

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

ENVIRONMENT BILL

Sixteenth Sitting

Tuesday 17 November 2020

(Morning)

CONTENTS

CLAUSES 75 to 78 agreed to, some with amendments.

SCHEDULE 13 agreed to.

CLAUSES 79 and 80 agreed to.

CLAUSE 81 under consideration when the Committee adjourned till this day at Two o'clock.

No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor’s Room, House of Commons,

not later than

Saturday 21 November 2020

© Parliamentary Copyright House of Commons 2020

This publication may be reproduced under the terms of the Open Parliament licence, which is published at www.parliament.uk/site-information/copyright/.

The Committee consisted of the following Members:

Chairs: † JAMES GRAY, SIR GEORGE HOWARTH

- | | |
|---|--|
| † Afolami, Bim (<i>Hitchin and Harpenden</i>) (Con) | † Jones, Ruth (<i>Newport West</i>) (Lab) |
| † Anderson, Fleur (<i>Putney</i>) (Lab) | † Mackrory, Cherilyn (<i>Truro and Falmouth</i>) (Con) |
| † Bhatti, Saqib (<i>Meriden</i>) (Con) | † Moore, Robbie (<i>Keighley</i>) (Con) |
| † Brock, Deidre (<i>Edinburgh North and Leith</i>) (SNP) | † Pow, Rebecca (<i>Parliamentary Under-Secretary of State for Environment, Food and Rural Affairs</i>) |
| † Browne, Anthony (<i>South Cambridgeshire</i>) (Con) | Thomson, Richard (<i>Gordon</i>) (SNP) |
| † Crosbie, Virginia (<i>Ŷnys Môn</i>) (Con) | † Whitehead, Dr Alan (<i>Southampton, Test</i>) (Lab) |
| † Docherty, Leo (<i>Aldershot</i>) (Con) | † Zeichner, Daniel (<i>Cambridge</i>) (Lab) |
| † Furniss, Gill (<i>Sheffield, Brightside and Hillsborough</i>) (Lab) | Anwen Rees, Sarah Ioannou, <i>Committee Clerks</i> |
| † Graham, Richard (<i>Gloucester</i>) (Con) | |
| † Jones, Fay (<i>Brecon and Radnorshire</i>) (Con) | † attended the Committee |

Public Bill Committee

Tuesday 17 November 2020

(Morning)

[JAMES GRAY *in the Chair*]

Environment Bill

9.25 am

The Chair: I welcome hon. Members back to line-by-line consideration of the Environment Bill. I particularly welcome the hon. Member for Ynys Môn, who joins our Committee for the first time.

Clause 75

WATER RESOURCES MANAGEMENT PLANS, DROUGHT PLANS AND JOINT PROPOSALS

Dr Alan Whitehead (Southampton, Test) (Lab): I beg to move amendment 9, in clause 75, page 66, line 11, leave out “may” and insert “must”.

We start this morning with an amendment relating to clause 75. It will not be a surprise to any member of the Committee. The suggestion is to replace the word “may” in the line under the heading “Plans and joint proposals: regulations about procedure”. Proposed new section 39F of the Water Industry Act 1991 states:

“The Minister may by regulations make provision about the procedure for preparing and publishing—

- (a) a water resources management plan,
- (b) a drought plan, and
- (c) a joint proposal”.

It seems to the Opposition that it is very important that these things—a management plan, drought plan and joint proposal—are actually published and that provision is made about the procedure for publishing them. That is a central part of this clause.

As we have said in this Committee previously, no aspersions are cast in any direction concerning the present intentions of Ministers, but I remind the Committee that we are making legislation for a very long time and that there might conceivably be circumstances in which Ministers less well inclined towards the process light upon this clause and decide that it is not really so important that regulations are made, hence we think that the word “must” should be inserted in the Bill.

We have pointed on a number of occasions to the lack of “musts” in the Bill. I think that this is one of the more important ones and I hope that the Minister, even if she is not prepared to consider a number of the other “musts”, will have laid by a little store of sympathy for this “must” proposal, because it relates, as I think she would agree, to a very important feature of this clause.

Fleur Anderson (Putney) (Lab): I would like to add to the argument about the fact that this legislation will stand for a long time. Even the fact that clause 75 amends the Water Industry Act 1991 is a reminder to us of how long we expect this legislation to be in force and people to be acting on it accordingly. The Water Industry Act became law 29 years ago and we are still discussing it, and how we will amend it, now. Many years from now, we will still be discussing this legislation, and

therefore it is so important to get it right. That is why a “must” instead of a “may” is very important, especially in this clause.

This amendment seeks especially to talk about regional plans. Currently, planning on a regional rather than a company-by-company basis is non-statutory, and so to put this on a statutory basis would be a gear change in terms of water resource management. I would welcome any moves to put regional plans on a statutory footing, but the Government have to be clearer on the circumstances in which the Secretary of State would use the powers and how adherence to the regional plans would be encouraged if it were not clearly set out here. The current drafting is too weak and does not give this clause the teeth that it needs.

By changing “may” to “must”, amendment 9 would tighten up the clause considerably and make it far more effective. It would require the Secretary of State to make provision setting out the procedure for preparing and publishing water resources management plans, drought plans and joint proposals. I would like the Minister, before rejecting the amendment and dismissing it as unnecessary, to answer the following questions. Under what circumstances would the Secretary of State expect to use the powers created by clause 75 to direct water companies to prepare and publish joint proposals—the regional plans? There is a concern that that will not become standard practice if it is not expected. If the powers are not used and regional water resources planning remains on a non-statutory footing—if it is just a “may”—how will the Secretary of State ensure that companies produce water resources management plans that are aligned with the regional plans?

In the absence of a commitment to using the powers created under clause 75 to direct regional planning, can the Minister assure us that the Secretary of State will direct the Department for Environment, Food and Rural Affairs to set out the need for company plans to align fully with regional plans in its strategic policy statement to Ofwat? Otherwise, many who are listening to and reading this debate will remain concerned that companies’ individual plans could deviate from regional plans, affecting our ability to provide sustainable water resources for society in the light of the worrying projections set out in the Environment Agency’s national framework for water resources.

Anthony Browne (South Cambridgeshire) (Con): I want to make a general philosophical point about “mays” and “musts”. We have been talking about this matter a lot over the past couple of weeks. Obviously, our end objectives are the same: we all want a Bill that strengthens environmental protection, and a strong and independent Office for Environmental Protection.

I realise that this clause is slightly different from earlier clauses, but I will make the generic point that when we say that something should be a “must” rather than a “may”, we are often prescribing what the OEP can do. I realise that this amendment is about Ministers, but if we accepted all the amendments on this point, the OEP would end up with a whole list of things that it must do, as prescribed by the Committee, and it would spend all its time ticking those boxes. We would take agency away from the OEP.

As a parent, if I go around telling my children, “You must do this, and you must do that,” they do not feel very independent. If I tell them that they have to be

grown up and make their own decisions, they feel more empowered. Throughout this whole process—we have another couple of weeks to consider amendments—it is worth thinking about what being so directive towards the OEP would do to its agency and independence.

The Parliamentary Under-Secretary of State for Environment, Food and Rural Affairs (Rebecca Pow): It is good to be back this week. I welcome the shadow Minister again, and the new member of our Committee, my hon. Friend the Member for Ynys Môn. I thank the hon. Member for Southampton, Test for the amendment. I understand that the intention is to give certainty that Ministers will make secondary legislation about the procedure for preparing and publishing water resources management plans, drought plans and joint proposals, but he is again playing on my sympathies over “may” and “must”. He will not be surprised that I am not going to relent on this one.

I think the hon. Member will agree that the explanation is quite clear. The duties under sections 37A and 39B of the Water Industry Act 1991, which we have already heard about, to prepare and maintain water resources management plans and drought plans remain on statutory undertakers; they are “must” duties on the Minister. This was raised by the hon. Member for Putney. The plans are already on a statutory footing, and the Minister’s power to make regulations about procedural matters, to which the amendment refers, does not remove those duties. Ministers fully understand that water undertakers need to know the procedural requirements for fulfilling their duties in good time.

I thank my hon. Friend the Member for South Cambridgeshire for the good points that he made about independence and his children. It is entirely appropriate to provide Ministers with flexibility on when and how this provision is given effect.

Daniel Zeichner (Cambridge) (Lab): I come from a very dry region, which adjoins the constituency of the hon. Member for South Cambridgeshire. Some water companies, such as Anglian Water, are already working with other parts of the country, and there are regional plans coming into place. Does the Minister agree that it would be much better to give legal certainty by specifying that as the amendment suggests?

Rebecca Pow: I thank the hon. Gentleman for that point, and lots of companies are already working towards that. We will talk later in more detail about how water companies will work holistically together to deal with the whole water landscape.

In the Bill, the Secretary of State has powers to direct future procedure under statutory legislation if he thinks, for example, that more attention needs to be given to what the hon. Gentleman suggests. There are existing powers in section 37B of the 1991 Act to make regulations for procedural requirements, and those are replaced by new section 39F. The existing powers have already been used by Ministers to make the Water Resources Management Plan Regulations 2007 and the Drought Plan Regulations 2005.

Water companies’ plans are revised every five years. The plans are prepared at different times within their own five-year cycles. When exercising these powers, Ministers in England therefore need to be flexible and

mindful of when to introduce the new planning requirements, so as not to have unnecessary impacts on the preparation of water companies’ plans, many of which are under way. I therefore ask the hon. Gentleman to withdraw the amendment.

Dr Whitehead: I think the Minister knows what my answer is going to be. The hon. Member for South Cambridgeshire made a fair point about what would happen if we put in every “must” in every place in the Bill, and how that might constrain the agencies that are responsible for carrying out its business, but that is not what the Opposition has done with our repeated suggestions for the inclusion of “mays” and “musts”.

We agree with the hon. Gentleman that it is not appropriate for an agency to be constrained in that way if, for example, it may decide to carry out an action relating to an investigation or look at the extent to which it ought to do certain things. In that case, it is not appropriate to use “must”, and “may” is perfectly appropriate. There are, however, other circumstances where it is clear that an agency, or indeed the Minister, ought to do something.

In his analysis, the hon. Member for South Cambridgeshire made reference to parents and children, and I would say that this is on the parents’ side. It is a “must” in the same way as a parent must not leave their child on a bare hillside for the evening to see whether they survive. That is the sort of “must” this is, rather than a stipulation that a parent or a child must do certain things. I would put the Minister in the role of the parent, as far as this process is concerned. If the Minister is, in a sense, the parent of these activities, the Minister ought to act like a good parent. If there is a suggestion in the Bill that the Minister “may” not, that should be recognised.

In answer to the Minister’s question, I will not press this amendment to a Division. I know that this is becoming a little formulaic, but the Minister may want to reflect on whether drafting amendments need to be made at certain places in the Bill, either now or at a future date, bearing in mind that this is not a spray-paint job as far as “mays” and “musts” are concerned. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Dr Alan Whitehead: I beg to move amendment 130, in clause 75, page 66, line 22, at end insert “including persons or bodies representing the interests of those likely to be affected.”

I will give the game away straight away by saying that this is a probing amendment, as I am sure the Minister will be pleased to learn, and we seek her comments on it. As my hon. Friend the Member for Putney said, the 1991 Act has been with us for a while. Does the Minister think that bodies that represent those who are likely to be affected by a water resources proposal or a drought plan should be included in the process of preparing and publishing regulations? There is a distinction to be made between the Government deciding to make a plan, and those who would be particularly affected by that plan—for example, the hon. Members who would be affected by a drought plan in Cambridgeshire—having input into the process. There is a relationship between a high-level plan and the reality of any changes on the ground, and it is important to have both perspectives.

[Dr Alan Whitehead]

That is the reason for this amendment, and the Minister may wish to comment on whether she agrees with the principle behind it, even if the wording is not quite right. I would particularly like to hear whether she is signed up to the idea that I have set out and, if so, whether there are other ways of ensuring that the drawing up of these plans and proposals is a two-way process.

Fleur Anderson: I would like to unpack the amendment slightly more and highlight some areas that may be affected by the Government's proposals. We would be very interested to hear from the Minister how this Bill will be enacted on the ground after it has progressed through both Houses.

Consultation is key during any planned preparation. The plans to clean up our water across the country are essential and, unless they are done correctly and with the full engagement of all the representative bodies, they will not work. If that happens, the current plateauing of environmental protection, which many people find very concerning, will continue.

The removal of section 37A(8) from the Water Industry Act 1991 will remove a list of other bodies. The Act states:

“Before preparing its water resources management plan...the water undertaker shall consult”—

the use of the word “shall” is interesting. Following on from the comments of the hon. Member for South Cambridgeshire, I think that our job in this Bill is to say what is within the OEP's remit, what must happen and what the OEP, with its flexibility, can decide should happen. We need to set that framework, and an essential part of that is engagement with all the right agencies. The proposed deletion will remove the Environment Agency; Natural Resources Wales; the Water Services Regulation Authority, or Ofwat; the Secretary of State; and any licensed water supplier, as listed in the 1991 Act. These bodies will not be included in this Bill unless we add the text of the amendment, which is, I think, very reasonable,

“including persons or bodies representing the interests of those likely to be affected”.

I do not think that that is overly restrictive, because it would give the OEP the ability to decide who those persons or bodies are. It does, though, say that they must be consulted. Has the Minister considered how to ensure that the new provisions on the preparation of plans by water undertakers will retain stakeholder engagement requirements? Does the Minister believe that the proposals are sufficient to ensure that the Environment Agency, in particular, is fully engaged in plan development? Its involvement is crucial to ensure a high level of environmental scrutiny of water resources options. That is essential for both the working of the Environment Agency and the effectiveness of any plans.

The Minister may suggest that this is dealt with through other requirements such as the customer challenge groups. However, those arrangements are typically extremely narrow and do not enable the wide engagement of the stakeholder that is necessary for the best plans—world-leading plans. Amendment 30 would ensure that consultation rights for stakeholders—

The Chair: It is amendment 130.

Fleur Anderson: Thank you, Mr Gray. Amendment 130 would ensure that consultation rights for stakeholders could be created under such regulations and allow these provisions to include a requirement for

“persons or bodies representing the interests of those likely to be affected”

by a plan to be consulted during the plan preparation. This requirement should be included in the Bill to make it as clear as possible and to ensure that full consultation with stakeholders takes place, so that we have the best possible water resources management plans and the best likelihood of increasing water quality across the country.

9.45 am

Rebecca Pow: I thank the shadow Minister for this amendment—a probing amendment, as he said. I understand the intention to ensure that those who are likely to be affected by water resource management plans, drought plans and joint proposals be consulted. The Government recognise that planning for water resources is strengthened by the involvement of a range of stakeholders, both individuals and representative organisations, in the development of the plans, as was outlined by the hon. Members who spoke.

The Government intend that stakeholders will be involved in the preparation and delivery of these plans in England. Clause 75 enables Ministers to set out in regulations which bodies are to be consulted on the preparation of plans. Under existing powers, Ministers have set out a long list of relevant consultees in the Water Resources Management Plan Regulations 2007 and the Drought Plan Regulations 2005. The Environment Agency's national framework for water resources in England, which was published in March, already gives further clarity. It sets out how we expect water undertakers in England to engage with stakeholders to prepare their plans in future.

Reflecting on the comments from the hon. Member for Putney, I want to clarify that Ministers in England want to ensure that the process of developing these plans is open and transparent—more so than ever—through these changes and that stakeholders are involved at the right time, so that they can effectively collaborate on the plans. If we are to encourage this more holistic joint-working approach, that is really important.

While the current wording of “persons” is not defined in the Water Industry Act 1991, the Interpretation Act 1978, which applies here, defines “persons” as including

“a body of persons corporate or unincorporate”—

that is, a natural person or a legal person. It includes a partnership, which would include representative bodies. The meaning of “persons” is very broad and would include representative bodies, making the amendment unnecessary. I hope that provides clarity.

The changes introduced by clause 75 will help the plans to deliver cross-sector and mutually beneficial outcomes, which we all want for the wider water environment, as well to secure water supplies. I hope, therefore, that the hon. Member for Southampton, Test will see that his probing amendment is unnecessary. He was right to ask those questions, but I hope that I have answered them. I respectfully ask him to withdraw his amendment.

Dr Whitehead: I have, as a result of this debate, begun to feel that this is less of a probing amendment than I initially thought. My hon. Friend the Member for Putney made an important point, which I neglected to include in my contribution. The Water Industry Act 1991 included these things. At that time, there were specifications about agencies and bodies that should be consulted and involved in the plans. That has all been swept away.

While the Minister makes the possibly important point about the phrase “persons to be consulted” in proposed new section 37F(3), that appears to be a rather feeble replacement for what was firmly in the previous piece of legislation. At the very least, I would like some assurance. The Minister says that the phrase “persons to be consulted” could be interpreted as persons in the collective. By a transfer of reasoning, we might therefore get to the Environment Agency and various other people in the end. I would like the Minister to actually shorten that course and say, “Yes, it will,” so far as the Bill is concerned.

Rebecca Pow: The hon. Gentleman makes a good point, but just for clarity, we can make regulations to specify what persons or bodies must be consulted during the plan preparations, and we plan to use that power. I just wanted to get that on the record.

Dr Whitehead: I think we may be getting there. When the Minister says, “we can make regulations”, is she saying that the Government will make regulations that effectively restore that arrangement, in terms of persons, by a regulatory route, as I was trying to tease out? It would be helpful if the Minister said that it is very likely that regulations will come about that include a better definition of persons, so that those bodies can effectively be brought back into the process in a way that the Bill seems to have neglected to do.

The Chair: Does the hon. Gentleman wish to withdraw the amendment?

Dr Whitehead: The hon. Gentleman would like to encourage the Minister to say something else on this.

Rebecca Pow: I will intervene one more time, just for clarity. As I said, we made the Water Resources Management Plan Regulations 2007 and the Drought Plan Regulations 2005, which demonstrates that we have already done something like what the hon. Gentleman asks for. I reiterate that we can make regulations to specify what persons or bodies must be consulted during plan preparations, and we plan to use that power.

Dr Whitehead: I thank the Minister for that. That is 65% of the way there. On balance, I am happy to withdraw the amendment. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Amendments made: 47, in clause 75, page 67, line 20, leave out “the Assembly” and insert “Senedd Cymru”.

See Amendment 28.

Amendment 48, in clause 75, page 67, line 32, leave out “the Assembly” and insert “Senedd Cymru”.—*(Rebecca Pow.)*

See Amendment 28.

Clause 75, as amended, ordered to stand part of the Bill.

Clause 76

DRAINAGE AND SEWERAGE MANAGEMENT PLANS

Richard Graham (Gloucester) (Con): I beg to move amendment 200, in clause 76, page 68, line 17, at end insert—

“(ca) the water quality and impact of the discharges of the undertaker’s drainage system and sewerage system,”.

This is a probing amendment, tabled in the name of my right hon. Friend the Member for Ludlow (Philip Dunne), myself and others. The last amendment I tabled proposed to change one word and add one letter to the Bill’s proposed environmental improvement plans. This probing amendment adds 16 words to a subsection on drainage and sewerage management plans. Both amendments have in common the shared interests of our environment and us as beneficiaries of that environment.

Amendment 200 focuses on drainage and sewerage management plans. It is an uncomfortable fact for us all that a huge amount of raw sewage is still discharged into our coasts and waterways—200,000 times in the last year, with 3,000 discharges in UK coastal waters between May and September—all of which threatens the quality of the water itself and water users. It is for that reason that 40,000 people signed a petition to end sewage pollution. My right hon. Friend the Member for Ludlow was motivated to initiate a private Member’s Bill, which will be heard in the House in due course, and to table this amendment to the Environment Bill.

Surely it is the aim of all of us to stop discharges into rivers, lakes and waterways, as well as into our sea, and to raise our current rating within Europe—although we are leaving the European Union, we are still a geographical part of Europe—from 25th out of 30 for coastal water quality. Only 16% of our waterways meet good ecological status.

Why does that matter for all of us, as users? Ultimately, there are health risks—gastroenteritis, ear, nose and throat illnesses, and apparently even, although I have not seen evidence, hepatitis and E. coli. Those of us who enjoy wild water swimming—in the River Wye, for example, on the Gloucestershire-Herefordshire border—will know that there are times when agricultural companies are pumping discharge into the water and damaging its quality and the experience, particularly for the young.

Cherilyn Mackrory (Truro and Falmouth) (Con): My hon. Friend is making an important point. Does he agree that we need a change in when water companies give notifications of sewage outlets, particularly around the coastline, such as in my constituency and around the Cornish coast? Currently, they do it only in what they call “bathing months”. With better equipment and better wetsuits, we now swim all the year round off the Cornish coast. We have no way of knowing—unless we know that these things happen after heavy rainfall—whether the water is safe to bathe in.

Richard Graham: My hon. Friend makes a striking point. From a human perspective, Cornwall is probably the most used bit of coastline in our United Kingdom. The pressures are considerable and the point that she makes about more people swimming and surfing all year round is important. The restrictions should not

[Richard Graham]

just cover the traditional swimming months of May to September. I am sure the Minister will address that point.

Alongside a duty on water companies to ensure that untreated sewage is no longer pumped into the seas, the amendment would tackle a series of other actual and potential issues—for our water quality has implications across the whole ecological system, from plant life to fish stocks, as well as the health of the population. Our surface, coastal and ground waters suffer from significant pollution, as I have illustrated, and they also take that pollution into our seas and oceans. The Government have not made as much progress as we would have liked on meeting the targets established under the EU water framework directive, and the Bill is a step towards making significant improvements.

While diffuse pollution from agriculture, as I illustrated with the River Wye, accounts for 40% of river pollution, wastewater from sewage treatment accounts for almost as much, at 36% of river pollution.

Fay Jones (Brecon and Radnorshire) (Con): As a Parliamentary Private Secretary, I am not always meant to speak, but my hon. Friend mentions the River Wye, which runs through my constituency. It would be remiss of me not to mention that there are many actors in this space. We cannot solely blame farmers in their entirety. The issue needs a whole supply chain response, because it is too important a problem to lay solely at the door of agriculture.

Richard Graham: My hon. Friend makes a very good point. There will not be too much specific finger-pointing with the amendment, nor in the Bill in general. We have already referred to water companies. Agriculture, in the broadest sense, is a challenge along the river that she loves in her constituency so much. There are, of course, others who discharge pollution into our waterways. Everyone has to do their bit; that is why the amendment is so important.

Let us be clear that the drainage and wastewater management plans proposed under clause 76 are an excellent step forward. They seek to improve water company focus, and they send a clear message about improving the safe and environmentally responsible treatment of human effluent. However, there is an omission in the objectives. The amendment would therefore place the obligation on water companies, in their five-year plans, to consider the impact on water quality of the wastewater facilities for which they are responsible.

Sewage is estimated to account for 55% of the rivers that are failing to reach the good ecological status to which I referred. This can lead to pollutants such as organic material, which depletes the dissolved oxygen in the water, and other pollutants such as phosphorus, nitrates, ammonia, pathogens and man-made toxic chemicals entering the water environment.

10 am

We should acknowledge that water companies have made significant steps. The water company in my constituency, Severn Trent, has invested a huge amount in improvements. Overall, throughout the country, water companies have committed £4.5 billion between now

and 2025 towards environmental improvements. Despite the significant investments already made and planned, the Government—that is, DEFRA—acknowledge that progress has flatlined. The chair of the Environment Agency, Emma Howard Boyd, recently stated that, against environmental standards, the performance of water companies deteriorated in 2018, and was not showing much sign of improvement in 2019. In fact, at the current rate of progress, it is estimated it could take over 200 years to reach the Government's 25-year environment plan target of 75% of waters being close to their natural state. Therefore, we can all agree that there are opportunities for improvement.

With the interventions from my hon. Friends the Members for Truro and Falmouth and for Brecon and Radnorshire, I have referred to the importance of swimming—both so-called wild swimming and holiday swimming on the coast—and that is an important point.

The amendment would make a very simple change to the Bill. On page 68, in proposed new section 94A(3) to the 1991 Act, after the words,

“A drainage and sewerage plan must address”,

it would insert:

“the water quality and impact of the discharges of the undertaker's drainage system and sewerage system”.

To be clear, in this context, “undertaker” is a sewerage undertaker, which is the word used for a sewerage company. When I first read it, I was rather confused, but it is the water quality and impact of the discharges of the sewerage company's drainage system and sewerage system that this probing amendment attempts to improve.

The amendment has considerable support from non-governmental organisations, including Marinert, which has been fastidious in bombarding many Members' inboxes with its support for the amendment. The amendment also has the support of the Conservative Environment Network, which includes some 70 MPs, many of whom support the private Member's Bill of my right hon. Friend the Member for Ludlow, who would, had he been here, have made a much more persuasive and articulate case for this probing amendment. I hope they will not be unsatisfied with the key points I have highlighted today.

As it stands, the Bill has much to recommend it, but this particular omission is one that could be put right relatively straightforwardly. I therefore look forward to hearing the Government's response.

Dr Whitehead: The hon. Member for Gloucester has made a powerful speech in support of the amendment, covering many points that I would have raised had he not done so. The Opposition would have tabled an amendment on this subject had amendment 200 not appeared. We did not, because we saw that a substantial number of Members from both sides of the House had put their names to the amendment, which I think adds to its gravity. Frankly, we felt that if we had proposed a separate but similar amendment, it might have decreased the chances of this one being made, so we kept the position as it was. The one point I would disagree with the hon. Gentleman on is that the amendment should not be probing; it should be a serious attempt, with cross-party support, to get a provision into the Bill that will undoubtedly be to the benefit of the natural environment and its users as a result of changes in water companies' activities.

I want to reinforce what the hon. Gentleman had to say about discharges of sewage and similar activities that have taken place over a number of years. He is right to state that there were more than 200,000 releases of raw sewage into rivers last year. That number slightly underestimates the actual effect of the releases, since some occurred over an extended period rather than being instant. We should think about why that happens.

These are not accidents; they are provisions within the operating arrangements for water companies which allow the occasional release of raw sewage into watercourses. All water companies have an emergency release provision in their operations. They have a system of stop valves that normally separate the sewage from the water, but if the system is so suffused with water at certain points—during a heavy storm, for example—that it cannot cope, those valves are effectively released; the two flows are then mingled. That is the point at which raw sewage may be released into watercourses.

Water companies say that, generally speaking, the dilution of the sewage is such that it does not make a great deal of difference, particularly in heavy storms and similar conditions. That is partly overturned by the fact that discharges sometimes take place over a substantial period and are not simply brief discharges into rivers at the height of a crisis like a storm. I do not think that anybody would say that in periods of severe crisis for a water company, those sorts of provisions should be removed, but that provision far exceeds what we might expect.

The discharge of spills came to an incredible 1.53 million hours across the nine English water companies last year. As I mentioned, a lot of the spills are not brief. The water companies could introduce procedures that would ensure that they were brief by improving how they separate out water and sewage, and ensuring that those flows can be combined only in the most critical circumstances. It is evident from what we know about those discharges that that is not the case. This is being used as a safety valve by water companies in many instances, rather than as an emergency, last-stop procedure. It is certainly within the companies' ability to ensure that those safety valves become last-gasp emergency procedures just by improving their procedures to ensure that arrangements for the separation of water are maintained to a higher standard.

As a shadow Minister, I would say that, wouldn't I? However, it is perhaps not surprising, given that this concern is shared pretty much across the House, that other people have said much the same thing. For example, I believe the Minister met chief executives of the 15 water companies in September, at which point she called on them to take further action to protect the environment, reduce leakage and safeguard water supply. She said that

"we discussed a number of issues I feel strongly about, including storm overflows, and how we can work together to see much more ambitious improvements. This country's green recovery from coronavirus can only happen if water companies step up and play their part."

I could not have put it better, and the Minister indeed put it very well.

The hon. Member for Gloucester, who made an excellent contribution, reminded us that the amendment is supported, and was substantially crafted, by the Chair of the Environmental Audit Committee, the right

hon. Member for Ludlow. Other hon. Members pointed out the concerns on this issue in their constituencies and why action needs to be taken. The entire Opposition think that this is a good idea and wish to pursue it, and of course the Minister has made admirable comments on how water companies need to step up their activity, particularly on storm overflows, to get things organised.

Basically, what is there not to like about the amendment, and why can it not just be instantly put into the Bill? It will not detract from anything; it will simply add a layer of urgency to something that we all think needs to be done, which surely is what Bills should be about. They should frame action in such a way that entreaties and suggestions are added to by a piece of legislation that says, "Go and do this over a period of time."

We not think that this should be seen as a probing amendment. That is a very minor disagreement between the Opposition and the hon. Member for Gloucester, who I appreciate may have suggested that it should be deemed a probing amendment out of sensibility for his own side's manoeuvrability, shall we say, on this issue. In his heart, I think, he would be absolutely behind the idea that it ought to go in the Bill straight away. I sense that very strongly from the vibrations that are coming across the room.

10.15 am

I hope that on this occasion the Minister can oblige us all and simply say, "Yes, this is a really good piece of work. It ought to be in the Bill." I do not expect her to say, "Sorry we didn't put it in the Bill in the first place," but I expect her to say that we will proceed, either now with the present formulation, or on Report if a slightly different formulation is needed.

Rebecca Pow: I thank my hon. Friend the Member for Gloucester for the amendment and for painting such a charming picture of wild swimming in the River Wye, which I should think is quite chilly. I must also refer to my right hon. Friend the Member for Ludlow, who has done so much work on this. As my hon. Friend knows, I have met colleagues several times to discuss this very important issue. He quoted some, frankly, fairly ghastly statistics, as did the hon. Member for Southampton, Test. My hon. Friend is right that this matters and he knows, as does our right hon. Friend, that I take it extremely seriously. I think the hon. Gentleman knows that too.

The issue of river health and the impact of sewer overflows is a priority for me. One of my hats is Water Minister. I vowed that I must do something about that while I am in this role, and I am determined to take action. It has been overlooked for far too long. I have discussed that with my officials at great length. I will not say that they thanked me for it all the time, but it is a priority that I believe we have to get right.

I assure my hon. Friend the Member for Gloucester that controlled sewage discharge to watercourses from sewage treatment works are tightly regulated by the Environment Agency using powers under the environmental permitting regulations, so we obviously already have that in place. I want to be clear that when we were designing the current provisions in the Environment Bill on drainage and sewerage management plans, in clause 76, it was a prime objective to tackle the discharge of sewage into our waterways better.

[Rebecca Pow]

Clause 76 specifically requires that each sewerage undertaker must prepare a drainage and sewerage management plan. [Interruption.] Yes, there is a “must”—that got a cheer! The clause also specifically requires that a drainage and sewerage management plan “must” address relevant environmental “risks”—those two words are very important—and how they are to be mitigated. That will include sewer overflows and their impact on water quality.

Although I understand the intention for specific references to address sewer discharges and water quality, it is entirely appropriate in this case to provide a broad definition in primary legislation of relevant environmental risks. The provision needs to stand the test of time and be fit for the environmental challenges of tomorrow, not just of today. I can say unequivocally and can confirm that I and any future DEFRA Ministers will also have a failsafe power to make directions to specify any other matters that a plan must address. In simple terms, that will ensure that if a plan or plans are not adequate, the Government can take swift action. I will not hesitate to use that power to direct companies if I am not satisfied with their performance to address sewer discharges and water quality. They should consider themselves on notice; in the meeting that was referred to by the hon. Member for Southampton, Test, I pretty much gave that message. I am not messing about.

Ruth Jones (Newport West) (Lab): The Minister is making a powerful point. The Opposition have no problem at all with how diligent she is and how conscientiously she does her job. I am just wondering how she would feel if a successor—obviously in many years’ time—was not quite as diligent. We need to know that the safeguards are in the Bill. We want them enshrined in primary legislation. If the Minister is so keen on the power and so committed to it, what is the problem with putting it in the Bill?

Rebecca Pow: I thank the hon. Lady for reiterating my commitment. We believe the measures and steps that are here will ensure that that does happen—the sewerage and drainage management plans will come into use and the idea of that will become normal—but there will be an opportunity for a DEFRA Minister to have a failsafe power to make directions to specify any other matters. We also have the Environment Agency keeping abreast of all this. We even have the OEP, at the end of the day. We have so many checks and balances in the Bill that once we get the system going, it should be failsafe.

Richard Graham: The Minister has reiterated her own commitment, which none of us doubts. None the less, as the chair of the Environment Agency has said, despite all the various checks and balances, progress has not been as strong as any of us would have liked. Here is the opportunity to insert the words about “the water quality and impact of the discharges of the undertaker’s drainage system and sewerage system”.

Even if the Minister believes that the Bill has enough “musts” and enough powers for the Minister to direct, the explanatory notes are not that clear, saying simply that

“The sewerage undertaker is required to set out in the plan what it intends to do to maintain an effective system of sewerage and drainage, and when those actions are likely to be taken”, then adding, rather vaguely:

“Should other factors become relevant”.

Does the Minister not agree that there is a real opportunity to specify, at least in the explanatory notes, that the water quality and impact of sewerage overflow must be addressed?

Rebecca Pow: My hon. Friend is doing absolutely the right thing in checking up on the issues. I have been doing that myself, in fairness. He mentions the EA. As he said, Emma Howard Boyd, the chair, made it clear that much more is expected of water companies, which includes developing, publishing and implementing specific plans by the end of this year, to reduce pollution incidents. The Environment Agency is on the case. Following my meeting, the Secretary of State is meeting with water companies again very shortly. I repeat that “relevant environmental risks” will include sewer overflows and water quality; I said that just now and I hope my hon. Friend the Member for Gloucester was listening. Once that has been established as a risk, it would be very hard for anyone to argue in the future that it was not a risk. That addresses the point made by the hon. Member for Newport West, and I reiterate that point.

Dr Whitehead: The Minister talks about checks and balances, but I am sure she will know that, as far as the checks and balances relating to storm overflows are concerned, more than 60 discharges a year should trigger an investigation by the Environment Agency. Those storm overflows have been released hundreds of times per year by each water company. The Environment Agency relies on water companies to self-monitor their discharges, so the check and balance does not work as well as it should. Does the Minister think that arrangement is sufficient to keep those discharges under control?

Rebecca Pow: I thank the hon. Member for raising that important point; I just want to talk a little bit about the Environment Agency. They are actually part-way through a programme to improve the management of storm overflows. Event duration monitoring gadgets are being installed on the vast majority of combined inland and coastal sewer overflows, and will provide data for the duration and frequency of storm spills by 2025. Approximately 13,000 of the 15,000 overflows will receive this event duration monitoring, so it will make a difference—I am convinced of that. We do, however, accept that there is a great deal more to do.

Let me clarify how important I think the issue is; we do not want to sit around waiting, but to get on and do something about it. In addition to the Environment Bill and the ongoing discussions around making it as strong as possible, I have set up a new storm overflows taskforce to make rapid progress in addressing the volumes of sewage discharge into our rivers. This has been done at speed and very recently, when all of this “stuff”, as they call it, came to my attention. I would like to thank everyone involved for moving so fast on this. I will set a long-term goal on the storm overflows for sewerage undertakers, which I will talk about in more detail later, but the work on that needs to start now. The taskforce is developing actions that will increase water company investment to tackle storm overflows in order to accelerate our progress.

Daniel Zeichner: The water companies operate in a tightly constrained regulatory framework, always having to balance bills, investment and shareholder returns. What impact does the Minister think her welcome initiative will have on that, and will she be directing them as to either what they do not do instead, or where that investment should come from?

Rebecca Pow: I thank the hon. Member for Cambridge for that, and of course he makes a really important point. All those things will be in the mix for consideration. The storm overflow taskforce has been set up between the EA, DEFRA, Ofwat, the Consumer Council for Water, Blueprint for Water and Water UK. These are all things they are well aware of and will be discussing, and they will be the ones setting out clear proposals to address the volumes of sewage discharge into our rivers. They are working on that now, at speed, and I anticipate we will have a good idea of their list of actions by spring. The hon. Member might say that that is a long time away, but we are already in November; it is actually only a few months' time. I anticipate that this will be really beneficial and really helpful.

The whole thinking behind the taskforce's action list is to increase the amount of sewage processed at treatment plants, for example through building additional sewage storage capacity, which I think my hon. Friend the Member for Gloucester might be pleased to hear, and separate surface water connections for the combined sewerage network.

I want to thank my hon. Friend the Member for Truro and Falmouth for her input; I have met her and others from Cornwall over the issue of surfers, as well as Surfers against Sewage, who do great work highlighting the issues. As I said, the taskforce is looking to all issues to do with water quality and sewerage overflows, which will include bathing water. We are looking into that.

I also want to thank my hon. Friend the Member for Brecon and Radnorshire, who makes a good point—always standing up for her farmers, in that great farming country she is in—and she is absolutely right. We cannot lay all of this at the door of the farmers. There are many causes and they all have to be looked at and tackled, but that is not to say that there is not work to be done with farmers—I believe they know that. Through our new environmental land management scheme, there will be opportunities to work with farmers to reduce pollution. That is coming down the tracks as well and will also help with the whole water pollution issue.

10.30 am

You will be pleased to hear, Chair, that I am going to wind up. I want explicitly to confirm that I expect a key outcome from the taskforce and our new statutory drainage and water management plans will be a sizeable reduction in uncontrolled discharges from sewerage assets such as storm overflows. I thank my hon. Friend the Member for Gloucester again and ask him to please pass on my thanks to my right hon. Friend the Member for Ludlow and others. He is trying to intervene.

Richard Graham: I am very grateful that the Minister has announced this storm overflow taskforce, which is an interesting new group. Taskforces come and go and they have occasionally been used in the past—surely not by this Government—as a sort of alternative to action. One thing that would make us all have greater confidence

in the Bill being able to deliver the change that the Minister and all of us wish to see, if she is unwilling, at this stage, to amend clause 76 with the words the amendment suggests, would be if she would consider amending the explanatory notes. At the moment, the relevant sentence reads:

“Any relevant risks to the environment and mitigation measures should be recorded in the plan.”

The Minister could, if she wished, insert “any relevant risk to the environment and mitigation measures, including water quality and the impact of sewerage overflow.”

The Chair: Interventions must be brief. Minister.

Rebecca Pow: Thank you, Chair. I thought my hon. Friend would try and sneak in a final go. I do not blame him for that.

The Chair: He will have a final go in a moment.

Rebecca Pow: Thank you, Mr Gray.

On that note, I hear what my hon. Friend the Member for Gloucester says about the explanatory notes but I want to reiterate what I said earlier: relevant environmental risks will include sewer overflows and water quality. Once that has been established as a risk, it will be very hard for anyone to argue that it is not a future risk. I shall leave it there.

I thank my hon. Friend the Member for Gloucester, my right hon. Friend the Member for Ludlow and other Members for all their work, particularly in raising awareness of this issue. I hope, on the strength of the assurance that I have given today, that my hon. Friend will kindly consider withdrawing his amendment.

Richard Graham: This has been a helpful discussion, with Members contributing from all sides. The hon. Member for Southampton, Test is even able to detect vibrations from across the room, which perhaps none of the rest of us has been able to do. As for the key issue in the proposed amendment, my right hon. Friend the Member for Ludlow put it very well in a note to me where he said, “This amendment would require water companies, their regulators and overseeing Ministers to have regard to continuous improvement through these admirable five-yearly plans to ensure our rivers can gradually recover from their polluted state to once again become clear and clean for our children and grandchildren to enjoy.” Members on both sides have highlighted how, in their constituencies, that is relevant.

The Minister has tried to reassure us that that is exactly her own objective. I have no reason to doubt that, as she has confirmed it several times. However, it seems to me that were I to withdraw the probing amendment, it would be on the basis of the words she used, which were that the relevant risks would include water quality and the impact of sewerage overflow. It is great that the Minister has made that statement, but we need to see that in the explanatory notes. If she can give an indication that she would consider that on Report, I would be happy on that basis to withdraw the amendment.

Rebecca Pow: I thank my hon. Friend for his passionate words. I am happy to consider making it clearer in the explanatory notes.

Richard Graham: I am very grateful to the Minister for making a significant step to recognising the strength of feeling on this, and I beg to ask leave to withdraw the amendment.

Hon. Members: No.

Question put, That the amendment be made.

The Committee divided: Ayes 5, Noes 9.

Division No. 29]

AYES

Anderson, Fleur	Whitehead, Dr Alan
Furniss, Gill	
Jones, Ruth	Zeichner, Daniel

NOES

Afolami, Bim	Jones, Fay
Bhatti, Saqib	Mackrory, Cherilyn
Browne, Anthony	Moore, Robbie
Crosbie, Virginia	Pow, Rebecca
Docherty, Leo	

Question accordingly negatived.

Amendments made: 49, in clause 76, page 69, line 25, leave out “the Assembly” and insert “Senedd Cymru”.

See Amendment 28.

Amendment 50, in clause 76, page 69, line 37, leave out “the Assembly” and insert “Senedd Cymru”.—*(Rebecca Pow)*

See Amendment 28.

Dr Whitehead: I beg to move amendment 199, in clause 76, page 70, line 4, leave out “may” and insert “must”.

When a minister chooses to make a drainage and sewerage management plan, this amendment obliges them to consult on it.

Yes, this is another amendment. By the way, I thought that last bit was really exciting. I am sorry that hon. Members did not vote our way on amendment 200 this morning, but I appreciate the effort that everyone put it to make it almost get there.

Amendment 199 relates to the amendments to the Water Industry Act 1991. This is about how regulations “may” make provision about consultation, which is a particularly weak “may”. I would have thought that consultation is an essential element of the process. In particular, we are talking about consultation to be carried out by sewerage undertakers—that is, water companies—who are required by regulation to make provision about the person to be consulted, the frequency and timing of the consultation and the publication of statements.

There is a pretty tight requirement on water companies to be clear about what their provision is, except they do not have to do it. That seems to me to be a suggestion that holds the entire subsection. There is quite a fierce thing in this subsection about consultation. This is a good thing. It covers not just consultation, but who it should be carried out by—the sewerage undertakers—as well as instructions on who should be consulted and so on. It is all spoiled by the “may” at the beginning of the sentence. I think this is another important “must”, which ought to go into the Bill. Again, I will not push the amendment to a Division, but I hope the Minister will take careful note of our strong feelings on the issue

and will put it in the box of reconsiderations for when she gets around to deciding whether there should be drafting amendments to the Bill in the future.

Fleur Anderson: I welcome the Minister’s earlier comments about taking action on sewage pollution, of which this is an additional part. I welcome the aims of the clause, and I believe it is vital that a strategic approach is taken to waste water management. However, I have a couple of issues with it that I would like to point out.

Sewage pollution is a very important issue for constituents across the country, including in my constituency of Putney, next to the beautiful River Thames, where we are extremely concerned about it. Some 39 million tonnes of sewage is dumped into the River Thames every year, with an estimated 50 epic dumps of pollution. The Tideway project is making great headway—it is making amazing progress, and I commend it. It will result in a real difference being made. However, there are still extreme concerns. One is about the use of the term “sewerage” in the clause, whereas the industry would prefer to use the term “wastewater”. Wastewater is a much larger section of domestic, industrial, commercial and agricultural production, of which sewerage is only a small subsection.

I slightly digress from the amendment—

The Chair: Which you should not do.

Fleur Anderson: Which I should not do. I acknowledge that, but I would welcome the Minister’s comments on that.

Clause 76 amends the Water Industry Act 1991 by adding new section 94C. There are a whole rash of “mays”, and we have chosen modestly, and I think correctly, to identify one that should be a “must”. It is in new section 94C(3), which, again, talks about consultation on plans. We have talked about that previously, and it is absolutely vital for ensuring that those plans work and that they tackle the 39 million tonnes of sewage going into the River Thames and the similar incidences across the country. The Bill places obligations on water companies only for something they are already doing; it does not reflect the scale of the challenge from climate change or the fact that drainage is universally recognised to be a shared responsibility with other organisations that are also responsible for managing service water.

Water UK is concerned that, as written, clause 76 will exclude significant bodies that are involved in drainage and will eliminate much of the potential benefits that customers, society and the environment could otherwise gain. It is a fundamental feature of drainage and wastewater planning that water companies cannot do this in isolation, because drainage is shared with other risk management authorities, as defined in the Flood and Water Management Act 2010. For example, large numbers of drainage assets are not under the ownership of water companies, the management of which needs to be integrated into the drainage and wastewater management plans. That has been recognised by the National Infrastructure Commission in its recommendation that water companies and local authorities should work together to publish joint plans to manage surface water flood risk by 2020. Ensuring that such consultation is done as a “must” rather than a “may”, which is the aim behind the amendment, is absolutely essential.

As a minimum, all flood risk management authorities should have a duty to co-operate in the production of drainage and wastewater management plans. There should be the ability to require other flood risk management authorities to provide the information needed for the production of such plans. Clause 76 would ensure that that would happen as a directive to the OEP, which is needed to ensure that we have the best sewerage management plans and wastewater management plans that we can.

Rebecca Pow: I thank the hon. Member for Southampton, Test for the amendment. It is amazing that we have managed to get him excited—for me, that is a massive milestone in the Bill’s passage. I hope he does not mind my saying that.

I understand that the intention behind the amendment is to give certainty that Ministers will pass secondary legislation about the consultations to be carried out by sewerage undertakers on their drainage and sewerage management plans. Under proposed new section 94A of the Water Industry Act 1991, sewerage undertakers will have a duty to prepare drainage and sewerage management plans. Ministers understand that sewerage undertakers need to know the procedural requirements for fulfilling their duties in good time. Ministers require flexibility on when and how the provision is given effect so that procedural requirements for plans remain proportionate and current.

10.45 am

The UK Government intend to use the delegated powers for drainage and sewage management plans in a similar way to the approach used for water resources management planning, to which I referred earlier. The Water Resources Management Plan Regulations 2007 and the Drought Plan Regulations 2005 were made in that way. The existing powers have been used as needed. Those are good examples of dealing with procedural matters such as around the consultation to be carried out.

The hon. Member for Putney touched on the term, “sewerage system”. I want to pinpoint that it is defined in the Water Industry Act 1991 in a way that covers all relevant aspects of waste water. She also spoke about the Thames. I have been down the Thames Tideway—a huge channel down which one can go—and it is a fantastic project that will make a difference to the Thames river water.

Sewerage undertakers are currently developing the first tranche of plans on a non-statutory basis to a five-year cycle. Ministers in England, when exercising the powers, will therefore be mindful of when to introduce the procedural requirements so as not to cause unnecessary disruption—lots of them are in the middle of those, and a great deal of work has gone on—to the development of sewerage undertaker plans. On those grounds, I ask the hon. Member for Southampton, Test to withdraw his amendment.

Dr Whitehead: I thank the Minister for what she has said. She has gone some way towards assuring us on this matter, and I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Dr Whitehead: I beg to move amendment 131, in clause 76, page 70, line 6, at end insert

“including persons or bodies representing the interests of those likely to be affected”.

This amendment is very similar to amendment 130. It adds the same wording to the end of this clause to ensure that persons or bodies representing the interests of those likely to be affected are included. We have effectively discussed this, so I am not very excited about this amendment. [HON. MEMBERS: “Shame!”] By the way, I ought to assure the Minister that, although I am probably among the least excitable Members of this House, I do get excited about quite a few things; I draw a distinction between those two uses of language.

I think that the Minister will probably respond to this amendment in the same way that she did when we tabled a similar amendment to the end of a previous clause, so I do not think that we need detain ourselves very long, other than to say that we still think that such an amendment is a good idea.

Rebecca Pow: I thank the hon. Member for the amendment and his brevity. Clause 76 enables Ministers to set out in regulations which bodies are to be consulted on the preparation of drainage and sewerage management plans—a process that will be strengthened by the involvement of a range of stakeholders. We intend to make those regulations in England to include those persons or bodies representing the interests of those likely to be affected, including representative bodies such as the Consumer Council for Water.

I went into some detail about the meaning of the word “persons” previously, so I refer the hon. Member to that. As I also mentioned, this was done in a similar way when the existing water resources management regulatory making powers were used by Ministers in making the Water Resources Management Plan Regulations 2007. The regulations set out a long list of persons to be consulted by undertakers. I hope, therefore, that he will see that the amendment is unnecessary, and I respectfully ask him to kindly withdraw it.

Dr Whitehead: In the light of that answer, which I had anticipated, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Amendments made: 51, in clause 76, page 70, line 38, leave out “the Assembly” and insert “Senedd Cymru”.

Amendment 52, in clause 76, page 71, line 6, leave out “the Assembly” and insert “Senedd Cymru”. —(*Rebecca Pow.*)

See Amendment 28.

Question proposed, That the clause, as amended, stand part of the Bill.

Dr Whitehead: I will not detain the Committee at great length on this particular clause stand part debate, because I just want to raise an issue that somewhat puzzles me about the wording of the clause.

The Minister alluded to the source of my puzzlement a moment ago in her response to the previous debate. As hon. Members can see, the title of the clause is

“Drainage and sewerage management plans”.

[Dr Whitehead]

The clause refers repeatedly to such plans, but what we should be talking about are not Drainage and sewerage management plans but drainage and waste water management plans.

Some hon. Members may think there is not much of a distinction, but there is quite a substantial distinction, in that sewerage and waste water are not the same things. Waste water includes all the sources of waste water coming into a particular riverine or estuarial area, which may have a number of sources that are not sewerage-based. Therefore, the definition of these plans as drainage and sewerage management plans narrows what they might consist of—not only that, but the definition narrows who might be involved in these particular plans. It narrows it down to water companies, whereas a number of other companies are indeed involved in waste water management and properly ought to be within those plans, to make a comprehensive arrangement as far as waste water is concerned. What is a further source of puzzlement is that the Department and industry have actually worked on such plans for many years, and they are called drainage and waste water management plans.

The Minister may say, as she did a moment ago, that in the Water Industry Act 1991 the words “drainage and sewerage management” effectively mean a wider issue as far as waste water is concerned, but of course the wording in clause 76 is not what was in the 1991 Act but is actually an amendment to that Act. It would have been easily possible, as far as the construction of the Bill is concerned, to include the words “sewerage and waste water management” in the Bill, with no cost to anybody—no additional amendments; nothing—whereas the less than adequate wording in the 1991 Act has been retained for the purpose of these amendments.

I wondered why that was the case. Is it an omission or is it deliberate? Other than the rather obscure reference to the 1991 Act, why does not the Bill state what plans the Department has and what the plans should consist of if they are properly to take account of what “waste water” defines and accommodates?

Rebecca Pow: How quickly, in the space of 10 minutes, we have gone from excitement to puzzlement. I hope I can, however, assuage some of the puzzlement.

Clause 76 amends the Water Industry Act 1991 to place drainage and sewerage management plans on a statutory footing to match the status of water resource management plans. The provisions are modelled closely on the existing approach to water resource management plans.

I shall deal with the interesting point about the distinction between sewerage and waste water. The clause amends the 1991 Act, which defines the term “sewerage system” in a way that covers all relevant aspects of waste water, so we have used that wording. This includes facilities to empty public sewers and other facilities such as waste water treatment works and pumping stations.

The term “waste water” is not defined in the 1991 Act. The statutory name is not intended to dictate what the water industry chooses to call the plans as part of its daily operations; it might have some other casual term for it. Drainage and sewerage planning is the only key planning process without a formal statutory status in

the water sector. Placing plans on a statutory basis will ensure a more robust planning and investment process to meet future needs, including housing.

Statutory plans will also allow waste water network capacity to be fully assessed and encourage sewerage companies to develop collaborative solutions with local authorities and others who have responsibility for parts of the drainage system. They should also sit with planning for population and economic growth and therefore help to deliver improved resilience in sewerage and drainage sources over the long term.

There is strong cross-sectoral support for the measure. When we consulted publicly on making plans statutory, over three quarters of respondents supported the proposal. The statutory production of the plans will clearly demonstrate how a sewerage undertaker intends to fulfil its duty under the Act to provide, improve and extend the public sewerage system to ensure that its area is effectively drained. A statutory plan will help to set out the actions needed to address the risks that some assess that might pose to the environment or customers.

Dr Whitehead: I think the Minister should accept that I am one of the least puzzled Members of the House, but I do admit to puzzlement sometimes. On this occasion, my puzzlement has not been assuaged. The Minister is talking about how good these plans could be, but that does not take us much further in terms of why the wording is as it is when it would have been so easy to put it right when the Bill was introduced. I take on board the Minister’s assurances that, in practice, the word “sewerage” can be used by reference back to the bits of the 1991 Act that have not been amended by this legislation to expand its remit, but it would have been easier to get it right first time round, but I shall not pursue this. It can go into the Minister’s box of things to think about should she wish to clarify this part of the Bill any further.

Question put and agreed to.

Clause 76, as amended, accordingly ordered to stand part of the Bill.

11 am

Clauses 77 and 78 ordered to stand part of the Bill.

Schedule 13 agreed to.

Clause 79 ordered to stand part of the Bill.

Clause 80

WATER ABSTRACTION: NO COMPENSATION FOR CERTAIN LICENCE MODIFICATIONS

Dr Whitehead: I beg to move amendment 132, in clause 80, page 78, line 1, leave out “2028” and insert “2021”

The Chair: With this it will be convenient to discuss the following:

Amendment 133, in clause 80, page 78, line 34, leave out “2028” and insert “2021”.

Amendment 134, in clause 80, page 79, line 7, leave out “2028” and insert “2021”.

Dr Whitehead: These amendments all make the same point about there being no compensation for certain licence modifications in water abstraction. Should licences be modified as a result of environmental considerations, especially with the uprating of environmental legislation, water companies and other organisations will have to undertake additional actions to ensure that their licences are adhered to, but they will not receive compensation for those modifications. That is all well and good, except when those licences come to be revoked or varied, in pursuit of a direction under a section of the Water Act.

The no compensation clause comes in on 1 January 2028, so it could be argued that that gives the water undertakings a reasonable period to adjust to the changes, but it may have the reverse effect of what is intended. If companies were to make changes that might need to be undertaken before 2028, they would get compensation. I am not sure whether the clause requires a period of notice for changes caused by increased environmental protection—it is reasonable to give water companies time to adapt—or is it a device that allows water companies to get some money for environmental changes that they should be doing anyway, if they do them before 2028? It is a pretty long run-in for changes. I ask the Minister—and this goes for all these amendments, because they all seek to change the date from 2028 to 2021—whether she thinks that the 2028 date is satisfactory in terms of a run-in for the water companies to make their changes.

If they make the necessary changes before 2028, would they be protected from a legal requirement to enter into and discuss compensation? I would suggest that that is less than satisfactory. The Minister faces a choice this morning on which way she jumps; or perhaps, with great dexterity, she could jump in both directions.

Not only is there potential confusion about the precise intention of this clause, but the 2028 date itself seems to be excessively generous by any measure. If the Minister is not able to at least give us an indication that that date might be considered for foreshortening, we may wish to divide the Committee.

Fleur Anderson: I would like to speak in support of the concerns raised by my hon. Friend the shadow Minister about the long deadlines of this Bill, which would be rectified by amendments 132, 133 and 134.

Clause 80 amends the Water Resources Act 1991 to improve the way in which the abstraction is managed. This additional Environment Agency power, to act on licensing that causes environmental harm, is welcome. However, the timescale proposed in the Bill is too long, as the changes will apply to licenses revoked or varied on or after January 2028. With compensation remaining payable on any license changes opposed by the agency before that time, budgetary constraints will significantly limit its scope to act, which cannot be the aim of this Bill.

The current timescale does not appear to fully grasp the severity and immediacy of the problems facing UK waterways and the poor performance of water companies to date. Four out of nine companies assessed by the Environment Agency require improvement. We cannot wait until 2028 to start revoking licenses and take action, when there is clearly systemic underperformance in the water industry.

Moreover, water companies in England were responsible for their worst ever levels of environmental pollution in the five years up to 2019, leading to condemnation from Ministers and the Environment Agency. In the agency's annual assessment of the nine privatised water and sewage companies, its chair, Emma Howard Boyd, said that their performance continued to be unacceptable.

Unsustainable abstraction can do serious environmental damage, particularly by changing the natural flow regime. This results in lower flows and reduced water levels which, in turn, may limit ecological health and result in changes and reductions of river flows and groundwater levels. This is about far more than just hosepipe bans.

The Government's own analysis has shown that 5% of surface water bodies and 15% of groundwater bodies are at risk from increasing water use by current license holders, which could damage the environment. With the Environment Agency recently warning that in 25 years, England's water supply may no longer meet demand, we will have to clamp down on over-abstraction now. Before becoming an MP, I worked for the aid agency WaterAid, where I saw the result of over-abstraction and how damaging that was for communities around the world. We do not want to face that here.

Abstracters are unlikely to give up these abstraction rights voluntarily and forfeit potential compensation payments. This means that over-abstracted rivers and groundwater-dependent habitats will continue to suffer for at least another eight years under the clauses of this Bill, putting threatened habitats and public water supplies at risk. Further clarification could then ensure that the new date would not impose unrealistic time pressures on water abstractors.

Variations to licences could then be made, setting out a reasonable compliance period for changes to be put in place before the abstractor would be in breach of the new conditions. That would give fair notice to abstractors, which I understand is a concern for the Minister and is the original purpose of the 2028 date, while also enabling swift action on the mounting environmental harm caused by damaging abstraction. It would put environmental risks in the driving seat, not the concerns of water companies, which is what the Bill does at the moment.

Does the Minister agree that without bringing forward the date from which environmentally damaging abstraction licences could be amended without compensation, we are unlikely to achieve the existing Government targets for the health of the water environment, which require us to bring our waters into good status by 2027 at the latest? Bringing the date forward to 2021 will allow action to be taken within the final cycle of the river basin management plans for 2021 to 2027, and allow us to reduce abstraction damage in line with Government targets set under the water environmental regulations of 2017. The dates need to add up.

In its report, "Water supply and demand management", published in July, the Public Accounts Committee advised:

"The Environment Agency should write...within three months setting out clear objectives, and its planned mitigation actions and associated timescales for eliminating environmental damage from over-abstraction".

The Committee wants immediate action and we should, too. Has the Environment Agency yet been able to outline how it will eliminate the environmental damage

[Fleur Anderson]

in line with statutory deadlines, given that this power will not come into effect until after those deadlines have passed?

I support these amendments, in order to put the Government's own targets in line with each other and make sure that we take action against over-abstraction as urgently as necessary.

Rebecca Pow: The hon. Member for Putney has highlighted why we need to control water abstraction, which is why these clauses are so important. The Government would strongly prefer that solutions are found at a local level between abstractors and the Environment Agency, before these new powers are utilised. A lot of work is already going on to look at abstraction licences, to find different ways of working and to reduce quantities of water abstraction. Indeed, the Government's 2017 abstraction plan sets out the Government's commitment and actions to protect our water environment, and it is already beginning to have some effect. Since 2014, a total of 31 billion litres of water has been returned to the environment, and a further 456 billion litres has been recovered from unused or underused licences.

The implementation date of 2028 will afford the Environment Agency the time to engage directly with abstractors to resolve situations without the need to use these powers. That is one of the main pieces of work in progress, as I have outlined. It will also allow time for a catchment-based approach to water resources, to produce solutions. There is a lot of catchment-based work going on. Opportunities will come through the new environment and land management scheme and its systems of new environmental management, where farmers and catchments work together, which is crucial in a holistic approach to the water landscape.

Finally, the date allows time for the transfer of abstraction licensing into the new environmental permitting regime. The powers are more of a big stick, but we are hoping that these other things will swing into place before they have to be used.

Ruth Jones: Does the Minister agree that 2028 is a long time into the future? By then, small water bodies and wetland habitats, which are an essential but unnecessarily overlooked part of our water environment, may be lost. Something that has already gone cannot be brought back. The year 2028 is far too far into the future and we do not want things to be lost in the meantime.

Rebecca Pow: I thank the hon. Lady for her intervention, but I hope she realises, as I have just outlined, that we are taking action now. The Environment Agency is already working on reducing abstraction with these licence holders in many cases, and that work must carry on at pace.

I also want to be clear—the hon. Member for Putney touched on this—that these measures do not apply to water company abstraction licences. Following the Water Act 2014, water companies are not eligible for compensation for any revocation variation of their abstraction licences, so it is not the water companies we are actually talking about, but the other abstractors of water.

11.15 am

The Bill measures complement the progress that is already being made, widening the circumstances in which the EA can take action against unsustainable abstraction without the liability to pay compensation, because that can be somewhat debilitating. It can do this where it is necessary to protect the environment from damage, including our internationally important chalk streams, which are a priority for me, and which I am doing a great deal of work on, because that whole habitat and environment is something we need to look after. The Environment Agency will also be able to vary a licence that has excess headroom without the payment of compensation. However, this action should not be taken prematurely.

Water abstraction is also vital to the economy—that has to be remembered—for example, to generate power, run industries, grow food, and to be used by all our farmers. Meanwhile, access to clean, safe and secure water supplies is fundamental to society, so actions we are taking now and these new future measures will enable us to balance these competing demands on our precious water resources. It is a fine balance.

I trust that hon. Members now understand the context for selection of the implementation date, and the ongoing action being taken by Government to ensure that changes to ensure sustainable abstraction are already being implemented. I therefore ask the hon. Member for Southampton, Test to withdraw his amendment.

Dr Whitehead: I would have thought that if measures to sort out sustainable abstraction were already being taken, that would be a compelling argument for bringing the date forward from 2028. It is, after all, a longer period than the second world war. I am not convinced by the Minister's arguments, and on the basis of that date we would like to pursue a Division.

Question put, That the amendment be made.

The Committee divided: Ayes 5, Noes 10.

Division No. 30]

AYES

Anderson, Fleur	Whitehead, Dr Alan
Furniss, Gill	
Jones, Ruth	Zeichner, Daniel

NOES

Afolami, Bim	Graham, Richard
Bhatti, Saqib	Jones, Fay
Browne, Anthony	Mackrory, Cherilyn
Crosbie, Virginia	Moore, Robbie
Docherty, Leo	Pow, Rebecca

Question accordingly negated.

Amendment proposed: 133, in clause 80, page 78, line 34, leave out “2028” and insert “2021”.—
(*Dr Whitehead.*)

Question put, That the amendment be made.

Question negated.

Amendment proposed: 134, in clause 80, page 79, line 7, leave out “2028” and insert “2021”.—
(*Dr Whitehead.*)

Question put, That the amendment be made.

Question negated.

Clause 80 ordered to stand part of the Bill.

Clause 81

WATER QUALITY: POWERS OF SECRETARY OF STATE

Dr Whitehead: I beg to move amendment 135, in clause 81, page 80, line 28, leave out subsection (9) and insert—

“(9) Regulations under this section are subject to the super-affirmative resolution procedure.

(10) In this subsection, ‘super-affirmative resolution procedure’ has the same meaning as it does in Section 18 of the Legislative and Regulatory Reform Act 2006.”

I will not detain the Committee for long. Our amendment suggests that instead of regulations under this section being subject to the negative procedure, they should be subject to the super-affirmative procedure. There is a real difference between the two because, as hon. Members will know, the negative procedure for secondary legislation requires merely that the legislation be laid before the House, and if no one objects to it within 21 days, it automatically becomes law. The affirmative procedure, on the other hand, means that under normal circumstances, the House is entitled to a debate on the legislation, in which the Minister is required to take part, at least to air the reasons behind the introduction of the regulations.

The affirmative procedure is potentially an important protection for Parliament to hear properly what is happening with secondary legislation. The super-affirmative procedure guarantees a 90-minute maximum debate on a piece of secondary legislation, and that is the procedure that we would prefer for this clause. We will not press the amendment to a vote, but we would be grateful if the Minister reflected briefly on why she thinks the negative procedure is the right way to go.

Fleur Anderson: Although there is some justification for a power to make technical updates to regulations, as my hon. Friend the shadow Minister has set out, the clause could provide a licence for the Secretary of State to weaken, via secondary legislation, the standards of our waters, and their chemical status in particular. Secondary legislation has caused a huge amount of division between the Opposition and the Government, as we have asked that much more of it be put into primary legislation. If there is more secondary legislation, and “may” does not become “must”, it is really important that it is debated under the super-affirmative procedure.

That is particularly worrying in the light of Sir James Bevan’s speech, which suggested possible reform of the way in which the status of our water is considered. What is behind that suggestion? The last thing we need now is a regression of water quality standards. According to data released by the Environment Agency last month, not a single lake or river in England that has been recently tested has achieved a good chemical status. We are experiencing a five-year high for environmental pollution by the water industry.

Stakeholder concerns about the unmitigated power in the clause would be unlikely to evaporate if there were a commitment to non-regression of environmental standards. Given the public support for environmental protection, which I am sure the Committee will acknowledge, why are the Government reluctant to provide assurances and to agree to the amendment? That goes to the heart of many of the issues at the centre of the Bill. Time and again, we have heard assurances of non-regression, but the Government have so far avoided every single opportunity to put those promises into statute. That persistent refusal makes us all highly suspicious.

At the heart of the water framework directive is the principle that the water environment is a system and that all its parts need to be in good working order for it to operate effectively. That principle remains true. The clarity of the one in, one out rule should not be abandoned, and any weakening of chemical standards would be a backward step in the light of growing public concern about water pollution and the new data showing the extent of water quality failures across England.

I urge the Committee to support the amendment, which goes some way towards addressing that significant risk, and would ensure that any changes to water quality regulations would be subject not to the negative procedure, as the Bill currently states, but to the super-affirmative procedure—as a new MP, I had to go and look it up and have learned a lot about it—as defined in section 18 of the Legislative and Regulatory Reform Act 2006. That would give stakeholders the right to input into any water quality regulation changes, including UKTAG, the UK technical advisory group that currently advises on standards—

11.25 am

The Chair adjourned the Committee without Question put (Standing Order No. 88).

Adjourned till this day at Two o’clock.

