

The Environment (Wales) Act duties

6 Biodiversity and resilience of ecosystems duty

(1) A public authority must seek to maintain and enhance biodiversity in the exercise of functions in relation to Wales, and in so doing promote the resilience of ecosystems, so far as consistent with the proper exercise of those functions.

(2) In complying with subsection (1), a public authority must take account of the resilience of ecosystems, in particular the following aspects—

- (a) diversity between and within ecosystems;
- (b) the connections between and within ecosystems;
- (c) the scale of ecosystems;
- (d) the condition of ecosystems (including their structure and functioning);
- (e) the adaptability of ecosystems.

(3) Subsection (1) does not apply to—

- (a) the exercise of a function by Her Majesty's Revenue and Customs, or
- (b) the exercise of a judicial function of a court or tribunal.

(4) In complying with subsection (1)—

- (a) the Welsh Ministers, the First Minister for Wales, the Counsel General to the Welsh Government, a Minister of the Crown and a government department must have regard to the United Nations Environmental Programme Convention on Biological Diversity of 1992, and
- (b) any other public authority must have regard to any guidance given to it by the Welsh Ministers.

(5) In complying with subsection (1), a public authority other than a Minister of the Crown or government department must have regard to—

- (a) the list published under section 7;
- (b) the state of natural resources report published under section 8;
- (c) any area statement published under section 11 for an area that includes all or part of an area in relation to which the authority exercises functions.

(6) A public authority other than a Minister of the Crown or government department must prepare and publish a plan setting out what it proposes to do to comply with subsection (1).

(7) A public authority must, before the end of 2019 and before the end of every third year after 2019, publish a report on what it has done to comply with subsection (1).

(8) A public authority that has published a plan under subsection (6)—

(a) must review the plan in the light of each report that it publishes under subsection (7), and

(b) may revise the plan at any time.

(9) In this section—

- “Minister of the Crown” (“*Gweinidog y Goron*”) has the same meaning as in the Ministers of the Crown Act 1975 (c. 26);
- “public authority” (“*awdurdod cyhoeddus*”) means—
 - (a) the Welsh Ministers;
 - (b) the First Minister for Wales;
 - (c) the Counsel General to the Welsh Government;
 - (d) a Minister of the Crown;
 - (e) a public body (including a government department, a local authority, a local planning authority and a strategic planning panel);
- (f) a person holding an office—
 - (i) under the Crown,
 - (ii) created or continued in existence by a public general Act of the National Assembly for Wales or of Parliament, or
 - (iii) the remuneration in respect of which is paid out of money provided by the National Assembly for Wales or Parliament;
- (g) a statutory undertaker.

(10) In subsection (9)—

- “local authority” (“*awdurdod lleol*”) means a council of a county, county borough or community in Wales;
- “local planning authority” (“*awdurdod cynllunio lleol*”) has the meaning given by the Town and Country Planning Act 1990 (c. 8);
- “statutory undertaker” (“*ymgymerwr statudol*”) means any of the following—
 - (a) a person authorised by any enactment to carry on any railway, light railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour, pier or lighthouse undertaking or any undertaking for the supply of hydraulic power;
 - (b) an operator of an electronic communications code network (within the meaning of paragraph 1(1) of Schedule 17 to the Communications Act 2003 (c. 21));
 - (c) an airport operator (within the meaning of the Airports Act 1986 (c. 31)) operating an airport to which Part 5 of that Act applies;
 - (d) a gas transporter (within the meaning of Part 1 of the Gas Act 1986 (c. 44));
 - (e) a holder of a licence under section 6(1) of the Electricity Act 1989 (c. 29);

- (f) a water or sewerage undertaker;
 - (g) the Civil Aviation Authority or a holder of a licence under Chapter 1 of Part 1 of the Transport Act 2000 (c. 38), to the extent that the person holding the licence is carrying out activities authorised by it;
 - (h) a universal service provider within the meaning of Part 3 of the Postal Services Act 2011 (c. 5);
- “strategic planning panel” (“*panel cynllunio strategol*”) means a strategic planning panel established under section 60D of the Planning and Compulsory Purchase Act 2004 (c. 5).

7 Biodiversity lists and duty to take steps to maintain and enhance biodiversity

(1) The Welsh Ministers must prepare and publish a list of the living organisms and types of habitat which in their opinion are of principal importance for the purpose of maintaining and enhancing biodiversity in relation to Wales.

(2) Before publishing a list under this section the Welsh Ministers must consult the Natural Resources Body for Wales (“NRW”) as to the living organisms or types of habitat to be included in the list.

(3) Without prejudice to section 6, the Welsh Ministers must—

(a) take all reasonable steps to maintain and enhance the living organisms and types of habitat included in any list published under this section, and

(b) encourage others to take such steps.

(4) The Welsh Ministers must, in consultation with NRW—

(a) keep under review any list published by them under this section,

(b) make such revisions of any such list as appear to them appropriate, and

(c) publish any list so revised as soon as is reasonably practicable after revising it.

(5) In exercising their functions under this section, the Welsh Ministers must apply the principles of sustainable management of natural resources.