

ACCOMPANYING DOCUMENTS

Explanatory Notes and an Explanatory Memorandum are printed separately.

Environment (Air Quality and Soundscapes) (Wales) Bill

[AS PASSED]

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Environment (Air Quality and Soundscapes) (Wales) Bill

[AS PASSED]

An Act of Senedd Cymru to make provision for improving air quality in Wales; for a national strategy for assessing and managing soundscapes in Wales; and for connected purposes.

Having been passed by Senedd Cymru and having received the assent of His Majesty, it is enacted as follows:

5 **PART 1**

AIR QUALITY

CHAPTER 1

NATIONAL TARGETS

1 **1 Air quality targets: general**

- 10 (1) The Welsh Ministers may by regulations set long-term targets in respect of any matter relating to air quality in Wales.
- (2) The Welsh Ministers must exercise the power in subsection (1) so as to set a long-term target in respect of one of the following pollutants –
- 15 (a) ammonia;
- (b) PM₁₀;
- (c) ground level ozone;
- (d) nitrogen dioxide;
- (e) carbon monoxide;
- (f) sulphur dioxide.
- 20 (3) A target set under this section must –
- (a) specify a standard to be achieved, which must be capable of being objectively measured, and
- (b) specify a date by which the standard is to be achieved.
- (4) Regulations under this section may make provision about how the matter in respect of
- 25 which a target is set is to be measured.
- (5) Regulations under this section that set the target required under subsection (2) must specify that the target is set to comply with that subsection.
- (6) A target is a “long-term target” if the specified date is at least 10 years after the date on which the target is set.
- 30 (7) A target under this section is set when the regulations setting it come into force.
- (8) In this Chapter –

- (a) “PM₁₀” means particulate matter with an aerodynamic diameter not exceeding 10 micrometres;
- (b) “specified standard” and “specified date”, in relation to a target set under this section, mean the standard and date specified under subsection (3).

5 **2 Air quality targets: particulate matter**

- (1) The Welsh Ministers must by regulations set at least one target (a “PM_{2.5} air quality target”) in respect of the annual mean level of PM_{2.5} in ambient air in Wales.
- (2) A PM_{2.5} air quality target may be a long-term target but need not be so.
- (3) In this section, PM_{2.5} means particulate matter with an aerodynamic diameter not exceeding 2.5 micrometres.
- (4) The Welsh Ministers must ensure that “ambient air” is defined for the purposes of each PM_{2.5} air quality target (and regulations under this section may make different provision for different targets for the purposes of this subsection).
- (5) Section 1(3) to(4) and (6) to (8) applies to PM_{2.5} air quality targets and to regulations under this section as it applies to targets set under section 1 and to regulations under that section.
- (6) In this Chapter, a “PM_{2.5} air quality target” means a target set under this section.

10 **3 Target-setting process**

- (1) Before making regulations under section 1 or 2, the Welsh Ministers must—
 - (a) seek advice from persons they consider to be independent and to have relevant expertise, and
 - (b) have regard to scientific knowledge on air pollution.
- (2) Before making regulations under section 1 or 2 which set or amend a target in respect of a particular pollutant, the Welsh Ministers must have regard to any guidelines for that pollutant published by the World Health Organisation in its most recent global air quality guidelines.
- (3) Before making regulations under section 1 or 2 which set or amend a target, the Welsh Ministers must be satisfied that the target or amended target can be met.
- (4) The Welsh Ministers may not make regulations under section 1 or 2 which revoke or lower a target (the “existing target”) unless they are 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.

(5) Before making regulations under section 1 or 2 which revoke or lower a target, the Welsh Ministers must lay before Senedd Cymru, and publish, a statement explaining why the Welsh Ministers are satisfied as mentioned in subsection (4).

(6) 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.

(7) Regulations under section 1 may not revoke the air quality target that has been set to comply with subsection (2) of that section (but may amend it in accordance with this section).

(8) Regulations under section 2 may not revoke a PM_{2.5} air quality target (but may amend it in accordance with this section).

(9) For the purposes of this Chapter, a target is met if the specified standard is achieved by the specified date.

(10) The Welsh Ministers must lay a draft of a statutory instrument containing the regulations required by section 1(2) before Senedd Cymru before the end of the period of 6 years beginning with the date on which this Act receives Royal Assent.

(11) The Welsh Ministers must lay a draft of a statutory instrument containing regulations setting a PM_{2.5} air quality target before Senedd Cymru before the end of the period of 3 years beginning with the date on which this Act receives Royal Assent.

4 Effect of targets

(1) The Welsh Ministers must ensure that –

(a) targets set under section 1 are met, and

(b) PM_{2.5} air quality targets are met.

(2) Nothing in this Chapter, other than section 8, limits the Welsh Ministers' power under section 87 of the Environment Act 1995 (c. 25) (power to make regulations in relation to the assessment or management of air quality).

5 Reporting on targets

(1) Regulations under section 1 or 2 must specify a reporting date for any target set under that section.

(2) On or before the reporting date, the Welsh Ministers must lay before Senedd Cymru, 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 Welsh Ministers are not yet able to determine whether the target has been met, the reasons for that and the steps the Welsh Ministers intend to take in order to determine whether the target has been met.

(4) Where the Welsh Ministers make a statement that a target has not been met, the Welsh Ministers must, before the end of 12 months beginning with the date on which the statement is laid, lay before Senedd Cymru, and publish, a report.

(5) The report must –

(a) explain why the target has not been met, and

(b) set out the steps the Welsh Ministers have taken, or intend to take, to ensure the specified standard is achieved as soon as reasonably practicable.

(6) Where the Welsh Ministers make a statement that they are not yet able to determine whether a target has been met, the Welsh Ministers must, before the end of 6 months beginning with the date on which the statement is laid, lay before Senedd Cymru, 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).

6 Review of targets

(1) The Welsh Ministers must review targets under sections 1 and 2 in accordance with this section.

(2) In carrying out a review, the Welsh Ministers must –

(a) seek advice from persons they consider to be independent and to have relevant expertise, and

(b) have regard to scientific knowledge about air pollution.

(3) If a target under section 1 or 2 is in respect of a pollutant for which guidelines have been published by the World Health Organisation in its most recent global air quality guidelines, the Welsh Ministers must, in carrying out a review of the target, have regard to the guidelines in respect of that pollutant.

(4) Having carried out a review, the Welsh Ministers must lay before Senedd Cymru, and publish, a statement about the steps, if any, they intend to take under section 1 or 2 in relation to each target in consequence of the review.

(5) Where a statement provides that the Welsh Ministers intend to take no steps under sections 1 or 2 in relation to a target, the statement must include the reasons for that decision.

(6) The first review must be completed before the end of 5 years beginning with the day on which the first target is set (whether under section 1 or 2).

(7) Subsequent reviews must be completed before the end of 5 years beginning with the day on which the previous review was completed.

(8) A review is completed when the Welsh Ministers have laid the statement before Senedd Cymru and published it.

7 Monitoring progress towards meeting targets

(1) The Welsh Ministers must make arrangements for obtaining such data about air quality in Wales as they consider appropriate to monitor the progress being made towards meeting any targets set under section 1 or 2.

- (2) The Welsh Ministers must publish any data obtained under subsection (1) as soon as is reasonably practicable.

8 Maintaining air quality standards

- (1) This section applies in relation to a specified standard for a target set under section 1 or 2 where –

- (a) the specified date for the target has been reached, and
(b) the specified standard for the target has been achieved (whether by the specified date or by a later date).

- (2) The Welsh Ministers, in the exercise of their powers under section 87(1) of the Environment Act 1995 (c. 25) must ensure that –

- (a) the Welsh Ministers are under a duty to maintain that standard, and
(b) reporting requirements are in place in relation to the performance of that duty.

- (3) The Welsh Ministers may exercise their powers under section 87(1) of the Environment Act 1995 to replace the standard mentioned in subsection (2)(a) with a lower standard, or to revoke the standard, but only if satisfied that –

- (a) meeting the standard would have no significant benefit compared with not meeting it or with meeting a lower standard, or
(b) because of changes in circumstances since the specified standard was set or last lowered, the environmental, social, economic or other costs of meeting it would be disproportionate to the benefits.

- (4) Before making regulations under section 87(1) of the Environment Act 1995 for any purpose mentioned in subsection (3), the Welsh Ministers must (in addition to complying with section 87(7B) of that Act) –

- (a) seek advice from persons they consider to be independent and to have relevant expertise,
(b) have regard to scientific knowledge on air pollution,
(c) have regard to any guidelines in respect of the pollutant to which the standard applies published by the World Health Organisation in its most recent global air quality guidelines, and
(d) lay before Senedd Cymru, and publish, a statement explaining why the Welsh Ministers are satisfied as mentioned in subsection (3).

9 Reporting in relation to section 1

- (1) The Welsh Ministers must, as soon as practicable after the end of each reporting period, lay before Senedd Cymru and publish a report on the consideration they have given during that period to setting long-term targets under section 1.

- (2) The report must, in particular, address the consideration given during the reporting period to setting targets in relation to the following pollutants –

- (a) ammonia;
(b) PM₁₀;

- (c) ground level ozone;
- (d) nitrogen dioxide;
- (e) carbon monoxide;
- (f) sulphur dioxide.

5 (3) But if regulations have been made under section 1 setting a target in relation to a pollutant mentioned in subsection (2), the requirement in that subsection no longer applies in relation to that pollutant.

(4) In this section, “reporting period” means –

- 10 (a) the period of 2 years beginning with the day on which section 1 comes into force, and
- (b) each subsequent period of 12 months.

CHAPTER 2

OTHER PROVISION

Promoting awareness

15 **10 Promoting awareness about air pollution**

The Welsh Ministers must take steps to promote awareness in Wales of –

- (a) the risks to human health and the natural environment caused by air pollution, and
- (b) ways of reducing or limiting air pollution.

Promoting active travel

20 **11 Promoting active travel as a way of reducing or limiting air pollution**

After section 10 of the Active Travel (Wales) Act 2013 (anaw 7) (duty to exercise functions under the Act to promote active travel) insert –

“10A Promotion by Welsh Ministers of active travel as a way of reducing or limiting air pollution

- 25 (1) The Welsh Ministers must take steps to promote active travel as a way of reducing or limiting air pollution in Wales.
- (2) The Welsh Ministers must publish a statement about the steps they propose to take in the performance of their duty under subsection (1).
- (3) The Welsh Ministers must –
 - 30 (a) publish the statement as soon as possible after the coming into force of this section, and
 - (b) keep the statement under review.
- (4) The Welsh Ministers may revise the statement at any time, and if they do so they must publish the statement in its revised form.

(5) The Welsh Ministers must publish a report as soon as reasonably practicable after the end of each reporting period specifying what steps they have taken during that period in the performance of their duty under subsection (1).

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(6) In subsection (5), “reporting period” means –
(a) the period of 3 years beginning with the day on which this section comes into force, and
(b) each subsequent period of 3 years.

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(7) Subsection (5) does not prevent the Welsh Ministers from publishing additional reports specifying steps they have taken in the performance of their duty under subsection (1).

10B Promotion by local and other authorities of active travel as a way of reducing or limiting air pollution

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(1) Local authorities must take steps to promote active travel as a way of reducing or limiting air pollution in their areas.

(2) Where a local authority submits an integrated network map to the Welsh Ministers for approval under section 4(9)(c), it must also publish a report specifying what steps it has taken in the performance of its duty under subsection (1) during –

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- (a) in the case of the first report required by this subsection, the period beginning with the coming into force of subsection (1) and ending with the submission of the map, and
- (b) in the case of each subsequent report, the period since it last published a report under this subsection.

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(3) The Welsh Ministers may by regulations made by statutory instrument –

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- (a) impose a duty on any public authority specified in the regulations to take steps to promote active travel as a way of reducing or limiting air pollution, and
- (b) require the authority to publish reports, in respect of periods specified in the regulations, about the steps it has taken in the performance of its duty.

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(4) Regulations under subsection (3) may specify a public authority only if the authority is a “devolved Welsh authority” within the meaning of section 157A(1)(a) of the Government of Wales Act 2006 (c. 32).

(5) Before specifying a public authority in regulations under subsection (3), the Welsh Ministers must consult the authority about the proposal.

(6) The power to make regulations under subsection (3) includes power to make transitional or saving provision.

- (7) A statutory instrument containing regulations made under subsection (3) may not be made unless a draft of the instrument has been laid before, and approved by resolution of, Senedd Cymru.

10C Guidance to authorities about their functions under section 10B

- (1) The Welsh Ministers must give guidance to local authorities about the authorities' performance of their duties under section 10B.
- (2) The Welsh Ministers must also give guidance to any public authority specified in regulations made under section 10B(3) about the authority's performance of its duties under the regulations.
- (3) Before giving or revising guidance under this section, the Welsh Ministers must consult—
- (a) the authority or authorities to which the guidance relates, and
 - (b) any other persons the Welsh Ministers consider appropriate.
- (4) An authority given guidance under this section must have regard to it in performing its duties under section 10B or, as the case may be, regulations made under that section."

National air quality strategy

12 Power to change review period for strategy

- (1) In section 80 of the Environment Act 1995 (c. 25) (national air quality strategy), after subsection (7) insert—
- "(8) The Welsh Ministers may by regulations amend this section for the purpose of changing the period within which they must review the strategy."
- (2) In section 87 of that Act (regulations for the purposes of Part 4), after subsection (9) insert—
- "(9A) A statutory instrument containing regulations under section 80(8) may not be made unless a draft of the instrument has been laid before, and approved by resolution of, Senedd Cymru."

13 Consultation on review of strategy

After section 80(8) of the Environment Act 1995 (c. 25) (as inserted by section 12) insert—

- "(9) Subsections (6) and (7) do not apply in relation to the Welsh Ministers.
- (10) In reviewing the strategy, the Welsh Ministers must consult—
- (a) the Natural Resources Body for Wales;
 - (b) every local authority in Wales;

- (c) every Local Health Board established under section 11 of the National Health Service (Wales) Act 2006;
- (d) every National Health Service trust established under section 18 of the National Health Service (Wales) Act 2006;
- (e) every public services board (within the meaning of Part 4 of the Well-being of Future Generations (Wales) Act 2015);
- (f) the Future Generations Commissioner for Wales;
- (g) Transport for Wales; and
- (h) the public.”

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10 **14 Duty to have regard to strategy**

- (1) After section 81A of the Environment Act 1995 (c.25) insert –

“81B Functions of relevant Welsh public authorities etc.

- (1) The following persons must have regard to the policies published by the Welsh Ministers in the strategy when exercising any function of a public nature that could affect the quality of air in Wales –
 - (a) local authorities in Wales;
 - (b) relevant Welsh public authorities.
- (2) In this Part, “relevant Welsh public authority” means a person designated in accordance with subsection (3) as a relevant Welsh public authority.
- (3) The Welsh Ministers may by regulations designate a person as a relevant Welsh public authority if (and only if) that person is a “devolved Welsh authority” within the meaning of section 157A(1)(a) of the Government of Wales Act 2006.
- (4) Before making regulations under subsection (3), the Welsh Ministers must consult –
 - (a) the person that is proposed to be designated, and
 - (b) such other persons as the Welsh Ministers consider appropriate.”

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- (2) In section 87 of that Act (regulations for the purposes of Part 4), in subsection (2) –
 - (a) in paragraph (c), after “relevant public authorities” insert “, relevant Welsh public authorities”;
 - (b) in paragraph (j), after “relevant public authorities,” insert “relevant Welsh public authorities,”;
 - (c) in paragraph (l), after “relevant public authorities” insert “, relevant Welsh public authorities”;
 - (d) in paragraph (m), after “a relevant public authority” insert “, a relevant Welsh public authority”.
- (3) In section 88 of that Act (guidance for the purposes of Part 4) –

- (a) in subsection (3) –
 - (i) for “This section” substitute “Subsections (1) and (2)”;
 - (ii) for “it applies” substitute “they apply”;
- (b) after subsection (3) insert –

5 “(4) The Welsh Ministers may issue guidance to relevant Welsh public authorities with respect to, or in connection with, the exercise of any of the powers conferred, or the discharge of any of the duties imposed, on those authorities by section 81B or regulations made by the Welsh Ministers under this Part.

10 (5) A relevant Welsh public authority, in exercising those powers and discharging those duties, must have regard to any guidance issued under subsection (4).”

- (4) In section 91 of that Act (interpretation of Part 4), in subsection (1), after the entry for “relevant public authority” insert –

15 ““relevant Welsh public authority” has the meaning given by section 81B(2);”.

Air quality regulations

15 Consultation on air quality regulations

20 In section 87 of the Environment Act 1995 (c. 25) (regulations for the purposes of Part 4), after subsection (7) insert –

 “(7A) Subsection (7) does not apply in relation to the Welsh Ministers.

 (7B) Before making any regulations under this Part, the Welsh Ministers must consult –

- (a) the Natural Resources Body for Wales;
- 25 (b) every local authority in Wales;
- (c) the Public Health Wales National Health Service Trust;
- (d) every Local Health Board established under section 11 of the National Health Service (Wales) Act 2006; and
- (e) the public.”

Local air quality management

16 Local authority air quality reviews

(1) Section 82 of the Environment Act 1995 (c. 25) (local authority reviews) is amended as follows.

(2) In subsection (1), after “local authority” insert “, other than a local authority in Wales,”.

35 (3) After subsection (1) insert –

“(1A) Every local authority in Wales must, in each calendar year, cause a review to be conducted of the quality for the time being, and the likely future quality within the relevant period, of air within the authority’s area.”

5 (4) In subsection (2), after “subsection (1)” insert “or (1A)”.

17 Action plans in relation to air quality management areas

(1) After section 83A of the Environment Act 1995 (c. 25) insert –

“83B Duties of Welsh local authorities in relation to designated areas

- 10 (1) This section applies in relation to a local authority in Wales.
- (2) A local authority must, for the purpose of securing that air quality standards and objectives are achieved in an air quality management area designated by the authority –
- 15 (a) prepare an action plan in relation to that area, and
- (b) send a copy of the action plan to the Welsh Ministers for approval.
- (3) An action plan is a written plan that –
- 20 (a) sets out how the local authority will exercise its functions to secure that air quality standards and objectives are achieved in the area to which the plan relates, and
- (b) in relation to each standard and objective, specifies a date by which the local authority will aim to achieve the standard or objective.
- (4) An action plan must also set out how the local authority will exercise its functions to secure that air quality standards and objectives are maintained after they have been achieved in the area to which the plan relates.
- 25 (5) An action plan must –
- (a) set out particular measures the local authority will take to secure the achievement and maintenance of air quality standards and objectives in the area to which the plan relates, and
- 30 (b) in relation to each measure, specify a date by which it will be carried out.
- (6) A local authority –
- 35 (a) may prepare revisions to an action plan at any time, and
- (b) must prepare revisions to an action plan if it considers that there is a need for further or different measures to be taken to secure that air quality standards and objectives are achieved by the dates specified under subsection (3)(b), and are maintained, in the area to which the plan relates.

(7) A local authority must send copies of revisions prepared under subsection (6) to the Welsh Ministers for approval.

(8) An action plan, or a revision to an action plan, does not take effect unless the plan or revision is approved (with or without modifications) by the Welsh Ministers.”

(2) In section 84 of that Act—

(a) in subsection (1A), omit “or Wales”;

(b) in the heading, omit “and Welsh”.

(3) In section 91 of that Act, in the definition of “action plan” in subsection (1), after paragraph (a) insert—

“(aa) in relation to Wales, in accordance with section 83B;”.

18 Welsh Ministers’ powers of direction

In section 85 of the Environment Act 1995 (c. 25) (reserve powers of the Welsh Ministers), in subsection (3)—

(a) omit the “or” after paragraph (c);

(b) after paragraph (d) insert—

“(e) that a local authority in Wales has failed to carry out a measure specified in an action plan by the date specified in the plan in relation to that measure, or

(f) that an air quality standard or objective has not been achieved, within a designated area in Wales, by the date specified in the action plan for the area as the date by which the standard or objective is expected to be achieved,”.

Smoke control

19 Regulation of smoke and fuel in smoke control areas

(1) The Clean Air Act 1993 (c. 11) is amended as follows.

(2) After section 19D (interpretation of terms for the purposes of section 19B) insert—

“Regulation of smoke and fuel in smoke control areas in Wales

19E Penalty for emission of smoke in smoke control area in Wales

Schedule 1A makes provision for financial penalties in relation to the emission of smoke in smoke control areas in Wales.

19F Acquisition and sale of unauthorised fuel: Wales

(1) Any person who—

(a) acquires any solid fuel for use in a building to which a smoke control order in Wales applies;

(b) acquires any solid fuel for use in a fireplace to which a smoke control order in Wales applies;

(c) acquires any solid fuel for use in any fixed boiler or industrial plant to which a smoke control order in Wales applies; or

(d) sells by retail any solid fuel in Wales for delivery by that person, or on that person's behalf, to—

(i) a building to which a smoke control order in Wales applies; or

(ii) premises in which there is any fixed boiler or industrial plant to which such an order applies,

is guilty of an offence.

(2) In subsection (1), "solid fuel" means any solid fuel other than an authorised fuel.

(3) Subsection (1)(b) does not apply in relation to a fireplace that is an exempt fireplace at the time of the acquisition.

(4) Subsection (1) is subject to any regulations under section 19H(1)(b) (exemptions by regulations for whole or part of smoke control area).

(5) In proceedings for an offence under subsection (1)(d), it is a defence for the person accused to prove that the person believed and had reasonable grounds for believing—

(a) that the building referred to in sub-paragraph (i) of that subsection was not one to which the smoke control order in question applied, or

(b) that the fuel was acquired for use in—

(i) a fireplace that was, at the time of the delivery, an exempt fireplace, or

(ii) a boiler or plant to which the smoke control order did not apply.

(6) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

19G Section 19F: interpretation

(1) In section 19F, "exempt fireplace" means a fireplace of a type specified in a list published by the Welsh Ministers.

(2) The Welsh Ministers may only specify a type of fireplace in the list if satisfied that such a fireplace can, if used in compliance with any conditions specified in the list, be used for burning solid fuels other than authorised fuels without producing any smoke or a substantial quantity of smoke.

(3) In section 19F and this section, "authorised fuel" means a solid fuel included in a list of authorised fuels published by the Welsh Ministers.

19H Exemptions relating to particular areas in Wales

- (1) The Welsh Ministers may, if it appears to them to be necessary or expedient to do so, by regulations suspend or relax the operation of –
- (a) Schedule 1A (penalty for emission of smoke), or
 - (b) section 19F(1) (offences relating to acquisition and sale of fuel),
- in relation to the whole or any part of a smoke control area in Wales.
- (2) Before making regulations under subsection (1), the Welsh Ministers must consult the local authority that declared the smoke control area in question unless satisfied that on account of urgency such consultation is impracticable.
- (3) As soon as practicable after the making of such regulations, the local authority must take such steps as appear to them suitable for bringing the effect of the regulations to the notice of persons affected by the regulations.”

20 Guidance for local authorities in relation to smoke control areas

After section 28A of the Clean Air Act 1993 (c. 11) insert –

“28B Guidance for local authorities in Wales

A local authority in Wales must have regard to any guidance published by the Welsh Ministers about the exercise of the authority’s functions under this Part.”

21 Further provision relating to smoke control

Schedule 1 makes further provision relating to smoke control.

Vehicle emissions

22 Trunk road charging schemes

- (1) The Transport Act 2000 (c. 38) is amended as follows.
- (2) In section 167 (trunk road charging schemes) –
- (a) in subsection (2), in the opening words, after “road charging scheme” insert “under subsection (1)(a)”;
 - (b) after subsection (2) insert –
 - “(3) A trunk road charging scheme under subsection (1)(b) may only be made in respect of a road if –
 - (a) the road is carried by a bridge, or passes through a tunnel, of at least 600 metres in length,
 - (b) the scheme is made for the purpose of reducing or limiting air pollution in the vicinity of the road (which may comprise or include a length of road of the kind described in paragraph (a)),
- or

(c) a local traffic authority have requested the charging authority to make the scheme in connection with a charging scheme under this Part made or proposed by them.

(4) Subsection (3)(b) does not prevent a scheme made by virtue of subsection (3)(c) from being made for the purpose of reducing or limiting air pollution.”

(3) In section 170 (charging schemes: consultation and inquiries), in subsection (7)(a), after “section 167(2)(b)” insert “or (3)(c)”.

23 Further provision relating to trunk road charging schemes

Schedule 2 makes provision for and in connection with the application of the proceeds of trunk road charging schemes made for the purpose of reducing or limiting air pollution.

24 Stationary idling offence: fixed penalty

(1) The Environment Act 1995 (c.25) is amended as follows.

(2) In section 87 (regulations for the purposes of air quality) –

(a) in subsection (2), in paragraph (o) –

(i) the words from “by payment of” to the end become sub-paragraph (i);

(ii) at the end of sub-paragraph (i) insert “, or

(ii) by payment of a penalty of an amount that falls within a prescribed range, where the prescribed offence is a stationary idling offence prescribed by the Welsh Ministers and such a range is prescribed;”;

(b) after subsection (2A) insert –

“(2B) In subsection (2)(o)(ii), “stationary idling offence” means an offence under section 42 of the Road Traffic Act 1988 that consists of a contravention of, or failure to comply with, so much of regulation 98 of the Road Vehicle (Construction and Use) Regulations 1986 (stopping of engine when stationary) as relates to the prevention of exhaust emissions.”

(3) In Schedule 11 (air quality: supplemental provision), in paragraph 5 (fixed penalty offences), in sub-paragraph (6) –

(a) in the definition of “fixed penalty” –

(i) the words from “a penalty of such amount” to the end become paragraph (a);

(ii) at the end of paragraph (a) insert “, or

(b) a penalty of such amount falling within a range prescribed in regulations as is specified in a fixed penalty notice;”;

(b) in the definition of “fixed penalty notice”, at the end insert “or an amount falling within a range prescribed in regulations”.

PART 2
SOUNDSCAPES

National soundscapes strategy

25 National strategy on soundscapes

- 5 (1) The Welsh Ministers must prepare and publish a strategy containing their policies with respect to the assessment, management and design of soundscapes in Wales.
- (2) The strategy must include policies for assessing and effectively managing noise pollution.
- (3) The Welsh Ministers must keep their policies with respect to soundscapes under review.
- (4) The Welsh Ministers may modify the strategy from time to time.
- 10 (5) The Welsh Ministers must review the strategy and, if appropriate, modify it –
- (a) within 5 years of the publication of the strategy, and
 - (b) within each period of 5 years beginning with the day on which the Welsh Ministers completed their most recent review under this subsection.
- (6) The Welsh Ministers must, in preparing or reviewing the strategy –
- 15 (a) have regard to –
- (i) scientific knowledge relevant to soundscapes, and
 - (ii) the most recent strategic noise maps adopted under regulation 23 of the Environmental Noise (Wales) Regulations 2006 (S.I. 2006/2629);
- (b) consult –
- 20 (i) the Natural Resources Body for Wales,
- (ii) every local authority in Wales,
- (iii) every Local Health Board established under section 11 of the National Health Service (Wales) Act 2006 (c. 42),
- 25 (iv) every National Health Service trust established under section 18 of the National Health Service (Wales) Act 2006,
- (v) every public services board (within the meaning of Part 4 of the Well-being of Future Generations (Wales) Act 2015 (anaw 2)),
- (vi) the Future Generations Commissioner for Wales,
- (vii) Transport for Wales, and
- 30 (viii) the public.
- (7) The Welsh Ministers may by regulations amend this section for the purpose of changing the period within which they must review the strategy.
- (8) If the Welsh Ministers publish a strategy that meets the requirements of subsections (1) and (2) before this section comes into force, that strategy is to be treated as the strategy prepared and published under subsection (1) (and subsection (6) does not apply to the preparation of the strategy).
- 35

- (9) In this section and section 26, “local authority” means a county council or county borough council.

26 Duty to have regard to national strategy on soundscapes

- (1) The following persons must have regard to the policies in the strategy published under section 25 when exercising any function of a public nature that could affect soundscapes in Wales –

- (a) local authorities in Wales;
- (b) relevant Welsh public authorities.

- (2) In this section, “relevant Welsh public authority” means a person designated in accordance with subsection (3) as a relevant Welsh public authority.

- (3) The Welsh Ministers may by regulations designate a person as a relevant Welsh public authority if (and only if) that person is a “devolved Welsh authority” within the meaning of section 157A(1)(a) of the Government of Wales Act 2006 (c. 32).

- (4) Before making regulations under subsection (3), the Welsh Ministers must consult –

- (a) the person that is proposed to be designated, and
- (b) such other persons as the Welsh Ministers consider appropriate.

Strategic noise maps and noise action plans

27 Power to change cycles for making strategic noise maps and reviewing noise action plans

- (1) The Welsh Ministers may by regulations amend regulation 7 of the Environmental Noise (Wales) Regulations 2006 (S.I. 2006/2629) (duty of the Welsh Ministers to make, review and revise strategic noise maps) to change the intervals for the time being specified by paragraph (2) of that regulation as the intervals at which strategic noise maps must be made and adopted.

- (2) The Welsh Ministers may by regulations amend regulation 17 of the Environmental Noise (Wales) Regulations 2006 (duty of the Welsh Ministers to draw up, review and revise action plans) to change the period for the time being specified by paragraph (3)(b) of that regulation as the period within which reviews of an action plan must be carried out.

PART 3

GENERAL

28 Power to make consequential, transitional etc. provision

- (1) If the Welsh Ministers consider it necessary or appropriate for the purposes of, in consequence of, or for giving full effect to any provision of this Act, they may by regulations make –

- (a) supplementary, incidental or consequential provision;
- (b) transitional or saving provision.

- (2) Regulations under subsection (1) may modify any enactment (whenever enacted or made, and including this Act).

29 Regulations

(1) A power to make regulations under this Act is exercisable by statutory instrument.

(2) A power to make regulations under this Act includes –

- (a) power to make different provision for different purposes;
- (b) power to make –
 - (i) supplementary, incidental or consequential provision;
 - (ii) transitional or saving provision.

(3) A statutory instrument to which this subsection applies may not be made unless a draft of the instrument has been laid before, and approved by resolution of, Senedd Cymru.

(4) Subsection (3) applies to a statutory instrument containing regulations under any of the following provisions –

- (a) section 1;
- (b) section 2;
- (c) section 25(7);
- (d) section 26(3).

(5) Subsection (3) also applies to a statutory instrument containing regulations under section 28 that modify any provision of primary legislation.

(6) Any other statutory instrument containing regulations under this Act is subject to annulment in pursuance of a resolution of Senedd Cymru.

(7) In this section, “primary legislation” means any of the following –

- (a) an Act of Senedd Cymru;
- (b) an Assembly Measure;
- (c) an Act of the Parliament of the United Kingdom.

30 Coming into force

(1) This Part comes into force on the day after the day on which this Act receives Royal Assent.

(2) The following provisions come into force at the end of the period of two months beginning with the day on which this Act receives Royal Assent –

- (a) sections 1 to 6;
- (b) section 8;
- (c) section 9;
- (d) sections 10, 12, 13 and 14;
- (e) section 15;
- (f) sections 22 and 23 and Schedule 2;
- (g) section 24;

(h) sections 25 and 26;

(i) section 27.

(3) The other provisions of this Act come into force on a day appointed by the Welsh Ministers in an order made by statutory instrument.

5 (4) An order under subsection (3) –

(a) may make transitional or saving provision;

(b) may appoint different days for different purposes.

31 Short title

10 The short title of this Act is the Environment (Air Quality and Soundscapes) (Wales) Act 2023.

SCHEDULE 1
(introduced by section 21)

SMOKE CONTROL

PART 1

FURTHER PROVISION IN RELATION TO FINANCIAL PENALTIES

5

1 The Clean Air Act 1993 (c. 11) is amended as follows.

2 In the heading of Schedule 1A, after “IN ENGLAND” insert “OR WALES”.

3 In paragraph 1 of Schedule 1A (key definitions) –

(a) after the definition of “person liable” insert –

10

““relevant national authority” means –

(a) in relation to a smoke control order in England, the Secretary of State;

(b) in relation to a smoke control order in Wales, the Welsh Ministers;”

15

(b) in paragraphs (a) and (b) of the definition of “relevant chimney”, after “in England” insert “or in Wales”.

4 In paragraph 3 of Schedule 1A (amount of penalty) –

(a) in sub-paragraph (3), for “Secretary of State” substitute “relevant national authority”;

20

(b) in sub-paragraph (4), after “may not be made” insert “by the Secretary of State”;

(c) after sub-paragraph (4) insert –

“(5) Regulations under sub-paragraph (3) may not be made by the Welsh Ministers unless a draft of the regulations has been laid before, and approved by a resolution of, Senedd Cymru.”

25

5 In paragraph 4 of Schedule 1A (right to object to proposed financial penalty) –

(a) in sub-paragraph (4), for “Secretary of State” substitute “the relevant national authority”;

(b) in sub-paragraph (5), at both places it occurs, for “Secretary of State” substitute “the relevant national authority”;

30

(c) in sub-paragraph (6), after “may not be made” insert “by the Secretary of State”;

(d) after sub-paragraph (6) insert –

“(7) Regulations under sub-paragraph (4) may not be made by the Welsh Ministers unless a draft of the regulations has been laid before, and approved by resolution of, Senedd Cymru.”

35

6 In paragraph 5 of Schedule 1A (decision regarding a final notice), in the opening words of sub-paragraph (1), omit “in England”.

7 In paragraph 6 of Schedule 1A (final notice), in sub-paragraph (1), omit “in England”.

PART 2

EXPENDITURE ON OLD PRIVATE DWELLINGS

8 The Clean Air Act 1993 (c. 11) is amended as follows.

9 In Schedule 2 (smoke control orders: expenditure on old private dwellings) –

- 5
- (a) omit paragraphs 1, 2 and 3;
 - (b) in paragraph 4(1), omit paragraphs (a) and (b);
 - (c) in paragraph 4(2), omit paragraphs (a) and (b).

PART 3

MINOR AND CONSEQUENTIAL AMENDMENTS AND REPEALS

10 *Clean Air Act 1993 (c. 11)*

10 The Clean Air Act 1993 is amended as follows.

11 In section 18 (declaration of smoke control area by local authority) –

- (a) in subsection (2)(b), for the words from “section 20” to “in England)” substitute “Schedule 1A (penalty for emission of smoke in England or in Wales)”;
- 15 (b) in subsection (2A), after “England” insert “or in Wales (as the case may be)”.

12 Sections 20 to 23 (including the italic headings above sections 20 and 23) are repealed.

13 In section 24 (power of local authority to require adaptation of fireplaces in private dwellings), in subsection (1), for the words from “contraventions” to the end substitute “the imposition of a financial penalty under Schedule 1A (penalty for emission of smoke in England or Wales)”.

20

14 In section 26 (power of local authority to make grants towards adaptations to fireplaces in certain buildings), in subsection (1), for the words from “contraventions” to “England)” substitute “the imposition of a financial penalty under Schedule 1A (penalty for emission of smoke in England or Wales)”.

25 15 In section 27 (references to adaptations for avoiding contraventions of section 20 or Schedule 1A) –

- (a) in the heading, omit “section 20 or”;
- (b) in subsection (1) –
 - 30 (i) in the opening words, for the words from “contraventions” to “England)” substitute “the imposition of a financial penalty under Schedule 1A (penalty for emission of smoke in England or Wales)”;
 - (ii) in the words after paragraph (e), omit “contraventions of section 20 or”;
- (c) in subsection (3), omit “contraventions of section 20 of this Act or”.

16 In section 29 (interpretation of Part 3) –

- 35
- (a) omit the definition of “authorised fuel”;
 - (b) after the definition of “smoke control order in England” insert –

““smoke control order in Wales” means a smoke control order made by a local authority in Wales.”

- 17 In section 45 (exemption for purposes of investigations and research) –
- (a) in subsection (1)(a), omit “, 20 (smoke in smoke control area)”;
5 (b) in subsection (1)(e), for “section 23” substitute “section 19F”.
- 18 In section 51 (duty to notify occupiers of offences) –
- (a) in subsection (1)(a), for “, 2 or 20” substitute “or 2”;
 - (b) in subsection (3), for “, 2 or 20” substitute “or 2”.
- 19 In section 61 (joint exercise of local authority functions), in subsection (3)(b) for “, Schedule
10 1 and paragraph 1 of Schedule 2” substitute “and Schedule 1”.
- 20 In section 63 (regulations and orders) –
- (a) in subsection (2), after “made under this Act” insert “by the Secretary of State”;
 - (b) after subsection (2) insert –
15 “(2A) Any statutory instrument containing regulations made under this Act by the Welsh Ministers, except an instrument containing regulations a draft of which is required by section 6(3), 10(5) or 47(2) or paragraph 3(5) or 4(7) of Schedule 1A to be approved by a resolution of Senedd Cymru, is subject to annulment in pursuance of a resolution of Senedd Cymru.”
 - (c) in subsection (3), omit “, 21 or 22”.
- 21 In Schedule 1 (coming into operation of smoke control orders) –
- (a) after paragraph 1 insert –
25 “1A If the local authority is in Wales, it must also publish the notice electronically and keep it published throughout the period mentioned in paragraph 1(b).
1B The requirement in paragraph 1A to publish the notice electronically is a requirement to publish the notice on the local authority’s website, if it has one.”
 - (b) in paragraph 5, for the words from “section 20” to “in England)” substitute
30 “Schedule 1A (penalty for emission of smoke in England or Wales)”;
 - (c) after paragraph 6A insert –
“6B When a local authority in Wales has made an order, the authority must –
(a) inform the Welsh Ministers that it has done so, and
35 (b) provide the date on which the order is to come, or came, into operation.”
- 22 In Schedule 5 (transitional provisions) –
- (a) after paragraph 12 insert –

“12A If the local authority is in Wales, it must also publish the notice electronically and keep it published throughout the period mentioned in paragraph 12(b)

5 12B The requirement in paragraph 12A to publish the notice electronically is a requirement to publish the notice on the local authority’s website, if it has one.”

(b) in paragraph 13, after “paragraph 12” insert “and (if relevant) paragraph 12A”.

Environment Act 2021 (c. 30)

23 In the Environment Act 2021 –

- 10 (a) in section 147(4) (commencement powers of Welsh Ministers), omit paragraph (f);
(b) Part 2 of Schedule 12 (principal amendments to the Clean Air Act 1993: Wales) is repealed.

SCHEDULE 2

(introduced by section 23)

TRUNK ROAD CHARGING SCHEMES: APPLICATION OF PROCEEDS

- 1 The Transport Act 2000 (c. 38) is amended as follows.
- 5 2 In paragraph 2(4) of Schedule 12 (financial provision about road user charging), after
"section 167(2)(b)" insert "or (3)(c)".
- 3 In paragraph 3(2) of that Schedule, in the opening words, after "section 167(2)(b)" insert
"or (3)(c)".
- 4 In the cross-heading before paragraph 13 of that Schedule, omit "and Assembly".
- 10 5 In paragraph 13 of that Schedule –
- (a) in sub-paragraph (1), for "relevant authority's" substitute "Secretary of State's";
 - (b) in sub-paragraph (4), for "appropriate national authority" substitute "Secretary of
State";
 - (c) in sub-paragraph (5) –
- 15 (i) for "relevant authority's" substitute "Secretary of State's";
- (ii) for "appropriate national authority" substitute "Secretary of State".
- 6 After paragraph 13 of that Schedule insert –

"Application of proceeds by Welsh Ministers

- 14 (1) In the case of a trunk road charging scheme –
- 20 (a) which is made by virtue of subsection (3) of section 167, and
- (b) which is made wholly or partly for the purpose of reducing or
limiting air pollution,
- the Welsh Ministers must publish a statement and lay it before Senedd
Cymru as soon as reasonably practicable after the scheme is made.
- 25 (2) The statement must –
- (a) state that the scheme is made wholly or partly for the purpose
of limiting or reducing air pollution;
 - (b) provide an estimate of the net proceeds of the scheme for at least
the first five financial years in which the scheme will be in
30 operation;
 - (c) specify how the Welsh Ministers propose to apply their share of
those net proceeds, and
 - (d) provide an assessment of the expected effect of those proposals
on air quality (if any).
- 35 15 (1) In the case of a trunk road charging scheme –
- (a) which is made by virtue of subsection (3) of section 167, and

- (b) which is not made (either wholly or partly) for the purpose of reducing or limiting air pollution,

the Welsh Ministers' share of the net proceeds of the scheme is available only for application for the purpose of directly or indirectly facilitating the achievement of any policies or proposals relating to transport.

- (2) Where the scheme is made by virtue of paragraph (a) of subsection (3) of section 167, sub-paragraph (1) applies only during the period of ten years beginning with the coming into force of the scheme.

- (3) The Welsh Ministers may by regulations make provision as to circumstances in which—

(a) the same scheme is to be regarded as continuing in force in spite of a variation of the scheme or the revocation and replacement (with or without modifications) of the scheme, or

(b) a different scheme is, or is not, to be regarded as coming into force,

for the purposes of determining when the period specified in sub-paragraph (2) begins or expires in the case of a scheme.

- (4) Where sub-paragraph (1) no longer applies to a scheme made by virtue of paragraph (a) of subsection (3) of section 167, the Welsh Ministers' share of the net proceeds of the scheme is available to be applied only as may be specified in, or determined in accordance with, regulations made by the Welsh Ministers.

- (5) The provision that may be made by regulations under sub-paragraph (4) includes provision for sub-paragraph (2) to apply with the substitution for the number of years for the time being mentioned in it of a number of years greater than ten."

In section 197 (Part 3: regulations and orders)—

(a) in subsection (6), for "National Assembly for Wales" substitute "Welsh Ministers";

(b) after subsection (6) insert—

"(7) Regulations shall not be made by the Welsh Ministers under—

(a) section 182(5), or

(b) paragraph 15(4) of Schedule 12,

unless a draft of the regulations has been laid before, and approved by a resolution of, Senedd Cymru.

- (8) A statutory instrument containing regulations made by the Welsh Ministers under any other provision of this Part shall be subject to annulment in pursuance of a resolution of Senedd Cymru.

- (9) The references in subsections (7) and (8) to regulations made by the Welsh Ministers include regulations made by them jointly with the Secretary of State."