



CONFIDENTIAL

Prime Minister 4

You may be interested to see this comprehensive summary of the provisions of the Gooden mental Protection Bill.

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My ref:

Your ref:

Private Secretary to
The Rt Hon Sir Geoffrey Howe QC MP
Lord President of the Council
Privy Council Office
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copy
10/4
Good summary. We should ask for the consultation papers on the results of the consultation.

8 November 1989

Dear Steve

LEGISLATIVE PROGRAMME 1989/90
ENVIRONMENTAL PROTECTION BILL *map*

In his letter of 2 November to the Secretary of State, the Lord President asked for a table setting out the contents of the Environmental Protection Bill and our best estimate of the number of clauses involved. This is attached, as a basis for the meeting to discuss the size and shape of the Bill.

I am sending copies of this letter and the table to the Private Secretaries to the Prime Minister and other recipients of the Lord President's letter.

Yours

KATE BUSH

KATE BUSH
Private Secretary



Recycled Paper

C O N F I D E N T I A L

ENVIRONMENT PROTECTION BILL

Part I

Integrated Pollution Control (IPC) and Local Authority Air Pollution Control

Background IPC is an innovatory cross-media approach to controlling emissions from the most polluting industrial processes in England and Wales. It, and the extension of LA controls over air pollution from a second tier of less polluting processes, implement in full the Air Framework Directive. IPC also implements RCEP thinking on the "best practicable environmental option". Important new provisions for public access to environmental information are included, and IPC will have a major impact in the field of waste minimisation. Both systems have been the subject of extensive public consultation and have been broadly welcomed by all sides.

Likely controversiality Little expected (although there is bound to be discussion of the adequacy of HMIP resources).

Number of clauses 27 clauses, 1 schedule.

Part II

Land Wastes

Background Part II introduces a wide reform of the waste disposal system in England Scotland and Wales. There is strong public pressure for improved standards and tighter enforcement of controls on waste disposal. The main proposals include the transformation of waste disposal authorities into waste regulatory authorities and the creation of local authority companies to handle disposal operations; the placing of a duty of care on waste producers; and tighter controls over trade in wastes. These reforms, which have all been the subject of public consultation, fulfil Government commitments dating back to 1985.

We also aim to introduce provisions clarifying and strengthening local authorities' role in recycling; policy clearance from colleagues is being sought.

Likely controversiality Little expected (except possibly some LA concern at the formation of companies). There will be criticism if there is no provision on recycling.

Number of clauses 40 clauses and 3 schedules (estimated. We believe that the inclusion of provisions on recycling will not increase this number.)

Part III

Clean Air and Nuisance

Background These clauses introduce a number of minor but



desirable amendments to the Public Health Act 1936 and one to the Clean Air Acts. The main purpose is to streamline the procedure for dealing with statutory nuisance under the 1936 Act, thereby implementing proposals on which DOE consulted in 1986. One clause transfers offensive trades from control under the PHA to tighter controls under Part I of the Bill. The proposals have been generally welcomed by LAs and others.

Likely controversiality Little.

Number of clauses 6.

Part IV

Litter

Background The proposals include stricter measures to deal with litterers (higher penalties and fixed penalty schemes) and a new duty on local authorities and other owners of public land to keep their land litter-free and have regard to a code of practice. The Department of Transport have additionally proposed rationalising the present split in street cleaning duties between highway authorities and district councils. The proposals were developed by the Prime Minister's ad hoc meeting in May, which recognised the need for urgent new measures to combat litter, and were consulted on in a consultation document published in July 1989.

Likely controversiality The measures have been welcomed in most quarters. The most controversial aspect is likely to be the question of additional LA resources. Ministers are considering extending the duty to frontagers, which may be resisted by commercial interests.

Number of clauses 10 (estimated).

Part V

Radioactive Substances

Background These proposals are for a series of amendments to the Radioactive Substances Act (RSA) 1989, following an interdepartmental review of the Act. The main purpose is to close loopholes in the system of control eg by removing UKAEA and Crown (except MOD) exemption. The proposals (on what is a politically sensitive subject) were the subject of a consultation document published in May 1989 and were strongly supported.

Likely controversiality Little.

Number of clauses 5 clauses, 2 schedules.

Part VI

Genetically modified organisms (GMOs)

Background These proposals were set out in a consultation document in June 1989. The response from all quarters was



strongly in favour of the proposed early action by Government to control GMOs. The clauses are designed to control the release of GMOs to the environment, in such cases as micro organisms used to protect plants against pests or degrade wastes and pollutants. There will be a new general duty of care on those releasing GMOs; a scheme for pre-notification and Government authorisation of proposed releases; and appropriate enforcement of the provisions. The proposals meet the recommendations of the RCEP report on GMOs, and implement two EC directives.

Likely controversiality Little.

Number of clauses 15 (estimated).

Part VII

Conservation Agencies

Background The proposals, announced in July 1989, are for reorganisation of the Nature Conservancy Council (NCC) and Countryside Commission (CC) in Great Britain, with the aim of improving handling of national (ie English, Scottish and Welsh) conservation issues. The NCC and CC would be split up. A single agency would be created for Wales (the Scottish successor to the NCC would be combined with the existing Countryside Commission for Scotland under separate Scottish legislation at a later stage). Arrangements would be provided for whereby the successor bodies could cooperate on GB-wide and international issues, and pool scientific resources; these are still the subject of Ministerial discussion.

Likely controversiality These clauses are certain to be the most controversial in the Bill.

Number of clauses 8 clauses plus 3 schedules for the splitting up of the NCC; an estimated 2 for the creation of the Welsh single agency (on which WO have instructed separately).

Part VIII / other possible provisions

(A) Departmental Expenditure

Background DOE is committed to these provisions to meet criticism from the Environment Select Committee at the lack of statutory cover for payments made by way of subscription to certain international environmental bodies and by way of grant to voluntary organisations, under the Special Grants Programme.

Likely controversiality Little.

Number of clauses 2.

(B) Dogs

Background The proposals are for a new duty on local authorities to round up stray dogs in their areas and a power for them to charge owners who reclaim dogs from them. They complement Home



Office proposals to improve controls over dangerous dogs, and were considered in tandem with the proposals for dealing with litter. (The litter proposals cover the separate problem of dog muck.) A public consultation document was published in August 1989.

Likely controversiality The proposals themselves are not particularly controversial, although the subject of dogs provokes great interest within and without Parliament. The inclusion of these clauses on the other hand will inevitably lead to further calls for some kind of dog registration scheme.

Number of clauses/schedules 2-3 (estimated).

(C) Hazardous chemicals

Background These proposals were set out in a consultation document in April 1988 welcomed by both industry and the public. It outlined the need for new powers requiring information on and if necessary testing of existing chemicals, to complement (existing) powers for dealing with possible environmental harm from their use. These powers would for example enable the Government to investigate chemicals as soon as suspicion about their environmental behaviour arose. They are in line with international developments on the need to improve and cooperate on knowledge of existing chemicals, particularly a draft EC directive on risk assessment and regulation of existing chemicals.

Likely controversiality Little.

Number of clauses 3-5 (estimated).

(D) Amendment to S.100, COPA

Background The consultation document mentioned at (C) above also proposed a widening of the power provided by S.100 of the Control of Pollution Act for controlling the import, industrial/commercial use, and supply of substances. We propose to amend the section eg to allow mixtures and articles to be controlled as well as "substances".

Likely controversiality Little.

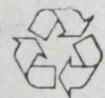
Number of clauses 1 plus 1 schedule.

(E) Groundwork Pensions

Background This clause is to provide statutory cover for Groundwork staff remaining in the Principal Civil Service Pension Scheme following the hiving off of Groundwork from the Countryside Commission.

Likely controversiality None.

Number of clauses 1.



(F) BWB IWAAC Salary

Background This is a minor provision designed to regularise payments of salary to the Chairman of the British Waterways Board's Inland Waterways Advisory Council. The Environment Select Committee has (see A above) criticised the making of such payments under the Appropriation Act.

Likely controversiality None.

Number of clauses 1.

(G) Disposal of Pesticides

Background This provision would close a loophole in the Food and Environmental Protection Act 1985. It would provide control over disposal of pesticides after use and thereby meet obligations under the EC directive on toxic and dangerous waste. MAFF and DEm Ministers have recently agreed the policy.

Likely controversiality Little.

Number of clauses 1 (estimated. Instructions have not yet been prepared - would need to be introduced at Committee stage).

(H) Licensing of dumping at sea

Background This is a MAFF proposal to amend Part II of the Food and Environmental Protection Act to extend licensing for the dumping of foreign waste from vessels loaded in foreign ports in continental shelf waters. There is no specific Government commitment - but international law in this area is developing in this direction, and the power should meet a likely pressure point at the 3rd North Sea Conference.

Likely controversiality Little.

Number of clauses 1.

(I) Banning Straw and Stubble Burning

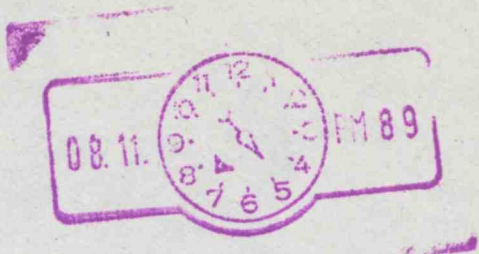
Background This is recent MAFF proposal, designed to deal with a problem which has received further prominence this year. There has been no announcement as yet, and there is no public commitment to action, but MAFF Ministers are strongly of the view that the only solution to this perennial problem is an outright ban.

Likely controversiality Would probably be widely welcomed in most quarters, but resisted by the farming lobby.

Number of clauses 1-2 (estimated. Instructions have not yet been prepared; would need to be introduced at Committee stage).



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(J) Scottish Office amendment to COPA

Background This minor amendment would make provision for River Purification Authorities in Scotland to carry out their duties under Part I of the Control of Pollution Act without prejudice to water quality objectives under Part II. The proposal parallels changes already made by DOE to COPA.

Likely controversiality Little.

Number of clauses 1.

(K) Hazardous substances

Background This proposal is to amend the Hazardous Substances Consent regime proved for in the Housing and Planning Act 1986 and is designed to introduce a system of consents for the presence of hazardous substances on land akin to but separate from planning permission. Without an amendment to the transitional provisions new regulations cannot be made and the legislation controlling the location of hazardous substances cannot be brought into force.

Likely controversiality Little.

Number of clauses 1 plus 1 schedule (estimated).

Part "X"

Miscellaneous and General

Number of clauses 10 plus 2 schedules (estimated).

ESTIMATED TOTAL NUMBER OF CLAUSES (EXCLUDING SPECIFICALLY SCOTTISH CLAUSES): 138 - 142 PLUS 13 SCHEDULES

Department of the Environment
6 November 1989

