

Environment (Air Quality and Soundscapes) (Wales) Bill

Summary of provisions

March 2023



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On 20 March 2023, the Minister for Climate Change, Julie James MS, introduced the Environment (Air Quality and Soundscapes) (Wales) Bill to the Senedd. This briefing provides a summary of the Bill's provisions.



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Part 1 – Air Quality

Chapter 1 makes provision for a framework setting, reviewing and reporting on national air quality targets for Wales, which will apply in addition to existing legislation in this area. It places a duty on the Welsh Ministers to set a target in respect of the annual mean level of PM^{2.5} in ambient air in Wales.

Air Quality Targets

Section 1 (Air quality targets: general) gives the Welsh Ministers powers to make regulations that set long-term targets in respect of any matter relating to air quality in Wales. A target set under these regulations must specify a standard to be achieved, which must be capable of being objectively measured and a date for achieving it.

Section 2 (Air quality targets: particulate matter) imposes a duty on the Welsh Ministers to set at least one target, in regulations, in respect of the annual mean level of PM^{2.5} in ambient air in Wales. Regulations setting such targets may define “ambient air.”

Section 3 (Target setting process) sets out the process the Welsh Ministers must follow before setting, amending or revoking a long-term air quality target under Section 1, and before setting or amending a PM^{2.5} target under Section 2. A PM^{2.5} target cannot be revoked by regulations made under Section 2. Before making regulations under Section 1 or 2, the Welsh Ministers must seek advice from independent experts and have regard to scientific knowledge on air pollution. Subsection 2 requires the Welsh Ministers to set targets they are satisfied can be met. Subsections 3 to 6 set out the process that must be followed to revoke or lower a target set under Section 1 or 2. Welsh Ministers can only revoke or lower an existing target if they are satisfied that:

- i. meeting the target would have no significant benefit compared with not meeting it, or meeting a lower target; or
- ii. because of changes in circumstances since the existing target was set or last amended the environmental, social, economic or other costs of meeting it would be disproportionate to the benefits.

Section 4 (Effect of targets) places a duty on the Welsh Ministers to ensure long-term targets under Section 1 and 2 are met.

Section 5 (Reporting on targets) sets out the reporting duties placed on the Welsh Ministers in relation to long-term targets set under Section 1 and 2. Regulations made under Section 1 and 2 must contain a reporting date for targets. On or before the reporting date for each target the Welsh Ministers must lay one of three statements before the Senedd:

- a statement that the target has been met;
- a statement that the target that has not been met; or
- a statement that the Welsh Ministers cannot determine if the target has been met, explaining why they have not been able to make this determination.

Where the Welsh Ministers lay a report stating why the target was not met, they must within 12 months of laying the report state what steps they have taken or intend to take, to make sure it is met as soon as reasonably practicable.

Section 6 (Review of targets) places a duty on the Welsh Ministers to review targets under Section 1 and 2, seeking advice from independent experts and having regard to scientific knowledge about air pollution. Once the Welsh Ministers have undertaken a review they must publish their findings setting out what steps, if any they intend to take in light of the review.

Section 7 (Monitoring progress towards meeting targets) requires the Welsh Ministers to make arrangements for obtaining such data about air quality in Wales as they consider appropriate to monitor progress towards meeting Section 1 and 2 targets and they must then publish that data.

Chapter 2: Other provisions

Section 8 (Promoting awareness about air pollution) places a duty on the Welsh Ministers to take steps to promote awareness in Wales about the risks to human health and the natural environment caused by air pollution, and ways to reduce or limit air pollution.

National air quality strategy

Section 9 (National air quality strategy: power to change review period for strategy) inserts a new subsection (8) into section 80 of the Environment Act 1995. This gives the Welsh Ministers a new regulation making power to amend the review period for the national air quality strategy. Any such regulations will be subject to the affirmative resolution procedure.

Section 10 (Consultation on review of strategy) provides that when reviewing the national air quality strategy the Welsh Ministers must consult with Natural Resources Wales, every local authority in Wales, Public Health Wales, every local health board in Wales, and the public.

Section 11 (Duty to have a regard to strategy) requires Welsh local authorities and relevant Welsh public authorities to have regard to the national air quality strategy when exercising any function of a public nature that could affect the quality of air in Wales. Under subsections (2) and (3) a person is a “relevant Welsh public authority” if they have been designated as such by regulations made by the Welsh Ministers. Before making regulations under subsection (3), the Welsh Ministers must consult the person who is proposed to be designated as a “relevant Welsh public authority” and other such persons as the Welsh Ministers consider appropriate.

This section also gives Welsh Ministers the power to issue guidance to Welsh local authorities and relevant Welsh public authorities which in turn they must have regard to.

Air quality regulations

Section 12 (Air quality regulations: consultation) disapplies the consultation requirements in subsection (7) of Section 87 of the 1995 Act, and replaces them with new requirements. These require the Welsh Ministers, before making regulations under Part 4 of the 1995 Act, to consult NRW, every local authority in Wales, Public Health Wales, every local health board, and the public.

Local Air Quality Management

Section 13 (Local air quality reviews) inserts a new subsection into the 1995 Act requiring every local authority in Wales to conduct an air quality review every calendar year, rather than from time to time.

Section 14 (Action plans in relation to air quality management areas) requires a local authority to prepare an action plan in relation to a designated area and send a copy to the Welsh Ministers for approval. The plan does not take effect unless it is approved by the Welsh Ministers. Each standard and objective in the plan must have a date by which it will be achieved. The plan must also set out how standards and objectives will be maintained once achieved. A local authority may revise an action plan at any time, and any revisions must be approved by the Welsh Ministers before it can take effect.

Section 15 (Welsh Ministers' powers of direction) sets out that if a local authority has failed to carry out a measure in the action plan by the date specified, the Welsh Ministers can direct the local authority to take specified steps. Likewise if an air quality standard or objective has not been achieved, the Welsh Ministers can direct the local authority to take specified steps.

Smoke control

Section 16 (Smoke control: regulation of smoke and fuel in smoke control areas) inserts new sections into the Clean Air Act 1993. The changes introduce civil penalties in relation to various offences relating to the unauthorised emission of smoke in smoke controlled areas. The criminal offences in section 20 in the 1993 Act are repealed in relation to Wales.

The Welsh Ministers are also given new powers to suspend or relax the civil penalties if deemed expedient or necessary after consultation with the relevant local authority.

Section 17 (Guidance for local authorities in relation to smoke control areas) amends the 1993 Act, to require local authorities in Wales to have regard to any guidance published by the Welsh Ministers about the exercise of the local authority's functions under Part 3 of the 1993 Act (the control and prevention of air pollution by smoke and other related emissions).

Section 18 (Further provision relating to smoke control) introduces Schedule 1 to the Bill, which makes further provisions in relation to smoke control.

Schedule 1. Part 1 makes amendments to Schedule 1A of the 1993 Act to allow for the civil sanctions regime in that Schedule to apply to Wales. Part 2 makes other amendments to the 1993 Act in consequence of the provision made by Part 1, and by sections 16 and 17 of the Bill.

Vehicle emissions

Section 19 (Trunk road charging schemes) extends the Welsh Ministers' powers to make a trunk road charging scheme in Wales, to enable the making of schemes for the purpose of reducing or limiting air pollution in the vicinity of that road. The Welsh Minister's existing power to make a trunk road charging scheme is currently restricted by Section 167(2) of the Transport Act 2000 to circumstances where the road on which it is proposed to institute the charging scheme is carried by a bridge, or passes through a tunnel (of at least 600m in length), or where the creation of a combined charging scheme is requested by certain other traffic authorities.

Section 20 (Further provision relating to trunk road charging schemes)

introduces Schedule 2 to the Bill, which makes provision for and in connection with the application of the net proceeds of trunk road charging schemes made for the purposes of reducing or limiting air pollution.

Schedule 2 of the Bill makes consequential amendments to Schedule 12 of the 2000 Act (financial provision about trunk road charging schemes). Paragraph 13 to Schedule 12 of the 2000 Act makes provision about the proceeds of trunk road charging schemes made by the Welsh Ministers under section 167(2) of the 2000 Act. Paragraphs 4, 5 and 6 of Schedule 2 amend paragraph 13 of Schedule 12, and insert new paragraphs 14 and 15 in respect of trunk road charging schemes made by the Welsh Ministers. These amendments and new provisions mean:

- If the Welsh Ministers make a trunk road charging scheme under section 167(3) of the 2000 Act, either wholly or partially for the purpose of reducing or limiting air pollution, new paragraph 14 of Schedule 12 to the 2000 Act applies to that scheme. Paragraph 14 requires the Welsh Ministers to lay a statement in the Senedd setting out the estimated net proceeds of the scheme, how the Welsh Ministers propose to apply their share of the net proceeds and an assessment of the effect of the proposals on air quality, if any.
- If the Welsh Ministers make a trunk road charging scheme that is not wholly or partially for the purpose of reducing or limiting air pollution, new paragraph 15 of Schedule 12 to the 2000 Act applies to that scheme. Paragraph 15 restricts the use of the Welsh Ministers share of the net proceeds of a charging scheme to policies or proposals relating to transport. Where a scheme is not wholly or partially made for the purpose of reducing or limiting air pollution and the road is carried by a bridge, or passes through a tunnel (of at least 600m in length), the transport hypothecation applies for ten years. Paragraph 15 gives the Welsh Minister's powers to make regulations to:
 - determine when a scheme is regarded as coming into force for the purposes of determining when this ten year period begins or expires;
 - determine how net proceeds are to be applied after the expiration of the ten year period; and
 - increase the ten year period.

Section 21 (Stationary idling offence: fixed penalty) amends and inserts new provisions into the 1995 Act, so that in the case of a stationary idling offence, the Welsh Ministers can prescribe a monetary range within which the amount of the penalty may be set.

A “stationary idling offence” is defined in section 42 of the Road Traffic Act 1988 and prohibits leaving your engine on when it is not needed.

Part 2: Soundscapes

National strategy on soundscapes

Prior to the Bill, there was no duty on the Welsh Ministers to publish a national strategy on soundscapes. The Environmental Noise (Wales) Regulations 2006 provide that Welsh Ministers must make and adopt strategic noise maps and draw up noise action plans, and prescribes what they must contain. The Bill places a duty on the Welsh Ministers to prepare and publish a national strategy on soundscapes which can incorporate the strategic noise maps and noise actions plans required under the 2006 Regulations.

Section 22 (National strategy on soundscapes):

- **Subsection 1** places a duty on the Welsh Minister to prepare and publish a national strategy containing their policies in relation to the assessment and management of soundscapes in Wales;
- **Subsection 2** requires the strategy to include policies for assessing and reducing levels of noise pollution;
- **Subsection 3** requires the Welsh Ministers to keep these policies under review;
- **Subsection 4** allows the Welsh Ministers to modify the strategy;
- **Subsection 5** requires the Welsh Ministers to review, and if appropriate, modify the strategy within five years of its first publication, and within each period of five years beginning with the day on which the last review was completed;
- **Subsection 6** provides that the Welsh Ministers must have regard to scientific knowledge relevant to soundscapes and the most recent strategic noise maps. They must also consult NRW, every local authority in Wales, Public Health Wales, every local health board, and the public when preparing or reviewing the strategy;
- **Subsection 7** gives the Welsh Ministers the power to amend the review periods in subsection 5;
- **Subsection 8** provides that an existing strategy that fulfils the requirements of subsections 1 and 2 can be treated as the strategy prepared and published under subsection 1; and

- **Subsection 9** defines local authority for the purposes of this section and section 23 of the Bill as a county council or a county borough council.

Section 23 (Duty to have regard to national strategy on soundscapes): requires local authorities and relevant Welsh public authorities to have regard to the policies in the national strategy on soundscapes when exercising any function of a public nature that could affect soundscapes in Wales. Under subsections 2 and 3 a person is a “relevant Welsh public authority” if they have been designated as such by regulations made by the Welsh Ministers. Before making regulations under subsection 3, the Welsh Ministers must consult the person who is proposed to be designated as a “relevant Welsh public authority” and other such persons as the Welsh Ministers consider appropriate.

Section 24 (Power to change cycles for making strategic noise maps and reviewing noise action plans) enables the Welsh Ministers, by regulations, to change the intervals at which strategic noise maps must be made and adopted, and to change the period within which reviews of noise action plans must take place under the 2006 Regulations.

Part 3- General

Section 25 (Power to make consequential, transitional etc provision) provides that the Welsh Ministers may, by regulations, make such supplementary, incidental, consequential, transitional or saving provision as they think necessary or appropriate for the purpose of giving full effect to any provision made by or under the Bill, including in relation to the provisions in the Bill.

Any regulations made under section 25 that amend primary legislation will be subject to the affirmative resolution procedure.

Section 26 (Regulations) explains how powers to make regulations under the Bill are to be exercised, and sets out the applicable procedure to be followed in making those regulations.

Section 27 (Coming into force) sets out how the provisions of the Bill come into force. The provisions within Part 3 come into force on the day after the Bill receives Royal Assent. Sections 1-6, 8-12, 19-24 and Schedule 2 come into force at the end of the period of two months beginning with the day on which the Bill receives Royal Assent. The other provisions come into force on a day appointed by the Welsh Ministers by order.