
WELSH STATUTORY INSTRUMENTS

2012 No. 1903

The Natural Resources Body for
Wales (Establishment) Order 2012

PART 1 —
PRELIMINARY

Title and commencement

1.—(1) The title of this Order is the Natural Resources Body for Wales (Establishment) Order 2012.

(2) This Order comes into force on the day after the day on which it is made.

Interpretation

2. In this Order, “the Body” (“*y Corff*”) has the meaning given by article 3(1).

PART 2 —
ESTABLISHMENT AND GENERAL FUNCTIONS

The Body

3.—(1) There is to be a body corporate to be known as the Natural Resources Body for Wales or *Corff Adnoddau Naturiol Cymru* (referred to in this Order as “the Body”).

(2) The Schedule contains further provisions about the Body.

Purpose of the Body

4.—(1) The purpose of the Body is to ensure that the environment and natural resources of Wales are—

- (a) sustainably maintained;
- (b) sustainably enhanced; and
- (c) sustainably used.

(2) In this article—

- (a) “sustainably” (“*yn gynaliadwy*”) means—
 - (i) with a view to benefitting, and
 - (ii) in a manner designed to benefit,

the people, environment and economy of Wales in the present and in the future;

(b) “environment” (“*amgylchedd*”) includes, without limitation, living organisms and ecosystems.

(3) Wherever the Body exercises any function in relation to, or that affects, the Welsh zone (as defined in section 158(1) of the Government of Wales Act 2006(1)), both the references to “Wales” in paragraph (1) are to be interpreted as including references to the Welsh zone.

(4) Wherever the Body exercises a function in relation to, or in a manner that affects, any other area outside Wales, both the references to “Wales” in paragraph (1) are to be interpreted as including references to the area in question.

(5) Paragraph (1) does not give the Body power to—

- (a) do anything that it would not otherwise have the power to do, or
- (b) exercise any of its functions in a manner contrary to the provisions of any other enactment or any EU obligation(2).

Guidance with respect to the Body’s purpose

5.—(1) The Welsh Ministers may give guidance to the Body with respect to the manner in which it should exercise its functions so as to give effect to its purpose.

(2) In preparing any guidance under paragraph (1), the Welsh Ministers must have regard to the Body’s responsibilities and resources.

(3) In discharging its functions, the Body must have regard to guidance given under this article.

(4) Before giving guidance to the Body under this article, the Welsh Ministers must consult the Body and such other bodies or persons as the Welsh Ministers consider appropriate.

(5) The Welsh Ministers must publish any guidance given under this article as soon as is reasonably practicable after giving the guidance.

(6) The power to give guidance under this article includes power to vary or revoke it.

Initial functions of the Body

6.—(1) The Body has the functions set out in sub-paragraphs (a) and (b)—

- (a) the function of facilitating the implementation of any proposal of the Welsh Ministers for the transfer (with or without modification) to the Body of—
 - (i) any function of the Countryside Council for Wales;
 - (ii) any Welsh devolved function(3) of the Environment Agency or the Forestry Commissioners;
 - (iii) any function of a Welsh Flood and Coastal Committee(4);
 - (iv) any of their own functions relating to the environment; or
 - (v) any Welsh environmental function(5) of any person;
- (b) the function of facilitating the implementation of any other proposal of the Welsh Ministers made in association with any proposals falling within sub-paragraph (a) which—
 - (i) relates to the subject-matter of those proposals, or

(1) 2006 c. 32 (section 158(1)). The definition of the “Welsh zone” was inserted by section 43(2) of the Marine and Coastal Access Act 2009 (c. 23).

(2) “EU obligation” is defined in Schedule 1 to the European Communities Act 1972 (c. 68), as amended by the European Union (Amendment) Act 2008 (c. 7; see section 3 and the Schedule). This definition applies to other legislation by virtue of section 5 of, and Schedule 1 to, the Interpretation Act 1978 (c. 30).

(3) See section 36(1) of the Public Bodies Act 2011 (c 24).

(4) See section 13(8) of the Public Bodies Act 2011.

(5) See section 36(1) of the Public Bodies Act 2011.

(ii) is consequential on those proposals, or supplementary or incidental to them, or relates to transitional matters.

(2) Paragraph (1) applies to a proposal of the Welsh Ministers regardless of whether the National Assembly for Wales or any other person or body has given any consent or approval on which, by law, implementation of that proposal depends, but does not obviate the need for any such consent or approval to be obtained before the proposal can be implemented.

7.—(1) The Body must carry out its functions under article 6(1) according to the criteria set out in the following paragraphs.

(2) The first criterion is that the Body must ensure, so far as possible without compromising the achievement of its functions under article 6(1), that there is effective co-operation in relation to the implementation of any proposal between itself, the Welsh Ministers, and any other person or body which is—

- (a) referred to in article 6(1)(a), and
- (b) affected by the relevant proposal.

(3) The second criterion is that the Body must not interfere with the effective carrying out by any of the persons or bodies mentioned in article 6(1)(a) of any of their functions.

General duty of the Body to have regard to costs and benefits in exercising powers

8.—(1) In considering whether or not to exercise any power conferred upon it by or under any enactment, the Body must take into account the likely costs and benefits of the exercise or non-exercise of that power.

(2) In deciding the manner in which to exercise any such power, the Body must take into account the likely costs and benefits of its exercise in the manner in question.

(3) The duties in paragraphs (1) and (2) apply unless, or to the extent that, it is unreasonable for the Body to be subject to them in view of the nature or purpose of the power or in the circumstances of the particular case.

(4) But those duties do not affect the Body's obligation to discharge any duties, comply with any requirements, or pursue any objectives, imposed upon or given to it by any enactment other than this article.

General incidental function of the Body

9.—(1) The Body may do anything that appears to it to be conducive or incidental to the discharge of its functions.

(2) In particular, the Body may—

- (a) enter into agreements;
- (b) acquire or dispose of property and carry out such engineering or building operations as it considers appropriate;
- (c) subject to the approval of the Welsh Ministers, form bodies corporate or acquire or dispose of interests in bodies corporate;
- (d) form charitable trusts;
- (e) accept gifts;
- (f) invest money.

(3) In this article “engineering or building operations” (*“gwaith peirianyddol neu waith adeiladu”*), without prejudice to the generality of that expression, includes—

- (a) the construction, alteration, improvement, maintenance or demolition of any building or structure or of any reservoir, watercourse, dam, weir, well, borehole or other works, and
- (b) the installation, modification or removal of any machinery or apparatus.

Advice and assistance to Welsh Ministers

10. The Body must provide the Welsh Ministers with such advice and assistance as they may request.

Directions

11.—(1) The Welsh Ministers may give the Body general or specific directions as to the exercise of its functions.

(2) The Welsh Ministers must publish any directions given under this article as soon as is reasonably practicable after giving the directions.

(3) The power to give directions under this article includes power to vary or revoke the directions.

(4) The Body must comply with any directions given under this article.

PART 3 —

FINANCIAL MATTERS

Grants

12.—(1) The Welsh Ministers may make grants to the Body.

(2) A grant under this article may be made subject to conditions.

General financial duties

13.—(1) The Welsh Ministers may determine the financial duties of the Body.

(2) Different determinations may be made for different functions and activities of the Body.

(3) The Welsh Ministers must—

- (a) consult the Body before making a determination of the Body's financial duties, and
- (b) give the Body notice of every such determination which they make.

(4) Such a determination may—

- (a) relate to a period beginning before, on, or after, the date on which it is made;
- (b) contain supplemental provisions; and
- (c) be varied by a subsequent determination.

(5) The Welsh Ministers may give a direction to the Body requiring it to pay to them an amount equal to the whole or such part as may be specified in the direction of any sum, or any sum of a description, so specified which is or has been received by that Body.

(6) Where it appears to the Welsh Ministers that the Body has a surplus, whether on capital or revenue account, they may direct the Body to pay them such amount not exceeding the amount of that surplus as may be specified in the direction.

(7) The Welsh Ministers must consult the Body before giving a direction under paragraph (5) or (6).

Borrowing powers

14.—(1) The Body may borrow in accordance with the following provisions of this article, but not otherwise.

(2) The Body may borrow such sums in sterling as it may require for meeting its obligations and carrying out its functions.

(3) The Body may borrow—

(a) from the Welsh Ministers, or

(b) from persons other than the Welsh Ministers, but only with the consent of the Welsh Ministers.

(4) Consent under paragraph (3)(b) may be granted subject to conditions.

Welsh Ministers' guarantees of the Body's borrowing

15.—(1) The Welsh Ministers may guarantee, in such manner and on such conditions as they think fit, the repayment of the principal of, the payment of interest on, and the discharge of any other financial obligation in connection with, any sum which the Body borrows from any person.

(2) If any sums are paid out in fulfilment of a guarantee under this article, the Body must make to the Welsh Ministers, at such times and in such manner as they from time to time direct,—

(a) payments of such amounts as they direct in or towards repayment of the sums so paid out, and

(b) payments of interest, at such rate as they direct, on what is outstanding for the time being in respect of sums so paid out.

18 July 2012

John Griffiths
Minister for Environment and Sustainable
Development, one of the Welsh Ministers