ENVIRONMENT (PRINCIPLES, GOVERNANCE AND BIODIVERSITY TARGETS) (WALES) ACT 2026

EXPLANATORY NOTES

INTRODUCTION

1. These Explanatory Notes are for the Environment (Principles, Governance and Biodiversity Targets) (Wales) Act 2026 ("the Act") which was passed by Senedd Cymru on 24 February 2026 and received Royal Assent on 27 April 2026. They have been prepared by the Climate Change & Environmental Sustainability Directorate of the Welsh Government to assist the reader of the Act. The Explanatory Notes relate to the Act as it received Royal Assent.[1] They should be read in conjunction with the Act but are not part of it.

GENERAL OVERVIEW OF THE ACT

2. Part 1 of the Act makes provision imposing duties on the Welsh Ministers, Natural Resources Wales and certain other public authorities to apply environmental principles and to integrate environmental protection. These duties are essential to contribute to protecting and improving the environment, in particular given the effects of the climate and nature emergencies.

3. Part 2 of the Act establishes an independent environmental governance body, the Office of Environmental Governance Wales ("the OEGW") to provide strategic oversight of requirements on public authorities to comply with environmental law, to make effective environmental law and to implement / apply environmental law effectively. The OEGW will hold the Welsh Government, and other public authorities, to account in relation to the environment in Wales in a way that is similar to what happens in the rest of the United Kingdom.

[1] Any changes that have been made to the Act since it received Royal Assent can be identified using the "Changes to Legislation" facility at www.legislation.gov.uk/changes.

4. Part 3 of the Act creates a framework for the Welsh Ministers to set, review, and report on, targets to halt and reverse the decline in biodiversity in Wales. This Part creates new duties on the Welsh Ministers including, for example, to ensure that targets they have set in regulations are met, to lay draft regulations before the Senedd within 2 years of Royal Assent of the Act that set targets in respect of four priority areas, and to take steps to promote awareness in Wales of the importance of, and threats to, biodiversity. This Part also allows the Welsh Ministers to designate certain public authorities in Wales as being subject to a new duty to take action to contribute to achieving the target for which they are designated.

5. The Act comprises 47 sections and 4 Schedules and is divided into 4 Parts as follows:

Part 1 – Environmental objective and principles
Part 2 – The Office of Environmental Governance Wales
Part 3 – Biodiversity targets, etc
Part 4 - General

Schedule 1 - the Office of Environmental Governance Wales
Schedule 2 - the Office of Environmental Governance Wales: strategy
Schedule 3 - Staff transfer schemes
Schedule 4 - Consequential amendments

COMMENTARY ON SECTIONS

PART 1 - Environmental objective and principles

6. This Part of the Act sets out the environmental objective and principles and in so doing establishes a new framework for environmental governance by imposing duties on the Welsh Ministers, Natural Resources Wales ("NRW") and certain other public authorities to apply the principles and to integrate environmental protection. These duties are intended to be the foundation which places a high level of environmental protection and improvement of the environment at the heart of policy making, and strategic environmental assessment, in Wales. They are essential to contribute to protecting and improving the environment and to contribute to an effective and urgent response to the climate and nature emergencies.

Section 1 – Environmental objective

7. Section 1 defines "environmental objective" for the purposes of this Part. The objective guides the application and implementation of the duties to apply the environmental principles and integrate environmental protection imposed on the Welsh Ministers, when making policy, (section 3(1)) and certain public authorities, when carrying out environmental assessment (section 5(1)). In each case, those duties must be exercised for the purpose of contributing to the objective. The environmental principles and integrating environmental protection statement (sections 6 and 7) will, among other things, explain how those duties relate to the objective.

8. The objective does not apply to the duties imposed on NRW. This is explained further below (section 4).

9. Subsection (1) defines the environmental objective as the attainment of a high level of environmental protection and an improvement of the environment. "Environment" and "environmental protection" are defined in section 44. In addition, the environmental objective emphasises a number of specific outcomes at subsection (1)(a) to (d) which are to result from contributing, through the application of the relevant duties, to the attainment of a high level of environmental protection and an improvement of the environment.

10. Subsection (1)(a) makes provision to align the environmental objective with the Well-being of Future Generations (Wales) Act 2015 ("the WFG Act"). The WFG Act imposes duties on public bodies, including the Welsh Ministers, to pursue sustainable development in a way that improves the social, economic, environmental, and cultural well-being of Wales by taking action, in accordance with the sustainable development principle, aimed at achieving the well-being goals (see section 2 of that Act). These duties imposed by the WFG Act are closely linked to the desired policy outcomes of the environmental objective. To complement this, provision is made to recognise the contribution to the WFG Act well-being goals (where relevant) and to meet the needs of the present without compromising the ability of future generations to meet their own needs, establishing consistency with the WFG Act and supporting its wider implementation.

11. Subsection (1)(b) emphasises the resilience of ecosystems and the benefits they provide. This recognises the "ecosystems approach" which promotes holistic decision-making rather than addressing issues in isolation, and is an important aspect of the Environment (Wales) Act 2016 (the "2016 Act"), the WFG Act and Part 1 of the Agriculture (Wales) Act 2023 (the "Agriculture Act"), ensuring a consistent and mutually supportive approach across legislation. Productive and stable ecosystems are essential to support biodiversity and to provide essential benefits or services such as pollination, water purification, and climate regulation.

12. Subsection (1)(c) emphasises mitigating and adapting to climate change. An example of mitigating climate change is to reduce greenhouse gas emissions from operations and embedded sources, as well as enhancing the capacity of land (including for example, agricultural land) for carbon sequestration. Adapting to climate change may entail taking measures to minimise its impacts, examples of which include modifying practices to sustain the production of food and other goods, implementing natural flood management strategies, and using trees to provide shade.

13. The outcome at subsection (1)(d) is to contribute to halting and reversing the decline in biodiversity, which is vital for a high level of environmental protection and an improved environment. This includes, for example, preventing habitat loss, protecting endangered species and restoring degraded ecosystems.

14. The outcomes set out are intended to be complementary and mutually supportive. They are not exhaustive, and it is recognised that attaining a high level of environmental protection and improving the quality of the environment can also achieve other outcomes and benefits.

15. Subsection (2) sets out factors relevant to the resilience of ecosystems for the purposes of subsection (1)(b), to emphasise their importance in maintaining and enhancing ecosystem resilience and to complement existing policy approaches and legislative provision. Those factors were established by the 2016 Act (section 4(i)) and were also included as part of the Sustainable Land Management objectives under the Agriculture Act (section 1(7)).

Section 2 – Environmental principles

16. Section 2 defines certain "environmental principles" for the purposes of this Part. These are:

    (a) the precautionary principle so far as relating to the environment;
    (b) the principle that preventative action should be taken to avoid environmental damage;
    (c) the principle that environmental damage should as a priority be rectified at source;
    (d) the polluter pays principle.

17. These principles are informed by a number of sources including international agreements and the EU. The understanding of these principles is increasingly well established and continues to develop in different contexts, with complex interplays between international commitments, international law, domestic legislation and case-law, for example. The environmental principles and integrating environmental protection statement (sections 6 and 7) will provide further detail on the interpretation and application of the principles.

Section 3 - Welsh Ministers' duties when making policy

18. Subsection (1) requires the Welsh Ministers, for the purpose of contributing to the environmental objective, to have special regard to the environmental principles when making policy in relation to Wales and to integrate environmental protection into the making of such policy. The intention is to ensure that the principles and environmental protection are a fundamental aspect of the Welsh Ministers' policy making.

19. The duty does not apply if the policy in question would have no effect or a negligible effect on the environment (see subsection (4)). The intention is to avoid the duty applying in those circumstances where policy making has no environmental effect or the environmental effect is so small as to be insignificant or inconsequential, which would be unnecessary and could undermine effective implementation in other cases when the environmental effect is more significant. It is considered that the duty will usually apply because most policy making is likely to have more than a negligible effect on the environment.

20. A duty to have "special regard" to a particular matter requires the decision maker to which the duty applies to give "considerable importance and weight" to that matter. This means that the Welsh Ministers are required to give special attention of considerable importance and weight to the principles when making policy.

21. As with a duty to "have regard", it remains the case that there is a balancing exercise to carry out, but in the case of a "special regard" duty, those factors to which the decision maker is to have special regard are to be given particular importance in the balancing exercise. In this case, this means that the environmental principles must feature prominently in the balancing exercise.

22. This strengthens the role of environmental principles in policy making, reflecting their importance while also maintaining flexibility that will be necessary across diverse policy areas. The "special regard" duty ensures that environmental principles feature prominently in decision-making, whilst also enabling the Welsh Ministers to balance the environmental principles with other relevant considerations (e.g., public health, costs) depending on the context.

23. For example, the circumstances may mean that other important considerations or countervailing factors, such as for example public health considerations, excessive costs or other impacts, should be given greater weight than the principles. In some cases, it may be appropriate in all the circumstances, to give a greater effect to one or more of the principles. In cases with no or negligible environmental effect, the duty will not apply. The intent of the approach taken is to emphasise the importance of the principles, while accommodating diverse areas and factors to be considered by the Welsh Ministers when making policy in relation to Wales.

24. Provision is made to impose a duty on the Welsh Ministers to integrate environmental protection into policy making. As with the principles themselves, this duty will apply to all areas of the Welsh Ministers' policy making, in relation to Wales, unless the policy in question has no effect or a negligible effect on the environment. This aims to ensure environmental protection is considered across all policy areas, as significant impacts on the environment occur in other areas, not only from within the framework of environmental policy.

25. Subsection (2) requires the Welsh Ministers to have regard to the environmental principles and integrating environmental protection statement, or revised statement, published under section 7 when complying with the duty in subsection (1). The statement will explain, amongst other things, how the Welsh Ministers propose to comply with the duties imposed on them.

26. Subsection (3) defines "policy", "making policy" and "Wales" for the purposes of this section. "Wales" is defined broadly to include so far as policy relates to fishing, fisheries or fish health, the area of the Welsh zone beyond the seaward limit of the territorial sea. This extends for these purposes the definition of "Wales" in Schedule 1 to the Legislation (Wales) Act 2019. "Welsh zone" is defined by Schedule 1 to that Act.

Section 4 - Natural Resources Wales' duties when making policy

27. Section 4 amends the Natural Resources Body for Wales (Establishment) Order 2012 (S.I. 2012/1903 (W.230)) by inserting at subsection (2) a new article 4A.

28. Article 4A(1) requires NRW to have special regard to the environmental principles when making policy in relation to Wales, and to integrate environmental protection into the making of such policy. The effect of a "special regard" duty is explained above in the context of the duty imposed on the Welsh Minsters (section 3). The duty to integrate environmental protection ensures that environmental protection forms part of policy making across all of NRW's policy areas. These provisions place a specific emphasis on the environmental principles and the integration of environmental protection by ensuring they are considered and applied as a fundamental part of NRW policy making, given NRW's wide ranging regulatory and other responsibilities in relation to the environment and substantial role in making environmental policy in Wales.

29. The environmental objective does not apply to these duties. NRW has already its own general purpose, which is to (a) pursue sustainable management of natural resources ("SMNR") in relation to Wales, and (b) apply the principles of SMNR, in the exercise of its functions, so far as consistent with their proper exercise (article 4(1), Natural Resources Body for Wales (Establishment) Order 2012).

30. As NRW has its own general purpose already, aimed at SMNR, it is not necessary to apply the environmental objective to NRW. NRW's general purpose, and the environmental objective that will apply to the Welsh Ministers and certain public authorities, are complementary and mutually supportive and together will focus action on improved outcomes. NRW's general purpose will continue to apply to NRW and NRW will be required to apply the environmental principles, and to integrate environmental protection, within the context of that purpose.

31. Article 4A(2) requires NRW to have regard to guidance included in the environmental principles and integrating environmental protection statement or revised statement published under section 7 when complying with the duty in article 4A(1).

32. Article 4A(3) defines for the purposes of article 4A," environmental principles" "environmental protection", "policy", "making policy" and "Wales". "Wales" is defined broadly to include so far as policy relates to fishing, fisheries or fish health, the area of the Welsh zone beyond the seaward limit of the territorial sea. This extends for these purposes the definition of "Wales" in Schedule 1 to the Legislation (Wales) Act 2019. "Welsh zone" is defined by Schedule 1 to that Act.

Section 5 - Environmental assessments: public authorities' duties

33. Subsection (1) requires certain public authorities, for the purpose of contributing to the environmental objective, to have regard to the environmental principles and to integrate environmental protection when carrying out certain functions.

34. Subsection (2) provides that the duty in subsection (1) applies to any functions in connection with the assessment of plans and programmes relating solely to Wales or to any part of Wales under the Environmental Assessment of Plans and Programmes (Wales) Regulations 2004 (S.I. 2004/1656 (W.170)). The 2004 Regulations require the assessment of certain plans or programmes, including for example the preparation of an environmental report and consultation. Subsection (2) provides that the duty in subsection (1) also applies to any corresponding provision replacing those Regulations. This means that this duty applies to the 2004 Regulations as amended, revoked and replaced or re-enacted from time to time, so that the duty applies however provision is made for environmental assessment of plans and programmes that relate solely to the whole or any part of Wales.

35. A duty to "have regard" is the regard that is appropriate in all the circumstances. The duty must be exercised in substance, with rigour and with an open mind.

36. The intention is to take a targeted and proportionate approach that complements the wider policy making duties imposed on the Welsh Ministers and NRW and focusses consideration of the principles and environmental protection on scenarios of potentially significant environmental impact, to contribute to a high level of protection of the environment in the preparation and adoption of relevant plans and programmes.

37. Subsection (3) specifies that public authorities must have regard to guidance included in the environmental principles and integrating environmental protection statement or revised statement, published under section 7 when complying with the duty in subsection (1).

38. Subsection (4) defines "public authority" for the purposes of sections 5 and 6.

Section 6 - Environmental principles and integrating environmental protection statement

39. Section 6 places a duty on the Welsh Ministers to prepare an "environmental principles and integrating environmental protection statement". This statement must include guidance to NRW and public authorities about the duties imposed on them. The publication of the statement, and the process prescribed for its preparation (section 7), is intended to aid understanding of the interpretation and application of the principles and the duty to integrate environmental protection, as well as enhance accessibility and facilitate scrutiny and engagement.

40. Subsection (1) sets out that the statement must explain certain matters relating to the interpretation and application of the duty imposed on the Welsh Ministers by section 3(1). This includes how the Welsh Ministers consider the environmental principles should be interpreted, how they propose to comply with that duty, how they propose to determine, for the purpose of section 3(4), whether a policy would have no effect or a negligible effect on the environment, how the environmental principles relate to each other and to the duty in section 3(1)(b) and how the environmental principles and the duty in section 3(1)(b) relate to the environmental objective. In so doing, the statement will need to explain how the principles apply in different circumstances and what they mean for those circumstances.

41. The statement must also explain how the duties in section 3(1), section 5(1) and article 4A(1) of the Natural Resources Body for Wales (Establishment) Order 2012 relate to each other.

42. Subsection (2) requires the statement to include guidance to NRW on certain matters relating to compliance with, and application of, the duty imposed on NRW by article 4A(1) (inserted by section 4(2)).

43. Subsection (3) requires the statement to include guidance to public authorities on certain matters relating to compliance with, and application of, the duty imposed on them by section 5(1).

44. Subsection (4) provides that the statement may also cover any other matters the Welsh Ministers consider appropriate.

Section 7 - Environmental principles and integrating environmental protection statement: procedural requirements

45. Subsection (1) places a duty on the Welsh Ministers, when preparing a draft of the statement, to consult (a) Natural Resources Wales, (b) the Future Generations Commissioner for Wales, (c) the Office of Environmental Governance Wales, and (d) such other persons as they consider appropriate.

46. Subsection (2) requires the Welsh Ministers to lay before Senedd Cymru a copy of the draft statement together with a document giving details of the consultation carried out under subsection (1) and summarising the representations received and the Welsh Ministers' response to them.

47. Subsection (3) provides that if, before the end of the 40-day period (see subsection (8)), Senedd Cymru makes recommendations in relation to the draft, the Welsh Ministers must lay before Senedd Cymru their response to the recommendations.

48. Subsection (4) requires the Welsh Ministers to prepare a final statement and lay it before the Senedd.

49. Subsection (5) provides that the final statement must not be laid before the day on which the Welsh Ministers lay their response, if subsection (3) applies, or the end of the 40-day period.

50. Subsection (6) requires the Welsh Ministers to publish the final statement when it laid before the Senedd. The final statement must be laid before the Senedd no later than 31 March 2027 (subsection (7)), which aligns with the commencement of sections 3 to 5.

51. Subsection (8) defines the "40-day period".

52. Subsection (9) requires the Welsh Ministers to review the statement after each general election and also provides that the Welsh Ministers may review the statement at any other time. Subsection (10) defines "general election" for the purposes of subsection (9).

53. Subsection (11) provides that the Welsh Ministers may prepare a revised statement after reviewing the statement and that subsections (1) to (6) and (8) to (10) apply in relation to any revised statement.

54. Subsection (12) provides that the consultation requirements set out at subsection (1) may be met by consultation carried out before this section comes into force, enabling the statement to be progressed as efficiently and effectively as possible ahead of commencement.

PART 2 – The Office of Environmental Governance Wales

55. This Part of the Actestablishes the Office of Environmental Governance Wales ("OEGW") and makes provision about its functions in relation to overseeing public authorities' (as defined in section 32) compliance with environmental law, and the implementation and application of environmental law in Wales, including the making of environmental law or its effectiveness.

The Office of Environmental Governance Wales

Section 8 – Establishment of the Office of Environmental Governance Wales

56. Section 8 establishes the OEGW and introduces Schedule 1, which makes further provision about the OEGW.

Section 9 – Independence of the OEGW

57. Section 9 requires the Welsh Ministers to have regard to the need to protect the independence of the OEGW when exercising functions in respect of it.

Section 10 – General purpose etc.

58. Section 10 provides that the OEGW must exercise its functions for the general purpose of contributing to the attainment of a high level of environmental protection and an improvement of the environment, and ensuring the effectiveness of environmental law and that it is complied with, implemented and applied.

59. This general purpose is intended to provide strategic direction for the OEGW, particularly in relation to the attainment of a high level of environmental protection and an improvement of the environment, which has symmetry with the environmental objective in Part 1. The OEGW will fulfil this purpose in overseeing public authorities' compliance with environmental law, as well as ensuring environmental law has been made, implemented and /or applied effectively by public authorities.

60. Paragraph (b) requires the OEGW to exercise its functions impartially, objectively, proportionately and transparently.

Section 11 – Duty to prepare and publish strategy

61. Section 11 requires the OEGW to publish a strategy which sets out how it intends to exercise its functions.

62. Subsections (1) and (2) place a duty on the OEGW to prepare and publish a strategy which outlines how it intends to exercise its functions. Subsection (3) places a duty on the OEGW to exercise its functions in accordance with that strategy.

63. Subsection (4) introduces Schedule 2 to the Act, which provides further details about what the strategy must contain and its procedural requirements.

Monitoring, reporting and advising functions

Section 12 – Monitoring and reporting

64. Section 12 provides for the OEGW's monitoring and reporting function. These provisions are intended to form a key part of the OEGW's assessment of whether or not environmental law is effective. These provisions will also enable the OEGW to gather additional intelligence around whether environmental law is being complied with by public authorities without being solely reliant on direct representations received from the public.

65. Subsection (1) sets out the matters the OEGW must monitor in relation to environmental law.

66. Subsection (2) provides that the OEGW may report on the matters set out in subsection (1) or any other matter concerned with the making of environmental law or its effectiveness. This section allows the OEGW to report on any matter that it is required to monitor under subsection (1), or any other matter concerned with the making of environmental law or its effectiveness.), and there is nothing to prevent the matters from being combined in a single report.

67. Subsection (3) states any reports made under subsection (2) must be published and laid before Senedd Cymru. This is to provide transparency and clarity to stakeholders, and the public, as well as accountability in respect of the way the OEGW carries out its functions.

Section 13 – Advising the Welsh Ministers

68. Section 13 sets out the circumstances in which the OEGW may give advice to the Welsh Ministers and to what this advice may relate. The OEGW may provide the advice of its own initiative or on request from the Welsh Ministers, and if the Welsh Ministers make such a request, it will be for the OEGW to determine whether it will provide the advice requested.

69. Subsection (1)(a) to (c) provide the matters on which the OEGW may give advice to the Welsh Ministers.

70. Subsection (2) sets out the OEGW may give advice to the Welsh Ministers on its own initiative or at the request of the Welsh Ministers. The effect is that the OEGW does not need to wait to be asked by the Welsh Ministers for advice before providing any advice.

71. Subsection (3)(a) and (b) provide that where the Welsh Ministers have requested the OEGW's advice and the OEGW determines not to give the advice requested, the OEGW must provide a statement of its reasoning as to why it has not provided the requested advice.

72. Subsection (4) provides the OEGW must publish any advice provided under this section making it available to anyone who may have an interest in the advice provided by the OEGW

73. Subsection (5) places a duty on the Welsh Ministers to have regard to any advice given by the OEGW under section 5.

74. Subsection (6) defines "Wales" for the purposes of subsection (1) to set the extent of the OEGW's scope when providing advice to the Welsh Ministers. The effect is that the OEGW's advice may relate to fishing, fisheries or fish health in the area of the Welsh zone beyond the seaward limit of the territorial sea (which is outside the meaning of "Wales" given by the Legislation (Wales) Act 2019).

Section 14 – Advice, guidance and assistance on environmental law

75. Section 14 sets out the circumstances in which the OEGW may issue guidance, and may give advice or other assistance on any matter relating to environmental law. The section allows the OEGW to provide its expertise on matters it deems appropriate.

76. Subsection (1) makes provision for the OEGW to issue guidance (whether general or specific), or advice or other assistance to any person, on any environmental law matter. It will be at the discretion of the OEGW to consider whether or how to provide advice.

77. Subsection (2) provides that where the OEGW's advice under this section includes recommendations relating to a public authority's application or implementation of environmental law the OEGW may require the authority to respond within a specified period. Requiring a response from the public authority is intended to require it to give some consideration to the advice of the OEGW. This allows the OEGW to ensure its advice has been considered, and, if the OEGW is not satisfied this is the case, it may choose to continue monitoring the situation in accordance with its strategy. This provision could also allow the OEGW to make recommendations to public authorities where there is no clear non-compliance, but the OEGW is still concerned about aspects of the authorities' implementation or application of environmental law and the possibility of future non-compliance

78. Subsection (3) places a duty on the OEGW to publish any guidance issued under this section.

Information notices

Section 15 – Information notices

79. Section 15 provides that the OEGW may serve an information notice on a public authority and the circumstances in which it may do so. Serving an information notice ensures the OEGW can gather information that it reasonably requires from public authorities to exercise its functions and the public authority must comply.

80. Subsection (1) provides the OEGW may serve an information notice on a public authority.

81. Subsection (2) sets out what an information notice is and provides that the OEGW may only request information which is relevant to the exercise of its functions.

82. Subsection (3) sets out what must be specified in an information notice. It states that an information notice must specify the information that must be given, the purpose for which this information is required, how this information is to be given and the period in which it must be given.

83. Subsection (4) makes provision that the minimum time within which the public authority will be required to comply with the information notice is 2 months beginning on the day on which the information notice is served.

84. Subsection (5) enables the OEGW to withdraw or vary an information notice served on a public authority, but the OEGW must give notice to the public authority that it is doing so.

85. Subsection (6) allows public authorities to make representations to the OEGW about an information notice before the end of the period within which the information is required to be given to the OEGW.

86. Subsection (7) sets out that where such a representation is made, the time the OEGW takes to consider it does not count as part of the period within which the information is required to be given. As an example, if the information notice requires information to be provided to the OEGW within 2 months of the notice being served, the public authority may submit a representation 14 days after being served with the notice. If the OEGW concludes its consideration of the representation 7 days from the date the representation was received and confirms the notice, the information would need to be provided within 2 months and 7 days of the notice being served (i.e. the original 2 months, plus the 7 days it took the OEGW to consider and respond to the representation).

Representations

Section 16 – Representations

87. Subsection 16(1) provides that a person may make representations to the OEGW on any matters relating to:
    a. public authorities' compliance with environmental law,
    b. how environmental law is implemented and applied, and
    c. the effectiveness of environmental law.

88. The reference to "a person" excludes reserved authorities, where it would involve a change to their functions which would be beyond the Senedd's powers to make.

89. Subsection (2) requires the OEGW to prepare and publish a document setting out the procedure by which representations may be made.

90. Subsection (3) requires this document to also set out how the OEGW will keep persons informed about its response to any such representations, as well as any action the OEGW is taking.

Investigations

Section 17 – Investigations

91. Section 17 sets out the matters which the OEGW has the power to investigate. They are not limited to a power to investigate whether a public authority is failing or has failed to comply with environmental law.

92. Subsection (1) makes provision for the OEGW to investigate potential failures by a public authority to comply with environmental law as well as the implementation, application and effectiveness of environmental law.

93. Subsection (1)(a) provides the OEGW with the power to investigate whether a public authority is failing, or has at any time failed, to comply with environmental law. The OEGW can initiate an investigation either on its own initiative or in response to representations made by any person. This subsection allows the OEGW to consider failures to comply that began at any time, including before the establishment of the OEGW.

94. Subsection (1)(b) provides the OEGW with the power to investigate how environmental law is implemented and applied, and subsection (1)(c) enables investigation of the effectiveness of environmental law. These are both intended to support the other functions of the OEGW. It is anticipated that these powers will be used for, but not limited to, investigating areas of concern related to systemic issues in environmental law. In such instances, the OEGW may determine that the issues cannot be fully resolved through compliance actions alone.

95. Subsection (2) allows the OEGW to carry out an investigation on the OEGW's own initiative or in response to any representations made to it by any person, allowing for the OEGW to govern its own workload and prioritisation.

Compliance notices

Section 18 – Compliance notices

96. Section 18 enables the OEGW to serve a compliance notice on a public authority and makes provision about the timings and content of the notice. Compliance notices require public authorities to take one or more actions to address their failures to e.g. comply with environmental law.

97. Subsection (1) allows the OEGW to serve a compliance notice on a public authority in the circumstances specified in paragraphs (a) and (b).

98. Subsection (1)(a) allows for a compliance notice to be served in circumstances where the OEGW considers a public authority is currently failing to comply with environmental law as long as the failure set out in the compliance notice remains ongoing.

99. Subsection (1)(b) applies in circumstances where an information notice has been served but has not been complied with by the public authority (i.e. the information has not been provided). This enables the OEGW to serve a compliance notice requiring the information to be provided to the OEGW.

100. Subsection (2) requires the OEGW to specify particular things when serving a compliance notice under subsection (1)(a) (failing to comply with environmental law). Subsection (2)(c) provides that a compliance notice must specify one or more actions that the public authority is required to take. This means that a notice could, for example, require a short-term action such as providing a written plan to address the failure in environmental law. This would not address the identified failure in and of itself, but may be considered necessary as part of a set of actions (both short and long term) which work towards resolving the failure. This would be particularly relevant in instances where resolving the failure cannot be done swiftly, such as if structural changes to internal practices and guidance were needed.

101. Subsection (3) provides that the period specified for each action in the compliance notice must be at least 30 days beginning with the day the notice was served. This subsection also signposts section 19(2) where an alternative specified period is provided for urgent compliance notices. The minimum period, of at least 30 days, within which each action must be taken does not apply to urgent compliance notices.

102. Subsection (4) requires a compliance notice under subsection (1)(b) to specify particular things.

103. Subsection (5) requires any compliance notice served, whether under subsection (1)(a) or (1)(b), to also include information about the right to request a review of a compliance notice and to set out the consequences of failing to take the action specified in the notice.

104. Subsection (6) enables the OEGW, by giving notice, to withdraw or vary a compliance notice served on a public authority.

105. Subsection (7) provides that a compliance notice served under subsection (1)(a) may not require any action to be taken in respect of an administrative decision taken by a public authority in relation to a particular person or case. (for example, a decision on an application for planning permission, funding or a licence, or a decision on regulatory enforcement in a specific case). This means the OEGW could not, for example, require decisions made by regulatory bodies to be changed, such as planning or licensing decisions. However, the OEGW may consider those decisions if they highlight broader issues which would fall within the OEGW's strategic oversight role. Such decisions may indicate a public authority's failure to comply with or effectively apply environmental law. For example, if a planning authority were to determine a planning application in accordance with planning guidance that fails to comply with environmental law, the OEGW could choose to issue a compliance notice in relation to the public authority that issued the planning guidance (but not in relation to the planning authority itself).

Section 19 – Urgent compliance notices

106. Section 19 enables the OEGW to act more quickly to resolve compliance concerns by making provision for urgent compliance notices where the OEGW is of the view there is an imminent risk of serious damage to the environment or to human health.

107. Subsection (1) outlines that the provisions in subsection (2) apply in instances where the OEGW considers that each action specified in a compliance notice served under section 18 needs to be taken urgently by a public authority to prevent or mitigate an imminent risk of serious damage to the environment or to human health.

108. Subsection (2) distinguishes between 'compliance notices' and 'urgent compliance notices' by providing that urgent compliance notices may specify actions to be taken within a time period of less than 30 days, but of at least 7 days, beginning with the day the notice is served. For compliance notices which are not urgent compliance notices, the period specified for each action must be at least 30 days beginning with the day the notice was served

109. Subsection (3) provides that the OEGW must set out, in a compliance notice served under subsection (2), that the notice is an urgent compliance notice. This makes it clear to the public authority that the procedures and requirements associated with urgent compliance notices apply.

Section 20 – OEGW's review of compliance notices

110. Section 20 makes provision for the OEGW to review a compliance notice once it has been served. This review enables a public authority to contest the contents of a compliance notice with which it has been served.

111. Subsection (1) places a duty on the OEGW to review a compliance notice if requested to do so by the public authority on whom the notice was served.

112. Subsection (2) provides that any request by a public authority to review a compliance notice must be made by giving notice to the OEGW.

113. Subsections (3) and (4) set out the specified timings for requests to be made for reviews of both compliance notices (30 days) and urgent compliance notices (7 days).

114. Subsection (5) provides that a review must be conducted by the OEGW's review committee as soon as reasonably practicable after notice has been given to the OEGW under subsection (2). Further provision regarding the constitution of the review committee is set out in paragraph 10 of Schedule 1. This provides that at least 1 member of the committee must not be members of the OEGW, or members of its staff, and that the initial decision maker(s) involved with issuing the compliance notice may not participate in its review.

115. Subsection (6) provides that where a request for a review of a compliance notice is made on the grounds of a failure to comply with a requirement of the contents of a compliance notice under section 18(2), (4) or (5) or any other defect or error in or in connection with a compliance notice, the review committee must disregard that failure, defect or error if the committee considers it not to be a material one. This could include, but is not limited to, a typographical error.

116. Subsection (7) provides that the review committee, following a review under this section, may confirm, withdraw or vary the compliance notice.

117. Subsection (8) sets out the duty of the review committee to notify the public authority concerned of the outcome of the review.

118. Subsection (9) provides the review committee's findings are final and no further review requests can be made to the OEGW in relation to the same compliance notice.

119. Subsection (10) requires the public authority requesting the review to provide the review committee with such further information as the committee may reasonably require. It is intended an information notice under section 15 is not required for the collection of information associated with review.

120. Subsections (11) and (12) set out that when a review has been requested, the time specified in the compliance notice as the period within which an action must be taken is paused until the committee has made its determination to confirm, withdraw or vary the notice. For example, a compliance notice served on a public authority may require an action to be taken within 35 days of the notice being served. The public authority may then request a review of the compliance notice on day 25 following the serving of the notice. If the review committee concludes its review of the compliance notice 15 days from the date the review was requested and confirms the notice, that action will need to be taken by day 50 after the notice was served (35 days plus the 15 days to review).

121. Subsection (13) sets out that the 'stopping of the clock' begins on the day the public authority requests the review and ends with the day the review committee gives its determination.

Section 21 – High Court review after failure to take specified action

122. Section 21 provides for the circumstances in which the OEGW may make an application to the High Court, seeking an order requiring the actions specified in a compliance notice, or those actions as varied by the High Court, to be taken. A public authority must have been served with a compliance notice and failed to take the actions specified in that compliance notice before the OEGW may make an application to the High Court.

123. Subsection (1) sets out that this section applies when the OEGW considers a public authority has not taken the action specified in the compliance notice, within the period specified in that notice.

124. Subsection (2)(a) and (b) enable the OEGW to apply to the High Court of England and Wales for an order requiring the public authority to either (a) take the action specified in the compliance notice, or (b) take such action as varied as the Court considers appropriate.

125. Subsection (3) sets out that an application in relation to an action specified in a notice that is not an urgent compliance notice may not be made before the later of either (a) the end of the period within which the public authority is required to take the action, and (b) any time limit that applies to the commencement of judicial review for questioning the alleged conduct in respect of which the compliance notice was served.

126. Subsection (4) provides that where an urgent compliance notice has been served, the application to the High Court may not be made before the end of the period within which the public authority is required to take the action specified in the urgent compliance notice. This enables the application to the High Court to take place more swiftly than under a compliance notice which is not an urgent compliance notice.

127. Subsection (5) provides that an order granted on an application under subsection (2) must specify the period within which the action is required to be taken.

128. Subsection (6) provides that if the Court considers, when determining an application under subsection (2) considers that a compliance notice or a part of a compliance notice is unreasonable, or for any other reason ought not to have been served, the Court must require the OEGW to withdraw the notice or (as the case may be) part of the notice.

Improvement reports and improvement plans

Section 22 – Improvement reports

129. Section 22 provides the OEGW with the power to publish an improvement report. This provides for a separate vehicle, an improvement report, to look at the wider circumstances which is driving non-compliance with environmental law and provide recommendations on how these circumstances can be improved. While the grounds for publishing a compliance notice are similar to those of an improvement report, their natures are different. A compliance notice will enforce compliance through specific actions that must be taken by a singular public authority. However, an improvement report has scope to address a structural flaw in the system.

130. Subsection (1) provides that the OEGW may publish an improvement report if it considers that a public authority is failing or has at any time failed to either (a) comply with environmental law or (b) implement or apply environmental law effectively. As with the compliance notice provisions, the failure to comply may have started at any time.

131. Subsection (2) provides that the OEGW may also publish an improvement report if it considers that the Welsh Ministers, or other public authority, has failed to make effective environmental law.

132. Subsection (3) allows a single improvement report to be issued relating to a failure by two or more public authorities. This can only take place if the OEGW is satisfied that all the authorities concerned have exercised their functions in such a way as to lead to the same, or similar, alleged failure which may suggest a more systemic failure

133. Subsection (4) sets out the actions required of the OEGW following publication of an improvement report. The OEGW must send a copy to the public authority in relation to whose alleged failure it is published and if that public authority is not the Welsh Ministers, a copy must also be sent to the Welsh Ministers. The published improvement report must also be laid before Senedd Cymru.

Section 23– Improvement reports: content

134. Section 23 concerns the content of an improvement report.

135. Subsection (1) sets out what must be included in any improvement report published by the OEGW. They include recommending actions for the Welsh Ministers to take.

136. Subsection (2) makes provision that the actions recommended to the Welsh Ministers in an improvement report cannot require them to revoke or vary individual administrative decisions taken by a public authority in relation to a particular person or case. For example, a decision on an application for planning permission, funding or a licence, or a decision on regulatory enforcement in a specific case. The OEGW will be able to suggest improvements to the overall legislative framework without altering the specific case outcomes which are the responsibility of other authorities (such as regulators), and which may be challenged through other routes.

Section 24 – Improvement plans

137. Section 24 requires the Welsh Ministers to publish an improvement plan following the publication of an improvement report. The improvement plan provides a mechanism for the OEGW to receive a response to the individual recommendations in its improvement reports, including setting timescales for meeting each recommendation.

138. Subsection (1) places a duty on Welsh Ministers to respond to any improvement report published by the OEGW with a published improvement plan.

139. Subsection (2) details the content and information that must be contained in an improvement plan.

140. Subsection (2)(a) specifies that an improvement plan must set out what the Welsh Ministers propose to do in response to the recommendations in the improvement report and the proposed timescales for implementing each recommendation.

141. Subsection (2)(b) provides that if Welsh Ministers do not intend to implement the recommendations (in full or in part), they must set out their reasons for this within the improvement plan.

142. Subsection (3) places a duty on the Welsh Ministers to publish an improvement plan in accordance with specified timings. These timings are (a) within 6 months of being sent the improvement report or (b) in circumstances where it will be necessary to consult any person(s) about the plan, the timescale is extended to before the end of 9 months beginning with the day they were sent the improvement report. This allows for a consultation period.

143. Subsection (4) provides that the Welsh Minsters must lay a copy of any published improvement plans before Senedd Cymru.

Co-operation duties

Section 25 – Co-operation duties

144. Section 25 places a duty on public authorities to cooperate with the OEGW. This is intended to facilitate informal mechanisms to resolve concerns without the need to resort to more substantive enforcement action.

145. Subsection (1) places a duty on public authorities to give the OEGW such reasonable assistance as it requests (including the provision of information), in connection with the exercise of the OEGW's functions. This provision allows the OEGW to use informal mechanisms to obtain information without needing to resort to the more substantive information notice process outlined in section 15. The duty to co-operate will ensure public authorities are also taking opportunities to enable effective working with the OEGW and seek to prevent escalation to formal methods of enforcement action.

146. Subsection (2) places a duty on public authorities to make reasonable effort to (a) swiftly resolve any matter the OEGW raises concerning the authority's failure to comply with environmental law, to implement or apply environmental law effectively, or to apply or make effective environmental law, and (b) to reach agreement with the OEGW on any remedial action the authority should take for the purposes of environmental protection without the need for escalation to formal enforcement action.

Disclosure of information and confidentiality

Section 26 – Disclosure of information to the OEGW

147. Subsection (1) provides that a public authority's sharing of information with the OEGW, in the circumstances specified in subsection (3), does not breach any obligation of confidence owed by the public authority, or any other restriction on the disclosure of information which may exist.

148. However, subsection (2) then signposts section 183A of the Data Protection Act 2018, which provides that in the absence of express provision to the contrary, all provisions about processing personal data (including those in this Act) are subject to the general requirements of the main data protection legislation relating to processing personal data.

149. Subsection (3) sets out the specified circumstances to which subsection (1) applies. These circumstances are where:

a. information is requested in relation to information notices (section 15(1))
b. information is reasonably required for the purposes of reviewing a compliance notice (section 20(10))
c. information is required in connection with a public authority's general duty to co-operate with OEGW (section 25(1))

150. Subsection (4) makes provision about circumstances in which a public authority is not required to provide the OEGW with information.

151. Subsection (4)(a) provides that a public authority is not required to provide information that it could refuse to provide in civil proceedings or because it is protected by legal privilege.

152. Subsection (4)(b) provides that a public authority is not required to provide information where it would be entitled to refuse to provide that information in civil proceedings for reason of public interest immunity.

Section 27 – Confidentiality requirements: the OEGW

153. Section 27 sets out the confidentiality requirements on the OEGW and the circumstances in which the OEGW may, or may not, disclose information it receives.

154. Subsection (1)(a) provides that the OEGW must not disclose information which has been provided to it by virtue of an information notice (under section 15(1)), a requirement to provide information during a review of a compliance notice (under section 20(10)) or a public authority's duty to cooperate with the OEGW (under section 25(1)).

155. By virtue of subsection (1)(b) the OEGW cannot disclose any correspondence between the OEGW and a public authority, where that information relates to a particular information notice or compliance notice, or the preparation of a particular improvement report.

156. Subsection (1)(c) provides that correspondence between the OEGW and a public authority that is, or contains, an information notice or compliance notice, or an unpublished draft of an improvement report must not be disclosed.

157. Subsection (3) provides for exceptions to the prohibition in subsection (1). For example, the restriction in subsection (1) does not apply to a disclosure once the OEGW has concluded it intends to take no further action.

Section 28 – Confidentiality requirements: public authorities

158. Section 28 sets out the circumstances in which a public authority may, or may not, disclose the information they receive.

159. Subsection (1) places a duty on a public authority not to disclose correspondence between the OEGW and itself, or any other public authority, which relates to a particular information notice or compliance notice, or to the preparation of a particular improvement report, or that is, or contains, such a notice or an unpublished draft of such a report.

160. Subsection (2)(a) to (h) set out exceptions to the prohibition in subsection (1). These include where consent has been obtained, where the disclosure is required for the purposes of an investigation under section 17 and where disclosure is required to be able to respond to an information or compliance notice. It also provides the prohibition on disclosure does not apply for purposes connected with High Court review under section 21, statutory review or civil proceedings, or where disclosure is required for a criminal investigation or proceedings, pursuant to a court order or in accordance with an enactment requiring or permitting disclosure.

161. Subsection (3) provides that the OEGW can only provide consent to the disclosure of a notice or an unpublished draft of a report in accordance with subsection (2)(b) if the notice or draft report relates only to a matter on which the OEGW does not intend to take any further action. This is intended to prevent the premature release of information which could potentially impact upon, or undermine, an ongoing investigation or preparation of an improvement report.

162. Subsection (4) sets out the OEGW may not withhold consent to a public authority's request to disclose information described in subsection (2)(a) and (b) if the OEGW has concluded it intends to take no further action in relation to a particular information notice or compliance notice, or improvement report.

Section 29 – Application of Environmental Information Regulations 2004

163. Section 29 applies where information referred to in section 27(1) and held by the OEGW or referred to in section 28(1) and held by a public authority, is "environmental information" for the purposes of the Environmental Information Regulations (EIR) 2004.

164. The effect is that the information will be in connection with confidential proceedings for the purposes of those Regulations, therefore allowing a public authority the potential right to refuse disclosure under those Regulations. If the OEGW's enforcement proceedings are ongoing, the information referred to in sections 27 and 28 may qualify for an exception from the EIR allowing a public authority the potential right to refuse disclosure if it would compromise the confidentiality of the proceedings by that public authority where such confidentiality is legally protected

Staff transfer schemes

Section 30 – Staff transfer schemes

165. Section 30 introduces Schedule 3 to the Act, which makes provision about schemes for the transfer of staff from the Welsh Government to the OEGW.

Interpretation

Section 31 – Meaning of "environmental law"

166. Section 31 deals specifically with the meaning of "environmental law". The scope of the OEGW's functions largely depend on this definition.

167. Subsection (1) provides that environmental law means any devolved provision to the extent that it wholly or mainly relates to environmental protection and is not excluded under subsection (1)(b).

168. The effect of the definition is that even if most of an Act or set of regulations does not fall within the definition, any specific provisions in the Act or regulations that do fall within the definitions are "environmental law".

169. For instance, the Forestry Act 1967 includes specific provisions aimed at environmental protection. Consequently, these provisions would be categorised under the definition of environmental law. For example, section 1(3A) imposes a duty on the relevant forestry authority to strive for a reasonable balance between "the development of afforestation, the management of forests and the production and supply of timber" and "the conservation and enhancement of natural beauty and the conservation of flora, fauna and geological or physiographical features of special interest". The latter part of this duty relates to the conservation of the natural environment, thereby falling within the scope of environmental law. However, other elements within the same Act do not fall under this definition. For instance, section 1(2), which requires the appropriate forestry authority to be "charged with the general duty of promoting the interests of forestry, the development of afforestation and the production and supply of timber and other forest products…" Since this duty is concerned with promoting the forestry industry, it is not considered environmental law.

170. Subsection (1)(b) specifically excludes from the meaning of environmental law provisions about the disclosure of, or access to, information (apart from such provisions in this Part of the Act), and provisions about taxation, finance or budgets).

171. Subsection (3) sets out the meaning of "devolved provision" referred to in subsection (1). It means any provision contained in an Assembly Measure or an Act of Senedd Cymru (or in subordinate legislation made under such a Measure or Act), and any provision of other legislation where the provision would be within the legislative competence of the Senedd

172. Subsection (4) provides the Welsh Ministers may make secondary legislation to specify devolved provisions which do or do not fall within the definition of environmental law. One example of a time this power may be used is to enable future changes to the legislative landscape concerning the environment to be reflected in the definition of environmental law.

173. Subsection (5) provides that before making such regulations, the Welsh Ministers must consult the OEGW and such other persons as they consider appropriate.

Section 32 – Meaning of "public authority"

174. Section 32 defines what is meant by "public authority" in relation to this Part of the Act (and provides that the OEGW is not a public authority for the purposes of this Part of the Act).

175. This definition is key in determining the public authorities over which the OEGW will have oversight when exercising its functions. The definition captures public authorities within the legislative scope/competence of Senedd Cymru, including companies that are water or sewerage undertakers. The combined effect of sections 31 and 32 is that a public authority that has any environmental function could be subject to the oversight of the OEGW, not only those bodies that are operating solely for environmental purposes.

Section 34 – Meaning of "failing to comply with environmental law"

176. Section 34 defines what is meant by "failing to comply with environmental law" in this Part. The Actprovides that failing to comply with environmental law is a reference to a public authority (a) exercising its functions in a way that is contrary to environmental law or (b) is failing to exercise its functions where the failure is contrary to environmental law. This means that failure to comply could be a result of a wrong action (e.g. a regulatory or local authority authorising activity which is not compliant with environmental law) as well as inaction. By way of example, inaction could arise in circumstances where a regulator is responsible for protecting the environment and natural resources and preventing environmental harm, but has not been proactive in respect of inspecting risks to special areas of conservation, and instead has only taken action after environmental harm has been committed.

PART 3 – Biodiversity targets, etc.

177. Part 3 amends Part 1 of the 2016 Act to make provision for setting, reviewing and reporting on, targets to halt and reverse the decline in biodiversity or to restoring biodiversity to resilient levels in Wales, as well as imposing a duty on the Welsh Ministers to promote awareness in Wales of the importance of, and of the threats to, biodiversity.

Section 35 – Biodiversity targets

178. Section 35(1) inserts eight new sections into the 2016 Act (sections 6B, 6C, 6D, 6E, 6F, 6G, 6H and 6I).

Section 6B - Biodiversity targets: general

179. Subsection (1) gives the Welsh Ministers the power to make regulations that set targets in respect of any matter relating to biodiversity in Wales.

180. Subsection (2) provides that the Welsh Ministers may only use their power to set targets if they consider that the target would, if met, contribute towards halting or reversing the decline in biodiversity or to restoring biodiversity to resilient levels, in particular through one or more of:

a. increasing the abundance of native species. Species abundance is the number of individuals of a species that exist within a given area and is often used as a tool to measure biodiversity and to inform conservation efforts for species;
b. enhancing the resilience of ecosystems, in particular the aspects specified in section 6(2)(a) to € of the 2016 Act. These are – diversity between and within ecosystems; the connections between and within ecosystems; the scale of ecosystems; the condition of ecosystems (including their structure and functioning); the adaptability of ecosystems. Resilient ecosystems may be more biodiverse, helping to halt and reverse biodiversity decline, and they are more adaptive to change, including the effects of climate change; or
c. increasing genetic diversity. Genetic diversity is the variety of genetic characteristics within a species. It is required for the long-term survival of a species as it ensures adaptability and survivability of a species to a changing environment.

181. When considering whether a target would contribute to increasing the abundance of native species, enhancing the resilience of ecosystems, or increasing genetic diversity, subsection (3) requires the Welsh Ministers to have regard to the list of species and types of habitats published by them under section 7 of the 2016 Act. These are the species and types of habitat that are of principal importance for the purpose of maintaining and enhancing biodiversity in Wales.

182. Subsection (7) explains that "native species" means species that naturally occur or have in the past naturally occurred in Wales. This includes regularly occurring migratory species (both breeding and non-breeding) and natural colonists. Natural colonists are species that arrived in Wales of their own accord and have become established, including those that become migratory species. Native species also includes species that have been reintroduced in Wales following past extinction.

183. Subsection (4) requires the regulations to specify a standard to be achieved for any target set under them. It must be capable of being objectively measured, and the regulations must also specify a date by which that standard is to be achieved. Subsection (8) explains that these are referred to as the "specified standard" and "specified date", and the references in sections 6C, 6D, 6G, 6H and 6I have the same meaning (and they also have the same meaning within these Explanatory Notes). An example of a specified standard might be the extent of land, rivers or sea effectively managed for biodiversity.

184. Subsection (5) requires the Welsh Ministers to make provision within the regulations about how to measure progress toward achieving the specified standard and whether that has been achieved as well as specifying indicators as a means of measuring those things.

185. Subsection (6) explains that a target is set when the regulations setting it come into force.

Section 6C – Duty to make regulations setting targets: priority areas

186. Subsection (1) imposes a duty on the Welsh Ministers to exercise the power in section 6B to set a long-term target in respect of at least one matter within the priority areas in subsection (2)(a) and (b); to set a short-term target in respect of at least one matter within the priority areas in subsection (2)(a) and (b); and, to set a target in respect of at least one matter within the priority areas in subsection (2)(c) and (d). Subsection (7) requires the Welsh Ministers to lay a draft of the regulations required under subsection (1) before the Senedd within two years of Royal Assent of the Act.

187. The priority areas are listed in subsection (2):
    a. reducing the risk of the extinction of native species. A target in this priority area may focus, for example, on the creation and delivery of management plans aimed at halting the decline of native species at risk of extinction and/or contributing to healthy and resilient species populations;
    b. the effective management of ecosystems. A target in this priority area may focus, for example, on the extent of effectively managed protected areas such as sites of special scientific interest;
    c. reducing pollution. A target in this priority area may focus, for example, on freshwater health by seeking to reduce excess nutrients, pesticides and highly hazardous chemicals, and plastic pollution;
    d. the quality of evidence to inform decisions relating to biodiversity, access to that evidence and its use and application. A target in this priority area may focus, for example, on improving the provision of and access to the best available evidence about biodiversity.

188. Subsection (3) defines a "long-term target" as a target that has a specified date at least 15 years after the date on which the target was set.

189. Subsection (4) defines a "short-term target" as a target that has a specified date that is less than 15 years after the date on which the target was set.

190. Subsection (5) provides that the Welsh Ministers cannot set a target in relation to the priority area "reducing pollution" if the Welsh Ministers can set a target in respect of that matter under their power to set air quality targets under the Environment (Air Quality and Soundscapes) (Wales) Act 2024.

191. Subsection (6) explains that "native species" in subsection (2)(a) has the same meaning as in section 6B(7).

Section 6D - Target-setting process

192. Subsection (1) provides that before the Welsh Ministers make regulations under section 6B they must first seek advice from persons they consider to be independent and to have relevant expertise. Pursuant to subsection (2), the Welsh Ministers must publish a summary of any such advice.

193. Subsection (3) imposes a duty on the Welsh Ministers to apply the principles of sustainable management of natural resources under section 4 of the 2016 Act when they are making regulations setting or amending targets under section 6B. The principles of sustainable management of natural resources are – manage adaptively, by planning, monitoring, reviewing and, where appropriate, changing action; consider the appropriate spatial scale for action; promote and engage in collaboration and co-operation; make appropriate arrangements for public participation in decision-making; take account of all relevant evidence and gather evidence in respect of uncertainties; take account of the benefits and intrinsic value of natural resources and ecosystems; take account of the short, medium and long term consequences of actions; take action to prevent significant damage to ecosystems; take account of the resilience of ecosystems.

194. Subsection (4) requires the Welsh Ministers to publish a report summarising the consultation that was carried out in connection with the regulations and any representations received as a result of the consultation.

195. Subsection (5) requires the Welsh Ministers to only set or amend targets they are satisfied can be met.

196. Subsection (6) provides that a target is met if the specified standard is achieved by the specified date.

197. Subsection (7) disapplies the requirements in subsections (1) to (4) when regulations are made under section 6B that revoke a target that has been met.

Section 6E – Duty to meet targets

198. This section imposes a duty on the Welsh Ministers to ensure that targets set in regulations under section 6B are met.

Section 6F - Designation of public authorities for the purpose of section 6(2A)

199. Subsection (1) provides the Welsh Ministers with a power to designate, by regulations, a public authority in relation to a target set under section 6B. This power to designate should be read alongside the new duty in section 6(2A) of the 2016 Act, inserted by section 36 of this Act, which requires a designated public authority to take action to contribute to achieving a target for which it is designated.

200. Before making regulations under this section, subsection (2) requires the Welsh Ministers to consult with the public authority they propose to designate and any other persons they consider appropriate.

201. The regulations can only designate a public authority within the new subsection (11) of section 6 the 2016 Act (inserted by section 36(4) of the Act), which includes a devolved Welsh authority, as defined in section 157A of the Government of Wales Act 2006, or a body listed in paragraph 9(2) or (6) of Schedule 7B to that Act. They cannot designate the OEGW because it is not a "public authority" for the purposes of section 6 of the 2016 Act pursuant to the amendment of that definition in section 6(9) of the 2016 Act by section 36(3) of the Act.

Section 6G – Review of targets

202. Subsection (1) allows the Welsh Ministers to review any targets set under section 6B from time to time, whereas under subsection (2) the Welsh Ministers must review such targets if it appears to them that the target may not be met or that the target may no longer be appropriate.

203. Subsection (3) allows the Welsh Ministers, from time to time, to review the effectiveness of all current targets for the purpose of determining whether setting further targets would be more effective in contributing to halting and reversing the decline in biodiversity or to restoring biodiversity to resilient levels.

204. Subsection (4) imposes a duty on the Welsh Ministers to review the effectiveness of all current targets if a target has not been met by its specified date or if 10 years have passed since the most recently completed review of all current targets.

205. Subsection (5) imposes a duty on the Welsh Ministers to review the effectiveness of all current targets if no review has been undertaken under subsection (3) or (4) before the end of 2041.

206. Subsection (6) provides that a target is current for the purposes of subsections (3) to (5) if it has been set in regulations that are in force at the time of the review and it has not been met at that time.

207. Subsection (7) requires the Welsh Ministers to seek advice from people they consider to be independent and to have relevant expertise when they carry out a review under this section. Subsection (8) requires the Welsh Ministers to publish a summary of any such advice.

208. After carrying out a review under this section, the Welsh Ministers must, pursuant to subsection (9), lay before the Senedd, and publish, a statement noting its conclusions.

209. If a review under subsection (1) or (2) concludes that a target will not be met or is no longer appropriate, subsection (10) provides that the statement must note the reasons for that conclusion and the steps, if any, the Welsh Ministers intend to take in relation to the target in consequence of the review.

210. If a review under subsections (3), (4) or (5) concludes that further targets should be set in regulations, subsection (11) requires the Welsh Ministers to lay a draft of such regulations before the Senedd before the end of the period of 2 years from the date the review was completed. Subsection (12) provides that a review is completed for the purpose of subsections (4)(b), (5) and (11) when the statement under subsection (9) is published.

Section 6H - Revoking or lowering targets

211. Section 6H restricts the circumstances in which the Welsh Ministers can use the power in section 6B to make regulations that either revoke a target already set in regulations or lower a target to make it easier to achieve.

212. Subsection (1) provides that the Welsh Ministers cannot lower the standard of a target or revoke it unless they are satisfied that:

a. because of changes to the evidence which they had regard to when setting the existing target, meeting it would not contribute to halting or reversing the decline in biodiversity or to restoring biodiversity to resilient levels,
b. meeting the existing target would have no significant benefit compared with not meeting it or with meeting a lower target,
c. because of changes in circumstances since the existing target was set, the environmental, social, economic or other costs of meeting it would be disproportionate to the benefits, or
d. meeting the existing target is no longer achievable:
    i. because of changes in circumstances since the existing target was set, or
    ii. because of changes to the evidence to which the Welsh Ministers had regard when setting the existing target.

213. Subsection (2) states that if the Welsh Ministers are satisfied that meeting the existing target is no longer achievable because of changes in circumstances since the existing target was set, or because the costs of meeting it would be disproportionate to the benefits, they must first consider lowering a target before revoking the target.

214. Further, before revoking or lowering a target, subsection (3) requires the Welsh Ministers to lay before the Senedd, and publish, a statement explaining why the Welsh Ministers are satisfied that the above criteria are met.

215. Subsection (4) explains that lowering the target means replacing the specified standard with a lower standard or replacing the specified date with a later date. A lower standard may, for example, be a lower percent of land restored compared to the original specified standard.

216. Subsection (5) sets out that the restrictions in section 6H do not apply to provisions in regulations under section 6B of the 2016 Act that revoke a target that has been met.

Section 6I – Statement about targets

217. Pursuant to subsections (1) and (2), the Welsh Ministers must lay before the Senedd, on or before each target's specified date, a statement that sets out whether that target has been met or not, or whether the Welsh Ministers cannot yet determine if the target has been met and the steps they intend to take to make that determination.

218. If the target has not been met, then pursuant to subsections (3) and (4), the Welsh Ministers must, within 6 months of the target's specified date, lay before the Senedd, and publish, a report explaining why the target has not been met and what steps the Welsh Ministers have taken, or intend to take, to ensure the target is met as soon as reasonably practicable.

219. Before deciding on the steps to take to meet the target under subsection (4), the Welsh Ministers must, in accordance with subsection (5), seek advice from persons they consider to be independent and to have relevant expertise. Pursuant to subsection (6), the Welsh Ministers must also publish a summary of that advice.

220. Where the Welsh Ministers lay a statement which says they are not able to determine if a target has been met, then they must, within 6 months of the date that statement was laid, lay before the Senedd and publish a further statement setting out whether the target has been met or not, or whether they are still unable to determine if it has been met. Subsection (8) makes it clear that subsection (2) to (7) apply to any such further statement as they do to the first statement published under subsection (1).

221. Subsection (3) of section 35 of this Act amends section 25(4) of the 2016 Act to provide that regulations under section 6B whose only substantive effect is to revoke targets that have already been met will be subject to the Senedd annulment procedure.

Section 36 – Public authorities' duties

222. Subsection (1) of section 36 inserts a new subsection (2A) into section 6 of the 2016 Act, which imposes a new duty on any public authority designated in regulations made by the Welsh Ministers under section 6F. This new duty requires any designated public authority, in complying with its existing duty under section 6(1) of the 2016 Act, to take action to contribute to achieving the target in relation to which it has been designated.

223. The duty in section 6(1) of the 2016 Act is a duty on public authorities to seek to maintain and enhance biodiversity in the exercise of their functions in relation to Wales, and in so doing promote the resilience of ecosystems, so far as is consistent with the proper exercise of those functions.

224. This section also makes other changes to section 6 of the 2016 Act in connection with public authorities. The effects of these changes are:
    a. to limit the public authorities (to those set out in new subsection (11) of section 6 of the 2016 Act) that are required to have regard to the sustainable land management report published under section 6 of the Agriculture (Wales) Act 2023, when complying with the duty in section 6(1)
    b. to exclude the OEGW from the definition of "public authority" (at section 6(9)) so that the duty in section 6(1) does not apply to the OEGW, and
    c. to limit the scope of the Welsh Ministers' power to designate, in regulations made under section 6F, public authorities (to those in new subsection (11) of section 6 to the 2016 Act) that must take action to contribute to a biodiversity target set in regulations made under section 6B.

Section 37 – Welsh Ministers' plans under section 6 of the Environment Act

225. Section 6(6) of the 2016 Act requires public authorities (except for a Minister of the Crown or UK government department) to publish a plan that sets out how they propose to comply with their duty in section 6(1) of the 2016 Act to maintain and enhance biodiversity.

226. Section 37 inserts new subsections (6A), (6B) and (6C) into section 6 of the 2016 Act.

227. Subsection (6A) requires the Welsh Ministers to apply the principles of sustainable management of natural resources, and to consult, when preparing their plan under section 6(6). When the Welsh Ministers publish that plan, they must also publish a report summarising the consultation that was carried out in preparing that plan and any representations that were received as a result of the consultation.

228. Subsection (6B) requires the Welsh Ministers to set out the following in their plan under section 6(6):

- what action they propose to take to contribute to the fulfilment of the vision of the Global Biodiversity Framework, namely that "by 2050, biodiversity is valued, conserved, restored and wisely used, maintaining ecosystem services, sustaining a healthy planet and delivering benefits essential for all people",
- proposals covering the areas of responsibility of each of the Welsh Ministers,
- what action they intend to take to meet any targets set under section 6B and when they propose to take that action,
- how the targets, if met, will contribute to halting and reversing the decline in biodiversity or to restoring biodiversity to resilient levels,
- where the standard specified under section 6B(4) in relation to a target is achieved, how they propose to maintain that standard, and
- what action they propose to take to comply with their duty in section 8A to promote awareness of biodiversity.

229. Subsection (6C) defines "the Global Biodiversity Framework" for the purposes of section 6(6B)(a).

Section 38– Reports under section 6 of the Environment Act

230. Section 6(7) of the 2016 Act requires public authorities to publish a report, every three years from the end of 2019, setting out what they have done to comply with their duty in section 6(1) of the 2016 Act to maintain and enhance biodiversity.

231. Subsection (1) of section 38 amends section 6(7) of the 2016 Act so that any public authority designated in regulations made under section 6F must also include in its section 6(7) report the action it has taken to comply with its duty in section 6(2A) to contribute to achieving the target in relation to which it has been designated.

232. Subsection (2) of section 38 inserts new subsections (7A), (7B) and (7C) into section 6 of the 2016 Act.

233. Subsection (7A) requires the Welsh Ministers to set out in their section 6(7) report what progress is being made towards meeting any targets set in regulations made under section 6B and whether those targets are likely to be met. For example, this may include reporting progress against any indicator specified for the target under section 6B(5)(b).

234. Subsections (7B) and (7C) require the Welsh Minsters to send their section 6(7) report to the OEGW as soon as reasonably practicable after they have published it. The sending of this report is to be treated as a request, by the Welsh Ministers to the OEGW, for advice under section 13 of this Act and the provisions of that section will apply. This means that if the OEGW decides not to give advice, it must explain why, and if it gives advice, the Welsh Ministers must have regard to it and the OEGW must publish it.

Section 39 – Evaluation report

235. Subsection (1) of section 39 inserts a new section 6A (Evaluation of action to maintain and enhance biodiversity) into the 2016 Act.

236. Subsections (1) and (2) of section 6A require the Welsh Ministers to prepare an evaluation report assessing the impact and effectiveness of the proposals set out in their most recent section 6(6) plan and the action taken by the Welsh Ministers in accordance with those proposals. This evaluation report will therefore assess both the proposals and steps proposed by the Welsh Ministers to comply with their duty to maintain and enhance biodiversity in section 6(1) of the 2016 Act (as required by section 6(6)) and the proposals and steps taken in relation to the matters set out in section 6(6B) (see paragraph 231 above), which includes action to achieve the targets set in regulations made under section 6B.

237. Subsection (3) of section 6A provides that the Welsh Ministers must publish the first evaluation report before the end of 2031 and, subsequently, they must publish an evaluation report before the end of every third year after 2031.

238. Subsections (4) and (5) of section 6A require the Welsh Minsters to send an evaluation report to the OEGW as soon as reasonably practicable after they have published it. The sending of this report is to be treated as a request, by the Welsh Ministers to the OEGW, for advice under section 13 of this Act and the provisions of that section will apply. This means that if the OEGW decides not to give advice, it must explain why, and if it gives advice, the Welsh Ministers must have regard to it and the OEGW must publish it.

239. Subsection (2) of section 39 amends section 24 of the 2016 Act to include the evaluation report within the list of documents which the Welsh Ministers may, by regulations, amend the date of preparation or publication.

Section 40 – Promoting awareness of biodiversity

240. Subsection (2) inserts a new section 8A (Duty to promote awareness of biodiversity) into the 2016 Act, which imposes a duty on the Welsh Ministers to take steps to promote awareness in Wales of the importance of, and the threats to, biodiversity.

241. Examples of ways in which the Welsh Ministers might discharge their duty include: by encouraging, supporting and promoting local awareness and volunteering initiatives related to biodiversity; by improving the provision of biodiversity resources for education and health professionals; or reviewing current publicly-available information on the importance of biodiversity to human health and well-being, as well as the drivers of biodiversity loss, taking into account accessibility and requirements of different groups.

PART 4 - GENERAL

Section 41 – Power to make consequential etc. provision

242. Section 41 provides that the Welsh Ministers may, by regulations, make such supplemental, incidental or consequential provision as they think necessary or appropriate for the purposes of, in consequence of, or for giving full effect to any provision of the Act. Such regulations may modify any enactment (as defined in Schedule 1 to the Legislation (Wales) Act 2019), other than the provisions contained in this Act.

Section 42 – Regulations

243. Section 42 makes general provision about regulations made under this Act and sets out the Senedd Cymru procedure applicable to those regulations.

244. Subsection (1) provides that regulations made under this Act are exercisable by Welsh statutory instrument.

245. Subsection (2) provides that a power to make regulations under the Act includes a power to make provision for different purposes, and the power to make ancillary provision (that is, supplemental, incidental, consequential, transitional, or saving provision).

246. Subsection (3) sets out the provisions of the Act which are subject to the Senedd approval procedure, which means regulations may not be made unless a draft of the instrument containing them has been laid before, and approved by resolution of, Senedd Cymru.

247. Subsection (4) sets out where regulations are made under section 41(1) they will also be subject to the Senedd approval procedure if they modify any provision of primary legislation.

248. Subsection (5) sets out any other regulations made under section 41(1) are subject to the Senedd annulment procedure which means such regulations made by the Welsh Ministers are subject to annulment by resolution of Senedd Cymru.

Section 43 - Service of notices and other documents

249. Section 43 makes provision relating to the giving of notices, directions or other documents under the Act.

250. Subsection (1) applies to the giving of notices, directions and other documents. Examples of the giving of these documents in the Act includes, but is not limited to; the service of compliance notices under section 18 and the giving of notice of the removal or suspension of a member of the OEGW under paragraph 5(1) and (2) of Schedule 1.

251. Subsections (2) and (3) set out the different methods of service that may be used under the Act, and the conditions that must be complied with.

252. Subsection (4) provides that where a document or notice etc. is left at an address, unless the contrary is proved, the document or notice is deemed to be served on the day on which it is left.

253. Subsection (5) provides that if a document is received via electronic communication outside normal business hours, then it will be treated as having been served the following working day. If the electronic communication is received within the person's normal business hours, then delivery timing is deemed as instantaneous. For the purposes of this provision, "working day" has the same meaning as given in Schedule 1 to the Legislation (Wales) Act 2019.

254. The purpose of subsection (6) is to avoid any overlap between the provisions in section 41 and the similar (but slightly different provisions) in sections 231 and 233 of the Local Government Act 1972 Act about service on, or by, a county council, a county borough council, a community council or a corporate joint committee.

Section 45 – Consequential amendments

255. Section 45 introduces Schedule 4, which makes consequential amendments to existing legislation.

Section 46 – Coming into force

256. Subsection (1) brings Part 4 of the Act, apart from section 45 (consequential amendments), into force on the day after the day the Act receives Royal Assent.

257. Subsection (2) brings the following provisions of the Act into force at the end of the period of two months beginning with the day on which the Act receives Royal Assent:

a. sections 1 and 2;
b. section 6 and section 7, except subsection (1)(c)
c. sections 8 and 10 and Schedule 1, except paragraphs 10 and 21;
d. section 30 and Schedule 3;
e. sections 31 to 34;
f. Part 3;
g. paragraphs 1 to 4 of Schedule 4 (and section 45 in so far as relating to those paragraphs).

258. Subsection (3) brings sections 3 to 5 into force on 31 March 2027.

259. Subsection (4) provides that except as provided for by subsections (1) to (3), and subject to subsection (5), the provisions of the Act come into force on a day appointed in an order made by the Welsh Ministers.

260. Subsection (5) provides that if the provisions mentioned in subsection (6) have not come into force by the end of the period of 24 months beginning with the day on which the Act receives Royal Assent, they come into force at the end of that period. The provisions in subsection (6) are those about the OEGW's substantive functions-

(a) section 7(1)(c);
(b) paragraphs 10 and 21 of Schedule 1;
(c) sections 11 to 29 and Schedule 2;
(d) paragraph 5 of Schedule 4 (and section 45 in so far as relating to that paragraph).

261. Subsection (7) provides that an order under subsection (4) may make transitional or saving provision; and/ or may appoint different days for different purposes.

262. Subsection (8) provides that regulations may amend subsection (5) to substitute a different period for the period for the time being specified in that subsection. In accordance with section 42(3)(b), any regulations made under subsection (8) are to be subject to the Senedd approval procedure.

263. Subsection (9) provides that the period substituted in accordance with subsection (8) may not be longer than 48 months beginning with the day on which the Act receives Royal Assent. In effect, this means that the substantive provisions relating to the OEGW's functions will come into force no later than 48 months after the Act receives Royal Assent.

Section 47– Short title

264. Section 47 sets out the short title of the Act, by which it may be known and referred. Either the Welsh or the English language title of the Act may be used, including as a citation in other enactments.

SCHEDULE 1 - THE OFFICE OF ENVIRONMENTAL GOVERNANCE WALES

265. Schedule 1 sets out the composition of the OEGW and how it is expected to operate.

Part 1: Status

266. Paragraph 1 sets out that the OEGW is not to be considered as a servant or agent of the Crown, nor is the property of the OEGW to be regarded as the property of the Crown. This is different from government departments whose property is Crown land.

Part 2: Membership

267. Paragraph 2 sets out the membership of the OEGW. The membership will include a chairperson, a deputy chairperson, at least 3 and no more than 5 other persons and a chief executive. The chief executive is to be a member of the OEGW's staff. Paragraph 6 sets out further detail regarding the appointment of the chief executive.

268. Paragraph 2(3) provides the Welsh Ministers may make secondary legislation, subject to the Senedd approval procedure, to amend the number of members appointed to the OEGW. Before making regulations under this power, paragraph 2(4) requires the Welsh Ministers to consult a committee of Senedd Cymru for the time being with the remit for environmental protection, the OEGW, and such other persons as they consider appropriate.

269. Paragraph 3 sets out a list of descriptions of persons that cannot be appointed as a member of the OEGW because of the roles or office they hold.

270. Paragraph 4 sets out that the OEGW may set out the terms of appointment for non-executive members subject to certain limitations. The period of office/appointment period may not exceed 4 years, and a non- executive member may not be appointed for more than 2 periods of office.

271. Paragraph 4(4) clarifies that appointments as chairperson, deputy chairperson and other non-executive roles on an interim basis (meaning a period of 12 months or less), as set out further in paragraph 9 of this Schedule, do not count towards the prohibition on appointing for more than 2 periods of office.

272. Paragraph 4(5) allows for the OEGW, with the approval of the Welsh Ministers, to pay its non-executive members remuneration, expenses and allowances as it considers appropriate.

273. Paragraph 5 sets out the circumstances in which a non-executive member can be removed from office and the process that must be followed by the Welsh Ministers before they can remove a member.

Part 3: Staff

274. The chief executive is to be appointed in accordance with paragraph 6. The first chief executive is to be appointed by the Welsh Ministers, with subsequent chief executives to be appointed independently by the non-executive members. The remuneration, expenses, allowances and pension of the chief executive must be approved by the Welsh Ministers.

275. Paragraph 7 provides the OEGW may appoint other staff and the terms and conditions must be approved by the Welsh Ministers.

Part 4: Appointment Requirements

276. Paragraph 8{1) sets out that in appointing non-executive members the Welsh Ministers must have regard to the desirability of ensuring that the members, between them, have experience and have shown capability in environmental law and policy, environmental science and investigatory and enforcement proceedings.

277. The rest of paragraph 8 sets out other requirements on the Welsh Ministers including the need to consult a committee of Senedd Cymru when appointing or reappointing the chairperson or deputy chairperson, and the establishment of a panel, with a representative nominated by the relevant committee of Senedd Cymru, a member of Welsh Government staff and 2 independent members to make recommendations on the appointment of non-executive members and the chief executive. The Senedd Committee has 21 days (not including days where the Senedd is dissolved or is in recess for more than 4 days) to nominate a member to sit on the panel; if they fail to nominate someone or otherwise don't respond within the 21 days the appointment process can continue without this nomination. The panel must have experience of the requirements set out in paragraph 8(1), with the exception of the nominated member of Senedd Cymru. The Welsh Ministers must have regard to the recommendations of that panel. This process is not required for the reappointment of a non-executive member or the chief executive, where it immediately follows the first period of office.

278. Paragraph 9 sets out the disapplication of the appointment requirements to allow for interim appointments of 12 months or less, in specified circumstances, and where the OEGW's quorum cannot be met.

Part 5: Committees and Delegation

279. Part 5 sets out the powers of the OEGW to establish committees and sub-committees. This includes powers in relation to remuneration, voting rights, delegation and the establishment of joint committees.

280. Paragraph 10 makes provision in relation to the establishment of a review committee who will conduct reviews requested by public authorities following the issuing of a compliance notice to them by the OEGW. In particular, the review committee must appoint 1 or more co-opted members from a list of persons with expertise in the field of environmental law and policy, environmental science and investigatory and enforcement proceedings. The list is to be maintained and published by the OEGW. This is to ensure a measure of independence when the review takes place of the initial decision made by the OEGW to serve the compliance notice.

Part 6: Procedure etc.

281. Paragraph 14 requires the OEGW to make rules regulating its procedure and the procedure of any of its committees or sub-committees.

282. Paragraph 15 provides that a vacancy in membership of the OEGW or any defect in the appointment of a member, does not affect the validity of actions taken by OEGW or its committees, sub-committees and joint committee.

Part 7: Financial Matters

283. Paragraph 16 provides for the funding arrangements for the OEGW.

284. Sub-paragraph (1) requires the Welsh Ministers to pay such sums to the OEGW as they consider to be sufficient to enable the OEGW to carry out its functions.

285. Sub-paragraph (2) enables the Welsh Ministers' payments to the OEGW to be made at such times and on such conditions as they determine.

286. Paragraph 17 provides the chief executive is the accounting officer for the OEGW, unless the chief executive is unable to fulfil that role, then another member of OEGW staff must be nominated. The accounting officer's responsibilities about the accounts and finances of the OEGW are specified by the Welsh Ministers.

287. Paragraph 18 sets out the OEGW's duties in relation to the preparation and submission of financial accounts and information relating to the preceding financial year. Paragraph 18(4) provides the financial year following the establishment of the OEGW is to end on the second 31st March following the day section 8 is commenced. This is to enable the OEGW to be in an operational position before it is required to prepare and submit financial accounts, whilst still making OEGW accountable from the day it is legally established. Thereafter, accounts will need to be prepared no later than every successive 31 March.

288. Paragraph 19 will ensure independent oversight, transparency and accountability for use of public funds. It sets out the duties in relation to each statement of accounts submitted to the Auditor General for Wales by the OEGW.

289. Paragraph 20 provides that the Auditor General for Wales may examine the OEGW's use of its resources with regards to three categories, economy, efficiency and effectiveness but is not entitled to question the merits of the OEGW's policy objectives. Sub-paragraphs (3) and (4) set out the duties on the Auditor General for Wales when undertaking an examination.

Part 8: Reporting Requirements

290. Paragraph 21(1) places a duty on the OEGW to prepare and publish an annual report as soon as possible after the end of each financial year and to lay a copy of the report before Senedd Cymru.

291. Paragraph 21(2) provides that where the OEGW exercises its discretion to include in its annual report a statement about whether the sums allocated to it have been sufficient to enable it to perform its functions, it must submit that report to the Welsh Ministers in addition to laying it before the Senedd.

Part 9: Supplementary provisions

292. Paragraph 22 set out the duties of the OEGW in relation to the registering of its members' interests.

293. Paragraph 23 sets out the supplementary powers of the OEGW, and provides that the OEGW may do anything it considers appropriate for the purposes of, or in connection with, its functions, or otherwise incidental or conducive to the exercise of those functions. For example, this could include (but is not limited to) matters such as making applications for judicial review (where all other legal requirements are satisfied) and establishing complaints procedures. However, the OEGW is restricted from charging fees, borrowing money, investing, making grants, lending money, or accepting gifts.

SCHEDULE 2 - THE OFFICE OF ENVIRONMENTAL GOVERNANCE WALES: STRATEGY

294. This Schedule sets out provisions for the content and procedural requirements of the strategy that the OEGW is required to prepare and publish under section 11.

Content

295. Paragraph 1 sets out the content the OEGW must include in the strategy it is required to prepare under section 11. These specified requirements do not preclude other details from being provided in the strategy.

296. Paragraph 1(1)(a) provides that the strategy prepared under section 11(1) must set out how the OEGW intends to comply with its duties to exercise its functions for the general purpose set out in section 10(a) and its duties under other enactments, in particular under Part 2 of the Well-being of Future Generations (Wales) Act 2015 (anaw2).

297. Paragraph 1(1)(b) requires the strategy to set out how the OEGW intends to operate impartially, objectively, proportionately and transparently.

298. Paragraph 1(1)(c) requires the strategy to set out how the OEGW intends to monitor developments in the effectiveness of legislation concerning environmental protection that applies, or is made, outside Wales. For example, legislation made by the other UK administrations or by the European Commission.

299. Paragraph 1(1)(d) provides the strategy must set out how the OEGW intends to collaborate with other persons for the purposes of exercising its functions.

300. Paragraph 1(1)(e) provides the OEGW must set out how it intends to seek to avoid any overlap with the exercise of the functions of specified other bodies/commissioners, as well as any other persons whose functions appear to the OEGW to be capable of overlapping with its own functions.

301. Paragraph 1(2)(a) sets out how the OEGW intends to, as part of the exercise of its functions under section 12(1), independently monitor any targets relating to the environment set by or under environmental law.

302. Paragraph 1(2)(b) and (c) provide that the OEGW must also set out how it intends to manage representations it receives in accordance with the document published under section 16, including its policy on publishing information and prioritising representations.

303. Paragraph 1(3) provides the OEGW's strategy must set out its investigation policy including the circumstances in which it may decide not to carry out an investigation, how it intends to carry out an investigation and how it intends to liaise with a public authority when it is at the stage of carrying out, or considering carrying out, an investigation.

304. Paragraph 1(4) provides that the OEGW's strategy must set out its enforcement policy so that the public authorities, over which the OEGW will have oversight, are clear on the circumstances which could lead to the serving of a compliance notice, or the publication of any improvement report. This includes the circumstances in which the OEGW determines not to serve a compliance notice or improvement report. Paragraph 1(4)(d) also requires the OEGW to set out how it will determine whether an urgent compliance notice is required under section 19 or whether to make an application to the court under section 21. The strategy will, therefore, explain the different processes given the potential seriousness for a public authority if it is served with an urgent compliance notice or referred to the High Court for review.

Procedural Requirements

305. Paragraph 2 sets out the process for publishing and revising the OEGW's strategy. Both the strategy and any revised strategy must be published.

306. Paragraph 2(1) requires the OEGW to consult with the relevant committee of Senedd Cymru, and any other appropriate persons, while preparing the strategy.

307. Paragraph 2(2) provides that the OEGW must review its strategy before the end of 4 years beginning with the day the strategy is first published and before the end of every subsequent 4 years.

308. Paragraph 2(3) allows the OEGW to revise its strategy following that review. The review of the strategy may identify more effective and efficient ways for the OEGW to exercise its functions, or ways in which the OEGW may need to change its approach to prioritisation as a result of matters that have come to light within that 4-year period. Allowing the OEGW to revise its strategy takes this into account.

309. Paragraph 2(6) requires the strategy (or a revised strategy) to be laid before Senedd Cymru as soon as possible after it has been published. This is intended to provide transparency and clarity to the Welsh Government, Senedd Cymru, and other stakeholders on the operational framework and strategic direction of the OEGW which it has itself determined.

SCHEDULE 3 - STAFF TRANSFER SCHEMES

310. Schedule 3 grants the Welsh Ministers power to make and modify a transfer scheme, for members of staff of the Welsh Government to become members of staff of the OEGW. Any scheme made by the Welsh Ministers must be laid before Senedd Cymru.

SCHEDULE 4 - CONSEQUENTIAL AMENDMENTS

311. Schedule 4 is introduced by section 45. It amends the Acts below by either excluding or including the OEGW in their scope.

Environment Act 1995

312. Paragraph 1 amends section 81B (functions of relevant Welsh public authorities etc.) of the Environment Act 1995 to provide the Welsh Ministers cannot designate the OEGW as a public authority for the purposes of that Act.

Government of Wales Act 2006 (c.32)

313. Paragraph 2 amends section 148 of the Government of Wales Act 2006 (meaning of "Welsh public records") to provide that its records are classed as "Welsh public records".

Welsh Language (Wales) Measure 2011 (nawn 1)

314. Paragraph 3 amends Schedule 6 to the Welsh Language (Wales) Measure 2011 to the effect that the OEGW is liable to be required to comply with service delivery standards, policy making standards, operational standards and record keeping standards under that Measure.

Active Travel (Wales) Act 2013 (anaw 7)

315. Paragraph 4 amends section 10B (promotion by local and other authorities of active travel as a way of reducing or limiting air pollution)) of the Active Travel (Wales) Act 2013 to provide the OEGW cannot be specified as a public authority for the purpose of that Act.

Well-being of Future Generations (Wales) Act 2015 (anaw 2)

316. Paragraph 5 amends section 6(1) (meaning of "public body") of the Well-being of Future Generations (Wales) Act 2015 to provide that the OEGW is a public body for the purposes of that Act.

RECORD OF PROCEEDINGS IN SENEDD CYMRU

317. The following table sets out the dates for each stage of the Act's passage through the Senedd. The Record of Proceedings and further information on the passage of this Act can be found on the Senedd website at:
Environment (Principles, Governance and Biodiversity Targets) (Wales) Bill

Stage	**Date**
Introduced	2 June 2025
Stage 1 - Debate	11 November 2025
Stage 2 Scrutiny Committee – consideration of amendments	19 December 2025
Stage 3 Plenary – consideration of amendments	10 February 2026
Stage 4 Approved by the Senedd	24 February 2026
Royal Assent	27 April 2026