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Sustainability on the agenda: the new Environment Act



Martin Baxter, Chief Policy Advisor at IEMA, a worldwide professional body for those working in environment and sustainability, argues that the Environment Bill is a one-off chance to create a coherent long-term framework for the environment which could enable all parts of society to plan, invest and collaborate to substantially improve the environment on which we and future generations depend.

IEMA Transforming the world to sustainability

Growing public interest in the environment provides an important backdrop to the UK Government’s proposals for a new Environment Act. Polling ahead of the European Parliament elections put environment as the fourth most important issue facing the UK, on a par with the economy. Poor air quality, declining biodiversity, plastic waste and climate change are significant long-term challenges which will require concerted effort and investment over the long-term to make the necessary improvements. Politicians are in the headlights as the public demands immediate action with results to what are deep-rooted systemic problems – a difficult position made harder by declining levels of trust in politics.

For 45 years environmental policy in the UK has been driven by the EU. The forthcoming Environment Act therefore comes at a critical time, offering the potential to establish a legal framework

to help replenish nature and natural capital and provide the basis for using the country’s natural resources in a sustainable way. Given the scale of the environmental challenge, recreating the existing structures and frameworks won’t be sufficient; the status quo isn’t an appropriate policy or political response.

The Department for the Environment, Food and Rural Affairs (Defra) published the draft Environment (Principles and Governance) Bill on 19 December. It included environmental principles and provisions for their inclusion in a policy statement, measures relating to Environmental Improvement Plans and the creation of a new Office for Environmental Protection with the remit to monitor the implementation of environmental law and, where public authorities fail to comply with environmental law, take appropriate action including the power to take action through the courts. [▶](#)





This is an important starting point but there is more needed from Government to turn the Bill into a world-leading framework for governing the environment.

To govern the environment in the most cost-effective way, Government needs to set a clear and credible policy direction that enables all involved to plan, invest and collaborate across sectors to achieve multiple goals coherently, beyond the life of single parliaments. There is a strong case to include overarching objectives in the Environment Act, which will help to provide a common purpose and coherence for the governance and principles chapter of the Bill. This would allow the application of the Environmental Principles in policy-making and the development of targets and Environmental Improvement Plans. The role and function of the Office for Environmental Protection would include focussing policies on a core purpose, holding responsible parties to account for progress and anticipating early on where changes in direction are necessary, rather than waiting until problems are locked in.

Such national objectives become more critical as the UK leaves the EU and could be framed, for example, by three core principles. The first would be to continually improve environmental outcomes to achieve a healthy natural environment and support quality of life. The remaining two would be a commitment to the sustainable use of the environment to achieve society's needs and achieving a high-level of environmental protection.

The commitment by the Government to explore options for environmental targets in the Bill is welcomed. Meeting the

Government's commitment to leaving the environment in a better state will depend to a large extent on private sector activity and innovation. However, for all sectors to play their full part in a way that is also consistent with business success, there needs to be a coherent and predictable legal framework. The draft Bill seeks to place the Government's 25 Year Environment Plan on a statutory basis. However, the five-year review mechanism means that, in effect, substantial changes can be made which reduces certainty for investment. A process is therefore needed in the Bill to set legally binding targets, giving clarity to businesses and other stakeholders.

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The Prime Minister and members of the Government have made a number of statements to the effect that the UK will continue to set high standards of environmental protection and that there will be no lowering of environmental standards when the UK leaves the EU. Non-regression is written into the UK/EU Withdrawal Agreement backstop arrangements, requiring both the EU and UK to “ensure that the level of

environmental protection provided by law, regulations and practices is not reduced below the level provided by the common standards applicable within the Union and the United Kingdom at the end of the transition period”.

The Environment Bill is expected to be the legislative route for the Government to implement the non-regression and alignment considerations relating to environmental protection, which is especially important in the context of future UK trade negotiations.

The forthcoming Environment Bill comes at an important time as the UK prepares to leave the EU. In effect, it is being viewed as an “environmental constitution”. The Bill will be substantial and includes important aspects of environmental principles and governance, as well as legislating in areas which are of significant public interest such as air quality and plastic waste. Parliamentary arithmetic suggests that the passage of the Bill will offer plenty of opportunities for amendments, not just from the opposition but also from the Government, given that only part of the Bill has been subjected to pre-legislative scrutiny. A high level of scrutiny will be welcomed if it leads to a better outcome, as the prize of a progressive new Environment Act which provides the legal framework for enhancing the natural environment over a generation is one that everyone should want to see. **1**

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