



# Levelling-up and Regeneration Act 2023

## 2023 CHAPTER 55

VALID FROM 26/12/2023

### PART 6

#### ENVIRONMENTAL OUTCOMES REPORTS

##### *Setting environmental outcomes*

#### **152 Power to specify environmental outcomes**

- (1) Regulations made by an appropriate authority under this Part (“EOR regulations”) may specify outcomes relating to environmental protection in the United Kingdom or a relevant offshore area that are to be “specified environmental outcomes” for the purposes of this Part.
- (2) “Environmental protection” means—
  - (a) protection of the natural environment, cultural heritage and the landscape from the effects of human activity (including, amongst other things, the protection of chalk streams from abstraction and pollution);
  - (b) protection of people from the effects of human activity on the natural environment, cultural heritage and the landscape;
  - (c) maintenance, restoration or enhancement of the natural environment, cultural heritage or the landscape;
  - (d) monitoring, assessing, considering, advising or reporting on anything in paragraphs (a) to (c).
- (3) The “natural environment” means—
  - (a) plants, wild animals and other living organisms,
  - (b) their habitats (including, amongst other things, chalk streams),
  - (c) land (except buildings or other structures), air and water,and the natural systems, cycles and processes through which they interact.

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- (4) “Cultural heritage” means any building, structure, other feature of the natural or built environment or site, which is of historic, architectural, archaeological or artistic interest.
- (5) Before making any EOR regulations which contain provision about what the specified environmental outcomes are to be, an appropriate authority must have regard to—
- (a) in the case of regulations made by the Secretary of State acting alone or jointly with a devolved authority, the current environmental improvement plan (within the meaning of Part 1 of the Environment Act 2021),
  - (b) in the case of regulations made by the Scottish Ministers acting alone, the current environmental policy strategy (within the meaning of section 47 of the UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021 (asp 4)),
  - (c) in the case of regulations made by the Welsh Ministers acting alone, the current national natural resources policy (within the meaning of section 9 of the Environment (Wales) Act 2016), or
  - (d) in the case of regulations made by a Northern Ireland department acting alone, the current environmental improvement plan (within the meaning of Schedule 2 to the Environment Act 2021).

#### Commencement Information

**II** S. 152 in force at 26.12.2023, see [s. 255\(5\)](#)

### *Power to require environmental outcomes reports*

#### **153 Environmental outcomes reports for relevant consents and relevant plans**

- (1) EOR regulations may make provision requiring an environmental outcomes report to be prepared in relation to a proposed relevant consent or a proposed relevant plan.
- (2) Where an environmental outcomes report is required to be prepared in relation to a proposed relevant consent—
  - (a) the proposed relevant consent may not be given, unless an environmental outcomes report has been prepared in relation to it, and
  - (b) that report must be taken into account or given effect, in accordance with EOR regulations, in determining whether and on what terms the proposed consent is to be given.
- (3) Where an environmental outcomes report is required to be prepared in relation to a proposed relevant plan—
  - (a) no step may be taken which would have the effect of bringing the proposed relevant plan into effect, unless an environmental outcomes report has been prepared in relation to it, and
  - (b) that report must be taken into account or given effect, in accordance with EOR regulations, in determining whether and on what terms the proposed relevant plan is to have effect.
- (4) An “environmental outcomes report”, in relation to a proposed relevant consent or proposed relevant plan, means a written report which assesses—

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- (a) the extent to which the proposed relevant consent or proposed relevant plan would, or is likely to, impact on the delivery of specified environmental outcomes,
  - (b) any proposals for increasing the extent to which a specified environmental outcome is delivered,
  - (c) any steps that may be proposed for the purposes of—
    - (i) avoiding the effects of a specified environmental outcome not being delivered to any extent;
    - (ii) so far as the effects of a specified environmental outcome not being delivered to any extent cannot be avoided, mitigating those effects;
    - (iii) so far as the effects of a specified environmental outcome not being delivered to any extent cannot be avoided or mitigated, compensating for the specified environmental outcome not being delivered, and
  - (d) any proposals about how—
    - (i) the impact of the proposed relevant consent or proposed relevant plan on the delivery of a specified environmental outcome, or
    - (ii) the taking of any proposed steps of the kind mentioned in [paragraph \(c\)](#),should be monitored or secured.
- (5) The reference in [subsection \(4\)\(c\)](#) to steps includes—
- (a) reasonable alternatives to the relevant consent, to the project to which the relevant consent relates or to any element of either, or (as the case may be)
  - (b) reasonable alternatives to the relevant plan or any element of it.
- (6) Subsection (2) does not apply in relation to a relevant consent where—
- (a) the requirement for the consent is imposed under [subsection \(4\)](#) of [section 154](#), and
  - (b) the consent is to be given or refused in an environmental outcomes report in accordance with provision under [subsection \(5\)](#) of that section.
- (7) EOR regulations may include provision about or in connection with—
- (a) what is to be taken to constitute the giving of a relevant consent for the purposes of [subsection \(2\)](#);
  - (b) the proposed relevant consents and proposed relevant plans for which an environmental outcomes report is, or may be, required;
  - (c) in relation to proposed relevant consents and proposed relevant plans for which an environmental outcomes report may be required, the circumstances in which a report is required;
  - (d) an environmental outcomes report not needing to assess the extent to which a proposed relevant consent or proposed relevant plan would, or is likely to, impact on the delivery of a specified environmental outcome, where an adequate assessment of the impact on delivery of the outcome has in effect already been, or is to be, carried out in a different environmental outcomes report;
  - (e) what proposals an environmental outcomes report may or must deal with under [subsection \(4\)\(b\)](#), [\(c\)](#) and [\(d\)](#);
  - (f) how any of the assessments mentioned in [subsection \(4\)](#) are to be carried out;

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- (g) the information to be included in, and the content and form of, an environmental outcomes report, including provision requiring, or permitting a public authority to require, a report to deal with matters in addition to those provided for in [subsection \(4\)](#);
- (h) how, and to what extent, environmental outcomes reports are to be taken into account or given effect by public authorities in considering, and making decisions in relation to, relevant consents or relevant plans;
- (i) the carrying out of any proposals assessed in an environmental outcomes report under [subsection \(4\)\(b\), \(c\) and \(d\)](#).

#### Commencement Information

**I2** S. 153 in force at 26.12.2023, see [s. 255\(5\)](#)

#### *Defining the consents and plans to which this Part applies*

### **154 Power to define “relevant consent” and “relevant plan” etc**

- (1) EOR regulations may provide that a consent of a description specified in the regulations (a “category 1 consent”) is to be a “relevant consent” for the purposes of this Part in all cases.
- (2) EOR regulations may provide that a consent of a description specified in the regulations (a “category 2 consent”) is to be a “relevant consent” for the purposes of this Part only if certain criteria specified in EOR regulations are met.
- (3) EOR regulations may make provision about, or in connection with, how, when and by whom it is to be determined whether criteria are met, such that a category 2 consent is a relevant consent.
- (4) EOR regulations may impose a requirement for a consent in relation to a project, which is to be a category 1 consent or a category 2 consent.
- (5) EOR regulations may make provision about, or in connection with, how a consent which is required under [subsection \(4\)](#) is to be given, including provision for it to be given (or refused) by an environmental outcomes report.
- (6) “Relevant plan” means a plan or programme which—
  - (a) relates, or may relate, to a project or to environmental protection in the United Kingdom or a relevant offshore area, and
  - (b) is specified or described in EOR regulations for the purposes of this subsection.
- (7) References in this Part to a proposed relevant consent or proposed relevant plan include references to a proposed variation or modification of, or revision to, a relevant consent or relevant plan (however described).
- (8) “Consent” means any consent, approval, permission, authorisation, confirmation or decision (however described, given or made) that is required, or otherwise provided for, by or under any enactment in relation to a project.
- (9) “Project” means a project in the United Kingdom or a relevant offshore area involving—

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- (a) construction, engineering, demolition, dismantling or decommissioning,
- (b) the installation, depositing or removal of any thing,
- (c) the exploitation of natural resources by any means,
- (d) a change in the use of land, a building or other structure, or
- (e) any other activity capable of affecting the natural environment, cultural heritage or landscape.

#### Commencement Information

**I3** S. 154 in force at 26.12.2023, see [s. 255\(5\)](#)

### *Assessment and monitoring*

#### **155 Assessing and monitoring impact on outcomes etc**

- (1) EOR regulations may make provision about, or in connection with, how the extent to which a relevant consent or relevant plan actually affects the delivery of a specified environmental outcome is to be assessed or monitored.
- (2) EOR regulations may make provision about, or in connection with, how the carrying out of any proposals assessed in an environmental outcomes report under [section 153\(4\)\(b\)](#), (c) or (d), or requirements under [subsection \(3\)](#), is to be assessed or monitored.
- (3) EOR regulations may make provision requiring action to be taken, if an assessment or monitoring under [subsection \(1\)](#) or (2) determines that is appropriate for the purposes of—
  - (a) increasing the extent to which a specified environmental outcome is delivered,
  - (b) mitigating or remedying the effects of a specified environmental outcome not being delivered to any extent, or
  - (c) compensating for a specified environmental outcome not being delivered to any extent.

#### Commencement Information

**I4** S. 155 in force at 26.12.2023, see [s. 255\(5\)](#)

### *Safeguards, devolution and exemptions*

#### **156 Safeguards: non-regression, international obligations and public engagement**

- (1) An appropriate authority may make EOR regulations only if satisfied that making the regulations will not result in environmental law providing an overall level of environmental protection that is less than that provided by environmental law at the time this Act is passed.

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- (2) EOR regulations may not contain provision that is inconsistent with the implementation of the international obligations of the United Kingdom relating to the assessment of the environmental impact of relevant plans and relevant consents.
- (3) In exercising functions under this Part, an appropriate authority must seek to ensure that (so far as would not otherwise be the case) arrangements will exist under which the public will be informed of any proposed relevant consent or proposed relevant plan in sufficient detail, and at a sufficiently early stage, to enable adequate public engagement to take place.
- (4) In this section—
- “adequate public engagement” means such engagement with the public, in relation to a proposed relevant consent or proposed relevant plan, as the appropriate authority considers appropriate;
- “environmental law” means environmental law (within the meaning of Part 1 of the Environment Act 2021 but disregarding section 46(3) and (4) of that Act), whether or not the environmental law is in force.

#### Commencement Information

**I5** S. 156 in force at 26.12.2023, see [s. 255\(5\)](#)

### 157 Requirements to consult devolved administrations

- (1) The Secretary of State may only make EOR regulations which contain provision—
- within Scottish devolved legislative competence, or
  - which could be made by the Scottish Ministers,
- with the consent of the Scottish Ministers, unless that provision is merely incidental to, or consequential on, provision that would be outside that devolved legislative competence.
- (2) The Secretary of State may only make EOR regulations which contain provision that confers a function on, or modifies or removes a function of, the Scottish Ministers after consulting the Scottish Ministers, unless—
- that provision is contained in regulations which require the consent of the Scottish Ministers by virtue of subsection (1), or
  - that provision is merely incidental to, or consequential on, provision that would be outside Scottish devolved legislative competence.
- (3) Provision is “within Scottish devolved legislative competence” where, if the provision were included in an Act of the Scottish Parliament, it would be within the legislative competence of that Parliament.
- (4) The Secretary of State may only make EOR regulations which contain provision within Welsh devolved legislative competence with the consent of the Welsh Ministers, unless that provision is merely incidental to, or consequential on, provision that would be outside that devolved legislative competence.
- (5) The Secretary of State may only make EOR regulations which contain provision that could be made by the Welsh Ministers or that confers a function on, or modifies or removes a function of, the Welsh Ministers or a devolved Welsh authority after consulting the Welsh Ministers, unless—

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- (a) that provision is contained in regulations which require the consent of the Welsh Ministers by virtue of subsection (4), or
  - (b) that provision is merely incidental to, or consequential on, provision that would be outside Welsh devolved legislative competence.
- (6) “Devolved Welsh authority” has the same meaning as in the Government of Wales Act 2006 (see section 157A of that Act).
- (7) Provision is “within Welsh devolved legislative competence” where, if the provision were included in an Act of Senedd Cymru, it would be within the legislative competence of the Senedd (including any provision that could be made only with the consent of a Minister of the Crown).
- (8) The Secretary of State may only make EOR regulations which contain provision within Northern Ireland devolved legislative competence with the consent of the relevant Northern Ireland department, unless that provision is merely incidental to, or consequential on, provision that would be outside that devolved legislative competence.
- (9) The Secretary of State may only make EOR regulations which contain provision that could be made by a Northern Ireland department or that confers a function on, or modifies or removes a function of, a Northern Ireland department after consulting the relevant Northern Ireland department, unless—
- (a) that provision is contained in regulations which require the consent of the relevant Northern Ireland department by virtue of subsection (8), or
  - (b) that provision is merely incidental to, or consequential on, provision that would be outside Northern Ireland devolved legislative competence.
- (10) The “relevant Northern Ireland department” is such Northern Ireland department as the Secretary of State considers appropriate having regard to the provision which is to be contained in the regulations concerned.
- (11) Provision is within “Northern Ireland devolved legislative competence” where the provision—
- (a) would be within the legislative competence of the Northern Ireland Assembly, if contained in an Act of that Assembly, and
  - (b) would not, if contained in a Bill for an Act of the Northern Ireland Assembly, result in the Bill requiring the consent of the Secretary of State.
- (12) In this section “Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975.

#### Commencement Information

**16** S. 157 in force at 26.12.2023, see [s. 255\(5\)](#)

## 158 EOR regulations: devolved authorities

[Schedule 13](#) contains restrictions on the exercise of the powers under this Part by devolved authorities.



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#### Commencement Information

**I7** S. 158 in force at 26.12.2023, see [s. 255\(5\)](#)

### 159 Exemptions for national defence and civil emergency etc

- (1) The Secretary of State may direct that no environmental outcomes report is required to be prepared in relation to a proposed relevant consent which is solely for the purposes of national defence or preventing or responding to civil emergency.
- (2) EOR regulations may provide for further circumstances in which the Secretary of State is to be able to direct that no environmental outcomes report is required to be prepared.
- (3) A direction under this section may provide that provision in EOR regulations specified in the direction applies (subject to any modifications specified in the direction), despite the fact that no environmental outcomes report is required to be prepared.
- (4) The Secretary of State may modify or revoke a direction under this section.

#### Commencement Information

**I8** S. 159 in force at 26.12.2023, see [s. 255\(5\)](#)

### *Enforcement*

### 160 Enforcement

- (1) EOR regulations may make provision about, or in connection with, the enforcement of requirements imposed by or under this Part.
- (2) EOR regulations under this section may, in particular, include provision—
  - (a) creating a criminal offence (but may not create a criminal offence punishable with imprisonment);
  - (b) conferring a power on any court or tribunal;
  - (c) for the imposition of civil sanctions and appeals against such sanctions;
  - (d) conferring a power of entry (whether or not on the authority of a warrant);
  - (e) conferring a power of inspection, search, seizure or detention (whether or not on the authority of a warrant);
  - (f) authorising, or making provision for the authorisation of, the use of reasonable force in connection with a power mentioned in paragraph (d) or (e);
  - (g) applying, or corresponding to, any provision, made by or under any enactment, relating to enforcement in connection with a category 1 consent or a category 2 consent (with or without modifications).
- (3) EOR regulations under [subsection \(2\)\(c\)](#) may make provision for the imposition of civil sanctions whether or not the conduct in respect of which the sanction is imposed constitutes an offence.



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- (4) In this section “civil sanction” means a sanction of a kind for which provision may be made under Part 3 of the Regulatory Enforcement and Sanctions Act 2008 (fixed monetary penalties, discretionary requirements, stop notices, enforcement undertakings).

#### Commencement Information

**I9** S. 160 in force at 26.12.2023, see [s. 255\(5\)](#)

### Reporting

#### 161 Reporting

- (1) EOR regulations may make provision requiring a public authority to report on, or provide information in relation to, the delivery of specified environmental outcomes.
- (2) EOR regulations may, in particular, include provision about or in connection with—
- the information to be included in, and the content and form of, a report required under [subsection \(1\)](#);
  - the content and form of information required to be provided under [subsection \(1\)](#);
  - when, or the circumstances in which, the information or report must be provided;
  - the publication of the information or report;
  - who the information or report is to be provided to;
  - a report being combined with another document which is to be prepared under any enactment.

#### Commencement Information

**I10** S. 161 in force at 26.12.2023, see [s. 255\(5\)](#)

### General

#### 162 Public consultation etc

- (1) An appropriate authority must consult the public before making EOR regulations which contain provision—
- under [section 152\(1\)](#) (specified environmental outcomes);
  - amending, repealing or revoking relevant existing environmental assessment legislation.
- (2) An appropriate authority must consult such persons as the appropriate authority considers appropriate—
- before making EOR regulations which contain provision under—
    - [section 154\(1\)](#) to [\(6\)](#) (consents and plans subject to this Part);
    - [section 159\(2\)](#) (power to provide for further exemptions by Secretary of State direction);

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- (iii) [section 160](#) (enforcement);
- (iv) [section 164](#) (interaction with existing environmental assessment legislation and the Habitats Regulations);
- (b) before issuing, modifying or withdrawing any guidance under [section 163](#), which relates to—
  - (i) how the likely impact of a proposed relevant consent or proposed relevant plan on the delivery of a specified environmental outcome should be assessed, or
  - (ii) how the extent to which a relevant consent or relevant plan actually affects the delivery of a specified environmental outcome should be assessed or monitored.
- (3) EOR regulations may require a public authority to respond, or to respond in a particular way or by a particular time, to a consultation under [subsection \(1\)](#) or [\(2\)](#).
- (4) The requirements to consult in [subsections \(1\)](#) and [\(2\)](#) may be met by consultation carried out before the subsection concerned comes into force.

#### Commencement Information

**III** S. 162 in force at 26.12.2023, see [s. 255\(5\)](#)

### 163 Guidance

- (1) A public authority carrying out a function under this Part, other than under regulations made by a devolved authority acting alone, must have regard to any guidance issued by the Secretary of State in relation to the function.
- (2) A public authority carrying out a function under regulations made under this Part by the Secretary of State acting jointly with one or more devolved authorities must have regard to any guidance issued by the Secretary of State or any of those devolved authorities in relation to the function.
- (3) Before issuing guidance under [subsection \(2\)](#)—
  - (a) the Secretary of State must—
    - (i) obtain the consent of the Scottish Ministers so far as the guidance relates to a matter provision about which would be within Scottish devolved legislative competence by virtue of [section 157\(3\)](#) or which could be made by the Scottish Ministers;
    - (ii) obtain the consent of the Welsh Ministers so far as the guidance relates to a matter provision about which would be within Welsh devolved legislative competence (see [section 157\(7\)](#));
    - (iii) obtain the consent of the relevant Northern Ireland department so far as the guidance relates to a matter provision about which would be within Northern Ireland devolved legislative competence (see [section 157\(11\)](#));
  - (b) the Scottish Ministers must obtain the consent of the Secretary of State so far as the guidance relates to a matter provision about which would not be within Scottish devolved legislative competence by virtue of [section 157\(3\)](#) or which could not be made by the Scottish Ministers;

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- (c) the Welsh Ministers must obtain the consent of the Secretary of State so far as the guidance relates to a matter provision about which would be outside Welsh devolved legislative competence (see section [157\(7\)](#));
  - (d) a Northern Ireland department must obtain the consent of the Secretary of State so far as the guidance relates to a matter provision about which would be outside Northern Ireland devolved legislative competence (see section [157\(11\)](#)).
- (4) The “relevant Northern Ireland department” is such Northern Ireland department as the Secretary of State considers appropriate having regard to the material which is to be contained in the guidance concerned.
- (5) A public authority carrying out a function under regulations made under this Part by a devolved authority acting alone must have regard to any guidance issued by the devolved authority in relation to the function.
- (6) A public authority carrying out a function under existing environmental assessment legislation listed in [Part 1](#) of [Schedule 14](#) (other than a function under Schedule 3 to the Harbours Act 1964 so far as relating to environmental impact assessments in Scotland) must have regard to any guidance issued by the Secretary of State in relation to the function.
- (7) A public authority carrying out a function under existing environmental assessment legislation listed in [Part 2](#) of [Schedule 14](#) must have regard to any guidance issued by the Scottish Ministers in relation to the function.
- (8) A public authority carrying out a function under existing environmental assessment legislation listed in [Part 3](#) of [Schedule 14](#) must have regard to any guidance issued by the Welsh Ministers in relation to the function.
- (9) A public authority carrying out a function under existing environmental assessment legislation listed in [Part 4](#) of [Schedule 14](#) must have regard to any guidance issued by a Northern Ireland department in relation to the function.
- (10) EOR regulations may require any person carrying out a function under EOR regulations to have regard to guidance issued by an appropriate authority in relation to the function, failing which the function is not to be regarded as having been validly carried out.

#### Commencement Information

**I12** S. 163 in force at 26.12.2023, see [s. 255\(5\)](#)

### 164 Interaction with existing environmental assessment legislation and the Habitats Regulations

- (1) EOR regulations may make provision about, or in connection with, the interaction of this Part with existing environmental assessment legislation or the Habitats Regulations.
- (2) EOR regulations under this section may, in particular, include provision—
  - (a) treating anything done, or omitted to be done, in relation to an environmental outcomes report as satisfying or failing to satisfy a requirement under

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relevant existing environmental assessment legislation or the relevant Habitats Regulations;

- (b) treating anything done, or omitted to be done, under existing environmental assessment legislation or the Habitats Regulations as satisfying or failing to satisfy a requirement imposed by or under this Part;
  - (c) about the co-ordination of things done under this Part and things done under existing environmental assessment legislation or the Habitats Regulations;
  - (d) disapplying or otherwise modifying any provision of relevant existing environmental assessment legislation or the relevant Habitats Regulations where preparation of an environmental outcomes report is required under this Part;
  - (e) disapplying or otherwise modifying any provision of this Part or EOR regulations where something is done, or required to be done, under existing environmental assessment legislation or the Habitats Regulations.
- (3) EOR regulations under this section may amend, repeal or revoke relevant existing environmental assessment legislation.

(4) In this section—

“the Habitats Regulations” means—

- (a) regulation 5 of the Offshore Petroleum Activities (Conservation of Habitats) Regulations 2001 ([S.I. 2001/1754](#));
- (b) regulation 24 and Part 6 of the Conservation of Habitats and Species Regulations 2017 ([S.I. 2017/1012](#));
- (c) regulations 27 to 37 of the Conservation of Offshore Marine Habitats and Species Regulations 2017 ([S.I. 2017/1013](#));
- (d) the Conservation (Natural Habitats, &c.) Regulations 1994 ([S.I. 1994/2716](#));
- (e) the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 ([S.R. \(N.I.\) 1995/380](#));

“the relevant Habitats Regulations” means—

- (a) in relation to EOR regulations made by the Secretary of State acting alone or jointly with one or more devolved authorities, the legislation listed in the definition of “the Habitats Regulations”;
- (b) in relation to EOR regulations made by the Scottish Ministers acting alone, the legislation listed in paragraph (d) of that definition;
- (c) in relation to EOR regulations made by the Welsh Ministers acting alone, the legislation listed in the definition of “the Habitats Regulations” so far as it applies in relation to Wales;
- (d) in relation to EOR regulations made by a Northern Ireland department acting alone, the legislation listed in paragraph (e) of that definition.

#### Commencement Information

I13 S. 164 in force at 26.12.2023, see [s. 255\(5\)](#)

## 165 Consequential repeal of power to make provision for environmental assessment

- (1) TCPA 1990 is amended as follows.

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- (2) Omit section 71A (assessment of environmental effects).
- (3) In section 293A (urgent Crown development: application), in subsection (4), omit paragraph (a).

#### Commencement Information

**I14** S. 165 in force at 26.12.2023, see [s. 255\(5\)](#)

### 166 EOR regulations: further provision

- (1) EOR regulations may make provision about or in connection with—
  - (a) the procedure to be followed in relation to anything done under this Part, including the time by which anything must be done;
  - (b) who is to prepare an environmental outcomes report, including provision permitting a public authority to determine who is to do so or the qualifications or experience a person must have to do so;
  - (c) requiring a public authority to assist with any assessment or monitoring under this Part;
  - (d) the publication of, and consultation and public engagement in connection with, environmental outcomes reports and other relevant documents;
  - (e) the information to be included in, and the content and form of, any relevant document;
  - (f) the persons to whom an environmental outcomes report or other relevant document is to be given, and how it is to be given;
  - (g) the collection or provision of information in connection with this Part;
  - (h) the rejection of a relevant document, or information provided in connection with this Part, if it is not provided in accordance with [Chapter 1 of Part 3](#) (planning data), including provision requiring a document or information to be rejected;
  - (i) how, and to what extent, any failure to comply with a requirement imposed by or under this Part is to be taken into account by public authorities in considering, and making decisions in relation to, relevant consents or relevant plans;
  - (j) appeals against, or reviews of, decisions of a public authority about matters for, or in respect of, which provision is made by EOR regulations or existing environmental assessment legislation.
- (2) EOR regulations may—
  - (a) provide for the charging of fees or other charges;
  - (b) confer a function, including a function involving the exercise of a discretion, on any person;
  - (c) make consequential, supplementary or incidental provision under [section 252\(1\)\(c\)](#) which amends, repeals or revokes any legislation (whenever passed or made).
- (3) In [subsection \(2\)\(c\)](#) “legislation” means any provision made by or under—
  - (a) an Act,
  - (b) an Act or Measure of Senedd Cymru,

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*Changes to legislation: There are currently no known outstanding effects for the Levelling-up and Regeneration Act 2023, Part 6. (See end of Document for details)*

- (c) an Act of the Scottish Parliament,
- (d) Northern Ireland legislation, or
- (e) retained direct EU legislation.

#### Commencement Information

**115** S. 166 in force at 26.12.2023, see [s. 255\(5\)](#)

### 167 Interpretation of [Part 6](#)

- (1) “Existing environmental assessment legislation” means the legislation listed in [Schedule 14](#).
- (2) “Relevant existing environmental assessment legislation” means—
  - (a) in relation to EOR regulations made by the Secretary of State acting alone or jointly with one or more devolved authorities, the legislation listed in [Schedule 14](#);
  - (b) in relation to EOR regulations made by the Scottish Ministers acting alone, the legislation listed in [Part 2](#) of that Schedule;
  - (c) in relation to EOR regulations made by the Welsh Ministers acting alone, the legislation listed in [Part 3](#) of that Schedule;
  - (d) in relation to EOR regulations made by a Northern Ireland department acting alone, the legislation listed in [Part 4](#) of that Schedule.
- (3) In this Part—
  - “appropriate authority” means—
    - (a) the Secretary of State,
    - (b) a devolved authority, or
    - (c) the Secretary of State acting jointly with one or more devolved authorities;
  - “category 1 consent” and “category 2 consent” have the meaning given by [section 154\(1\)](#) and [\(2\)](#);
  - “cultural heritage” has the meaning given by [section 152\(4\)](#);
  - “devolved authority” means—
    - (a) the Scottish Ministers,
    - (b) the Welsh Ministers, or
    - (c) a Northern Ireland department;
  - “environmental outcomes report” has the meaning given by [section 153\(4\)](#);
  - “environmental protection” has the meaning given by [section 152\(2\)](#);
  - “EOR regulations” has the meaning given by [section 152\(1\)](#);
  - “existing environmental assessment legislation” has the meaning given by [subsection \(1\)](#);
  - “natural environment” has the meaning given by [section 152\(3\)](#);
  - “project” has the meaning given by [section 154\(9\)](#);
  - “proposed”, in relation to a relevant consent or relevant plan, is to be construed in accordance with [section 154\(7\)](#);
  - “public authority” means—

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- (a) any person with functions under, or functions in respect of which provision is made by, existing environmental assessment legislation when this Act is passed;
- (b) any public authority within the meaning of section 6 of the Human Rights Act 1998, other than a court or tribunal;
  - “relevant consent” has the meaning given by [section 154](#);
  - “relevant document” means a document or information for, or in respect of, which provision is made by EOR regulations or existing environmental assessment legislation;
  - “relevant existing environmental assessment legislation” has the meaning given by subsection (2);
  - “relevant offshore area” means any area in—
    - (a) the territorial sea adjacent to the United Kingdom,
    - (b) any area designated by Order in Council under section 1(7) of the Continental Shelf Act 1964, or
    - (c) any area designated by Order in Council under section 41(3) of the Marine and Coastal Access Act 2009;
  - “relevant plan” has the meaning given by [section 154\(6\)](#);
  - “specified environmental outcome” has the meaning given by [section 152\(1\)](#).

#### Commencement Information

**I16** S. 167 in force at 26.12.2023, see [s. 255\(5\)](#)



**Status:**

Point in time view as at 26/10/2023. 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 Levelling-up and Regeneration Act 2023, Part 6.