

## Research Briefing

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# Water (Special Measures) Bill 2024-25

## Summary

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## Summary

The [Water \(Special Measures\) Bill](#) was introduced in the House of Lords on 4 September 2024, and was amended at committee stage and report stage. It was introduced in the House of Commons on 27 November 2024, and its second reading is scheduled for 16 December 2024.

The [government has published a policy statement](#) explaining the bill in more detail, as well as [explanatory notes](#) (PDF) and a [delegated powers memorandum](#) (PDF). It published an [impact assessment](#) on 25 October 2024 (PDF).

## Why has the bill been introduced?

The bill is intended to address poor performance from water companies. This covers poor financial management, water pollution, and outcomes for customers. In the second reading of the bill in the Lords, Baroness Hayman said that the government was introducing the bill “[to drive rapid and meaningful improvements in the performance and culture of the water industry](#)” in response to a lack of public trust in the water industry and widespread concerns about underinvestment in infrastructure, pollution levels and ongoing sewage spills.

In its [assessment of water company performance for 2023–2024](#), Ofwat (the economic regulator for the water sector in England and Wales) did not identify any water companies as falling within its ‘leading’ category; most were average, and three were ‘lagging behind’ (Anglian Water, Dŵr Cymru and Southern Water). In its [monitoring report of financial resilience for 2023–2024](#), 10 of the 17 companies assessed were below the ‘standard’ rating, with three in the most serious ‘action required’ category (Thames Water, South East Water and Southern Water). Over the past two years, water companies reportedly [paid out £2.5 billion in dividends](#).

The government has repeatedly said that it has no plans to renationalise the water sector. Environment Secretary, Steve Reed, has [said that he has ruled out nationalisation](#) as “it would not resolve the problems we face” and that this “would cost towards £100 billion of public money”.

## What would the bill do?

The long title is “a bill to make provision about the regulation, governance and special administration of water companies.” These provisions will enable

the government and regulators to block the payment of bonuses for water company executives, bring criminal charges against those who break the law, enable automatic and “severe” fines, and ensure the monitoring of every sewage outlet. It applies to England and Wales.

The Water (Special Measures) Bill is set out by government as the [first step towards broader change across the water sector](#). It forms part of the Labour government’s commitment to “put failing water companies under tough special measures”, which was also included in the party’s [2024 election manifesto](#).

The [supporting policy statement for the bill](#) notes that the bill “is not the full extent of the government’s ambition, with wider transformative change across the whole water sector to follow”. On 23 October 2024, the government [launched its Independent Commission for water](#), which will report back to government in 2025 with recommendations on how to tackle “inherited systemic issues in the water sector”, forming the basis for further legislation.

The bill has four key aims:

- block bonuses for water company executives “who pollute our waterways”
- bring criminal charges against “persistent law breakers”
- impose automatic and “severe” fines for wrongdoing
- enable independent monitoring of every sewer overflow outlet

## **Blocking bonuses for water company executives**

The bill would create a new framework for holding companies and chief executives accountable for water company governance and remuneration. These provisions would enable the regulator Ofwat to set rules for water companies, subject to certain requirements included in the legislation (including a consultation).

## **Bringing criminal charges**

The bill would introduce three provisions where an investigation by Ofwat or the Environment Agency had been obstructed by a water company. It would enable the courts to include imprisonment as a sanction, enable hearings in the Crown Court, and enable executives and directors to be prosecuted where an offence had been committed with their consent, connivance or due to their neglect.

## **Imposing fines**

The bill would enable fixed monetary penalties to be imposed for specific offences, including pollution, failure to comply with information and reporting requests, and offences relating to water resources. These provisions would

also enable the government to specify the list of these offences and the monetary value of penalties in secondary legislation.

The bill would also lower the “standard of proof” required for minor to moderate water company offences to the “[civil standard](#)”.

The bill also includes provisions to enable the Environment Agency and Natural Resources Wales to recover costs from water companies following enforcement actions.

## Monitoring of sewer overflows

The bill would require water companies to publish information on the frequency and duration of all emergency storm overflows within an hour of a discharge taking place.

## Wider work to strengthen regulation

In addition to the four main provisions, the bill would also introduce a new statutory requirement for water companies in England to publish annual ‘pollution incident reduction plans.’

The bill would allow the Secretary of State to modify water company licences to recover a shortfall in government costs if a water company were to enter special administration, with equivalent powers for Welsh Ministers.

## Progress of the bill

The bill was introduced in the Lords on 4 September 2024 and its second reading took place on 9 October 2024.

Committee stage in the Lords was held over three sittings (on 28 October 2024, 30 October 2024 and 4 November 2024). At committee stage, five government amendments were made and there were no divisions on any amendments.

Report stage was held on 20 November 2024. At report stage, 34 government amendments were made, all of which were agreed to. Four amendments from other parties were voted on, two of which were agreed and two of which were disagreed.

Third reading took place on 26 November 2024, and the bill was passed and sent to the Commons. It was introduced in the Commons on 27 November 2024 and its second reading is scheduled for 16 December 2024.

## Stakeholder reactions

The bill has been broadly welcomed by Members of the House of Lords, environmental and customer groups, although all these stakeholders have raised criticisms of some of the provisions.

Members of the House of Lords scrutinised the bill line by line, and raised concerns around the broad nature of some of the measures included, as well as criticising the current state of the water sector. The two notable opposition party amendments that were agreed at report stage in the Lords were to introduce reporting requirements around ‘financial engineering’ of water company finances and to require any rules on performance-related pay to be subject to [affirmative procedure](#).

Environmental groups, including the Wildlife and Countryside Link consortia, have supported the bill’s aims and have encouraged Members of the House of Lords to introduce more stringent requirements, particularly in relation to pollution reporting and mitigation. The Consumer Council for Water has said that it looks forward to giving people and communities “[a more powerful platform to hold water companies to account](#)”.

Water companies have been less supportive of the bill. Some companies have said that the measures proposed around executive pay would create a challenge to investment and talent retention within the sector. However, the trade body Water UK welcomed the launch of the government’s Independent Commission alongside the bill and acknowledged that “[the current system is not working and needs major reform](#)”.



# 1 Background to the bill

The bill was introduced in the Lords on 4 September 2024. It had its second reading on 9 October 2024, followed by committee stage (on 28 October 2024, 30 October 2024 and 4 November 2024) and report stage on 20 November 2024. Its third reading in the Lords was on 26 November 2024.

It was introduced in the Commons on 27 November 2024 and will have its second reading on 16 December 2024.

## 1.1 Water sector context

Water is a devolved matter. In England and Wales, the water industry was privatised in 1989, and water supply is delivered by private water companies. In Scotland and Northern Ireland, publicly-owned water companies are responsible for water supply.

### 1 Regulation of the water industry

In England and Wales, [Ofwat \(the Water Services Regulation Authority\)](#) is the economic regulator, the [Environment Agency](#) and [Natural Resources Wales](#) are the environmental regulators, and the [Drinking Water Inspectorate](#) is the water quality regulator. Government departments (such as the Department for Environment, Food and Rural Affairs in England) are responsible for setting policy and legislative direction for water industry regulation.

#### Setting the price of water

The prices that water companies charge customers in bills are set by Ofwat following [a five-yearly process called the price review](#).

During the price review, Ofwat sets wholesale price limits for each water company alongside performance targets, such as for leakage reduction, reducing pollution incidents and lowering personal water consumption. When setting company prices, Ofwat must balance customers' interest in lower prices with the need to make sure the water company can finance its operations and meet environmental responsibilities.

Prices for 2020 to 2025 were set by the 2019 price review, and prices for 2025 to 2030 are to be set by the [2024 price review \(PR24\)](#). Ofwat has issued water companies with [draft determinations on their business plans for PR24](#), and expects to issue final determinations on 19 December 2024.

### Environmental permits

The Environment Agency (EA) regulates activities that may cause environmental pollution or harm through environmental permitting. This includes [issuing permits for the use of storm overflows or emergency overflows](#), which discharge diluted sewage into watercourses. If permit conditions are breached or a permit is not in place, [the EA can take enforcement action](#) (including civil and criminal prosecutions).

### Fines for non-compliance

All four regulators can issue fines for non-compliance with regulations. Ofwat and the EA / Natural Resources Wales can issue fines directly, while the Drinking Water Inspectorate (DWI) can apply to courts to impose fines.

The Library briefing [Economic regulation of the water industry](#) (August 2024) provides more information.

## 1.2

## Challenges for water sector policy

The water sector faces numerous challenges, almost all of which are intertwined with its infrastructure, funding and regulatory approach.

### Sewage pollution

According to the Environment Agency, only 16% of rivers in England achieved good ecological status at the last survey in 2022.<sup>1</sup> This compares with 44% in Wales, 57% in Scotland and 31% in Northern Ireland.<sup>2</sup>

[Sewage discharges](#), as well as agricultural runoff and internal sewer blockages (for example, from plastic wet wipes flushed down household pipes), contribute to river pollution.<sup>3</sup>

Sewage discharges are the release of raw, untreated sewage into watercourses, such as rivers. These discharges often take place through

<sup>1</sup> EA, [State of the water environment indicator B3: supporting evidence](#), 17 May 2024

<sup>2</sup> The Rivers Trust, [State of our rivers 2024](#). In England, this assessment uses 2022 data for good ecological status, as measured against the Water Framework Directive. Comparable metrics are used for the other parts of the UK

<sup>3</sup> For more information on sewage discharges, see the Commons Library research briefing CBP 10027, [Sewage discharges](#)

storm overflow valves, designed to release water from the sewer network when the volume of water is too great. [Some use of storm overflows is permitted](#) to avoid the sewer network becoming overwhelmed and risking sewage backing up into homes and businesses. However, it has been alleged that [many water companies are using storm overflows far more regularly than they ought to](#).<sup>4</sup>

The majority of water companies were found to have underperformed on environmental commitments in 2023.<sup>5</sup>

The Environment Agency's [Environmental Performance Assessment report for 2023](#) found that the number of severe pollution incidents increased from 2022 to 2023, and that over 90% of these were caused by four water companies (Anglian Water, Southern Water, Thames Water and Yorkshire Water). Total pollution incidents from sewerage and water supply assets also increased, and most water companies underperformed.<sup>6</sup>

[Public distrust has grown](#) because of water companies' poor environmental performance, exacerbated by [undercover investigations](#) and historical inaccuracies in reporting. The independent Consumer Council for Water (CCW) found that customer satisfaction with water companies had fallen by over 5% across environmental metrics in 2024 (performance in cleaning wastewater, tackling sewer flooding, and protecting the environment), with over 40% of customers attributing poor environmental performance to sewage pollution.<sup>7</sup>

In 2022, the Department for Environment, Food and Rural Affairs (Defra) set targets for increasing monitoring and minimising sewage discharges through the [storm overflows discharge reduction plan](#). The headline targets in this plan were:

- for all storm overflows to be fitted with an event duration monitor (EDM) by the end of 2023 ([this was achieved](#))<sup>8</sup>
- for water companies to significantly improve storm overflows discharging into bathing waters and high priority nature sites by 2035
- to reduce discharges from all overflows to a maximum of 10 rainfall events per year by 2050

For more information, see the Library [Q&A on the storm overflows discharge reduction plan](#) and briefing paper on [Sewage discharges](#).

In October 2024, following Ofwat's annual review of overall company performance, water companies were ordered to return £158 million to their customers by reducing their bills. While company performance had improved

<sup>4</sup> Commons Library research briefing, CBP 10027, [Sewage discharges](#)

<sup>5</sup> EA, [Water and sewerage companies in England: environmental performance report 2023](#), 23 July 2024

<sup>6</sup> EA, [Water and sewerage companies in England: environmental performance report 2023](#), 23 July 2024

<sup>7</sup> CCW, [Water Matters 2024](#), May 2024

<sup>8</sup> This target applied to the use of storm overflows, but not 'emergency overflows'

across some metrics, an increase in pollution incidents in 2023 meant that slow overall progress had been made in reducing sewage discharges; water companies have made a 2% reduction to date.<sup>9</sup>

## Water company financial management

### Company dividends and executive pay

In England and Wales, as water companies are private companies, their directors are responsible for organising their financial structure and making decisions about dividends to shareholders and remuneration for executives (such as pay and bonuses). Ofwat oversees the financial resilience of companies and can raise concerns or challenge a company to demonstrate how its financial practices allow it to maintain long-term financial viability.

Ofwat publishes an annual report on the [financial resilience of water companies](#). In 2024, 10 of the 17 companies assessed were below the “standard” rating, with three in the most serious “action required” category (Thames Water, South East Water, and Southern Water).<sup>10</sup>

Media reports have highlighted that in 2022, water companies paid out a [record £1.4 billion in dividends](#), leaving less money available for investment in infrastructure, and in 2023 senior executives from five water companies in England and Wales took bonuses.<sup>11</sup> In 2024, reporting from the Financial Times assessed that water companies paid out £2.5 billion in dividends in financial years 2021/22 and 2022/23.<sup>12</sup>

The [Environment Act 2021](#) gave Ofwat more flexible powers to modify water company licence conditions.<sup>13</sup> It has used these powers to increase its oversight of water company finances. For example, in March 2023, [Ofwat announced that it would](#) stop a water company paying dividends to its shareholders if this payment would risk the water company’s financial resilience and would take enforcement action against companies that did not link dividends to overall performance.<sup>14</sup>

In June 2023, Ofwat published [guidance on protecting customer interest on performance-related executive pay](#) (PDF), which outlined the scope and application of a mechanism for recovering executive pay from companies

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<sup>9</sup> Ofwat, [Ofwat calls on water sector to improve its performance after companies fall short on targets](#), 8 October 2024; Ofwat, [Water Company Performance Report 2023-24](#), 8 October 2024

<sup>10</sup> Ofwat, [Monitoring financial resilience 2023-2024](#), November 2024

<sup>11</sup> As reported in the Financial Times, [UK water company dividends jump to £1.4 billion despite criticism over sewage outflows](#), 8 May 2023; as reported in BBC News, [Ban water bosses’ bonuses now over sewage spills, say campaigners](#), 13 February 2024

<sup>12</sup> Financial Times, [Water companies pay £2.5bn in dividends in two years as debt climbs by £8.2bn](#) [Accessible with subscription], 15 April 2024

<sup>13</sup> For more information on the Environment Bill (now the Environment Act), see the Commons Library research briefing CBP 9345, [Environment Bill 2021-22: Lords amendments and “ping pong” stages](#) and research briefing CBP 8824, [Commons Library analysis of the Environment Bill 2019-20](#)

<sup>14</sup> Ofwat, [Ofwat announces new powers on water company dividends](#), 20 March 2023

Defra, [Government supports new Ofwat powers to tackle water company dividends](#), 20 March 2023

unable to demonstrate that the pay meets Ofwat's expectations. Ofwat said that this mechanism would increase scrutiny of executive pay awards under PR24.<sup>15</sup>

Ofwat does not have explicit power to ban or curb executive bonuses, and can only do so if this would help it meet its duties (including ensuring that companies are financially resilient).<sup>16</sup>

In 2023, the [Labour Party said that it would give Ofwat powers to ban the payment of executive bonuses](#) where water companies discharge sewage.<sup>17</sup>

## Debt

Water companies in England and Wales hold a high level of debt. This debt is reflected in the 'regulatory gearing ratio', which indicates where companies have borrowed large sums of money to finance their operations and investment.<sup>18</sup>

Regulatory gearing is a ratio of net debt to regulatory capital value (RCV).<sup>19</sup> This represents the amount of money a company has raised through borrowing (debt) compared with the amount it has raised by selling shares or built up in reserves from historic profits (equity). It is represented as a percentage. For example, 100% means equal debt and equity, 50% means twice as much equity as debt, and 200% means twice as much debt as equity.

Higher gearing means a higher ratio of debt to equity. Financing a company's operations or investments through debt is usually considered higher risk than financing through equity, as the borrower must pay interest on its debt. Financing through equity is also lower risk as a company can choose the level of dividends it pays to its shareholders.<sup>20</sup>

Gearing has, on average, increased over time since the water companies were privatised, meaning water companies have taken on more debt financing than equity financing. In 2022, the weighted average gearing level was 68.5%, which exceeded Ofwat's notional gearing level of 60% (a measure of what is optimal or normal).<sup>21</sup> The notional gearing level provides a

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<sup>15</sup> Ofwat, [Ofwat delivers decision on executive pay](#), 29 June 2023

Ofwat, [Protecting customer interest on performance related executive pay – recovery mechanism guidance](#) (PDF), June 2023

<sup>16</sup> [Water Industry Act 1991](#)

<sup>17</sup> Labour Party, [Labour will empower water regulator to ban bosses' bonuses until they clean up their filth](#), 9 October 2023

<sup>18</sup> Financial Times, [Water companies pay £2.5bn in dividends in two years as debt climbs by £8.2bn](#), 15 April 2024

<sup>19</sup> Gearing is usually given as a percentage of net debt divided by the RCV

<sup>20</sup> Frontier Economics for Ofwat, [Notional capital structure: An independent assessment of Ofwat's proposed approach for PR24](#) (PDF), 2 September 2022, chapter 5

<sup>21</sup> Frontier Economics for Ofwat, [Notional capital structure: An independent assessment of Ofwat's proposed approach for PR24](#) (PDF), 2 September 2022

signal to investors and the market as to what is an efficient level of borrowing and is not target for companies set by Ofwat.<sup>22</sup>

## Security of supply

In 2020, the Public Accounts Committee found that “there is a serious risk that the country will run out of water in the next 20 years”.<sup>23</sup>

Security of supply is threatened by increasing demand and diminishing supply, which are driven by factors including:

- population growth<sup>24</sup>
- climate-induced rainfall variability and drought, with climate change projected to increase water scarcity for individuals, businesses and the environment<sup>25</sup>
- reduced water infiltration into the soil from increasing urbanisation<sup>26</sup>
- depletion of historical groundwater supplies through unsustainable abstraction, in particular for sensitive habitats (such as chalk streams)<sup>27</sup>
- water-intensive industries, and increased water use from the power generation sector<sup>28</sup>

In response to the 2020 [National Infrastructure Strategy](#), the government updated Ofwat’s [strategic policy statement](#) in 2022 to include an objective for the regulator to increase resilience in the long term.<sup>29</sup>

In its [2024 infrastructure progress review](#), the National Infrastructure Commission (NIC) recommended that the government and Ofwat should ensure that water companies’ plans are sufficient to increase water supply to meet demand for an additional 4,800 million litres a day by 2050. The NIC recommended that the water industry should put in place the infrastructure for strategic water transfers (the transfer of water from one region to another) and additional supply, that the water industry should maintain its target to halve leakage by 2050, and that the government should amend

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<sup>22</sup> Ofwat, [Creating tomorrow, together: Our final methodology for PR24](#), 13 December 2022

<sup>23</sup> Public Accounts Committee, [Water supply and demand management](#) (PDF), 10 July 2020, para 2

<sup>24</sup> Defra, [Plan for water: Our integrated plan for delivering clean and plentiful water](#), 4 April 2023

<sup>25</sup> Defra, [Climate Change Risk Assessment 2022](#), 17 January 2022

<sup>26</sup> NIC, [Infrastructure progress review 2024](#), 16 May 2024. 7. The environment: Water

<sup>27</sup> Joint report from the Angling Trust, Rivers Trust and other related organisations, [Chalk streams in crisis](#) (PDF), June 2019

<sup>28</sup> NIC, [Infrastructure progress review 2024](#), 16 May 2024. 7. The environment: Water

<sup>29</sup> NIC, [Infrastructure progress review 2024](#), 16 May 2024. 7. The environment: Water  
HM Treasury, [National Infrastructure Strategy](#), 25 November 2020

Defra, [February 2022: The government’s strategic priorities for Ofwat](#), 28 March 2022

regulations to enable companies to implement compulsory metered charges beyond water-stressed areas by 2025.<sup>30</sup>

For more detail about the issues facing the water sector, see the Library briefing [Economic regulation of the water industry](#) (August 2024).

## 1.3 Ofwat's price review 2024

The [2024 price review \(PR24\)](#) will set the price of water for 2025 to 2030. Ofwat published [water company draft determinations for PR24](#) on 11 July 2024. Final determinations are expected on 19 December 2024.<sup>31</sup>

The determinations include detail about the maximum price that each water company can charge its customers through bills (the ‘maximum revenue allowance’), the service levels that companies should provide, and any extra financial incentives included to encourage surpassing targets (or to return money to customers if companies are underperforming).

In its draft determinations, Ofwat said that plans for PR24 include the “largest ever investment programme” for the water sector, with £88 billion of investment across the five-year period. However, Ofwat also challenged proposed bill increases by water companies, which were intended to finance investment in infrastructure. Ofwat said that bill rises would be limited to an average of £19 a year to save customers money.<sup>32</sup> The water industry said that Ofwat had “failed to be realistic” in its draft determinations.<sup>33</sup>

More on Ofwat's draft determinations, as well as stakeholder response, is set out in section 2.2 of the Library briefing [Economic regulation of the water industry](#) (August 2024).

## 1.4 Labour government policies

### Labour manifesto commitments

In its [2024 election manifesto](#), the Labour Party committed to “clean water” as part of its headline commitments on energy and the environment. The Labour manifesto set out more detail on this aim:

Labour will put failing water companies under special measures to clean up our water. We will give regulators new powers to block the payment of bonuses to executives who pollute our waterways and bring criminal charges

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<sup>30</sup> NIC, [Infrastructure progress review 2024](#), 16 May 2024. 7. The environment: Water

<sup>31</sup> Ofwat, [PR24 draft determinations](#), 11 July 2024

<sup>32</sup> Ofwat, [PR24 draft determinations](#), 11 July 2024

<sup>33</sup> Water UK, [Initial Water UK response to Ofwat's draft determinations announcement](#), 11 July 2024



against persistent law breakers. We will impose automatic and severe fines for wrongdoing and ensure independent monitoring of every outlet.<sup>34</sup>

## Labour priorities for Defra

Following the general election in July 2024, Steve Reed MP was appointed as Secretary of State for Environment, Food and Rural Affairs. On 8 July 2024, he set out his five core priorities for Defra, which included “cleaning up Britain’s rivers, lakes and seas”.<sup>35</sup>

These priorities were further elaborated upon in a [speech at the Defra Summer stakeholder reception](#) on 31 July 2024.

Steve Reed also announced a wider regulatory review of Defra.<sup>36</sup> [The ‘Corry review’ was formally launched by Defra](#) in October 2024, and will “examine whether the inherited regulatory landscape is fit for purpose” as part of wider plans to “position Defra as a key economic growth department”.<sup>37</sup>

## Labour priorities for the water sector

On 11 July 2024, Steve Reed set out [new measures to “reform the water sector”](#).

### 2 The government’s first steps to reform the water sector

As set out in a [Defra press release on 11 July 2024](#) (coinciding with Ofwat’s publication of its draft determinations), the government announced four main steps to reform the water sector:

- Agreement with Ofwat that funding for vital infrastructure is ringfenced (protected) and can only be spent on upgrades benefitting customers and the environment. Ofwat will also ensure that when money for investment is not spent, companies refund customers, with money never allowed to be diverted for bonuses, dividends or salary increases.
- Water companies will “place customers and the environment at the heart of their objectives.” Companies will change their “Articles of Association” (the rules governing each company) to make the interests of customers and the environment a primary objective.

<sup>34</sup> Labour Party, [Labour Party Manifesto 2024: Make Britain a clean energy superpower](#), ‘Clean water’, [Accessed 10 September 2024]

<sup>35</sup> Defra (@DefraGovUK), [X \(Twitter\)](#), 8 July 2024

<sup>36</sup> Financial Times, [Keir Starmer taps New Labour figures in hiring spree](#), 10 September 2024; ENDS Report, [Reed to announce growth-focused review of DEFRA regulations](#), 7 October 2024; The Times, [Steve Reed: Why Labour won’t let green groups veto new homes](#), 6 October 2024

<sup>37</sup> Defra, [Dan Corry appointed to lead Defra regulation review](#), 15 October 2024



- Consumers will gain new powers to hold water company bosses to account through new consumer panels.
- Strengthened protection and compensation for households and businesses when their basic water services are affected. Subject to consultation, the amount of compensation customers are legally entitled to when key standards are not met will more than double. The payments will also be triggered by other circumstances, including [Boil Water Notices](#).

The press release also noted that “these steps sit alongside the government’s manifesto commitments to put failing water companies under tough special measures to clean up our waterways.”<sup>38</sup>

On 17 July 2024, The Water (Special Measures) Bill was announced in [the King’s Speech](#).

## 1.5

### Why is the bill being introduced now?

Following the publication of draft determinations on water company business plans in July, Ofwat plans to [issue water companies with final determinations](#). The final determinations will be issued on 19 December 2024.<sup>39</sup> Following final determinations, companies may choose to appeal Ofwat’s decisions to the Competition and Markets Authority (CMA), which can take up to six months.<sup>40</sup> The next round of the price control will commence on 1 April 2025.<sup>41</sup>

Some water companies have precarious finances. In August 2024 [Ofwat confirmed actions for Thames Water](#), following the downgrading of the company’s debt on the wider capital markets and a consequent breach of its licence conditions. The requirement for remedy actions will remain in place until Thames Water regains two investment grade credit ratings. If Thames Water’s financial situation does not improve, or it fails to meet its wider regulatory conditions, it may enter the water company special administration regime.<sup>42</sup> It has been reported that [Ofwat’s final determinations may show that Thames Water’s finances are untenable](#), as this will include an assessment as to how much the company can raise bills.<sup>43</sup> [The company](#)

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<sup>38</sup> Defra, [Government announces first steps to reform water sector](#), 11 July 2024

<sup>39</sup> Ofwat, [2024 price review](#), [Accessed 8 August 2024]

<sup>40</sup> Ofwat, [PR19 price review: Competition and Markets Authority referrals](#), [Accessed 10 September 2024]

<sup>41</sup> Ofwat, [2024 price review](#), [Accessed 6 November 2024]

<sup>42</sup> Ofwat, [Our review of our processes and procedures for when a company may be in financial distress](#) (PDF), October 2015, page 3

<sup>43</sup> BBC News, [Thames Water: Boss defends bonuses as sewage spills soar](#), 10 December 2024; Ofwat, [2024 price review](#), [Accessed 10 December 2024]

[recently secured an additional £3 billion loan](#) to enable it to remain operational until October 2025.<sup>44</sup>

Provisions in the bill will not come into force until the bill receives Royal Assent. However, [coverage from the environmental news outlet ENDS Report](#) notes that “there has been speculation that the measures [in the bill] are being introduced ahead of the possible collapse of Thames Water” and that “ENDS understands that the government wants to see the legislation receive royal assent by January or February next year”.<sup>45</sup>

The [supporting policy statement from Defra](#) highlights intent for the bill to receive Royal Assent before the next financial year to ensure that new rules on performance-related pay apply within this financial year (2024/25), and that wider changes are in place ahead of the new price control period (from 1 April 2025).<sup>46</sup> This has been reiterated in government statements during debates on the bill.<sup>47</sup>

## Independent Commission on Water

When announcing the bill, Steve Reed said that the government planned to carry out a “full review” of the way in which the water industry is regulated, and that this would shape further legislation.<sup>48</sup>

This ‘full review’ refers to the [Independent Commission into the water sector and its regulation](#) launched by the UK and Welsh governments on 23 October 2024. Defra said that it is “expected to form the largest review of the industry since privatisation” and that this forms the next stage in the government’s long-term approach to water.<sup>49</sup>

The commission will report to the government by the second quarter of 2025 (1 April 2025) with recommendations “on how to tackle inherited systemic issues in the water sector to restore our rivers, lakes and seas to good health, meet the challenges of the future and drive economic growth.” It will be chaired by the former governor of the Bank of England, Jon Cunliffe, with a panel of experts from different sectors. Defra said that recommendations from the water review “will form the basis of further legislation to attract long-term investment and clean up our waters for good.”<sup>50</sup>

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<sup>44</sup> Financial Times, [How bad is the crisis at Thames Water?](#), 12 July 2024; BBC News, [Thames Water secures £3bn loan to survive into 2025](#), 24 October 2024

<sup>45</sup> END Report, [The Water Company \(Special Measures\) Bill: What you need to know](#), 5 September 2024

<sup>46</sup> Defra, [Water \(Special Measures\) Bill: policy statement](#), 5 September 2024

<sup>47</sup> [HL Deb 9 October 2024, vol. 839, col. 2073](#)

<sup>48</sup> HCWS 3 [on [Water Sector Reform: First Steps](#)], 18 July 2024

<sup>49</sup> Defra, [Governments launch largest review of sector since privatisation](#), 22 October 2024; Defra, [Independent commission on the water sector regulatory system: terms of reference](#), 23 October 2024

<sup>50</sup> Defra, [Governments launch largest review of sector since privatisation](#), 22 October 2024

During the Lords second reading, Members of the House of Lords welcomed plans for further legislation.<sup>51</sup>

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<sup>51</sup> [HL Debate 9 October 2024, vol 839](#)

## 2

## The Water (Special Measures) Bill

The government has framed the [Water \(Special Measures\) Bill](#) as the first step towards broader change across the water sector.<sup>52</sup> It forms part of the government’s commitment to “put failing water companies under tough special measures”.<sup>53</sup> It includes provisions for government and regulators to block bonuses for water company executives, bring criminal charges against those who break environmental law, impose automatic penalties for environmental pollution, and monitor all sewer overflows.

The bill was announced in [the King’s Speech](#) on 17 July 2024 to address “the need to improve water quality” and “strengthen the powers of the water regulator”.<sup>54</sup>

Following the announcement, the Secretary of State for Environment, Food and Rural Affairs, Steve Reed, made a written statement to Parliament outlining what the bill would do:

The new Government will never look the other way while water companies pump record levels of sewage into our rivers, lakes and seas.

[...]

The Water (Special Measures) Bill will:

Strengthen regulation to make water company executives criminally liable for severe failure.

Give the water regulator new powers to ban the payment of bonuses if environmental standards are not met.

Boost accountability for water executives through a new code of conduct for water companies, so customers can summon board members and hold executives to account.

Introduce new powers to bring automatic and severe fines.

Require water companies to install real-time monitors at every sewage outlet with data independently scrutinised by the water regulators.

These measures will strengthen the enforcement regime and make clear that the new Government will not tolerate poor performance across the water sector.

<sup>52</sup> Defra, [Water \(Special Measures\) Bill: policy statement](#), 5 September 2024

<sup>53</sup> HMG, [Government announces first steps to reform water sector](#), 11 July 2024; Labour Party, [Labour Party Manifesto \[energy and environment commitments\]](#), [Accessed 3 October 2024]

<sup>54</sup> Prime Minister’s Office and His Majesty Charles III, [The King’s Speech 2024](#), 17 July 2024

The Government will outline further legislation to fundamentally transform and reset our water industry and restore our rivers, lakes and seas to good health.<sup>55</sup>

The bill was introduced in the House of Lords on 4 September and had its second reading on 9 October.<sup>56</sup> It progressed to Lords committee stage for three days (28 and 30 October, 4 November).<sup>57</sup> Report stage was held on 20 November and third reading on 26 November.<sup>58</sup>

It was introduced to the Commons on 27 November 2024, and second reading is scheduled for 16 December 2024.<sup>59</sup>

## 2.1 Extent and application in England and Wales

The bill applies to England and Wales. The bill is subject to the [legislative consent process under Standing Order 29](#), where the UK Government should seek the consent of the Welsh Parliament to legislate on a devolved issue within the competence of the Senedd.<sup>60</sup> Legislative consent has been sought.<sup>61</sup>

## 2.2 Delegated powers

The bill contains 13 clauses, some of which confer powers to make supplementary secondary legislation through statutory instruments. More information is set out in the [government statement on delegated powers \(PDF\)](#).<sup>62</sup>

The [Delegated Powers and Regulatory Reform Committee \(DPRRC\)](#) scrutinises the delegated powers in bills and may advise greater scrutiny of specific proposals or advise that these proposals are inappropriate.<sup>63</sup>

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<sup>55</sup> HCWS 3 [on [Water Sector Reform: First Steps](#)], 18 July 2024

<sup>56</sup> Government Whips' Office House of Lords, [Forthcoming Business](#), [Accessed 4 September]; [HL Deb 4 September 2024 vol 839](#); [HL Deb 9 October 2024 vol 839](#)

<sup>57</sup> [HL Deb 28 October 2024 vol 840](#); [HL Deb 28 October 2024 vol 840 \(part 2\)](#); [HL Deb 30 October 2024 vol 840](#); [HL Deb 30 October 2024 \(part 2\)](#); [HL Deb 4 November 2024 vol 840](#)

<sup>58</sup> [HL Deb 20 November 2024](#)

<sup>59</sup> [Water \(Special Measures\) Bill \[HL\]](#)

<sup>60</sup> Defra, [Explanatory Notes](#) (PDF), 4 September 2024; Cabinet Office, [Guide to making legislation](#), Annex F: Legislative Consent, July 2013, updated August 2022; Senedd Cymru, [Legislative Consent: Water \(Special Measures\) Bill](#), 18 September 2024

<sup>61</sup> Senedd Cymru, [Legislative Consent: Water \(Special Measures\) Bill](#), [Accessed 14 November 2024]

<sup>62</sup> Defra, [Memorandum from the Department for Environment, Food and Rural Affairs to the Delegated Powers and Regulatory Reform Committee](#) (PDF), 4 September 2024

<sup>63</sup> UK Parliament, [Delegated Powers and Regulatory Reform Committee](#), [Accessed 12 November 2024]; UK Parliament, [What is Secondary Legislation?](#), [Accessed 12 November 2024]; UK Parliament [Henry VIII clauses](#), [Accessed 12 November 2024]

The DPRRC expressed no concerns about delegated powers in the bill.<sup>64</sup>

## 2.3 Impact assessment

The Department for Environment, Food and Rural Affairs (Defra) submitted its [impact assessment for the bill](#) (PDF) to the Regulatory Policy Committee on 4 October 2024. It was published on 25 October 2024, following requests from the House of Lords.

The [Regulatory Policy Committee \(RPC\)](#) is the independent regulatory scrutiny body for the UK Government. It assesses the quality of evidence and analysis used to inform government regulatory proposals.

The RPC considered the impact assessment for the bill and [published its opinion on 14 November 2024](#), after committee stage. The RPC has given the impact assessment for bill a green-rating, meaning that it is fit for purpose.<sup>65</sup> It noted that the impact assessment identified the problems under consideration and provided satisfactory arguments for intervention.

## 2.4 Clauses in the bill

This section explains the clauses in the current version of the bill, as amended in the Lords.

### Clause 1: Rules about remuneration and governance

Clause 1 would enable Ofwat to set out new rules on remuneration and governance, by amending the [Water Industry Act 1991](#).

The Water Industry Act regulates the water and sewerage services in England and Wales and sets out the powers and duties of water and sewerage companies.

Currently, section 35A of the act sets out expectations about remuneration and standards of governance. Clause 1 would expand this with the addition of new sections 35B (provision for Ofwat, ‘the Authority’, to set rules about remuneration and governance), 35C (procedure for issuing these rules) and 35D (procedure for minor or urgent variations to these rules).

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<sup>64</sup> Delegated Powers and Regulatory Reform Committee (DPRRC), [Second Report of Session 2024-25](#) (PDF), 16 October 2024, paragraph 45

<sup>65</sup> Regulatory Policy Committee (RPC), [The Regulatory Policy Committee scrutiny process](#), June 2019, updated September 2019

The provisions in the bill do not set out the rules on remuneration and governance themselves but would provide Ofwat with the power to set rules for water companies. Ofwat would be required to set rules to:

- ensure water companies stop paying performance-related executive pay (for example, bonuses) where performance fails to meet specified standards
- assess whether senior officials meet standards of ‘fitness and propriety’
- ensure that customers are represented in company decision making<sup>66</sup>

Ofwat would also be required to ensure that rules made in relation to performance-related pay have considered customer matters, the environment, financial resilience and criminal liability.<sup>67</sup>

The [supporting government policy statement](#) stated that clause 1 therefore delivers on “the government’s commitment to give regulators new powers to block the payment of bonuses”.<sup>68</sup>

Performance-related pay rules would apply for the current financial year (2024/25).

These amendments to the Water Industry Act would require Ofwat to consult on performance-related pay, and the government set out its expectation such a consultation in parallel with the bill’s passage through Parliament.<sup>69</sup> Ofwat launched its [consultation on remuneration and governance](#) on 22 October 2024, and this closed on 19 November 2024. The consultation invited views on how Ofwat should introduce rules on remuneration, and stated that it “will use the feedback provided through this consultation to inform the design of these rules and related governance.”<sup>70</sup> Ofwat would also be required to undertake a separate statutory consultation with the Secretary of State, Welsh Ministers, water companies and other relevant parties.

Clause 1 was amended at report stage in the Lords. Lord Cromwell’s (crossbench) [amendment 2](#) added a new subsection (2d) to section 35B to be inserted into the [Water Industry Act 1991](#) by subsection (3) of clause 1. This would allow Ofwat to require water companies to report “not less than annually” on “actual or planned financial structuring or restructuring of the undertaker [company], including debt levels, commercial strategy and any associated risks, including to the long term sustainability of the undertaking”.<sup>71</sup> Additionally, Lord Roborough’s (Conservative) [amendment 11](#) added new subsections (5) and (6) to clause 1, which would require Ofwat’s rules on pay to be published within six months of the act coming into force,

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<sup>66</sup> [Water \(Special Measures\) Bill \[as amended in committee\]](#)

<sup>67</sup> [Water \(Special Measures\) Bill \[as amended in committee\]](#)

<sup>68</sup> Defra, [Water \(Special Measures\) Bill: policy statement](#), 5 September 2024

<sup>69</sup> Defra, [Water \(Special Measures\) Bill: policy statement](#), 5 September 2024

<sup>70</sup> Ofwat, [Consultation on new rules on remuneration and governance provided for in the Water \(Special Measures\) Bill](#), 22 October 2024

<sup>71</sup> [Water \(Special Measures\) Bill \[as amended on report\]](#), Clause 1 (7) (d)

and for any statutory instrument making these rules to be laid before and approved by a resolution of each House of Parliament.<sup>72</sup>

## Clause 2: Pollution incident reduction plans

Clause 2 would introduce a statutory requirement for water companies in England and Wales to publish an annual ‘pollution incident reduction plan’.

It would insert three sections to the Water Industry Act: 205A (on the duty to prepare and publish pollution incident reduction plans), 205B (on implementation reports, as amended at report stage) and 205C (comprising enforcement and sanctions).

The plans would need to set out actions and timelines to reduce the frequency and severity of pollution incidents, and to provide an impact assessment of the proposed actions. Water companies would also be required to report on their progress from the previous year.<sup>73</sup> In preparing pollution incident reduction plans, water companies would need to have regard to guidance from the Environment Agency (EA).

Clause 2 would also give the Secretary of State the power to introduce secondary legislation, setting out new requirements for what should be included in these plans (following a consultation with the EA).<sup>74</sup> This was extended by the government at report stage to give similar powers to Natural Resources Wales and the Welsh Government.<sup>75</sup>

The plans would be publicly available, and the government said in its policy statement that this should “increase transparency about the steps that water companies are taking to reduce the severity and frequency of pollution incidents” allowing “the public and customers to hold water companies accountable.”<sup>76</sup>

The bill would provide (under the insertion of 205C) that if a company did not comply with the pollution incident reduction plan requirement (under 205A), this would be treated as a relevant offence under the EA’s [enforcement and sanctions regime](#).<sup>77</sup> This was extended by the government at report stage to give similar powers to Natural Resources Wales and the Welsh Government.<sup>78</sup>

This clause was subject to multiple amendments at report stage by the government, notably expanding the scope of pollution incident reduction plans to encompass all water-supply related incidents and to extend this clause to Wales; requiring companies to publish an implementation report;

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<sup>72</sup> [Water \(Special Measures\) Bill \[as amended on report\]](#), Clause 1 (35D) (5) and (6)

<sup>73</sup> [Water \(Special Measures\) Bill \[as amended in committee\]](#)

<sup>74</sup> [Water \(Special Measures\) Bill \[as amended in committee\]](#)

<sup>75</sup> [Water \(Special Measures\) Bill \[as amended on report\]](#)

<sup>76</sup> Defra, [Water \(Special Measures\) Bill: policy statement](#), 5 September 2024

<sup>77</sup> Environment Agency (EA), [Environment Agency enforcement and sanctions policy](#), 11 September 2023

<sup>78</sup> [Water \(Special Measures\) Bill \[as amended on report\]](#)



and making chief executives liable for producing the plans and implementation report.<sup>79</sup>

### Clause 3: Emergency overflows

Clause 3 would extend the monitoring of storm overflows to cover ‘emergency overflows’. It would require water companies to publish information on the frequency and duration of discharges from these overflows in near real-time.

As of 2023, event duration monitors (EDMs) are in place at [100% of ordinary storm overflows](#), with water companies required to publish information in near real time from 1 January 2025 (under the government’s [storm overflows discharge reduction plan](#)).<sup>80</sup> Emergency overflows, however, are used in emergency circumstances at sewerage pumping stations (for example, during power cuts, mechanical failure, or downstream blockages) and are not covered by the monitoring target.<sup>81</sup>

Clause 3 would extend monitoring to emergency overflows by inserting a new chapter (chapter 5) to the Water Industry Act. This includes sections 141F (reporting on emergency overflows) and 141G (defining an emergency overflow, through introduction of a statutory definition).

The reporting duty on discharges from emergency overflows would be phased in, with water companies expected to achieve 50% monitoring coverage by the end of the next price review in 2030 and 100% by 2035, the end of the following price review.<sup>82</sup>

The government policy statement explained that clause 3 would “fulfil the government’s commitment to ensure independent monitoring of every outlet”.<sup>83</sup>

Ofwat would be responsible for bringing enforcement proceedings against companies that failed to meet this requirement.<sup>84</sup> The Secretary of State

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<sup>79</sup> [Water \(Special Measures\) Bill \[as amended on report\]](#) amendments [12](#), [13](#), [14](#), [16](#), [17](#), [18](#), [22](#), [25](#), [27](#), and [31](#) extended clause 2 to cover all water-supply related incidents; amendments [15](#), [20](#), [21](#), [23](#), [24](#), [28](#), [30](#), [36](#), [38](#), [60](#), and [63](#) extended the application of provisions within clause 2 to Wales; amendments [19](#), [32](#), and [37](#) require companies to produce an implementation report; amendments [29](#), [34](#), and [35](#) create liability for chief executives

<sup>80</sup> Environment Agency (EA), [Environment Agency publishes storm overflow spill data for 2023](#), 27 March 2024; EA and Defra, [Event Duration Monitoring - Storm Overflows - Annual Returns](#), 27 March 2024; Defra, [Storm overflows discharge reduction plan](#), updated 25 September 2023

<sup>81</sup> Defra, [Storm overflows discharge reduction plan](#), 26 August 2022, updated 25 September 2023; House of Commons Library research briefing, CBP 10027, [Sewage discharges](#)

<sup>82</sup> Ofwat, [2024 price review](#), [Accessed 12 November 2024]; Ofwat, [Price reviews](#), [Accessed 12 November 2024]

<sup>83</sup> Defra, [Water \(Special Measures\) Bill: policy statement](#), 5 September 2024

<sup>84</sup> Defra, [Explanatory Notes](#) (PDF), 4 September 2024

would also have the power to make regulations setting out exceptions to this requirement (subject to consultation and the [affirmative procedure](#)).<sup>85</sup>

## Clause 4: Nature-based solutions

Clause 4 was a new clause introduced by the government at report stage through [amendment 42](#).

It would amend section 94A(3) of the Water Industry Act 1991 by inserting a new paragraph after section (e) on matters to be addressed in drainage and sewerage management plans.<sup>86</sup> Commonly referred to as drainage and wastewater management plans (DWMPs), these are plans that set out how wastewater systems and the supporting drainage networks are to be “extended, improved, and maintained” over a period of 25 years, to ensure that they are robust and resilient to future pressures.<sup>87</sup>

The amendment would require these plans to address the use of “nature-based solutions, technologies and facilities.”<sup>88</sup>

## Clause 5: Impending investigations: Sentencing and liability

Clause 5 (clause 4 as introduced) would introduce sentencing and criminal liability of officials who obstruct regulatory investigations (for example, regulations into sewage discharges from water companies).

Clause 5 would do this by inserting new subsections into [section 110 of the Environment Act 1995](#) (on offences) and into section [86\(6\) of the Water Industry Act 1991](#) (this section covers sanctions relating to the impeding of investigations by the Drinking Water Inspector).

These provisions would allow for imprisonment of officials who obstruct regulatory investigations; enable obstruction to be heard as an offence in the Crown Court; and enable executives and directors to be prosecuted for obstruction “where it is committed with their consent or connivance” or is attributable to their neglect.

The government policy statement said that clause 5 would “ensure directors and officers are held to account” and would “bring water regulation in line with other sectors”, delivering on “the government’s commitment to bring criminal charges against persistent lawbreakers”. It also set out that the EA

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<sup>85</sup> [Water \(Special Measures\) Bill \[as amended in committee\]](#); Defra, [Memorandum from the Department for Environment, Food and Rural Affairs to the Delegated Powers and Regulatory Reform Committee](#) (PDF), 4 September 2024; UK Parliament, [Affirmative procedure](#). [Accessed 12 November 2024]

<sup>86</sup> [Water \(Special Measures\) Bill \[as amended on report\]](#)

<sup>87</sup> Water UK, [A framework for the production of Drainage and Wastewater Management Plans](#) (PDF), September 2018; HMG, [Guiding principles for drainage and wastewater management plans](#), 26 August 2022

<sup>88</sup> [Water \(Special Measures\) Bill \[as amended on report\]](#)

would update its enforcement policy to clarify circumstances where it would pursue prosecutions against executives.<sup>89</sup>

## Clause 6: Civil penalties: Modification of standard of proof

Clause 6 (clause 5 as introduced) would lower the standard of proof for issuing civil penalties.

It would allow regulations to enable the EA and Natural Resources Wales (NRW) to impose fixed monetary penalties and variable monetary penalties “on the balance of probabilities.” The offences for which penalties may be issued under this lower standard of proof would be specified in secondary legislation.

The government policy statement says the government will consult on these offences and on the cap for the maximum size of the new Variable Monetary Penalty (with this cap to be based on the degree of environmental harm, culpability and size of the water company). It also states that the EA and NRW will update and publish guidance setting out the methodologies for the use of these penalties.<sup>90</sup>

The government amended the clause at committee stage to add subsection (6), which provides that the clause applies to water supply and sewerage licensees (water companies) only in relation to their licensed activities.<sup>91</sup>

## Clause 7: Automatic penalties for specific offences

Clause 7 (clause 6 as introduced) would enable automatic fixed monetary penalties for specific water industry offences: pollution, failure to comply with information requests and reporting requirements, and offences relating to water resources.

The government would specify the list of relevant offences and the value of these penalties through secondary legislation. If it is necessary to make amendments to existing water company permit conditions to enable automatic penalties, these amendments would also be set out in secondary legislation.

The government policy statement says that clause 7 would “deliver on the government’s commitment to give regulators powers to impose automatic and severe fines for wrongdoing”. It also sets out that the government would

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<sup>89</sup> Defra, [Water \(Special Measures\) Bill: policy statement](#), 5 September 2024

<sup>90</sup> Defra, [Water \(Special Measures\) Bill: policy statement](#), 5 September 2024

<sup>91</sup> [HL Bill 45 \(as amended in committee\)](#), 4 November 2024; [HL Bill 17-11 Second marshalled list of amendments for committee](#), 29 October 2024; [Amendment 71](#)

consult on the list of relevant offences and value of penalties during the bill's passage through Parliament.<sup>92</sup>

The powers set out in clause 7 would be subject to the [affirmative procedure](#).<sup>93</sup>

This clause was amended by the government at committee stage to provide that it applies to water supply and sewerage companies only in relation to their licensed activities.<sup>94</sup>

## Clause 8: Abstraction and impounding: Power to impose general conditions

Clause 8 (clause 7 as introduced) would enable the EA and NRW to expand the ways they recovered some of the costs of regulatory activities (for example, enabling them to recover costs of enforcement activities).

It would do this by inserting a new section (46B) to the [Water Resources Act 1991](#). The Water Resources Act sets out regulations relating to water resources, water quality, pollution, and flood defence.<sup>95</sup>

The powers set out in clause 8 would be subject to the [negative procedure](#).<sup>96</sup>

## Clause 9: Requirement for Ofwat to have regard to climate change etc.

Clause 9 was a new clause introduced by the government at report stage through [amendment 48](#). It would require Ofwat to “have regard to climate change etc.” by amending [section 2 of the Water Industry Act 1991](#).

This would require Ofwat to have regard to the duty in [section 1 of the Climate Change Act 2008](#) (including the UK net zero emissions target) and the duty in [section 5 of the Environment Act 2021](#) (wider environmental targets).<sup>97</sup>

## Clause 10: Charges in respect of Environment Agency and Natural Resources Wales functions

Clause 10 (clause 8 as introduced) would expand the powers of the EA and NRW to make ‘charging schemes’. These schemes relate to environmental permitting (issuing of permits for activities that may pollute) and abstraction

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<sup>92</sup> Defra, [Water \(Special Measures\) Bill: policy statement](#), 5 September 2024

<sup>93</sup> Defra, [Memorandum from the Department for Environment, Food and Rural Affairs to the Delegated Powers and Regulatory Reform Committee](#) (PDF), 4 September 2024

<sup>94</sup> [Amendment 76: Amendment 77](#)

<sup>95</sup> Defra, [Water \(Special Measures\) Bill: policy statement](#), 5 September 2024

<sup>96</sup> Defra, [Memorandum from the Department for Environment, Food and Rural Affairs to the Delegated Powers and Regulatory Reform Committee](#) (PDF), 4 September 2024; UK Parliament, [Negative procedure](#). [Accessed 12 November 2024]

<sup>97</sup> [Water \(Special Measures\) Bill \[as amended on report\]](#)

licencing regimes (issuing licences to take water, for example from reservoirs). Expanding these powers would enable the regulators to recover more of their costs.

Clause 10 would insert new subsections to [section 41 of the Environment Act 1995](#) (powers to make schemes imposing charges).

The government policy statement explains that HM Treasury, Defra Secretary of State and Welsh Ministers would be consulted by the EA before changes were implemented.<sup>98</sup>

## Clause 11: Drinking Water Inspectorate functions and fees

Clause 11 (clause 9 as introduced) would increase cost recovery for the Drinking Water Inspectorate (DWI, the regulator of drinking water quality in England and Wales). At present, the DWI does not fully recover costs accrued under its [Security and Emergency Measures Direction](#), as the current wording of the Water Industry Act does not enable it to link its fees to enforcement action.

Clause 11 would amend the Water Industry Act ([sections 86 and 86ZA](#)) to allow for regulations to enable the DWI to recover costs from water companies, and for subsequent amendments of the [Water Quality and Supply Fees \(Order\) 2016](#) to also allow for cost recovery.

These changes would also allow the DWI to revise its fee collection methods and introduce a revised fee structure.

The government policy statement explains that amendments to the 2016 order would be made through secondary legislation.<sup>99</sup>

The powers set out in clause 11 would be subject to negative procedure.<sup>100</sup>

## Clause 12: Modification by Secretary of State of water company's appointment conditions etc to recover losses

Clause 12 (clause 10 as introduced) would give the Secretary of State for Environment, Food and Rural Affairs the power to modify water company licences to recover a shortfall in government costs at the end of a special administration regime. This is the regime that water companies may enter into when faced with administration, or may be placed in following exceptionally poor environmental performance.

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<sup>98</sup> Defra, [Water \(Special Measures\) Bill: policy statement](#), 5 September 2024

<sup>99</sup> Defra, [Water \(Special Measures\) Bill: policy statement](#), 5 September 2024

<sup>100</sup> Defra, [Memorandum from the Department for Environment, Food and Rural Affairs to the Delegated Powers and Regulatory Reform Committee](#) (PDF), 4 September 2024

Clause 12 would amend the Water Industry Act through inserting section 12J (on special administration orders) and section 12K (procedural requirements for section 12J).

The government policy statement explains that this additional power would “give flexibility to the Secretary of State to recover any shortfall in a manner appropriate to the circumstances.” For example, they would “be able to decide if they want to use this power” and “whether losses are recovered from a single company, some or all water companies.” It also sets out that the recovery mechanism in the bill would be subject to consultation with relevant stakeholders.<sup>101</sup>

### **Clause 13: Modification by Welsh Ministers of water company’s appointment conditions etc to recover losses**

Clause 13 (clause 11 as introduced) sets out similar powers to clause 12 on special administration regimes, but for Welsh Ministers in respect to special administration of Welsh water companies.

Clause 13 would amend the Water Industry Act by inserting section 16C (on special administration orders) and section 16D (procedural requirements for section 16C).

### **Clause 14: Winding-up petitions**

Clause 14 (clause 12 as introduced) would require that the government and Ofwat be notified of any ‘winding-up petition’ (a legal application made by creditors of water companies to recover debts). This would prevent a court from exercising its powers to wind up a company or making a special administration order until notice has been given to both government and Ofwat, and 14 days have passed.<sup>102</sup> It would establish a legal entitlement for government and Ofwat to be heard at the hearing of a winding-up petitions for a water company.

Clause 14 would make this provision through modification of [section 25](#) of the Water Industry Act.

### **Clause 15: Extent, commencement, transitional provision and short title**

Clause 15 (clause 13 as introduced) sets out that the act would extend to England and Wales.

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<sup>101</sup> Defra, [Water \(Special Measures\) Bill: policy statement](#), 5 September 2024

<sup>102</sup> A winding up petition (WUP) refers to legal action that is taken by a creditor or creditors against a company that owes them money; if this is more than £750 the creditor(s) can issue a petition in court, from The Gazette, [How does the winding up petition process work?](#), 14 March 2017

It also specifies that clauses 6 to 11 would come into force on the day that the act was passed.

It specifies that provisions made under clauses 1, 2 and 3 would come into force on the day the Secretary of State makes the provided regulations; provisions made under clauses 1 and 3 that relate to Wales would come into force on the day the Welsh Ministers make the provided regulations. It sets out that the power to make these regulations includes the power “to make different provision for different purposes or areas” and “transitional or saving provision.”<sup>103</sup>

It specifies that provisions made under clauses 5, 12, 13 and 14 would come into force two months after the act was passed.

Clause 15 also specifies that the act may be cited as the Water (Special Measures) Act 2024.

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<sup>103</sup> Transitional and saving provisions set out how the changeover from previous legislation to new legislation will take place.

## 3 Consideration in the Lords

### 3.1 Second Reading

[Second reading of the bill](#) in the House of Lords took place on 9 October 2024.

Baroness Hayman of Ullock, Parliamentary Under-Secretary of State for Defra with responsibility for biosecurity and animal welfare, opened the debate and responded on behalf of the government.<sup>104</sup>

#### Cross-party support

All those who spoke welcomed the bill, with commendations for swift action on the water sector from the new government. Many referenced the state of water in the UK, touching on pollution, water company debt and failures of regulation.

Some called on the government to go further. Earl Russell (Liberal Democrats) said the government should be “braver and bolder” and “act with greater urgency.”<sup>105</sup> Baroness Jones of Moulsecoomb (Green Party) noted that many people would support “a more radical water bill.”<sup>106</sup>

#### Broad nature of the bill

Lord Remnant (Conservative) considered that drafting of the first clause on remuneration and governance was too broad, stating that “the bill is too widely drawn”.<sup>107</sup> Lord Sandhurst (Conservative) likened the bill to others introduced by the government, and said that more detail was needed.<sup>108</sup> Lord Roborough (Conservative) called for further information on the delegated powers set out in the bill.<sup>109</sup>

Lord Blencathra (Conservative) also noted the wide range of the bill, and called for the government to publish an impact assessment.<sup>110</sup> This was supported by several members, and Baroness Hayman confirmed that the government would publish this once it had passed through the Regulatory

<sup>104</sup> [HL Deb 9 October 2024 Vol 839](#)

<sup>105</sup> [HL Deb 9 October 2024 Vol 839](#), column 2029

<sup>106</sup> [HL Deb 9 October 2024 Vol 839](#), column 2040

<sup>107</sup> [HL Deb 9 October 2024 Vol 839](#), column 2043, 2044

<sup>108</sup> [HL Deb 9 October 2024 Vol 839](#), column 2061

<sup>109</sup> [HL Deb 9 October 2024 Vol 839](#), column 2066

<sup>110</sup> [HL Deb 9 October 2024 Vol 839](#), column 2025



Policy Committee.<sup>111</sup> The Regulatory Policy Committee (RPC) is an independent regulatory scrutiny body for the UK Government which assesses the quality of evidence and analysis used to inform regulatory proposals.<sup>112</sup> The [impact assessment](#) (PDF) was published on 25 October and the [RPC opinion](#) published on 21 November 2024.

## Regulation

Several members of the House of Lords called for a review of the wider regulatory structure and Ofwat, including the Duke of Wellington (crossbench) and Lord Whitty (Labour). Lord Cromwell (crossbench) suggested that Ofwat had been “outsmarted by private equity financial engineering.”<sup>113</sup>

Some members noted criticism that the bill avoided nationalisation, with Lord Sikka (Labour) saying that the bill is “delaying the inevitable” and Baroness Jones of Moulsecoomb calling for the government to consider ownership of water companies.<sup>114</sup>

## Remuneration and governance

Measures in the bill to curb executive remuneration were also debated. Lord Remnant (Conservative) and the Earl of Devon (crossbench) raised concerns over whether water companies would be able to recruit experienced leaders.<sup>115</sup>

Lord Remnant said that the “power conferred on Ofwat by the bill should surely be removed if we wish to attract and support the next generation of leaders”.<sup>116</sup> The Earl of Devon questioned “who on earth would want to become a water company director if they will become subject to punitive sanctions and strict limits on performance-related bonuses?” and said that such measures would “result in considerable increases in basic salaries to attract the necessary talent”, increasing prices for customers and limiting profit and infrastructure investment.<sup>117</sup>

Lord Blencathra, Lord Remnant and Lord Douglas-Miller (all Conservative) and the Duke of Wellington (crossbench) raised concerns about consumer representation.<sup>118</sup> Lord Blencathra called for more information from the government on how consumers might be involved. He noted that clause 15 (then clause 13) requiring water companies to involve customers in any decision “likely to have a material impact” was very broad and that what

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<sup>111</sup> [HL Deb 9 October 2024 Vol 839](#), column 2072

<sup>112</sup> HMG, [Regulatory Policy Committee](#). [Accessed 12 November 2024]

<sup>113</sup> [HL Deb 9 October 2024 Vol 839](#), column 2054

<sup>114</sup> [HL Deb 9 October 2024 Vol 839](#), columns 2042, 2040

<sup>115</sup> [HL Deb 9 October 2024 Vol 839](#), columns 2043, 2047

<sup>116</sup> [HL Deb 9 October 2024 Vol 839](#), column 2044

<sup>117</sup> [HL Deb 9 October 2024 Vol 839](#), column 2047

<sup>118</sup> [HL Deb 9 October 2024 Vol 839](#), columns 2028, 2044, 2053, 2032

counted as ‘material’ was not defined.<sup>119</sup> The Duke of Wellington expressed concern about board-level involvement of consumers, and said that in his experience “such defined interests in a board are not likely to improve the effectiveness of the board”.<sup>120</sup>

Other Members of the House of Lords welcomed a greater voice for customers. Lord Whitty noted concerns about board-level involvement, but advocated to “strengthen the consumer role”, suggesting giving greater powers to the [Consumer Council for Water](#).<sup>121</sup> Lord Cromwell said that he “welcome[d] the challenge being brought to board level”.<sup>122</sup>

## Pollution and clean water

Amendments cannot be tabled at second reading. However, during the debate, several members of the Lords discussed their support for a proposed amendment to give Ofwat additional duties related to the environment and clean water.<sup>123</sup>

Baroness Parminter (Liberal Democrats) set out her plans to table this amendment following a [campaign to increase the remit of Ofwat](#) beyond the current framework, which includes a strong focus on financial performance.<sup>124</sup> This amendment would have changed Ofwat’s duties “to be compatible with the public interest” by reforming these duties to focus on “clean water, conservation and reasonable water bills”.<sup>125</sup>

The Duke of Wellington concluded that “whereas this is a laudable intent and something that all businesses and indeed individuals should aspire to, I am not sure that, in the current regulatory structure, it would be sensible to add this statutory duty to [Ofwat] while it is principally the duty of the Environment Agency.”<sup>126</sup>

Baroness McIntosh of Pickering (Conservative) discussed her plan to table an amendment relating to recommendations made in the Pitt Review on flood and water management on sustainable drainage.<sup>127</sup> Baroness Parminter (Liberal Democrat), Baroness Pinnock (Liberal Democrat), and Baroness Young of Old Scone (Labour) expressed support for progressing action on sustainable drainage.<sup>128</sup> Baroness Hayman noted the discussion around sustainable drainage and noted that whilst this was outside of the scope of

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<sup>119</sup> [HL Deb 9 October 2024 Vol 839](#), column 2028

<sup>120</sup> [HL Deb 9 October 2024 Vol 839](#), column 2032

<sup>121</sup> [HL Deb 9 October 2024 Vol 839](#), column 2052

<sup>122</sup> [HL Deb 9 October 2024 Vol 839](#), column 2054

<sup>123</sup> UK Parliament, [Amendment 78 to Water \(Special Measures\) Bill \[HL\]](#). [Accessed 12 November 2024]

<sup>124</sup> ‘i’ newspaper, [i’s Save Britain’s Rivers 2024 manifesto: in full](#), 5 June 2024; ‘i’, [Force water firms to divert shareholder profits to stop sewage](#), [Lords tell Labour](#), 8 October 2024

<sup>125</sup> Amendment 78 on the [Marshalled list for Committee](#) (PDF), 24 October 2024

<sup>126</sup> [HL Deb 9 October 2024 Vol 839](#), column 2032

<sup>127</sup> [HL Deb 9 October 2024 Vol 839](#), column 2056; HMG, [Pitt Review \[Accessed via National Archives\]](#), 2008; HMG, [Government response to the Pitt review](#), 1 February 2012

<sup>128</sup> [HL Deb 9 October 2024 Vol 839](#), columns 2037, 2046, 2060

the bill, she would take forward discussions on this matter with interested Members of the House of Lords.<sup>129</sup>

## 3.2 Committee stage

Committee stage in the Lords was held over three sittings on 28 and 30 October and 4 November 2024. By the end of committee stage, five government amendments had been made to the bill.<sup>130</sup> Most amendments were either withdrawn or not moved. There were no divisions on any amendments.

Much of the committee debate was focused on minor changes to the wording of the bill.

### Ofwat's remit

There was some discussion of Ofwat's remit at committee stage, although this was largely noted as outside of scope of the bill.

Baroness Willis of Summertown (crossbench) introduced [amendment 1](#), which would add a requirement for Ofwat to have regards to both climate change and biodiversity targets in its response to river pollution. This was withdrawn without much discussion.<sup>131</sup>

Baroness Parminter's [amendment 78](#) on giving Ofwat a clean water duty was discussed at second reading (see section 3.1, above), but was not moved at committee stage.<sup>132</sup>

### Remuneration and governance

Several amendments on performance-related pay were tabled. Some were not moved and the rest withdrawn. These amendments varied in their scope and frequently referenced definitions set out in the bill. Several Members of the House of Lords agreed to discuss the concerns behind these amendments further with the government.<sup>133</sup>

Lord Remnant introduced [amendment 3](#), which intended to safeguard the water industry from Ofwat being given “extremely wide powers [...] to draft rules in a very complex area”. He said that his amendment would clarify that Ofwat's powers under clause 1 could not be used in a way that would conflict

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<sup>129</sup> [HL Deb 9 October 2024 Vol 839](#), column 2072

<sup>130</sup> [HL Deb 4 November 2024 Vol 840](#), column 1378

<sup>131</sup> [HL Deb 28 October 2024 Vol 840](#), column 930

<sup>132</sup> [HL Deb 4 November 2024 Vol 840](#), column 1374

<sup>133</sup> [HL Deb 28 October 2024 Vol 840](#), column 1016

with the regulator’s general duties towards the water industry (for example, in relation to its capital and human resource needs).<sup>134</sup>

Lord Sikka introduced [amendment 25](#), which similarly criticised the broad power afforded to Ofwat and would amend clause 1 on rules for performance-related pay to require approval of a draft statutory instrument by both Houses of Parliament.<sup>135</sup> Lord Roborough tabled [amendment 27](#), which called for a similar increase in parliamentary scrutiny of these rules.<sup>136</sup> Baroness Hayman responded that “Ofwat’s existing duties are already consistent with the outcomes” intended by such amendments, and these amendments were not moved.<sup>137</sup>

[Amendment 4](#) was introduced by Lord Sikka, and [amendment 18](#) was introduced by Lord Remnant. Both of these amendments sought to clarify to whom penalties on executive pay would apply, and called for this to be set out more clearly within the bill.<sup>138</sup> More broadly, Members of the House of Lords introduced amendments on what should comprise Ofwat’s rules on executive pay (amendments [5](#), [6](#), [13](#), [17](#), and [28](#)).

Baroness Hayman noted said that “in line with the general principles of regulatory independence, Ofwat will rightly be responsible for developing and enforcing the rules on remuneration in governance, including determining the individuals in scope.” She noted that Ofwat had recently published its consultation which is intended to design these rules. These amendments were withdrawn or not moved.<sup>139</sup>

A group of amendments were introduced in relation to consumer representation on water company boards. A range of opinions were expressed.<sup>140</sup> Baroness Hayman noted that the Independent Commission on Water would “carefully consider the roles and responsibilities of the regulators” but that “this bill should not pre-empt the commission’s outcomes.” These amendments were withdrawn or not moved.<sup>141</sup>

## Pollution incident reduction plans

A group of amendments ([30](#), [31](#), [32](#), [36](#), [39](#), and [40](#)) were introduced in relation to clause 2 of the bill, on pollution reduction incident plans.<sup>142</sup> These covered:

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<sup>134</sup> [HL Deb 28 October 2024 Vol 840](#), column 945

<sup>135</sup> [HL Deb 28 October 2024 Vol 840](#), column 945

<sup>136</sup> [HL Deb 28 October 2024 Vol 840](#), column 948

<sup>137</sup> [HL Deb 28 October 2024 Vol 840](#), columns 951

<sup>138</sup> [HL Deb 28 October 2024 Vol 840](#), columns 953 - 957

<sup>139</sup> [HL Deb 28 October 2024](#), column 1016

<sup>140</sup> [HL Deb 28 October 2024 Vol 840](#), columns 972 – 982

<sup>141</sup> [HL Deb 28 October 2024 Vol 840](#), column 984

<sup>142</sup> [HL Deb 30 October 2024 Vol 840](#), columns 1143 -1147

- extending the remit of pollution incident reduction plans to include water-only companies,
- modifying the duty for water companies from being required to publish pollution incident reduction plans to “actually implement them” ([amendment 30](#), proposed by Baroness Bakewell, spokesperson for the Liberal Democrats, and introduced by Baroness Parminter).<sup>143</sup>

Baroness Hayman responded that the Environment Agency would hold water companies to account for not achieving the measures in these plans. She also said that amendments to introduce a duty on water companies to implement the plans could “imply an unusual sub-delegation of powers to the water companies” where they would create enforceable duties for themselves, therefore encouraging a ‘perverse outcome’ whereby companies create less ambitious pollution incident reduction plans. These amendments were either not moved or withdrawn.<sup>144</sup>

Amendments were introduced on nature-based solutions to reduce pollution. These included amendments [37](#) and [104](#), introduced by Baroness Jones and Lord Gascoigne (Conservative), [amendment 74](#) on chalk streams introduced by Earl Russell, and [amendment 90](#) on water resource management plans introduced by Baroness Browning (Conservative). In response, Baroness Hayman highlighted existing government work and role of the new Independent Commission. These amendments were either not moved or withdrawn.<sup>145</sup>

## Civil penalties

Several amendments were tabled in relation to clause 5, on civil penalties and the modification of the standard of proof.<sup>146</sup> Baroness Hayman responded that the government plans to consult “on the offences for which the civil standard of proof may be used and on the cap for the new civil standard variable penalties”, and that the House would also have the opportunity to debate and vote on secondary legislation. These amendments were either not moved or withdrawn.<sup>147</sup>

[Amendment 68](#) was introduced by Baroness Hayman to provide that clause 5 applies to water supply and sewerage licensees only in relation to their licensed activities. Amendment 68 was agreed.<sup>148</sup>

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<sup>143</sup> [HL Deb 30 October 2024 Vol 840](#), column 1143

<sup>144</sup> [HL Deb 30 October 2024 Vol 840](#), column 1147

<sup>145</sup> [HL Deb 30 October 2024 Vol 840](#), columns 1170 - 1172

<sup>146</sup> [HL Deb 30 October 2024 Vol 840](#), columns 1198 - 1201

<sup>147</sup> [HL Deb 30 October 2024 Vol 840](#), column 1201

<sup>148</sup> [HL Deb 30 October 2024 vol 840](#), column 1204

## Technical government amendments

Amendments [71](#), [76](#), [77](#), and [83](#) were all tabled by Baroness Hayman as minor and technical amendments to clarify who is within scope of the measures in clauses 5 to 8. These amendments were all agreed.<sup>149</sup>

No new clauses were added at committee stage.

## 3.3

## Report stage

Report stage in the Lords took place on 20 November 2024.<sup>150</sup>

The government tabled 34 amendments, all of which were agreed to. Four amendments from other parties were voted on, two of which were agreed, and two disagreed.

## Government amendments

### Pollution incident reduction plans

Baroness Hayman introduced a group of amendments ([12](#), [13](#), [14](#), [16](#), [17](#), [18](#), [22](#), [25](#), [27](#), and [31](#)) to expand the scope of pollution incident reduction plans to encompass all water-supply-related incidents.<sup>151</sup> These built on committee stage discussions, specifically on [amendment 30](#) from Baroness Bakewell, which sought to make water-only companies subject to the provisions under clause 2 (see section 3.2).

Baroness Hayman introduced amendments ([19](#), [32](#), and [37](#)) to require companies to produce an implementation report alongside their annual plans.<sup>152</sup> Baroness Hayman also introduced a group of amendments ([29](#), [34](#), and [35](#)) to “create personal liability for chief executives to ensure that pollution incident reduction plans are published and implemented in line with the requirements set out in the bill”.<sup>153</sup>

In response to Members of the House of Lords’ concern that the bill only required water companies to make, and not implement, pollution incident reduction plans, she said that companies drafting their own enforceable standards could lead to gaming: “to manage the risk of enforcement, companies might be persuaded to make a commitment only when highly confident they could deliver”.<sup>154</sup>

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<sup>149</sup> [HL Deb 4 November 2024 vol 840](#), column 1375

<sup>150</sup> [HL Deb 20 November 2024 Vol 841](#)

<sup>151</sup> [HL Deb 20 November 2024 Vol 841](#), column 265

<sup>152</sup> [HL Deb 20 November 2024 Vol 841](#), column 267

<sup>153</sup> [HL Deb 20 November 2024 Vol 841](#), column 266

<sup>154</sup> [HL Deb 20 November 2024 Vol 841](#), column 267

Finally, Baroness Hayman introduced amendments [15](#), [20](#), [21](#), [23](#), [24](#), [28](#), [30](#), [36](#), [38](#), [60](#), and [63](#), which extended the application of provisions within clause 2 to Wales.

These amendments were all agreed.<sup>155</sup>

### Nature-based solutions

Baroness Hayman introduced [amendment 42](#) (supported by amendments [61](#) and [64](#)), which would require a sewerage undertaker's drainage and sewerage management plan to "explain the intended contribution of nature-based solutions, technologies and facilities".<sup>156</sup> This would insert 'new clause 4' to amend the Water Industry Act so that nature-based solutions would need to be addressed within drainage and sewerage management plans.<sup>157</sup>

Debate at both second reading and committee stage touched on the importance of nature-based solutions (see sections 3.1 and 3.2 of this briefing).

These amendments were all agreed.<sup>158</sup>

### Regard to climate and nature

Baroness Willis of Summertown introduced government [amendment 48](#) (supported by amendments [62](#) and [65](#)), which would require Ofwat to 'have regard' to climate change and nature targets where relevant to its functions.<sup>159</sup> This would insert 'new clause 9'.<sup>160</sup>

Baroness Hayman said that the government had "heard the voice of the House when it said we needed to act quickly" and so had drafted this amendment "to complement Ofwat's existing duties relating to biodiversity and climate resilience".<sup>161</sup> However, she reiterated previous challenge from the government that the Independent Commission's remit includes an assessment of Ofwat's duties and that it "remains the right place to fundamentally review the roles and responsibilities of the water industry regulators".<sup>162</sup>

Multiple Members of the House of Lords welcomed this amendment, but many noted that its wording could have been stronger; for example, Baroness

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<sup>155</sup> [HL Deb 20 November 2024 Vol 841](#), column 304

<sup>156</sup> [HL Deb 20 November 2024 Vol 841](#), column 288

<sup>157</sup> [Water \(Special Measures\) Bill \[as amended on report\]](#)

<sup>158</sup> [HL Deb 20 November 2024 Vol 841](#), columns 288, 304

<sup>159</sup> [HL Deb 20 November 2024 Vol 841](#), column 272

<sup>160</sup> [Water \(Special Measures\) Bill \[as amended on report\]](#)

<sup>161</sup> [HL Deb 20 November 2024 Vol 841](#), column 280

<sup>162</sup> [HL Deb 20 November 2024 Vol 841](#), column 279

Parminter said that it was “extremely welcome” but that it “could have gone a bit further.”<sup>163</sup>

These amendments were all agreed.<sup>164</sup>

## Amendments that went to division

Four amendments were moved and went to division.

### Water company finances

Lord Cromwell (Crossbench) introduced [amendment 2](#) on water company financial reporting. This would amend clause 1 to require “that financial engineering becomes a regular focus area for timely reporting in order to assist in regulators’ understanding and alert them in good time to risks or distortions in a water company”.<sup>165</sup>

Baroness Hayman noted that Ofwat already has a duty under [section 2 of the Water Industry Act 1991](#) to ensure that water companies are able to finance the proper carrying out of their statutory obligations, and that therefore the government would not support this amendment.<sup>166</sup> She again reiterated that the duties of Ofwat fell within the scope of the independent commission, and that “consideration of the entire financial resilience framework will form a central part of the independent commission”.<sup>167</sup>

This amendment was voted on and agreed, with 279 for and 136 against.<sup>168</sup>

### Remuneration and governance

Lord Remnant (Conservative) introduced [amendment 10](#), which would amend the bill’s provisions about performance-related pay in clause 1 to not have retroactive effect, and to apply from 2025 as opposed to 2024.

Baroness Hayman responded that the government has “clearly signalled their intentions around performance-related pay far in advance of the bill” and that therefore applying these rules to this financial year does not create uncertainty.<sup>169</sup>

This amendment was voted on and disagreed, with 82 for and 172 against.<sup>170</sup>

Lord Roborough (Conservative) introduced [amendment 11](#), which would amend clause 1 to insert a new section to require Ofwat to publish the rules of remuneration and governance within six months of the bill receiving Royal

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<sup>163</sup> [HL Deb 20 November 2024 Vol 841](#), column 276

<sup>164</sup> [HL Deb 20 November 2024 Vol 841](#), columns 292, 304

<sup>165</sup> [HL Deb 20 November 2024 Vol 841](#), column 236

<sup>166</sup> [HL Deb 20 November 2024 Vol 841](#), column 244-245

<sup>167</sup> [HL Deb 20 November 2024 Vol 841](#), column 245

<sup>168</sup> [HL Deb 20 November 2024 Vol 841](#), columns 251-253

<sup>169</sup> [HL Deb 20 November 2024 Vol 841](#), column 247

<sup>170</sup> [HL Deb 20 November 2024 Vol 841](#), column 261-262



Assent, as well as to require parliamentary approval through the affirmative procedure for statutory instruments making rules on remuneration and governance.<sup>171</sup>

Baroness Hayman responded that while Ofwat will be responsible for developing and implementing such rules, as the Secretary of State will already be consulted throughout the process, the government “do not believe there is a need for a statutory instrument to be laid to bring the rules into effect.” She said that “Ofwat, as the independent regulator, should be responsible for determining metrics for bonus bans.”<sup>172</sup>

This amendment was voted on and agreed, with 140 for and 117 against.<sup>173</sup>

### Special Administration

Lord Roborough also introduced [amendment 51](#), which would remove clause 12 (previously clause 10) from the bill and “prevent consumers in England from being charged higher water bills to cover any losses incurred by the government as a result of the Secretary of State’s decision to make a special administration order”.<sup>174</sup>

Baroness Hayman reiterated that clause 12 would be “essential to protect taxpayers’ money in the event of a SAR [special administration regime]”.<sup>175</sup>

This amendment was voted on and disagreed, with 36 for and 89 against.<sup>176</sup>

## 3.4

## Third reading

Third reading in the Lords took place on 26 November 2024.<sup>177</sup> The bill was passed and sent to the Commons.

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<sup>171</sup> [HL Deb 20 November 2024 Vol 841](#), column 243

<sup>172</sup> [HL Deb 20 November 2024 Vol 841](#), columns 247-248

<sup>173</sup> [HL Deb 20 November 2024 Vol 841](#), columns 263-264

<sup>174</sup> [HL Deb 20 November 2024 Vol 841](#), column 302

<sup>175</sup> [HL Deb 20 November 2024 Vol 841](#), column 301

<sup>176</sup> [HL Deb 20 November 2024 Vol 841](#), column 303

<sup>177</sup> [HL Deb 26 November 2024 Vol 841](#)

## 4 Reaction to the bill

### 4.1 Opposition parties

Robbie Moore, a former Defra Minister, criticised the plans set out within the bill as a repackaging of previous Conservative government plans. Robbie Moore said that “Labour are attempting to pass off measures implemented under the Conservatives – like banning bonuses for water company bosses whose companies commit serious breaches – as their own.”<sup>178</sup>

Current shadow Minister for Environment Victoria Atkins has not publicly commented on the bill.

The environment spokesperson for the Liberal Democrats, Tim Farron, [published a statement that criticised the bill](#), saying “on the surface, this new bill simply doesn’t look up to scratch” and that “only a complete overhaul of this disgraced industry and a tough new regulator will end the sewage crisis”. Tim Farron said that Liberal Democrat MPs will push the government “to go much further and faster in ending this scandal once and for all.”<sup>179</sup>

### 4.2 Stakeholder views

#### Public agencies

The Office for Environmental Protection (OEP) is a public body tasked with holding the government and other public authorities to account. Following the announcement of the government’s plan for the water sector, ENDS Report said that the Chair of the OEP welcomed the government’s announcement of a review and said that the new Environment Secretary had “come out fighting.”<sup>180</sup>

The Environment Agency (EA) welcomed the bill and “the government’s ambition to drive much needed reform”.<sup>181</sup> Ofwat also [welcomed the announcement of the bill](#), with its CEO, David Black, saying that the regulator

<sup>178</sup> As reported in BBC News, [Anti-pollution law to threaten water bosses with jail](#), 4 September 2024, updated 5 September 2024

<sup>179</sup> Liberal Democrats, [Govt announcement on sewage "looks to be job half done"](#), 6 September 2024

<sup>180</sup> ENDS Report, [‘Things do feel different’: OEP welcomes government’s plans for cleaning up waterways](#), 18 September 2024

<sup>181</sup> As quoted in Defra, [Landmark legislation to crack down on bosses for polluting water](#), 5 September 2024

“welcome[d] the opportunity to establish new rules on water company remuneration, governance and strengthening customer involvement in water company decision-making”.<sup>182</sup>

## Environmental groups

Some environmental groups have welcomed the bill but criticised specific provisions. For example, [briefing from the Wildlife and Countryside Link](#) (PDF) ahead of the bill’s second reading in the Lords sets out a variety of proposed amendments to elevate the profile of the environment within the bill. These include amendments to require all water companies to implement pollution reduction plans, advocating for nature-based solutions within these plans, a provision for the bill to ensure that water company fines should always be invested in environmental projects, and the introduction of a statutory duty for Ofwat to contribute to meeting climate and nature targets.<sup>183</sup>

None of the amendments suggested by the Wildlife and Countryside Link were moved in the Lords. However, the government tabled a similar amendment for Ofwat to have ‘regard to’ climate and nature targets, which was agreed at report stage.<sup>184</sup> Richard Benwell, Chief Executive of Wildlife and Countryside Link, told environmental media organisation ENDS Report that he was “delighted” this amendment was taken forward, and that it was an “encouraging sign” that the new government is open to a collaborative approach. However, he criticised the use of ‘regard to’ by the government, and said he had hoped it would “go further” on the duty for Ofwat.<sup>185</sup>

Other environmental groups have expressed their support for the bill. The [Marine Conservation Society](#) formed part of the group supporting the Wildlife and Countryside Link amendments, and a broader group of environmental NGOs and campaigning groups supported the 3 November 2024 [March for Clean Water](#) in London.<sup>186</sup>

However, other environmental groups have criticised the government’s plans. Campaigner Feargal Sharkey reportedly said that the announcement of the bill was a “long-list of measures that will cost nothing and won’t change anything,” while a spokesperson for environmental charity River Action said

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<sup>182</sup> Ofwat, [Ofwat's reaction to the Government's plan for a Water \(Special Measures\) Bill in the King's Speech \(July 2024\)](#), 18 July 2024; As quoted in Defra, [Landmark legislation to crack down on bosses for polluting water](#), 5 September 2024

<sup>183</sup> Wildlife and Countryside Link, [Water \(Special Measures\) Bill: briefing for Second Reading](#) (PDF), October 2024. This briefing was supported by various environmental organisations: Angling Trust, Buglife, Freshwater Habitats Trust, Friends of the Earth, Froglife, Institute of Fisheries Management, Marine Conservation Society, Paddle UK, Planet Patrol, River Action, The Rivers Trust, The Wildlife Trusts, Surfers Against Sewage, Sustainability First, Waterwise, ZSL

<sup>184</sup> [Amendment 48; HL Deb 20 November 2024 Vol 841](#)

<sup>185</sup> ENDS Report, [Government tables requirement for Ofwat to 'have regard to' climate change and nature targets in water bill](#), 14 November 2024

<sup>186</sup> [March for Clean Water](#), as supported by: River Action, Surfers Against Sewage, Greenpeace, National Trust, RSPB, The WI, Angling Trust, Archbishop of Wales & Bishop of Bangor, Blue Marine Foundation, Extinction Rebellion, Freshwater Habitats Trust, GMB Union, Good Law Project, Surfing England, WildFish, WWF, Zero Hour etc.

that “the few one-off actions announced” are not sufficient “to fix the underlying causes of our poisoned waterways.”<sup>187</sup>

Environmental campaign group Wildfish criticised the government’s position to not support Lords amendments relating to the release of environmental information. In relation to report stage [amendment 44](#), a solicitor from the charity said that if the government is “serious about transparency” it should support this amendment, noting that the current process for environmental information requests can take months.<sup>188</sup>

## Calls for renationalisation

We Own It, a pressure group calling for renationalisation, has criticised the bill for not addressing the question of ownership of the water sector. A spokesperson said that the government was “simply washing its hands of the sewage scandal” and leaving households to “pick up the tab.”<sup>189</sup>

The government has repeatedly said that it has no plans to renationalise the water sector. Speaking about the launch of the Independent Commission in the House of Commons, Steve Reed said that he has ruled out nationalisation as “it would not resolve the problems we face” and that it “would cost towards £100 billion of public money – money that doesn’t exist – and the time it would take to unpick the current models of ownership, during which time investment would be choked off, [and we] would see our rivers, lakes and seas filled with even more pollution”.<sup>190</sup>

## Chartered Institute for Water and Environmental Management

The Chartered Institute for Water and Environmental Management (CIWEM) said that the bill was the first step in “addressing water sector failure,” with policy director Alistair Chisholm highlighting multiple issues across the sector in a discussion with Water Magazine. These included future proofing and resilience “in the face of the nature and climate emergency.”<sup>191</sup>

## Consumer Council for Water

The independent Consumer Council for Water (CCW) also welcomed the introduction of the bill, citing research that consumer trust in the water sector

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<sup>187</sup> As reported in the Financial Times, [Water executives to face jail if they obstruct UK investigations](#), 4 September 2024; as reported in BBC News, [Anti-pollution law to threaten water bosses with jail](#), 4 September 2024, updated 5 September 2024

<sup>188</sup> As reported in ENDS Report, [Transparency amendment shut down in latest Water \(Special Measures\) Bill debate](#), 22 November 2024

<sup>189</sup> As reported in the Financial Times, [Water executives to face jail if they obstruct UK investigations](#), 4 September 2024

<sup>190</sup> [HC Deb 755 23 October 2024, vol 755 col 286](#)

<sup>191</sup> As reported in Water Magazine, [Water \(Special Measures\) Bill - just the first step required to address water sector failure, says Alastair Chisholm, Policy Director at CIWEM](#), 21 November 2024

has declined in response to environmental concerns. CCW Chief Executive Mike Kiel cited the role of customers in holding water companies to account, and said that CCW was “looking forward to working with Ministers to give people and communities a more powerful platform to hold water companies to account when they fail to deliver on their promises.”<sup>192</sup>

## Water companies

Water companies have expressed concerns over measures in the bill, in particular those relating to remuneration and governance. Speaking at the Utility Week conference in November, Alistair Cochran, the chief financial officer of Thames Water, critiqued recent measures taken by Ofwat to block the payment of bonuses for its executives (under powers announced in 2023). He said that the bill’s introduction of criminal liability for water bosses posed “a serious challenge to investability in UK water,” and added that the measures would create a leadership “talent drain,” making the sector less attractive to lenders.<sup>193</sup>

Water UK (the trade body for the UK water sector) [welcomed the launch of the Independent Commission water review](#), noting that the “current system is not working and needs major reform” and that it is “overly complex and too slow to approve vital new infrastructure”.<sup>194</sup>

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<sup>192</sup> Consumer Council for Water (CCW), [CCW backs new measures to clean up the water sector](#), 5 September 2024

<sup>193</sup> As reported in Utility Week, [Thames CFO: Taking away our bonuses makes sector less investable](#) [subscription required], 21 November 2024

<sup>194</sup> Water UK, [Water UK statement on the Government’s Independent Water Commission](#), 23 October 2024

## 5 How bills go through Parliament

Bills can be introduced in either the House of Commons or the House of Lords. They can be amended but the entire text has to be agreed by both Houses before they can receive Royal Assent and become law. In both Houses, bills go through the same stages although there are slight differences in the practices of the two Houses.

The Water (Special Measures) Bill was introduced in the House of Lords.

### 5.1 Commons stages

A bill that is introduced in the House of Commons will go through the following stages.

- First reading sees the formal introduction of a bill, when a clerk reads out the name of the bill in the Commons chamber [27 November 2024]. There is no debate at this stage. Bills cannot be published before their introduction. Government bills are usually published immediately after introduction.
- Second reading debate is the first time MPs debate a bill. They discuss the purpose of the bill. Debates are usually scheduled to take a full day (five to six hours). Second reading of the Water (Special Measures) Bill will take place on 16 December 2024. At the end of the debate, MPs decide whether it should pass to the next stage. Sometimes a ‘reasoned amendment,’ which sets out the reasons to reject a bill, is tabled. If this is agreed to, or if the bill is simply voted down, the bill cannot make any further progress. No amendments are made to the bill itself at this stage.
- Committee stage is usually conducted by a small number of MPs (usually 17) in a public bill committee but sometimes bills can be considered in detail in the Commons Chamber by all MPs in a Committee of the whole House. The committee debates and decides whether amendments should be made to the bill and whether each clause and schedule should be included.
- Report stage takes place in the Commons Chamber and involves MPs considering the bill as agreed at committee stage. MPs can also propose further amendments which can be voted on.
- Amendments at committee and report stage can leave out words, substitute words and add words, including whole clauses and schedules.

They can be proposed by backbench and frontbench MPs. The Speaker or the chair of the committee selects and groups amendments to debate.

- Third reading, usually on the same day as report stage, is the final chance for MPs to debate the contents of a bill before it goes to the House of Lords. It is usually a short debate and changes cannot be made at this stage in the Commons. At the end of the debate, the House decides whether to approve the bill and therefore pass it onto the House of Lords.

## 5.2 Lords stages

Bills introduced in the Lords go through the same process, completing all stages in the Lords before being sent to the Commons.

The House of Lords respects the Commons' primacy on financial matters and does not usually amend Finance Bills (those that implement the Budget) or money bills.

Members of the House of Lords debate the bill, going through the same stages as in the Commons. Key differences between the two Houses are that in the Lords, committee stage usually takes place on the floor of the House and a bill can be amended at third reading.

Most bills are considered by a committee of the whole House in the House of Lords. Some are referred to the Lords Grand Committee – which all members can attend. However, divisions (votes) are not permitted in the Grand Committee and any amendments made have to be agreed to without a division.

The Lords can also make amendments to a bill. Major points of difference should have been resolved before third reading but amendments to “tidy-up” a bill are permitted.

No party has a majority in the House of Lords and government defeats are not uncommon. For bills that have started in the House of Commons, the Lords is essentially asking MPs to think again about the subject of the amendment.

## 5.3 ‘Ping pong’

If the Lords amend a bill that was sent from the Commons, the amendments are returned to the Commons and MPs debate the amendments proposed by the Lords. This is potentially the start of “ping-pong,” a process whereby amendments and messages about the amendments are sent backwards and forwards between the two Houses until agreement is reached.

Once agreement has been reached, the Bill receives Royal Assent, becoming law when both Houses have been notified that Royal Assent has been granted.

## 5.4 Amendments

MPs can submit amendments, via the Public Bill Office (PBO), at three different stages of a bill: committee stage, report stage, and when a bill is returned from the Lords. Once the PBO accepts the amendment, it has been 'tabled.' If an MP wants to amend a bill during committee stage but is not a member of the committee, they will need a committee member to 'move' it for debate on their behalf.

In order to be debated, the amendment must be selected by the chair. Similar amendments may be grouped for debate to avoid repetition. For committee stage, selection and grouping is carried out by MPs from the panel of chairs chosen to chair the committee. If there is a Committee of the Whole House, the chair is the Chairman of Ways and Means (the principal Deputy Speaker). For report stage, it is the Speaker.

Amendments might not be selected for debate if they are, for example, outside the scope of a bill, vague, or tabled to the wrong part of a bill. The PBO can advise on whether an amendment is likely to be selected.

## 5.5 Further information on bill procedure

The [MPs' Guide to Procedure](#) has a [section on bills](#).

MPs who have questions about the procedure for bills or want advice on how to amend them should contact the [Public Bill Office](#).

The Library can provide information on the background and potential impact of a bill and of amendments but cannot help MPs with drafting amendments.



## 6 Further reading

### Library publications

- House of Lords Library, [Water \(Special Measures\) Bill \[HL\]: HL Bill 17 of 2024–25](#), 3 October 2024
- Commons Library research briefing, CBP 8931, [Economic regulation of the water industry](#)
- Commons Library research briefing, CBP 10027, [Sewage discharges](#)
- House of Lords Library, [River pollution and the regulation of private water companies](#), 19 February 2024
- House of Lords Library, [Water and sewerage companies: Executive remuneration](#), 16 February 2024

### Recent committee publications

- House of Lords Industry and Regulators Committee, [The affluent and the effluent: cleaning up failures in water and sewage regulation](#) (PDF), 22 March 2023

### External reports

- National Audit Office (NAO), [Principles of effective regulation: A summary guide for regulators and policymakers](#), May 2021

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