



HOUSE OF LORDS

Select Committee on the Constitution

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Baroness Hayman of Ullock
Department for Environment, Food and Rural Affairs
Seacole Building
2 Marsham Street
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By email

14 October 2024

Dear Baroness Hayman,

Water (Special Measures) Bill

I write on behalf of the Constitution Committee about the Water (Special Measures) Bill. In our view, the Bill raises the following matters of constitutional interest.

Clause 2

Clause 2 amends the Water Industry Act 1991 to require sewerage undertakers to produce and publish an annual pollution incident reduction plan. Matters to be addressed in the pollution incident reduction plan include the frequency of pollution incidents, their seriousness, the steps taken to address the causes of the incident, the timing of corrective measures, and the progress made on delivery of previous plans.

The Secretary of State may, by direction specify ‘any other matters’ to be included in a pollution incident reduction plan. Given that the key material to be included in an incident reduction plan is already set out in the Bill, we would be grateful for an explanation as to why the power to add further requirements is not subject to parliamentary oversight.

Clause 5

Clause 5 modifies the standard of proof applicable to specified civil offences committed by a water company under the Water Resources Act 1991 from “beyond reasonable doubt” to “on the balance of probabilities”. This removal of an evidential safeguard appears unusual and we would welcome further detail as to the Government’s reasoning for this provision.

Yours sincerely,

A handwritten signature in cursive script, appearing to read 'Drake', written in black ink.

Baroness Drake CBE
Chair of the Constitution Committee