



## Parliamentary Briefing: Environment Bill - Lords Amendment 45B on Sewage Pollution 8th November 2021

### Introduction

In response to the public outcry at the Government's opposition to the Duke of Wellington's Amendment, which sought a '*progressive reductions in the harm caused by discharges of untreated sewage*,' the government promised a new amendment that would deliver the wishes of the public and be true to the intentions of the Duke's amendment.

Unfortunately, the wording of the government's amendment 45B is weaker, with too much room for broad interpretation and does not go far enough. In the little time made available for scrutiny in today's Consideration of Lords Message to the Environment Bill, legal commentators have already highlighted significant loopholes. **At a time when public trust in politicians has once again been shaken, we hope MPs will stand firm and insist on clarity and action by Ministers to create a pathway out of pollution.**

We cannot accept our rivers and seas continue to be treated like an open sewer by water companies. Last year saw a record 400,000 releases of untreated sewage. This must stop.

Since 1991 water companies have failed to treat sewage "effectually" as required by the Water Industry Act 1991 and the regulator OFWAT has singularly failed to use the powers granted to them to enforce that duty over the last 30 years. The Environment Agency has also been systematically defunded and disempowered to act. The Strategic Policy Statement for water (SPS) is Parliament's opportunity to hold OFWAT to account and demand that investment be unlocked to overhaul our 'creaking and leaking' sewerage system that DEFRA themselves admit is no longer fit for purpose.

Without regulation, investment and enforcement anything agreed by Parliament on Monday 8<sup>th</sup> of November will not yield the scale or pace of change that is demanded or required. It is time for meaningful action, and we urge MPs to seek clear assurances from Ministers before deciding how to vote on the amendment.

### The Duke of Wellington's Amendment

The Duke of Wellington's elements of Lords Amendment 45 would place a new duty on sewerage undertakers in England and Wales to make improvements to their sewerage systems and demonstrate progressive reductions in the harm caused by discharges of untreated sewage. It would also require the Secretary of State, the Director of Ofwat (the economic regulator) and the Environment Agency to ensure compliance with the duty through the exercise of their respective functions.



## The Government's Amendment

### Reduction of adverse impact of storm overflows

*A sewerage undertaker whose area is wholly or mainly in England must secure a progressive reduction in the adverse impact of discharges from the undertaker's storm overflows.*

*The reference in subsection (1) to reducing adverse impacts includes—*

- (a) reducing adverse impacts on the environment, and*
- (b) reducing adverse impacts on public health.*

*The duty of a sewerage undertaker under this section is enforceable under section 18 by—*

- (a) the Secretary of State, or*
- (b) the Authority with the consent of or in accordance with a general authorisation given by the Secretary of State.*

## Why is the government's version weaker?

- It is confined to storm overflows and not the sewerage system as a whole
- There's no specific duty on OFWAT or the EA to ensure compliance
- It refers to 'adverse impacts' rather than 'reductions in harm' giving the water companies plenty of wriggle room to keep polluting.
- A fudge in the form of a few pilot projects could be construed as complying with the amendment.
- There is little prospect that on its this amendment will see anything other than minor improvements to some storm overflows.
- This will not do - our rivers and coastlines deserve better.

## What could make things better?

The amendment is weak and will only work if the government, and its successors, show real political will to address the problem.

We need the Secretary of State to confirm that he will do three things:

- i. Tell the EA to immediately start to set tougher permits for sewage works and CSOs and monitor, inspect and enforce against them, under the EPR. The Secretary of State could do this by way of Ministerial Direction.
- ii. Tell OFWAT that it has a central role to play in cleaning up sewage and must enforce section 94(1)(b) of the WIA 1991 – the SofS can do this via the SPS. OFWAT to be made accountable to Parliament on an annual basis by reporting directly to the EFRA and/or EAC select committees on progress in reducing sewage discharges.
- iii. Strengthen the current draft SPS to generate clear investment plans backed by resources to begin eliminating the worst and most damaging sewage pollution.

The Storm Overflow Evidence Project report is now published and contains a range of affordable options for tackling pollution from CSOs. This is in stark contrast to some of the inaccurate,



scaremongering information being fed to MPs and the public at the time of the previous debate on the Wellington Amendment.

<https://www.riverstrust.org/about-us/news/sewage-scaremongering>

<https://fightingforfishing.anglingtrust.net/2021/10/27/back-paddling-up-the-creek/>

### **In Summary**

While we welcome the belated acceptance by Ministers that action is needed now to tackle the scandal of untreated sewage pouring into our rivers and coastlines their amendment is weak and will achieve very little on its own.

This will require strong direction from Ministers to both the water companies and to their two regulators - Ofwat and the Environment Agency.

Ofwat must be forced to consider the environmental impacts of all decisions and be held to account on an annual basis.

Ofwat must be given the strongest possible instruction via the current SPS to release the investment necessary to overhaul the woefully inadequate wastewater infrastructure.

The Environment Agency must be instructed and resourced to effectively prosecute any pollutions that breach permit condition. The discharge permits themselves must be reviewed and scaled back as part of the progressive reduction in pollutions.

The test of this policy will be the level of sewage discharge reductions, the number of rivers achieving Good Ecological Status and the number of inland bathing waters declared over the next four years, and achieving swimmable water quality, as well as through each subsequent water industry price review. The public want to see a clear pathway out of pollution.

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