

Natural Environment and Rural Communities Bill Amendment for Committee: duty to conserve biodiversity

Page 13, line 34 [Clause 40]:

Leave out from 'have' to end of line 36, and insert:

“...further the conservation of biodiversity, so far as is consistent with the proper exercise of those functions.”

Briefing

The Countryside and Rights of Way Act (2000) introduced duties on government to have regard to the UN Biodiversity Convention, to publish lists of priority species and habitats, to further the conservation of these species and habitats and promote others to do likewise. These duties are repeated in the NERC bill (40(2), 41 and 42) and we fully support the inclusion of these requirements.

Clause 40(1) introduces a new duty on all public authorities to 'have regard to' the purpose of biodiversity conservation. We strongly support the inclusion of such a duty as the minimum requirement if biodiversity conservation is to be properly delivered throughout the public sector. We particularly support the recognition that biodiversity conservation includes 'restoring and enhancing' populations and habitats. However, we believe there should be a stronger, clearer duty 'to further' biodiversity conservation rather than the proposed 'have regard to' duty, and we therefore propose the amendment above.

There are two main reasons for this amendment. First, to effectively deliver the commitments made by government, we believe that all public bodies should play an active role in meeting biodiversity objectives. Second, we believe that such an amendment is needed to ensure that biodiversity conservation is given consistent and appropriate support by public bodies throughout the United Kingdom.

'Working with the Grain of Nature: A biodiversity strategy for England' acknowledged that, if the Government is to meet its international biodiversity targets (including halting the loss of biodiversity in the EU by 2010), biodiversity must be 'mainstreamed' into all of its activities. The strategy recognised that, if biodiversity is to be conserved effectively, government will need to go beyond site protection and the implementation of action plans by the nature conservation agencies. Biodiversity conservation is something that all public authorities can, and should, play a part in. We anticipate that the Wales Environment Strategy will contain similar aspirations when it is published later this year.

The proposed amendment will give the necessary impetus for public bodies to go beyond thinking about biodiversity conservation, and to start taking action. It will give a clearer and unequivocal signal that biodiversity delivery needs to be integrated into all appropriate areas of policy and practice. This does not mean additional burdens or expensive measures for public authorities, but it does mean carrying out existing responsibilities in ways that help to further biodiversity conservation. For example, in exercising their planning functions, local authorities can take a more proactive role in encouraging positive planning for biodiversity, by ensuring that biodiversity is properly taken into account in development proposals, including the introduction of planning conditions to create appropriate biodiversity habitats. A good example of this is the Section 106 agreement introduced by Newbury District Council on the redevelopment of Greenham Common Airbase. This resulted in a significant increase in the extent of lowland heathland, a priority habitat under the UK Biodiversity Action Plan (BAP).

Local authorities and other public bodies can also play a fuller part in furthering biodiversity conservation through the management of land holdings. For example, managing roadside verges for road safety and biodiversity or amenity grassland for recreation and biodiversity by changing cutting regimes can be cost neutral, or even save money, whilst helping to enhance biodiversity.

The Scottish Parliament is to be congratulated on the inclusion of a clear duty on public bodies 'to further the conservation of biodiversity' in the Nature Conservation (Scotland) Act 2004. But biodiversity does not recognise national boundaries, and there are populations of the same UK BAP species and areas of the same UK BAP priority habitats in both Scotland and England.

There are some Government departments and agencies such as the Ministry of Defence with reserved responsibilities. However, we understand that the MoD's land management in Scotland will come under the Scottish duty. A difference between the duty in the Scottish and English legislation could therefore result in inconsistent treatment of biodiversity. The MoD in England would be required to 'have regard to' the conservation of an area of priority habitat such as upland heathland within its ownership, but it would have a duty 'to further' the conservation of the same habitat in Scotland. Pressures on biodiversity in England are as intense, if not more so, than in Scotland. England's biodiversity therefore merits at least the same level of consideration and input from public authorities as it already receives in Scotland.

Wildlife and Countryside Link (Link) brings together voluntary organisations concerned with the conservation and protection of wildlife and the countryside. Our members practise and advocate environmentally sensitive land management and food production and encourage respect for and enjoyment of natural landscapes and features, the historic environment and biodiversity. Taken together, our members have the support of seven million people in the UK and manage over 398,000 hectares of land. This statement is supported by:

- Bat Conservation Trust
- Buglife – The Invertebrate Conservation Trust
- Butterfly Conservation
- Council for National Parks
- Friends of the Earth England
- Herpetological Conservation Trust
- Mammal Society
- Marine Conservation Society
- Plantlife International
- Pond Conservation: The Water Habitats Trust
- RSPB
- The Wildlife Trusts
- Whale and Dolphin Conservation Society
- Woodland Trust
- WWF-UK

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