between international human rights law and the environment as outlined above, the UK should apply a human rights-based approach to all laws, regulations, policies and actions governing the production, import, sale, use, release and disposal of substances that may harm human health or the environment, in order to eliminate negative impacts on human rights. A rights-based approach should also govern clean-up, remediation, restoration. (See e.g. A/HRC/49/53): ‘States must investigate situations of serious pollution or release of toxic substances and impose sanctions where violations occur’ (para 53). This approach is therefore reflected throughout this Bill including in Part 1. The three pillar rights laid down in the Aarhus Convention secure the delivery of these substantive obligations through ensuring transparency, public participation and the accountability of public bodies. The Bill lays down a framework which is distinct from the system of protection afforded under the Human Rights Act in respect of Convention Rights (there being only limited environmental protection arising from that Act), taking into account the specificities of the Aarhus Convention but it operates in a way which is parallel and complementary to the Human Rights Act.

74. With respect to substantive obligations (in Part 1 of the proposed Bill), States must not violate the right to a clean, healthy and sustainable environment or other human rights related to healthy ecosystems and biodiversity through their own actions; must protect those rights from being violated by third parties, in particular businesses by ensuring that they operate within lawful parameters; and must establish, implement and enforce laws, policies and programmes to fulfil these rights.

75. The UK is obliged to ensure that activities within its jurisdiction or control do not cause serious harm to the environment or peoples of other States or to areas

²³ A/HRC/46/28, para 75.

beyond the limits of national jurisdiction (Principle 2 of the Rio Declaration 1992 and Principle 21 of the Stockholm Declaration). Domestic incorporation of the Convention, including through the three pillars, should therefore reflect the scope of these concerns which include UK actions, measures and policies in areas such as international financial support and trade.

76. **Right of protection from harassment for environmental defenders.** This right is inherent to the ability of individuals and civil society to exercise the rights laid down in the Convention. Article 3(8) of the Convention provides:

“Each Party shall ensure that persons exercising their rights in conformity with the provisions of this Convention shall not be penalized, persecuted or harassed in any way for their involvement. This provision shall not affect the powers of national courts to award reasonable costs in judicial proceedings.”

77. Taking into account the adoption in October 2021 of Decision VII/9 on a rapid response mechanism to deal with cases related to article 3 (8) of the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, the Bill provides for the protection from harassment and persecution of those seeking to exercise their rights in conformity with the Convention and/or this Act. Paragraph (2) of the Decisions calls on Parties ‘to review their legal frameworks and practical arrangements in line with the Convention’s obligations and to take all necessary measures to ensure that persons exercising their rights in conformity with the Convention’s provisions are not penalized, persecuted or harassed in any way for their involvement’. See also the 1998 Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, as well as civil society initiatives (e.g., Defend the Defenders, Not1More and the Zero Tolerance Initiative).

Further issues post Brexit

78. The Bill ensures that the duty to respect the right to a clean, healthy and sustainable environment applies by reference to all of the retained EU regulations (and not just those relating to EIA etc) which would then take effect under this Act (through inclusion in schedules to this legislation). That would cover legislation relevant to human health (including drinking water, bathing water, urban wastewater treatment, air pollution) as well as to nature protection legislation (habitats, birds, etc). Much of this legislation is relevant to both – sewage treatment (to take an example) affects both bathers and fish.

79. Parts 2-4 of the Bill establish the rights laid down in the three pillars to the Aarhus Convention: rights of access to information, public participation and access to justice, taking into account existing domestic law implementing those rights in the UK whilst also addressing areas where that implementation has gaps or

needs further elaboration for effective implementation. Following Brexit, the UK has an opportunity to ensure that its domestic law gives full effect to the Aarhus Convention. The Government has reaffirmed to Parliament its commitment to the Convention on a number of occasions. On 6 September 2021, Victoria Prentis (then Parliamentary Under Secretary of State at Defra; now Minister of State at Defra) stated:

“The Government is committed to the continued effective implementation of our international obligations under the Aarhus Convention on access to information, public participation in decision making and access to justice in environmental matters. The Government strongly supports the contribution the Convention makes to enhancing environmental protection and remains committed to its objectives.”²⁴

Conclusion

80. The secure achievement of the substantive right to a clean, healthy and sustainable environment in Article 1 and the procedural rights of access to information, public participation and access to justice under the other parts of the Aarhus Convention require a large body of retained EU law to be enshrined in primary legislation. This will enable the Government to address more robustly the ongoing climate and biodiversity crises. This is particularly critical given the current state of the UK environment, as highlighted in recent parliamentary reports, and given the ongoing threat of highly regressive Government action in the face of escalating climate and biodiversity crises.
81. In these circumstances, it is critically important that the Bill address the substantive right on which the Aarhus Convention is based (Articles 1 and 3) as well as the specific rights laid down in the three pillars. This Bill will ensure that those specific rights are embedded in an effective framework and in line with the overall objective of the Convention and associated principles.
82. The Bill should be deployed to strengthen the narrative around Convention rights by reference to the underlying objectives and principles on which the Convention is based and recognising recent developments in the clarification as to the legal relationship between human rights and environmental law.
83. Given the importance of the potential external (and internal) impacts of UK finance flows and investment, the Bill should ensure that Convention rights apply

²⁴ At <https://questions-statements.parliament.uk/written-questions/detail/2021-08-18/40934>. See also the comments on the Convention made by Rebecca Pow (then Parliamentary Under Secretary of State at Defra) on 3 November 2020: “ The UK ratified the convention in 2005, and we remain a party to it in our own right. Our exit from the EU does not change our commitment to respect, protect and fulfil the rights contained in this important international agreement...”.
[https://hansard.parliament.uk/Commons/2020-11-03/debates/c1ef941e-1c11-4e5e-8d66-dd276f6d70e1/EnvironmentBill\(NinthSitting\)?highlight=aarhus#contribution-A8A4897C-4135-409C-B9B5-1112EFE66C52](https://hansard.parliament.uk/Commons/2020-11-03/debates/c1ef941e-1c11-4e5e-8d66-dd276f6d70e1/EnvironmentBill(NinthSitting)?highlight=aarhus#contribution-A8A4897C-4135-409C-B9B5-1112EFE66C52).

to UK state action in this area, including in relation to the grant of export credits, subsidies and trade negotiations and agreements. As stated in the 25 Year Plan in relation to climate change (but not actually done by the current Government), a new Government will take all possible action to mitigate climate change, while adapting to reduce its impact and will do this by:

“Making sure that all policies, programmes and investment decisions take into account the possible extent of climate change this century.”

This focus on the link between investment decisions and climate change is critical to restoring the UK as a demonstrable world leader after years during which domestic action has often been going in the wrong direction. Just as important is the link between investment decisions and other environmental areas of concern, including the protection of biodiversity. This means assessing potential negative impact as well as promoting positive investment in nature (the latter is referenced in the 25 Year Plan but not the former). The Bill implements Article 8 of the Convention, as well as 6 and 7 to secure meaningful public participation in line with Convention and this will include in relation to decisions, plans, policies and other acts in this area.

THE ENVIRONMENTAL RIGHTS BILL – EXPLANATORY MEMORANDUM

1. Clause 1 provides for a right to a clean, healthy and sustainable environment for everyone. It requires relevant public authorities to act compatibly with that right (other than in specified exceptional circumstances) and to have due regard to the need to secure that right in all circumstances. That dual approach ensures that the right in question is given the greatest possible protection consistent with emergency action and parliamentary sovereignty.
2. Clause 2 provides for guidance on the discharge of the obligations arising from Clause 1.
3. Clause 3 prohibits ‘sacrifice zones’, namely the local undermining of generally applicable environmental protections by reference to economic growth.
4. Clause 4 protects environmental defenders from victimisation.
5. Clause 5 provides for enforcement of the right to a clean, healthy and sustainable environment.
6. Clauses 6-7 amend the Environmental Information Regulations 2004 and provide for them to take effect as if primary legislation. Clause 8 concerns the implementation of the Kiev (Kyiv) Protocol.
7. Clauses 9-12 make provision for meaningful public participation in relation to environmental decisions, plans and programmes as well as other relevant acts, including in relation to the requirements where public consultation is undertaken. Clause 12 provides for the publication of a public participation statement by relevant authorities.
8. Clauses 13-14 provide for the implementation of the right of access to justice in environmental cases. Clause 13 provides for a right of public participation including by setting out the behaviours required of relevant public authorities to facilitate access to environmental justice. Clause 14 provides for a review of the implementation of the requirements for access to justice with a view to establishing a system of local environmental tribunals and a review of the implementation of the right of access to justice with a view to the further reinforcement of the right.
9. Clause 15 provides definitions.
10. Clauses 16-19 provide for commencement, extent and the short title.
11. Schedule 1 sets out the list of relevant public authorities to which Parts 1 to 4 apply.
12. Schedule 2 sets out relevant international and national environmental standards.
13. Schedule 3 sets out the regulations implementing retained EU law which gave effect to the Aarhus Convention and to which Part 3 applies.
14. Schedule 4 sets out amendments to the [by then] Online Safety Act to require action by social media companies to prevent on-line harm to individuals or organisations

“exercising their rights in conformity with the Aarhus Convention” (as protected by Article 3(8) of the Convention).

THE ENVIRONMENTAL RIGHTS BILL 2025 – PROPOSED DRAFT TEXT

ENVIRONMENTAL RIGHTS ACT 202x

Contents [to be inserted]

Long title A Bill to incorporate the substantive and procedural rights of the Aarhus Convention and related international obligations under human rights and environmental law into law as a contribution to: the protection of a right to a clean, healthy and sustainable environment for everyone; the achievement of sustainable development; and the amelioration of the climate and biodiversity emergencies"

Be it enacted by the King’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and the Commons, in this present Parliament assembled, and by the authority of the same, as follows:-

Part 1

The Right to a Clean, Healthy and Sustainable Environment for everyone

1. Acts of Relevant Public Authorities

- (1) Everyone has the right to a clean, healthy and sustainable environment.
- (2) It is unlawful for a public authority to act in a way which is incompatible with securing the right to a clean, healthy and sustainable environment for everyone²⁵.
- (3) Subsection (2) does not apply to an act if²⁶—
 - (a) in the case of one or more provisions of, or made under, primary legislation which cannot be read or given effect in a way which is compatible with the right to a clean, healthy and sustainable environment, the relevant authority was acting so as to give effect to or enforce those provisions; or
 - (b) the relevant public body issues an emergency statement confirming the temporary suspension of the duty for a limited period in a case of public emergency including, but not limited to, a serious threat to public health or safety and where there is no

²⁵ The primary obligation is to “act compatibly” thus taking the same approach as the HRA does to Convention rights.

²⁶ Where applicable Convention rights under the HRA specify right by right the circumstances for derogation from the primary obligation. Here we set it out separately, as being limited to two specific constraints: parliamentary sovereignty and identified emergency.

alternative to the suspension in order to protect human life, health and or the environment.

- (4) A relevant public authority must, in the exercise of its functions, have due regard²⁷ to the need to secure the right to a clean, healthy and sustainable environment for everyone²⁸.
- (5) Regulations under this section shall make provision about how the power in subsection 4(b) shall be exercised and the exceptional matters to which the relevant public authority may have regard in issuing an emergency statement.
- (6) In this Act:
 - “relevant public authority” means those bodies listed in Schedule 1;
 - “relevant international standards” means those international standards listed in Part 1 of Schedule 2.
 - “relevant environmental standards” means those standards listed in Part 2 of Schedule 2.
- (7) The right to a clean, healthy and sustainable environment means the right of every person of present and future generations to live in an environment adequate to human health and ecological well-being.
- (8) Securing the right to a healthy environment includes:
 - (a) Avoiding taking, and not permitting the taking, of action which could undermine relevant international standards, taking into account the best available scientific evidence (the principle of non-regression);
 - (b) Ensuring that relevant environmental standards, including but not limited to any environmental targets laid down under section 1 the Environment Act 2021, are met in full;
 - (c) Giving effect to relevant environmental improvement plans adopted under section 8 of the Environment Act 2021, [or local nature recovery strategies adopted under section 104 of the Environment Act 2021]
 - (d) Protecting and improving the state of the environment with respect to its impact on human health, ecological health and the promotion of biodiversity (the principle of progressive realisation);

²⁷ This phrase has been used in the light of the weight afforded to similar wording in other legislation including the Equality Act 2010.

²⁸ This obligation – is always in play – even in cases of parliamentary sovereignty or emergency. The evaluative process involved in a ‘due regard’ duty remains in all cases, thus providing enhanced protection.

(e) Notwithstanding any statement adopted under Section 17 of the Environment Act 2021, having due regard to:

- a. The precautionary principle
- b. The principle that harm must be prevented/the prevention principle
- c. The equality principle
- d. The principle of non-regression
- e. The principle of progressive realisation
- f. The best available science principle

(f) Having due regard to:

- a. The right to clean air;
- b. The right to clean water;
- c. The right to biodiversity and to green spaces;
- d. The right to living soil;
- e. The right to a healthy climate;
- f. The right to effective early warning systems of environmental disasters

(g) Acting in accordance with the mandatory elements (“shall”) and taking into account other elements of Guidance made under section 2.

2 Guidance

(1) The Secretary of State shall give guidance on the interpretation of all the matters listed in section 1(6)(e) and (f).

(2) Before issuing the guidance under this section, the Secretary of State must—

(a) prepare a draft, and

(b) lay the draft before Parliament for at least 21 days.

(3) If before the end of that period

(a) either House of Parliament passes a resolution in respect of the draft guidance, or

(b) a committee of either House of Parliament, or a joint committee of both Houses, makes recommendations in respect of the draft guidance, the Secretary of State must produce a response and lay it before Parliament.

(4) The Secretary of State may prepare and lay before Parliament the final guidance, but not before—

(a) if subsection (3) applies, the day on which the Secretary of State lays the response required by that subsection, or

(b) otherwise, the end of the 21-day period.

(5) The final guidance has effect when it is laid before Parliament.

(6) The “21 day period” is the period of 21 sitting days beginning with the first sitting day after the day on which the draft guidance is laid under subsection (4).

(7) “Sitting day” means a day on which both Houses of Parliament sit.

(8) The Secretary of State may revise the guidance at any time (and subsections (2) to (8) apply in relation to any revised guidance).

3 Sacrifice Zones

(1) Relevant public authorities shall not exercise their powers so as to establish, permit or encourage sacrifice zones.

(2) In this section, a sacrifice zone means any area in relation to which regulatory or other legal standards are lowered or adjusted so as to permit an increase in levels of pollution, toxic contamination or other environmental harm by reference to any aim of promoting investment in that area.

4 Review

A failure to respect the right to a clean, healthy and sustainable environment, including through any failure to exercise powers so as to address the action or inaction of a third party, shall be the subject of the review provided for in Part 4.

5 Victimisation of environmental defenders

(1) A person (A) victimises another person (B) if A subjects B to a detriment because—

(a) B does a protected act, or

(b) A believes that B has done, or may do, a protected act.

(2) Each of the following is a protected act—

(a) taking action including legal action in relation to matters covered by Parts 1, 2, 3 or 4 of this Act;

(b) giving evidence or information in connection with proceedings under this Act;

(c) doing any other thing for the purposes of or in connection with this Act;

(3) Giving false evidence or information, or making a false allegation, is not a protected act if the evidence or information is given, or the allegation is made, in bad faith.

(4) This section applies whether the person subjected to a detriment is an individual or an organisation

(5) The On-Line Safety Act is amended in accordance with Schedule 3.

Part 2

The Right of Access to Environmental Information

6. Acts of Relevant Public Authorities

(1) Subject to section 7, relevant public authorities must act to secure the right of access to environmental information.

(2) For the purposes of this part, the right of access to environmental information includes:

- a) Any obligations arising under the Freedom of Information Act, and
- b) Any obligations arising under the Environmental Information Regulations.

7. Amendment of Environmental Information Regulations

(1) The Environmental Information Regulations 2004 shall take effect as if they were provisions of this Act including for the purpose of any amendment or revocation.

(2) The Environmental Information Regulations 2004 are amended as follows.

(3) In regulation 2(2) insert- [(e) water companies;]

(f) private bodies which are empowered by law to provide public services relating to the environment and are under the control of public authorities in so far as, the environmental information relates to the provision of such services²⁹.

(g) private bodies which by stature are given special powers not available to ordinary persons and private bodies

(4) In regulation 7 insert-

(a) 'Subject to paragraph 1bis' before 'Where';

²⁹ This sets out expressly the interpretation given to the public authority requirements by the Upper Tribunal and CJEU.

(b) '1bis (1bis) The public authority to whom the request has been made shall not extend the period of 20 days by more than 5 days if the request is made by reference to proceedings which [are contemplated or] have commenced at the time of the request.

(5)(a)) The Secretary of State may make regulations providing for fixed timetables for reporting duties under [insert relevant legislation]³⁰

(b) Before making regulations under this section the Secretary of State must consult-[the Information Commissioner.

8. The Kyiv Protocol

(1) The Secretary of State shall establish and maintain a publicly accessible national Pollutant Release and Transfer Register pursuant to (and so as to comply with) the obligations of the United Kingdom under the 2003 Kiev [Kyiv] Protocol on Pollutant Release and Transfer Registers.

(2) The Secretary of State shall ensure public access to information contained in the Pollutant Release and Transfer Register, without an interest having to be stated, and according to the provisions of the Protocol, primarily by ensuring that the register provides for direct electronic access through public telecommunications networks. Access to information shall be ensured in accordance with Articles 11 and 12 of the Protocol.

(3) The Secretary of State shall ensure that the data held on the Register are presented in both aggregated and non-aggregated forms in accordance with Article 4 of the Protocol and that the Register includes the information set out in Article 5 of the Protocol in respect of the matters set out under Article 7 of the Protocol.

(4) The Secretary of State may make regulations to give full effect to the United Kingdom's obligations under the Kiev [Kyiv] Protocol [in so far as this is not achieved under other legislation].

(5) In the implementation of the Kyiv Protocol, the Secretary of State shall be guided by the precautionary principle.

³⁰ The Cabinet Office publishes quarterly and annual statistics and reports on the performance of central government in the provision of access to information under the both the Freedom of Information Act 2000 and the Environmental Information Regulations 2004 at: <https://www.gov.uk/government/collections/government-foi-statistics>. The latest annual bulletin shows that nearly 49,500 requests were received in 2019, of which 1647 were handled under the Environmental Information Regulations 2004. A detailed breakdown of the responses is provided only for those requests handled under the Freedom of Information Act 2000. Similar information is available from the Scottish Government at: <https://www.gov.scot/publications/freedom-of-information-foi-reporting/>.

Part 3

The Right of Public Participation on Environmental Decision-Making

9 Acts of Relevant Public Authorities

(1) Without prejudice to any other statutory or common law obligations, all relevant public authorities must act compatibly with the right to meaningful public participation set out in this Part.

(2) The right to meaningful public participation includes:

(a) the right to early and effective opportunities to participate in:

(i) the preparation and modification or review of the decisions taken under the provisions set out in Schedule 3 which relate to the body in question. Early in this context means allowing sufficient time to ensure that participation or response;

(ii) the preparation and modification of the plans or programmes required to be drawn up under the powers listed in Schedule 3;

(b) consultation on proposed actions which may have an impact on the matters set out in section 1.

(c) provision to consultees in a clear, accessible and candid form of the specific reasons and information which led the proposer to formulate its proposals and to reject alternatives considered including, in particular, all and any information relied on which is not otherwise in the public domain.

(d) provision of that information before steps are taken which might prejudice consideration and equal evaluation of reasonable alternative courses which consultees might suggest.

(e) the allowing of sufficient time and opportunity and methods for consultees, including those who may need additional time or other adjustments, to comment on those proposals.

(d) a requirement that relevant public authorities must take into account consultation responses and must give reasons for their responses including candid reasons for rejecting public suggestions or views that enjoy significant support when taking a decision following consultation, whether arising from subsection (2)(b) or in any other way, on a proposed course of action.

(4) In this Part the public means one or more natural or legal persons and their associations, organisations or groups including third party objectors.

(5) The Secretary of State shall make regulations addressing the scope and arrangements for determining meaningful public participation under this

Part with a view to ensuring that such participation is effective, accessible and timely.³¹

- (6) This Part shall not apply to plans and programmes designed for the sole purpose of serving national defence or taken in case of civil emergencies.

10. Relevant Regulations

- (1) The regulations listed in Schedule 3 shall take effect as if they were provisions of this Act including for the purpose of any amendment or revocation.

11. Aarhus Convention Article 8

- (1) In this section “a relevant legal provision” means a statutory instrument, order, Act of Parliament or other generally applicable legally binding rules that may have a significant effect on the environment.
- (2) Before proposals for a relevant legal provision are introduced into Parliament a draft of the proposed text must be published by a prescribed means alongside an invitation for public comment on the proposal while all options remain open and allowing sufficient time frames for the public to consult a draft and comment so as to ensure effective public participation.
- (3) Comments made within a prescribed period by a prescribed means will be considered by the promoter of the proposed text with a view to potential revision of the proposal.
- (4) If any such revisions involve significant changes to the proposed text the process set out in sub-sections (2) and (3) will be repeated in relation to the revised proposed text.
- (5) Regulations may prescribe what amounts to significant change for the purposes of sub-section (4).
- (6) When introducing to Parliament the proposed text as it results from the process set out in sub-sections (2) to (4), the promoter of the proposed relevant legal provision will publish a statement explain how the received comments led or not to revision of the proposed text; and, where suggestions for changes to some or all of the proposed text were not adopted by the promoter, that statement will explain why that was the case.

12. Public Participation Statement

³¹ It is noted, for example, that Ella's Law proposes a Citizens' Commission for Clean Air, which must review annually the Secretary of State's compliance with the limits set out in the Schedules. One of the arrangements the Secretary of State may create by way of enabling regulations is the establishment of Citizen's Commissions for the enforcement of the rights set out in Part 1, cl.1.

- (1) Each relevant public authority must within 12 months of the coming into force of this provision prepare and publish a statement setting out its policies for complying with its obligations under section 9 and any public participation obligations falling on it by virtue of regulations falling within section 11. The statement must address timescales for public participation and the way in which responses to public participation will explain how account has been taken of such participation. The Secretary of State must prepare and publish a statement setting out the United Kingdom's policies for implementing Article 3(7) of the Convention.
- (2) In preparing or revising the statement the relevant public authority must consult such persons as it considers are affected by, are likely to be affected by, or have an interest in, the statement.
- (3) The relevant public authority must—
 - (a) within no more than 3 years of its initial publication or the previous review under this subsection, review the operation and continuing appropriateness of the statement,
 - (b) as part of that review assess with a view to enhancing the performance of the obligations set out in subsection (1) and (2); and
 - (c) revise the statement when it considers necessary including where the assessment shows that to be appropriate, and
 - (d) publish any revised statement.
- (4) The relevant public body must comply with any published statement when exercising its functions under this Part.
- (5) The duty in paragraph (2) may be satisfied by a consultation carried out partially or wholly before the coming into force of this Part.

Part 4

Access to Justice in Environmental Matters

13. The right of access to justice in environmental matters

- (1) Relevant public authorities must act to secure the right of access to justice in environmental matters.
- (2) In this section:

“environmental matters” means claims within the scope of Article 9(1) or 9(2) or 9(3) of the Convention including the steps preparatory to such a claim including as taken pursuant to any relevant pre-action protocol issued under the Civil Procedure Rules and any appeal arising from the claim.

“the duty of candour” means the obligations of transparency, information and document provision owed by any party to an environmental claim to all other parties to that claim and to the court including in contemporaneously and candidly (including not misleading by omission) providing in full to the other parties any document any part of which is relied on in response to the claim or which evidences any decision or action relied on in response to the claim, and

“substantive and procedural legality” means [to complete in the light of the Findings of the Aarhus Convention Compliance Committee in Communication ACCC/C/2017/156 UK].³²

- (3) In any environmental claim in which the court considers the merits of the claim by reference to judicial review principles, that consideration will include consideration of the substantive and procedural legality of the matters under challenge in the claim.
- (4) Each relevant public authority must at all times act to further the right of access to justice in environmental matters including by³³:
 - a) Dealing with claims promptly and not causing unnecessary delay in the handling of claims and litigation,
 - b) Acting to give effect to the public interest in securing lawful and preventing unlawful behaviour by all public authorities,
 - c) Acting to facilitate and not hinder the court’s consideration of the substantive and procedural legality of the actions or decisions of a relevant public authority,
 - d) Directly responding to (so as to accept or dispute) factual allegations or legal submissions made by a claimant,
 - e) Being clear, forthcoming and candid (including not misleading by omission) about the full legal and full factual basis on which a relevant public authority is acting or has made any decision in issue in the proceedings,
 - f) Relying only on the factual and legal basis, and reasons in the mind of the decision maker, at the time of and which informed the action or decision under challenge in the proceedings,
 - g) Acting at all times in accordance with the duty of candour, and
 - h) Not responding to the claim or the progression of the claim by reliance on any failure by the claimant to comply with any procedural

³² See: https://unece.org/env/pp/cc/accc.c.2017.156_united-kingdom.

³³ Similar provisions apply in the Australian state of Victoria: <https://www.justice.vic.gov.au/justice-system/laws-and-regulation/victorian-model-litigant-guidelines> and to the Australian Commonwealth: <https://www.legislation.gov.au/Details/F2018C00409>.

requirement of the Civil Procedure Rules or other court requirements unless the non-compliance had the effect of causing significant public harm.

- i) Not requiring the claimant to prove a matter which the public authority knows to be true.
- (5) If the court considers that a relevant public authority has not acted in accordance with the obligation in section 1 it must, in an environmental case, award costs against that relevant public authority.
- (6) If any party to an environmental matter/case argues that any required permission for the court to proceed to a substantive consideration of the merits of the claim should not be granted, then that party shall pay the claimant's costs of securing the permission if permission is then granted by the court.
- (7) The Secretary of State will publish, and will every three years will review and potentially revise, a statement explaining the duty of candour as it is to take effect for the purposes of this section.
- (8) Before publishing a statement or revised statement for the purposes of subsection (5) the Secretary of State shall consult such persons and organisations including Parliament and all approved regulators within the meaning of the Legal Services Act 2007 as they consider appropriate.

14 Environmental Tribunals

(1) Having consulted publicly on draft proposals by [date] the Secretary of State shall by [date] publish proposals for establishing a system of local environmental tribunals:

- a) To address complaints relating to actions by relevant public authorities under this Act; and
- b) [To provide for persons aggrieved by a decision by a relevant public authority to grant an authorisation which permits an activity which has an impact on the environment to challenge the merits of that decision.]

(2) The Secretary of State shall undertake a review of the implementation of the right of access to justice with a view to making further provision to ensure that costs in environmental cases are not prohibitive. The review shall conclude no later than [date].

Part 5

General

15. Definitions

In this Act, references to ‘the Convention’ are to the UNECE Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters done at Aarhus Denmark on 25 June 1998

[other]

16. Annual report

As soon as reasonably practicable after the end of each financial year, beginning with the financial year in which this section comes into force, the Secretary of State must lay a statement before Parliament that sets out—

(a) the Secretary of State’s assessment of the progress made in meeting air quality objectives, and air quality standards, in relation to England, and

(b) the steps the Secretary of State has taken in that year in support of the meeting of those objectives and standards.”

17. Commencement

(1)The following provisions come into force on the day on which this Act is passed—

(a)....

18. Extent

(1)This Act forms part of the law of England and Wales.

19. Short Title

This Act may be cited as the Environmental Rights Act [202X].

Schedule 1

Relevant public bodies for the purposes of Parts 1-4 include

Public authorities must require licence holders [and other businesses] to include rights-based assessment in relevant policies and reports

Schedule 2:

Part 1 – relevant international standards

To be completed but includes:

World Health Organisation Air Quality standards

World Health Organisation Standards on Drinking Water

World Health Organisation Standards on Recreational Water

Other WHO standards and others?

Part 2 – environmental standards

Schedule 3 : Regulations implementing retained EU law which gave effect to the Aarhus Convention

[This list is taken from the UK's Aarhus Implementation Report and is indicative only as it remains under ongoing review including to add any relevant regulations which have been omitted and or replaced following the exit of the UK from the European Union]

- a. The Environmental Permitting (England and Wales) Regulations 2016;
- b. The Environment Act 1995;
- c. Environmental Protection Act 1990;
- e. The Offshore Combustion Installations (Prevention and Control of Pollution) Regulations 2013;
- f. Town and Country Planning Act 1990;
- g. ; The Town and Country Planning (Environmental Impact assessment) Regulations 2017;
- h. The Town and Country Planning (Environmental Impact assessment) (Wales) Regulations 2016 for England and Wales
- i. Town and Country Planning (Environmental Impact Assessment) (Mineral Permissions and Amendment) (England) Regulations 2008;
- j. The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 ;
- k. The Town and Country Planning (Environmental Impact Assessment) (Undetermined Reviews of Old Mineral Permissions) (Wales) Regulations 2009;
- l. Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017;
- m. The Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017;
- n. Environmental Impact Assessment (Water Management) (Scotland) Regulations 2003;
- o. The Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2017;
- p. The Environmental Impact Assessment (Forestry) (England and Wales) Regulations 1999;
- q. Environmental Impact Assessment (Forestry) (Scotland) Regulations 1999;
- r. The Agriculture, Land Drainage and Irrigation Projects (Environmental Impact Assessment) (Scotland) Regulations 2017;
- s. Drainage (Environmental Impact Assessment) Regulations (Northern Ireland) 2006;
- t. The Drainage (Environmental Impact Assessment) Regulations (Northern Ireland) 2017

- u. The Flood Risk Management (Flood Protection Schemes, Potentially Vulnerable Areas and Local Plan Districts) (Scotland) Regulations 2010;
- v. Environmental Impact Assessment (Fish Farming in Marine Waters) Regulations 1999;
- w. ;
- x. Highways (Assessment of Environmental Effects) Regulations 1999;
- y. Roads (Environmental Impact Assessment) Regulations (Northern Ireland) 1999;
- z. The Roads (Environmental Impact Assessment) Regulations (Northern Ireland) 2007;
- aa. The Harbour Works (Environmental Impact Assessment) Regulations 1999;
- bb. Harbour Works (Environmental Impact Assessment) Regulations (Northern Ireland) 2003;
- cc. The Electricity Works (Environmental Impact Assessment) (England and Wales) Regulations 2000;
- dd. The Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017;
- ee. The Pipe-line Works (Environmental Impact Assessment) Regulations 2000;
- ff. Nuclear Reactors (Environmental Impact Assessment for Decommissioning) Regulations 1999;
- gg. The Offshore Petroleum Production and Pipe-lines (Assessment of Environmental Effects) Regulations 1999;
- hh. The Energy Act 2008 (Consequential Modifications) (Offshore Environmental Protection) Order 2010;
- ii. The Public Gas Transporter Pipe-line Works (Environmental Impact Assessment) Regulations 1999;
- jj. The Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006;
- kk. The Transport and Works (Assessment of Environmental Effects) Regulations 2000;
- ll. The Transport and Works (Assessment of Environmental Effects) Regulations 2006;
- mm. Transport and Works (Scotland) Act 2007;
- nn. The Electricity Act 1989 (Requirement of Consent for Offshore Wind and Water Driven Generating Stations) (England and Wales) Order 2001;
- oo. The Electricity Act 1989 (Requirement of Consent for Offshore Wind Generating Stations) (Scotland) Order 2002;
- pp. The Offshore Electricity Development (Environmental Impact Assessment) Regulations (Northern Ireland) 2008;

qq. The Environmental Impact Assessment (Agriculture) (England) (No.2) Regulations 2006;

rr. Marine Works (Environmental Impact Assessment) Regulations 2007;

ss. The Water Resources (Environmental Impact Assessment) Regulations 2003;

tt. The Water Resources (Environmental Impact Assessment) Regulations (Northern Ireland) 2017;

uu. Water Environment (Controlled Activities) (Scotland) Regulations 2011;

vv. Environmental Impact Assessment (Agriculture) Regulations (Northern Ireland) 2007;

ww. The Environmental Impact Assessment (Agriculture) (Wales) Regulations 2007;

xx. The Town and Country Planning (Development Plan) (Amendment) Regulations 1997 (revoked so far as they extend to England);

yy. The Town and Country (Local Planning) (England) Regulations 2012; ;

zz. Town and Country Planning (Local Development Plan) (Wales) Regulations 2009;and;

aaa. The Town and Country Planning (Scotland) Act 1997;

bbb. Town and Country Planning (Development Planning) (Scotland) Regulations 2008;

ccc. Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011;

ddd. Planning Act 2008;

eee. The Infrastructure Planning (Environmental Impact Assessment) Regulations 2009;

fff. The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009;

ggg. Infrastructure Planning (Examination Procedures) Rules 2010;

hhh. The Infrastructure Planning (Interested Parties and Miscellaneous Prescribed Provisions) Regulations 2015;

iii. Infrastructure Planning (Decisions) Regulations 2010;

jjj. Infrastructure Planning (Compulsory Acquisition) Regulations 2010;

zzz. The Town and Country Planning (Development Management Procedure) (England) Order 2015;

aaaa. Town and Country Planning (Development Management Procedure) (Wales) Order 2012.

bbbb. The Roads (Environmental Impact Assessment) Regulations (Northern Ireland) 2017;

cccc. Environmental Impact Assessment (Forestry) Regulations (Northern Ireland) 2006;

dddd. The Water Resources (Environmental Impact Assessment) Regulations (Northern Ireland) 2017.

The Habitat Regulations

The Marine WFD Regulations

Urban waste water treatment etc

In the UK, all projects likely to have a significant effect on the environment are subject to control under EIA regimes which implement EU Directive 2011/92/EU as amended by Directive 2014/52/EU).

Pesticides Regulations implementing Regulation EU No 1107/2009 [remains in force for now but frozen as of 1 January 2021 except for Northern Ireland]?

[The Plant Protection Products (Miscellaneous Amendments) (EU Exit) Regulations 2019 (the 2019 Regulations) established a GB register of approved active substances and provided that existing EU approvals were carried over]

Article 7

The European Union has implemented some of these requirements through Directive 2003/35/EC and its successor legislation and through Directive 2001/42/EC of the European Parliament and of the Council on the assessment of the effects of certain plans and programmes on the environment (<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2001:197:0030:0037:EN:PDF>), which applies to a wide range of public plans and programmes (e.g. on land use, transport, energy, waste and agriculture).

The UK was required to bring into force the laws, regulations and administrative provisions necessary to comply with the EU legislation and the relevant domestic legislation includes the following, as amended where relevant:

- (a) The Air Quality Standards Regulations 2010;
- (b) The Air Quality Standards Regulations (Northern Ireland) 2010;
- (c) The Air Quality Standards (Scotland) Regulations 2010;
- (d) The Air Quality Standards (Wales) Regulations 2010;
- (e) The Environmental Assessment of Plans and Programmes Regulations 2004;
- (f) Environmental Assessment (Scotland) Act 2005;
- (g) The Environmental Assessment of Plans and Programmes (Wales) Regulations 2004;
- (h) The Environmental Assessment of Plans and Programmes Regulations (Northern Ireland) 2004;
- (i) Part II of the Planning Act (Northern Ireland) 2011;
- (k) The Waste and Contaminated Land (Northern Ireland) Order 1997;
- (l) The Planning (Hazardous Substances) (No.2) Regulations (Northern Ireland) 2015;

- (m) The Planning (Local Development Plans) Regulations (Northern Ireland) 2015;
- (p) Planning and Compulsory Purchase Act 2004;
- (q) Planning and Compensation Act 1991;
- (r) Public Health (Air Quality) (Ozone) (Amendment) Rules 2005;
- (t) The Nitrate (Public Participation etc.) (Scotland) Regulations 2005;
- (x) The Transfrontier Shipment of Waste Regulations 2007;
- (y) The Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006;
- (z) The Transport and Works (Assessment of Environmental Effects) Regulations 2006;
- (aa) Transport and Works (Scotland) Act 2007;]

Schedule 4

[To be inserted once the text of the Online Safety Act is finalised]