

Green groups and MPs work together on Repeal Bill amendment to ensure adequate implementation of environmental law

As discussed on Radio 4's Today Programme this morning,[1] 13 major environmental charities in the [Greener UK](#) coalition have begun working with a cross-party group of MPs to ensure the Repeal Bill does not dilute the force of law which has cleaned up UK beaches and is tackling the air quality crisis in urban areas.[2]

The MPs that back the amendment so far include Ed Miliband, former Labour Party leader and secretary of state for energy and climate change, and Caroline Lucas, Green Party co-leader.

The government [has said](#) that existing UK mechanisms, primarily judicial review and the role of parliament, are enough to replace all the functions currently carried out by EU agencies and the European Court of Justice (ECJ).[3] But these UK mechanisms do not compare to current EU arrangements, and three environmental charities have recently taken the government to court because the judicial review system is [being weakened](#).[4]

Currently, EU agencies play important roles in monitoring the state of the environment, checking governments comply with environmental law and, where necessary, enforcing the law by initiating investigations into possible breaches, including in response to complaints from citizens and civil society organisations. If breaches of the law are identified, remedies and sanctions can be applied, including fines.

Shaun Spiers, chair of [Greener UK](#) and executive director at Green Alliance, said:

“No one voted for dirtier beaches or worse air quality. The government has promised to bring all environmental protections into domestic law, but laws are only effective when there are strong institutions to enforce them.

“The ultimate risk of fines imposed by the European Court has led the UK government to clean up its act several times – for example, when it stopped pumping raw sewage into oceans on a regular basis and, more recently, being ordered by the courts to publish stronger air quality plans.

“To secure the high level of environmental protection that the public overwhelmingly wants and needs, UK governance institutions must be sufficiently resourced, independent and expert. Otherwise, environmental law will fail.

“The government will protest its good intentions, but it should be establishing systems that are proof against any future government that may want to weaken environmental and other protections.”

ENDS

To discuss this story further, please contact Amy Mount, head of the Greener UK unit, Green Alliance amount@green-alliance.org.uk 020 7630 4515

Notes

[1] [Radio 4 Today, 7 July 2017, at 07.37am](#)

[2] The Greener UK coalition formed in response to the EU referendum, united in the belief that leaving the EU is a pivotal moment to restore and enhance the UK's environment. It brings together 13 major environmental organisations, including the RSPB, Wildlife Trusts, National Trust, and WWF. For more details, see the [Greener UK briefing on the Repeal Bill](#).

[3] The government dismissed the 'governance gap' argument [here](#) in its response to a Lords committee report earlier this year. The relevant section is on page 5:

"The Committee raised concerns about available mechanisms for enforcement and oversight of environmental and climate change legislation. The Great Repeal Bill will end the supremacy of EU law and return power to the UK. The UK has always had a strong legal framework for environmental protections, and will continue to have a system of judicial review by UK judges after EU Exit. The judicial review mechanism enables any interested party to challenge the decisions of the Government of the day by taking action through the domestic courts. Finally and most importantly, it is now and will remain the role of Parliament to hold the Government of the day to account through the usual means, and Parliament is ultimately accountable to the electorate."

[4] The legal action on the costs of judicial review is being led by ClientEarth, Friends of the Earth and RSPB. Details [here](#).

[5] The text of Repeal Bill amendment the groups are recommending the following:

(1) The relevant Ministers must, before the UK's exit from the EU, make provision that all powers and functions relating to the UK that were carried out by an EU institution before the date of the UK leaving the EU will—

(a) continue to be carried out by an EU institution; or

(b) be carried out by an appropriate existing or newly created domestic body; or

(c) be carried out by an appropriate international body.

(2) For the purposes of this section, powers and functions relating to the UK exercised by an EU institution may include, but are not limited to—

(a) monitoring and measuring compliance with legal requirements,

(b) reviewing and reporting on compliance with legal requirements,

(c) enforcement of legal requirements,

(d) setting standards or targets,

(e) co-ordinating action,

(f) publicising information including regarding compliance with environmental standards.

(3) Within 12 months of the UK's exit from the EU, the Government shall consult and bring forward proposals for domestic governance arrangements to ensure equivalent provision of the regulatory, monitoring, oversight, accountability, enforcement and other functions relating to the UK currently provided by EU institutions, by providing for the establishment by primary legislation of—

(a) a new independent body or bodies with powers and functions equivalent to those of the relevant EU institutions in relation to the environment; and

(b) a new domestic framework for environmental protection and improvement.

(4) For the purposes of this section 'EU institution' includes but is not limited to—

(a) the European Commission;

(b) the European Environment Agency;

(c) the European Chemicals Agency; and

(d) the European Court of Auditors.

(5) Responsibility for any functions or obligations arising from EU-derived UK law for which no specific provision has been made immediately after commencement of this Act will belong to the relevant Minister until such a time as specific provision for those functions or obligations has been made.