



HL Bill 17 of 2024–25

Water (Special Measures) Bill [HL]

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The [Water \(Special Measures\) Bill \[HL\]](#) is a government bill introduced in the House of Lords on 4 September 2024. It is scheduled to have its second reading on 9 October 2024. The bill would make changes to the regulation of private water companies that provide water and sewerage services in England and Wales. The Labour government has said the bill would achieve its manifesto commitment to enable regulators to block the payment of bonuses to the executives of water companies that fail to protect the environment by allowing the UK's waterways to be polluted by sewage. It has also said the bill would ensure those responsible for repeatedly breaking the law face criminal charges.

The bill includes provisions to:

- enable the Water Services Regulation Authority (Ofwat) to block the payment of bonuses to chief executives and directors if water companies fail to meet specific standards
- establish new statutory requirements for water companies to publish annual pollution incident reduction plans and provide timely and accessible information on sewage discharges from emergency overflows
- change the maximum sentence available for impeding investigations by regulators to include imprisonment
- enable the introduction of new automatic penalties for offences committed by water companies and give regulators (Ofwat, the Environment Agency, Natural Resources Wales and the Drinking Water Inspectorate) new powers to recover costs for their enforcement work
- make changes to the special administration regime for water companies to ensure Ofwat and government ministers are notified ahead of any winding up petitions

Alongside the bill, the government published [explanatory notes](#), a [delegated powers memorandum](#) and a [policy statement](#) on the bill. It has not published an impact assessment.





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I. Background

I.1 Regulation of water industry in England and Wales

Since the privatisation of the water utilities in 1989, water in England and Wales has been supplied by private companies.¹ The water industry is responsible for both the supply of water to households and businesses and the treatment of waste water and sewage. A separate system operates in Scotland and Northern Ireland where water is supplied by publicly owned water companies.

Regulatory policy in England and Wales for the water industry is set by the UK government with the exception of environmental regulation in Wales which is devolved.² The following regulators have responsibility for the activities of the water companies:

- Ofwat is the independent economic regulator of water companies in England and Wales.³ It is responsible for granting licences for water and waste water companies in order for them to operate. Ofwat can issue penalties, including fines, to companies that do not meet the conditions of these licences. It is also responsible for setting the prices paid by consumers, the levels of service they should receive and the levels of investment water companies must deliver.
- The Environment Agency is responsible for regulating the environment in England and advising the UK government on environmental matters.⁴ The Environment Agency regulates the environmental performance of water companies in England. In Wales, the environmental regulator is Natural Resources Wales.⁵
- The Drinking Water Inspectorate is responsible for regulating the safety of drinking water in England and Wales.⁶

¹ Ofwat, '[Water sector overview](#)', accessed 1 October 2024.

² Welsh Government, '[Water: What is devolved?](#)', 23 March 2021.

³ Ofwat, '[About us](#)', accessed 1 October 2024.

⁴ Environment Agency, '[About us](#)', accessed 1 October 2024.

⁵ Natural Resources Wales, '[Our roles and responsibilities](#)', accessed 1 October 2024.

⁶ Drinking Water Inspectorate, '[What we do](#)', accessed 1 October 2024.



Ofwat price review

Part of Ofwat's role as economic regulator for the water industry is setting the wholesale price limits for water.⁷ These are set every five years as part of the five-year price review period (also referred to as the water industry asset management period). The current price review period is set to end later in 2024. The new 2025–30 price review is currently being conducted by Ofwat.⁸ As part of this process, water companies submitted their business plans for 2025–30 to Ofwat in October 2023 in order for the regulator to assess whether their proposals for spending on infrastructure and improvements to the water system met legal requirements.⁹ Ofwat also assesses whether these plans meet government targets, including for improving the environment. The final business plans and the price controls for the new price review period will be agreed by Ofwat in December 2024.¹⁰ Any changes to bills for customers resulting from this review will take effect from April 2025.

1.2 Criticism of performance of water companies

Pollution incidents and sewage discharges

In recent years, water companies in England and Wales have faced criticism for failing to prevent pollution of waterways, including discharges of sewage into rivers. Generally, the networks of sewers operated by the water industry transport waste water to sewage treatment works. This is then treated and the water returned to inland waters and the sea.¹¹ However, in certain circumstances, water companies are allowed to release untreated or partially treated sewage into inland waters and the sea through storm overflows (referred to as storm overflow discharges). Storm overflows are designed to act as safety relief valves for the sewage network in order to prevent waste water backing up through pipes into homes and businesses when the system is overwhelmed by water during heavy rainfall.¹² They can also be used when pipes become blocked as a result of misuse of the system such as people sending wet wipes, fats and grease into the sewerage network. The use of storm overflows is monitored by the Environment Agency in England and Natural Resources Wales in Wales.

⁷ Ofwat, '[Water sector overview](#)', accessed 1 October 2024.

⁸ Ofwat, '[2024 price review](#)', accessed 1 October 2024.

⁹ Department for Environment, Food and Rural Affairs, '[Water company draft business plans published](#)', 2 October 2023.

¹⁰ Ofwat, '[2024 price review](#)', accessed 1 October 2024.

¹¹ Stantec, '[Storm overflow evidence project: Final report](#)', November 2021.

¹² House of Commons Environmental Audit Committee, '[Water quality in rivers](#)', 13 January 2022, HC 74 of session 2021–22, p 14.



In its 2022 report on water quality in rivers, the House of Commons Environmental Audit Committee criticised the frequency with which storm overflows were being used by water companies, arguing they appeared to be “dumping untreated or partially treated sewage in rivers on a regular basis”.¹³ In March 2023, Water UK, the body representing water and sewage companies in England, issued an apology for not acting quickly enough to prevent sewage spills and said it was launching a transformation programme to modernise the sewerage system.¹⁴

The Environment Agency collects data on the performance of water companies in England using an environmental performance assessment (EPA) tool. The metrics used for the EPA include the total number of pollution incidents each year, including serious incidents. The most recent EPA report was published in July 2024, containing data for 2023.¹⁵ The agency found that three water companies—Severn Trent Water, Wessex Water and United Utilities—had achieved a maximum four-star rating compared to only one company in 2022. However, it said the performance of most companies lagged far behind. It noted 90% of serious pollution incidents were caused by four companies—Anglian Water, Southern Water, Thames Water and Yorkshire Water—a situation the regulator described as “unacceptable”.¹⁶

Most of Wales and some adjoining parts of England are covered by the private operator Welsh Water.¹⁷ Natural Resources Wales reports annually on the environmental performance of Welsh Water using the same standardised rating system as the Environment Agency.¹⁸ In its most recent report, Natural Resources Wales gave the company a two-star rating for its performance in 2023, noting there had been an increase in the number of serious pollution incidents compared to the previous year.¹⁹ Since 2018, a second company, Hafren Dyfrdwy, has also operated in areas of north and mid Wales. Hafren Dyfrdwy is part of the Severn Trent group of companies. Natural Resources Wales also monitors this company’s environmental performance although it does not apply the star rating to Hafren

¹³ As above, p 5.

¹⁴ Water UK, ‘[Water and sewage companies in England apologise for sewage spills and launch massive transformation programme](#)’, 18 May 2023.

¹⁵ Environment Agency, ‘[Water and sewerage companies in England: Environmental performance report 2023](#)’, 23 July 2024.

¹⁶ As above.

¹⁷ Senedd Research, ‘[The water industry in Wales](#)’, September 2018.

¹⁸ Natural Resources Wales, ‘[Annual environmental performance report for Hafren Dyfrdwy 2023](#)’, 23 July 2023; and ‘[Annual environmental performance report for Dŵr Cymru Welsh Water 2023](#)’, 23 July 2024.

¹⁹ Natural Resources Wales, ‘[Further decline in Dŵr Cymru performance outlined in NRW annual review](#)’, 23 July 2024.



Dyfrdwy because of the company's relatively small operating area.²⁰ Natural Resources Wales found that Hafren Dyfrdwy was responsible for a low level of sewage incidents but no serious pollution incidents.²¹

There has also been criticism of the way in which water quality in rivers and the frequency and severity of pollution incidents are monitored.²² In its 2022 report on water quality in rivers, the House of Commons Environmental Audit Committee noted that monitoring of sewage spills from storm overflows and waste water treatment plants had been improved through the rollout of event duration monitors (EDMs) since 2015.²³ In 2024, the Environment Agency reported that EDMs had been installed in 100% of storm overflows.²⁴ However, the committee argued that, despite this rollout, getting a complete overview of the health of rivers in general was being “hampered by outdated, underfunded and inadequate monitoring regimes”.²⁵

Further information on the regulation of the water industry and measures introduced by the Conservative government to reduce river pollution is provided in the House of Lords Library briefing ‘[River pollution and the regulation of private water companies](#)’ (19 February 2024).

Executive remuneration

The remuneration of senior executives at water companies has also come under scrutiny. In March 2023, Ofwat announced it would regularly review the bonuses paid to water executives and would take action to ensure executive bonus payments that had not been “sufficiently earned” were not funded by customers.²⁶ While Ofwat does not have the explicit power to ban or curb executive bonuses, it is able to do so if this contributes to its duties as set out in the Water Industry Act 1991.²⁷ In February 2024, the Conservative

²⁰ Natural Resources Wales, ‘[Annual environmental performance report for Dŵr Cymru Welsh Water 2023](#)’, 23 July 2024.

²¹ Natural Resources Wales, ‘[Further decline in Dŵr Cymru performance outlined in NRW annual review](#)’, 23 July 2024.

²² House of Lords Library, ‘[River pollution and the regulation of private water companies](#)’, 19 February 2024.

²³ House of Commons Environmental Audit Committee, ‘[Water quality in rivers](#)’, 13 January 2022, HC 74 of session 2021–22, p 14.

²⁴ Environment Agency, ‘[2023 event duration monitoring data publication](#)’, 27 March 2024.

²⁵ House of Commons Environmental Audit Committee, ‘[Water quality in rivers](#)’, 13 January 2022, HC 74 of session 2021–22, p 5.

²⁶ Ofwat, ‘[Ofwat plans tighter measures on water company executive bonuses](#)’, 30 March 2023.

²⁷ House of Lords Library, ‘[Water and sewage companies: Executive remuneration](#)’, 16 February 2024.



government announced that Ofwat would consult on proposals to use existing powers under the Environment Act 2021 to ban the executives of water companies from receiving bonuses if a company had committed a “serious criminal breach”.²⁸ However, this consultation was not subsequently launched before the 2024 general election was called. Further information on the remuneration of senior executives in the water industry is provided in the House of Lords Library briefing [‘Water and sewage companies: Executive remuneration’](#) (16 February 2024).

1.3 Labour Party proposals on regulating water industry

The Labour Party committed in its manifesto for the 2024 general election that it would “put failing water companies under special measures to clean up our water”.²⁹ Specifically, it said it would:

- give regulators new powers to block the payment of bonuses to executives of water companies who pollute the waterways and to bring criminal charges against what it referred to as “persistent law breakers”³⁰
- enable regulators to impose “automatic and severe fines for wrongdoing”³¹
- ensure the independent monitoring of sewer outlets

The Labour government announced it would introduce the Water (Special Measures) Bill in the 2024 King’s Speech and that this bill would fulfil these manifesto commitments.³² It also indicated the government was considering the introduction of further reforms to the way the water industry operates in the future. The background briefing to the King’s Speech published by the Cabinet Office stated the government would “outline further legislation to fundamentally transform and reset our water industry and restore our rivers, lakes and seas to good health”.³³

²⁸ Department for Environment, Food and Rural Affairs, [‘Government cracks down on bonuses for water company bosses’](#), 11 February 2024.

²⁹ Labour Party, [‘Labour Party manifesto 2024’](#), June 2024, p 59.

³⁰ As above.

³¹ As above.

³² Prime Minister’s Office, [‘King’s Speech 2024: Background briefing notes’](#), 17 July 2024, pp 55–6.

³³ As above.



1.4 Introduction of the bill

The [Water \(Special Measures\) Bill \[HL\]](#) was introduced in the House of Lords and first reading took place on 4 September 2024.³⁴ The government has said its ambition is to ensure the measures in the bill are implemented and the relevant secondary legislation is in place ahead of the next five-year water industry price review period, starting in 2025.³⁵ The government has not published an impact assessment for this bill.³⁶

The government has confirmed it also intends to publish legislation to make further changes to the water industry and how it is regulated in the future. During a speech on 5 September 2024, Secretary of State for Environment, Food and Rural Affairs Steve Reed described the Water (Special Measures) Bill [HL] as a “significant step forward in fixing our broken water system”.³⁷ However, he also said the government planned to carry out a “full review” of the way in which the water industry is regulated and that this would shape future legislation.

2. Bill provisions

The bill contains 13 clauses, a number of which confer powers exercisable by statutory instrument. Of those subject to parliamentary procedure, the bill’s delegated powers memorandum explains that the powers in clauses 3 and 6 would be subject to the affirmative procedure, meaning both Houses of Parliament would have to approve any changes before they could be brought into force.³⁸ Meanwhile the powers in clauses 7 and 9 would be subject to the negative procedure, meaning ministers could sign these into law and they would continue in force unless either House objected within a set time period. Other powers would not be subject to parliamentary procedure.

³⁴ [HL Hansard, 4 September 2024, col 1158](#).

³⁵ [Explanatory notes](#), p 3.

³⁶ Regulatory Policy Committee, [‘Water \(Special Measures\) Bill: Statement from the Regulatory Policy Committee \(RPC\)’](#), 6 September 2024.

³⁷ Department for Environment, Food and Rural Affairs, [‘Steve Reed speech on the Water \(Special Measures\) Bill’](#), 5 September 2024.

³⁸ [Delegated powers memorandum](#), pp 3–12.



The UK government is seeking legislative consent from the Senedd Cymru for the provisions affecting devolved competencies in Wales.³⁹ The Welsh government has recommended that the Senedd supports the proposals and gives its consent.⁴⁰

2.1 Rules for remuneration and governance (clause I)

Clause I of the bill contains provisions giving Ofwat the power to block the payment of bonuses to the chief executives and directors of water companies. It also includes provisions intended to establish consumer involvement in corporate decision-making.

The clause adds three new sections to the Water Industry Act 1991.⁴¹ These set out a framework by which Ofwat would be able to establish a single set of rules concerning remuneration and governance. The government has argued that, while Ofwat already has the power to set the conditions of individual water company appointments and licences, enabling Ofwat to establish a single set of rules that can be applied universally would make the task of regulating these companies more straightforward.⁴²

While Ofwat would be responsible for creating these rules, clause I would require it to introduce rules which ensure:

- water companies cannot award performance-related pay to their directors and chief executives where there has been a failure to meet specific standards
- the directors and chief executives of these companies must meet standards of fitness and propriety
- consumers must be represented in company decision-making where it affects consumer interests

Ofwat would also be able to apply the rules on performance-related pay and fitness and propriety to senior roles within water companies other than directors and chief executives.

³⁹ [Explanatory notes](#), pp 4 and 13. See also: Senedd Cymru, '[Legislative consent: Water \(Special Measures\) Bill](#)', accessed 3 October 2024.

⁴⁰ Welsh Government, '[Legislative consent memorandum: Water \(Special Measures\) Bill](#)', 18 September 2024, p 6.

⁴¹ Clause I, new sections 35B–D.

⁴² [Explanatory notes](#), pp 4–5.



The bill would require Ofwat to consult on these rules before they are introduced.⁴³ It would also be required to consult on any revisions to these rules, unless these were either minor or urgent in nature.⁴⁴

Performance-related pay

The bill would require the new rules set by Ofwat to establish a set of standards companies would be expected to meet before performance-related pay could be awarded to chief executives and directors each year. These would be set following consultation, but would have to include standards relating to:

- consumer matters
- the environment
- financial resilience
- criminal liability

The bill would enable Ofwat to override both current and existing employment contracts in order to implement these rules.⁴⁵ Ofwat would also be able to recover performance-related pay that had been awarded in breach of these rules after they were introduced.

Fitness and propriety

Ofwat would be required to set new rules for the fitness and propriety of chief executives and directors. These new rules would need to be met in order for someone to be appointed or to remain in post.

Consumer representation

The rules to be set by Ofwat would also have to include a requirement that companies involve consumers in decisions that are “likely to have a material impact” on consumer

⁴³ As above, p 5.

⁴⁴ As above. The thresholds for what would constitute urgent or minor variations are also set out in clause 1.

⁴⁵ As above, p 5.



matters.⁴⁶ What constitutes consumer matters for the purpose of these rules is already set in provisions in the Water Industry Act 1991 that established the Consumer Council for Water.⁴⁷ The 1991 act defines consumer matters as those connected to the interests of the consumer in relation to the supply of water to consumer premises and the provision of sewerage services.

Ofwat would be responsible for determining what specific arrangements must be put in place by companies in order to meet this requirement. However, the bill states the rules may include a requirement to involve people representing the views of consumers to be members of boards, committees or panels of water companies.⁴⁸

2.2 Pollution incident reduction plans (clause 2)

The bill would introduce a new requirement for water companies in England to publish pollution incident reduction plans on 1 April each year.⁴⁹ Pollution incident reduction plans are currently published by water companies on a non-statutory basis.⁵⁰ They currently include plans to reduce the frequency of pollution incidents attributable to the sewage system.⁵¹ The government has argued these new provisions are necessary to ensure these plans are published regularly and meet specific standards, ensuring they lead to a meaningful reduction in pollution incidents.⁵²

The bill would require these plans to address:

- the frequency, seriousness and causes of pollution incidents
- the measures that would be taken to reduce these incidents and when they would be implemented
- how progress on addressing these issues would be monitored⁵³

⁴⁶ Clause 1, new section 35B(2)(c).

⁴⁷ [Water Industry Act 1991, s 27A](#).

⁴⁸ Clause 1, new section 35B(6).

⁴⁹ [Explanatory notes](#), p 5.

⁵⁰ Department for Environment, Food and Rural Affairs, '[Water \(Special Measures\) Bill: Policy statement](#)', 5 September 2024.

⁵¹ [Explanatory notes](#), p 5. This definition is set out in clause 2, new section 94EA(2)–(3).

⁵² Department for Environment, Food and Rural Affairs, '[Water \(Special Measures\) Bill: Policy statement](#)', 5 September 2024.

⁵³ [Explanatory notes](#), pp 5–6. A full list of what should be monitored is set out in clause 2.



The bill 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 after consulting with the Environment Agency.⁵⁴ The water companies would also be required to follow any guidance issued by the Environment Agency when drafting these plans.⁵⁵

2.3 Monitoring emergency overflows (clause 3)

Clause 3 would amend the Water Industry Act 1991 by adding a new chapter 5 to this act.⁵⁶ These new provisions would require water companies to report on discharges from emergency overflows within an hour of the discharge starting.⁵⁷ This must include information on the location of the discharge and when it began. They would also have to report when the discharge ended within one hour of it ending. Clause 3 would require this information to be published in a format that is both accessible and can be readily understood by the public. It includes a statutory definition of emergency overflows for the purposes of this new requirement.⁵⁸

Ofwat would be responsible for bringing enforcement proceedings against companies that failed to meet the requirement to monitor and publish information on discharges.⁵⁹ The secretary of state would also have the power to make regulations setting out exceptions to this requirement, subject to a requirement to consult beforehand.⁶⁰

2.4 Impeding investigations: Sentencing and liability (clause 4)

The Environment Agency, Natural Resources Wales and the Drinking Water Inspectorate already have powers under existing legislation to bring criminal charges against companies and executives for impeding their investigations.⁶¹ However, the government has argued changes to the system for prosecuting these offences are necessary because of the low

⁵⁴ Clause 2, new sections 94EA(4)(h) and 94EA(5).

⁵⁵ [Explanatory notes](#), p 6.

⁵⁶ New chapter 5 consists of new sections 141F and 141G.

⁵⁷ [Explanatory notes](#), p 6.

⁵⁸ Clause 3, new section 141G. The definition of a sewerage system in this new section is based on the existing definition in [section 17BA\(7\) of the 1991 act](#).

⁵⁹ [Explanatory notes](#), p 6.

⁶⁰ Clause 3, new sections 141F(5)–(6).

⁶¹ The offences are set out in [section 110 of the Environment Act 1995](#) and [section 86 of the Water Industry Act 1991](#).



number of prosecutions.⁶² Clause 4 would enable:

- The sentencing powers of the courts to be increased to include imprisonment of those found guilty of offences. Currently, the maximum sentence is an unlimited fine.
- Obstruction offences to be heard in the crown court. Currently these offences can only be heard in magistrates' courts.

The bill would also limit the period of time someone found guilty of an obstruction offence could be imprisoned to a term not exceeding the general limit on summary conviction or two years for a conviction on indictment.⁶³ In addition to changes to sentencing and how these offences are tried, the bill would amend the Environment Act 1995 to establish a new corporate liability for obstruction.⁶⁴ This would enable executives and directors to be prosecuted where an obstruction offence was committed with their “consent or connivance” or was attributable to their neglect.⁶⁵

The bill would also create a new “reasonable excuse” defence for obstruction offences under section 86 of the Water Industry Act 1991.⁶⁶ The government has said this new defence is necessary to match the existing defence available for offences under section 110 of the Environment Act 1995.⁶⁷

In addition to these provisions, the government said in its policy statement on the bill that it expects the regulators to consider how they can use their existing powers in order to ensure criminal charges are brought against companies and executives that obstruct investigations.⁶⁸ Elaborating on this, the government said:

In particular, powers already allow for prosecutions against senior management, where offences are committed with their consent and connivance, or are attributable to their

⁶² Department for Environment, Food and Rural Affairs, [‘Water \(Special Measures\) Bill: Policy statement’](#), 5 September 2024.

⁶³ [Explanatory notes](#), p 7.

⁶⁴ Clause 4, new sections 100(5I) and 100(5J).

⁶⁵ Clause 4, new section 100(5I).

⁶⁶ Clause 4(2)(a).

⁶⁷ [Explanatory notes](#), p 7.

⁶⁸ Department for Environment, Food and Rural Affairs, [‘Water \(Special Measures\) Bill: Policy statement’](#), 5 September 2024.



neglect. Whilst it is for the regulators to assess the merits of each case, prosecution of executives should be actively considered where appropriate.⁶⁹

2.5 Automatic penalties and fines (clauses 5 to 9)

The bill includes five clauses which relate to the introduction of automatic penalties and fines for offences committed by water companies and the recovery of enforcement costs by regulators.

2.5.1 Clause 5: Modified standard of proof for civil penalties

Clause 5 would lower the standard of proof required in order for civil penalties to be enforced against water companies by the Environment Agency in England and Natural Resources Wales in Wales.⁷⁰ Currently, these regulators can only issue fixed or variable monetary penalties for water offences if they are satisfied “beyond reasonable doubt” the offence has been committed.⁷¹ The government has argued this level of proof is not proportionate for minor to moderate water offences.⁷² The clause would give the secretary of state the power to introduce secondary legislation enabling fixed or variable monetary penalties to be enforced on the basis of a lower standard of proof, “on the balance of probabilities”. This clause provides similar powers to Welsh ministers.

2.5.2 Clause 6: Automatic penalties

Clause 6 would require the Environment Agency and Natural Resources Wales to impose automatic penalties for some offences.⁷³ The government has argued that enabling regulators to impose automatic penalties is necessary as currently they cannot impose penalties without a lengthy investigation, meaning it is not cost-effective for them to impose financial penalties for minor to moderate offences.⁷⁴

⁶⁹ As above.

⁷⁰ [Explanatory notes](#), pp 7–8.

⁷¹ Department for Environment, Food and Rural Affairs, '[Water \(Special Measures\) Bill: Policy statement](#)', 5 September 2024.

⁷² As above.

⁷³ [Explanatory notes](#), p 8.

⁷⁴ Department for Environment, Food and Rural Affairs, '[Water \(Special Measures\) Bill: Policy statement](#)', 5 September 2024.



The offences for which automatic penalties would apply and the monetary value of the penalties would be set out in secondary legislation. The offences may include pollution control offences, failure to provide information to regulators and water resources offences. The government has said it will consult during the passage of the bill on the level of the penalties and the offences to which automatic penalties might apply.⁷⁵ It has also said the relevant secondary legislation will be laid “soon after the bill has received royal assent”.⁷⁶

The bill would allow for certain exceptions to this duty to impose automatic penalties.⁷⁷ This includes exceptional circumstances that the regulators believe mitigate the water company’s responsibility for the offences, such as IT failures or third-party interference.

2.5.3 Clause 7: Power to impose general conditions

Clause 7 would give the secretary of state in England and Welsh ministers in Wales the power to impose new conditions or general rules into licences for water abstraction and impounding activity.⁷⁸ The government has said this power is necessary to enable the regulators to issue automatic penalties as set out in clause 6.⁷⁹

2.5.4 Clause 8: Cost recovery for enforcement activity

The Environment Agency and Natural Resources Wales are currently funded by charging water companies for environmental permits and abstraction licensing.⁸⁰ Clause 8 would extend the existing powers of these regulators to enable them to recover the costs of their water industry enforcement activities from water companies.⁸¹ The clause would also allow the Environment Agency and Natural Resources Wales to charge fees for enforcement activity relating to unauthorised assets, breaches of existing permits and breaches of duties relating to pollution incident reductions plans in England. The regulators would be required to consult on these changes to their existing charging schemes.⁸²

⁷⁵ As above.

⁷⁶ As above.

⁷⁷ [Explanatory notes](#), p 8.

⁷⁸ As above.

⁷⁹ Department for Environment, Food and Rural Affairs, [‘Water \(Special Measures\) Bill: Policy statement’](#), 5 September 2024.

⁸⁰ As above.

⁸¹ [Explanatory notes](#), pp 8–9.

⁸² Department for Environment, Food and Rural Affairs, [‘Water \(Special Measures\) Bill: Policy statement’](#), 5 September 2024.



2.5.5 Clause 9: Drinking Water Inspectorate—power to recover costs and changes to fees collection

The Drinking Water Inspectorate is responsible for ensuring the water industry complies with directions issued by the secretary of state and Welsh ministers under section 208 of the Water Industry Act 1991.⁸³ These directions require water companies to maintain the water supply and the sewerage system in the interests of national security and to mitigate the effects of any civil emergencies.

Currently, the Drinking Water Inspectorate is not able to recover the costs for regulating these directions.⁸⁴ Clause 9 would enable the Drinking Water Inspectorate to recover the costs of this regulatory activity from water companies.⁸⁵ In order for this change to take effect, the secretary of state would need to introduce secondary legislation amending the existing [Water Quality and Supply \(Fees\) Order 2016](#). The government has said the Drinking Water Inspectorate has committed to work with the water industry to develop amendments to the 2016 order before they are approved by the government and laid before Parliament.⁸⁶

Clause 9 would also make changes to the way the Drinking Water Inspectorate collects fees. It would enable the regulator to charge fees either once its individual functions have been completed or once all its functions have been completed over a certain period.⁸⁷ The government has said this would give the regulator greater flexibility in how it charges fees in order to reduce the burden on new water companies entering the market.⁸⁸

2.6 Special administration regimes (clauses 10 to 12)

Clauses 10 to 12 make changes to the special administration regime (SAR) for water companies when they either become insolvent or are unable to discharge their principal

⁸³ Drinking Water Inspectorate, '[Security and emergencies](#)', accessed 1 October 2024.

⁸⁴ Department for Environment, Food and Rural Affairs, '[Water \(Special Measures\) Bill: Policy statement](#)', 5 September 2024.

⁸⁵ [Explanatory notes](#), p 9.

⁸⁶ Department for Environment, Food and Rural Affairs, '[Water \(Special Measures\) Bill: Policy statement](#)', 5 September 2024.

⁸⁷ Clause 9(4).

⁸⁸ Department for Environment, Food and Rural Affairs, '[Water \(Special Measures\) Bill: Policy statement](#)', 5 September 2024.



duties and cannot retain their existing licence. The government said it believed these changes were necessary following an internal review of the current legislation.⁸⁹

2.6.1 Clauses 11 and 12: Recovery of costs

The government said one of the risks in the current system is that it may not be able to recover all the costs to the taxpayer arising from the proceedings of a water company SAR.⁹⁰ Unlike the energy sector, the secretary of state does not have the power to require water companies in England to repay any shortfall. The government noted Welsh ministers did not have this power in relation to water companies in Wales either.

Clause 10 would give the secretary of state the power to modify water company licences in order to recover any shortfall in costs for the government.⁹¹ This would be subject to a requirement that the secretary of state must give notice that they were proposing to make these modifications. The secretary of state must also consider any representation made regarding this change and publish any decision made on the modifications. Clause 11 would give similar powers to Welsh ministers in relation to the recovery of any shortfall from water companies in Wales.

2.6.2 Clause 12: Winding-up petitions

The government has also said changes to the law are necessary in order to prevent the directors or creditors of a water company making a winding-up petition in order for the company to be made insolvent without notifying the government or Ofwat.⁹² Clause 12 would require the courts to notify the secretary of state in England or Welsh ministers and Ofwat before making an application for the winding-up of a water company.⁹³ It would also require for them to be heard at the hearing of a winding-up petition or any other relevant hearings. The government argued this change was necessary to ensure UK or Welsh government ministers and Ofwat were represented in court in order to prevent a poorly

⁸⁹ As above.

⁹⁰ As above.

⁹¹ [Explanatory notes](#), pp 9–10.

⁹² Department for Environment, Food and Rural Affairs, '[Water \(Special Measures\) Bill: Policy statement](#)', 5 September 2024.

⁹³ [Explanatory notes](#), p 10



managed entry into a SAR by a water company and to ensure public interests are protected.⁹⁴

2.7 Extent, commencement, transitional provisions and short title (clause 13)

Clause 13 sets out which of the bill’s provisions would apply to both England and Wales or to England or Wales only.⁹⁵ It also states that:

- clauses 1 to 3 would come into force on the date set out in secondary legislation by either the secretary of state or Welsh ministers
- clauses 5 to 9 would come into force on the day the act is passed
- clauses 4 and 10 to 12 would come into force two months after the act is passed

3. Reaction to the bill

The water industry regulators Ofwat and the Environment Agency as well as the Consumer Council for Water have all issued statements welcoming the bill.⁹⁶ In its response to the bill, the industry body Water UK said that it agreed with the government that “the water system is not working”.⁹⁷ However, it said fixing it would “[require] the government to deliver the two things which it has promised: fundamental regulatory reform and speeding up investment”.

Shadow Minister for Environment, Food and Rural Affairs Robbie Moore has criticised the government for “playing politics” with the Water (Special Measures) Bill [HL], arguing it was attempting to “pass off measures implemented under the Conservatives—like banning

⁹⁴ Department for Environment, Food and Rural Affairs, ‘[Water \(Special Measures\) Bill: Policy statement](#)’, 5 September 2024.

⁹⁵ A breakdown of which clauses apply where is provided in [annex A of the explanatory notes](#).

⁹⁶ Department for Environment, Food and Rural Affairs, ‘[Landmark legislation to crack down on bosses for polluting water](#)’, 5 September 2024; and Consumer Council for Water, ‘[CCW backs new measures to clean up the water sector](#)’, 5 September 2024.

⁹⁷ Sky News, ‘[Water company bosses could face prison time in new crackdown](#)’, 5 September 2024.



bonuses for water company bosses whose companies commit serious breaches—as [its] own”.⁹⁸

Several campaign organisations have argued the government should do more to regulate the water industry. For example, the World Wildlife Fund has welcomed the provisions in the bill but argued this should be the “first step” towards “further, meaningful and joined up action” to tackle pollution in the UK’s rivers.⁹⁹ The campaign group River Action and the Angling Trust have also argued the government will need to introduce further measures in order to fix the underlying causes of pollution in the UK’s waterways.¹⁰⁰

Liberal Democrat Spokesperson for the Environment, Food and Rural Affairs Tim Farron has argued the bill does not do enough to reform the water industry, saying the bill “doesn’t look up to scratch to tackling the sewage scandal”.¹⁰¹

The environmental campaigner Feargal Sharkey has also described the measures in the bill as inadequate, saying they would not tackle a “dysfunctional regulatory system”.¹⁰²

⁹⁸ BBC News, [‘Anti-pollution law to threaten water bosses with jail’](#), 4 September 2024.

⁹⁹ World Wildlife Fund, [‘WWF comment on Water \(Special Measures\) Bill’](#), 5 September 2024.

¹⁰⁰ BBC News, [‘Anti-pollution law to threaten water bosses with jail’](#), 4 September 2024; and Angling Trust, [‘Angling Trust’s response to Water Industry Special Measures Bill’](#), 5 September 2024.

¹⁰¹ Liberal Democrats, [‘Govt announcement on sewage “looks to be job half done”’](#), 6 September 2024.

¹⁰² Times (£), [‘Water company bosses could face jail under reforms’](#), 4 September 2024; and Standard, [‘Feargal Sharkey: Water bill fails to tackle ‘dysfunctional’ regulatory system’](#), 5 September 2024.

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