



Environment Act 2021

2021 CHAPTER 30

PART 6

NATURE AND BIODIVERSITY

Biodiversity objective and reporting

102 General duty to conserve and enhance biodiversity

- (1) Section 40 of the Natural Environment and Rural Communities Act 2006 (duty to conserve biodiversity) is amended in accordance with subsections (2) to (7).
- (2) In the heading, after “conserve” insert “and enhance”.
- (3) For subsections (A1) and (1) substitute—
 - “(A1) For the purposes of this section “the general biodiversity objective” is the conservation and enhancement of biodiversity in England through the exercise of functions in relation to England.
 - (1) A public authority which has any functions exercisable in relation to England must from time to time consider what action the authority can properly take, consistently with the proper exercise of its functions, to further the general biodiversity objective.
 - (1A) After that consideration the authority must (unless it concludes there is no new action it can properly take)—
 - (a) determine such policies and specific objectives as it considers appropriate for taking action to further the general biodiversity objective, and
 - (b) take such action as it considers appropriate, in the light of those policies and objectives, to further that objective.

Status: This is the original version (as it was originally enacted).

- (1B) The requirements of subsection (1A)(a) may be satisfied (to any extent) by revising any existing policies and specific objectives for taking action to further the general biodiversity objective.
- (1C) The first consideration required by subsection (1) must be completed by the authority within the period of one year beginning with the day on which section 102 of the Environment Act 2021 comes into force.
- (1D) Any subsequent consideration required by subsection (1) must be completed no more than five years after the completion of the authority’s previous consideration.
- (1E) A determination required by subsection (1A)(a) must be made as soon as practicable after the completion of the consideration to which it relates.
- (1F) Nothing in this section prevents the authority from—
- (a) determining or revising policies and specific objectives at any time, or
 - (b) taking action to further the general biodiversity objective at any time.”
- (4) In subsection (2) for “subsection (1)” substitute “subsections (1) and (1A)”.
- (5) After subsection (2) insert—
- “(2A) In complying with subsections (1) and (1A) the authority must in particular have regard to—
- (a) any relevant local nature recovery strategy, and
 - (b) any relevant species conservation strategy or protected site strategy prepared by Natural England.
- (2B) The Secretary of State must issue guidance to local planning authorities as to how they are to comply with their duty under subsection (2A)(a) when complying with subsections (1) and (1A) in their capacity as such authorities.
- (2C) Guidance under subsection (2B) must be—
- (a) published by the Secretary of State in such manner as the Secretary of State thinks fit,
 - (b) kept under review, and
 - (c) revised where the Secretary of State considers it appropriate.
- (2D) The first guidance under subsection (2B) must be published by the Secretary of State within the period of two years beginning with the day on which section 102 of the Environment Act 2021 comes into force.”
- (6) For subsection (3) substitute—
- “(3) The action which may be taken by the authority to further the general biodiversity objective includes, in particular, action taken for the purpose of—
- (a) conserving, restoring or otherwise enhancing a population of a particular species, and
 - (b) conserving, restoring or otherwise enhancing a particular type of habitat.”
- (7) After subsection (5) insert—

- “(6) This section has effect in relation to Her Majesty’s Revenue and Customs with the following modifications—
- (a) the omission from subsection (A1) of the words “in England” and “in relation to England”;
 - (b) the omission from subsection (1) of the words from “which” to “England”.
- (7) In this section references to England include the territorial sea adjacent to England.”
- (8) In section 41 of that Act (biodiversity lists and action (England))—
- (a) in subsection (1), after “conserving” insert “or enhancing”;
 - (b) in subsection (3) for “and (2)” substitute “and (1A)”.

103 Biodiversity reports

- (1) After section 40 of the Natural Environment and Rural Communities Act 2006 insert—

“40A Biodiversity reports

- (1) This section applies to—
- (a) a local authority in England other than a parish council,
 - (b) a local planning authority in England, and
 - (c) a designated authority (see subsection (8)(a)).
- (2) A public authority to which this section applies (“the authority”) must publish biodiversity reports in accordance with this section.
- (3) A biodiversity report so published must contain—
- (a) a summary of the action which the authority has taken over the period covered by the report for the purpose of complying with its duties under section 40(1) and (1A),
 - (b) a summary of the authority’s plans for complying with those duties over the period of five years following the period covered by the report,
 - (c) any quantitative data required to be included in the report by regulations under subsection (8)(b), and
 - (d) any other information that the authority considers it appropriate to include in the report.
- (4) If the authority is a local planning authority, its biodiversity report must also contain—
- (a) a summary of the action taken by the authority in carrying out its functions under Schedule 7A to the Town and Country Planning Act 1990 (biodiversity gain as condition of planning permission) over the period covered by the report,
 - (b) information about any biodiversity gains resulting or expected to result from biodiversity gain plans approved by the authority during that period, and
 - (c) a summary of the authority’s plans for carrying out those functions over the five year period following the period covered by the report.

Status: This is the original version (as it was originally enacted).

- (5) A biodiversity report—
- (a) must specify the period covered by the report, and
 - (b) must be published within the period of 12 weeks following the last day of that period.
- (6) The authority’s first biodiversity report must cover a period chosen by the authority which—
- (a) is no longer than three years, and
 - (b) begins with the day on which the authority first becomes subject to the duty under subsection (2).
- (7) A subsequent biodiversity report made by the authority must cover a period chosen by the authority which—
- (a) is no longer than five years, and
 - (b) begins with the day after the last day of the period covered by its most recent biodiversity report.
- (8) The Secretary of State may by regulations—
- (a) provide for specified public authorities, or public authorities of a specified description, to be designated authorities for the purposes of this section;
 - (b) require biodiversity reports to include specified quantitative data relating to biodiversity in any area of land in England in relation to which the authority exercises any functions.
- In this subsection “specified” means specified in the regulations.
- (9) Public authorities with no functions exercisable in relation to England may not be designated under subsection (8)(a).
- (10) The power to make regulations under subsection (8) is exercisable by statutory instrument.
- (11) A statutory instrument containing regulations under subsection (8) is subject to annulment in pursuance of a resolution of either House of Parliament.
- (12) Terms used in this section and section 40 have the same meaning as in that section.”