

ENVIRONMENTAL POLICY FORUM

Time running out to effectively transpose EU environmental acquis into UK law

The Environmental Policy Forum (EPF) is a network of UK environmental professional bodies and learned societies promoting environmental sustainability and resilience for the public benefit. The EPF's member bodies have a collective membership of around 70,000 environmental professionals, many of whom are individually chartered in environmental practice, science and engineering disciplines.

Following our recent letters and briefings to Ministers and MPs regarding our concerns about the EU (Withdrawal) Bill, we welcome those amendments that align with our concerns relating to environmental governance when we leave the EU. We recognise that the Government needs to ensure the EU (Withdrawal) Bill meets the overall purpose of enabling full transposition of EU law into UK law in a timely manner. However, we remain deeply concerned by the apparent lack of parliamentary scrutiny and the lack of time remaining for the development of the secondary legislation required for a working statute book on exit day. It is essential that sufficient time and resource is made available for parliamentary committees to review and decide upon the appropriate level of scrutiny necessary for each statutory instrument.

A number of recent developments, whilst generally welcome, compound our concerns over the lack of time remaining to effectively transpose the EU environmental acquis into UK law.

1. A proposed Environmental 'Commission'

On 1st November 2017, the Environment Secretary, giving evidence to the Environmental Audit Committee, suggested establishing a new "commission-like body" to hold government and other public bodies to account on all matters of environmental law. The EPF welcomes this suggestion, which exactly aligns to our call for a new independent body for environmental governance and enforcement, submitted to the Secretary on 4th September. We also welcome the Secretary's commitment to a consultation process on the matter, during which we will actively consult with our respective memberships to inform our response. Given the time constraints, the EPF is asking government to consult on the new body and to agree its formation *before* exit day. We support the Secretary's every effort to actually establish the new body before exit day or as soon as possible thereafter.

2. The powers of DEFRA's NDPBs

In the same evidence session, the Environment Secretary suggested that the Department of Environment, Food and Rural Affairs' family of non-departmental public bodies could gain responsibilities that have been, until Brexit, the function of European agencies. We believe that, where powers which currently reside with European agencies are conferred on an existing body, or a new body is established, this should be done through the affirmative parliamentary scrutiny procedure with prior public consultation.

3. Exit day

On 9th November 2017, the Prime Minister announced that the Bill will be amended to state an exit date of 29th March 2019. However, there was no further clarification regarding the 'Henry VIII powers' through which Ministers may, without any parliamentary consultation, set different exit dates for different matters, merely that the date would be added "on the front page". We are disappointed by this missed opportunity to assuage concerns of excessive Ministerial powers and we urge that the opportunity for rectification is taken now. As the Bill is currently drafted, Ministers would retain the power to set other exit dates until the 'headline' exit date has passed, which is significant to the related expiration of extended powers (two years from the exit date). The EPF calls for further consideration and clarity here, while we support recommendations that the statutory instruments used to set exit date(s) are subject to the affirmative procedure.

The EPF stands ready to advise or otherwise assist in consultation processes. The Environment Secretary stated in a letter dated 29th September 2017 to the Chair of the EFRA Committee that his department is "considering how best to engage and consult with stakeholders on our secondary legislative programme by setting up a consultation group to provide external advice and challenge on our proposed methodology." The EPF's collective expertise is ideally placed to contribute to this consultation group.

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Notes

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The Chartered Institute of Ecology and Environmental Management (CIEEM) is the leading professional membership body representing and supporting 5,000 ecologists and environmental managers in the UK, Ireland and abroad. Our Vision is of a society which values the natural environment and recognises the contribution of professional ecologists and environmental managers to its conservation. www.cieem.net

CIWEM (the Chartered Institution of Water and Environmental Management), is the leading independent Chartered professional body for water and environment professionals, promoting excellence within the sector. www.ciwem.org

CIWM (the Chartered Institution of Wastes Management) is the leading professional body for the waste management sector representing around 6,000 individuals in the UK. Established in 1898, CIWM is a non-profit making organisation, dedicated to the promotion of professional competence amongst waste managers. CIWM seeks to raise standards for those working in and with the sector by producing best practice guidance,

developing educational and training initiatives, and providing information on key waste-related issues. www.ciwm.co.uk

IEMA is the membership body for more than 14,000 environment and sustainability professionals worldwide. We support individuals and organisations in setting and achieving globally recognised standards for sustainable practice, in turn driving the development and uptake of sustainability skills. We add value for our members by providing the knowledge, connections and recognition necessary to lead change within organisations at all levels. We are independent and international. We apply the combined expertise of our members to provide evidence and influence decision-making, working towards our vision of transforming the world to sustainability. www.iema.net

The Institution of Environmental Sciences (IES) is a membership organisation that represents professionals from fields as diverse as air quality, land contamination and education - wherever you find environmental work underpinned by science. A visionary organisation leading debate, dissemination and promotion of environmental science and sustainability, the IES promotes an evidence-based approach to decision and policy making. www.the-ies.org

The Institute of Fisheries Management (IFM) is an international organisation of people sharing a common interest in the modern management of recreational and commercial fisheries. www.ifm.org.uk

The Society for the Environment is comprised of 24 Licenced Bodies, with over 500,000 members between them. It received a Royal Charter in 2004, which empowers it to regulate the Chartered Environmentalist (CEnv) and Registered Environmental Technician (REnvTech) registration in the UK. There are now over 7,000 environmental professionals currently registered who share a common vision of delivering sustainability through environmental professionalism. www.socenv.org.uk