



Environment Act 2021

2021 CHAPTER 30

VALID FROM 17/11/2021

PART 1

ENVIRONMENTAL GOVERNANCE

VALID FROM 24/01/2022

CHAPTER 1

IMPROVING THE NATURAL ENVIRONMENT

Environmental targets

1 Environmental targets

- (1) The Secretary of State may by regulations set long-term targets in respect of any matter which relates to—
 - (a) the natural environment, or
 - (b) people's enjoyment of the natural environment.
- (2) The Secretary of State must exercise the power in subsection (1) so as to set a long-term target in respect of at least one matter within each priority area.
- (3) The priority areas are—
 - (a) air quality;
 - (b) water;
 - (c) biodiversity;
 - (d) resource efficiency and waste reduction.

Status: Point in time view as at 09/11/2021. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Environment Act 2021, PART 1. (See end of Document for details)

- (4) A target set under this section must specify—
 - (a) a standard to be achieved, which must be capable of being objectively measured, and
 - (b) a date by which it is to be achieved.
- (5) Regulations under this section may make provision about how the matter in respect of which a target is set is to be measured.
- (6) A target is a “long-term” target if the specified date is no less than 15 years after the date on which the target is initially set.
- (7) A target under this section is initially set when the regulations setting it come into force.
- (8) In this Part the “specified standard” and “specified date”, in relation to a target under this section, mean the standard and date (respectively) specified under subsection (4).
- (9) The Secretary of State may not by regulations under this section make any provision which, if contained in an Act of Senedd Cymru, would be within the legislative competence of the Senedd.

Commencement Information

- I1** S. 1 not in force at Royal Assent, see [s. 147\(3\)](#)

2 Environmental targets: particulate matter

- (1) The Secretary of State must by regulations set a target (“the PM_{2.5} air quality target”) in respect of the annual mean level of PM_{2.5} in ambient air.
- (2) The PM_{2.5} air quality target may, but need not, be a long-term target.
- (3) In this section “PM_{2.5}” means particulate matter with an aerodynamic diameter not exceeding 2.5 micrometres.
- (4) Regulations setting the PM_{2.5} air quality target may make provision defining “ambient air”.
- (5) The duty in subsection (1) is in addition to (and does not discharge) the duty in section 1(2) to set a long-term target in relation to air quality.
- (6) Section 1(4) to (9) applies to the PM_{2.5} air quality target and to regulations under this section as it applies to targets set under section 1 and to regulations under that section.
- (7) In this Part “the PM_{2.5} air quality target” means the target set under subsection (1).

Commencement Information

- I2** S. 2 not in force at Royal Assent, see [s. 147\(3\)](#)

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3 Environmental targets: species abundance

- (1) The Secretary of State must by regulations set a target (the “species abundance target”) in respect of a matter relating to the abundance of species.
- (2) The specified date for the species abundance target must be 31 December 2030.
- (3) Accordingly, the species abundance target is not a long-term target and the duty in subsection (1) is in addition to (and does not discharge) the duty in section 1(2) to set a long-term target in relation to biodiversity.
- (4) Before making regulations under subsection (1) which set or amend a target the Secretary of State must be satisfied that meeting the target, or the amended target, would halt a decline in the abundance of species.
- (5) Section 1(4) to (9) applies to the species abundance target and to regulations under this section as it applies to targets set under section 1 and to regulations under that section.
- (6) In this Part “the species abundance target” means the target set under subsection (1).

Commencement Information

I3 S. 3 not in force at Royal Assent, see [s. 147\(3\)](#)

4 Environmental targets: process

- (1) Before making regulations under sections 1 to 3 the Secretary of State must seek advice from persons the Secretary of State considers to be independent and to have relevant expertise.
- (2) Before making regulations under sections 1 to 3 which set or amend a target the Secretary of State must be satisfied that the target, or amended target, can be met.
- (3) The Secretary of State may make regulations under sections 1 to 3 which revoke or lower a target (the “existing target”) only if satisfied that—
 - (a) meeting the existing target would have no significant benefit compared with not meeting it or with meeting a lower target, or
 - (b) 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.
- (4) Before making regulations under sections 1 to 3 which revoke or lower a target the Secretary of State must lay before Parliament, and publish, a statement explaining why the Secretary of State is satisfied as mentioned in subsection (3).
- (5) Regulations lower a target if, to any extent, they—
 - (a) replace the specified standard with a lower standard, or
 - (b) replace the specified date with a later date.
- (6) Regulations under section 2 may not revoke the PM_{2.5} air quality target (but may amend it in accordance with this section).
- (7) For the purposes of this Part a target is met if the specified standard is achieved by the specified date.

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- (8) Regulations under sections 1 to 3 are subject to the affirmative procedure.
- (9) A draft of a statutory instrument (or drafts of statutory instruments) containing regulations setting—
- (a) each of the targets required by section 1(2),
 - (b) the PM_{2.5} air quality target, and
 - (c) the species abundance target,
- must be laid before Parliament on or before 31 October 2022.

Commencement Information

14 S. 4 not in force at Royal Assent, see [s. 147\(3\)](#)

5 Environmental targets: effect

It is the duty of the Secretary of State to ensure that—

- (a) targets set under section 1 are met,
- (b) the PM_{2.5} air quality target set under section 2 is met, and
- (c) the species abundance target set under section 3 is met.

Commencement Information

15 S. 5 not in force at Royal Assent, see [s. 147\(3\)](#)

6 Environmental targets: reporting duties

- (1) Regulations under section 1, 2 or 3 must specify a reporting date for any target set under that section.
- (2) On or before the reporting date the Secretary of State must lay before Parliament, and publish, a statement containing the required information about the target.
- (3) The required information about a target is (as appropriate)—
 - (a) that the target has been met,
 - (b) that the target has not been met, or
 - (c) that the Secretary of State is not yet able to determine whether the target has been met, the reasons for that and the steps the Secretary of State intends to take in order to determine whether the target has been met.
- (4) Where the Secretary of State makes a statement that the target has not been met the Secretary of State must, before the end of the 12 month period beginning with the date on which the statement is laid, lay before Parliament, and publish, a report.
- (5) The report must—
 - (a) explain why the target has not been met, and
 - (b) set out the steps the Secretary of State has taken, or intends to take, to ensure the specified standard is achieved as soon as reasonably practicable.
- (6) Where the Secretary of State makes a statement that the Secretary of State is not yet able to determine whether the target has been met the Secretary of State must, before

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the end of the 6 month period beginning with the date on which the statement is laid, lay before Parliament, and publish, a further statement containing the required information.

- (7) Subsections (3) to (6) apply to further statements under subsection (6) as they apply to a statement under subsection (2).

Commencement Information

16 S. 6 not in force at Royal Assent, see s. 147(3)

7 Environmental targets: review

- (1) The Secretary of State must review targets set under sections 1 to 3 in accordance with this section.
- (2) The purpose of the review is to consider whether the significant improvement test is met.
- (3) The significant improvement test is met if meeting—
- the targets set under sections 1 to 3, and
 - any other environmental targets which meet the conditions in subsection (8) and which the Secretary of State considers it appropriate to take into account,
- would significantly improve the natural environment in England.
- (4) Having carried out the review the Secretary of State must lay before Parliament, and publish, a report stating—
- whether the Secretary of State considers that the significant improvement test is met, and
 - if the Secretary of State considers that the test is not met, the steps the Secretary of State intends to take in relation to the powers in sections 1 to 3 to ensure that it is met.
- (5) The first review must be completed by 31 January 2023.
- (6) Subsequent reviews must be completed before the end of the 5 year period beginning with the day on which the previous review was completed.
- (7) A review is completed when the Secretary of State has laid and published the report.
- (8) The conditions mentioned in subsection (3)(b) are that—
- the target relates to an aspect of the natural environment in England or an area which includes England,
 - it specifies a standard to be achieved which is capable of being objectively measured,
 - it specifies a date by which the standard is to be achieved, and
 - it is contained in legislation which forms part of the law of England and Wales.
- (9) In this section “England” includes—
- the English inshore region, and
 - the English offshore region,

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within the meaning of the Marine and Coastal Access Act 2009 (see section 322 of that Act).

Commencement Information

17 S. 7 not in force at Royal Assent, see [s. 147\(3\)](#)

Environmental improvement plans

8 Environmental improvement plans

- (1) The Secretary of State must prepare an environmental improvement plan.
- (2) An “environmental improvement plan” is a plan for significantly improving the natural environment in the period to which the plan relates.
- (3) That period must not be shorter than 15 years.
- (4) An environmental improvement plan must set out the steps Her Majesty’s Government intends to take to improve the natural environment in the period to which the plan relates.
- (5) It may also set out steps Her Majesty’s Government intends to take to improve people’s enjoyment of the natural environment in that period (and if it does so references in this Part to improving the natural environment, in relation to that plan, include improving people’s enjoyment of it).
- (6) The Secretary of State’s functions in relation to environmental improvement plans are not exercisable in relation to the natural environment in Wales.
- (7) The document entitled “A green future: our 25 year plan to improve the environment” published by Her Majesty’s Government on 11 January 2018 is to be treated as an environmental improvement plan prepared by the Secretary of State under this section.
- (8) References in this Part—
 - (a) to the first environmental improvement plan, are to that document;
 - (b) to the current environmental improvement plan, are to the environmental improvement plan for the time being in effect.

Commencement Information

18 S. 8 not in force at Royal Assent, see [s. 147\(3\)](#)

9 Annual reports on environmental improvement plans

- (1) The Secretary of State must prepare annual reports on the implementation of the current environmental improvement plan.
- (2) An annual report must—
 - (a) describe what has been done, in the period to which the report relates, to implement the environmental improvement plan, and

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- (b) consider, having regard to any data obtained under section 16, whether the natural environment has, or particular aspects of it have, improved during that period.
- (3) In considering the matters in subsection (2)(b) an annual report must consider the progress that has been made towards achieving—
 - (a) any targets, or any relevant targets, set under sections 1 to 3, and
 - (b) any interim targets, or any relevant interim targets, set under sections 11 and 14.
- (4) The first annual report on the first environmental improvement plan may relate to any 12 month period that includes the day on which this section comes into force.
- (5) The first annual report on a subsequent environmental improvement plan must relate to the first 12 months of the period to which the plan relates.
- (6) Subsequent annual reports on an environmental improvement plan must relate to the 12 month period immediately following the 12 month period to which the previous annual report relates.
- (7) An annual report must be laid before Parliament before the end of the 4 month period beginning immediately after the last day of the period to which the report relates.
- (8) The Secretary of State must publish annual reports laid before Parliament under this section.

Commencement Information

19 S. 9 not in force at Royal Assent, see [s. 147\(3\)](#)

10 Reviewing and revising environmental improvement plans

- (1) The Secretary of State must—
 - (a) review the current environmental improvement plan in accordance with this section, section 11 and section 12, and
 - (b) if the Secretary of State of State is required to revise the plan under section 11, or considers it appropriate to revise the plan as a result of the review, revise the plan.
- (2) The period to which a revised plan relates must end at the same time as the period to which the current plan relates.
- (3) The first review of the first environmental improvement plan must be completed by 31 January 2023.
- (4) The first review of a subsequent environmental improvement plan must be completed before the end of the 5 year period beginning with the day on which it replaces the previous plan (see section 13(4)).
- (5) Subsequent reviews of an environmental improvement plan must be completed before the end of the 5 year period beginning with the day on which the previous review was completed.

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- (6) If as a result of a review the Secretary of State revises the environmental improvement plan, the Secretary of State must lay before Parliament—
 - (a) the revised environmental improvement plan, and
 - (b) a statement explaining the revisions and the reasons for them.
- (7) If as a result of a review the Secretary of State does not revise the environmental improvement plan, the Secretary of State must lay before Parliament a statement explaining that and the reasons for it.
- (8) The Secretary of State must publish the documents laid under subsection (6) or (7).
- (9) A review is completed when the Secretary of State has laid and published the documents mentioned in subsection (6) or (7).
- (10) References in this Act to an environmental improvement plan include a revised environmental improvement plan.

Commencement Information

110 S. 10 not in force at Royal Assent, see [s. 147\(3\)](#)

11 Reviewing and revising plans: interim targets

- (1) On the first review of the first environmental improvement plan, the Secretary of State must revise the plan so as to—
 - (a) set at least one interim target in respect of each relevant matter, and
 - (b) secure that there is at all times, until the end of the 5 year period beginning with the relevant date, an interim target set by the plan in respect of each relevant matter.
- (2) On any other review of an environmental improvement plan, the Secretary of State must make any revisions to the plan which are necessary in order to—
 - (a) set at least one interim target in respect of any matter that has become a relevant matter since the previous review, and
 - (b) secure that there is at all times, until the end of the 5 year period beginning with the relevant date, an interim target set by the plan in respect of each relevant matter.
- (3) A “relevant matter” means any matter in respect of which there is a target under sections 1 to 3.
- (4) Subsection (2)(b) does not apply in respect of a matter if the specified date for the target under sections 1 to 3 in respect of that matter is before the end of the 5 year period beginning with the relevant date.
- (5) On a review of an environmental improvement plan, the Secretary of State may revise or replace any interim targets set by the plan in respect of a relevant matter (subject to subsection (2)(b), where it applies in respect of the matter).
- (6) An interim target in respect of a matter must specify—
 - (a) a standard to be achieved, which must be capable of being objectively measured, and
 - (b) a date by which it is to be achieved.

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- (7) The date must be no later than the end of the 5 year period beginning with—
 - (a) for the first interim target in respect of a matter, the relevant date;
 - (b) for subsequent interim targets in respect of a matter, the later of the relevant date and the date specified for the previous interim target.
- (8) Before setting or revising an interim target in respect of a matter the Secretary of State must be satisfied that meeting the target, or the revised target, would make an appropriate contribution towards meeting the target under sections 1 to 3 in respect of that matter.
- (9) The “relevant date” is the date on which the review is completed.

Commencement Information

I11 S. 11 not in force at Royal Assent, see [s. 147\(3\)](#)

12 Reviewing and revising plans: other requirements

- (1) In reviewing an environmental improvement plan under section 10, the Secretary of State must consider—
 - (a) what has been done to implement the plan in the period since it was published or (if it has been reviewed before) last reviewed,
 - (b) whether, having regard to data obtained under section 16 and reports made by the OEP under section 28, the natural environment has, or particular aspects of it have, improved during that period, and
 - (c) whether Her Majesty’s Government should take further or different steps to improve the natural environment (compared to those set out in the plan) in the remainder of the period to which the plan relates.
- (2) In considering the matters in subsection (1)(b) the Secretary of State must consider the progress that has been made towards meeting—
 - (a) any targets, or any relevant targets, set under sections 1 to 3, and
 - (b) any interim targets, or any relevant interim targets, set under sections 11 and 14.
- (3) In considering the matters in subsection (1)(c) the Secretary of State must consider whether Her Majesty’s Government should take further or different steps towards meeting those targets (compared to those set out in the plan).

Commencement Information

I12 S. 12 not in force at Royal Assent, see [s. 147\(3\)](#)

13 Renewing environmental improvement plans

- (1) Before the end of the period to which an environmental improvement plan (the “old plan”) relates, the Secretary of State must prepare a new environmental improvement plan (the “new plan”) for a new period in accordance with this section, section 14 and section 15.

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- (2) The new period must begin no later than immediately after the end of the period to which the old plan relates.
- (3) At or before the end of the period to which the old plan relates the Secretary of State must lay before Parliament, and publish, the new plan.
- (4) The new plan replaces the old plan when—
 - (a) it has been laid and published, and
 - (b) the period to which it relates has begun.

Commencement Information

I13 S. 13 not in force at Royal Assent, see [s. 147\(3\)](#)

14 Renewing plans: interim targets

- (1) A new plan prepared by the Secretary of State under section 13 must—
 - (a) set at least one interim target in respect of each relevant matter, and
 - (b) secure that there is at all times, until the end of the 5 year period beginning with the relevant date, an interim target set by the plan in respect of each relevant matter.
- (2) A “relevant matter” means any matter in respect of which there is a target under sections 1 to 3.
- (3) Subsection (1) does not apply in respect of a matter if the specified date for the target under sections 1 to 3 in respect of that matter is before the end of the 5 year period beginning with the relevant date.
- (4) An interim target in respect of a matter must specify—
 - (a) a standard to be achieved, which must be capable of being objectively measured, and
 - (b) a date by which it is to be achieved.
- (5) The date must be no later than the end of the 5 year period beginning with—
 - (a) for the first interim target set by the new plan in respect of a matter, the relevant date;
 - (b) for subsequent interim targets set by the new plan in respect of a matter, the date specified for the previous interim target.
- (6) Before setting an interim target in respect of a matter, the Secretary of State must be satisfied that meeting it would make an appropriate contribution towards meeting the target under sections 1 to 3 in respect of that matter.
- (7) The “relevant date” is the first day of the period to which the new plan relates.
- (8) In this section references to the “new plan” are to be read in accordance with section 13.

Commencement Information

I14 S. 14 not in force at Royal Assent, see [s. 147\(3\)](#)

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Changes to legislation: There are currently no known outstanding effects for the Environment Act 2021, PART 1. (See end of Document for details)

15 Renewing plans: other requirements

- (1) In preparing a new plan under section 13 the Secretary of State must consider—
 - (a) what has been done to implement the old plan,
 - (b) whether, having regard to data obtained under section 16 and reports made by the OEP under section 28, the natural environment has improved since the beginning of the period to which the old plan relates, and
 - (c) whether Her Majesty’s Government should take further or different steps (compared to those set out in the old plan) to improve the natural environment in the period to which the new environmental improvement plan relates.
- (2) In considering the matters in subsection (1)(b) the Secretary of State must consider the progress that has been made towards meeting—
 - (a) any targets set under sections 1 to 3, and
 - (b) any interim targets set under sections 11 and 14.
- (3) In considering the matters in subsection (1)(c) the Secretary of State must consider whether Her Majesty’s Government should take further or different steps (compared to those set out in the old plan) towards meeting any targets set under sections 1 to 3.
- (4) In this section references to the “new plan” and the “old plan” are to be read in accordance with section 13.

Commencement Information

I15 S. 15 not in force at Royal Assent, see [s. 147\(3\)](#)

Environmental monitoring

16 Environmental monitoring

- (1) The Secretary of State must make arrangements for obtaining such data about the natural environment as the Secretary of State considers appropriate for the purpose of monitoring—
 - (a) whether the natural environment is, or particular aspects of it are, improving in accordance with the current environmental improvement plan,
 - (b) the progress being made towards meeting any targets set under sections 1 to 3, and
 - (c) the progress being made towards meeting any interim targets set under sections 11 and 14.
- (2) The Secretary of State must lay before Parliament, and publish, a statement setting out the kinds of data to be obtained under subsection (1).
- (3) The first statement must be laid before the end of the 4 month period beginning with the day on which this section comes into force.
- (4) The Secretary of State may revise the statement at any time (and subsection (2) applies to any revised statement).

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(5) The Secretary of State must publish any data obtained under subsection (1).

Commencement Information

116 S. 16 not in force at Royal Assent, see [s. 147\(3\)](#)

VALID FROM 10/05/2022

Policy statement on environmental principles

17 Policy statement on environmental principles

- (1) The Secretary of State must prepare a policy statement on environmental principles in accordance with this section and section 18.
- (2) A “policy statement on environmental principles” is a statement explaining how the environmental principles should be interpreted and proportionately applied by Ministers of the Crown when making policy.
- (3) It may also explain how Ministers of the Crown, when interpreting and applying the environmental principles, should take into account other considerations relevant to their policy.
- (4) The Secretary of State must be satisfied that the statement will, when it comes into effect, contribute to—
 - (a) the improvement of environmental protection, and
 - (b) sustainable development.
- (5) In this Part “environmental principles” means the following principles—
 - (a) the principle that environmental protection should be integrated into the making of policies,
 - (b) the principle of preventative action to avert environmental damage,
 - (c) the precautionary principle, so far as relating to the environment,
 - (d) the principle that environmental damage should as a priority be rectified at source, and
 - (e) the polluter pays principle.

Commencement Information

117 S. 17 not in force at Royal Assent, see [s. 147\(3\)](#)

18 Policy statement on environmental principles: process

- (1) The Secretary of State must prepare a draft of the policy statement on environmental principles.
- (2) The Secretary of State must consult such persons as the Secretary of State considers appropriate in relation to the draft statement.

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- (3) The Secretary of State must lay the draft statement before Parliament.
- (4) If before the end of the 21 day period—
 - (a) either House of Parliament passes a resolution in respect of the draft statement, or
 - (b) a committee of either House of Parliament, or a joint committee of both Houses, makes recommendations in respect of the draft statement,the Secretary of State must produce a response and lay it before Parliament.
- (5) The Secretary of State must prepare and lay before Parliament the final statement, but not before—
 - (a) if subsection (4) applies, the day on which the Secretary of State lays the response required by that subsection, or
 - (b) otherwise, the end of the 21 day period.
- (6) The final statement has effect when it is laid before Parliament.
- (7) The Secretary of State must publish the statement when it comes into effect.
- (8) The “21 day period” is the period of 21 sitting days beginning with the first sitting day after the day on which the draft statement is laid under subsection (3).
- (9) “Sitting day” means a day on which both Houses of Parliament sit.
- (10) The requirements in subsections (1) and (2) may be met by the preparation of a draft statement, and consultation, before this section comes into force.
- (11) The Secretary of State may prepare a revised policy statement on environmental principles at any time (and subsections (1) to (9) apply in relation to any revised statement).

Commencement Information

118 S. 18 not in force at Royal Assent, see s. 147(3)

19 Policy statement on environmental principles: effect

- (1) A Minister of the Crown must, when making policy, have due regard to the policy statement on environmental principles currently in effect.
- (2) Nothing in subsection (1) requires a Minister to do anything (or refrain from doing anything) if doing it (or refraining from doing it)—
 - (a) would have no significant environmental benefit, or
 - (b) would be in any other way disproportionate to the environmental benefit.
- (3) Subsection (1) does not apply to policy so far as relating to—
 - (a) the armed forces, defence or national security,
 - (b) taxation, spending or the allocation of resources within government, or
 - (c) Wales.
- (4) Subsection (1) applies to policy relating to Scotland only so far as relating to reserved matters.

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(5) Section 14(2) of the UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021 ([asp 4](#)) (UK Ministers must have regard to guiding principles on the environment in making policies extending to Scotland) does not apply to policies so far as relating to reserved matters.

(6) In this section “reserved matters” has the same meaning as in the Scotland Act 1998.

Commencement Information

119 S. 19 not in force at Royal Assent, see [s. 147\(3\)](#)

VALID FROM 01/04/2022

Environmental protection: statements and reports

VALID FROM 10/05/2022

20 Statements about Bills containing new environmental law

- (1) This section applies where a Minister of the Crown in charge of a Bill in either House of Parliament is of the view that the Bill as introduced into that House contains provision which, if enacted, would be environmental law.
- (2) The Minister must, before Second Reading of the Bill in the House in question, make—
 - (a) a statement to the effect that in the Minister’s view the Bill contains provision which, if enacted, would be environmental law, and
 - (b) a statement under subsection (3) or (4).
- (3) A statement under this subsection is a statement to the effect that in the Minister’s view the Bill will not have the effect of reducing the level of environmental protection provided for by any existing environmental law.
- (4) A statement under this subsection is a statement to the effect that—
 - (a) the Minister is unable to make a statement under subsection (3), but
 - (b) Her Majesty’s Government nevertheless wishes the House to proceed with the Bill.
- (5) In making a statement under this section the Minister may in particular take into account the possibility that a Bill, by making provision that is different from existing environmental law, might provide for the same or a greater level of environmental protection.
- (6) For the purposes of this section—
 - (a) references to environmental protection provided for by any existing environmental law includes any protection which could be provided for under powers conferred by the existing environmental law, and

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Changes to legislation: There are currently no known outstanding effects for the Environment Act 2021, PART 1. (See end of Document for details)

- (b) in considering the effect of a Bill, any powers conferred by the Bill to provide for any environmental protection may be taken into account.
- (7) A statement under this section must be in writing and be published in such manner as the Minister considers appropriate.
- (8) “Existing environmental law”, in relation to a statement under this section, means environmental law existing at the time that the Bill to which the statement relates is introduced into the House in question, whether or not the environmental law is in force.

Commencement Information

120 S. 20 not in force at Royal Assent, see [s. 147\(3\)](#)

21 Reports on international environmental protection legislation

- (1) The Secretary of State must report on developments in international environmental protection legislation which appear to the Secretary of State to be significant.
- (2) “International environmental protection legislation” means legislation of countries and territories outside the United Kingdom, and international organisations, that is mainly concerned with environmental protection.
- (3) The Secretary of State must report under this section in relation to each reporting period.
- (4) The reporting periods are—
 - (a) the 2 year period beginning with the day on which this section comes into force, and
 - (b) each subsequent 2 year period.
- (5) A report under this section may consider—
 - (a) particular countries, territories or international organisations, or
 - (b) particular aspects of environmental protection,as the Secretary of State considers appropriate.
- (6) A report under this section must be laid before Parliament, and published, as soon as reasonably practicable after the end of the reporting period to which it relates.

Commencement Information

121 S. 21 not in force at Royal Assent, see [s. 147\(3\)](#)

Status: Point in time view as at 09/11/2021. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Environment Act 2021, PART 1. (See end of Document for details)

CHAPTER 2

THE OFFICE FOR ENVIRONMENTAL PROTECTION

The Office for Environmental Protection

22 The Office for Environmental Protection

- (1) A body corporate called the Office for Environmental Protection is established.
- (2) In this Act that body is referred to as “the OEP”.
- (3) Schedule 1 makes further provision about the OEP.

Commencement Information

I22 S. 22 not in force at Royal Assent, see [s. 147\(3\)](#)

23 Principal objective of the OEP and exercise of its functions

- (1) The principal objective of the OEP in exercising its functions is to contribute to—
 - (a) environmental protection, and
 - (b) the improvement of the natural environment.
- (2) The OEP must—
 - (a) act objectively and impartially, and
 - (b) have regard to the need to act proportionately and transparently.
- (3) The OEP must prepare a strategy that sets out how it intends to exercise its functions.
- (4) In particular, the strategy must set out—
 - (a) how the OEP will further its principal objective,
 - (b) how the OEP will act objectively and impartially, and
 - (c) how the OEP will have regard to the need to act proportionately and transparently.
- (5) The strategy must also set out—
 - (a) how the OEP intends to avoid any overlap between the exercise of its functions and the exercise by the Committee on Climate Change of that committee’s functions, and
 - (b) how the OEP intends to co-operate with devolved environmental governance bodies.
- (6) The strategy must contain an enforcement policy that sets out—
 - (a) how the OEP intends to determine whether failures to comply with environmental law are serious for the purposes of sections 33(1)(b) and (2)(b), 35(1)(b), 36(1)(b), 38(1)(b) and 39(1)(a) and (7),
 - (b) how the OEP intends to determine whether damage to the natural environment or to human health is serious for the purposes of section 39(2),

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- (c) how the OEP intends to exercise its enforcement functions in a way that respects the integrity of other statutory regimes (including statutory provision for appeals),
 - (d) how the OEP intends to avoid any overlap between the exercise of its functions under sections 32 to 34 (complaints) and the exercise by each relevant ombudsman of their functions, and
 - (e) how the OEP intends to prioritise cases.
- (7) In considering its enforcement policy the OEP must have regard to the particular importance of prioritising cases that it considers have or may have national implications, and the importance of prioritising cases—
- (a) that relate to ongoing or recurrent conduct,
 - (b) that relate to conduct that the OEP considers may cause (or has caused) serious damage to the natural environment or to human health, or
 - (c) that the OEP considers may raise a point of environmental law of general public importance.
- (8) The OEP’s “enforcement functions” are its functions under sections 32 to 41.
- (9) For the purposes of this Part, each of the following is a “relevant ombudsman”—
- (a) the Commission for Local Administration in England;
 - (b) the Parliamentary Commissioner for Administration.

Commencement Information

I23 S. 23 not in force at Royal Assent, see [s. 147\(3\)](#)

24 The OEP’s strategy: process

- (1) The OEP must—
- (a) arrange for the strategy prepared under section 23 to be laid before Parliament, and
 - (b) publish it.
- (2) The OEP may revise the strategy at any time (and subsection (1) applies to any revised strategy).
- (3) The OEP must review the strategy at least once in every review period.
- (4) “Review period” means—
- (a) in relation to the first review, the period of 3 years beginning with the day on which the strategy was first published, and
 - (b) in relation to subsequent reviews, the period of 3 years beginning with the day on which the previous review was completed.
- (5) Before preparing, revising or reviewing the strategy, the OEP must consult such persons as it considers appropriate.

Commencement Information

I24 S. 24 not in force at Royal Assent, see [s. 147\(3\)](#)

Status: Point in time view as at 09/11/2021. This version of this part contains provisions that are not valid for this point in time.

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VALID FROM 24/01/2022

25 Guidance on the OEP’s enforcement policy and functions

- (1) The Secretary of State may issue guidance to the OEP on the matters listed in section 23(6) (OEP’s enforcement policy).
- (2) The OEP must have regard to the guidance in—
 - (a) preparing its enforcement policy, and
 - (b) exercising its enforcement functions.
- (3) The OEP’s “enforcement functions” are its functions under sections 32 to 41.
- (4) Before issuing the guidance, the Secretary of State must—
 - (a) prepare a draft, and
 - (b) lay the draft before Parliament.
- (5) If before the end of the 21 day period—
 - (a) either House of Parliament passes a resolution in respect of the draft guidance, or
 - (b) a committee of either House of Parliament, or a joint committee of both Houses, makes recommendations in respect of the draft guidance,
 the Secretary of State must produce a response and lay it before Parliament.
- (6) The Secretary of State may prepare and lay before Parliament the final guidance, but not before—
 - (a) if subsection (5) applies, the day on which the Secretary of State lays the response required by that subsection, or
 - (b) otherwise, the end of the 21 day period.
- (7) The final guidance has effect when it is laid before Parliament.
- (8) The Secretary of State must publish the guidance when it comes into effect.
- (9) The “21 day period” is the period of 21 sitting days beginning with the first sitting day after the day on which the draft guidance is laid under subsection (4).
- (10) “Sitting day” means a day on which both Houses of Parliament sit.
- (11) The Secretary of State may revise the guidance at any time (and subsections (4) to (10) apply in relation to any revised guidance).

Commencement Information

I25 S. 25 not in force at Royal Assent, see [s. 147\(3\)](#)

26 Memorandum of understanding

- (1) The OEP and the Committee on Climate Change must prepare a memorandum of understanding.

Status: Point in time view as at 09/11/2021. This version of this part contains provisions that are not valid for this point in time.
Changes to legislation: There are currently no known outstanding effects for the Environment Act 2021, PART 1. (See end of Document for details)

- (2) The memorandum must set out how the OEP and the Committee intend to co-operate with one another and avoid overlap between the exercise by the OEP of its functions and the exercise by the Committee of its functions.

Commencement Information

I26 S. 26 not in force at Royal Assent, see [s. 147\(3\)](#)

VALID FROM 24/01/2022

27 Co-operation duties of public authorities and the OEP

- (1) A person whose functions include functions of a public nature must co-operate with the OEP, and give it such reasonable assistance as it requests (including the provision of information), in connection with the exercise of its functions under this Act.
- (2) Subsection (1) does not apply to—
- a court or tribunal,
 - either House of Parliament,
 - a devolved legislature,
 - the Scottish Ministers, the Welsh Ministers, a Northern Ireland department or a Minister within the meaning of the Northern Ireland Act 1998,
 - a person exercising a parliamentary function, or
 - a person whose only public functions are devolved functions.
- (3) A person whose public functions include devolved functions is only required to co-operate with the OEP by virtue of subsection (1) to the extent that co-operation is in relation to functions that are not devolved functions.
- (4) If the OEP considers that a particular exercise of its functions may be relevant to the exercise of a devolved environmental governance function by a devolved environmental governance body, the OEP must consult that body.

Commencement Information

I27 S. 27 not in force at Royal Assent, see [s. 147\(3\)](#)

VALID FROM 24/01/2022

The OEP's scrutiny and advice functions

28 Monitoring and reporting on environmental improvement plans and targets

- (1) The OEP must monitor progress—

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- (a) in improving the natural environment in accordance with the current environmental improvement plan,
 - (b) towards meeting any targets set under sections 1 to 3, and
 - (c) towards meeting any interim targets set under sections 11 and 14.
- (2) The OEP must prepare a progress report for each annual reporting period.
- (3) A progress report for an annual reporting period is a report on progress made in that period in or towards the matters listed in subsection (1).
- (4) An annual reporting period is a period for which the Secretary of State must prepare a report under section 9 (a “section 9 report”).
- (5) In reporting on progress made in an annual reporting period, the OEP must consider—
- (a) the section 9 report for that period,
 - (b) the data published by the Secretary of State under section 16 that relates to that period, and
 - (c) any other reports, documents or information it considers appropriate.
- (6) A progress report for an annual reporting period may include—
- (a) consideration of how progress could be improved, and
 - (b) consideration of the adequacy of the data published by the Secretary of State under section 16.
- (7) The OEP must—
- (a) arrange for its reports under this section to be laid before Parliament, and
 - (b) publish them.
- (8) A progress report for an annual reporting period must be laid no later than 6 months after the section 9 report for that period is laid before Parliament.
- (9) The Secretary of State must—
- (a) respond to a report under this section, and
 - (b) lay before Parliament, and publish, a copy of the response.
- (10) Where a report under this section contains a recommendation for how progress could be improved, the response must address that recommendation.
- (11) The response—
- (a) must be laid no later than 12 months after the report is laid, and
 - (b) may be included in a section 9 report.

Commencement Information

128 S. 28 not in force at Royal Assent, see [s. 147\(3\)](#)

29 Monitoring and reporting on environmental law

- (1) The OEP must monitor the implementation of environmental law.
- (2) The OEP may report on any matter concerned with the implementation of environmental law.

Status: Point in time view as at 09/11/2021. This version of this part contains provisions that are not valid for this point in time.

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- (3) But the OEP must not monitor the implementation of, or report on, a matter within the remit of the Committee on Climate Change.
- (4) A matter is within the remit of the Committee on Climate Change if it is a matter on which the Committee is, or may be, required to advise or report under Part 1, sections 34 to 36, or section 48 of the Climate Change Act 2008.
- (5) The OEP must—
 - (a) arrange for its reports under this section to be laid before Parliament, and
 - (b) publish them.
- (6) The Secretary of State must—
 - (a) respond to a report under this section, and
 - (b) lay before Parliament, and publish, a copy of the response.
- (7) The response to a report under this section must be laid no later than 3 months after the report is laid.

Commencement Information

129 S. 29 not in force at Royal Assent, see [s. 147\(3\)](#)

30 Advising on changes to environmental law etc

- (1) The OEP must give advice to a Minister of the Crown about—
 - (a) any proposed change to environmental law, or
 - (b) any other matter relating to the natural environment, on which the Minister requires it to give advice.
- (2) The Minister may specify matters which the OEP is to take into account in giving the required advice.
- (3) The OEP may give advice to a Minister of the Crown about any changes to environmental law proposed by a Minister of the Crown.
- (4) Advice under this section is to be given in writing to the Minister concerned.
- (5) The OEP must publish—
 - (a) its advice, and
 - (b) if the advice is given under subsection (1), a statement of the matter on which it was required to give advice and any matters specified under subsection (2).
- (6) The Minister concerned may, if the Minister thinks fit, lay before Parliament—
 - (a) the advice, and
 - (b) any response the Minister may make to the advice.

Commencement Information

130 S. 30 not in force at Royal Assent, see [s. 147\(3\)](#)

Status: Point in time view as at 09/11/2021. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Environment Act 2021, PART 1. (See end of Document for details)

VALID FROM 24/01/2022

The OEP's enforcement functions

31 Failure of public authorities to comply with environmental law

- (1) Sections 32 to 41 make provision about functions of the OEP in relation to failures by public authorities to comply with environmental law.
- (2) For the purposes of those sections, a reference to a public authority failing to comply with environmental law means the following conduct by that authority—
 - (a) unlawfully failing to take proper account of environmental law when exercising its functions;
 - (b) unlawfully exercising, or failing to exercise, any function it has under environmental law.
- (3) In this Part “public authority” means a person carrying out any function of a public nature that is not a devolved function, a parliamentary function or a function of any of the following persons—
 - (a) the OEP;
 - (b) a court or tribunal;
 - (c) either House of Parliament;
 - (d) a devolved legislature;
 - (e) the Scottish Ministers, the Welsh Ministers, a Northern Ireland department or a Minister within the meaning of the Northern Ireland Act 1998.

Commencement Information

I31 S. 31 not in force at Royal Assent, see [s. 147\(3\)](#)

32 Complaints

- (1) A person may make a complaint to the OEP under this section if the person believes that a public authority has failed to comply with environmental law.
- (2) The OEP must prepare and publish a document which sets out the procedure by which complaints can be made.
- (3) A complaint under this section must be made in accordance with that procedure (as most recently published).
- (4) A complaint under this section may not be made by any person whose functions include functions of a public nature.
- (5) A complaint about a public authority may not be made under this section if—
 - (a) the authority operates a procedure for considering complaints (“an internal complaints procedure”) under which the complaint could be considered, and
 - (b) that procedure has not been exhausted.
- (6) A complaint under this section may not be made after the later of—

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- (a) the end of the 1 year period beginning with the day on which the alleged failure that is the subject of the complaint last occurred, and
 - (b) if the substance of the complaint was subject to an internal complaints procedure, the end of the 3 month period beginning with the day on which that procedure was exhausted.
- (7) The OEP may waive the time limit in subsection (6) if it considers that there are exceptional reasons for doing so.

Commencement Information

132 S. 32 not in force at Royal Assent, see [s. 147\(3\)](#)

33 Investigations

- (1) The OEP may carry out an investigation under this section if it receives a complaint made under section 32 that, in its view, indicates that—
 - (a) a public authority may have failed to comply with environmental law, and
 - (b) if it has, the failure would be a serious failure.
- (2) The OEP may carry out an investigation under this section without having received such a complaint if it has information that, in its view, indicates that—
 - (a) a public authority may have failed to comply with environmental law, and
 - (b) if it has, the failure would be a serious failure.
- (3) An investigation under this section is an investigation into whether the public authority has failed to comply with environmental law.
- (4) The OEP must notify the public authority of the commencement of the investigation.
- (5) The OEP must prepare a report on the investigation and provide it to the public authority.
- (6) The OEP is not required to prepare a report until it has concluded that it intends to take no further steps under this Chapter in relation to the alleged failure to comply with environmental law that is the subject of the investigation.
- (7) The OEP is not required to prepare a report if it has applied for an environmental review, judicial review or statutory review (see sections 38 and 39) in relation to the alleged failure.
- (8) The report must set out—
 - (a) whether the OEP considers that the public authority has failed to comply with environmental law,
 - (b) the reasons the OEP came to that conclusion, and
 - (c) any recommendations the OEP may have (whether generally or for the public authority) in light of those conclusions.
- (9) The OEP may publish the report or parts of it.
- (10) If the public authority is not a Minister of the Crown, the OEP must also—
 - (a) notify the relevant Minister of the commencement of the investigation, and

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(b) provide the relevant Minister with the report prepared under subsection (5).

(11) In this Part “the relevant Minister”, in relation to a failure (or alleged failure) of a public authority to comply with environmental law, means the Minister of the Crown that the OEP considers appropriate having regard to the nature of the public authority and the nature of the failure.

Commencement Information

I33 S. 33 not in force at Royal Assent, see [s. 147\(3\)](#)

34 Duty to keep complainants informed

(1) Where a person makes a complaint to the OEP alleging that a public authority has failed to comply with environmental law, the OEP must keep the complainant informed about its handling of the complaint.

(2) In particular, the OEP must—

- (a) notify the complainant if it does not intend to consider the complaint because the complaint was not made in accordance with section 32;
- (b) notify the complainant if it has concluded that it will not be commencing an investigation under section 33 in relation to the complaint;
- (c) notify the complainant if it commences an investigation under section 33 in relation to the complaint;
- (d) if such an investigation is commenced, notify the complainant—
 - (i) where it provides a report under section 33(5) to the public authority that is the subject of the investigation, that it has provided it;
 - (ii) where it applies for an environmental review (see section 38), for permission to apply for judicial review or for statutory review (see section 39), in relation to the alleged failure to comply with environmental law that is the subject of the investigation, that it has made such an application;
- (e) provide the complainant with a copy of any document published under section 33(9) in relation to any investigation in relation to the complaint.

Commencement Information

I34 S. 34 not in force at Royal Assent, see [s. 147\(3\)](#)

35 Information notices

(1) The OEP may give an information notice to a public authority if—

- (a) the OEP has reasonable grounds for suspecting that the authority has failed to comply with environmental law, and
- (b) it considers that the failure, if it occurred, would be serious.

(2) An information notice is a notice which—

- (a) describes an alleged failure of a public authority to comply with environmental law,

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- (b) explains why the OEP considers that the alleged failure, if it occurred, would be serious, and
 - (c) requests that the authority provide such information relating to the allegation as may be specified in the notice.
- (3) The recipient of an information notice must—
- (a) respond in writing to the notice, and
 - (b) so far as is reasonably practicable, provide the OEP with the information requested in the notice.
- (4) The recipient of an information notice must comply with subsection (3) by—
- (a) the end of the 2 month period beginning with the day on which the notice was given, or
 - (b) such later date as may be specified in the notice.
- (5) The written response to an information notice must set out—
- (a) the recipient’s response to the allegation described in the notice, and
 - (b) what steps (if any) the recipient intends to take in relation to the allegation.
- (6) The OEP may—
- (a) withdraw an information notice;
 - (b) give more than one information notice in respect of the same alleged failure of a public authority to comply with environmental law.
- (7) Where the OEP intends to give an information notice to a public authority in respect of an alleged failure to comply with environmental law which relates to emissions of greenhouse gases (within the meaning of the Climate Change Act 2008), the OEP—
- (a) must notify the Committee on Climate Change of its intention before it gives the notice to the authority, and
 - (b) must provide that Committee with such information relating to the alleged failure as the OEP considers appropriate.

Commencement Information

I35 S. 35 not in force at Royal Assent, see [s. 147\(3\)](#)

36 Decision notices

- (1) The OEP may give a decision notice to a public authority if—
- (a) the OEP is satisfied, on the balance of probabilities, that the authority has failed to comply with environmental law, and
 - (b) it considers that the failure is serious.
- (2) A decision notice is a notice that—
- (a) describes a failure of a public authority to comply with environmental law,
 - (b) explains why the OEP considers that the failure is serious, and
 - (c) sets out the steps the OEP considers the authority should take in relation to the failure (which may include steps designed to remedy, mitigate or prevent reoccurrence of the failure).

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- (3) The recipient of a decision notice must respond in writing to that notice by—
 - (a) the end of the 2 month period beginning with the day on which the notice was given, or
 - (b) such later date as may be specified in the notice.
- (4) The written response to a decision notice must set out—
 - (a) whether the recipient agrees that the failure described in the notice occurred,
 - (b) whether the recipient intends to take the steps set out in the notice, and
 - (c) what other steps (if any) the recipient intends to take in relation to the failure described in the notice.
- (5) The OEP—
 - (a) may not give a decision notice to a public authority unless it has first given at least one information notice relating to the failure of the authority to comply with environmental law that is described in the decision notice;
 - (b) may withdraw a decision notice.

Commencement Information

136 S. 36 not in force at Royal Assent, see [s. 147\(3\)](#)

37 Linked notices

- (1) If the OEP gives an information notice or a decision notice to more than one public authority in respect of the same or similar conduct, it may determine that those notices are linked.
- (2) A Minister of the Crown may request that the OEP determine that information notices or decision notices are linked and the OEP must have regard to that request.
- (3) The OEP must provide the recipient of an information notice or a decision notice (a “principal notice”) with a copy of every information notice or decision notice which is linked to it (and such a notice is referred to in this section as a “linked notice”).
- (4) The OEP must provide the recipient of a principal notice with a copy of any relevant correspondence, relating to a linked notice, between the OEP and the recipient of that linked notice.
- (5) The OEP must provide the recipient of a principal notice with a copy of any relevant correspondence between the OEP and the relevant Minister that relates to a linked notice.
- (6) Subsection (5) does not apply where either the recipient of the principal notice or the linked notice is a Minister of the Crown.
- (7) The obligation to provide a copy of any notice or correspondence under this section does not apply where the OEP considers that in the circumstances it would not be in the public interest to do so.
- (8) For the purposes of this section, correspondence is relevant if—
 - (a) it is not correspondence in connection with an environmental review or any other legal proceedings (such as judicial review), and

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- (b) it is not correspondence sent by virtue of section 40(1)(a) or (b).

Commencement Information

137 S. 37 not in force at Royal Assent, see s. 147(3)

38 Environmental review

- (1) Where the OEP has given a decision notice to a public authority it may apply to the court for an environmental review, but only if—
 - (a) it is satisfied, on the balance of probabilities, that the authority has failed to comply with environmental law, and
 - (b) it considers that the failure is serious.
- (2) An environmental review is a review of alleged conduct of the authority that is described in the decision notice as constituting a failure to comply with environmental law.
- (3) An application for an environmental review may not be made—
 - (a) before the earlier of—
 - (i) the end of the period within which the authority must respond to the decision notice in accordance with section 36(3), and
 - (ii) the date on which the OEP receives the authority’s response to that notice, or
 - (b) before the expiry of any time limit which applies to the commencement of judicial review or other similar legal proceedings for questioning the alleged conduct.
- (4) Any restriction imposed by or under any other enactment on questioning the conduct of a public authority in legal proceedings does not apply to an environmental review.
- (5) On an environmental review the court must determine whether the authority has failed to comply with environmental law, applying the principles applicable on an application for judicial review.
- (6) If the court finds that the authority has failed to comply with environmental law, it must make a statement to that effect (a “statement of non-compliance”).
- (7) A statement of non-compliance does not affect the validity of the conduct in respect of which it is given.
- (8) Where the court makes a statement of non-compliance it may grant any remedy that could be granted by it on a judicial review other than damages, but only if Condition A or Condition B is met.
- (9) Condition A is that the court is satisfied that granting the remedy would not—
 - (a) be likely to cause substantial hardship to, or substantially prejudice the rights of, any person other than the authority, or
 - (b) be detrimental to good administration.
- (10) Condition B is that Condition A is not met but the court is satisfied that—

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- (a) granting the remedy is necessary in order to prevent or mitigate serious damage to the natural environment or to human health, and
 - (b) there is an exceptional public interest reason to grant it.
- (11) In deciding whether to grant a remedy the court must (subject to subsection (8)) apply the principles applicable on an application for judicial review; but this does not require the court to apply section 31(2A) of the Senior Courts Act 1981 (High Court to refuse to grant relief where the outcome for the applicant not substantially different) on an environmental review in England and Wales.
- (12) If, on an environmental review, the court has made a statement of non-compliance in respect of a public authority, and the statement has not been overturned on appeal, the authority must publish a statement that sets out the steps it intends to take in light of the review.
- (13) A statement under subsection (12) must be published before the end of the 2 month period beginning with the day the review (including any appeal) concludes.
- (14) In this section—
- “the court” means—
 - (a) in relation to an environmental review arising under the law of England and Wales or Northern Ireland, the High Court, or
 - (b) in relation to an environmental review arising under the law of Scotland, the Court of Session;
 - “enactment” has the same meaning as in the European Union (Withdrawal) Act 2018;
 - “the principles applicable on an application for judicial review” means, in relation to an environmental review, the principles that would apply on an application for judicial review in the jurisdiction under which the environmental review arises;
 - “remedy” includes any relief or order.

Commencement Information

138 S. 38 not in force at Royal Assent, see [s. 147\(3\)](#)

39 Judicial review: powers to apply in urgent cases and to intervene

- (1) The OEP may apply for judicial review, or a statutory review, in relation to conduct of a public authority (whether or not it has given an information notice or a decision notice to the authority in respect of that conduct) if—
- (a) the OEP considers that the conduct constitutes a serious failure to comply with environmental law, and
 - (b) the urgency condition is met.
- (2) The urgency condition is that making an application under subsection (1) (rather than proceeding under sections 35 to 38) is necessary to prevent, or mitigate, serious damage to the natural environment or to human health.
- (3) Section 31(2A), (3C) and (3D) of the Senior Courts Act 1981 (High Court to refuse to grant leave or relief where the outcome for the applicant not substantially

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different) does not apply to an application for judicial review made under subsection (1) in England and Wales.

- (4) If, on an application for judicial review or a statutory review made by virtue of subsection (1), there is a finding that a public authority has failed to comply with environmental law, and the finding has not been overturned on appeal, the authority must publish a statement that sets out the steps it intends to take in light of the finding.
- (5) A statement under subsection (4) must be published before the end of the 2 month period beginning with the day the proceedings relating to the application for judicial review or the statutory review (including any appeal) conclude.
- (6) Subsection (7) applies to proceedings (including any appeal) that—
- (a) are in respect of an application for judicial review or a statutory review, and
 - (b) relate to an alleged failure by a public authority to comply with environmental law (however the allegation is framed in those proceedings).
- (7) If the OEP considers that the alleged failure, if it occurred, would be serious, it may apply to intervene in the proceedings (whether it considers that the public authority has, or has not, failed to comply with environmental law).
- (8) In this Part—
- (a) except in section 38, reference to an application for judicial review includes an application for the permission of the High Court or, as the case may be, the Court of Session to apply for judicial review;
 - (b) “statutory review” means a claim for statutory review under—
 - (i) section 287 or 288 of the Town and Country Planning Act 1990,
 - (ii) section 63 of the Planning (Listed Buildings and Conservation Areas) Act 1990,
 - (iii) section 22 of the Planning (Hazardous Substances) Act 1990, or
 - (iv) section 113 of the Planning and Compulsory Purchase Act 2004.

Commencement Information

I39 S. 39 not in force at Royal Assent, see s. 147(3)

40 Duty of the OEP to involve the relevant Minister

- (1) Where the recipient of an information notice or a decision notice is not a Minister of the Crown, the OEP must—
- (a) provide the relevant Minister with—
 - (i) a copy of the notice and,
 - (ii) a copy of any correspondence between the OEP and the recipient of the notice that relates to the notice (apart from correspondence sent by virtue of paragraph (b)), and
 - (b) provide the recipient of the notice with a copy of any correspondence between the OEP and the relevant Minister that relates to the notice (apart from correspondence sent by virtue of paragraph (a)).

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- (2) The obligation to provide a copy of any notice or correspondence under subsection (1) does not apply where the OEP considers that in the circumstances it would not be in the public interest to do so.
- (3) Where the OEP makes an application for an environmental review, judicial review or statutory review in which the relevant Minister is not a party, it must provide the relevant Minister with—
- (a) a copy of the application, and
 - (b) a statement of whether the OEP considers the relevant Minister should participate in the review (for example, by applying to be a party).

Commencement Information

I40 S. 40 not in force at Royal Assent, see [s. 147\(3\)](#)

41 Public statements

- (1) Where the OEP gives an information notice or a decision notice, applies for an environmental review, judicial review or statutory review or applies to intervene in a judicial review or statutory review, it must publish a statement that—
- (a) states that the OEP has taken that step,
 - (b) describes the failure (or alleged failure) of a public authority to comply with environmental law in relation to which that step was taken, and
 - (c) sets out such further information as the OEP considers appropriate.
- (2) Subsection (1) does not apply if the OEP considers that in the circumstances it would not be in the public interest to publish a statement.

Commencement Information

I41 S. 41 not in force at Royal Assent, see [s. 147\(3\)](#)

VALID FROM 24/01/2022

Information

42 Disclosures to the OEP

- (1) No obligation of secrecy imposed by statute or otherwise prevents a person from—
- (a) in accordance with section 27(1), providing the OEP with information in connection with an investigation under section 33, an information notice or a decision notice, or
 - (b) providing information to the OEP in accordance with section 35(3)(b).
- (2) But nothing in this Part—
- (a) requires a person to provide the OEP with information that the person would be entitled to refuse to provide in civil proceedings on

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- grounds of legal professional privilege (or, in Scotland, confidentiality of communications), or
- (b) requires a person to provide the OEP with information that the person would be entitled, or required by any rule of law, to refuse to provide in civil proceedings on grounds of public interest immunity.
- (3) No obligation of secrecy imposed by statute or otherwise prevents a relevant ombudsman from providing information to the OEP—
- (a) for purposes connected with the exercise of the OEP’s functions under section 33;
- (b) for purposes connected with the co-ordination of the OEP’s functions that relate to investigations under section 33 and the ombudsman’s functions that relate to investigations by the ombudsman.
- (4) Nothing in this Part requires or authorises a disclosure of information that would contravene the data protection legislation (but in determining whether a disclosure would do so, take into account the duties imposed and powers conferred by this Part).
- (5) In this section “the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3(9) of that Act).

Commencement Information

142 S. 42 not in force at Royal Assent, see [s. 147\(3\)](#)

43 Confidentiality of proceedings

- (1) The OEP must not disclose—
- (a) information obtained under section 27(1) or 35(3)(b), or
- (b) correspondence between the OEP and a public authority that—
- (i) relates to a particular information notice or decision notice, or
- (ii) is, or contains, such a notice.
- (2) Subsection (1) does not apply to a disclosure—
- (a) other than a disclosure of an information notice or a decision notice, made with the consent of the person who provided the information or correspondence;
- (b) made for purposes connected with the exercise of the OEP’s functions under section 33 (investigations);
- (c) made for purposes connected with the co-ordination of the OEP’s functions that relate to investigations under section 33 and a relevant ombudsman’s functions that relate to investigations by that ombudsman;
- (d) made for the purposes of any publication of a report (or part of it) on an investigation under section 33;
- (e) made for purposes connected with the exercise of the OEP’s functions under sections 35 to 41 (enforcement);
- (f) made to a devolved environmental governance body for purposes connected with the exercise of a devolved environmental governance function;

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- (g) made for purposes connected with the protection of the natural environment in a country or territory outside the United Kingdom, to an authority of that country or territory, or an international organisation, that has functions in connection with the protection of the natural environment in that country or territory;
 - (h) of information, or correspondence, that relates only to a matter in relation to which the OEP has concluded that it intends to take no further steps under this Chapter.
- (3) A public authority must not disclose correspondence between the OEP and that, or any other, public authority that—
- (a) relates to a particular information notice or decision notice, or
 - (b) is, or contains, such a notice.
- (4) Subsection (3) does not apply to a disclosure—
- (a) made—
 - (i) in the case of a disclosure of correspondence between another public authority and the OEP other than correspondence that is, or contains, an information notice or a decision notice, with the consent of that authority and the OEP, or
 - (ii) in any other case, with the specific or general consent of the OEP;
 - (b) made for purposes connected with co-operating with any investigation under section 33;
 - (c) made for purposes connected with responding to any information notice or decision notice;
 - (d) made for purposes connected with any proceedings in relation to an environmental review, judicial review or statutory review.
- (5) The OEP may not give a person consent to disclose an information notice or a decision notice unless that notice relates only to a matter in relation to which the OEP has concluded that it intends to take no further steps under this Chapter.
- (6) If a public authority requests the consent of the OEP to disclose correspondence that relates only to a matter in relation to which the OEP has concluded that it intends to take no further steps under this Chapter, the OEP may not withhold that consent.
- (7) If information referred to in subsection (1) and held by the OEP, or referred to in subsection (3) and held by a public authority, is environmental information for the purposes of the Environmental Information Regulations 2004 ([S.I. 2004/3391](#)) or the Environmental Information (Scotland) Regulations 2004 ([S.S.I. 2004/520](#)), it is held by that person, for the purposes of the application of those regulations to that information, in connection with confidential proceedings.

Commencement Information

143 S. 43 not in force at Royal Assent, see [s. 147\(3\)](#)

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CHAPTER 3

INTERPRETATION OF PART 1

44 Meaning of “natural environment”

In this Part the “natural environment” means—

- (a) plants, wild animals and other living organisms,
 - (b) their habitats,
 - (c) land (except buildings or other structures), air and water,
- and the natural systems, cycles and processes through which they interact.

Commencement Information

I44 S. 44 not in force at Royal Assent, see [s. 147\(3\)](#)

45 Meaning of “environmental protection”

In this Part “environmental protection” means—

- (a) protection of the natural environment from the effects of human activity;
- (b) protection of people from the effects of human activity on the natural environment;
- (c) maintenance, restoration or enhancement of the natural environment;
- (d) monitoring, assessing, considering, advising or reporting on anything in paragraphs (a) to (c).

Commencement Information

I45 S. 45 not in force at Royal Assent, see [s. 147\(3\)](#)

46 Meaning of “environmental law”

(1) In this Part “environmental law” means any legislative provision to the extent that it—

- (a) is mainly concerned with environmental protection, and
- (b) is not concerned with an excluded matter.

(2) Excluded matters are—

- (a) disclosure of or access to information;
- (b) the armed forces or national security;
- (c) taxation, spending or the allocation of resources within government.

(3) The reference in subsection (1) to “legislative provision” does not include devolved legislative provision, except for the purposes of section 20.

(4) “Devolved legislative provision” means—

- (a) legislative provision contained in, or in an instrument made under, an Act of the Scottish Parliament, an Act or Measure of Senedd Cymru, or Northern Ireland legislation, and

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- (b) legislative provision not within paragraph (a) which—
 - (i) if contained in an Act of the Scottish Parliament, would be within the legislative competence of the Parliament;
 - (ii) if contained in an Act of Senedd Cymru, would be within the legislative competence of the Senedd, or
 - (iii) if contained in an Act of the Northern Ireland Assembly, would be within the legislative competence of the Assembly and would not require the Secretary of State’s consent.
- (5) The Secretary of State may by regulations provide that a legislative provision specified in the regulations is, or is not, within the definition of “environmental law” in subsection (1) (and this Part applies accordingly).
- (6) Before making regulations under subsection (5) the Secretary of State must consult—
 - (a) the OEP, and
 - (b) any other persons the Secretary of State considers appropriate.
- (7) Regulations under subsection (5) are subject to the affirmative procedure.

Commencement Information

I46 S. 46 not in force at Royal Assent, see [s. 147\(3\)](#)

47 Interpretation of Part 1: general

In this Part—

“application for judicial review” is to be read in accordance with section 39(8);

“current environmental improvement plan” has the meaning given by section 8(8);

“decision notice” means a notice given under section 36;

“devolved environmental governance body” means a person on whom a devolved environmental governance function has been conferred;

“devolved environmental governance function” means a devolved function that is similar to a function conferred on the OEP under this Part;

“devolved function” means—

- (a) a function exercisable in or as regards Wales that could be conferred by provision falling within the legislative competence of Senedd Cymru (see section 108A of the Government of Wales Act 2006);
- (b) a function exercisable in or as regards Scotland, the exercise of which would be within devolved competence (within the meaning of section 54 of the Scotland Act 1998);
- (c) a function exercisable in or as regards Northern Ireland that could be conferred by provision included in an Act of the Northern Ireland Assembly made without the consent of the Secretary of State (see sections 6 to 8 of the Northern Ireland Act 1998);

“devolved legislature” means the Scottish Parliament, Senedd Cymru or the Northern Ireland Assembly;

“environmental improvement plan” has the meaning given by section 8 (and see also section 10(10));

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“environmental principles” has the meaning given by section 17;
“environmental review” has the meaning given by section 38;
“first environmental improvement plan” has the meaning given by section 8(8);
“improving the natural environment”, in relation to an environmental improvement plan, is to be read in accordance with section 8(5);
“information notice” means a notice given under section 35;
“judicial review” means—
(a) in England and Wales or Northern Ireland, an application to the High Court for judicial review, or
(b) in Scotland, an application to the supervisory jurisdiction of the Court of Session;
“making” policy includes developing, adopting or revising policy;
“met”, in relation to a target set under sections 1 to 3, has the meaning given by section 4(7);
“Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975;
“OEP” has the meaning given by section 22;
“parliamentary function” means a function in connection with proceedings in Parliament or a devolved legislature;
“policy” includes proposals for legislation, but does not include an administrative decision taken in relation to a particular person or case (for example, a decision on an application for planning permission, funding or a licence, or a decision about regulatory enforcement);
“policy statement on environmental principles” has the meaning given by section 17;
“public authority” has the meaning given by section 31(3);
“relevant Minister” has the meaning given by section 33;
“relevant ombudsman” has the meaning given by section 23;
“specified date” and “specified standard”, in relation to a target set under sections 1 to 3, have the meaning given by section 1(8);
“statutory review” has the meaning given by section 39(8).

Commencement Information

I47 S. 47 not in force at Royal Assent, see s. 147(3)

Status:

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Changes to legislation:

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